

# CHIEF CONCERNS

## Exploring the Challenges of Police Use of Force

edited by  
Joshua A. Ederheimer  
Lorie A. Fridell



POLICE EXECUTIVE  
RESEARCH FORUM

# **Chief Concerns: Exploring the Challenges of Police Use of Force**

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April 2005



**POLICE EXECUTIVE  
RESEARCH FORUM**

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# Foreword

**S**ome days you just get lucky. That day in December 2003 was one of those days. Bill Lansdowne, the chief of police in San Diego, and I were reflecting on the long and productive partnership PERF and the San Diego Police Department had enjoyed on advancing problem-oriented policing. Together much had been accomplished over the years and it was now time to see if we could bring that same energy to a new policing challenge.

I asked Chief Lansdowne what kept him up at night. He looked at me and said, “There isn’t a police chief in this country that doesn’t worry about use of force.” Having led departments in Richmond, California; San Jose; and now San Diego, Bill had experienced what every police chief faces—that phone call in the night informing him about a potentially “bad” shooting. Bill wondered why each chief must face these challenges alone. Could chiefs learn from one another about promising practices in this area? If PERF could bring chiefs together to share their experiences and then identify successful strategies for reducing use-of-force incidents it could make a huge difference to both community members and police officers from across the country.

About this same time I was having discussions with our good friends at Motorola, Inc., who were asking what they could do next to help the law enforcement community. PERF has had a long and successful relationship with Motorola,

dating back to when I first arrived at PERF some 12 years ago. Through my friendship first with Rick Neal, Vice President and General Manager, who later introduced me to Jim Sarallo, Senior Vice President and General Manager, Motorola has stood out as a unique, responsible corporate partner and a true champion of the policing profession. Our first collaboration—on the 21st Century Project—broke new ground in applying process mapping to policing. Jim was taken by my observation that if we could identify promising practices in use of force, not only would we save the lives of suspects and cops alike, we just might save the careers of a few police chiefs as well. Jim’s boss, Greg Brown, president of Motorola’s Government and Enterprise Mobility Solutions business, enthusiastically championed this project for us.

So it was early last year that we began this initiative to examine critical issues in policing, beginning with the single most explosive issue facing police chiefs today. Under the leadership of PERF staff, Josh A. Ederheimer and Dr. Lorie A. Fridell, this massive project began. Before joining PERF, Josh was a commanding officer in the Washington, D.C., police department, who, under Chief Charles Ramsey, was tasked with re-engineering the District’s use-of-force policies in the wake of a Pulitzer-Prize winning investigative piece on the problem by *The Washington Post*. Dr. Fridell, PERF’s director of research, is an academic expert on use of force. Together they

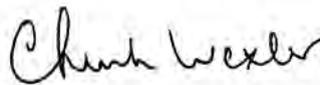
designed and implemented this pioneering effort. We undertook a thorough review of the prevailing literature on use of force, interviewed experts from around the country and abroad, reviewed materials sent to us by agencies and associations, and convened executive sessions where chiefs and other experts could share their successful approaches. We synthesized all of the information into this report. We understood the urgency of the need for the publication.

One use-of-force incident has the potential to dramatically alter the stability of a police department and its relationship with the community overnight. An officer's use of *deadly* force, in particular, can define a police executive's career—or end it.

Thankfully, in recent years a number of strategies have emerged that have led to a decline in deadly use-of-force incidents. For example, Chief Lansdowne points out in a commentary included in this book that the first 15 minutes following a non-routine call can be critical. The San Diego Police Department has found that getting a supervisor on the scene within 15 minutes of such a call can reduce the chances that an inexperienced officer will use deadly force by 80 percent.

This is just one successful strategy employed by one department. In *Chief Concerns:*

*Exploring the Challenges of Police Use of Force* you will find many, many more. Our goal has been to provide guidance to police executives across the country on how to ensure that force is used only when justified and to put in place the relationships and mechanisms for dealing openly and appropriately when unjustified incidents occur. We have focused on some of the most pressing use-of-force topics: training, policy, policy enforcement, investigations, tools and tactics, and officer support, among others. We are extremely grateful to the many chiefs, other police professionals, academic experts, researchers, and community representatives who shared their wisdom and experience with us. It is our hope that this book will help law enforcement professionals, policymakers, and community leaders think through the issues, learn from the experiences and approaches of others, and advance the debate on police use of force.



Chuck Wexler  
Executive Director  
PERF

# Acknowledgments

**O**n behalf of PERF staff and members, we thank the many people who have worked so hard on this book. It has been a collaborative effort, and the collective experience and insight offered by all those involved have made this book possible. As we worked on this project over the past year, we became more convinced than ever that the law enforcement profession is filled with brilliant, innovative people who are committed to serving the public. We enjoyed working with police executives, subject matter experts, and other people committed to improving police services from throughout the United States and around the globe. It is our hope that this book will aid them and their partners in making informed decisions about police practices.

Thanks are due to our partners at Motorola, who shared PERF's desire to bring valuable information on how to address tough community problems to the field. Motorola has been a steadfast supporter of PERF for many years. We are grateful to Mr. Greg Brown, CEO and President of Government & Enterprise Mobility Solutions; James A. Sarallo, Senior Vice President, Government & Enterprise Mobility Solutions; Richard P. Neal, Vice President, and General Manager; Ken Denslow, Vice President and General Manager; and Mark Moon, Vice President and General Manager.

The police professionals from around the United States, as well as Britain, Canada, Israel and Northern Ireland, who gathered at Motorola's headquarters in Schaumburg, Illinois, provided critical guidance and focus for this project. They were Major General Shachar Ayalom, Israel National Police; Commander Linda Barrone, Pittsburgh

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Researching and writing the content for this book has been a mammoth task. We greatly appreciate the efforts of Dr. Beverly Anderson; Dr. Heather Davies; Stephan A. Loyka; and Andrea Morrozoff Luna for writing substantial portions of this book. In addition, the articles by the following contributing writers have helped provide valuable perspectives and are essential elements of this book: David Bayless, Chicago Police Department; Chief Michael Butler, Longmont (CO) Police Department; Dr. Tory Caeti, University of North Texas; Captain Ronald Davis, Oakland Police Department; Chief Kim C. Dine, Frederick (MD) Police Department; Commander Charles “Sid” Heal, Los Angeles County Sheriff’s Department; Inspector Matthew Klein, Metropolitan Police Department, D.C.; Chief William P. McManus, Minneapolis Police Department; Chief Dennis Nowicki (retired), Charlotte-Mecklenburg Police Department and Joliet (IL) Police Department; Tony Pate, Law Enforcement Consultant; Melissa Reuland, PERF; Dr. Robert Taylor, University of North Texas; and Chief John Timoney, Miami Police Department.

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The international forum in San Diego allowed PERF to highlight promising approaches from around the world. Many thanks to our conference speakers: Assistant Chief Constable Ian Arundale, West Mercia Police, U.K.; Deputy Chief Michael Berkow, Los Angeles Police Department; Chief William Bratton, Los Angeles Police Department; Chief Michael Butler, Longmont (CO) Police Department; President Chris Fox, Association of Chief Police Officers, UK; Reverend Reginald G. Holmes, Pastor, New Covenant Christian Church, Denver; Major Steve Ijames, Springfield (MO) Police Department; Chief Gil Kerlikowske, Seattle Police Department; Chief Stanley Knee, Austin (TX) Police Department; Commander Cathy Lanier, Metropolitan Police Department, D.C.; Major General Mickey Levy, Former Commander, Jerusalem Police District, Israel; Superintendent Malcolm McFarland, Police Service of Northern Ireland; Chief Robert McNeilly, Pittsburgh Bureau of Police; Chief Bernard Melekian, Pasadena (CA) Police Department; Chief Inspector Richard Prior, Metropolitan Police Department, UK; Chief Thomas Streicher, Cincinnati Police Department; Deputy Superintendent Assan Thompson, Jamaica Constabulary Force; Chief John Timoney, Miami Police Department; Chief Gerry Whitman, Denver Police Department; David Wilkinson, U.K. Home Office, Police Scientific Development Branch; Executive Director David Wood, Police Ombudsman, Northern Ireland.

Of course, this book could not have been produced without the incredible efforts of our talented and dedicated PERF staff and support personnel.

Executive Director Chuck Wexler guided this project from start to finish providing insights and resources, reading all sections, and conveying reinforcement and moral support as needed. Thanks for editing and organizational help to Nathan Ballard, Corina Solé Brito, Jason Cheney, David Edelson, Alex Hayes, Gail Love, and Deidre Mead. We had several successful meetings and conferences thanks to the hard work of Anna Berke and Rebecca Neuberger, along with David Weisz from Motorola's Law Enforcement and Homeland Security

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Finally, thanks to Dave Williams for his excellent work on developing the cover and layout of the book.

*Joshua A. Ederheimer and Lorie . Fridell*

# 1

## Introduction

by ANDREA MORROZOFF LUNA

“It is almost certain that the police today use force much less than they did a generation ago. What has changed is that we are much more aware of how much police use force, and are much less tolerant of needless force. That is a good thing.”

JAMES FYFE.<sup>1</sup> WASHINGTON POST, 2001

**P**olicing affords officers the right to use reasonable force—even deadly force—when necessary to maintain the peace and public order. Today the use of force is an issue that receives a great deal of attention within the policing profession. Its importance is reflected in training materials, the development of tactics, the provision of tools, and within communications to the public

and media. Incidents where force is used—especially those involving abuse of force—often become defining moments for a law enforcement agency and its chief executive; they require exceptional leadership in extraordinarily stressful circumstances.

Officers on the street have very difficult jobs that require them to make split-second decisions

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1. James Fyfe is a use-of-force scholar and is serving as Director of Training at the New York Police Department.

with potentially far-reaching consequences under great stress. The overwhelming majority of the officers on the street want to keep the community safe and make the right use-of-force, particularly deadly force, decisions. A key role of law enforcement leadership is to give these officers the tools to make these difficult decisions.

This book explains successful approaches that can be used by law enforcement agencies to control the use of force by officers and promote constructive responses to controversial, unnecessary, or unjustified uses of force. The chapters identify critical issues related to the use of force that are currently facing the profession. The book also offers police practitioners a useful historical perspective on use-of-force problems that have arisen in the past and how they have been resolved. It is hoped that lessons learned from these experiences can improve how force is used in the future. The goal is to provide police executives with information that will help them make informed decisions on force issues.

The book addresses policy, policy enforcement, training, weapons, tactics, investigations, officer aftercare, and communications with the community and media following a force event. For each topic area, the book highlights current issues and conveys information about some of the successful, or apparently successful, approaches being used by agencies nationwide and abroad. For most of the critical issues addressed in this book, there is not a single, clear “correct strategy.” In other words, we do not prescribe one “right answer” but present various strategies that executives can consider in their quest to control the use of force by personnel in their agencies.

The information for this book came from a number of sources. Authors reviewed the scholarly and practitioner literature, collected and reviewed agency policies from across the nation and abroad, and interviewed scholars and practitioners. Other important sources of information

were the presentations and discussions from two PERF conferences: “Developing an International Approach to Less Lethal and Minimum Force Options” held in August 2004 in Washington, D.C. and “Critical Issues in Policing” held in San Diego in December 2004. Many experienced law enforcement executives and community leaders in the country attended both conferences, which were designed to produce material to inform this book.

In this chapter we provide a historical context for agency efforts to deal with issues of force, review the research regarding the use and misuse of force, describe the key challenge for the law enforcement executive, and preview the remaining chapters.

## **HISTORICAL BACKGROUND**

Prior to the 1950s, the police profession in the United States paid little attention to force issues; agencies offered little guidance to officers through policy or training and kept few, if any, records on instances when officers used force (Terrill and Mastrofski 2002). This changed in the 1950s and 1960s, a time of many reforms for the law enforcement profession. Use of force by police became an issue of great public concern during the movement to increase civil rights for African Americans. Many of the urban riots during that era were precipitated by perceptions that police had used excessive force against minorities. The public demanded increased scrutiny of the use of force by police, and the law enforcement profession responded. Policies regarding force became more prevalent and detailed; training on when and how to use force became more frequent and comprehensive; tactics became more effective; and agencies adopted measures to promote policy enforcement and improve accountability.

Efforts to ensure appropriate and justified use of force and to enhance agency accountability have continued since that era of great turbulence in the United States. As a result, advances have been made in policy making, training, accountability, tools, tactics, officer support, and communications with the community. This book is meant to facilitate these important ongoing efforts by law enforcement leaders.

## RESEARCH ON THE USE AND MISUSE OF FORCE

Using various methods (observation, surveys, and review of departmental records, for example), researchers have attempted to determine the extent to which police use and misuse force (Fridell and Pate 1997). While each of these methods has drawbacks as a research tool, the findings are consistent in one respect. The research shows that only a small percentage of police-public interactions involve the use of force, and the most frequent type of force used is the low-level force needed to take suspects safely into custody (Garner and Maxwell 1999; Garner, Maxwell, and Heraux 2002; Langan, Greenfeld, Smith, Durose, and Levin 2001).

Black and Reiss (1967), in a classic early study based on the observation method, collected information on more than 3,800 police-citizen encounters in three cities during the summer of 1966. Using these data from the original 1967 study conducted by Black and Reiss, Friedrich (1980, 86) determined that force had been used in 5 percent of the 1,565 incidents “in which police came into contact with citizens they regarded as at least potential offenders.” Bayley and Garofalo (1987, 1989) used the observation method and reported that out of 467 potentially violent encounters between police and citizens, police used force in 37 (8 percent). Relying on use-of-force forms completed by Savannah officers in

1989, McLaughlin (1992) reported that force was used in 0.65 of every 1,000 incidents in which written police reports were required. And according to data from the 1999 national survey of the Bureau of Justice Statistics, 1 percent of the people reporting face-to-face contacts with the police experienced either force or the threat of force (Langan et al. 2001). Most reported the force was either only threatened or of a low level.

Determining the extent to which police use force is a difficult undertaking. As challenging as it is for researchers to measure the general use of force by police, the challenges are even greater when researchers (or even agencies) attempt to measure the misuse of force. The findings described in this paragraph must be considered with an important caveat in mind: none of the methods used can produce anything close to a definitive measure of excessive force. Moreover, many of the best studies of the use and misuse of force were conducted years ago. We begin by citing a retrospective analysis of observational data that were originally collected for the classic Police Services Study in 1977. Worden (1996) reports that police used force in just over 1 percent of the nearly 5,700 police-citizen encounters observed; in one-third of those encounters, the observer adjudged the force to be excessive or unnecessary. Using the survey method, Bayley and Mendelsohn asked officers whether they had witnessed an “incident that someone might consider to constitute police brutality” (1969, 128). Over half of the officers responded in the affirmative. Twenty-seven percent of the officers maintained that they had witnessed incidents which, in their opinion, involved “harassment or the excessive use of force” (129).

Researchers have examined the use of force (and, when possible, the use of excessive force) in the context of situational variables, organizational variables, and environmental variables (see, for example, Fyfe 1980). Situational variables

include the behavior of suspects, their level of resistance, and their use of alcohol or drugs; the type of incident to which the officer was responding; the presence of other officers on the scene; and the weapons available and used. Examples of organizational variables include department policies, training, and culture. (Box 1.2 contains a commentary by Chief Kim C. Dine that addresses the importance of culture and training.) In examining environmental factors, researchers have considered the characteristics of the jurisdiction such as its crime rate, the presence of crime-prone populations, and the availability of guns.

### THE CHALLENGE FOR THE LAW ENFORCEMENT EXECUTIVE

The challenge for law enforcement executives is to “optimize” the use of force in their agencies.

Optimizing force means that the agency is “utilizing it as necessary to maintain order but not to the extent that is excessive and abusive” (Fridell and Pate 1997, 217). The use of *excessive force* can lead to numerous negative consequences: unnecessary injury of the suspect and sometimes death, community complaints, distrust of police, civil and criminal lawsuits, civil unrest, and federal injunctive orders, to name a few. Agencies also want to reduce *unnecessary force*, which, according to Fyfe, is force that “could have been avoided by measures such as better training, officer selection and other use of force options” (1987, 6). Although the use of *excessive* and *unnecessary* force has negative consequences, so does use of *insufficient* force. Insufficient use of force increases the likelihood of an officer’s injury and death, decreases the officer’s ability to enforce the law, and heightens risks to public safety.

#### box 1.1 Definitions

**Force.** Any non-negotiable use of police authority to influence citizen behavior. Includes low-level force options (verbal commands, use of restraints) through high-level force options (deadly force). The mere presence of an officer, because of the implied authority of the uniform, is included in this broad definition.

**Deadly force.** Force that is likely to cause serious bodily injury or death.

**Excessive force.** The illegal or unreasonable use of force, with reasonableness determined by whether a reasonably prudent officer would have used the same amount of force in the same situation, in light of the information available to the officer at the time.

**Justifiable force.** Force used in accordance with law; force that was reasonable in light of the circumstances faced and known by the officer at the time it was used. Used interchangeably with “legal” use of force.

**Less lethal force.** Also referred to as less-than-lethal force or non-deadly force. Tools or tactics that have less potential than deadly force to cause serious bodily injury or death.

**Reportable force.** The level of force for which the officer must complete a formal department report.

**Unnecessary force.** Force that might be justifiable but could have been avoided.

**box 1.2****COMMENTARY:****Agency Culture, Training, and the Use of Force**

by **Kim C. Dine, Chief of Police  
Frederick (MD) Police Department**

At a recent Police Executive Research Forum (PERF) meeting, law enforcement professionals readily agreed that two of the major issues departments face today center around corruption and use of force. In fact, these are not new issues. They have been critical since the advent of modern policing and go right to the heart of a police agency.

As the police service has become more professional over the past few decades, officers have undergone more extensive physical and psychological testing and more comprehensive training. Police officers have been held to higher performance, behavioral, and ethical standards. Moreover, officers are expected to be able to operate in more technical environments, whether it involves using computers or semi-automatic weapons. Officers must be prepared to respond, not only to what would be considered routine crime scenes, but also to nuclear, biological, and chemical events and major catastrophes. Every day police departments must rise to new challenges without compromising their integrity. As they do, citizens still rightly expect a communicative and accessible police agency with regular contact with officers, and routine and effective crime control strategies that reflect respect and restraint.

The challenge is how to address use-of-force issues as police combat gangs, illegal drugs, other crimes, and now terrorism. The authority to use force and the context in which we use it in the line of duty are controversial aspects of police work. Our society desperately wants positive

interactions with officers, and it wants officers to employ what they perceive as a community-oriented style, even as departments must increase officers' firepower to survive. Communities want officers out of their cars, on foot and on bicycles, yet for safety, bullet-resistant vests of increasing effectiveness must be worn. Routine equipment often includes some form of personal protective gear and larger weaponry. Police are being trained and equipped in a more militaristic fashion, yet how police treat people—specifically, how and in what circumstances they use force—defines the professionalism, trust, integrity, and reputation of a department.

I assert that community policing and arresting suspects (even if some use of force is called for) are not mutually exclusive. The Frederick Police Department's vision and practice reflect that, with the right culture, they often go hand in hand. Success requires communication between committed officers and the people in the neighborhoods they serve, supported by other sophisticated, dedicated, and hard-working police personnel. It takes a compelling vision, an actual community policing strategy, proper systems of reporting, investigation and review, and trust between officers and community members to enable police agencies to effectively address and manage use-of-force issues.

Upon assuming leadership of a city police agency, as I did in 2002, an executive must assess many pressing issues such as the level of community confidence and trust, homicides and other closure rates, training, equipment, missing persons, WMD preparedness, and technical matters. The use of force also is a critical issue that

## box 1.2 *continued*

requires early analysis on a number of levels. Preliminary analysis and review must determine whether a proper reporting system exists and whether related directives are followed. In addition, proper training and supervision are essential. Likewise, the culture of the agency as it relates to use of force, incident reporting, investigation, and review must be assessed. Culture, vision, and practice must be consistent. In the age of COMSTAT, or what many have described as geographic, statistic-driven policing, how do police executives encourage the assertive, even aggressive policing techniques required to effectively combat crimes and terrorism, while concurrently ensuring that officers provide enlightened and useful services? The answer lies largely in a culture that embraces community policing.

In Frederick, Maryland, in 2002, the mayor and the chief operations officer for citizens' services, working with city officials and the police department, divided the city into twelve Neighborhood Advisory Council areas (NACs). Our intent was to help community members, the police, and other city agencies identify and address neighborhood concerns. This community policing strategy—really, community government—created the foundation for many of our unified efforts. Meeting monthly with stakeholders in these neighborhoods, we defined their concerns, prioritized them, and partnered with others to address them.

Training is critical to reducing police use of force, and not only from a tactical standpoint. We collaborated with a local community college to create an enhanced course on multicultural awareness. Frederick Police Department (FPD) personnel also took part in a unique training course at the National Holocaust Museum in Washington, D.C., which focused on abuse of governmental power.<sup>2</sup> The FPD also teamed with mental health professionals from several agencies to create a new best-practices agencywide course on how police can better serve people with mental illnesses. Our task force of police and mental health professionals meets regularly to assess current efforts and find creative ways to diffuse difficult situations that arise between the police and individuals having mental health problems. Examples include the training course for police, through which all of our officers have matriculated, as well as the teaming of mental health professionals and police officers in certain circumstances to assist each other with crisis interventions and reduce the potential for use of force. FPD expanded senior-level watch command duties to provide additional management, supervision, and leadership. We also provided additional personnel, new office space, and a totally new tracking system to our Professional Standards Division to strengthen internal investigations. Enhanced training, a new community policing strategy, and increased supervision together create a unique culture where assertive,

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2. This program was originally created jointly by the United States Holocaust Memorial Museum, the Anti-Defamation League, and the Metropolitan Police Department (Washington, D.C.).

effective policing also reflects citizen input and expectations. Police-community relationships then improve as does the effectiveness of law enforcement.

Our citizens' police academy, a ten-week course, is designed to teach community members about policing, our agency, and the challenges of police work. Participants get hands-on instruction and engage in practical exercises. The program has existed for many years, but a new initiative created an alumni association of graduates; they now attend police functions, such as promotions and graduations. We encourage academy graduates, with their increased understanding of police work, to get involved in their Neighborhood Advisory Councils. As a result, community members have gained a better appreciation for the complexity and importance of use-of-force issues.

Use of force remains one of the most critical challenges in policing today. Increased demands on police departments across the country, combined with greater expectations of police, necessitate sustained vigilance and continual improvements. A culture of assertive policing, supported by the community through its input as well as resources by all stakeholders, can result in truly enlightened and effective police service. Tireless leadership by an entire command staff and continued communication between the police and the community are essential ingredients for managing this important issue. Through an aggressive and well-coordinated community policing approach that includes ongoing dialogue with the community, extensive training opportunities, local government-police coordination, crime and calls for service analysis, and an emphasis on prevention as well as arrests, use of force can be minimized and better understood.

A police executive's goal is not to eliminate use of force but to optimize force through sound policies and training, and the use of effective equipment and tactics. (See Boxes 1.3 and 1.4 that report how Chief William Lansdowne and Chief John F. Timoney, respectively, have attempted to best employ force in their agencies.) No amount of effort to optimize force, however, can guarantee that the agency will not have an event that is challenged by members of the public as excessive or unnecessary. The executive must be prepared to handle those events effectively and in a manner that conveys accountability to the public and media.

## CONTENTS OF BOOK

Every executive's quest to optimize force involves certain key components—improving policy, policy enforcement, and training; choosing the best tools and tactics; establishing effective community and media relations; and resolving critical issues and providing officer care after force has been used—and these components are the subject of the remaining chapters. Each chapter includes at least one commentary written by an academic or practitioner expert on a related topic. Each chapter is also accompanied by at least one article describing a discussion session or presentation on promising approaches that occurred as part of the Critical Issues in Policing Conference held in San Diego.

### *Chapter 2: Improving Use-of-Force Policy, Policy Enforcement, and Training*

The general parameters on the use of deadly force and less lethal force are fairly consistent across agencies—delimited as they are by U.S. Supreme Court decisions. There are, however, a number of policy issues generating discussion and debate

within the profession. These issues and successful approaches for dealing with them are presented in Chapter 2. One ongoing discussion pertains to whether deadly force policy should include a requirement that its use be “only as a last resort.” Additionally, executives around the country are evaluating various policy options with regard to the following: shots fired at moving vehicles, drawing and pointing firearms, warning shots, flashlights as impact weapons, and the need to avoid unnecessary use of force. Generating the most debate right now are Taser™ policies, particularly the appropriate location of tasers on the linear force continuum.

A law enforcement agency's policies have little effect unless mechanisms are in place to promote their adherence by officers and to punish violations. This chapter covers issues pertaining to some of these mechanisms—for instance, use-of-force reporting, complaint review, supervision of officers and peer intervention, early warning systems, and departmental rewards. The incredible advances that have occurred in force training are explained as are key training issues. The current debate over the traditional linear force continuum is presented, and emerging alternative models are described. The chapter also discusses state-of-the-art methods for decision-making training and for integrating training topics.

In commentaries, Ron Davis of the Oakland Police Department argues that consent decrees have positively influenced policing, Longmont (CO) Police Chief Michael Butler describes effective screening of police applicants, and Tory J. Caeti and Robert W. Taylor highlight the importance of de-escalation training and tactics. A panel at the San Diego conference discussed how and why police executives have changed their use-of-force policies; a summary of this panel discussion is presented as well.

### *Chapter 3: Use-of-Force Tools*

Effective policy, policy enforcement mechanisms, and training are necessary but not sufficient to optimize and control the use of force in an agency. Police executives must acquire appropriate weaponry and develop tactics that safeguard their officers and protect the community. (See in Box 1.5 a description of the PERF International Summit on less lethal and minimum force options.) The selection of appropriate and adequate tools must be combined with clear and consistent policy directives, effective training, and supervisory review and feedback. In this way agencies can judiciously control use-of-force incidents. When law enforcement officers find that verbal commands and hand-control techniques are no longer effective, they need to have an array of available alternative tools to assist them in enforcing the law. There have been great advances in less-lethal weaponry that have the potential to reduce injuries and deaths to both citizens and police. Executives must decide which of these less-lethal tools to acquire, to whom they should be issued, and the appropriate circumstances for their use. Chapter 3 discusses these issues as they pertain to conducted energy devices like the taser and Stinger™, less-lethal projectiles, and more traditional less-lethal tools such as Oleoresin Capsicum (O.C.) spray and batons.

When these less-lethal tools are not appropriate in a given situation or are not effective, lethal force may be necessary. Law enforcement executives face many issues regarding the tools they provide for their officers including bullet caliber size, the proliferation of assault rifles and automatic weapons in patrol vehicles in response to high-profile events, and training and supervisory practices. This chapter provides law enforcement executives with options and practical advice that will help them to make better policy and reduce unnecessary force.

Chapter 3 includes commentaries by Dennis Nowicki, the former Charlotte-Mecklenburg (NC) police chief, on the use of canines; by Commander Sid Heal on the evolution of less-lethal weapons in the Los Angeles Sheriff's Department; and by Lorie A. Fridell and Antony M. Pate on the importance of less-lethal weapons for reducing deadly force. The chapter also includes a summary of a panel at the San Diego conference at which law enforcement representatives from the United Kingdom discussed Taser research and deployment.

### *Chapter 4: Handling the Aftermath of a Use-of-Force Incident*

Police use of force and what may appear to be or actually is excessive force have attracted increasing public attention in recent years as a result of a number of high-profile incidents. Situations involving the use of force against people with mental illnesses, unarmed suspects, fleeing suspects, restrained suspects, and others have sparked local outcry and national controversy. In many jurisdictions, tensions between the police and members of minority communities provide the backdrop for the community reaction to use-of-force incidents and the policy debate regarding force.

Chapters 2 and 3 of this book guide executives in efforts to optimize force within their agency. Chapter 4 focuses on the responsibilities of the executive following a serious and/or controversial use-of-force incident. (Box 1.6 contains the reprint of an article written by Chuck Wexler on dealing with the aftermath of a shooting.) Sections address effective community and media relations, investigations of serious use-of-force incidents, and aftercare services for officers. To increase the likelihood of a constructive community response to a serious and/or controversial use-of-force incident, the executive must, over time, build up the trust and confidence of

**box 1.3**

ARTICLE:

**The Critical 15 Minutes – Perspectives of Chief William Lansdowne<sup>3</sup>**by **Melissa Reuland**

Throughout the nation in recent years extraordinary changes in strategies have reduced the use of force. In Portland, Oregon, Chief Derrick Foxworth created a community group to develop recommendations for the department to help reduce shootings. The group has put forth 89 department initiatives, and the chief has already begun to enact changes. In Cincinnati, Chief Thomas Streicher had the courage and ability to make changes after an officer shot and killed an unarmed African-American youth and terrible riots erupted. In Chicago in 1999, there were 71 officer-involved shootings. Chief Terry Hillard found solutions and reduced these numbers. Chief Bill Bratton, credited with demonstrating that law enforcement can control crime (if police stay focused and listen to the community and their department), is building a system that promotes accountability in Los Angeles.

In San Diego, we have used what we know about use of force to develop effective strategies to reduce officer-involved shootings. A critical period of 15 minutes passes from the time a call comes into the department to the time shots are fired. To reduce use of deadly force, agencies should ensure that supervisors arrive at non-routine calls within 15 minutes. In San Diego, 80 percent of the officers involved in shootings are *not* in specialized units (such as burglary or homicide). They are beat

officers, usually the youngest people in any police department. Consequently, police executives need to focus on beat officers when providing training, equipment, and supervision.

We know that if a supervisor gets to the scene, the chances of an officer-involved shooting are reduced 80 to 90 percent. If the less-lethal equipment is in the hands of the beat officer in the 15-minute window—not in his or her trunk—the chances of an officer-involved shooting decline by 80 percent. If we get less-lethal equipment to the scene, in addition to a supervisor who then manages the response as a team, the chances of having officer injuries reduces by 80 percent and citizen injuries reduce by 65 percent.

There is a misnomer in America today that *less lethal* means *not lethal*. Instead, less-lethal equipment provides a force option that reduces the possibility of death. This equipment is not a panacea for problems in law enforcement. As police executives begin to look at solutions, they need to learn more about the problems faced in other jurisdictions and about systems other communities have built that work.

In San Diego the response to a recent 911 call about a woman with a knife to her throat demonstrates the procedures we are using to reduce officer-involved shootings. In the past, the protocol was to dispatch two officers and let them determine what additional response was needed. In this instance, the call prompted the radio com-

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3. This sidebar is based on San Diego Police Chief William Lansdowne's opening remarks at the PERF Critical Issues in Policing Conference.

munications staff—a critical part of our revised approach—to keep the reporting party on the telephone to get information about the weapon and the perpetrator’s state of mind. The dispatchers immediately requested that a sergeant and the K9 unit (the less-lethal technology) respond. The dispatcher also requested special equipment (a bean bag or Taser). Two other officers responded as backup. The sergeant formulated a plan, set up a perimeter, and made a phone call into the residence. One of his officers was able to talk the woman into surrendering. This incident was resolved without injury to the suspect, victim, or officers. The key to success is to manage high risk events as a team.

Because 65 percent of all people involved in officer-involved shootings are suffering from a mental illness, San Diego’s protocol dispatches the specially trained Crisis Response Team (CRT). Modeled after the Memphis, Tennessee, Crisis Intervention Team, the CRT responds to all calls involving people with mental illness. In fact, this response protocol is activated for all “high risk” calls. San Diego determines a high-risk call to be one that involves a person with a weapon, someone who is mentally unstable, or someone who is in a highly emotional or impaired state. Our experiences have shown that these calls tend to be the ones most likely to result in use of force. The person’s “high emotional state” can be caused by a mental disability, drug or alcohol use, or family

disturbance. Response by a sergeant is critical to the effectiveness of San Diego’s procedure because sergeants are trained to work as a team, to slow things down, and accept the responsibility of doing this work safely.

The response procedure in place in San Diego does not solve all of our problems, but we have seen some real success in how we manage these dangerous situations. That is what this conference is about—a chance to share what is working in law enforcement agencies to reduce injuries and use of lethal force. Just as no single tool or set of procedures can fully meet this goal, no one person at the conference could tell others exactly how to achieve these aims. However, the contributions of many people, based on actual experiences and an honest post hoc examination of them, can certainly advance the profession and reduce unnecessary use of force.

Police nationwide are constantly reminded of the challenges in upholding our sworn oath as law enforcement officers to protect those we serve and to do everything we can to preserve the sanctity of life. As law enforcement managers, we are responsible for helping officers who work in difficult environments to build safety and security in the community. This is not an easy task. However, we can affect safety and security by bringing the right people together to look at this issue from a practical rather than theoretical perspective.

**COMMENTARY:**  
**Miami PD: Striving to be “One of the Nation’s Best”**

by John F. Timoney, Chief of Police,  
Miami Police Department

*In January 2003, John F. Timoney was sworn in as chief of the Miami Police Department. He arrived as cases were progressing against officers accused of serious corruption and police use-of-force violations, and was tasked with restoring police accountability and the public trust. Over the next two years, Chief Timoney’s efforts led to significant reforms. This commentary by Chief Timoney, originally printed in the Miami Herald on January 9, 2005, sums up the impact that positive leadership can have on an agency.*

In 2002, Mayor Manny Diaz wrote to the U.S. Department of Justice requesting a formal review of the policies and practices of the Miami Police Department. At the time, federal indictments of 13 Miami officers were progressing toward trial, and there was strong community demand for police accountability. Mayor Diaz recognized that “Miami police officers unselfishly put their lives on the line every day to protect and serve” but said that he wanted to ensure that they performed their duties in a constitutional manner that respected the rights of those they served.

Several months afterward, the mayor swore me in as chief of police. Two years have passed, and I am proud to report that the Miami Police Department has regained its reputation as one of the nation’s best. Crime in the city has been falling while the professionalism of our officers and the community’s satisfaction in the job that they are doing has been rising.

The primary mission of the department is to make Miami a safer place to live, work, and visit. Under the leadership of a new top team, the department has been reorganized and retooled to prevent and fight crime more effectively and to improve the quality of life for all citizens. We have challenged our officers to work harder and smarter. These dedicated men and women have responded to the challenge, and their hard work has resulted in a safer Miami.

Last year, arrests increased by 29 percent while overall crime was reduced by an additional 8 percent from the previous year with decreases in violent crime leading the way. More-focused police strategies aimed at narcotics distribution and the violence associated with the drug trade have resulted in a 10 percent drop in homicides.

Miamians are indeed safer than they were two years ago, but crime-fighting is only one focus of our goal to enhance public safety. For too long, Miami has been among the most dangerous traffic cities in the country. In 2002, Miami had 75 vehicular homicides that, in a reverse of the pattern found in other cities, actually outnumbered criminal homicides. To address this problem, we increased the number of officers in our Motor Unit and directed them to devote more attention to dangerous driving behavior. As a result, traffic summonses have increased by 33 percent in the last two years. Arrests for driving under the influence of alcohol have increased nearly five-fold in the same period. These efforts have saved lives. In 2004, the number of vehicular homicides fell to 49, down by one-third in two years.

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Reprinted with permission of the author and the *Miami Herald*.

Public safety cannot be achieved without the support and confidence of the community served by the police. As this city knows too well, a perception of brutality can thoroughly destroy the bond between police and citizens. Therefore, the Miami Police Department has focused special attention on the way officers use force in the course of their duties. The success that we have enjoyed in this regard has been outstanding: the dramatic reduction in the number of shooting incidents involving our officers has set a national standard.

After 20 months without a single shot being fired by any of our police officers, our officers have used their firearms only twice in the last four months. In the first incident, a felon who had committed armed robbery of three people turned his weapon on responding officers; they took the action necessary to save their own lives and those of other innocent citizens. The assailant died with his gun in his hand. Then, just two weeks ago, one of our officers was shot during a narcotics arrest. His partner returned fire, wounding the assailant. Thankfully, the injured officer is already on his way to a full recovery. The actions of these officers were absolutely necessary. They had no choice but to use deadly force to save their own lives and those of others.

Just as we salute these officers for taking heroic action in the line of fire, we also salute the many other officers who did not resort to their guns when such action would have been justified under the law and under the policy of our department. These officers have clearly embraced the essential distinction between when an officer “may” shoot and when an officer “must” shoot.

This distinction has been a primary focus of our shooting policy since I took over. Our new

policy and our new approach to firearms training have been commended by the NAACP and others, including the Department of Justice.

The culture of restraint has also been imbued in our Canine Unit, where the number of dog bites had been a concern for the Justice Department. As a result, the annual number of canine bites has been reduced by two-thirds in the last two years.

The dramatic reduction in the number of shooting incidents and dog bites, combined with a new emphasis on accountability, has created a new community confidence in the police department and its leadership. This confidence has prevented any repeat of the tensions, even civil disturbance, which inevitably followed previous police shootings. There are additional dividends that have accompanied the reduction of police shootings and dog bites. For example, Miami taxpayers have saved millions of dollars that used to be paid out as the result of litigation following police shootings and dog bites. In the recent past, the city authorized a \$10 million settlement for a single police shooting. The cost savings are obvious.

In his 2002 letter to the Department of Justice, Mayor Diaz made it clear that he believed that the men and women of the Miami Police Department were selflessly committed to making Miami safer. He also expressed his determination that they would restore the community’s confidence in their professionalism and integrity as well as their effectiveness as crime-fighters.

As we enter 2005, I am proud to say that I believe that we have achieved these objectives and that we will continue to build on them in the coming year.

the community in the police department. Historically, incidents of force against minority citizens have produced the most potent community response and earning the trust of these communities is of considerable importance. Chapter 4 highlights methods for establishing a productive dialogue with community members prior to a force incident—channels that can readily be used once an incident has occurred.

In the wake of a controversial incident, one of the most effective means a law enforcement agency has for communicating with the public is the media. Police executives can influence how an incident is presented to the public by the media outlets. The likelihood of fair and impartial coverage following a controversial incident is increased if the agency has a strong working relationship with news outlets. Chapter 4 presents ways that police can build relationships with the media in times of calm and describes promising practices in the wake of a serious and/or controversial use-of-force incident. The chapter includes reviews of three panel discussions at the San Diego conference on community relations, how chiefs have turned controversial incidents into opportunities for constructive change, and policing multicultural communities. David J. Bayless, director of news affairs for the Chicago Police Department, and Chief William McManus of the Minneapolis Police Department, describe how their departments handled the aftermath of a controversial incident.

The failure to quickly and comprehensively investigate a significant police use-of-force incident can do great damage to a police department's credibility with the community. Models of use-of-force investigations vary. There are criminal, civil, and policy investigations of incidents. The challenge facing the executive and his/her designees is to ensure use-of-force investigations that are consistent, objective, and thorough. The primary goal is to protect the rights of all people involved in these investigations—in-

cluding the subject of the force and the involved police officer. Rights vary depending on the kind of investigation that is underway. Two models presented in this chapter provide options for agency executives to consider when they create an internal structure to produce investigations that are effective, objective, and just. Information is presented on mechanisms used around the country to audit or monitor use-of-force investigations conducted by a department. Accompanying the chapter are a summary of a panel discussion at the San Diego conference about use-of-force tactics and investigations and Metropolitan (D.C.) Police Department Inspector Matthew Klein's discussion of investigative conclusions.

Chapter 4 also discusses the importance of officer aftercare and the benefits of such programs. Officer aftercare, usually in the form of critical incident debriefing after a serious use-of-force incident, is often essential for an officer's mental health and future job performance. Effective aftercare may also reduce department liability, employee compensation claims, and officers' early retirement. In fact, such care is an important investment of department resources. As police executives recognize the benefits of these support programs, more departments are implementing promising approaches to reduce the stigma commonly associated with these services. (Examples include mandatory debriefing sessions after a critical incident, integration of police psychologists into the daily police routine to increase interaction and mutual understanding between police and mental health professionals, and peer-involved or peer-led counseling sessions.) The chapter explains promising elements of the programs and services offered by the Washington (DC) Metropolitan Police Department, Los Angeles Police Department, Los Angeles Sheriff's Department, Pittsburgh Police Department, and Phoenix Police Department.

## Developing an International Approach to Less-Lethal and Minimum Force Options

by Joshua A. Ederheimer and  
Andrea Morrozoff Luna

As part of the Critical Issues in Policing Series, the Police Executive Research Forum (PERF), the International Law Enforcement Forum (ILEF), and the Association of Chief Police Officers of England, Wales, and Northern Ireland (ACPO)—with funding and support from Motorola, Inc.—held an international policing summit on August 16, 2004, in Washington, D.C.<sup>4</sup> The summit, attended by forty-five participants, was entitled “Developing an International Approach to Less Lethal and Minimum Force Options.” This summit helped to frame police use-of-force issues from an international perspective—notably less-lethal force issues that were later discussed at PERF’s December 2004, Critical Issues in Policing Conference.

Key international police leaders and executives from police associations and agencies discussed the following global issues related to less-lethal policing: international law enforcement collaboration, research on less-lethal weapons and accompanying tactics, and the possibility of establishing standardized international specifications for less-lethal weapons. Manufacturers would be required to meet law enforcement standards rather than law enforcement simply adapting to what manufacturers produce. The productive discussions led

to several consensus agreements and contributed to the December 2004 formal signing of a Memorandum of Understanding between PERF and ACPO.

### The ILEF

The International Law Enforcement Forum is composed of police, medical, technology, and academic experts from various countries primarily from North America and the United Kingdom. Participants are interested in furthering the development of less-lethal devices and establishing uniform international guidelines on police use of force. ILEF was originally conceived at an international meeting on policing in Northern Ireland in 1999 by members of the Pennsylvania State University’s Institute for Non-Lethal Defense Technologies (INLDT) and the Los Angeles County Sheriff’s Department. ILEF was formed to provide a scientific basis for understanding less-lethal options, technologies, and tactics being developed by manufacturers and explored by police practitioners.<sup>5</sup>

### ACPO

The Association of Chief Police Officers of England, Wales, and Northern Ireland assists police chiefs in the United Kingdom to provide excellence in professional and ethical police service to communities, and provides professional advice to government, law enforcement, and other organizations

4. For more information on the ILEF, visit [www.nldt.org](http://www.nldt.org); for more information on ACPO, visit [www.acpo.police.uk](http://www.acpo.police.uk).

5. The 2002 International Law Enforcement Forum report entitled *Minimum Force Options* is available at [www.nldt.org](http://www.nldt.org).

## box 1.5 *continued*

and individuals. The association is often viewed as PERF's United Kingdom counterpart.

### **The Summit**

PERF Executive Director Chuck Wexler opened the August summit. Less-lethal technology is the focus of great interest in the United States, he noted, and he underscored the importance of less-lethal weaponry to reduce injuries and protect civil liberties. Wexler encouraged the sharing of successful approaches in order to improve law enforcement practices on a global scale. He praised the United Kingdom for its approach to police practice research and encouraged further collaboration in this area. Robin Masefield, head of the United Kingdom's Northern Ireland Office, explained that there had been criticism of the lack of less-lethal weapon research in the United Kingdom. The issue had reached the forefront as a result of the April 1998 Belfast Agreement and subsequent Patten Report recommending policing reforms in Northern Ireland.<sup>6</sup> He commented on the significant progress made by the Police Service of Northern Ireland, as well as the creation of a Northern Ireland Policing Board. Masefield praised the establishment of the ILEF and expressed his support for international cooperation in developing the next generation of less-lethal technology.

Colonel Andrew Mazzara (USMC-Retired), the director of the INLDT at Pennsylvania State University, expressed two goals of the summit: to reach some consensus on key issues related to less-lethal force options and technologies and to

explore the possibility of formalizing and instituting these meetings on an ongoing basis. Topics for discussion included the benefits of international policing cooperation; ways to change less-lethal technology development from manufacturer-led to practitioner-led; the importance of identifying international partners; and the need to engage with international manufacturers of less-lethal equipment.

Discussions led to these points of agreement:

- The law enforcement community should determine the specifications and parameters for desirable less-lethal technologies.
- The international law enforcement community should work together to develop these specifications.
- All new technology should be evaluated, and ideally the technology should reflect advances in technological and medical effects research.
- Professional associations should (1) facilitate the identification of best-practices, training standards, and evaluation guidelines as they relate to less-lethal technology and (2) share information globally.

Summit participants also recommended the establishment and sharing of common terminology; the development of international computer databases; the creation of effective assessment measures; discussions with less-lethal product manufacturers; and the development of a communication strategy.

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6. The Patten Commission Report is available at [www.belfast.org.uk/report](http://www.belfast.org.uk/report).

The summit concluded with a private tour at the United States Holocaust Memorial Museum. Attendees participated in a progressive program entitled *Law Enforcement and Society: Lessons of the Holocaust*. It examined the role of law enforcement officers during the Holocaust. The program spurred discussion on the role of police in society, moral dilemmas officers face, and the importance of safeguards and restrictions in law enforcement today.

#### **The Memorandum of Understanding**

At the Critical Issues in Policing Conference in December 2004, the leaders of PERF and ACPO signed a Memorandum of Understanding that formally established a relationship between the two organizations. The memorandum focuses on four main areas of collaboration: exchanging relevant information on areas of agreed common in-

terest, including research, practice, and procedure; developing access to relevant police research held within the knowledge base of the parties; exchanging good practice and benchmarking information on operational policing for the benefit of all police forces; and establishing joint research endeavors through international projects in the United States and the United Kingdom.

#### **Conclusion**

The summit advanced support for international cooperation, collaboration, and research. PERF, ACPO, and ILEF will encourage ongoing information sharing on current and emerging less-lethal technologies and move the profession toward international product specifications and accepted less-lethal tactics, ultimately raising the quality of policing in the world.

**box 1.6**

COMMENTARY:

**Defining Moments: Tackling Police Use of Force<sup>7</sup>**by **Chuck Wexler**

In July 2004, the COPS Office facilitated an interactive web cast discussion on police use of force. It was open to anyone with Internet access and broadcast to 50 cities around the country. It was an enlightening dialogue. Ten experts, representing the fields of law enforcement, local government, journalism, civil rights and more, spent an hour and a half discussing, debating, and probing the issues and difficulties related to how police agencies deal with use-of-force situations. I was privileged to moderate that very important and timely discussion.

Within a month of that discussion, police chiefs in Los Angeles and Kansas City, Missouri, faced widely publicized incidents in which their officers were scrutinized for using various levels of force. Whether it was the arrest of a suspect in Los Angeles captured on video by an overhead helicopter or the use of Tasers™ in Kansas City, both chiefs were immediately confronted with a limited set of facts that required investigation and public statements to a questioning community. The issues these chiefs faced reflected the debate on the COPS web cast, reminding us that these matters are neither abstract nor predictable. For most chiefs, they are the kind of events that keep them up at night.

Use-of-force incidents become defining moments for a law enforcement agency because they require exceptional leadership in an extraordinarily stressful situation. In such crises, a law

enforcement chief executive is under pressure from myriad stakeholders: The community wants swift responses and may demand disciplinary action against the officers or a change in policy even before an investigation, and they expect the chief to keep them informed as events unfold. The rank-and-file officers, as well as the police union leadership, want their chief to provide unwavering support for involved officers and to conduct an investigation that is sympathetic and takes all factors into consideration, including the stresses and perceptions of officers involved in split-second decision making. And the media keeps the incident squarely before the public—shaped by the speculations and perceptions of the reporter—ensuring that the eyes of a city, a state, or even a nation will remain fixed on the chief executive's actions.

The COPS Office discussion raised important questions: How does a law enforcement chief executive deal honestly and respectfully with the media when the investigation is not complete and all the facts are not yet known? Given the safeguards that many police departments have put in place, how does a chief respond to the community's right to know while preserving officers' right to fair treatment? And how does a chief answer demands for a quick resolution without jeopardizing the thoroughness of an investigation? Strong and sensitive leadership is needed, and the chief rarely has the luxury of time.

Allegations of racial bias can add another layer of complexity to the situation. In our web

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7. This sidebar article is based on a column published in the August 2004 issue of the Police Executive Research Forum newsletter *Subject to Debate* (vol. 18, no. 8).

cast discussion, the director of the Pittsburgh Urban League, the police chief of Miami, and a *Cincinnati Enquirer* editor were among those who agreed that when force is used, one of the first questions asked is always about race. The fact that this was openly discussed and agreed upon by the panel was refreshing. More specifically, they agreed that if the incident involves a white officer and a minority suspect, the incident could be a lightning rod for long-standing police-minority tensions. Race matters in America, and it should come as no surprise that race matters in street-level encounters.

Police chiefs confronted with these incidents realize that their performance, their agency tenure, and their careers may one day be judged on the basis of their leadership in these crises. They are, all too often, the defining moments for urban police chiefs and they require a tremendous balancing act. How does one weigh the concerns of the community against the rights of the individual officers involved? There are no easy answers. And part of the difficulty may be that the question is the wrong one to ask.

Leadership in these moments is not a zero-sum game; decision making is not a contest in which either the community or the department must ultimately win out. Police chiefs cannot see the world that way. The rights of the community should not be weighed against the rights of the department. As difficult as it is, effective chiefs see use of force situations as opportunities to work with the community and the department in an open and honest way. In Los Angeles, Chief Bratton quickly met with community groups across the city to discuss the steps that would be

taken and to reassure community leaders that recent reforms would be put to the test. He let the community know that he understood them, while conveying a simple, powerful message: We need time to do the job carefully and fairly. Similarly, he attended roll calls and met with union leaders, assuring them that the investigation would be thorough, fair, and based on facts. Both the community and the rank and file needed to know that both the process and the outcome would be handled in a professional manner.

In Kansas City, Missouri, Chief Rick Easley employed similar strategies when a use-of-force case caused public concerns. He met with community leaders and began a productive conversation with them and with his officers. In both Los Angeles and Kansas City, Bratton and Easley had met with community leaders well before these incidents—so this was business as usual, and not a “special meeting,” convened in an emergency without any prior basis for trust. If partnerships are established during times of relative calm, they will grow, endure, and prove invaluable during times of crisis, making candid and confidence-inspiring leadership an easier task to achieve.

Chief John Timoney said in the COPS Office web cast that policing today poses different challenges than policing yesterday’s America. Some police chiefs in the past were ineffective in communicating details of investigations and procedures. Today’s chiefs must operate with transparency—communicating ideas, details, and processes. This is the only way to serve both the community and the department. It is a difficult task, but to carry it out is to exhibit the leadership today’s police chief must possess.

## CONCLUSION

Police have been given enormous power—the legitimate authority to use force, even deadly force, against the very people they have been hired to serve. The misuse of force violates the rights of the person against whom it is used, and it violates the trust that the public places in its law enforcement agency. Moreover, misuse of force has led to urban riots, criminal charges against officers, civil suits against jurisdictions, and the removal of police executives from office. The legitimate use of force by police is essential to keep communities safe and to protect the officers charged with enforcing the law. At the same time, law enforcement agencies must ensure that force is used only when justified and at the level required to achieve

control. It is the agency executive who is key to optimizing force (Sherman 1983; Waegel 1984; White 2003). The police executive must establish clear department policy on the use of force and ensure that it is implemented; ensure that officers have the weapons, tactics, and training they need to optimize levels of force; and convey to the department and to the community through actions and words that the agency will be responsible and accountable in its use of force against its citizens. Proper support for officers involved in shootings and other traumatic or stressful encounters must be considered as well. The goal of this book is to help executives meet these important responsibilities.

# 2

## Improving Use-of-Force Policy, Policy Enforcement, and Training

by LORIE A. FRIDELL

“It is not better that all felony suspects die than that they escape. Where the suspect poses no immediate threat to others, the harm resulting from failing to apprehend him does not justify the use of deadly force to do so. It is no doubt unfortunate when a suspect who is in sight escapes, but the fact that the police arrive a little late or are a little slower afoot does not always justify killing the suspect.”

*TENNESSEE v. GARNER* 471 U.S. 1 (1985)

**T**he goal of a law enforcement agency executive is not to eliminate force but to optimize it (see Chapter 1). This means that force is used to the extent necessary so that officers are able to conduct law enforcement functions. Force is not used when it could be avoided, and force is used only in the amounts necessary to achieve legitimate objectives. Critical to achieving force optimization in a department are (1) the adoption of sound and effective policies, (2) implementation of mechanisms to promote policy adherence and

accountability, and (3) training to ensure that officers have the knowledge, skills, and judgment to act in accordance with agency policy.

### **HISTORICAL BACKGROUND**

Policy, policy enforcement, and training have been used by agencies in various ways to optimize the use of force. This section reviews recent history and relevant research findings. In all three areas, agencies and researchers have paid

more attention to deadly force than less-lethal force, and this emphasis is reflected in our coverage. (See Chapter 1, Box 1.1, for definitions of deadly force and less-lethal force.)

### *Policy Content*

The breadth of activities covered by agency policies and the number and detail of those policies have increased over the years. Policies related to force, particularly deadly force, are no exception. In the late 1960s, the President's Commission on Law Enforcement and Administration of Justice (1967) conveyed concern over the lack of policies to guide police in their use of deadly force. The commission noted that many officers were guided only by broad and difficult-to-enforce state statutes (White 2000). At that time many of the largest agencies had policies on deadly force, but these policies, even up to the early 1980s, often were very general and ambiguous (Matulia 1982). Following are a few examples (Chapman 1967, as cited in White 2001):

- Never take me out in anger; never put me back in disgrace.
- Leave the gun in the holster until you intend to use it.
- It is left to the discretion of each individual officer when and how to shoot.

A survey conducted in the early 1960s, involving primarily small departments, found that twenty-seven of forty-nine departments had no firearms policies (Chapman and Crockett 1963). Two decades later Nielsen (1983) surveyed small departments (serving populations of at least 20,000) as well as large departments in five states. He found that 37 percent of the responding agencies lacked a written deadly force policy. Over half of the responding agencies in North Dakota and Mississippi reported they had no written policies.

Now virtually all agencies, regardless of size, have policies on deadly force and less-lethal force. The content of deadly force law and policy in the United States can be traced back to English common law under which all felonies were punishable by death. It was natural, therefore, that a peace officer was allowed to kill a fleeing or resisting felon. When English law became incorporated into American law, a police officer was allowed to use deadly force to either defend life or to effect the arrest of *any* fleeing or resisting felon.

In the 1970s, many states began to adopt more restrictive statutes on deadly force, and many agencies began to adopt more restrictive policies. All recognized the right of police to use deadly force to prevent death or serious bodily harm to officers or others; many agencies limited the circumstances under which officers could shoot fleeing felons. At the jurisdiction level, Sherman (1978) reports that “community outrage” at shootings perceived to be unjust and/or racially biased was a potent precipitant of these policy changes (see also Walker and Fridell 1992). In *Tennessee v. Garner* (471 U.S. 1, 1985), the U.S. Supreme Court declared unconstitutional the Common Law “any fleeing felon” rule and held that deadly force may be used to apprehend a fleeing felon only if the felon poses a “significant threat of death or serious physical injury to the officer or others.”

Four years after *Tennessee v. Garner*, the U.S. Supreme Court in *Graham v. Connor* (490 U.S. 386, 1989) set parameters on the use of force generally—not just deadly force. The Court ruled that judgments about force would be made in accordance with the reasonableness standard of the Fourth Amendment. Force was justified if its use and level were “objectively reasonable” from the perspective of a reasonable officer considering the facts and circumstances known to the officer at the time the force was used.

Research has shown that policies do influence the frequency and nature of force used by

officers (Sherman 1983; White 2000; Fyfe 1978). This research—much of it conducted in the 1960s and 1970s and focused on deadly force—compared agencies with more restrictive and less restrictive policies or compared the same agencies before and after policy changes. For instance, Uelman (1973) collected information on policies and shootings from fifty cities in Los Angeles County and found that the departments in the most restrictive policy category had approximately one-half the shooting rates of departments with the least restrictive policies. While much of the variation could be explained by differences in policies regarding the shooting of fleeing felons, Uelman also found that departments with the most restrictive policies had fewer defense-of-life shootings as well. Walker (1993, 32) summarizes this line of research: “Administrative rules have successfully limited police shooting discretion, with positive results in terms of social policy. Fewer people are being shot and killed, racial disparities in shootings have been reduced, and police officers are in no greater danger because of these restrictions.” (In Box 2.1, Captain Ronald Davis of the Oakland Police Department argues that consent decrees have had a positive impact on law enforcement policies and procedures.)

### *Policy Enforcement*

While research has shown that policies can have an impact on the use of force, mere words within a Standard Operating Procedure manual may not have any impact unless supported by a clear message from the top echelons of the agency that the policy will be followed. Affirming the importance of clear direction by police leaders, the Independent Commission of the Los Angeles Police Department (also called the “Christopher Commission”), constituted following the Rodney King beating, called “the problem of excessive force in the LAPD . . . fundamentally a problem

of supervision, management, and leadership” (1991, 32). Skolnick and Fyfe (1993) describe events in several cities in which the contents of restrictive written policies were overwhelmed by the much more lax unwritten policies of the top administrators (see also Sherman 1983; Waegel 1984; White 2001). Not just the content of policies, but the administrative commitment to those policies, is key to controlling force—both deadly and less-lethal.

To optimize the use of force, a department must convey a clear message to sworn personnel that excessive force will not be tolerated, and unnecessary force must be avoided. This message can be conveyed through applicant screening procedures, monitoring of employees’ use of force, a strong system for reviewing complaints, effective supervision mechanisms including an early intervention system, and departmental rewards and punishments.

### *Training*

Training helps ensure that officers have the skills, judgment, and knowledge to implement policies on the streets of the jurisdiction. The dramatic changes during the past several decades in force policy have been paralleled by equally dramatic changes in training. Advances occurred first in deadly force training and later were applied to less-lethal force training.

Rudimentary firearms training for officers can be traced to 1895 when Theodore Roosevelt established the School of Pistol Practice. Such instruction was not routine, however, until the late 1940s or early 1950s (Morrison 2002, 2003). For this training, the recruit or in-service officer would, in a standing position, shoot an already-unholstered weapon at a static paper bull’s eye target (maybe 60 feet away) on command from the training officer during daylight hours. Scharf and Binder (1983, 202) provide one officer’s characterization of this type of training: “It’s

**box 2.1****COMMENTARY:****The Influence of U.S. Department of Justice Consent Decrees on Policing in the United States**

by **Ronald Davis, Captain**  
**Oakland (CA) Police Department**

Over the past ten years, U.S. Department of Justice (DOJ) consent decrees have greatly influenced policing in the United States.<sup>1</sup> An increasing number of police agencies challenged by allegations of excessive force, misconduct, and corruption have been required (either under a consent decree or the fear of having one imposed) to adopt “best practices” and change antiquated or deficient practices that otherwise would probably not have been reformed. Consent decrees can provide the impetus for improvement that has been supported by a police chief—but unrealized because of resistance within police agencies and lack of political support and resources. Consent decrees have required the adoption of best practices such as the Force Investigation Teams (FIT) in Washington, D.C.; the canine protocol in Prince George’s County, Maryland; and the foot pursuit guidelines in Detroit, Michigan. Now these approaches are quickly spreading throughout the field, and police executives and political leaders are increasingly recognizing their value.

Many police organizations and associations continue to conduct research and identify best

practices in a variety of areas. Some consent decree provisions are based, in part, on this research. Yet the adoption of these practices has been somewhat limited by those police agencies that resist change; they prefer familiar ways of conducting business to implementing and learning new policies and procedures. Before consent decrees outlined some specific practices, police managers frequently developed their own procedures based on information limited to their personal experiences or that of their agency. Often, these practices failed to consider lessons learned by other agencies and law enforcement personnel throughout the field.

In the past decade three noteworthy reports were issued: the 1991 Christopher Commission Report, the 1992 Kolts Commission Report, and the 1994 Mollen Commission Report; each report identified problematic trends and practices pertaining to officer conduct—including use-of-force.<sup>2</sup> Yet many of the recommendations contained in those reports often have not been implemented elsewhere. Since 1994, the Department of Justice has conducted thirteen investigations of police agencies whose practices they determined reflected a pattern or practice of conduct that warranted a consent decree.<sup>3</sup> The first consent decree was adopted in 1997 and the

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1. As used here, the term “consent decree” includes memoranda of agreements, consent judgments, and other agreements between the U.S. Department of Justice and police agencies that outline areas for reform.

2. The Christopher Commission Report followed the Rodney King beating in Los Angeles. The Kolts Commission Report was an extensive review of the Los Angeles Sheriff’s Department. The Mollen Commission Report was a review of corruption in the New York City Police Department.

3. According to DOJ’s website on January 11, 2005, thirteen agencies have entered into some type of consent decree, judgment, resolution, or memorandum of agreement with DOJ as a result of a “pattern and practice” investigation.

most recent as of this writing was in 2004.<sup>4</sup> Based on the insular nature of law enforcement, it is possible that similar practices exist in other agencies throughout the industry. But because of consent decrees and their positive influence on policing, the number of these police agencies and law enforcement personnel engaged in such practices is steadily decreasing.

Consent decrees have captured the attention of law enforcement executives and instilled levels of accountability (and fear) that require the field to progress. To avoid the stigma, expense, and the loss of managerial decision-making ability associated with consent decrees, a growing number of police executives are proactively adopting successful approaches contained within them. The Department of Justice has also funded the creation of a technical guide of consent-decree best practices.<sup>5</sup> This project should advance the adoption

of best practices and reduce the need for consent decrees, which, according to Shanetta Brown Cutlar, chief of the Department of Justice's Special Litigation Section, is DOJ's ultimate goal.<sup>6</sup> Projects and research on promising approaches for addressing officer accountability allow us to learn from the mistakes of the past, so that they are not repeated.

Eduardo Gonzalez, former chief of the Tampa Police Department and Independent Monitor for the Prince George's County (MD) Police Department, summarized the influence of consent decrees as "changing the DNA of policing."<sup>7</sup> Gonzalez is correct not only in the literal sense that consent decrees are changing the mechanics of policing, but also in the sense that they change the Dynamics, Nature, and Attitude (DNA) of the policing profession.

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4. The first consent decree was adopted by the city of Pittsburgh, Pennsylvania, in 1997. The most recent consent decree was adopted by the Prince George's County (MD) Police Department in 2004.

5. *Protecting Citizens' Civil Rights: A Best Practices Guide for Local Law Enforcement Leaders* is expected to be released in 2005.

6. Meeting with Ms. Shanetta Brown Cutlar, July 18, 2004.

7. Meeting with Mr. Eduardo Gonzalez, July 19, 2004.

completely unrealistic, a police Disneyland. You have time to set up; no one is trying to kill you and you aren't completely stressed out. . . . Also you're not moving and the target's not moving. Otherwise the training is fantastic here!"

Some of the first improvements to deadly force training attempted to incorporate more realistic features of shooting situations. The Practical Pistol Course advanced this training by having officers shoot from various (and more realistic) distances, from various positions (for example, standing, crouching, kneeling), in the open or from behind barricades, under various lighting conditions, and under time constraints. "Stress courses" incorporated physical exertion in an attempt to enhance the reality of training.

The enhanced reality training still focused on *how* to use force and not *when* to use force. A still relatively recent advancement in force training is the emphasis on when to use force and what level of force to use. This advancement in training first occurred with respect to use of deadly, rather than less-lethal, force. An early application of this philosophy was the "shoot/don't shoot" program. An officer was placed in a room where a video portraying an encounter with a citizen (or citizens) was projected on the front wall. The officer was instructed to act as she or he would if this situation happened on the job; all of the scenarios required a decision regarding whether to use deadly force. The better early computer models had officers make use of cover and other tactical skills when responding to the stimuli on the screen. The corresponding application of this advancement for less-lethal force was the introduction of training not just on less-than-lethal tactics and weapons but on their justified utilization in various types of police-citizen encounters.

Modern force training also focuses on avoiding or defusing potentially violent encounters through smart tactics and strong communication skills. Some training programs help officers to make decisions in encounters that might reduce the likelihood that force will be required. In that same vein, agencies are emphasizing the importance of strong communication skills that, in some situations, can be used to de-escalate an otherwise violent encounter (Fyfe 1987, 1988).

## CRITICAL ISSUES IN USE-OF-FORCE POLICY

This section discusses critical policy issues that pertain to deadly force, less-lethal force, or both. Specifically, it explores the following questions: Should deadly force policy designate deadly force as "only a last resort"? Should officers be allowed to shoot at the drivers of moving vehicles and, if so, under what circumstances? What parameters should there be on drawing and pointing firearms and on the use of warning shots? Regarding less-lethal force, Taser™ policy and the use of flashlights as impact weapons are discussed. Finally, we consider policy provisions, relevant to both deadly force and less-lethal force that emphasize the avoidance of "unnecessary" force.

### *Deadly Force Used as a "Last Resort"*

Over the past two decades a fairly consistent national standard has evolved with regard to when deadly force can be used. All agencies allow for deadly force to be used to protect the officer or another person against death and serious bodily harm. Agency policies differ somewhat with regard to parameters on using deadly force against fleeing felons.<sup>8</sup> An ongoing discussion pertains

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8. On the ways agencies and courts have interpreted the fleeing felon aspect of *Garner v. Tennessee*, see Smith (1998).

to whether officers should be directed in policy to use deadly force if it is “objectively reasonable” or “only as a last resort.” Under the “objectively reasonable” policy, an officer can use deadly force if he or she reasonably believes that the subject poses an imminent threat of death or serious bodily harm to the officer or another (or reasonably believes that the fleeing felon meets the standard set forth in the department’s policy). The “last resort” policy sets a higher standard. The officer not only must reasonably believe that the opponent poses a significant, immediate, serious threat (or meets the fleeing felon standard) but also must have considered other less-lethal options and determined that they are or would be ineffective.

Police chiefs, trainers, officers, city officials, members of advocacy groups, and community members share the same hope that deadly force will be used only as a “last resort,” but law enforcement practitioners disagree about the advisability of including “only as a last resort” as a parameter in a policy statement on the use of deadly force. Those against its inclusion in policy argue that such statements go beyond what is required by the courts and could, in some instances, increase the jurisdiction’s liability. Most importantly, this policy, they claim, might lead to a brief, dangerous moment of hesitation on the part of the officer facing imminent harm.

It is not clear which of the two schools of opinion—what we call the “objectively reasonable” model or the “last resort” model—represents best practice, and so we share versions of each model. The Appleton (WI) Police Department, a proponent of the “last resort” model, states that “the use of deadly force is permissible under the following circumstances:

- As a last resort in the defense of one’s self when the officer reasonably believes (s)he is

in imminent danger of death or great bodily harm.

- As a last resort in the defense of another person who the officer reasonably believes is in imminent danger of death or great bodily harm and who the officer reasonably believes is entitled to self defense.<sup>9</sup>

The California Peace Officers Association (n.d.) takes a different policy stand than the Appleton Police Department. It requires only that the force be reasonable: “It is the policy of this department that officers shall use only that force which is reasonable, given the facts and circumstances known at the time of the event to effectively bring an incident under control.” The Florida Highway Patrol is another proponent of the reasonableness model. Its policy states that deadly force can be used if the “member has reasonable cause to believe that the subject poses an imminent threat of death or serious physical harm to the member or other.”

### *Shots Fired at Vehicles*

An increasing number of agencies have specific provisions in their policies regarding the firing of shots at drivers of moving vehicles. These provisions are prompted by a desire to reduce the potential danger to officers and innocent bystanders of a moving vehicle with a wounded or dead driver. The provisions are worthwhile because they highlight for officers the special dangers associated with shooting at a moving vehicle.

Some of these specific provisions merely reiterate the agency’s general policy regarding deadly force, including the common provision that deadly force should be avoided, if possible, if its use could harm an innocent person. For instance, the model policy on use of force of the

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9. This policy also includes a fleeing felon provision.

International Association of Chiefs of Police (IACP 1999) includes this provision: “Decisions to discharge a firearm at or from a moving vehicle shall be governed by this use of force policy and are prohibited if they present an unreasonable risk to the officer or others.” Similarly, the Federal Law Enforcement Training Center (FLETC) trains that “deadly force is justified only when the driver or other occupant of a motor vehicle poses an imminent threat of death or serious physical injury to an officer or others, and the use of deadly force does not create a danger to the public that outweighs the benefits of its use.” The policy of the Connecticut State Capitol Police appears to raise the bar for deadly force against occupants of moving vehicles by including the words “reasonably certain.” A State Capitol Police officer in Connecticut is “prohibited from discharging a firearm at a moving vehicle, except when the officer is reasonably certain that the failure to do so will result in serious physical injury or death to the officer or a third person, and the officer’s actions do not pose a risk to innocent bystanders.” This phrasing contrasts with the “reasonable belief” standard that Connecticut’s State Capitol Police apply to deadly force use generally.

Many policies related to moving vehicles note the officer’s role in reducing unnecessary force. The Orange County (FL) policy (G.O. 470.0) states that deputies shall not “intentionally place themselves in the path of an oncoming vehicle and (then) attempt to disable the vehicle by discharging their firearms.” Similarly, Virginia Beach General Order 12.10 states that “officers shall not intentionally stand and/or step into the path of a vehicle, creating circumstances where the use of deadly force becomes necessary.”

The Miami Police Department policy (which is based on the policy adopted by New York Police Department in 1972) prohibits officers “from discharging their firearms at or from a moving vehicle unless deadly force is being used against the police officer or another person present, by means other than the moving vehicle” (Miami P.D. Departmental Order 2, Chapter 6). This policy recognizes that, if the driver is using the vehicle as deadly force, it is unlikely that shooting the driver will reduce the danger. In other words, it is unlikely that a person (for instance, an officer or other person) who is in imminent danger of being killed by a moving vehicle will be saved if the driver is wounded or killed by a bullet. Instead, it is likely that the vehicle will continue on its deadly path. Some police managers also advocate this policy because they believe it is the strongest in terms of delimiting the circumstances in which officers can shoot at vehicles and doesn’t allow the officers to argue after the fact (truthfully or otherwise) that they could not, despite their best efforts, get out of the way of the moving vehicle.<sup>10</sup>

The recently adopted policy of the Los Angeles Police Department (Special Order No. 1, February 16, 2005) is similar to that of the Miami Police Department. It reads as follow:

Firearms shall not be discharged at a moving vehicle unless a person in the vehicle is immediately threatening the officer or another person with deadly force by means *other* than the vehicle. For the purposes of this Section, the moving vehicle itself shall *not presumptively* constitute a threat that justifies an officer’s use of deadly force. An officer threatened by an oncoming vehicle shall move out of its path instead of discharging a firearm at it or any of its occupants. (Emphasis in original.)

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10. Paul Evans, the former Commissioner of the Boston Police Department, received a no confidence vote after implementing a similar policy.

Commentary in the policy states:

It is understood that this policy may not cover every situation that may arise. In all situations, officers are expected to act with intelligence and exercise sound judgment, attending to the spirit of this policy. Any deviations from the provisions of this policy shall be examined rigorously on a case by case basis. The involved officer must be able to articulate clearly the reasons for the use of deadly force. Factors that may be considered include whether the officer's life or the lives of others were in immediate peril and there was no reasonable or apparent means of escape.

Relevant to agencies' provisions regarding shooting at vehicles is an important principle that applies to use-of-force policies in general: Keep it simple. Particularly in the area of deadly force, the officer should have a minimal number of "exceptions" or "special circumstances" to consider in times of high stress when a split-second decision is required. Thus, the full provision of the following policy might say more than it needs to:

Firing a weapon at a moving vehicle is prohibited, except when the officer reasonably believes that: (1) An occupant of a vehicle is using or threatening to use deadly force by means other than the vehicle; or (2) A vehicle is operated in a manner deliberately intended to strike an officer and/or citizen and all other reasonable and available means of defense have been exhausted (including moving out of the path of the vehicle) and the safety of innocent persons would not be unduly jeopardized by the officer's actions. Officers shall not intentionally stand and/or step into the path of a vehicle, creating circumstances where the use of deadly force becomes necessary.

Provisions (1) and (2) boil down to a defense-of-life standard with the added proviso: "Get out of the way if you can." Simple rules are easier to recall in times of high stress.

### *Drawing and Pointing Firearms*

An increasing number of agencies are adding specific provisions to their use-of-force policy regarding when an officer can draw and point firearms. According to the Police Assessment Resource Center, "A key purpose in adopting a formal rule is to provide officers with concrete guidelines and, if necessary, to establish a basis for accountability for deviations from the guidelines" (2003, 39). Agencies that adopt a formal rule restrict drawing and pointing of firearms to situations where danger is expected, although they vary as to their characterization of the degree and certainty of danger required. In its report, the Police Assessment Resource Center (2003) discusses various models including the following from the Los Angeles Police Department and the Metropolitan Police Department in Washington, D.C., respectively:

Unnecessarily or prematurely drawing or exhibiting a firearm limits an officer's alternatives in controlling a situation, creates unnecessary anxiety on the part of citizens, and may result in an unwarranted or accidental discharge of the firearm. Officers shall not draw or exhibit a firearm unless the circumstances surrounding the incident create a reasonable belief that it may be necessary to use the firearm in conformance with this policy on the use of firearms (Los Angeles Police Department, *Manual of Policy and Procedure*, Vol. 1 §556.80, 2002).

No members shall draw and point a firearm at or in the direction of a person unless there is a reasonable perception of a substantial risk that the situation may escalate to the point where lethal force would be permitted (Metropolitan Police Department, Washington, D.C., General Order 901.04 at 4, 2002).

### *Warning Shots*

Agencies across the country vary with regard to their policies on warning shots. The movement over time has been to increase restrictions on the

use of warning shots; some agencies have policies that severely restrict their use and others have prohibited them entirely. The issue of whether warning shots should be wholly prohibited or restricted to narrow circumstances reflects a larger question that pertains to other use-of-force issues: Is it better to totally ban an activity that, on balance, produces negative outcomes, or strongly caution against its use and allow for discretion for the rare circumstance when the activity actually produces greater good than harm? Adopting the latter principle, the IACP model policy does not set forth a blanket prohibition against warning shots but rather provides for their use for purposes of “defus(ing) escalating and potentially life-threatening assault situations.” Specifically, the policy states that “warning shots may be fired if an officer is authorized to use deadly force and only if the officer reasonably believes a warning shot can be fired safely in light of all circumstances of the encounter” (IACP 1999). The Miami Police Department makes a distinction between warning shots and shots to summon assistance. The former are prohibited, but officers can use their firearms to summon assistance in “emergency situations when someone’s personal safety is endangered and no other reasonable means is available.”

### *Taser Policy*

Departments nationwide are trying to decide whether to adopt or continue using conducted energy devices such as Tasers and, if deployed, the content of policy guiding their use. With a surge of interest in Tasers by law enforcement, the debate regarding their use is being played out in

court, in the media and in other public forums. Advocates claim that Taser deployment reduces the use of deadly force by officers against citizens, thereby saving lives. They also claim that Tasers reduce overall injuries to officers and subjects. They can provide examples in which use of deadly force would have been justified, but officers or suspects suffered no long-term injuries because Tasers were used instead.<sup>11</sup> Taser critics claim that these weapons are not “less-than-lethal,” and they link the Taser to more than ninety deaths of suspects nationwide. Critics also argue that, in some agencies, Taser deployment has increased, not decreased, overall use of force. (On Taser research and deployment, see also Chapter 3.) Amnesty International (2004) articulates the concerns regarding Tasers and their evidence to support those concerns; it favors a moratorium on Tasers pending further research on the extent to which Tasers may contribute to deaths.<sup>12</sup> No one at the time of this report is in a position to state unequivocally that Tasers do not contribute to deaths in some circumstances. Equally important, the extent to which Tasers might reduce injury to officers and suspects and even save lives is not fully documented either.

The arguments for and against Taser use provide guidance for making a decision about where Tasers should be placed on a standard linear continuum of force if an agency chooses to adopt the device.<sup>13</sup> The placement should reflect an attempt to achieve a balance between potential benefits and potential costs. This conceptual guidance leaves lots of room for differences of opinion regarding the circumstances in which this balance can be achieved. Indeed, these differences highlight the importance of ongoing

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11. There is anecdotal evidence that in some jurisdictions (for instance, Miami and Phoenix) the adoption of Tasers has been followed by a significant reduction in the use of deadly force (see Chapter 3).

12. The Southern Christian Leadership Conference has also called for a moratorium on the use of Tasers.

13. This continuum is discussed in more detail later in the chapter in the section on training.

discussions involving law enforcement practitioners and other stakeholders. It is hoped that this discussion will be aided by more research, something that both practitioners and advocacy groups recommend.

One way to approach the desired cost-benefit balance would be to allow for the use of Tasers to achieve either or both of these two objectives: (1) displace deadly force; (2) prevent significant injury to the subject, the officer, or others. Using Tasers to achieve the first objective—displace deadly force—would allow for their use at the level of deadly force (in the dart mode). (As explained below, some agencies object to such placement.) It is more difficult to turn the second objective into precise policy since reasonable minds differ as to when the Taser is in fact “preventing” injury and which injuries should be considered “significant.” The policy of the Denver Police Department (DPD) achieves this objective by placing Tasers at a high level on its force continuum. The DPD has six levels of subject resistance on its linear force continuum: Psychological Intimidation, Verbal Non-Compliance, Passive Resistance, Defensive Resistance, Active Aggression, and Aggravated Active Aggression (deadly force level). The DPD policy states that Tasers can be used to “incapacitate a combative or physically resistive person whose conduct rises at least to the level of Active Aggression. . . . This use-of-force option becomes necessary when other force options would be inappropriate or ineffective under the circumstances” (D.P.D. 105.00). The policy also allows for the use of the Taser against a “suicidal person who cannot be safely controlled with other force options.”

More research is needed to provide the law enforcement field with guidance on Taser use.

At present, it does not appear that the balance between potential benefits and potential costs is achieved when agencies permit use of the Taser against subjects who are not behaving in a physically aggressive manner.

Some agencies place Tasers at two different levels on the continuum of force, reflecting the application of Tasers in the dart mode and in the stun or touch mode. (In the dart mode, two probes attached to two wires are fired at the subject; in the stun or touch mode, the officer makes direct contact with the subject’s body with the Taser after the air cartridge of the dart mode has been expended or removed.) In some policies, Tasers in touch mode are placed lower on the continuum than Tasers used in the dart mode. Both TASER International and Amnesty International recommend that stun mode be used as backup when dart mode has not produced successful control.<sup>14</sup> The Mount Pleasant (SC) Police Department policy on touch mode reflects this purpose. “The Taser touch stun method may be used as a secondary deployment consideration under the following conditions: (1) failure of both probes to contact the subject, (2) sudden attack on the officer by the subject, and (3) attack on an officer by an additional subject after a Taser deployment” (G.O. 89-1204/A-04).

Some agencies specifically prohibit the use of Tasers in deadly force situations because of the potential risk to officers. Others include special provisions that are designed to address this potential danger. For instance, the policy of the St. George (UT) Police Department states that “the advanced Taser should not be used without a firearm back up in those situations where there is a substantial threat toward the officer(s) or others present.” The corresponding Seattle Police

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14. Amnesty International recommends that stun mode be used *only* as backup; TASER International recommends that stun mode be used *primarily* as a backup “when the probes have not incapacitated a suspect and the suspect continues to resist or attack” (Guilbault 2005).

Department policy pertains to all less lethal options, not just Tasers. It states that “less lethal options shall not be employed against lethal threats except when lethal cover is available and in place to provide protection for the officers employing these tools as well as innocent parties who are not involved.” The policy of the Colorado Springs Police Department is designed to achieve the same end as the policies of the St. George and Seattle departments, but its wording emphasizes officers’ own judgment with regard to how they will achieve it. This policy states, “Officers will not intentionally place themselves or other innocent persons at substantially increased risk of death or serious injury by employing conducted energy weapons where conditions would otherwise call for immediate use of deadly force.”

Most agencies prohibit or strongly discourage the use of Tasers against specific groups of people—for instance, pregnant women, handcuffed prisoners, children, the elderly, people in high places who might be hurt if they fell, people moving at high speeds such as drivers, people who have a finger on the trigger of a gun, and handcuffed prisoners resisting/refusing to enter a police vehicle. The Las Vegas Police Department policy distinguishes between circumstances in which Tasers should *never be used* and circumstances in which Tasers *should not be used most of the time*. In the latter circumstances, the agency gives officers some discretion to judge whether the potential harm is offset by greater potential gain. The Las Vegas policy reads:

At all times the Taser will not be used

- when the subject has come into contact with flammable liquids or is in a flammable atmosphere;

- when the subject is in a position where a fall may cause substantial injury or death;
- to intimidate individuals;
- to escort, provoke, or jab individuals; or
- to awaken unconscious or intoxicated individuals.

Unless there are compelling reasons that can be clearly articulated, Tasers should not be used

- when the subject is operating a motor vehicle;
- when the subject is holding a firearm (Note: SWAT and Detention Services Division are exempt from this provision);
- when a handcuffed prisoner resists/refuses to enter a police vehicle, holding or booking area;
- when the subject is a visibly pregnant woman; or
- when the subject is extremely elderly or impaired.<sup>15</sup>

Policies and training should caution against repeated and prolonged shocks. Related to this, the Toledo Police Department policy states that “suspects or prisoners may not be jolted by more than one officer at a time. If more than one officer deploys a Taser, they are to communicate with one another and one of the devices is to be turned off.” Further, because, for many agencies, Tasers are a new less-lethal technology and because so many issues about them have been raised in public debate, agencies should closely monitor Taser deployment for at least six months and ideally for one year. The purpose of this monitoring by the agency or by an independent entity would be to evaluate positive and negative impacts and to identify any issues or trends related to Taser use that have implications for agency policy or training. As part of ongoing monitoring, agencies that

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15. The IACP Model Policy on Electronic Control Weapons lists the following as “susceptible” individuals: “women who are pregnant, persons with pacemakers, those suffering debilitating illnesses, persons who are very old or very young...persons of very small stature irrespective of age” (2005, 3).

employ use-of-force forms should include Tasers on the list of force types that require such forms. The IACP Model Policy on Electronic Control Weapons (2005) recommends that the report should include comprehensive information such as whether the Taser was used in dart or touch mode, the reasons why a Taser was used, the range at which it was used, the point of impact on the subject, the actions taken by the officer(s) after the discharge, and any injuries incurred by the subject.<sup>16</sup> The officers should also report the number of times shocks were administered and the length of those shocks. Departments can download the information provided by the advanced self-reporting mechanisms on the devices and summarize these data in the use-of-force reports.

### *Flashlights as Impact Weapons*

The issue of using flashlights as impact weapons returned to the fore when news media filmed an officer of the Los Angeles Police Department (LAPD) using a flashlight against a subject. Most agency policies limit, but do not prohibit, the use of flashlights as impact weapons. This is the case with the LAPD policy that was adopted on the heels of the media-portrayed event. It reads: “The primary use of the flashlight is for illumination purposes. Use of the flashlight as an impact device is discouraged by the Department. However, under exigent circumstances, the flashlight may be used as an impact device when use of an officer’s baton is not feasible.” Similarly, the Orlando Police Department’s policy prohibits using flashlights “as a defensive impact instrument . . . except in cases of aggressive resistance when the baton is not practical. When the flashlight is used as an impact instrument, within the guidelines of

this policy, the same techniques utilized with the baton shall apply.” The policy in Orange County (FL) states:

The flashlight should never be used as a weapon of choice but rather as a weapon of opportunity.... In the event that the flashlight, or other weapon of opportunity, is used as an impact weapon, the deputy should disengage as soon as the situation permits and transition to an approved impact weapon, chemical agent or defensive tactic technique.

### *Avoiding Unnecessary Force*

The preceding issues regarding policy content pertain either to deadly force or to less-lethal force; this final issue—avoiding unnecessary force—pertains to both. All agencies should train officers to use verbal skills and tactics to reduce the likelihood that force will be required during an incident. Some agencies additionally include in their policies specific references to avoiding “unnecessary force.” For instance, the Philadelphia Police Department’s deadly force policy (Directive 10) states that “police officers should ensure their actions do not precipitate the use of deadly force by placing themselves or others in jeopardy by taking unnecessary, overly aggressive, or improper actions.” Similarly, the Miami Police Department policy (6.4.7. #10) directs that “police officers shall not unreasonably place themselves in a position where a threat of imminent danger of death or serious physical injury is created when attempting to approach, pursue, stop a motor vehicle or armed subject.”

There appears to be an increased emphasis in training and policy on temporary retreat, a viable option that may serve, in part, to reduce unnecessary force. Those promoting this option should realize that some officers may object to

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16. To be able to assess all benefits, agencies should consider requiring form submission even when officers only aim the Taser at a subject using the laser beam. Anecdotally, departments are reporting suspect compliance under the threat of Taser usage.

the concept, but attitudes can be changed (Geller and Scott 1992, 310). The Philadelphia Police Department tackles this objection head on in its policy: “Retreating or repositioning is not a sign of weakness or cowardice by an officer.” Compared to the immediate use of force, retreating or repositioning “is often a tactically superior police procedure.” The Denver Police Department, in the opening narrative of its policy (Section 105.00), highlights the importance of avoiding the need for force and the appropriateness of temporary retreat in some circumstances: “When reasonable under the totality of the circumstances, officers should use advisements, warnings, verbal persuasion, and other tactics and recognize that an officer may withdraw to a position that is tactically more secure or allows an officer greater distance in order to consider or deploy a greater variety of force options.” In one of its consent decrees, the U.S. Department of Justice required policy revisions that “will emphasize that de-escalation techniques, such as disengagement, area containment, surveillance, waiting out a subject, summoning reinforcements or calling in specialized units may be an appropriate response to a situation.”

## CRITICAL ISSUES IN POLICY ENFORCEMENT

Policy on the use of force may have little impact on police behavior if the agency does not enforce its policy. To demonstrate a commitment to the judicious use of force—both deadly and less-lethal—agencies should employ a variety of enforcement mechanisms such as use-of-force reporting, complaint reviews, intervention by supervisors and peers, and departmental rewards.

This section describes these options and identifies successful practices. First, however, we reiterate a point made earlier.

A large percentage of incidents involving excessive force may be caused by a small number of officers; several agency reviews, including the Independent Commission of the Los Angeles Police Department (1991), suggest this is the case. The reason may be characteristics of the officers when they are hired or socialization and control mechanisms that impact officers once they are on the job. In Box 2.2 Chief H. Michael Butler of the Longmont (CO) Police Department reminds agencies of the importance of screening applicants carefully.

### *Use-of-Force Reporting*

In recent decades departments have documented use of force by their officers to a much greater extent than in the past. Once uses of force were simply referenced at the officer’s discretion in incident reports. Then agencies began to *mandate* that certain types of force be reported in incident documentation. Today most agencies require officers to complete use-of-force reports, which they mandate through policy for designated force types.<sup>17</sup> Agencies vary with regard to what they designate as “reportable force” (the uses of force that must be reported) (Pate and Fridell 1993). The IACP model policy on this subject requires force reporting on physical force, chemical force, impact force, use of electronic equipment, and discharge of firearms. The Fresno Police Department (2003, 6) requires force to be reported when

- officers (including canines) use force and a person is injured; or,

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17. Typically, agencies refer to these reports as “Use-of-Force Forms.” The Miami Police Department and the Colorado Springs Police Department have labeled them “Response to Resistance Reports” and “Response to Aggression Reports,” respectively.

**box 2.2****COMMENTARY:****Reducing Use of Force through Hiring Decisions:  
Effective Prevention Measures**

by Michael Butler, Chief of Police,  
Longmont (CO) Police Department

When it comes to use of force, police departments should strongly consider the notion that “an ounce of prevention is worth a pound of cure.” Unfortunately, the opportunity for the most effective intervention (prevention) has already passed by the time a community is protesting an incident involving force and demanding that the police department hold officers accountable for using excessive force, whether it is real or perceived. When a community is upset by allegations of excessive force by police officers, it is not uncommon for police chiefs, mayors, and other elected officials to promise change or a “cure” by initiating civilian oversight boards or independent monitors—to hold a hammer over the heads of officers. Though it is hoped that this “pound of cure” will have long-lasting effect, such actions cannot fully address those officers already on the department who have a propensity to use force.

The ounce of prevention provided by implementing effective processes to recruit and select officers outweighs the benefits of the usual pound of cure when it comes to reducing excessive use of force. Academics and police practitioners have agreed that departments should shift their focus and resources to address the force issue on the front end: preventing excessive force through effective controls on officers’ recruitment and selection. The Longmont (CO) Police Department (LPD) has done just that. It has created a profile for hiring police officers that is the ounce of prevention needed to minimize

officers’ use of force. The department also re-designed its selection process to increase the probability of hiring people who fit this profile. Four of the components of the LPD profile are listed below:

1. People who have no previous excessive force history either professionally or in their personal lives. Any current police officer with a sustained internal affairs case for excessive force is eliminated. Non-police applicants are evaluated on a case-by-case basis. Circumstances that could eliminate any non-police applicant include such things as involvement in the criminal justice system for brawling/fighting, etc. Any person with a domestic violence conviction is automatically eliminated.
2. People who have demonstrated they can CHOOSE accountability and do not need persuasion, supervision, or rules and regulations to choose accountability for them. Applicants would be rejected if they need high levels of structure to make decisions. We focus on applicants who have demonstrated that they can choose appropriate courses of action in their lives and can be interdependent.
3. People who are predisposed to engage or work with the community. We specifically look for community involvement such as volunteer service on the part of the applicant.

## box 2.2 *continued*

4. People who show a strong tendency to solve problems with their intellect and communication skills. Through interviews, background checks, and psychological testing, we determine how people resolve personal and professional issues in their lives, such as if the applicants learned to resolve issues in their lives without being overly aggressive or becoming angry.

While we have other components in our profile to select police officers, these four elements are associated with choosing applicants who are not predisposed to using force to solve problems and who will need only minimal supervision and structure for satisfactory performance on the job. The LPD selection and hiring process requires potential candidates to participate in a personal interview; complete a written application, an oral exam, and psychological tests; and pass a background investigation, integrity interview, physical agility test, medical and drug screening, and a polygraph examination. The components of the selection and hiring process that screen for an applicant's propensity to use inappropriate force consist of the following:

1. In completing the application, candidates are required to write an essay responding to several questions about their thoughts on becoming a police officer, their understanding of community policing, and their readiness to work at the Longmont Police Department.
2. During the personal interview, the hiring personnel ask specific questions regarding the candidate's problem-solving skills, knowledge of the community and police department, and commitment to working with the community.
3. The "Oral Integrity Test" examines the applicant's professional and personal use of force/excessive force history. This is a one-on-one interview in which the interviewer is asking the applicant questions about his or her background. The LPD has preset integrity standards unknown to the applicant. The interviewer is specifically trained in the science of detecting untruthfulness on the part of the applicant.
4. Psychological testing further assesses the applicant's predisposition to use force to solve problems.

A background investigation verifies what the applicant stated in the first four components of the selection process and comprehensively examines the applicant's history. LPD conducts all background investigations for officer positions in person and one-on-one with all past employers, personal references, relatives, and neighbors of the applicant (as well as the applicant's current supervisor, current peers, and anyone else the background investigation reveals we should interview) to determine if the applicant has a history of violence. LPD eliminates any candidate who showed a propensity to use force during previous

employment, either as a police officer or civilian. Domestic violence complaints result in automatic elimination. The considerable resources needed to conduct these reviews are well worth it. During the polygraph, recruits are tested to detect any use of force or excessive force by the applicant and for any deception during the previous stages of the selection process.

While the LPD has changed other aspects of the organization and its policies and practices to minimize use of force and excessive force, its experience suggests that the recruitment and selection processes are where the most emphasis should be placed to prevent future problems. By

modifying the department's hiring and selection process, the LPD has seen a considerable drop in use of force by its police officers. Since implementing new selection and hiring procedures in the mid-1990s, the department has had a 45 percent reduction in use-of-force incidents over a 5-year period.

Police departments have a tremendous opportunity to reduce use of excessive force by officers. The recruitment and selection processes present that opportunity. Departments can choose to wait for the pound of cure, or they can move forward proactively with an ounce of prevention that yields far greater results.

- officers strike a person with a body part (i.e., fist, foot, elbow, etc.) or any object (i.e., flashlight, clipboard, etc.); or,
- officers use (not merely display) a department-issued weapon (i.e., electronic immobilizing device, less-lethal impact projectile, chemical agents, baton, firearm, etc.).

The Denver Police Department requires officers to submit a use-of-force report if a firearm is discharged (outside of training); if an impact weapon, carotid compression technique, chemical agent, pepper ball, Taser, or shotgun is used; if a canine is used or certain types of physical force, such as hand strike, leg thrust, kick; if a person is injured or killed; if a person complains of an injury or may claim injuries in the future; or if the subject is charged with resisting arrest and/or assault on an officer.

In most departments the officers who used force and other officers on the scene are required to provide the documentation. Some agencies, however, are having sergeants respond to the scene and complete an immediate, comprehensive investigation. The Miami-Dade Police Department policy (31-01.5 – 31-01.6) requires the officer who has used reportable force to notify a supervisor who then responds immediately to the scene. The responding supervisor is directed in policy to prepare the written documentation. The supervisor interviews the officer who used force, other officers at the scene, the person who was the subject of the force, and any other witnesses. The supervisor also takes photos of all subjects and any other person who was injured during the incident (for instance, officers or other individuals).

According to the IACP model policy, “All use-of-force reports shall specify the actions of

the suspect that necessitated the use of force, the reasons why the officer used force, as well as any suspect complaints of injury, medical treatment received, or refusal of medical treatment” (Section IV.A.2). A key advantage of use-of-force forms over the old system of including narratives in incident reports is the ability to produce aggregate, quantifiable information. Check or code boxes can be tabulated (for example, check/code boxes on officer/subject injuries, subject characteristics, levels of resistance encountered, and level and type of force used). Building upon these empirical measures, Alpert and Dunham (1997, 2004) developed a system for reporting force that produces a measure of the force used by the officer *relative* to suspect resistance. For instance, if a department denotes five levels of suspect resistance (coded as 1–5) and five levels of officer response (similarly coded as 1–5), the Force Factor is the level of force used minus the level of resistance. Aggregate data can show how frequently officers respond with force one or more levels above suspect resistance, one or more levels below suspect resistance, and/or at the level of suspect resistance. These data can be used to evaluate force use by individual officers, to compare agencies to each other, or to research particular aspects of an agency’s force incidents.

An early and *meaningful* review of the use-of-force forms by immediate supervisors is very important. As Klinger (2004) points out, supervisors should analyze these reports, “not just sign off.” Supervisors should talk about force incidents with the persons involved and with others, thus using the incidents as an opportunity to teach and train. Some agencies include the training unit on the list of entities that receive and review the forms.<sup>18</sup> By examining these forms, the training unit can identify instances or trends

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18. The Police Assessment Resource Center (2003) recommends that the commanding officer of the Training Division serve on the committee that reviews officer-involved shootings.

related to unnecessary or excessive force. Training can then be tailored to try to avoid past mistakes. Many agencies route the use-of-force forms up the chain of command, and sometimes all the way to the chief. The key to the review system is not the people who receive the forms but the degree to which the readers carefully consider their contents.

Serious uses of force require in-depth investigations, a topic covered in Chapter 4.

### *Review of Use-of-Force Complaints*

To hold officers accountable and promote the prudent use of force, departments must have a strong and effective system of reviewing complaints. A department that is not interested in controlling the use and misuse of force can easily make the complaint review process a frustrating and ineffectual one for community members. Without much proactive effort, it can keep complaints low by making the process unknown to residents, confusing, intimidating, or even risky. Even a department that allows complaints to be filed can institute an investigation process that is weak or intimidating or ensure that sustained complaints result in few consequences to officers.

There are key components of a complaint system that is effective. First, the system is user friendly for the person who has a complaint to file. Effective systems make information about how to file complaints available to the public in various ways. This information can be posted in the police department and other public buildings, included on the agency web site, or described in printed brochures available to individuals and community groups. The complaint forms are simple, residents have clear instructions for filing them, and the process is free of intimidation. A Department of Justice consent decree requires that the public be able to file complaints by making a telephone call, sending a

facsimile, sending electronic or regular mail, submitting the complaint in person, speaking with a supervisor, and/or by completing a form by themselves.

A second key aspect of an effective system is meaningful investigation of complaints. Investigations should be quick comprehensive and impartial. Agencies vary widely in the comprehensiveness and quality of their investigations of complaints. Common weaknesses in this process are (1) insufficient investigations including lack of effort to find and meet with citizen witnesses including complainants, (2) interviews that serve to intimidate complainants and other citizen witnesses, (3) inordinately lengthy investigations, and (4) biased investigations to safeguard peers (Human Rights Watch 1998; Independent Commission of the Los Angeles Police Department 1991).

A third important component of an effective system is appropriate disciplinary action. "Light-handed counseling should never replace strong disciplinary actions in serious cases of abuse," according to Human Rights Watch (1998). Such counseling is "a misguided attempt to help officers who should, in fact, be punished or dismissed. Similarly, transfers should not be used as a tool to address an abuse problem."

Agencies that have removed barriers to filing, instituted meaningful investigative processes, and provided for appropriate dispositions for sustained complaints will have gone a long way toward producing a system that is not only effective but credible to the public. Community involvement in the complaint review process can also enhance system effectiveness and credibility. Community involvement, however, remains a controversial topic. Advocates argue that the involvement of community members in complaint review systems enhance police accountability and provide for a more independent and effective method for processing complaints. Opponents

claim that civilians are not qualified to evaluate complaints of police practices, and that their involvement in such systems undermines the autonomy of the law enforcement agency (Alpert and Dunham 2004).

In *Police Accountability: The Role of Citizen Oversight*, Samuel Walker (2001) describes the variety of systems in use that involve civilians in the complaint receipt and review process. (See also Walker 1995.) The “Police Auditor” method—in place in San Francisco; Los Angeles County; Portland, Oregon; San Jose, California; and elsewhere—“offers the best opportunities for changing police organizations and thereby enhancing accountability and achieving long-term improvements in the quality of policing” (Walker 2001, 86). Civilians do not investigate individual complaints, but rather review, monitor, or audit the police department’s complaint process. An application of this model is the Office of the Independent Police Auditor (IPA) in San Jose. The office of the auditor is independent of the police agency and all other city departments—reporting directly to the mayor and city council. It was established as a “compromise” in 1993 when community groups demanded full civilian complaint review, and the police department insisted on maintaining its full internal control over the complaint process. The IPA

- monitors and audits San Jose Police Department (SJPD) investigations of complaints filed against police officers to determine if they were complete, thorough, objective, and fair;
- serves as a location where any person can file a complaint against a San Jose police officer (an alternative location to the police department);
- conducts public outreach to educate the community about the process and procedures of the investigation of complaints

against police officers and the role of the IPA; and

- makes recommendations to enhance and improve SJPD policies and procedures (Independent Police Auditor 2004, 15).

The Internal Affairs unit of the SJPD still has the major responsibilities for “receiving citizen complaints, investigating the allegations, and determining the existence of sustainable allegations” (Independent Police Auditor 2004, 29). Serving in a quality control capacity, the IPA receives and reviews the original complaint documentation, observes (and recommends questions for) the interviews of officers against whom complaints are filed and of officers who are witnesses, and maintains contact with the complainants. IPA staff review the documentation of completed investigations; this review may result in “closure to the case, additional investigations, or disagreements with the outcome of the investigation” (Independent Police Auditor 2004, 33).

The IPA comments on its role to make recommendations regarding agency policies and practices:

One of the most important and distinguishing characteristics between a police auditor model and a review board or commission is the police auditor’s ability to effectuate systemic changes through policy recommendations. While an examination of each case takes place, greater emphasis is placed on spotting patterns and trends in the complaint audits, pinpointing the origin of the conduct that gave rise to the complaint, and in recommending policy and procedural changes to abate the offending conduct (Independent Police Auditor 2004, 13).

As of 2003, IPA had made 95 recommendations, 78 of which were adopted by the SJPD. Some of these recommendations pertain to complaint processing (for instance, complete investigations of serious complaints within 180 days); and others pertain to the policies and resources

that guide and facilitate the work of officers on the streets (for instance, increase the availability of less-lethal weapons, create better procedures for forcibly extracting blood from suspects).

The chief of police in San Jose, Robert Davis, reports that the IPA model has “served the department well” (Davis 2004). The model is strong, he explains, because it allows the department to maintain control over the key aspects of complaint receipt and investigation and provides for an objective entity that can confirm that complaints are being handled appropriately and effectively.

### *Intervention by Supervisors and Peers*

Agencies need to provide sufficient levels of supervision and hold supervisors accountable for their officers’ use of force. According to the Fresno Police Department (2003), “the key to preventing excessive use of force is to ... ensure that field supervisors are available and have access to officers in the field.” It recommends specialized training for supervisors and tools for effective supervision, such as use-of-force reports and an Early Intervention System (EIS).

Peers as well as supervisors should be held accountable for other officers’ use of force on the job. The recently revised force policy of the Miami Police Department contains the following provision:

At the scene of a police incident, many officers of the department may be present and some officers may not be directly involved in taking police actions. However, this does not relieve any officer present of the obligation to ensure that the requirements of the law and the Department regulations are complied with. Officers are expected to maintain control or intervene if the use of force against a subject clearly becomes excessive. Failure to do so may result in both criminal and civil liability. EXCESSIVE FORCE WILL NOT BE TOLERATED (Miami Police Department Order 2, Chapter 6, 6.1.3, emphasis in original).

In Pittsburgh, Chief Robert McNeilly instituted “an integrity clause” that encourages officers to report anonymously any abuses of authority including excessive force on the part of peers. (These and other efforts were described by several executives at a San Diego conference panel that is summarized in Box 2.3.)

### *Early Intervention Systems*

The Independent Commission on the Los Angeles Police Department (1991) highlighted the need for the collection and review of data on individual officers over time. It identified 44 officers each of whom had 6 or more complaints of excessive force or improper tactics. (In Los Angeles, less than 1 percent of the officers produced 15 percent of these types of allegations.) Some departments committed to monitoring adherence to force policy and preventing deviations from it have adopted Early Intervention Systems (EIS). The objectives of such systems are to identify officers who are at-risk of engaging in inappropriate behaviors, such as unnecessary or excessive use of force, and to provide some type of intervention to help correct an officer’s performance—ideally *before* formal disciplinary action is required or a critical incident occurs (Walker, Alpert, and Kenney 2001). EIS can be a powerful tool for supervisors in personnel management and provide a structure of accountability for the entire police department.

In developing a system, agencies must (1) identify appropriate data elements to include, (2) determine “triggering thresholds” (that is, the level of some measure that will prompt review), and (3) plan responses to thresholds in the form of interventions and monitoring (Walker, Alpert, and Kenney 2001). An increasing number of law enforcement agencies are adopting Early Intervention Systems. There has been a focus on the front-end part of the system—identifying

by Stephan Loyka

In the past five or six years, several law enforcement agencies across the country have been subject to mandated reforms as a result of U.S. Department of Justice (DOJ) consent decrees. Consent decrees address a pattern or practice of conduct that deprives individuals of rights, privileges, and immunities secured and protected by the Constitution and laws of the United States.<sup>20</sup> Consent decrees are sought following an investigation by the Special Litigation Section of the DOJ.

While government monitors and federally imposed change are not necessarily welcome, consent decrees have resulted in improvements in accountability and the general delivery of police services. All law enforcement agencies hope to prevent abuse of authority and to minimize incidents of use of force, and more and more executives are recognizing the need to reevaluate their policies and procedures to meet these goals. Police leaders are proactively identifying management changes that will help reduce the number of incidents where excessive force is used.

The panel on re-engineering use-of-force systems at the December 2004 Critical Issues in Policing Conference brought together experienced leaders in police administration—Chief Robert McNeilly, Pittsburgh Bureau of Police; Chief H. Michael Butler, Longmont (CO) Police Department; Chief Thomas Streicher, Cincinnati Police Department; and Chief John F. Timoney, Miami Police Department. These chiefs have valuable experience in dealing with consent

decrees, serious use-of-force incidents, and/or the implementation of organizational change. They discussed how a law enforcement agency can cultivate personal accountability and strengthen integrity in its police force.

#### SUCCESSFUL APPROACHES AND PRACTICAL ADVICE

##### Pittsburgh Police Bureau

The Pittsburgh Police Bureau received the nation's first consent decree in 1997, and Robert McNeilly, who became chief in mid-1996, was tasked with implementing a number of mandated reforms. Chief McNeilly recognized a need to restore accountability, integrity, and respect within the agency; he had come up through the ranks of the Pittsburgh Police Bureau. Although concerned about organizational problems surrounding use-of-force incidents, he was more troubled by how little was being done to investigate or correct those problems. When he became chief, he added an integrity clause to the department's policy guidelines. The intent of the clause was to promote an environment in which officers felt comfortable stepping forward to admit to (or anonymously report) any abuses of authority or violations of department policy. Officers could anonymously submit reports of violations or general concerns to supervisors without the fear of retribution or ostracism. According to Chief McNeilly, in the Pittsburgh Police Bureau today, three out of four internal investigations stem from anonymously submitted reports by other officers.

19. This article summarizes panelists' discussion on this topic at the Police Executive Research Forum's Critical Issues in Policing Conference in San Diego in December 2004.

20. Violent Crime Control and Law Enforcement Act of 1994, 42 U.S.C. § 14141.

The Pittsburgh Police Bureau was investigated by the DOJ for violations of the Police Misconduct Provision of the Violent Crime Control and Law Enforcement Act of 1994. After the investigation, a consent decree was pursued citing a pattern of abuse. Newly appointed Chief McNeilly agreed to the consent decree—a view not approved of by the rank-and-file officers or the union. This decision resulted in a no-confidence vote; the vote was influenced by officer resistance to proposals and reforms that McNeilly had been developing—many of which were subsequently mandated in the consent decree. Chief McNeilly viewed the consent decree as an opportunity to implement significant improvements within the agency.

One such improvement was the expansion of the bureau’s computer systems to monitor and assess individual performance within the agency. The agency developed an Early Intervention System called the Performance Assessment Review System (PARS). It collects, scrutinizes, and assesses information on individual officers (for example, information on use-of-force incidents and use of sick leave). The system also enables supervisors to compare an officer to everyone in his or her peer group. It is hoped that PARS will identify problems before they become serious. It is a tiered, color-coded system for flagging officers potentially prone to use-of-force encounters. Once a month, supervisors meet with highlighted officers to discuss a number of wide-ranging issues. Further action is based on decisions made as a result of these meetings. If a supervisor is unable to determine a course of action, or has further questions about an officer’s conduct, that supervisor is required to respond to the officer’s calls for service for a predetermined number of times during the next review period.

Chief McNeilly believes in proactive measures to reduce use-of-force incidents. He believes that personnel performance tracking systems can fully restore the accountability, integrity, and respect that must exist between a community and its police agency.

### **Longmont (CO) Police Department**

Chief Michael Butler in Longmont, Colorado, echoed Chief McNeilly’s emphasis on the need to build a culture of personal accountability, and he underscored the importance of careful hiring, quality training, and enhanced communications skills. When attempting to re-engineer his agency’s approach to use-of-force incidents, Chief Butler focused heavily on reforming hiring policies and practices to weed out individuals who might be prone to using force unnecessarily. He believes specific characteristics can identify officers who are predisposed to exercising unnecessary force. As discussed in Box 2.2, Chief Butler believes strongly in recruiting and hiring only those individuals who fit the agency’s profile. He not only “weeds out” but also “selects in” qualified recruits. The Longmont Police Department now hires individuals with “no prior incidents of violence personally or professionally, those who demonstrate accountability without needing it legislated for them, and most importantly, individuals who can check their personal pride or bravado and utilize communication skills before resorting to force.”

Intensified scrutiny during the screening and hiring processes can have two benefits: It can increase the confidence a chief has in his or her personnel, and it can increase a community’s trust in its police force. At some point an incident involving the use of force will occur, and starting

## box 2.3 *continued*

from a position of trust will help the agency as it presents the incident to the public and communicates the details of the ensuing investigation.

### **Cincinnati Police Department**

In April 2001, Cincinnati Mayor Charlie Luken requested that the U.S. Department of Justice review use-of-force incidents involving the Cincinnati Police Department (CPD). DOJ's subsequent investigation included extensive interviews with city and CPD officials, CPD officers, leaders of the primary union and other labor associations, as well as community members and civil rights organizations. DOJ reviewed all firearm investigations completed between 1995 and June 2001, every written complaint filed against the CPD between January 1998 and June 2001 alleging excessive force, and reported uses of force from June 2000 to June 2001. In addition to analyzing use-of-force incidents, DOJ examined management practices related to use of force, including the CPD's use-of-force policies, training curricula, supervisory procedures, and disciplinary system.

DOJ's investigation resulted in a Memorandum of Agreement (MOA) with the city of Cincinnati citing mandatory changes to be made by the police department. The MOA, like a consent decree, called for an independent monitor to continually assess the city's progress. In Cincinnati there had been a series of use-of-force incidents following the discharge of an officer's weapon and the death of a young male wanted on fourteen misdemeanor offenses. Evidence uncovered shortly after the shooting indicated that the officer's statement of what happened was false, and community perceptions about the incident were negative. Concerned about erosion of public trust in the CPD, Chief Thomas Streicher held a

press conference announcing his intention of writing a letter to officers to discuss the state of officer accountability. The letter, which emphasized the need for honesty, integrity, and truthfulness, was greeted with widespread public support.

In addition to investigations and oversight, the Cincinnati Police Department recently developed a communications policy governing information flow during the critical hours following a use-of-force incident. This policy directs department representatives to create a presentation detailing an incident. The presentation is later delivered to the public during press conferences or community meetings. Homicide and investigation units did not initially approve of the new policy, believing that it interfered with their investigations, but they came to appreciate its value. Details of a use-of-force incident are presented to the public as are descriptions of the department's use-of-force policies and legal issues. The Cincinnati police found that the public has had a limited understanding of police use of force—what is lawful, parameters, policies, etc.—and that a comprehensive and transparent approach can improve law enforcement–community relations. Chief Streicher requires the department's inspection section to reconstruct an incident following the conclusion of the formal investigation. The reconstruction is developed into another presentation and included as a part of a lessons-learned curriculum during officer training. Officers work through the scenarios and are asked about what other options or procedures they could have followed to avoid the use of force. Chief Streicher believes it is important to learn from an officer's or department's mistakes and that use-of-force incidents present an excellent opportunity to do just that.

### **Miami Police Department**

Formerly of the New York City Police Department (NYPD), John F. Timoney, now the chief of the Miami Police Department, discussed a policy implemented in the NYPD in 1972 as proof of how policy reform can have both immediate and long-term effects on officer-involved shootings. On August 11, 1972, an officer shot and killed a teenage boy running away from a stolen car. As a result of this episode, a comprehensive firearms policy was implemented that still stands today. Highlights of the policy include a prohibition against the firing of warning shots; restrictions on firing at a car unless the suspect is using deadly force *other* than the car; review of every firearm discharge by an officer by several persons (the chief of personnel, the tactical captain at the firing range, a legal affairs officer), as well as by the incident investigation unit. The policy contributed to a significant decrease in shootings.

Although the policies a department formulates provide the foundation for integrity and accountability, it is leadership, Chief Timoney stressed, that can cement and maintain officers' respect for the authority entrusted to law enforcement. Continual emphasis on principled, quality policing is what he credits with making a true difference in Miami and in the other departments in which he has served.

### **LESSONS LEARNED**

From the experiences of the panelists, several valuable lessons emerged.

- *Foster a culture of accountability to reduce use-of-force incidents and strengthen credibility within the community.*

- *Proactively train officers on alternatives to using force.*
- *Hire and train only individuals with skills and traits associated with integrity.*
- *Develop lessons learned from each use-of-force incident.*
- *Reform use-of-force policies to restrict shootings and review all discharges of firearms.*
- *Emphasize principled leadership and quality policing.*

### **CONCLUSIONS**

The discussion that followed the panelists' presentations addressed whether or not consent decrees and/or outside influence could make it easier for officers to endorse changes in department policies and use-of-force systems. With regard to his ability to implement changes, Chief McNeilly credited his background (coming up through the ranks in the Pittsburgh Police Bureau), and his respect and understanding for the rank-and-file. If police leaders explain to officers the reasoning and intent behind certain policy changes, the changes are more likely to be well received. Acceptance of change has a lot to do with good internal communications between management and the rank-and-file. Chief Butler emphasized, it is a great deal easier to enact changes during good times than in the heat of controversy.

data elements to be used and the thresholds to trigger intervention; less is known about successful approaches for reviewing data (who should review and when) and selecting and implementing interventions for officers who have triggered thresholds.<sup>21</sup> With regard to the use of force, these interventions are critical.

The U.S. Department of Justice, in the context of several of its consent decrees and Memoranda of Agreement (MOAs), recommends including these force-related elements in an EIS: uses of force, complaints alleging use of force, civil lawsuits alleging use of excessive force, and the outcomes of force investigations and lawsuits regarding force. Assaults on the officer, resisting-arrest arrests, injuries sustained by the officer, and injuries sustained by opponents are other elements that could be included (Pate and Fridell 1993). Early Intervention Systems could also include data on work attendance, accidents, vehicle stops, searches, and off-duty-employment arrests—information that could signal more general issues or problems experienced by officers that could lead to various out-of-policy behaviors including misuse of force. Additionally, there is increased recognition of the appropriateness of including indicators of positive behaviors (such as awards, commendations, and letters of appreciation) within Early Intervention Systems.

The data in the system are of no value unless someone is attending to them. In its consent decrees and MOAs, the Department of Justice requires that supervisors review the EIS data regularly for the officers they supervise. The data also must be reviewed when an officer is being considered for promotion, assigned as a Field Training Officer, or transferred to a different command, as well as when applying to serve as an investigator. The Pittsburgh Police Department's

Early Intervention System—Performance Assessment and Review System, or PARS—has involved first-line supervisors perhaps more than any other agency. Under PARS, supervisors are required to log on to the system each day before roll call to identify any officer under their command who has been involved in an incident that is recorded in the PARS system (Walker 2003). This approach ensures that supervisors are aware of the daily activity of their officers.

Various intervention strategies are available to assist “at-risk officers” who have been identified by EIS: peer counseling, supervisor counseling, training, reassignment, medical screening, and psychological counseling. However, there is no information on the quality, scope, and effectiveness of these interventions as they relate to use of force and other at-risk behaviors.

### *Departmental Reward Structure*

An agency should ensure that it is not rewarding (overtly or covertly) inappropriate or neutral behavior. For example, one West Coast department reported to the author that it had given out medals to each and every officer who was involved in a shooting, unless the shooting was found to be in violation of policy. Fortunately, the agency later realized that these awards sent a message that a shooting was always a good thing—something to which each officer should aspire. The agency now gives out medals only for shootings in which the behavior or bravery of the officer was worthy of special commendation.

In addition to scrutinizing awards to ensure that they affirm positive behaviors, agencies should provide reinforcements for commendable restraint and the use of tactics that lead to a non-force (or mitigated force) outcome (Geller and

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21. A forthcoming PERF report, funded by the U.S. Department of Justice, Office of Community Oriented Policing Services, will identify innovative practices for EIS intervention and supervision processes.

Toch 1995; Klockars 1995). These reinforcements could come in the form of a report by the officer's supervisor that would go in the officer's file or annual awards that recognize commendable restraint and good tactics. The Toronto Police Use of Force Committee in 1998 made such a recommendation: "The chief of police [should] ensure supervisors recognize good judgment by way of formal documentation when officers exercise restraint or minimize the use of force in violent or potentially violent situations" (Recommendation 2.2).

### *COMPSTAT as a Means to Promote Force Accountability*

An increasing number of law enforcement departments are using a version of COMPSTAT to enhance agency management and accountability (Weisburd, Mastrofski, Greenspan, and Willis 2001). Traditionally, COMPSTAT has been used to track and respond to crime and disorder; some agencies, however, have used COMPSTAT to hold commanders accountable for matters considered more internal than external to the agency. As an example, the Metropolitan Police Department in Washington, D.C. has daily COMPSTAT-type meetings that focus on crime and disorder issues and quarterly COMPSTAT meetings that require commanders to report, not only on crime and disorder issues, but also on performance measures directly or indirectly related to use-of-force accountability. For the personnel under their command, the commanders report on the nature and level of citizens' complaints, the status of firearms recertifications, the number of use-of-force incidents, and any significant training-attendance issues.

## **CRITICAL ISSUES IN USE-OF-FORCE TRAINING**

In recent decades, the training police officers receive concerning the use of force has advanced considerably in several key respects. For example, the environments in which officers learn and test their firearms skills are more realistic. They receive training, not only on force skills but also on when to use force and how much force to use. In addition, officers are trained in the use of tactics and verbal skills that can, in some situations, prevent force or reduce the level of force required.

Use-of-force training in the classroom and in other environments should cover the following components:

- policy/law,
- psychology/physiology of mind/body during stress,
- force skills (marksmanship, defensive tactics),
- decision making (when to use force and how much to use), and
- tactics and communication skills to prevent or mitigate force events.

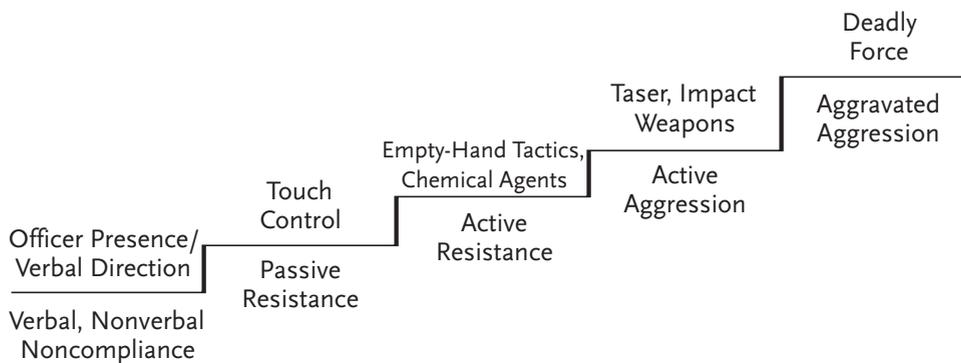
### *The Use-of-Force Continuum: Linear and Circular Models*

Today law enforcement professionals are re-evaluating the traditional linear (or "incremental") use-of-force continuum as a tool for training and as a means of articulating force policy (see Figure 2.1).<sup>22</sup> These complaints have been made about the linear continuum:

- It does not allow for consideration of every factor that might affect an officer's choice of a response (for instance, the number of officers at the scene, the strength and size of

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22. Police agencies across the country differ with regard to the number and definition of force levels on this continuum.



**Figure 2.1. Example of linear use-of-force continuum**

the officer compared to the strength and size of the opponent).

- It seems to imply that an officer must exhaust all efforts at one level on the continuum before proceeding to the next. Even if officers are informed during training that they are allowed to “jump steps,” the continuum is sometimes explained in court as one requiring step-by-step ascension.
- It is complex and difficult to remember, potentially leading to dangerous moments of delay by an officer during a critical incident.

The Canadian Association of Chiefs of Police (2000, 3) reports that linear models do “not accurately reflect the dynamic nature of potentially violent situations, in which the entire range of officer, subject and force options must be constantly assessed throughout the course of the interaction.”

Circular models of force have been proposed to replace the linear continuum. The Australasian Centre for Policing Research (1998)

distinguishes between two types of circular models: the situational model and the tactical options model. Situational models depict the officer in the middle of the circle with force options displayed on the outside edge of the circle. Many of these models place use-of-force options in random order to prevent any implication that the officer escalating to greater force must use force at each level. The situational model also has been described as a “force wheel” with “each spoke in the wheel a type of force. When officers are presented with a situation requiring force, they ‘spin the wheel’ to that which is most reasonable” (Fresno Police Department 2003, 15).

The circular configuration of situational models avoids the implied stepwise progression of the linear models but otherwise provides little guidance to the officers regarding force decisions. The tactical options model is thought to be superior to situational models because it provides information regarding how the officer is to make decisions; furthermore, some of these models present communication, not as a single force

option, but rather as an ongoing component of the interaction. One example is the framework produced by the Canadian Association of Chiefs of Police. This training aid (see Figure 2.2) “promotes continuous critical assessment and evaluation of each situation and helps officers understand and make use of a variety of force options to respond to potentially violent situations” (Hoffman 2004). Hoffman advocates tactical options models because they “go beyond description to include details about the process by which an officer chooses one response option over another.”

There is no consensus yet within the law enforcement profession as to whether a linear or circular model is better. Supporters of the linear model argue that this traditional model is appropriate conceptually for denoting how officers should use force. Force is trained and analyzed in terms of “quantities” of force; subjects use a little, some, or a lot of force and an officer’s appropriate response is linked directly to the level of force used by the subject. Legal analyses of what is “objectively reasonable” is related to the *amounts* of force used by the subject and the officer. Analyzing force in terms of these quantities is arguably *inherently* linked to a linear conceptualization (Klinger 2004). Proponents of the traditional linear model criticize the circular models for providing “no direction on relative levels of force” (Puder 1993).

Responding to its most frequent criticism, proponents of the traditional linear models note that effective training can disabuse officers of the notion that they must progress stepwise up the force ladder. Furthermore, a way to enhance clarity and increase the discretion of officers (for instance, discretion to make choices that consider special circumstances of the encounter) is to reduce the number of levels in a traditional linear continuum. (Circular models also can be

simplified in this way.) Thus, instead of numerous levels denoting action taken by the subject (for example, presence, verbal resistance, passive physical resistance, active physical resistance, aggressive physical resistance, aggravated physical resistance), three force levels can be denoted, as was done by the police departments in Burbank, California, and Louisville, Kentucky.

In a three-level linear continuum, the first level denotes non-compliant subjects who are not proactively aggressive. The subjects may be manifesting noncompliance verbally, with passive resistance or defensive aggression. At Level 2, the subject is actively directing force toward the officer. He or she is manifesting active aggression but is not using force that is likely to cause serious bodily injury (SBI) or death. At Level 3, the subject is directing force toward the officer or another that could cause SBI or death. In a three-level hierarchy, officers are taught three corresponding levels of response, but each level provides a number of specific force options. Because there are only three levels, not six or more, there are more options available to officers at each level. The officer is trained to consider all factors related to the encounter (for instance, sizes of the officer and the subject, number of officers at the scene, mental state of subject) and pick from among the array of force options. For instance, Level 2 responses might include joint locks, distraction techniques, balance displacement, chemical agents, hard empty hand, and impact weapons.

Some in the profession remain dissatisfied with the linear continuum, but it is not yet clear that the circular models are superior. No preferred framework has yet emerged from the international discussion on this matter, and we expect the debate to continue.



**Figure 2.2. Use-of-force framework of the Canadian Association of Chiefs of Police**

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### *Decision-Making Training*

Police departments employ various training methods to help officers use good judgment when exercising force. In the classroom, trainers can verbalize appropriate responses or show videos of use-of-force circumstances and engage the class in an analysis of how best to respond. Role playing has become a critical aspect of force decision-making training; computer simulators, “marking cartridges” exercises (for instance, Simunitions), and live exercises featuring pseudo-targets on the firing range are all popular teaching methods. These methods simulate as closely as possible the interactions officers can have with subjects; in the best methods, some semblance of the physiological and psychological

stress produced by real-life incidents is replicated. (In Box 2.4, Professors Tory J. Caeti and Robert W. Taylor highlight the importance of training in de-escalation techniques.)

The first computer simulators portrayed films of subjects to which officers responded with decisions to shoot or not shoot. Advances in these computer simulators have been significant. The modern devices are able to

- use four panels around the officer, simulating 360-degree action;
- train officers on firearms, Tasers, chemical sprays, batons, and the use of canines;
- use real (untethered) weapons modified with cartridges (for instance, laser cartridges) that produce recoil;

**box 2.4**

COMMENTARY:

**The De-escalation Discussion****by Tory J. Caeti and Robert W. Taylor**

Some agencies provide officers with extensive training on how to shoot, but could offer more training on use-of-force judgment and decision making. In the past, agencies trained their officers to shoot by firing at fixed targets from a stationary position with an adequate amount of lighting. Yet confrontations rarely occur under these circumstances. Many police departments have altered their training techniques and incorporated more realistic scenarios (Dunham and Alpert 2001). In addition, some departments offer martial arts training to new recruits or give training courses in the “ethics of using deadly force.” Role-playing situations can help officers learn how to peacefully resolve dangerous situations as well.

Agreements between the U.S. Department of Justice and local jurisdictions—generated by use-of-force incidents and public protests—have included mandates to reform police policies and training to include de-escalation tactics and other means to decrease use of force. For example, the Detroit Police Department adopted policy changes intended to improve decision making by officers, clarify circumstances under which officers may draw their weapons, delineate alternatives to using deadly force, and educate police

about addressing people who have mental illnesses.<sup>23</sup> As part of its consent decree, the Pittsburgh Bureau of Police adopted a policy that all officers will be trained in verbal de-escalation techniques that can, in some situations, prevent the need to use force. This training includes specific examples of situations that do not require force but commonly are mishandled, resulting in force being used (for example, an officer acting more aggressively when individuals verbally challenge the officer’s authority or ask for the officer’s identifying information).<sup>24</sup> Pittsburgh’s comprehensive and innovative responses to the consent decree led to numerous reforms and a more positive perception of the police by the community.<sup>25</sup>

There have been training videos produced on de-escalation techniques and offers accompanying courseware.<sup>26</sup> The Buffalo Police Department, like many others, has implemented training that emphasizes overall decision making, ethical situations, and de-escalating high stress situations. As noted by one department official, “officers are being instructed on how to talk their way out of a situation and be more aware of their behavior so as not to incite the situation.”<sup>27</sup>

Progressive approaches to training and policy development can yield immediate dividends. They can save lives and reduce use-of-force incidents in a jurisdiction, as well as minimize the

23. Available at [http://www.ci.detroit.mi.us/police/dept/crib/docs/doj\\_cd\\_us09.htm#b](http://www.ci.detroit.mi.us/police/dept/crib/docs/doj_cd_us09.htm#b)

24. Available at [http://www.city.pittsburgh.pa.us/police/html/community\\_relationships\\_and\\_tr.html](http://www.city.pittsburgh.pa.us/police/html/community_relationships_and_tr.html)

25. Available at [http://www.city.pittsburgh.pa.us/police/html/consent\\_decree.html](http://www.city.pittsburgh.pa.us/police/html/consent_decree.html)

26. Visit <http://www.pwpl.com/law/> for more information.

27. Available at <http://www.hilbert.edu/News/newsdetail.asp?ArticleId=557>

### **box 2.3** *continued*

liability of police agencies. Law enforcement executives should consider initiatives to improve use-of-force tactics and training, including the incorporation of de-escalation techniques.

Knowing when to use force is an integral part of the police officer's daily job. Although most officers will never use deadly force, they frequently make crucial decisions about use-of-force options. Indeed, force is a principal tool in police work, though it has serious legal and social consequences. Rules have been established to control the amount of force used and the

circumstances under which it can be employed. The use-of-force issues facing police officers today are numerous. De-escalation tactics and training can be as integral a part of training as training on firearms skills and defensive tactics. Demands that police appropriately handle highly charged situations are great, even as the number and types of weapons at the officer's disposal have grown. Yet of all the options at the officer's command, perhaps none is as valued as verbal de-escalation techniques.

- use weapons that show and record location, lethality, and timing of weapon discharge;
- accommodate training partners and teams (for instance, SWAT teams), not just single individuals;
- modify lighting to produce low-light situations;
- “shoot back” at the officer from the screen with non-lethal “bullets”;
- produce interactive options so that the instructor can modify the unfolding of events depending on training needs or the officer’s actions; and
- produce audio and video tapes of the sessions for purposes of critique/analysis.

Because many agencies are not able to purchase this technology out of their own funds, states and regions are developing agreements for shared ownership and usage. The municipal training academy for the state of Connecticut purchased a computer simulator contained in a 40-foot-long trailer. Any department can haul the trailer to its own headquarters and make use of it. The Wilson Technical Community College in North Carolina purchased a (non-trailer) transportable machine that neighboring agencies can borrow and set up in their own training facilities (Law Enforcement News 2004). The state of California has set up twenty-two regional centers for simulator training (Seletky 2004). For instance, the Fresno Police Department houses a simulator and provides training for agencies within one hour’s driving time from the center. Arterburn (2002) reports that some agencies or groups of agencies have worked out mutually beneficial arrangements with their insurance carriers to enable purchase or access to simulators.

Supplementing or serving as an alternative to computer simulators are the role-playing exercises mentioned earlier in which the trainee or trainees interact with live (not filmed) subjects.

These exercises might take place in vacant lots or buildings owned by the jurisdiction or in actual venues in the jurisdiction (for instance, in schools after hours). More and more agencies are using “marking cartridges” to simulate the discharging of weapons (usually firearms); the fired paint balls or other markers provide feedback on shooting accuracy. Real weapons can be modified to serve as marking-cartridge weapons, and the exercises can be videotaped and critiqued. These exercises are more personnel intensive than computer simulators, but the equipment costs are lower. Compared to computer simulators, the exercises have several other advantages. They allow for greater movement by trainees; they produce higher stress levels (to simulate the stress in real-life use-of-force incidents); they enable officers to be trained in a greater number of force options; and an unlimited number of scenarios can be implemented.

### *Integrated Training*

Agencies with state-of-the art training programs fully integrate the various aspects and topics associated with force training. In 1996, Arnspiger and Bowers described a major weakness of force training: its disjointedness. Training had improved in terms of the number and types of topics taught and in the effectiveness and sophistication of methods for training officers in knowledge, judgment, and skill. The separate topics/skills, however, were still being taught in isolation: Officers learned firearms skills and decisions to shoot and not shoot; then they took a baton course covering how to use it; and then they took the corresponding Oleoresin Capsicum (O.C.) course, defensive tactics course, and so forth. In separate lectures and practice sessions, trainees learned about communication skills, the importance of cover, and how to explain use-of-force decisions in court and in reports.

Cutting-edge training in the twenty-first century is integrated. Officers are trained to make decisions about whether to use force and what level of force to use *from the full range of options* (weaponless techniques, baton, O.C. spray, Taser, and so forth). Full integration also requires that trainees utilize, as appropriate, skills associated with preventing or mitigating the use of force. Whereas early computer simulators trained officers in “shoot, don’t shoot,” now models allow for officers to select, as appropriate, a wide variety of force options. Officers are able to use flashlights for illumination, take cover, and practice communication skills. The interactive capabilities allow the trainer to produce a prevented or mitigated force outcome based on the good tactics or use of effective communication skills of the trainee. Other role-playing techniques, including those involving marked cartridges, also encompass decision making across all levels of force (for instance, firearms, Taser, O.C.) and require officers to practice tactical and communications skills. With trainers in padded “red suits,” trainees can even utilize various forms of impact devices and physical combat techniques.

Arnsperger and Bowers (1996) described the early emphasis on integrated training in the Burbank Police Department that continues today (Ambrose 2004). The original training transformation followed on the heels of a department survey on training conducted by the Burbank Police Department in the early 1990s. In responding to this survey, officers requested more defensive tactics training and reported “an initial tendency to back off during field contacts with threatening subjects because they did not feel confident in their ability to address such threats without resorting to deadly force” (Arnsperger and Bowers 1996). These survey results led the instructors to review use-of-force incident reports where they found that officers were not applying contact and control techniques properly and that

these deficiencies were leading to many injuries for officers and subjects. In the revised training, officers are presented with scenarios in classroom and role-playing settings that can require them to apply force reducing tactics, communication skills, and/or any level or type of force. Specifically, the training scenarios, according to Arnsperger and Bowers (1996), integrate the following topics:

- command presence and verbalization (including verbal judo),
- use of cover,
- weaponless defense,
- chemical weapons,
- PR-24 side-handle baton,
- firearms (duty handgun and shotgun),
- standardized high-risk vehicle stop,
- search of subjects,
- handcuffing techniques,
- first aid and CPR, and
- officer rescue techniques.

Implementing scenario-based training using computers or exercises with marked cartridges can be time-consuming and expensive. Many agencies can afford to provide this training only infrequently. To increase the exposure of officers to scenario exercises, the Burbank Police Department offers scenario-based training in a classroom setting. While presenting and discussing scenarios in class is not as effective as scenario training in a computer simulator or scenario training with marked cartridges, classroom-based scenarios can effectively supplement the other types of training.

In the Burbank Police Department scenario training includes post-scenario follow-up discussions. The trainee articulates the reason for each action he or she took—explaining tactical actions and considerations, verbal communication, uses of force, and so forth. Evaluation following implementation of integrated training revealed

increased confidence on the part of officers and fewer incidents that resulted in force and/or in officer/subject injuries (Arnsperger and Bowers 1996).

### *Intervening with Fellow Officers*

In the section on policy enforcement, we described the Miami Police Department policy requiring officers to intervene if excessive force is being used by a peer. The Los Angeles Police Department recently improved the portion of academy training that teaches recruits how to intercede if a fellow officer is overreacting in an incident or is otherwise out of control. With role playing as a key mechanism, recruits are learning how to prevent and interrupt abuse of force.

There are difficult issues associated with this training and the real-life implementation of this desired intervention. First, some officers will be very reticent to challenge the actions of their fellow officers—even when it is clear that those actions are outside of policy. Shaping agency culture to set limits on the extent to which officers can and should support and protect their peers presents a very difficult challenge for agency executives. Second, there will be many instances in which it is not readily clear whether the officer using force is acting within departmental policy or outside of it. Some uses of force will be clearly outside policy, but there will be instances where the second officer at the scene did not observe the factors that led the first officer to use a specified level of force. Moreover, people can reasonably differ with regard to when and at what level force is justified. (Conclusions often cannot be reached regarding whether a use of force was

justified until thorough investigations have been completed.) This second issue of whether an officer is acting inside or outside departmental policy will need to be addressed during the training on the need to intervene with peers. Trainers must specify the level of certainty that is appropriate before one officer intervenes with another who is using force.

## **CONCLUSION**

As explained in Chapter 1, the challenge for law enforcement executives is to optimize the use of force in their agencies. In this important endeavor, three elements are essential: sound policy, effective mechanisms for enforcing policy and producing accountability, and integrated training that teaches officers when and how to use force appropriately. The policing profession has made tremendous progress in each of these areas over the past several decades. Today the general provisions of use-of-force policy are fairly standard and much more restrictive than in the past. Measures to promote policy adherence and accountability are more prevalent and effective in all realms of policing, including use of force. Training has advanced from the officer shooting in bright light at a bull's eye 60 feet away to technologically advanced, highly realistic judgment and skills training using multiple force options.

Despite these impressive advances, the policing profession still grapples with critical issues regarding use-of-force policy, policy enforcement, and training. These ongoing efforts signal a steadfast commitment. Law enforcement continues to strive—and likely always will strive—toward the optimized use of force.



# 3

## Use-of-Force Tools

by JOSHUA A. EDERHEIMER

“Our Age of Anxiety is, in great part, the result of trying to do today’s jobs with yesterday’s tools.”

MARSHALL MCLUHAN<sup>1</sup>

**P**olice executives recognize that the preservation of life is of paramount importance in the law enforcement profession. Giving officers the right tools to do their job- will minimize the risk of injury and death to themselves and the public—helping them deal with confrontations in the most reasonable and objective fashion. Since

deadly force should always be an officer’s last resort during a confrontation, police leaders not only must equip officers with less-lethal options; they also must be constantly vigilant in their efforts to identify and develop more efficient and safer tools.<sup>2</sup> An effective policy regarding the use of any force must be adopted to clearly spell out

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1. McLuhan, Marshall, *Understanding Media: The Extension of Man*, critical edition, ed. (2003).

2. For the purposes of this chapter, tools are considered items of equipment that provide law enforcement officers with various use of force options.

the goals of the department and protect the public from unnecessary or excessive force. Failure to provide officers with such tools—especially during intermediate stages of a confrontation—leaves them with few options between initial contact and escalation to the point where firearms are necessary (Fridell and Pate 1993). Because of the inherent danger in their work, police are equipped with firearms to protect themselves during deadly confrontations. Although relatively few police officers will ever fire their weapons during the course of their careers, those who do often find themselves involved in the midst of controversy and legal battles.

Use-of-force tools developed by law enforcement executives are of critical importance. They help officers exercise discretion in using force, protect the lives of officers and citizens, reduce the likelihood that unnecessary or excessive force will be used, and ensure that officers do not expose their department and jurisdiction to unnecessary liability and public criticism.

The tools addressed in this chapter do not reflect the plethora of alternatives available to law enforcement officers. The weapons discussed were selected based on the input of several police executives from the United States and abroad. This chapter provides background information about several lethal and less-lethal weapons, highlights issues related to them, and provides examples of promising approaches in employing them. The goal of this section is to provide police executives with additional information about these use-of-force equipment options to help them make more informed decisions about their use.

### **USE-OF-FORCE TOOLS: AN INTRODUCTION**

To discharge their duties, police officers rely on an arsenal of tools, ranging on the continuum of force from less-lethal options to firearms. As an

everyday part of their jobs, police may need to use force. The challenge for police executives is to manage that force by helping officers on the street make sound choices when selecting tools on the use-of-force continuum. The use of any force by police is constrained by policies and the legal framework discussed in Chapter 2. Violations of these policies and laws undermine the public support and the credibility that the police need to do their jobs well (Annan 1999). Therefore, force must be used cautiously and judiciously, and only to promote the safety of the community and officers (Adams 1999).

The U.S. Department of Justice estimated that law enforcement officers threatened to use force or used force in encounters with more than 400,000 Americans in 1999 (Langan et. Al. 2001). In most instances police officers are justified in their use of force to protect themselves or other citizens, but sometimes they use force unwarranted by the situation (Gaines, Kaune, and Miller 2001). In an average year, an estimated 600 suspects are killed by gunfire from police in America, another 1,200 are shot and wounded, and 1,800 individuals are shot at and missed (Schmallegger 2002). According to the national data on police use of force collected by the Bureau of Justice Statistics, an estimated 500,000 individuals were hit, held, pushed, choked, threatened with a flashlight, restrained by a police dog, threatened or actually sprayed with chemical or pepper spray, threatened with a gun, or experienced some other form of force. Of the 500,000, about 400,000 were also handcuffed. In 1996, the total estimated number of persons who were subjected to police use of force in the United States was 1.3 million. It is important to note that these statistics include incidents of force that were justified in order to protect citizens and officers from violent suspects.

When faced with the need to use force, advancements in technology have greatly changed the weapons used by police. Indeed, it appears

that police defensive weaponry has come full circle. During the mid-1800s, police officers in Boston and New York relied on less-lethal weapons (primarily wooden clubs). In the late 1800s, in response to better-armed criminals, police forces began issuing firearms to officers (Allison and Wardman 2004, 116). While firearms are still standard-issue tools, police departments once again emphasize less-lethal options (albeit more advanced ones than in the nineteenth century) in their efforts to save lives and reduce injuries. Examples of these advancements include conducted energy devices such as the Taser™, bean bag projectiles, incapacitant sprays, and collapsible batons. It is noted that some departments classify the use of police dogs as a use of force. A commentary on the deployment of police canines is included in box 3.1.

### *Firearms*

Unlike their U.K. counterparts, American police officers have been carrying handguns for more than 140 years. While not originally issued firearms, American police began carrying them for personal protection without formal departmental authorization (Geller and Scott 1992, 248). Eventually, in 1884, Boston police issued .38 caliber Smith & Wesson revolvers to officers, and the New York City Police followed in the 1890s by issuing .32 caliber Colt revolvers (Allison and Wardman 2004). The revolver served as the principal sidearm for police departments in the United States until the 1980s when agencies began to transition to semi-automatic pistols because of tactical disadvantages officers faced (Geller and Scott 1992, 343).

Today the semi-automatic pistol is still the primary standard-issue police service firearm. Demand by the police industry is not strong for the development of other types of handguns (for example, gas-powered or air-powered guns or

other handgun technologies); this is not surprising in light of the recent emphasis on less-lethal weapons. Nonetheless, police executives must grapple with issues related to the use of firearms. At the center of the debate is not whether police should carry them, but the caliber of these firearms and the number of rounds in the magazine. High-profile, use-of-force incidents often generate attention to these issues. There have been calls to give police greater “stopping” power, and many agencies have increased the size of the bullets officers carry or the number of rounds in the magazine. Following threats of domestic terrorism and brazen robberies such as ones that occurred in Hollywood, California, and more recently in Richardson, Texas, some police executives have provided their officers with additional firepower (for example, patrol rifles). This added firepower makes police tactics all the more important and increases the danger of stray bullets and the chances that fellow officers, suspects, and civilians could be injured or killed. It can also fuel accusations that police excessively fired their weapons. Police executives struggle to find an appropriate balance, as they must also be concerned about not providing such weaponry as they face an “arms race” with criminals that may leave their officers vulnerable.

As in the past, advances will continue to be made in firearms technology. Firearms will more than likely become safer and more efficient as sophisticated new technology is integrated into their manufacture.

### *Conducted Energy Devices*

Conducted energy devices have been credited with reducing police use of deadly force by giving them another less-lethal option in dealing with suspects. Until recently, TASER International’s products were the only electronic incapacitating devices commercially available for police officers

**box 3.1****COMMENTARY:****K-9 Deployment as a Serious Use of Force:  
Handler-Controlled Alert Methodology**

by **Dennis Nowicki, Former Chief of Police,  
Charlotte-Mecklenburg (NC) Police Department**

Many police departments overlook K-9 deployment as a serious use of force. The force continuum of some departments does not include canine deployment as a force response at any level. Canine deployments are at the discretion of the handler, with few restrictions on when off-leash searches or tracks are allowed. Currently a debate is underway within police circles over canine force policies. Two canine policy labels define the sides in this debate: *find and bite* versus *find and bark*.<sup>3</sup> The International Association of Chiefs of Police (IACP) promotes the *find and bark* policy.<sup>4</sup> Some police canine associations and many active canine trainers argue biting is a natural response for the dog and must be incorporated into training and practice. Still others hold that any distinctions between the two approaches are minimal. A police canine, whether trained in a *find and bite* or *find and bark* policy, will bite if provoked by the suspect.

The Metropolitan Police Department (MPD) in Washington, D.C. recently revised its policy to give greater guidance on when a canine can be used and who can authorize a deployment. The department has also adopted a policy and training approach, one that is designed to place the

responsibility for the actions of the K-9 squarely on the dog handler—where it properly belongs.<sup>5</sup> The MPD has adopted the *Handler-Controlled Alert Methodology* (H-CAM).<sup>6</sup> MPD’s policy and training methods are designed to ensure that the handler and K-9 are trained to the point that the handler can demonstrate total control over the dog’s actions. The canine will only engage on handler command except under two very limited circumstances: protecting the canine handler from attack and gunfire.

H-CAM is not just a means by which a dog is trained. It’s a holistic approach to canine team training and supervision that—when done correctly—ensures that the handler has complete control and understands that he is responsible for the actions of his dog. The way this is accomplished differs from conventional canine training in the emphasis placed on the mindset and tactical skills of the handler. Throughout basic and in-service training, the emphasis is on both handler education and canine obedience. During monthly in-service training handlers are repetitively instructed on departmental policy, entry techniques, and the ever-elusive “what if” scenarios. Each phase of training is intertwined with information on how the handler might use a particular tactic to reach the desired outcome. Canine control is also stressed throughout the training. Handlers and

3. Two labels for this canine use philosophy are used interchangeably, *find and bark* and *bark and bay*.

4. See the IACP model policy and discussion paper.

5. MPD General Order GO-RAR-306.01, October 7, 2002.

6. The principal architect of this policy, and the creator of the label, is MPD Canine Sergeant Duane Buethe. Sergeant Buethe contributed to this box.

their dogs are constantly drilled on control and obedience, so that at the end of training the dog can perform an array of complicated commands. Each command is designed to ensure handler control. Each time a dog is called on to perform a particular task, the dog will begin and finish with an acknowledgement of obedience.

With training centered on handler control and education, managers can more readily recognize handlers who demonstrate a lack of good decision-making skills. At the end of basic training, handlers understand that they are responsible for the dog's actions. Though there are some limited exceptions, the decision generally rests solely with the handler whether the dog bites the suspect. The results for MPD have been positive. The department has seen a decrease in canine use of force, while its criminal apprehensions remain

level. Handlers display an understanding of the importance of restrained and thoughtful use of force. The department's policy and training make the handlers fully aware that a canine bite is a serious use of force and that they are responsible for their dog's actions.

Whatever policy a department adopts, police canine tracking or searching for a wanted subject is a serious use of force and must be properly managed. Department policy should define when a canine can be used and who it can be used against. Except in exigent circumstances, deployment decisions should be made by a supervisor, not the handler. The policy, day-to-day supervision, and training should reinforce the principle that the handler is accountable for not only his actions and but also the actions of his canine.

to carry (IACP 2003). As a result, the most common devices in use by law enforcement are the Taser M26 and X26 models. However, two companies have recently entered the market. In January 2005, Stinger Systems™ Inc. began offering its Stinger 4 Dart Less Lethal Gun, and in March 2005, Law Enforcement Associates™ (LEA) began offering its LEA Stun Gun. It is likely that more devices using this technology will be developed for sale to law enforcement agencies in the future. This section of the chapter will focus on the Taser device because of its current widespread deployment.<sup>7</sup>

Taser is an acronym for the Thomas A. Swift Electric Rifle, developed in the 1970s by Jack Cover. Swift was a fictional character in a 1930s series of science fiction books by Victor Appleton (Sanchez 2004). The Taser fires darts that attach to (or penetrate) a person's skin or clothing and create an incapacitating electrical current. The Taser has evolved over the years. In 1999, the company developed the Advanced Taser M26, which was powered by an alkaline battery and used nitrogen cartridges, rather than gunpowder, which was used in earlier models, to fire projectiles. Shaped like a handgun, the Advanced Taser M26 became popular with law enforcement officers. In 2003, the company introduced the Taser X26, more compact than the Advanced Taser M26 and, according to the company, more efficient. It is powered by a lithium battery and also uses nitrogen cartridges to fire projectiles. These conducted energy devices deliver an electrical current that interferes with the body's neuromuscular system, temporarily incapacitating a targeted person. They are laser-sighted and use cartridges attached to the end of the weapon's barrel.

The Taser has two modes: "probe" and "touch stun." In the probe mode the cartridges project, via a set of wires, a pair of barbs (or darts

with hooks) that attaches to clothing or penetrates the skin after the Taser is fired, delivering an electrical charge (Association of Chief Police Officers 2004). When the barbs strike, the electrical current is sent down the wires and through the body between the two barb points. In the touch stun mode, electrical contacts on the Taser are pressed directly onto a person; there is a similar but reduced neuromuscular effect (Donnelly et al. 2002). The company claims, based on their own research, that Tasers do not cause permanent physical damage or other long-term ill effects. Several investigations into the safety and effects of this weapon, however, are in progress at the time of this writing. Taser specifications indicate that the Taser is effective on persons up to 21 feet away; the ability of police to keep such a distance from a suspect during a confrontation enhances their safety significantly. It is noted that a UK study questions the effectiveness range of the device. Information about that study is included later in this chapter.

The Taser has been welcomed by law enforcement agencies in the United States and around the world seeking less-lethal weapons. According to TASER International, more than 6,000 law enforcement agencies in 2005 (primarily in the United States) use Tasers, with more than 1,150 agencies deploying them to all officers on patrol. There are more than 100,000 Tasers in use by police officers in the field (Kelly 2004). The Taser gives officers a less-than-lethal option in dealing with confrontational persons. However, it also has sparked considerable controversy. Some question whether this type of technology is truly effective in reducing use of force by police, including use of deadly force. There also are concerns that Tasers may unintentionally contribute to death. Debate will surely continue on their medical effects on people, their impact on other

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7. Many of the same issues associated with the use of Tasers are likely to apply to the use of the Stinger and LEA conducted energy products.

uses of force, and their location on the force continuum until much more extensive, independent research is completed. (Chapter 2 discusses Taser policy-related issues in more detail).

### *Less-Lethal Projectile Munitions*

Here we discuss two kinds of less-lethal projectile munitions: bean bag munitions and pepper-loaded munitions. Rubber bullets and baton rounds are also briefly mentioned in the next section.

#### *Bean Bag Munitions*

The first bean bag weapon was developed in the 1970s. Once used only by specialized police units, bean bag munitions are increasingly deployed by officers on patrol (Hubbs and Klinger 2004a). Both civilian law enforcement and the military use them. Bean bag rounds, like rubber bullets and baton rounds (the latter are rubber projectiles larger than a rubber bullet) are considered less-lethal impact weapons. In the United States, police have preferred bean bag munitions over other types of less-lethal projectile munitions. In Northern Ireland, use of baton rounds and rubber bullets during mass demonstrations has sparked controversy because of instances of serious injury and death.

Bean bag rounds and other impact munitions were designed to stun or otherwise temporarily incapacitate a suspect or dangerous individual so that law enforcement officers could subdue and arrest that person with less danger of injury or death for themselves and others (Hubbs and Klinger 2004b). The actual impact of one of the bean bag munitions has been described as being hit by a major league baseball pitch. Proper use of bean bag munitions, rubber bullets, and

baton rounds is extremely important; it is dangerous to deploy them above the waist. Additionally, there has been concern about the need to readily distinguish these less-lethal devices from regular firearms—creating readily identifiable delivery systems such as orange stocks.

#### *Pepper-Loaded Munitions*

Pepper-loaded projectiles, such as PepperBall™ brand munitions,<sup>8</sup> were developed as a less-lethal weapon for both military and civilian police agencies. These pepper-loaded munitions are widely used in North American and European countries, including by police forces in the United Kingdom (Davison and Lewer 2003). These munitions are usually used for crowd control but can also be deployed by officers on patrol. Pepper-loaded projectiles are delivered through air-compressed launchers. These launchers come in pistol and rifle versions. Rifles can deliver up to 160 rounds. These munitions travel between 300 and 380 feet per second. The rounds are .68-caliber marble-size plastic balls designed to break on impact (Green 2002). The rounds are filled with either Oleoresin Capsicum (O.C.) or Pelargonic Acid Vanillylamide (PAVA), a synthetic powder designed to cause burning of the eyes, temporary blinding, and inflammation of the mucous membranes and the upper respiratory system (Stidman 2004). A companion round designed to shatter glass can be fired in instances where suspects are enclosed in automobiles (PoliceOne.com 2004).

The PepperBall System was introduced in 1999 and used by the Seattle Police Department during World Trade Organization demonstrations (Green 2002). During the 2002 Olympics, pepper-loaded projectiles were utilized to help control a riotous crowd in downtown Salt Lake

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8. PepperBall is a registered trademark of Pepperball Technologies, Inc.

City (Reavy 2002). These munitions were also procured for use during the 2004 Democratic National Convention (Peters 2004) and are authorized for use at many colleges and universities, including San Diego State University (Rivard 2000). Like bean bag rounds, pepper-loaded munitions have raised concerns because of deaths caused by inappropriate deployment of the weapon. Projectiles that strike a subject above the waist can be lethal. Issues related to the O.C. loaded in the projectiles are discussed in the next section.

### *Oleoresin Capsicum Spray*

Oleoresin Capsicum is an organic extract of cayenne pepper that is inflammatory to the eyes and mucus membranes. Originally used by U.S. Postal Service carriers (Geller and Scott 1992, 378), O.C. spray now is widely used by law enforcement agencies with more than 100 officers (Alpert and Smith 2000). O.C. spray has enjoyed high levels of effectiveness with low rates of associated injuries (Alpert and Smith 2000). A 1999 study determined that O.C. spray was effective 85 percent of the time (Kaminski, Edwards, and Johnson 1999). Many contemporary policies authorize the use of O.C. spray when a suspect has indicated an *intention* to actively resist an officer. Thus, officers can deploy it before an actual physical confrontation. The use of O.C. spray has not caused recent significant objection by the public, but there have been instances of in-custody deaths that occurred in conjunction with the use of the spray. In addition, concerns have been raised about O.C. spray flammability—especially in light of the increased use of conducted energy devices. The United Kingdom is seeking alternative sprays, including the development of a synthetic O.C.-type formula.

### *Batons*

The police baton has seen numerous styles and iterations. It changed from wood to polymer, it grew a handle as the PR-24, and today compact collapsible batons are widely used. Fixed length batons fell out of favor because they were too bulky and cumbersome; stored in “O” ring utility belt hooks, fixed length batons repeatedly strike the leg as an officer walks along. Exacerbating the inconvenience is the inability to maintain the baton in its holder when the officer sits down in a vehicle. Officers would remove it so they could sit down and then sometimes forget it when getting out of the car. As a result, upon arriving on the scene of an incident, officers would lack the availability of this less-lethal option during a confrontation and increase the likelihood that a firearm would be used. Today many police departments favor the collapsible baton because of its compactness and accessibility.

Fitting easily on an officer’s utility belt, today’s collapsible baton is readily available at all times. Its light weight and retractable form also make it useful for plainclothes personnel. Three common brands of expandable batons used in law enforcement today are the ASP, Winchester, and Monadnock products. In the past, the primary concern with the use of batons has been the location of the strikes (head and bone strikes rather than major muscle strikes) and the number of strikes employed by officers. Further, as noted in Chapter 2, the use of flashlights as batons has been controversial, and several agencies have developed guidelines for their use that are similar to those for batons. (See Box 3.2 for an article about the evolution of less-lethal weapons within one law enforcement agency).

**box 3.2****COMMENTARY:****Less-Lethal Weapons: Their Evolution and the Leadership of the Los Angeles County Sheriff's Department**

by Charles “Sid” Heal, Commander,  
Los Angeles County Sheriff's Department

Like most law enforcement agencies, the Los Angeles County Sheriff's Department (LASD) had been looking for years for effective less-lethal options without any real success. While the search had always been enthusiastic, it approached near desperation in the late 1970s and early 1980s when the popularity of PCP as a recreational drug dominated the streets of Los Angeles.<sup>9</sup> Because of the effects of PCP on suspects, conventional pain compliance options—including “tried and true” impact weapons like the baton—proved completely useless. So many deputies were injured in confrontations with suspects under the influence of PCP that the desk crews of some stations were comprised entirely of deputies recovering from their injuries. Experiments with potential solutions took on an almost bizarre character as contrivances of poles, nets, ropes, and chains were ineffectually employed. After years of searching, it became apparent that the technology was just not available, and while the desire remained strong, efforts to find effective less-lethal tools waned.

It wasn't until the early 1990s with the advent of Oleoresin Capsicum (O.C.) spray that the first significant breakthrough in less lethal options for

law enforcement provided any clear advantage. Besides being noticeably more effective, O.C. spray had less cross-contamination than the CS/CN spray (also known as tear gas) that was being used at that time. Other less-lethal options had also appeared, such as the stingball grenade and 37mm baton munitions, but they did not enjoy the widespread acceptance of O.C. spray and required substantially more training to safely employ. By the middle of the decade, shotgun launched munitions, such as the “stun bag,”<sup>10</sup> pellet, or fin-stabilized rounds had gained a following and were used with great success in resolving situations that had traditionally required the use of substantially more force—often lethal—to resolve. Later, the new, improved Taser enjoyed tremendous success and popularity.

The turning point for contemporary law enforcement in its use of less-lethal options occurred on the opposite side of the globe in the spring of 1995. The U.S. Marines had employed a number of innovative nonlethal technologies and products ranging from “sticky foam” to lasers, as well some of the more conventional less-lethal munitions used by domestic law enforcement, while evacuating the United Nations troops from the shores of Mogadishu, Somalia. The operation was an overwhelming success and captured the attention of the worldwide press.

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9. The chemical name Phenyl Cyclohexyl Piperidine is also known as “PCP” and “angel dust,” as well as other street names.

10. Also known as a “bean bag,” probably because of the soft and resilient texture mimicking bean bags; this munition uses about 40 grams of #9 lead shot or silica sewn into a Cordura or ballistic nylon bag.

### **box 3.2** *continued*

The principal advisor on less-lethal options for the operation was a U.S. Marine who also happened to be a LASD lieutenant. Upon return to duty with the LASD, he was partnered with another lieutenant, a subject matter expert on force, and the duo was tasked with identifying, developing, and integrating technologies that may have applications for law enforcement, with a focus on less-lethal options. The LASD was fortunate to have its technical expertise within the department, and the duo's work marked the inception of the department's internationally recognized Technology Exploration Program.

Throughout the 1990s and into the new millennium, deputies from the LASD have combed the marketplace and federal laboratories, and met with defense contractors and private developers, in search of promising tools for resolving law enforcement problems without resorting to lethal force. These tools proved not to be new devices, but rather existing technologies that had been

modified to be less lethal. Within the next few years, however, breakthrough devices using electro-magnetic energy, pulsed energy projectiles, acoustical waves, chemical agents, and light will provide incredible advantages. In providing guidance and direction to its deputies and to members of the profession, the LASD shares the tremendous insight it has gained by overcoming operational problems and avoiding pitfalls in developing less-lethal options for domestic law enforcement. The LASD considers itself the steward of this information and not the owner, freely giving it to other law enforcement agencies and developers "for the good of the cause." Through leadership support, vision, and innovation, the LASD has studied the evolution of less-lethal technology, and it remains committed to the effective management of use of force. Organizational focus and the desire to reduce injuries and death have helped the LASD to become a leader in this field.

## USE-OF-FORCE TOOLS: CRITICAL ISSUES AND PROMISING APPROACHES

In this section we consider the matters departments nationwide are examining with regard to police weaponry. We also present promising approaches taken by particular departments in their efforts to address these critical issues.

### *Firearms: How Much Firepower?*

While the carrying of firearms by police has not been questioned recently in the United States, although their use, whether justified or not, has certainly been controversial in some circumstances. At issue today, from the law enforcement perspective, are calls for greater firepower. As agencies have converted to semi-automatic pistols, which accommodate a greater number of bullets than revolvers, the caliber<sup>11</sup> of bullet and firearm has fostered concern. One debate centers on preferences for either 9mm pistols or .40-caliber pistols. When many police departments transitioned to semi-automatic pistols twenty years ago, the preference was for 9mm handguns. However, .40-caliber pistols are more powerful, and they are more likely to penetrate windshield glass, doors, and plywood. These more powerful weapons have better “stopping power” against a threat. They give police officers greater ability to stop a dangerous assailant secreted behind an object—reducing the likelihood of injury to officers. However, the enhanced power of .40-caliber pistols has some drawbacks. Although the larger caliber weapon offers greater power—with larger bullets that are more likely to penetrate objects—risks of injuries to bystanders are increased. Many police agencies in densely populated urban areas try to prevent bystander injuries by restricting

officers from shooting at vehicles or through doors when a suspect cannot be seen.

Despite the risks just described, many agencies of all sizes have transitioned to the more powerful .40-caliber pistols. For example, the Federal Bureau of Investigation, the Bureau of Alcohol, Tobacco, Firearms, and Explosives, the Illinois State Police, and the Homewood (IL) Police Department all use .40-caliber handguns (Rockrohr 2004). The Atlanta Police Department awarded a contract to Smith & Wesson Corporation to purchase 1,500 Model 4003 .40-caliber handguns for its officers (Smith & Wesson 2004). One impetus for this change has been highly publicized incidents involving heavily armed suspects (e.g., the Columbine High School shootings and North Hollywood bank robberies).

There has also been some experimentation with the .45-caliber round. John Gnagey, executive director of the National Tactical Officers Association, notes that specialized units within the Texas Rangers, as well as some West Coast Special Weapons and Tactics (SWAT) teams, have favored the .45-caliber cartridge. These special mission units favor the .45-caliber round because of its diameter, mass, weight, momentum, and potential penetration ability. Officers on patrol, however, do not commonly use this caliber weapon.

Many law enforcement executives are favoring conversion to the .40-caliber pistols to replace aging 9mm pistols. All of the calibers provide some level of protection for police officers. In selecting a standard issue handgun for their officers, in addition to officer safety concerns, law enforcement executives should consider their jurisdiction’s geography, population density, housing, and crime levels. One factor to assess is the number of homes and apartments that are built

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11. Caliber is defined as the diameter of a bullet and the size of the bore of a weapon that shoots the bullet.

with drywall. Drywall offers less protection from stray bullets than buildings built with bricks and cinderblock.

In order to deploy weapons with greater firepower and accuracy at a distance, many police departments are arming patrol officers with patrol rifles. Historically, some police departments in the 1920s and 1930s experimented with the Thompson submachine gun, but the weapon fell out of favor (Allison and Wardman 2004), and departments chose instead a standard shotgun—often a Remington model 870. However, shotguns, loaded either with buckshot or rifle slug, do not offer the precision desired by police officers; the risk of injuring bystanders increases. Rifles, also known as long guns, offer much more accuracy than the shotgun—affording less opportunity to injure passersby. Rifles were used mainly by specialized police emergency response teams (Smith 2002). However, with the onset of incidents involving heavily armed suspects as well as terrorism concerns, police departments have again considered rifles for patrol. A standard-issue high-powered rifle for police officers on patrol has significant implications for use-of-force management that have yet to be fully addressed.

### *Rifles and Use-of-Force Management*

Some police departments are moving quickly to get rifles into the hands of patrol officers, but first they must ensure that effective policies and training are in place. The chief of the Dallas Police Department announced plans to purchase sixty-five AR-15 rifles, and has authorized members to purchase their own rifles and use them on the street. The chief restricted such purchases to a department-approved model, and he requires officers to attend a 40-hour training course prior to their use (Eiserer 2004). Recently, the police chief in St. Petersburg, Florida, decided to allow the use of high-powered rifles by patrol officers.

However, the department will develop guidelines and scenarios in which the weapons can be used before officers are permitted to carry them on patrol. In addition, the chief has prohibited the use of optics, lasers, and bayonets (Minai 2004). In Richardson, Texas, police will place AR-15 rifles in all of their patrol cars as a result of an armed robbery where assailants fired multiple bursts of bullets at officers (Hundley and Jackson 2004). It is likely that the trend of deploying police rifles on patrol will continue.

To foster good tactics and manage the deadly force issues that rifles raise, executives must emphasize policy and training before deploying patrol rifles to the field. According to a former commanding officer of a firearms training unit in a major city police department, police rifles, when deployed poorly, can actually hinder an officer's ability to de-escalate a force situation. If an officer has presented a rifle and then attempts to make an arrest, the officer's ability to de-escalate and engage in hand-control options may be lessened because the rifle cannot be holstered. The same commanding officer recommends that deployment of rifles be limited to situations where multiple officers are present and available to employ hand-control and other less-lethal options. In addition, he recommends that rifles be equipped with a sling—enabling officers to have use of both hands if needed. The Drug Enforcement Administration requires a sling on its assault rifles and further mandates that agents carry the weapon with the muzzle down beneath the shoulder (Rauch 2002). Wakefield, Massachusetts police have armed patrol officers with Bushmaster AR-15 rifles, and incorporated guidelines for their use into departmental policy. Wakefield's training program has drills to teach officers how to properly use the weapon's sling when handcuffing suspects (Cooney 2002).

Some community members from where patrol rifles are being used have expressed concern

about stray bullets because of the rifle's multiple round capability (Minai 2004). According to one expert, in order to minimize stray bullets, agencies should choose weapons that have a "select-fire" feature that allows switching only between single shot, semi-automatic, or three-round-burst selections. The select-fire feature minimizes the number of rounds fired in an incident. Fewer rounds are discharged in any of the select-fire modes than in a fully automatic mode where there is a constant uninterrupted stream of discharges.

According to some experts, if an agency elects to deploy patrol rifles, it should match the caliber of the selected rifle with the caliber of the agency's issued handgun. This promotes interoperability both in training and street situations. Others, however, are less interested in matching rifle calibers to handgun calibers. A Special Weapons and Tactics Unit expert recommends a rifle that shoots a .223 round, which he believes is effective at stopping deadly threats at a distance. In his opinion, the greater accuracy of the .223 round outweighs the desire for greater interoperability. In either case, if a decision is made to permit patrol rifles to be carried, then it must be determined *which officers* will be permitted to carry them, and *where* they can be carried. Some agencies have authorized all personnel to carry the weapons, while others have limited those who carry them to supervisors and/or senior officers. Some agencies require the rifles to be secured in a patrol vehicle's trunk, while others permit the weapon to be accessible from within the seating area.

### *Smart Guns*

The next step in the evolution of police firearms is the advent of smart guns. One company that has developed smart gun technology is VeriChip Inc. (2004). The company claims their technology

prevents criminals—as well as other unauthorized persons—from shooting a firearm issued to a police officer. In an outpatient procedure, a tiny, rice-size chip is implanted just under the skin in the officer's hand—VeriChip says it's like getting a shot. This chip matches a scanning device inside an issued police handgun. Radio frequency energy emits a signal transmitting the police officer's unique verification number. If the officer and the gun match, a digital signal unlocks the trigger so the gun can be fired (*New York Times* 2004; Associated Press 2004a). This technology is applicable to both handguns and rifles, and it could be applied to other police devices. Smart guns have the potential to reduce injuries and deaths of officers in situations when they lose control of their weapons. More research is needed to better understand this technology's application in law enforcement, and the health and safety implications for the police officer warrant further study. There are also important tactical considerations (such as whether or not another officer would be able to use the firearm of an incapacitated officer during a critical incident). Furthermore, there are other smart gun technologies emerging such as retinal scan, fingerprint, and palm sensing devices that will provide law enforcement officers of the future even greater alternatives. (An article discussing less-lethal weapons and their possible impact on deadly force is contained in Box 3.3)

### *Conducted Energy Devices*

As noted in previous chapters, conducted energy devices like the Taser provide officers with less-lethal options and complement other tools such as collapsible batons and O.C. spray. The Cincinnati police chief has said that Tasers are delivering "astronomical benefits" to his agency as part of its overall reform efforts (Prendergast 2004). With the deployment of Tasers, the Charlotte-Mecklenburg (NC) Police Department has

## Do Non-Lethal Weapons Prevent Lethal Consequences?<sup>12</sup>

by Lorie A. Fridell and Antony M. Pate

*This commentary originally appeared in the newsletter of the ACLU of Florida. In it authors Fridell and Pate (1993) promote the important role of less-lethal weapons during a period when the national board of the ACLU was considering a policy that would discourage police use of less-lethal weapons.*

The videotaped beating of Rodney King with department-issued batons by officers of the Los Angeles Police Department has provided undeniable proof of the awesome power of what are sometimes called “less-than-lethal” weapons.

Recognizing the importance of such weapons, the National Board of the ACLU has begun consideration of a new policy concerning “police use of disabling weapons that are not intended to be lethal.” This policy debate has caused controversy over the question: At what point is it appropriate to use “non-lethal” force?

### Options Available to Police

The legitimate use of force is an inherent part of the job of the police officer. Unfortunately, people do not always acquiesce readily in their own arrests. In order to subdue recalcitrant suspects, law enforcement officers sometimes have to resort to more than verbal demands, using, at a minimum, a firm grip, and, in the most extreme cases, deadly force. In between these two extremes, there are a number of options available to police in order to effect an arrest. These options

include the use of chemical agents, batons, tasers, stun guns, and other devices.

Encounters between police and citizens in which force is used frequently involve a sequence of interrelated stages. What happens, or does not happen, at an early stage is likely to have an effect on what happens, or does not, at a later stage. Conflict between the two parties can escalate or de-escalate from one stage to another. Many police departments train their officers to consider the use of force as a hierarchy of options, escalating or de-escalating the use of force in response to the behavior of their opponents.

### Deadly Force a Last Stage

The use of deadly force by police officers represents a most lamentable “last stage” of such an encounter. A common reason why such deadly force occurs is that officers did not use, or did not have available, adequate non-lethal means to maintain control before reaching the point where lethal force was required.

Seen in this perspective, providing police officers with non-lethal weapons can be understood as providing them with the means to prevent a violent encounter with a citizen from escalating to the use of fatal force. It is therefore important to recognize the important role that non-lethal weapons can play in law enforcement.

However, before any “debilitating” non-lethal weapons (such as chemical or electrical shock weapons) are used, they should be certified as

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12. This commentary was originally published in May of 1993 in “The Torch,” the periodical of the American Civil Liberties Union of Florida (Volume 28, No. 2, reprinted with permission). Authors made minor modifications to the article for editorial purposes.

safe and effective for their intended use with minimal or no side-effects that outweigh their benefits. In addition, there needs to be rigorous police training in the use of these devices.

But, in a perverse manifestation of the law of unintended consequences, many civil libertarians believe that trained officers should not be allowed to use these safe weapons in the very situations in which they might be most effective in averting the use of greater force. Many feel that the use of these weapons should be restricted to only those situations in which the officer or another person is in imminent danger of death or life-threatening injury.

Failing to provide officers access to non-lethal weapons at the critical intermediate stages of encounters, leaves a dangerous hiatus in which officers are left with little else but their batons for purposes of control until the situations escalate to the point where their guns become necessary. This is exactly the scenario that the availability of non-lethal weapons ought to be able to prevent.

A case in point is the new chemical agent commonly called “pepper mace” because it is made from a derivative of cayenne pepper. Although conclusive results of tests are not yet available, all evidence so far indicates that this weapon is very effective in stopping suspects, even exceedingly violent ones, and has minimal, if any, long-term effects. Assuming the benefits of this weapon outweigh its risks, many [civil libertarians] would still disallow its use except in

a defense-of-life situation (where *deadly* force would be justified) or in a riot. By not allowing its use at an earlier stage of the encounter prior to where deadly force would be justified, one ends up in the position of endorsing the use of batons in the numerous encounters where force is necessary but deadly force is not appropriate.

A more graphic understanding of the ramifications this severe restriction of non-lethal force can be appreciated from the story of a former law enforcement officer who tells of a situation where he and another officer faced a very drunk, very angry, and very large gentleman for whom there was probable cause to make an arrest. The suspect clearly intended to forcibly resist that arrest. With the use of pepper mace, the suspect was safely in custody in minutes, and the effects of the weapon disappeared soon afterward. If non-lethal chemical weapons were restricted to “deadly force” situations as many propose, the police in that situation would have had no other option but to engage in physical battle, probably with their batons, increasing the risk that the force could escalate even further.

If our goal is to reduce the use of lethal force, non-lethal weapons can be a valuable tool in achieving that goal. Policy that would provide training to police officers in the use of such weapons that have been proven safe and effective should be supported. And policy that would discourage, rather than encourage the use of these weapons should be strenuously opposed.

experienced reductions in the use of other less-lethal weapons as well as a reduction in officer injuries (Shultz 2004). The Miami Police Department reported that after they adopted Tasers, they experienced no police-involved shootings for twenty consecutive months. During the same period, the Seattle Police Department reported no police-involved shooting deaths after they adopted the device, with the chief affording some of the credit to Tasers (Castro 2004b). The Phoenix Police Department, after it began using Tasers, experienced its lowest rate of deadly police shootings in fourteen years (Kershaw 2004). In Portland, Oregon, police found that between 25 percent and 30 percent of situations where the Taser was used met the criteria for the use of deadly force (Jones 2004).

In the United Kingdom, the Association of Chief Police Officers of England, Wales, and Northern Ireland (ACPO) conducted an operational trial of the Taser, piloting the devices in five British police jurisdictions. ACPO (2004) concluded that the Taser device was a useful and effective piece of equipment that can help to de-escalate potentially violent situations and reduce harm with more precision than other alternatives. In the ACPO pilot, the mere threat of using the Taser de-escalated the situation in 57 percent of cases involving potential deployment. This included instances where a laser sight from the Taser was aimed at a subject, as well as when the device was pointed at a subject. However, another UK study raised concerns about the maximum range of effectiveness for the device. While the length of the connecting wires are 21 feet, the UK study found that the device become increasingly inaccurate after 15 feet. The study noted that at distances of less than 15 feet, the devices were found to be sufficiently accurate. (Donnelly 2002). (Box 3.4 summarizes the United Kingdom's presentation about Tasers at the PERF

Critical Issues in Policing Conference in San Diego).

Critics, however, claim that Tasers are not necessarily less-lethal weapons and that they actually result in more force being used—not less. This was the conclusion reached by a study in Orange County, Florida. Although the use of O.C. spray and batons decreased in that jurisdiction, the number of total force incidents (including the use of Tasers) increased by 58 percent over three years (Berenson 2004).

Police departments place conducted energy devices at different points on the use-of-force continuum, although some consensus has recently emerged. TASER International (2004) reports that almost 87 percent of police department customers place the Taser at the same level or before O.C. spray—a percentage consistent with the findings of an August 17, 2004, survey by PERF of thirty-six law enforcement agencies. This placement on the force continuum greatly expands the circumstances where the Taser can be used. Opportunities for inappropriate use also increase. (For a detailed explanation of linear and circular models of the use-of-force continuum, see Chapter 2.)

In Milwaukee, police reports during a twelve-week period revealed that 70 percent of persons hit with a Taser were injured in some way, although none seriously (Diedrich 2004). Critics also cite more than ninety incidents where people died after a Taser was used upon them, and claim that the Taser was a major causal factor in those deaths. The manufacturer adamantly insists that none of the deaths were caused directly by the device (TASER International 2004). In response, some law enforcement executives have suspended authorization to deploy the Taser or delayed their purchase of these devices. For example, Forsyth County, Georgia, withdrew the devices, citing possible concerns about Taser-related deaths and the need for an independent

study (Mungin 2004). The Fort Wayne (IN) Police Department delayed purchasing the devices until more research could be conducted (Cortez 2004). The American Civil Liberties Union (ACLU) of Colorado has complained that Tasers are being abused by police in a manner that “constitutes unnecessary and unreasonable force that may constitute cruel, inhuman, or degrading treatment” (Silverstein 2004). The ACLU of Hawaii has sought limits on Taser use and has asked that they be used only in situations where lethal force would be justified (Associated Press 2004b).

In 2003, Amnesty International called for a moratorium on Tasers until an independent inquiry on the use and effects of Tasers is completed, and in 2004 it reiterated this recommendation (Amnesty International 2003, 2004). In the 2004 report, Amnesty International offers recommendations to agencies that decline to suspend Taser usage. One of its significant recommendations is that police departments using Tasers strictly limit use to situations where the alternative would be deadly force.

As police executives and the citizenry they serve continue to work to hold law enforcement officers accountable for use of force, there is a need for continued development and standardization of guidelines for conducted energy technologies like the Taser. In any police-citizen confrontation, minimizing injury and respecting individual rights are essential goals. Less-lethal weapons can help police officers attain those goals. Police executives, however, must carefully manage *how* the Taser or any service weapon is used. Obviously, any police service weapon must be used prudently and responsibly and not in a punitive, abusive, or retaliatory manner. However, no common, widely adopted standards for the use of conducted energy devices have been established. There is clearly a need for continued development and standardization of guidelines.

At this writing, the policies of police departments vary concerning the use of a conducted energy device. Should it be used on passively resisting suspects or only actively resisting suspects? Where on the body is use permissible? Does the number of applications and duration of shocks impact safety? Does use in conjunction with a flammable substance increase the possibility of ignition? Should its use against certain populations—such as juveniles, pregnant women, and those suffering from known medical conditions—be prohibited? Further, how should police officers respond when confronting suspects who are armed with a Taser? On these important questions, policies are inconsistent. Concerns have also been raised about the use of a Taser on seniors or individuals suffering from osteoporosis. A deputy sheriff suffering from this bone-weakening disease reportedly sustained a fracture after he was shocked during a training exercise (Anglen 2004). Until more is known about the immediate and long-term effects of conducted energy devices, agencies should consider placing them higher on the force continuum and restricting their use to circumstances where suspects are actively resisting. Whenever possible, agencies should avoid using them against pregnant women, elderly citizens, and others who are clearly physically impaired. (For a detailed discussion of policies on conducted energy devices, see Chapter 2.)

The medical effects of conducted energy devices remain a primary concern for police departments. More research is definitely needed on the devices’ effects on people. There has been only cursory medical research conducted by organizations in the United Kingdom and the United States. “From the available evidence,” the United Kingdom’s Defence Scientific Advisory Council’s subcommittee on the medical implications of less-lethal weapons concluded that “the risk of life-threatening or serious injuries from

## Taser Research and Deployment in the United Kingdom

by Andrea Morrozoff Luna

*This article summarizes the discussion on Tasers at the Police Executive Research Forum's Critical Issues in Policing Conference in San Diego in December 2004.*

The panel at the December 2004 Critical Issues in Policing Conference in San Diego consisted of policing experts—including a scientist with policing expertise—on less-lethal force options in the United Kingdom. Assistant Chief Constable Ian Arundale of the West Mercia Police Department, Chief Inspector Richard Prior of the London Metropolitan Police Department, and David Wilkinson of the Police Scientific Development Branch (PSDB) of the U.K. Home Office described the process by which the United Kingdom approved use of the Taser™ conducted energy device on a trial basis in August 2004. The U.K. Home Office requires that all police equipment and new technologies be tested and evaluated by the PSDB before they are approved for use by law enforcement officers. The three panelists discussed critical issues associated with this evaluation of the Taser.

The Taser had garnered much publicity—and support—from police officials in the United States. It appeared to be an effective less-lethal tool that could increase the efficacy and professionalism of policing in the United Kingdom while reducing injuries and deaths of officers and citizens. U.K. police officials approached their government in an attempt to gain approval to deploy the Taser and a formal evaluation was initiated.

The U.K. presenters stated that although the Taser appeared to be a good less-lethal option, comprehensive independent testing on the

effectiveness of the device was lacking. Questions were raised about the quality and reliability of the device, its medical effects, the impact of deploying the device on persons under the influence of alcohol or illegal drugs, and consequences of its use on persons in a stressful situation—such as during or after an arrest. Additionally, the panelists discussed how police executives and supervisors in the United Kingdom have managed implementation of this new tool post-deployment while keeping these concerns in mind.

### TESTING AND EVALUATION PROCESS

Assistant Chief Arundale provided background on the PSDB evaluation and testing process. He believes the process, although time consuming, is effective in ensuring the quality of equipment used by police forces in the United Kingdom and for setting accurate expectations of how equipment will perform. The process has four stages:

1. Defining the operational requirements for the tested equipment (identifying exactly what functions the equipment must perform).
2. Devising and conducting operational tests in the field based on the developed requirements.
3. Conducting an independent medical review of the tested equipment's effects on a range of persons within a series of foreseeable conditions.
4. Summarizing evaluation findings and making recommendations to the Home Office on the proposed equipment; an

independent international panel writes a definitive statement on the equipment based on the evaluation findings.

These stages are described below as they relate to the Taser assessment in the United Kingdom:

### **Defining Operational Requirements**

The Association of Chief Police Officers (ACPO) and representatives from PSDB had consulted with stakeholders, policymakers, and practitioners on less-lethal-force issues and determined that the Taser could be an effective less-lethal tool. The ACPO developed twenty-two desirable characteristics of a less-lethal weapon as a result of querying practitioners and stakeholders. Although any one piece of equipment may never meet all of the profession's needs, the ACPO believes testing the equipment is beneficial in determining how much of what is desired can be achieved. Once operational requirements are set, then test standards for the requirements and medical reviews are created to evaluate the proposed equipment.

### **Operational Testing and Evaluation**

The PSDB assessed the quality, accuracy, and consistency of the Taser—the M26 model and the newer X26 model. It tested battery longevity, accuracy, functioning after being dropped, clothing penetration, flammability, functioning in extreme temperatures, and electrical output. In addition to these physical tests, handling trials were conducted. The PSDB observed and documented how officers from twenty police forces and the prison service performed when firing more than

1,200 cartridges during three days in fifteen different scenarios. A questionnaire solicited feedback from users of the device.

### **Independent Medical Review**

The PSDB issued its initial report on the medical implications of the Taser in 2002. Since that time, the U.K. Defence Scientific Advisory Council's subcommittee on the medical implications of less lethal weapons (DOMILL) has conducted further medical research. DOMILL is comprised of surgeons and well-respected medical practitioners in the United Kingdom who reviewed literature and studied the biophysical interaction of the Taser's electrical current pulses within the body. On behalf of DOMILL, the United Kingdom's Defence Science and Technology Laboratory (DSTL) undertook a comprehensive review of available information about the devices. Over 800 references were reviewed in scientific and medical papers, newspaper reports, surveys, and various studies. DSTL considered basic neurophysiological science, the effects of electrical fields on physiology, and the application of electrical safety standards to Taser outputs. DSTL also undertook computer-based modelling of the interaction of Taser electrical pulses with the body, and it qualitatively assessed the distribution of currents emitted from the device.

### **Summary of Evaluation Findings and Recommendations for Use**

The presenters noted that the PSDB recommendations were indeed only that; they were not requirements until reviewed by the Home Office, and policies were established. The testing process, however, ensured that the government's

## box 3.4 *continued*

knowledge about the device was thorough, and the process fostered public trust since likely outcomes could be predicted. For every new piece of equipment implemented by U.K. law enforcement, this in-depth testing process must be followed. If agencies desire to upgrade to a newer model, testing must be conducted and the new model approved through the same process. Although the process is very time consuming—and sometimes frustrating to those who would like to implement new technology immediately—it ensures that the government knows what to expect from the equipment in use by law enforcement. The United Kingdom does not involve manufacturers in supporting the work, developing operational requirements, or in the testing and evaluation phase in order to ensure that the process is independent and objective. The presenters stressed that the decision to implement new tools or technologies in the United Kingdom must stand up to public scrutiny after they are in use.

Findings—including preliminary results from operational medical testing—yielded the expert panel’s recommendation that the Taser is a useful and effective piece of equipment that can help to de-escalate potentially violent situations and reduce harm with more precision than other alternatives. In addition, the evaluation concluded that from available evidence, the risk of life-threatening or serious injuries from the M26 Advanced Taser appeared to be very low. The presenters added that U.K. police departments have begun to issue Tasers, and that the United Kingdom has spent about \$3 million on the testing of the Taser device. All of the PSDB reports are available at

[www.homeoffice.gov.uk](http://www.homeoffice.gov.uk) and at the PERF website [www.policeforum.org](http://www.policeforum.org).

### STRATEGIES FOR POLICE EXECUTIVES

The PSDB evaluation and testing process identified issues that should be considered when developing Taser operational policy. The panelists’ presentation at the conference prompted a candid discussion of those wide-ranging issues. Following are five strategies to be considered by police executives who are contemplating whether to procure less-lethal technology.

*Seek out technologies that meet your needs.*

Identify the operational requirements for your agency’s less-lethal equipment. Discuss force issues with department personnel in order to identify force needs and where current equipment or technologies are or are not effective. Then, seek out and research the technologies that best fit your department’s needs. Do not assume that any one new technology or piece of equipment will become the remedy for all of your department’s issues with use of force.

*Don’t rely on manufacturers to conduct research and develop policy and training.*

Prior to implementing a new less-lethal option, look at available research and information and search out the recommendations and experiences of other police departments that have implemented the option you have selected. Also study the findings of organizations, such as PERF, that have the ability to centrally collect data and conduct research. Use their resources to help craft department policies and training

programs. Consider how your department will address policy, training, and supervision issues prior to purchasing less-lethal options. Do not rely solely on manufacturer-recommended policies or pre-produced training materials.

*Involve the community.*

Engage the community and advocacy organizations in the process of selecting less-lethal options. Explain how new technologies work—and when they are to be used. By involving community groups in discussions, agencies can preemptively address community concerns.

*Maintain consistency between policy and practice.*

Police executives should try to make sure that the way the device is presented to the community matches the way the device is actually deployed in the field. If the device is promoted to the community as an alternative to deadly force but is used frequently in the course of minor confrontations, the disconnect will undermine police agency goals and integrity, and will cause friction between the public and the police department. For example, use of the Taser device to gain compliance from a belligerent person, or use of the Taser on a handcuffed individual, will be contrary to the public's and agency's expectation. A police department's policy must mirror its practices in the field and the expectations of the public in order to strengthen community trust.

*Balance the need for testing with the need for deployment.*

Find a balance between the need to test and evaluate less-lethal options and the need to deploy

the new technology quickly. Many departments have done this by introducing the Taser on a temporary basis, conducting pilot tests of the equipment, and deploying it to certain officers. This results in the managed deployment of a new device, while at the same time refining operational policies and procedures.

## CONCLUSION

The panelists concluded that the Taser was a good option for police officers in the right circumstances but that its use should be carefully planned and supervised. The evaluation process used by the United Kingdom provides an example of how less-lethal technologies can be assessed in the future. By independently identifying needs and products, conducting managed operational tests, engaging in an independent medical review, and documenting findings, police departments and government agencies can deploy less-lethal technologies in the safest and most informed manner. While there is a need to balance the need for evaluation with the need for deployment, police executives must communicate with the public in order to set expectations. The sensible combination of evaluation and communication will have beneficial results: safer less-lethal alternatives for police and fewer injuries and deaths.

the M26 Advanced Taser appears to be very low” (DOMILL 2004). Noting that drug use could predispose an individual to a cardiac event, the subcommittee advises officers to be aware that the risk of an adverse response to a Taser deployment may be higher in drug-impaired individuals (DOMILL 2004).

Although the United Kingdom has examined the limited deployment of Tasers, little research has been done in the United States. The manufacturer has partially addressed that void, and it has been actively tracking information and statistics on a large scale. In order to maintain credibility with the public, the law enforcement profession needs to seek independent means to identify the impact of conducted energy devices and establish guidelines for their use.

As noted earlier, the Stinger 4 Dart Less-Lethal Gun is a new conducted energy device that has entered the market. Like the Taser, it discharges approximately 50,000 volts. The Stinger shoots four darts at a greater range than the Taser. Unlike the Taser, the Stinger uses black powder to discharge its darts, thus classifying it as a firearm. Stinger Systems (2004) touts this classification as an advantage and advertises that its product is “ATF Certified” because it is regulated by the U.S. Bureau of Alcohol, Tobacco, Firearms, and Explosives. The LEA Stun Gun has only recently been offered. Information about the Stinger and LEA devices are extremely limited, but it is anticipated that most of the same issues raised about Tasers would apply to them.

### *Less-Lethal Projectile Munitions*

#### *Bean Bag Munitions*

Bean bag rounds are usually fired from a 12-gauge shotgun or from a 37 or 40mm gas propelled weapon; they travel at around 280 to 300 feet per second. These munitions are fired between 20 and 50 feet away from the target. The

round itself is approximately one-half ounce of lead and is bound by heavy fabric or Kevlar. Original rounds, approximately 2 inches by 2 inches, were flat with squared corners. Due to the potential for injury caused by these sharply cornered munitions, new projectiles have been developed. These munitions are round in shape and often have a stabilizing tail, although the tail’s effectiveness has been questioned (Donnelly 2001). Manufacturers offer several models, including bean-bag rounds and tail-stabilized rounds. Agencies using the tail-stabilized rounds include the Baltimore County Police Department, the San Diego Police Department, and the Pennsylvania Department of Corrections. To reduce injuries, police executives should consider equipping officers with round—rather than square—projectiles. Deployment of munitions should require the notification and/or authorization of a supervisor, as well as the tactical use of cover.

Bean bag munitions and other less-lethal projectile munitions have proved effective against persons with mental illness and other subjects during a confrontation. In a National Institute of Justice (NIJ) study completed in 2004 (Hubbs and Klinger 2004b), 373 cases of the use of impact weapons by 106 different law enforcement agencies were examined. Over 65 percent of the cases in the study involved bean bag rounds. In nearly half of those cases, impact weapons were deployed against armed suspects who displayed suicidal intent. Another 118 cases involved non-suicidal subjects who refused to comply with officers’ orders. Of the total number of cases, 90 percent of the targeted subjects were armed (Hubbs and Klinger 2004b). In the majority of deployments, incidents involving impact weapons were resolved without officers having to discharge their firearms. While the devices have been deployed successfully, there have been reports of deaths in circumstances where bean

bag munitions were used. It is important to note that police officers have mistakenly fired bullets and killed people when they intended to use less-lethal munitions.

Police executives should review the curriculum for training officers in the use of impact weapons and consider whether there is sufficient focus on minimizing the severity of injuries when these devices are deployed. Research has indicated that the less-lethal projectile munition's impact to a person's head, neck, or chest could lead to serious injury or death (National Academy of Sciences 2003, Stidman 2004). These deaths and injuries have fueled continued criticism of law enforcement's use of impact weapons. As a result, some agencies are considering suspending or eliminating the use of bean bag weapons. The Lakeville City (MN) Police Department decreased its number of bean bag weapons, replacing them with Tasers. Tactically, several agencies require their officers to aim at "soft spots" such as the abdomen, thighs, and forearms (Castro 2004a). To lessen the problem of officers mistakenly deploying bullets rather than less-lethal munitions, police executives should take steps to make impact weapons clearly identifiable (Hubbs and Klinger 2004a and 2004b). The Baltimore County Police Department uses brightly colored stocks on their bean bag shotguns, and it also uses bean bag rounds with clear shells so that the round itself can be easily identified.

### *Pepper-Loaded Munitions*

The manufacturer of PepperBall Systems claims that pepper-loaded munitions have a three-pronged effectiveness system: psychological—the surprise of being shot; kinetic—the impact of the projectile; and chemical irritation (PoliceOne.com 2004a). As a result, these weapons are not characterized only as chemical

less-lethal weapons since there is considerable impact when the rounds hit a person's body. The company calls this combination of chemical and kinetic effects *chemnetics* (Davison and Lewer 2003). The impact of a pepper-loaded round is 8 to 10 feet per pound compared to bean bag munitions, which have a kinetic energy of over 120 feet per pound (Oldham 2001). The lower level of kinetic energy reduces the likelihood for serious injury to the suspect.

There are other advantages of the pepper-loaded projectiles. Unlike traditional O.C. sprays, these munitions can be deployed 30 to 65 feet away, rather than 10 feet away (Reavy 2002). Furthermore, these rounds can saturate an area from more than 100 feet away (Green 2002). This allows the deploying officer the opportunity to operate from a safer distance—while still maintaining accuracy. Although these munitions are generally considered less-lethal weapons, pepper-loaded munitions have caused at least one known fatality. In October 2004, Victoria Snelgrove, a student at Emerson College, died when a pepper-loaded projectile lodged in her eye. The round had been deployed in an attempt to disperse the large and unruly crowds that had gathered to celebrate the Boston Red Sox's World Series victory. As a result of her death, these munitions have come under greater scrutiny from critics who feel they should be considered lethal weapons. "If a weapon kills you, it is lethal—case closed," argues David Gullette, a professor at Simmons College in Boston. The Boston police commissioner initiated discussions about use of force by police with local community leaders and human rights groups and established the Stern Commission to review the incident. Although the commissioner did not support a complete ban on pepper-loaded munitions, she did note that reclassification from non-lethal or less-lethal designations to a higher one is likely (Boston Channel 2004). Since these weapons systems are

relatively new, little empirical data exist on the potential effects or the number of deployments. As the *Boston Globe* noted, “no accurate statistics have been kept regarding injuries sustained from pepper-filled balls” (Stidman 2004). The potential for serious injury from pepper-loaded munitions holds policy and training implications for agencies that use them. The manufacturer recommends use of a “full face mask, throat collar, and groin protection for police training with the weapons to prevent injury” (Stidman 2004). The manufacturer notes in its website’s safety guidelines, “Never target the head, throat, face, eyes, or spine.” To enhance training capability, Advanced Interactive Systems (AIS) has introduced a training simulator that encourages the use of less-lethal technologies like PepperBall (AIS 2004).

Bean bag and pepper-loaded munitions and other impact weapons are viable alternatives to lethal force in many situations. As Hubbs and Klinger note, “Impact munitions are safe as measured against the likelihood of fatal injury when officers shoot citizens with lethal munitions.” Training focusing on proper use and accuracy—shooting the weapons below the waist of a subject—will minimize instances of serious injury or death.

### *Oleoresin Capsicum Spray*

Today the general consensus in the law enforcement profession in the United States is that O.C. spray is safe to use if deployed correctly. Like the scrutiny now given conducted energy devices, O.C. spray received close scrutiny a few years ago. The ACLU expressed concerns in 1993 about excessive and improper use of O.C. spray (Alpert and Smith 2000). Over the years several studies have examined the medical effects of O.C. spray on humans. As the use of O.C. spray increased, questions arose about its safety after several in-custody deaths occurred following its use. The

National Institute of Justice (2003) reported that inhalation alone usually does not pose a significant risk for respiratory compromise. It concluded that most of the in-custody deaths it studied were the result of drug use by the decedent. It attributed other deaths to a combination of drug use and heart disease, as well as asthma. Notably, several people died because of positional asphyxia—placement in a position where they could not use muscles that move air in and out of their lungs (NIJ 2003). From its examination of in-custody deaths, NIJ found O.C. spray to be effective only 20 percent of the time. While the report does note that subjects in the in-custody death study had a higher rate of drug use, it cites evidence that O.C. spray is less effective on subjects who are on drugs (NIJ 2003).

Based on this report, several recommendations can be made concerning the O.C. spray policies of law enforcement agencies. If possible, officers should consider using another force option if a subject who appears to be on drugs seems unaffected by a burst of O.C. spray. Departmental policies also should include guidelines on how to restrain and transport people who have been sprayed with O.C. in order to prevent positional asphyxia. Finally, officers should, when possible, avoid using O.C. spray on individuals known to suffer from asthma and/or heart disease.

Sparks generated by conducted energy devices can ignite and burn an individual who has been doused with O.C. spray. Oleoresin Capsicum—the liquid extract of cayenne pepper—is in itself not necessarily flammable. However, the liquid carrier—usually propyl alcohol, water, or propellant gasses such as Freon—can be combustible. Indeed, most alcohol-based carriers should be considered flammable (ACPR 1998). Police executives should consider determining the chemical consistency of their O.C. spray carrier to reduce the likelihood of ignition—

especially if there is a possibility that a conducted energy device could be used.

Although the NIJ report generally confirmed that O.C. spray is reasonably safe, the United Kingdom is taking a different approach. Citing concerns about chemicals used to grow peppers, as well as the inconsistent strength of the peppers based on different pepper harvests, the United Kingdom has turned to a synthetic “pepper-type” spray (Bauer 2004). In the past the United Kingdom used chemical spray (CS), but concerns were raised about its medical effects (BBC News 2001). The synthetic capsaicin—known as PAVA or Nonivamide—has properties similar to O.C. spray, but because it is manufactured, there is greater product consistency. Studies are under way in the United Kingdom on the effectiveness of this synthetic formula now being deployed by its law enforcement officers.

### *Batons*

The collapsible baton is considered a less-lethal weapon, but if deployed in a certain way it can be deadly. In response to U.S. Department of Justice consent decrees, some jurisdictions now consider strikes by a police officer *to the head of a suspect* with the collapsible baton—or any hard object—as the application of deadly force. In fact, during an intense physical confrontation, strikes to the head of a suspect by an officer may be difficult to avoid for the following reasons: the use of a baton

involves minimal distance between a police officer and a suspect; an officer’s fear level increases, affecting the sympathetic nervous system; and blood pressure, pulse rate, respiration, and the release of adrenaline all increase. These physiological factors, combined with an erratically moving suspect, increase the chances that an officer will unintentionally strike the suspect in the head (ACPR 1998). Officers in the midst of an intense physical confrontation should consider various options, including: making a temporary retreat, using other less-lethal options, and/or awaiting the arrival of additional officers. When using the baton, officer should strike the suspect’s legs and, in some circumstances, arms.

Strikes to the head with heavy metal flashlights, like head strikes with batons, can be lethal. While not a baton, it is noted that many agencies permit the use of a flashlight as a weapon. Some agencies prohibit the practice, while others, like the Los Angeles Police Department, discourage its use in that manner, but permit it in exigent circumstances. Other agencies, like the Metropolitan Police Department in Washington, D.C., try to avoid such an application by issuing small, lightweight, high-intensity flashlights that are portable—but not conducive for use as an impact weapon. If a department elects to permit the use of flashlights as a less-lethal alternative, it is recommended that guidelines and training reflect the same requirements for the department’s service batons.



# 4

## Handling the Aftermath of a Use-of-Force Incident

by

BEVERLY J. ANDERSON, HEATHER DAVIES,  
JOSHUA A. EDERHEIMER, STEPHAN LOYKA

**I**ncidents involving police use of force, as well as the perceived use of excessive force, have tremendous potential to undermine relations between a law enforcement agency and the community it serves. A community's immediate and long-term response to a force incident depends on many factors, and consequences of such an incident can range from public criticism to rioting. One of the most important factors influencing reactions to use of force is the level of trust that has been cultivated between a law enforcement agency and the community before an incident occurs. A constructive and nonviolent

post-incident outcome depends to a great extent on groundwork completed before the crisis.

Moreover, the manner in which an agency holds its officers accountable has an impact on the level of confidence and trust that it is afforded—both internally and externally. The implementation of a solid use-of-force investigation process is an integral part of a police executive's mandate to successfully manage use-of-force issues. Finally, police executives are keenly aware that a use-of-force incident can have significant personal effects on individual officers, and recognize the need to address how their officers cope in the aftermath of a force incident.

This chapter describes how agencies can strengthen ties with the community before a use-of-force incident and, following an event, how they can interact with the media to show accountability and improve the likelihood of a constructive response by the community. The chapter also focuses on the investigations of serious force incidents, and provides examples of successful models. The chapter ends with a detailed explanation of how agencies can best serve the personal needs of officers following a serious or controversial force incident.

## COMMUNICATING WITH THE PUBLIC AND BUILDING TRUST

“It is critically important to establish relationships and credibility with the public and the media before a major use-of-force incident or investigation occurs. This can be done by building strong and trustworthy leadership as well as spending resources on educating the public on police roles and responsibilities.”

Kevin Morison, Director of Corporate Communications, Metropolitan (DC) Police Department

Communications to the public through the local (and sometimes national) media are a key aspect of an agency’s response to a use-of-force incident.<sup>1</sup> Following an event, a police executive must convey information about what happened to his or her constituency in order to emphasize accountability and to achieve a constructive response from the community and media. With effective groundwork and post-event communications and actions, a police executive can achieve this goal—even under difficult circumstances.

## *Use of Force and Racial Tensions*

Perceived misuse of force by police can precipitate violent reactions, particularly if the force was used against members of minority communities. The anger of minority groups and others in response to force incidents is symptomatic of a larger problem. It comes against the backdrop of the historically strained relationship between police and minority communities—in an even larger context of societal discrimination and repression. Recall August 11, 1965, when a routine traffic stop in Los Angeles led to rioting. A young African-American male was pulled over in Watts for driving erratically while intoxicated. During the arrest, the protestations of the young man drew a crowd. The crowd’s reaction had devastating effects. Riots lasted for 6 days, leaving 34 dead, more than 1,000 people injured, nearly 4,000 arrested, hundreds of buildings destroyed, and nearly \$40 million in damage (Governors’ Commission on the Los Angeles Riots 1965). It was alleged that the crowd reacted violently because of a perceived pattern of persistent harassment by police against minorities, and resentment against government for social injustices. The police breakup of an after-hours drinking establishment frequented by African Americans in Detroit had a similar outcome. A crowd that quickly gathered in protest precipitated the 1967 riots that left 43 dead, 1,189 injured, and 7,000 under arrest. The factors that led to the violence and vandalism were diverse. In addition to negative perceptions of the police department, economic inequality and the lack of affordable housing were cited as major factors.

Much has changed over the years to reduce the frequency of these violent reactions. But even more progress is needed. Riots in Cincinnati, Miami, and Los Angeles, as well as allegations

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1. Heather Davies and Stephan Loyka of PERF wrote this section of Chapter 4.

that police engage in racial profiling, highlight the need for continued efforts to improve police relations with minority communities. Included in this chapter is an example of successful police-community relationships located in Box 4.1 with a summary of comments made by Reverend Reginald Holmes—Pastor of Denver’s New Covenant Christian Church—at PERF’s Critical Issues in Policing Forum.

Studies indicate that minorities are, in fact, disproportionately the subject of police force (Bogomolny 1976; NAACP 1995; Pate and Fridell 1993; Piliavin and Briar 1964; Reiss 1971; Smith 1986; U.S. Commission on Civil Rights 1970; Westley 1953, 1970; Worden 1996). Research dating back to the 1960s provides evidence that racial/ethnic minorities—particularly African Americans and Hispanics—are disproportionately the subjects of deadly force and less-lethal force. These results, however, do not necessarily reflect police bias. Some of the more advanced studies starting in the 1970s tried to disentangle potential causes for the disproportionate representation of minorities among subjects of force. For instance, James Fyfe’s (1978, 1980) in-depth study of the New York City Police Department in the 1970s demonstrated a positive correlation between the rate of police shootings and the rate of citizen violence within precincts. A similar result was found when states were used as the unit of analysis: Kania and Mackey (1977) found that levels of police violence within states corresponded to levels of citizen violence. These and other studies highlight possible theories for the disproportionate representation of minorities among subjects of police use of force.

While it is important for researchers to continue to try to disentangle the possible causes of higher levels of police force against minorities,

a key factor for police practitioners is minorities’ *perceptions*. Consistently, public opinion polls have shown that compared to Caucasians, minorities—particularly African Americans—are more inclined to believe that police are biased in their use of force (Flanagan and Vaughn 1995; Huang and Vaughn 1996; Williams, Thomas, and Singh 1983). Conclusions relating to police-community tensions are found in the 1991 Christopher Commission report on Los Angeles, published in the aftermath of the Rodney King incident. The report stated, “Within minority communities of Los Angeles, there is a widely held view that police misconduct is commonplace.” The King incident refocused public attention to long-standing complaints by minorities that they were treated differently from whites.<sup>2</sup> In a poll conducted by the Joint Center for Political and Economic Studies, almost 43 percent of African Americans responded “yes” when asked if they believed that police brutality was a serious problem where they lived; only 12 percent of the general population responded this way. The same group conducted a study in 1997 that indicated that more than 81 percent of African Americans believed that “the police are much more likely to harass and discriminate against blacks than whites,” whereas only 57 percent of the general population and 55 percent of whites believed the statement was true.<sup>3</sup> It is important to address perceptions of bias as well as to detect actual incidents. Both can be catalysts for improved police-community relations. Controversial incidents also create opportunities for positive reforms, and the following discussion describes how various agency executives turned controversial incidents into opportunities for constructive change.

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2. Report of the Independent Commission on the Los Angeles Police Department, July 9, 1991.

3. See [www.jointcenter.org/](http://www.jointcenter.org/).

**box 4.1****ARTICLE:****Law Enforcement and Community Relations:  
A Community Perspective from Reverend Reginald Jones**

by **Stephan A. Loyka**

*This article summarizes the views of Reverend Reginald Holmes at PERF's 2004 Critical Issues in Policing Forum in December 2004. He shared his views on how police and the citizenry can work together and establish trust.*

Every law enforcement officer in the United States is sworn to serve the community and protect the sanctity of life, and yet there may come a time when he or she, in the course of duty, may be forced to take the life of someone else. The decision of when and how to use force is one of the most difficult and controversial an officer will ever have to make. The decision to apply deadly force—even less-lethal force—can deeply affect the officer, the agency, individual citizens, and the community as a whole. The circumstances of the incident and the subsequent investigation, as well as how these are presented to the public, can heavily influence the consequences. In fact, the nature of the community response to these episodes will depend on a number of distinct variables—the most important of which is the existing climate of police-community relations.

Where there is a high-level of confidence within the community—particularly the minority community—in the integrity and accountability of a police department, an incident of police use of force may be resolved with few negative repercussions. Conversely, in communities where tensions between law enforcement and the public consistently run high and where clear channels of communication are absent, there lies potential for violent and explosive reactions to use-of-force

incidents—especially those involving persons of color or distinct ethnicity. At a time when racial profiling and excessive uses of force are becoming the hot button issues of the day, cultivating trust, strengthening relationships, and facilitating communication between a law enforcement agency and the community it serves should be a fundamental focus for law enforcement professionals and community members alike.

Specific steps can be taken, policies and practices implemented, and community stability subsequently secured if police and citizens make a concerted effort to strengthen these relationships before an incident occurs. Neither side can affect change independently. Community leaders, citizens, and activists are equally responsible for cultivating the good faith that must exist, not only to mitigate the effects of an unfortunate and regrettable event, such as a police-involved shooting, but also to effect actual and substantial improvement in the delivery of community services.

As the president of the New Covenant Christian Church in Denver, Colorado, and an outspoken community member on the topic of police shootings, I lead a group of ministers called the Greater Metro Ministerial Alliance. This group attempts to change some police policies and diffuse the tension resulting from police shootings. While it is important that police know and understand the communities they serve, it is equally important that residents know their police force and recognize the difficulty of their responsibilities. I strongly support Denver's police chief, Gerald Whitman, and believe that together, we have made significant progress towards strengthening

the rapport between the police department and the minority community, while improving the delivery of both police and social services.

One of my goals is to address the serious issue of profiling in Denver and the nation as a whole. When dealing with the problem of profiling—whether real or perceived—we are challenged with transforming community concerns and misconceptions about the credibility and legitimacy of the police force. To develop that good faith, a commitment on the part of both parties is necessary. It has increasingly becoming a “badge of courage” for young African-American teens to be pulled over in Denver for a “DWB”—or driving while black. Four teenagers were recently pulled over for, in their view, having their hair braided in a style matching the description of suspected gang members. Without placing all the blame on law enforcement, or indiscriminately crying foul, we must acknowledge the fact that young people need to be mindful of the way in which they carry themselves. Not doing so can lead to potential problems or conflict. Racial profiling is a serious problem that needs to be examined closely, but, more importantly, it is a problem that can be dealt with through constructive dialogue between the public and law enforcement.

We need to achieve a community in which we know and understand each other. For law enforcement, this entails understanding the demographics of a community, economic conditions, previous incidents and resultant tensions, politics, social mores, and the religious faiths that guide a community. In turn, the community needs to feel confident in the good intentions of the police agency. Communities should also feel that incidents of police use of force, investigations following such

events, and the manner in which the department communicates with the public throughout the ordeal and afterward are handled genuinely and as transparently as possible.

The unfortunate truth is that use-of-force incidents can take their toll on a community. If addressed properly, however, these same incidents can effect significant change. An incident that occurred in Denver in 2003 involving an African-American teenager with a mental disability provides a good example. Paul Childs was shot to death in his home on July 5, 2003. The teen was walking through his house clutching a kitchen knife to his chest. His sister called 911 hoping the police would be able to help calm him down, as they unfortunately had had to do numerous times before. Childs’ sister and mother had called the police for assistance more than 50 times over the previous three years. Paul purposely acted out to get the police to come to his home because he saw the officers as his friends. When the officers arrived that day, though, their repeated instructions to drop the knife—the knife that was now being used to seemingly threaten the mother’s life—were ignored. One officer, who had responded to the residence just one month earlier for a similar incident, shot and killed the boy in the doorway of his home.

The nature of the situation presented enormous potential for civil unrest. The Denver Police Department and community leaders such as myself, worked together to diffuse community tensions immediately following the incident. During a press conference following the incident, I questioned much more than the actions of the police officer—an obvious focal point for the community. I also questioned the scrutiny and attentiveness

## box 4.1 *continued*

of the 911 operators who had answered many calls for service. I questioned the diligence of the city's mental health providers, as well as the lack of involvement of faith-based organizations in responding to the needs of Paul Childs. We needed to know where the breakdowns had occurred, and the community needed to take on its share of the responsibility for Paul Childs' death. Chief Whitman was not the scapegoat. This approach was understandably not well received by everyone, but it reinforced my strong belief that building community trust and providing quality community services is a collaborative effort.

An investigation into the incident was conducted, and the officer was disciplined for violating the department's use-of-force policy. But Chief Whitman did more than any chief in the past to quell the concerns and discontent within the community following an incident. Use-of-force incidents—both in Denver and across the nation—often have involved a great deal of spin from the police agencies. This was not the case in the Childs' incident. Chief Whitman had the courage to show compassion publicly, to apologize to the victim's family, to acknowledge wrongdoing, and to be open and forthcoming with details of the incident and ensuing investigation. This allowed the community to let the investigation take its course without any backlash or negative repercussions. Whitman was being human, and to be human is to be honest. Trust is born out of honesty. My hope is that law enforcement and

the community can learn to trust each other. The community as a whole—citizens, law enforcement, and city officials—shares both the blame for the Paul Childs incident and the credit for what came out of it.

Police officers are increasingly being called upon to interact with individuals with mental illness or who are emotionally distressed, a task that can be difficult and dangerous at times. To help officers respond to such situations, some police departments have introduced special programs to train officers in how to respond. Crisis Intervention Teams are also being formed in many cities. These teams receive special training from mental health experts on how to deal with crisis situations and deescalate any violence. The teams are dispatched to defuse situations and take people in need to local mental health crisis centers rather than police stations.<sup>4</sup>

Following the Paul Childs incident, Denver Mayor John Hickenlooper set up a panel to come up with recommendations for improving the city's handling of similar cases. As a result, at least one-half of Denver police officers are scheduled to receive training in crisis intervention techniques between 2004–2005, and a mental health worker will be hired to train officers on how to deal with people who have developmental disabilities and mental illnesses.

The Paul Childs shooting also prompted the establishment of *FACE IT*, the Family, Advocacy, Crisis, Education, and Intervention Team. The

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4. Editor's note: For more information on how communities are working with police to minimize use of force, and better address individuals' needs in encounters with people with mental illnesses, see the Criminal Justice/Mental Health Consensus Project at [www.consensusproject.org](http://www.consensusproject.org).

team, organized with my help and that of Chief Whitman, is a coalition of church, law enforcement, and mental health leaders. This initiative is centered in two community centers where families facing crises can get help. The centers, which will be located in churches, will offer families a range of services, including counseling, social services, and referrals to organizations that help the developmentally disabled and the mentally ill. Center officials will be trained to work with these individuals so they can alleviate problems before they escalate. An on-site counselor and a member of the clergy will be on-call 24-hours-a-day. If there is a situation in which the *FACE IT* team is unable to assist, someone from the police department's Crisis Intervention Team—a 250-officer group in Denver—will be called out for assistance. The *FACE IT* program was made possible by community donations, pledges, and grants totaling \$300,000. The group hopes to expand over the next several years and set up similar centers in six other neighborhoods around the city. *FACE IT* is extremely important in getting officers and the community to work together to address the needs of the public.

Use of force by police—especially against a person of color or distinct ethnicity—presents a predictable set of flashpoints. But these flashpoints can be kept from igniting by investing early in strengthening relationships with the community,

training officers in conflict and crisis resolution, and establishing channels of communication between law enforcement officials, the media, and the public. Bonds of trust are developed over time, and it is a great deal easier to build strong relationships if the effort begins before an incident occurs. Communities need to know that officers will be held accountable for their actions. And greater transparency in the investigation of complaints is needed. Complainants should be kept regularly informed of the progress of investigations. The outcome of all criminal, disciplinary, and administrative investigations into alleged violations—and into all disputed shootings and deaths in custody—should be made public promptly. Finally, a dialogue must be established and maintained between law enforcement and community leaders. Officers should know the communities they serve and should work to establish trust.

There is real hope today that all individuals, regardless of color, creed, or ethnicity, can be afforded equal treatment. There is also hope that everyone in the community can recognize the value of good law enforcement. I credit Police Chief Gerald Whitman for working with me to give life to that hope. Motorola and PERF should be praised for bringing law enforcement and community leaders together to discuss these issues that are so important to all of us in a manner that is simply honest—and human.

## Turning Controversy into an Opportunity for Change<sup>5</sup>

by Andrea Morrozzoff Luna

Use-of-force incidents can ignite controversy in a community, and in some jurisdictions bring to light underlying tensions between racial minorities and the police. Although a police executive never seeks this type of controversy, it can be the impetus for publicly making changes—sometimes long overdue changes—in the department.

### USE-OF-FORCE INCIDENTS AND UNDERLYING CRITICAL ISSUES

Participants on this panel—Chief Stanley Knee, Austin Police Department; Executive Director Chris Fox, Association of Chief Police Officers, United Kingdom; Chief Bernard Melekian, Pasadena Police Department; and Chief Gerald Whitman, Denver Police Department—were selected to speak at PERF's December 2004, Critical Issues Forum because of how they handled recent use-of-force controversies in their communities. Each panelist discussed efforts to balance the department's need to enforce the law effectively and safely with the need to preserve the rights of individual citizens and maintain the trust of the community. In the face of these challenges, the panelists responded to their constituencies by improving police-community relationships and changing use-of-force policies.

#### Chief Stanley Knee, Austin Police Department

In June 2002, Chief Stanley Knee embarked on what he described as the most difficult 18 months

of his career. The controversy began with the shooting of a 22-year-old African-American woman who had mental and emotional disabilities. The Austin Police Department (APD) had responded to her home numerous times for disturbances. In this instance, the woman attempted to stab her apartment manager with a knife and failed to drop the weapon after repeated requests by the responding officer. She was shot by the officer.

In a second use-of-force incident in the same month, an APD officer stopped a vehicle that had been reported stolen. The driver of the vehicle and suspect was a young African-American male. The officer approached the car and attempted to take the suspect into custody. The suspect began to drive away, trapping the officer in the doorway and dragging him. The officer shot five rounds and struck the suspect five times, killing him instantly.

Racial tensions in the community and the close occurrence of these events in time ignited immediate controversy. In July 2003, the local newspaper, the *Austin American Statesman*, submitted an information request under the Texas Public Information Act to the city of Austin. The newspaper asked for police reports, statistical data, and an electronic database of every use-of-force report by the APD over a 6-year period. In early 2004 the paper ran a series of four articles entitled "Unequal Force." An entire page of editorials from community members commented on the articles and recommended action.

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5. This article summarizes panelists' discussions on making reforms amidst controversy at PERF's Critical Issues in Policing Conference in San Diego in December 2004.

The first article stated that police in Austin used force more often against Hispanics (25 percent more) and against African Americans (100 percent more) than against Caucasians. Subsequent articles in the series discussed an in-custody death involving police use of force of a suspect in 2002, APD's early warning system for officer use of excessive force, a department analysis of force reports, and potential tools for reducing use of force. At the end of the newspaper series, church leaders in the African-American community asked for the resignation of the police chief and the city manager.

Chief Knee issued a statement regarding his intention to restore race relations, and he presented a community action plan on how this would be done. The plan described each task, how it would be implemented, and the department's goal for addressing use of force. Following are some of the critical issues addressed by this action plan: (1) written consent forms for consent searches; (2) improved police training on defensive tactics, racial profiling data collection and reporting, cultural diversity, addressing people with mental illnesses, communication, professionalism, and de-escalation skills; (3) greater availability and use of less-lethal weapons; and (4) improved police-community education and outreach.

Chief Knee believed one thing he could have handled better was to tell the department's story directly to the public—he had been relying solely on the media to provide the agency's side initially. He later increased the department's communication with the community by having trained officers attend nearly every community event in Austin. To ensure officers were equipped to adequately represent the department, Chief Knee

created a speakers bureau for young officers to help them feel comfortable discussing the police department and its initiatives in front of a group of people. Having the department well represented at all local events was effective in reaching out to the community and in telling the department's story. Chief Knee initiated a partnership with the Texas Police Officer Association to develop and implement community education programs on police use of force. The department also contracted with PERF to evaluate and restructure police training based on input from the community and expert review.

Other agency efforts focused on officer selection, accountability measures, and less-lethal options. APD began to look closely at the officers it was hiring. At citywide meetings with community members, members of non-profit social service organizations active in the city and clergy pointed out that young, inexperienced officers assigned to high crime areas could be scared, and their patrol style might reflect this inexperience and fear. As a result, APD began recruiting more mature individuals (28-30 years old) with a college education and a desire to make a positive change. APD has placed cameras in every vehicle equipped to make a car stop and has increased less-lethal options by deploying beanbag shotguns and Tasers.

#### **Chief Bernard Melekian, Pasadena Police Department**

Bernard Melekian began his tenure as chief of police for the Pasadena Police Department (PPD) in 1996. In the years before Chief Melekian joined the department, Pasadena averaged 15 to 20 gang-related homicides per year. A number of the victims were juveniles. In 1997 the department

## box 4.2 *continued*

began a *No More Dead Children* program to try and stop violence in the community and prevent the killing of youth suspects by police. Subsequently, overall homicides declined, police force incidents decreased, and there were fewer controversial incidents involving police in the community. However, in April 2004, officers from the Special Enforcement Section (SWAT) shot a suspected gang member. The officers had tried to stop the suspect, but he turned while running and fired a handgun at the officers. Officers returned fire and killed him.

The investigation indicated that the shooting was legally justified and within department policy, but it sparked a public outcry. The media filmed interviews with community members who claimed that the suspect was carrying a cell phone, not a gun, and that police had wrongfully killed him. It was noted that the officer who shot and killed the suspect had no history of firing his weapon or using lethal force on others. Because of his assignment to the Special Enforcement Section and his contact with gang members, the officer was well known in the community. Rumors emerged in the community that the officer was a gang member and had killed five other rival gang suspects.

“This event took a number of months to unfold,” explained Chief Melekian. “My belief from the beginning was that the shooting was only marginally the issue.” The chief identified two issues at the heart of the problem. The first issue was a deep frustration over lack of jobs, housing and education. Most of the young African Americans contacted repeatedly by the police department felt as if they had no options in life. Being stopped by the police added to their frustration

and resentment. The second issue was a perceived lack of respect in how they were treated by the officers in the Special Enforcement Section. Officer turnover, especially within the Special Enforcement Section (with its age and physical requirements), resulted in many young officers on the force, the age group most likely to become involved in use-of-force incidents. One of the reasons for the youth of the section was that duties included membership on the Special Weapons and Tactics Team. One of the major changes was to designate four of the fourteen positions as non-SWAT positions. This resulted in several more senior officers applying for the section.

Chief Melekian also focused on rebuilding community relationships and building trust. After the 2004 shooting described above, Chief Melekian invited the FBI to take part in the department’s investigation. Inviting in an outside agency “took some of the firestorm” out of negative media reports and reduced public criticism of secrecy, he said. The department also fostered a closer partnership with the NAACP, including conducting a series of community meetings. The initial meetings aired resentments in the community that had built up over many years. Although he came prepared to speak to the group, he quickly realized that the community wanted to express their opinions. The chief left with a plan of action to help resolve the issues and concerns. In addition to meeting with community members, the chief stayed in touch with the officer involved in the shooting and with other officers to ensure concerns were addressed while providing critical internal support. The chief stressed that in any long-term solution the involvement and commitment

of the officers is as important as the involvement and commitment of the community.

Chief Melekian also began to address negative media accusations directly. For example, in response to accusations that the police department was not interested in hearing complaints or solving the problems, the department distributed complaint forms throughout the community. No complaints were received by the end of that week. He also invited religious leaders in the community to ride with the police. These “ride alongs” helped these leaders develop a greater understanding of policing and the problems officers face. The department also initiated a project called *Partners in Peace*. The department hired a community member under a city contract for 12 months to help them find meaningful ways to improve the partnership with the community. The contractor, Chief Melekian says, “paid for himself 10 times over.”

Other changes in equipment, policies, and tactics ensued. The department recalled the stick baton and issued collapsible batons to all officers. Tasers were implemented on a six-month experimental basis, and tape recorders were issued to the Special Enforcement Section officers to use when talking to suspects. The tape recorders had an especially dramatic impact on complaints of misconduct by officers. Tape recorders provide a level of oversight, offering both citizens and officers protections from misunderstandings. Finally, the department reviewed the requirements for assignment to the Special Enforcement Section. As part of their duties, members of the team were required to attend community meetings and to bridge the gap between these specialized officers and the

community. Subsequent use-of-force events have not elicited the same outrage, reflecting the community’s improved trust, understanding, and support for the department.

#### **Executive Director Chris Fox, Association of Chief Police Officers, UK**

The challenges and controversies confronting police executives in the United States differ from those facing law enforcement professionals in the United Kingdom. Government standards regulate police training, equipment, and policy in the United Kingdom. The struggle for law enforcement in the United Kingdom was to convince government officials and politicians that new force options and equipment were needed.

In the late 1990s, Director Fox became increasingly concerned about law enforcement officers’ ability to respond to different situations requiring a range of use-of-force options. During this time two major incidents occurred: one involved a suspect with a gun, and the other involved a suspect wielding a sword. The responding officers did not believe they had the tools they needed to resolve these situations appropriately and did not want to use deadly force. Although both officers resolved the incidents without employing deadly force, they put their own safety at risk.

Many of the physical tactics relied on by officers for the past two decades were no longer acceptable to the community. For example, community members did not want to witness street fights between suspects and the police. There was a need for additional less-lethal options and equipment that all officers could use. The community insisted the police must be able to handle suspects better, yet the national government said

## box 4.2 *continued*

it could not issue the equipment needed. By working closely with the community and government in the late 1990s, Director Fox began a series of initiatives to expand the range of force options available to police and to update training and policies.

Director Fox balanced the needs of the police with the needs of the community and politicians. “Convincing the community is not enough,” he explained. “You need to convince the government and politicians.” To support his presentations to government officials, he used research findings and case examples. He also asked community members to demonstrate their interest by taking their recommendations for the police commissioner directly to government officials with decision-making authority. New technologies or changes, he said, should be implemented on an experimental basis for a specific period of time to determine benefits. In the end, the United Kingdom did change its training curriculum, accreditation guidance, and standards. It still struggles, however, with making available a range of effective less-lethal options. Tasers have been issued only to some officers. To deploy the Taser, those officers have to be called to the scene. Director Fox advises other police executives to be direct and forthright in getting support, offering strong leadership on where the department should go.

### **Chief Gerald Whitman, Denver Police Department**

During a twelve-month period Gerald Whitman, chief of the Denver Police Department (DPD), faced several incidents that tested his ability to make decisions in the heat of controversy. One incident involved an African-American youth with

a developmental disability. This incident became a flash point in the community because the involved officer had violated a tactical use-of-force policy. (The department later took disciplinary action against the officer). In a second incident, a suspect died after officers shot him with a conducted energy device (i.e., Taser). In another incident, DPD officers entered a dwelling where a woman was being held hostage and they mistakenly shot a person who was not directly involved in the incident. These events ignited public concern that resulted in tension between the community and the department.

When a use-of-force incident does occur, police leaders need to be open, fair, and timely in their response to the community. For example, immediately after the incident involving the youth with a developmental disability, Chief Whitman shared as much information to the public as he could. There was some information he could not share because of the several ongoing investigations—and he explained these constraints to the public. He and other city officials met with concerned residents in a number of different forums. The chief described these as painful, but critically important.

Actions taken by the police department paid off when later incidents occurred. The Chief’s attention to the concerns of the community, his forthrightness, and his attempts to be fully transparent produced greater trust between the citizens and the police. Chief Whitman recommended that others “front load” efforts to improve community relations, and that these efforts produce many benefits—including a positive communication and trust when use-of-force incidents occur.

Also, Chief Whitman recommended involving an oversight group in monitoring and reviewing police discipline, and noted that resources need to be made available to support this monitoring. He added that there was not a shortage of ideas, but a shortage of resources to expand on strategies that have worked. For this reason chiefs are sometimes constrained in their ability to implement these successful approaches.

#### LESSONS LEARNED

Although the incidents and circumstances departments face differ, all police executives know the following principles reduce critical force incidents and help them make wise decisions in the heat of controversy.

*Build and maintain good relations  
with the community.*

Ties with the community are built during the “good” times in the day-to-day duties police perform. Activities to improve relationships with each major population or community group in your jurisdiction should be built into normal work routines. During a critical incident, executives should not expect the media to be the sole representative of the police to the community. Instead, agencies should have well-prepared officers representing the department at every community event.

*Address the needs of officers.*

A police executive must address a wide range of constituencies, including the public, government officials, and department personnel. This is especially critical in the midst of a public controversy.

The panelists recommend being mindful not to neglect their officers by directing all attention to the community. Chief executives may also want to take officers with them to community meetings.

*Be proactive rather than reactive.*

What is done before a use-of-force incident to build relationships and put effective police policies and procedures into place can have great bearing on the outcome of a use-of-force incident. Agencies can anticipate possible scenarios and community responses, and proactively put measures in place to prevent or address these issues. The police executive must know in advance what his or her response will be to a critical incident.

*Be open, honest, and timely.*

After a use-of-force incident, police executives must be open, honest, and timely in their response to the community and to department personnel. Setting time requirements for the department to meet in issuing press releases after a critical incident can ensure a quick response.

#### CONCLUSION

Each of the four panelists faced controversies in their communities following use-of-force incidents. Each executive turned the negative events into opportunities to implement measures to optimize force and to strengthen relationships with their communities, particularly minority communities. The lessons that they learned are shared by many other chief executives.

## *Essential Groundwork by Law Enforcement Agencies*

As noted at the beginning of this chapter, there are important ways in which law enforcement agencies can positively influence a community's response to a use-of-force incident. Strengthening ties with all members of the community, but particularly with minorities, is an end in itself and will build up the "capital of good will" that a police executive will be able to draw upon when a critical incident does occur. Police executives who have built up sufficient capital can achieve a constructive public response to perceived and actual misuses of force because the community will believe that alleged misuse of force is an aberration and not a sanctioned behavior. Further, the community will perceive that a department with a strong and objective investigation process will respond appropriately, and that citizens will be kept well informed by a department accountable to them. Though tragic, some uses of force are necessary and justified. But these circumstances need to be recognized by the community—which is much more likely if trust and understanding exist.<sup>6</sup>

Modern policing at its best is characterized by responsiveness to community concerns and partnerships with citizens to solve problems. Whether labeled community policing or not, it is *good policing*. An executive can develop sound, trust relationships by running a professional police department that reaches out to diverse communities to address crime and quality-of-life issues. A summary of the panel presentation at the PERF Critical Issues Forum on successful approaches to policing in diverse communities is included in Box 4.3.

An important aspect of the department's professionalism is the respect that line personnel

show their constituency each day on the job. Maxson, Hennigan, and Sloane (2003) conducted a study that included a survey of individuals on public opinions of police. Citizens' direct contact with officers was shown to be a key element of satisfaction. Forty-seven percent of the survey respondents reported having had informal contact with police (including conversations with officers on patrol, interactions with police at community meetings, participation in police-sponsored youth activities and community safety fairs). These informal contacts were reported to have significantly affected job approval ratings of police by respondents. Vehicle stops are a mechanism by which many citizens come into contact with police. If police are committed to treating each driver with courtesy and respect, the payoff in terms of goodwill will be considerable.

## *Promising Examples of Police Communications with the Public*

Decades ago, Westley (1970) noted that the public's perception of police brutality is based in part on misunderstandings of police work. Education on the routine and ordinary aspects of police work can build constructive community relations and improve negative public attitudes toward police use of legitimate force (Flanagan and Vaughn 1995). Citizen academies are a popular means of providing this education. Courses often cover force policy and issues. Attendees might be asked to take on the role of an officer in a "Shoot-Don't Shoot" video simulator exercise or be challenged to pull a gun out of the holster before the knife-wielding "suspect" covers the 20 feet of ground between them. One of the aspects of citizen academies that most influences attitudes about the police are ride-alongs (Jordan 1998).

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6. For more information on how to address the perceptions and actual incidents of racially biased policing, please see the PERF publications *Racially Biased Policing* and *By the Numbers* by Lorie A. Fridell at [www.policeforum.org](http://www.policeforum.org).

by Tory J. Caeti

Policing in communities with racial and ethnic diversity presents a host of issues and complex problems for law enforcement executives. Racial issues can boil to the surface in use-of-force incidents, particularly when a member of a minority community is thought to be the victim of excessive force. Such incidents have sometimes led to civil disorder in communities across the nation. Policing in diverse communities requires a great deal of planning, sensitivity, education, training, and a commitment by the police to perform their duties fairly and impartially without regard to race or ethnicity. Los Angeles Police Chief William Bratton, Jamaica Constabulary Force Superintendent Assan Thompson, Police Service of Northern Ireland Superintendent Malcolm McFarland, and Israel Police Major General Mickey Levy discussed their experience in policing diverse communities as panelists at PERF's December 2004, Critical Issues Forum.

#### PANELISTS' EXPERIENCES

The panelists were selected because they have had extensive experience in policing areas of the world with racial and ethnic diversity. As Chuck Wexler, executive director of PERF, stated in his opening comments, "each of these participants has had considerable experience in bringing together diverse communities, and each has had to build trust between the communities and the police."

**Chief William Bratton,  
Los Angeles Police Department**

Chief Bratton referred to a 1968 *Time Magazine* cover story that featured Thomas Reddin, then chief of the Los Angeles Police Department. Chief Reddin had been interviewed about policing in distressed communities and the existence of a "thin blue line." The article indicated that fear, resentment, and chaos reigned in vast areas of American cities that resembled "combat zones"—and that the police officer was the "soldier of the city." Chief Reddin recalled that there needed to be a new relationship with the police, and that a new philosophy of community policing was needed.

Chief Bratton indicated how these themes some 30 years later are still relevant. He noted that if we could make progress in policing, those advances would help address another seemingly intractable problem in America—racial bias and intolerance. Police are in a unique position to address problems and could influence thinking about race in America. Use of force by police is often the centerpiece of the tension between the community and the police. Effective policy and communication about use of force can go a long way in building trust with the community as well as the rank and file. He emphasized that a substantial effort by the police is needed to overcome underlying mistrust that can surface when use-of-force incidents occur.

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7. This article summarizes panelists' discussion on working with diverse communities at PERF's Critical Issues in Policing Conference, held in San Diego in December 2004.

## box 4.3 *continued*

### **Superintendent Assan Thompson, Jamaica Constabulary Force (JCF)**

Superintendent Assan Thompson discussed how he and members of his agency deal with issues of conflict and justice every day in a country where police are often not fully trusted by the community. Recently, however, he noted that the JCF adopted a series of initiatives and programs designed to improve relations with the community. Every member of his force is issued a document describing the JCF mission to uphold and protect the human rights of everyone in Jamaica. He noted that the JCF conducted research that found that many citizens did not trust the police, and conversely, many police officers were fearful in certain communities. He noted that over the past ten years, at least twelve police officers had been killed in the line of duty *every year*, and fatal police-involved shootings were numerous. One of the steps taken by the JCF in the trust-building process began through work with PERF. PERF has been involved in developing a model community policing program in the Grants Pen section of Kingston through initiatives like safe encounters training for officers, collaborative problem solving with the community, and the training of executive staff at the Senior Management Institute for Police (SMIP). The JCF has worked hard to create trust in other ways as well. For example, in the Grants Pen section of Kingston, as many as four officers were assigned to each car—dressed in military-type fatigues—in order to respond to basic calls for police service in the past. A new focus on community policing has resulted with officers using bicycles as transportation, often engaging with the community in a positive manner. The JCF has also increased training to support

police-community relations, and police-involved fatal shootings in the past two years have been reduced.

### **Superintendent Malcolm McFarland, Police Service of Northern Ireland**

As we well know, problems between Catholics and Protestants in Northern Ireland are deeply rooted, and perpetuated by years of conflict and hostility. Superintendent McFarland described the delicate policing situation in his home country, and noted that the Police Service of Northern Ireland (PSNI) faces the challenge of building trust among all of the factions in Northern Ireland. Keeping the channels of communication open with all constituencies is essential to any reforms.

Superintendent McFarland noted that building rapport with the community involves a three-pronged approach: First, the community must be encouraged to work with the police; second, there must be direct communication by the police with the community that is candid and frequent; and third, a complaint investigation process must be completely independent. He noted that adding to the complexity of policing diverse groups is an influx of Eastern Europeans into Northern Ireland, and a number of these immigrants arrive with an inherent distrust or apprehension of police systems because of their experience with regimes in their country of origin.

### **Major General Mickey Levy, Former Commander, Jerusalem Police District, Israel**

The challenges faced by police leaders in building trust with the diverse community in East Jerusalem have been formidable. They are tasked with keeping the peace between Israelis and

Palestinians, as well as protecting the city and country against crime and terrorist attacks. The Israel Police were tasked with protecting all persons, including both Israeli and Palestinian worshippers. In a city where tension is palpable, this situation required an innovative and proactive police approach. General Levy developed a new strategy of openness by meeting with Palestinian leaders and establishing ground rules for mass assemblies. He created and assembled a joint committee of Palestinian community members and Israeli Police who worked together to jointly solve problems. These problem-solving meetings—which took place inside an Israeli police station—met monthly to address issues of mutual concern. While initially unprecedented, the establishment of such lines of communication—and building trust—between Israeli police and Palestinians has reduced the potential for violence and disorder.

#### PANEL DISCUSSIONS

In a discussion of race and the history of race-related tension, one chief noted that police often encounter a range of opinions. Some citizens allege that police are biased in their enforcement of the law, and that others view crime as simply the manifestation of larger social inequities that the police are forced to address. Chief Bratton stated that for a long time the role of police focused solely on dealing with crime. But a shift in thinking has led police to believe they can deal with the causes of crime and disorder. In his opinion, race relations have substantially improved as a result. Reducing crime through respect and understanding has had a beneficial impact on race relations.

Another chief stressed that relationships need to be firmly established *before* incidents occur. He has put transparency of police operations at the core of his mission, and has tried to develop trust between the police and community. When critical incidents and use of force by the police escalate tensions, police chiefs must be empathetic and honest. Panelists agreed that police executives should put ego aside and pursue very specific strategies to police diverse communities successfully. Citizens can be involved in forming policy, reviewing less-lethal equipment and even conducting training. The involvement of citizens in critical processes is the key to increasing openness and trust in a community. In one city, crisis response teams—made up of citizens—respond to critical incidents and inform the public about what is happening. The chief also personally visits family members of persons killed by officers, and explains to them the circumstances of the incident, what the department knows, and what processes have been initiated. In the same city, citizens sit in and are voting members on use of force review boards. Police also train citizens about use of force, and citizens participate on ride-alongs. All of these efforts have strengthened the relationship between the community and the police department.

Among the many efforts described by participating chiefs were face-to-face meetings between officers and citizens that foster minority communities to mutual understanding and greater sensitivity to concerns related to race and ethnicity. Another agency's police academy recruits are given community projects in diverse communities to interview residents before they police those areas. They become familiar with the community

## box 4.3 *continued*

members, their concerns, and their cultures. Police have received a positive response from the community, and residents have acknowledged that the police care about them and their problems.

As another example, the Chicago police department uses a series of videos to train its officers in dealing with people of various religious faiths. Community leaders have praised the videos, concluding that they have substantially improved relations between religious groups and the police. Five videos, each about 10 minutes, were produced to communicate more effectively with different religious groups after the attacks of September 11, 2001.<sup>8</sup> The videos depict Sikhs, Muslims, Jews, Buddhists, and Hindus inside their homes and houses of worship, and religious and community leaders explain aspects of their faith (Kinzer 2005). The videos include practices the police should be careful to avoid, like eating non-kosher food inside a synagogue or asking a Sikh to remove his turban in public.

### PROMISING APPROACHES

Building trust in a racially and ethnically diverse community is a difficult process. Following are several points derived from practitioners' practical experiences. Each lesson flows from the fundamental philosophy that the police must perform their duties without bias and that they must

embrace diversity as a positive feature of the community and not a fundamental problem.

#### *Communicate with the community and be open*

Communication and openness is the key to building trust and to serving diverse communities effectively. The police must be committed to maintaining the highest professional standards. Rapport between the police and community members must be cultivated before critical incidents occur, and could include department policy that considers diverse groups' input.

#### *Invest in efforts to build trust between the community and police*

An investment and commitment must be made by cities and police departments—both with officers and the community—in order to achieve confidence. One participant described forming a commission on police and human relations. The commission brought together residents, advocacy groups, police officers, and political representatives to examine use of force by police in their community. All commission members attended a citizen's police academy that that successfully fostered an understanding of police procedures. The department also asked members of the media to participate in the academy, who later noted that they did not realize the extensive training police officers receive and the difficulties officers face. Another example of community

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8. For more information about how law enforcement can better serve diverse communities in a security-conscious time, see the PERF-produced white paper, *Protecting Your Community From Terrorism: Strategies for Local Law Enforcement Volume 2: Working with Diverse Communities* available for free download at [www.policeforum.org](http://www.policeforum.org).

investment included a U.K. Independent Complaints Commission that emphasizes the importance of addressing the needs of the family of someone who has been the subject of police use of force. A chief constable from the U.K. explained that she always writes a letter to bereaved family members—as well as department staff. Another chief shared that his department trains officers in family relations, and underscores the importance of apologizing to family members of people shot by police.

*Educate officers about race-related issues and train them using practical exercises*

Effective training must be developed and practical examples used to spotlight the problems and misperceptions engendered by ignorance of diversity issues. Today training on diversity issues has become more common in policing. Training must include real-life scenarios of the kinds of problems that can arise. It is not enough

to simply tell officers they must be sensitive to people of different backgrounds.

*Work with the media*

The final lesson is the importance of working with the media—a complex and sensitive challenge for any police executive. Dealing effectively with the media also requires establishing relationships before a serious incident occurs. In high-profile incidents, police chiefs should be careful not to alienate local media by accommodating only the interests of national media. The police must work with reporters, not only during a crisis but at all times. By cultivating strong ties with the media, police executives can successfully tell their story and communicate their commitment to policing without racial bias. They can also draw on the strength and contributions of diverse communities. A good relationship with the media will also be important in explaining why certain conclusions cannot be drawn in an ongoing investigation.

Police agencies are increasingly using ride-along programs, with or without the full citizen police academy, to enhance citizens' understanding of what police do and the challenges they face. Agencies hope that this greater understanding will foster constructive responses by the public to use-of-force incidents.

The Camillus (NY) Police Department combined education and outreach in the Building Community Bridges program it initiated. The program was intended to improve access to the police department for members of minority groups and other individuals that have had strained relations with police. Representatives of diverse groups were invited to department planning sessions, where they were given an opportunity to voice their concerns and priorities. The chief also reached out to diverse leaders within the community in order to educate them about department policies and use-of-force issues. The department chaplain was asked to manage the proceedings because of the good relationship he had with all parties. Attendees included representatives from many human rights advocacy groups and organizations. Elected officials from the town participated in the meetings as well.

The Tallahassee Police Department has also sought to address the sobering problem that a sizable portion of the city's population—minorities, particularly young males—distrusts law enforcement. One of the interventions associated with The Minority and Youth Community Outreach Program (MYCOP) was the opening of a satellite office for internal affairs in a predominantly minority community. Residents of this community could lodge complaints at this satellite office and complete all interviews at that location without traveling to police headquarters. After it became apparent that the project was a success, a second satellite office was established in a different section of the city; this one was co-sponsored by the local branch of the NAACP.

Among the Charlotte-Mecklenburg (N.C.) Police Department's efforts to strengthen public relations was a retreat in which 100 community members were invited to learn about and discuss the department's policing philosophy. The chief also has held community focus groups to discuss the complaint-investigation process. He developed a racial profiling citizen advisory committee and met with about fifteen community groups to explain the development of the department's data collection policy.

The Chicago Police Department has sponsored a series of forums—funded by the U.S. Department of Justice Office of Community Oriented Policing Services—to improve police-minority communications and joint problem solving. Community activists were invited to help the department identify where it was effective, as well as areas that needed improvement. One topic of concern was the issue of “racial profiling.” Department staff of all ranks were also invited to participate. Before the first forum, participants were surveyed for their opinions about racially biased policing and the department's strengths and weaknesses. Ideas about how to improve police-minority relations and resolve issues were solicited. Over the course of the past four years the department has asked PERF Executive Director Chuck Wexler to serve as the moderator of these forums. During the first forum, community members shared their thoughts, experiences, and concerns in the morning, and police staff were asked to listen and hold their responses. In the afternoon, police staff shared their thoughts and reactions to the morning session, and the citizens were instructed to hold their responses. During the final session of the day all participants joined in a discussion of the issues and ideas raised earlier. Subsequent discussions have identified specific actions to be taken by both the police and community members to address concerns. Since the first year, these forums have broadened in focus to

include multicultural issues, involvement of the faith community, violent crime, accountability, and use of force.

The Hillsborough County (FL) Sheriff's Office has improved communications following use-of-force incidents that led to better police relations with different minority groups. Several minority councils were created. For example, members of the Black Advisory Council and Hispanic Advisory Council—community leaders and citizens—are allowed to sit in on proceedings of the shooting review board, ask questions, and provide their perspectives on the incident.

The Metropolitan (D.C.) Police Department established a community partnership in an area that is racially and ethnically diverse. The partnership between ministers, community leaders, and law enforcement representatives is designed to address community concerns and support fair and sensitive approaches. A positive consequence has been to mitigate negative public reaction after a use-of-force incident by demonstrating compassion and concern for victims of force incidents. Following a critical incident, a community or faith-based leader responds to the scene or to the home of the involved citizen or citizen's family. They attempt to calm tensions in the wake of a controversial incident. The partnership with community and faith-based leaders provides a means for constructive dialogue, and it is being replicated in other parts of the District of Columbia.

### *Media Relations*

By strengthening ties between the police and the community, law enforcement agencies increase the support that can be called upon in times of

crisis. Amassing the greatest support, however, requires a cooperative relationship with the local media.<sup>9</sup> As police executives nationwide well know, the media can either calm or exacerbate tensions. Police executives again have a lot of groundwork to do to increase the likelihood of fair and impartial coverage following controversial incidents. The principles that guide the agency in developing its relationship with the press during times of calm will similarly guide it after a serious use-of-force incident. Included in Box 4.4 is the perspective of David J. Bayless, Director of News Affairs for the Chicago Police Department.

### *Building a Relationship with the Media*

There is a long history of tension between the media and law enforcement. Law enforcement officers sometimes feel like “victims” of the media's quest for controversial, negative stories. The media sometimes see police as secretive and uncooperative and, in some jurisdictions, as corrupt or otherwise dysfunctional. More and more police executives are trying to replace an antagonist relationship between law enforcement and the media with one that is cooperative and mutually beneficial. These executives recognize that the media—as watchdogs of government—are serving a critical role in a democratic society. These executives also recognize that they must tolerate the external scrutiny that comes with police authority. The media, in part, serves to also help law enforcement agencies remain accountable to the public. A constructive relationship with the media, as with the community, is not normally forged during times of crisis. Through continual long-term efforts by the law enforcement agency

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9. Lawrence (2000) analyzes more than 500 use-of-force incidents covered by the *New York Times* and the *Los Angeles Times* from 1981 to 1991. The book explores how such incidents are defined and examines their representation and effect on the media.

## Communicating with the Public and Building Trust

by David J. Bayless, Director of News Affairs,  
Chicago (IL) Police Department

“Chicago’s Rodney King.” That is how one community member described a videotape that surfaced after an arrest on the North Side of Chicago in April 2003. The incident—videotaped by a citizen—involved four men who refused police orders to exit a van. Chicago Police Department (CPD) officers had stopped the van because of an outstanding warrant for the arrest of one of the van’s passengers. After the subjects ignored repeated commands to exit the van, the officers took further action. The officers broke the van’s windows, discharged Oleoresin Capsicum (OC) spray, and then pulled the subjects out of the vehicle. These actions were consistent with CPD’s use-of-force guidelines. However, after the subjects were removed from the vehicle, two officers were captured on the videotape kicking and punching one of the subjects.

These videotaped images were potentially explosive, and one local television station already had the video. It was only a matter of time before every local news station was airing the tape, and national and cable networks were covering the incident. The department faced a possible media crisis and public outcry. How CPD chose to handle the crisis would define how large and damaging the story would become. This incident would challenge CPD officials, especially Terry Hillard, then-police superintendent, to demonstrate true

leadership in managing the incident and communicating effectively with the media and the public.

Instead of “jumping in the bunker” and offering no comment, the CPD viewed this incident as an opportunity to deliver to the community a “zero tolerance” message on officer misconduct and use of excessive force. Superintendent Hillard delivered the message by calling a press conference soon after the incident occurred to comment on the actions of officers on the videotape, to answer the media’s questions, and to describe the steps taken to further investigate the matter. The department also distributed copies of the tape to all of the local media outlets—an unprecedented move that afforded the department additional credibility and helped ensure that CPD would be the primary source of information about the incident for the media.

The *Chicago Sun-Times* headline the following day read, “Hillard ‘upset’ by cops’ conduct.”<sup>10</sup> The headline and the story discussed the police superintendent’s response to the tape and put the focus of the story squarely on the police department, not elsewhere. The police defined and drove the story instead of merely reacting to it. The media coverage of the incident that followed was not about an “out of control” police department or a department apathetic to allegations of excessive force. The stories were about the superintendent’s firm response to possible misconduct by his officers, and his actions to investigate the matter further.

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10. Golab, Art, *Chicago Sun-Times*, April 26, 2003, page 6.

and the media, mutual respect can be developed. The person within the agency charged with media contacts—whether a full or part-time Public Information Officer (PIO) and/or the chief executive—should attempt to establish a solid professional working relationship with local media representatives prior to the occurrence of critical incidents. When the PIO in Hillsborough County, Florida started his job, he sat down with representatives at each media outlet in an informal setting. He introduced himself and shared how he hoped to perform his job to their mutual benefit. During the course of his PIO assignment, he had several key objectives: to meet the media’s needs for timely, accurate news with visuals or audios; to deal with everyone fairly and equally—showing no favoritism; to share as much information as he could; and to explain when he could not share more.

To be more accessible, many departments hold regular meetings with press representatives—sometimes annually, sometimes more frequently—to discuss their needs and their

perceptions of how the department is meeting those needs. Some chiefs even have a permanent open-door policy, although this tends to work better in smaller communities and departments. Some police have engaged in innovative strategies to strengthen the relationship with the media. The former police commissioner in New York City took late-night tours with reporters in the 1990s—taking a cue from one of his predecessors, Teddy Roosevelt (Rosen 1999). The Miami police chief frequently submits op-ed pieces to his local newspapers.<sup>11</sup> He believes that it is not always what is said, but the fact that information is flowing that resonates with the public and shows a commitment to keeping the communities informed. His policy of openness was reflected when he was chief of police in Philadelphia, where he opened daily COMPSTAT meetings to the press. He also implemented a progressive approach when he “embedded” reporters with officers during Miami’s Free Trade Area of the Americas protests.

Successful management of the incident is illustrated by what did *not* follow in the aftermath. This incident did not become national news; nor did it result in mass public outcry, rioting, or a call for the superintendent’s resignation. The story lingered for a few days and was then replaced by other news. When recommendations for discipline were filed a few months later, the department diligently shared that information with reporters.

Telling the good news is the easy part of media relations. However, police executives demonstrate true leadership when they can skillfully handle the media, face tough questions, control damage to the department’s reputation, and maintain community trust in the wake of a crisis. How police executives address incidents—such as this one—says as much about their leadership ability and relationship with the community as it does about adept media management.

### *Post-Incident Interactions with the Media*

Following a controversial incident, the way an agency interacts with the media can have major ramifications for how the incident is covered, thus significantly shaping the community's perceptions of it. An agency should consider developing a general plan for use following a critical incident. This plan could outline who will convey what types of information and the nature and extent of information to be released. For example, in Hillsborough County, Florida, the PIO reports factual information to the press regarding an incident—including information on the specifics of the use of force, the officer, and the subject against whom force was used. If it is a controversial incident, the sheriff personally addresses issues relevant to the controversy. This forthright and consistent handling of the incident conveys a sense of transparency and engenders trust with the public. Further, if there are indications that a deputy misused force, the sheriff relays this information, and notes that the actions do not represent department policy nor reflects the behavior of all deputies.

In terms of the content of information released, agencies should not appear to be defensive, but when feasible, should appear forthcoming—and *be* forthcoming. Many community members base their perceptions of a critical incident on the police executive's or PIO's communications with reporters—including whether or not the tone is hostile or defensive (Doniel 2002).<sup>12</sup> By providing the media with information on the incident, law enforcement agencies minimize the likelihood that reporters will conduct their own independent

investigations. PIOs and police executives sometimes disagree on how much information to share, although the movement in the profession is to provide all information that is relevant and that can be shared without harming the ongoing investigation and forthcoming legal proceedings (Pangi 2002).

A Florida PIO suggests that getting information out quickly increases the likelihood of producing a one-day versus multiple-day story. He noted that because Florida has very liberal open records laws, he knew that it was likely that information he didn't share would be revealed eventually, ultimately making the department look less than forthcoming. When asked if he would have shared less information if he worked in a jurisdiction with less-stringent open records laws, he indicated that he would still disclose the same information. He believes that a broader disclosure will help create a sense that the police department is fully accountable. He shares information about an involved officer that is public record and relevant (for example, involvement in prior incidents of force and the officer's training). In addition, the Florida PIO would not release the name of the officer until after the officer's immediate family had been notified about the incident. He noted that information regarding the subject also would be provided, such as information that appears directly relevant to the incident (for example, history of violence, history of assaulting officers, history of weapons possession, etc.). He noted that public opinion of the police can actually be undermined if residents perceive the police to be engaging in what could be perceived as a "smear"

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11. A January 9, 2005, op-ed item written by Miami Police Chief John F. Timoney is reprinted in Chapter 1.

12. The Florida Regional Community Policing Institute at St. Petersburg College, under a cooperative agreement from the U.S. Department of Justice, Office of Community Oriented Policing Services, offers courses in effective media skills for law enforcement and use-of-force issues in a community policing environment. The institute also provides free community policing training to law enforcement officers, community residents, city employees, social services agencies, and private sector representatives throughout Florida. For more information, visit <http://cop.spcj.cc.fl.us/cop/Courses/Fl%20RCPI%20Courses%20Frame.htm>.

campaign against the subject of a police use-of-force incident.

Some police executives will make extensive efforts to provide information to the media and public. After a thirteen-year-old was shot in a vehicle in Los Angeles in February 2005, Chief Bratton provided a wide range of information in order to disclose accountability and to dispel rumors. A *Los Angeles Times* article described the Los Angeles Police Department briefing on the incident as “unusually detailed.” The briefing included a laser-produced reenactment of the teenager’s car hitting a police cruiser, a display of photos of skid marks to convey how fast the subject’s car was moving when it hit the police vehicle, and the playing of a recording of the call the officer made to the dispatcher before the vehicle pursuit was initiated. The *Los Angeles Times* article noted that “the briefing was a notable break from the secrecy that traditionally has shrouded LAPD investigations of shootings by police” (Garvey, Zamichow, and Lait 2005). Taking a similarly unique approach was Minneapolis Police Chief William McManus. He emphasized transparency and communication following an October 2004 fatal police-involved shooting. Chief McManus kept local leaders informed by briefing them in his home shortly after the incident, and later conducting a PowerPoint presentation with details and information about evidence related to the investigation. He personally explained the circumstances of the incident—including explaining why he felt the shooting was justified—to surviving family members. Chief McManus also released the entire case file to the public so that the community could better understand how the department investigated a police-involved shooting. A commentary about this incident by Chief McManus is included in Box 4.5.

These efforts reflect how police executives are trying new strategies to better communicate with the public and the media. It is clear that

building relationships prior to a critical incident is essential to successfully establishing trust with the media and the public. Furthermore, following a critical incident, transparency and consistency, coupled with the timely and comprehensive release of information, will contribute to the strengthening of that relationship.

## INVESTIGATIONS OF POLICE USE OF FORCE

“Police departments everywhere have no greater responsibility than to ensure that our officers, who are entrusted by the public to use force in the performance of their duties, use that force prudently and appropriately. And when deadly force is used, police departments have a solemn obligation—to the public and to the officers involved—to investigate these cases thoroughly, accurately, and expeditiously.”

Chief Charles H. Ramsey, Metropolitan (D.C.)  
Police Department

Today when a police officer is involved in a serious use-of-force incident, a series of reviews are initiated. These detailed examinations scrutinize an officer’s decision to use force and the tactics he or she employed. Reviews can take place in many ways, from official investigations by local police, federal agencies, and prosecutors, to informal reviews by the media, advocacy organizations, and citizen groups. Internal investigations by law enforcement agencies of the use of force are often handled in the same manner as a criminal incident, and are heavily documented and evidentiary. Nongovernmental reviews may be less comprehensive, and they sometimes highlight only specific aspects of a force incident. What is clear is that an officer involved in a serious use-of-force incident can expect an exhaustive analysis of his or her decision to use force, and the failure

## One Chief's Perspective: A Look at Post-Shooting Decision Making

by Chief William P. McManus,  
Minneapolis Police Department

No one ever calls a chief of police with good news in the middle of the night—so I knew something bad had happened when my cell phone woke me up very early on a Sunday morning last October. The watch commander was on the line with a worst-case scenario: a white police officer had just shot an African-American teenager who appeared to be armed with a pellet gun. The 15-year-old boy, Courtney Williams, was at the hospital but was not expected to survive.

I quickly put on my uniform and rushed to the scene on the city's North side—an area where police and members of the African-American community have had a contentious relationship and history of complaints about mistreatment by the police—a story heard in many cities across the country. At the scene, I was briefed by the official in charge on what appeared to have happened. As I took in the scene, I also began mentally reenacting the shooting based on the information, preparing for what I knew would be plenty of questions from Courtney's family and the community. I also encountered several of Courtney's distraught relatives, including his mother, who didn't yet know that by that time he had already died at the hospital. I tried to talk to Courtney's mother who was looking for more information than anyone had at the time. It was a very emotional situation. From the scene I headed to the homicide office at police headquarters downtown. This would be the first fatal officer-involved shooting since I became chief eight months earlier.

I had decided months before that the Minneapolis Police Department would no longer refer officer-involved shootings to an outside agency for investigation, which had been the case for the past several years, and we would investigate it internally.

This would be the first test of my new policy. The incident, and how we investigated it, had all the ingredients to test the trust I had worked so hard to build with the community—not to mention my relationship with the officers who were still getting used to me and a new way of doing business. My first step at the homicide office was to check on the officer involved in the shooting. I also ran into the police union attorney and the city attorney. There was disagreement over whether the involved officer's partner should be compelled to give a statement. I instructed he was to be given the *Garrity* warning and the statement taken.

On my way home, I called key community leaders, including members of the Police Community Relations Council—a group of citizens formed as the result of DOJ intervention into relations between the Minneapolis Police Department and community—and invited them to my house later that morning to brief them on the shooting. I wanted them to get their information unfiltered and directly from me. I was well aware that how I communicated information in these first few hours was critical and would set the tone for the difficult months ahead, as the investigation unfolded. I was also keenly aware how volatile this shooting situation could be—involving a well-liked, African-American teen with no

major run-ins with the law and a white police officer. About a dozen leaders gathered around my kitchen table about 9:00 A.M. I briefed them on what I knew at the time and dispelled rumors that were quickly spreading within the community. The tone of the 45-minute meeting, as you would imagine, was very serious. I also told them what I would say at a news conference scheduled for about 10:00 A.M., and promised to keep them informed as the investigation progressed. Some of the community leaders later joined me before the cameras at the media briefing that morning. Others chose to stay in the background, just listening and observing. Some friends of Courtney's family also appeared, allegedly fueling rumors that he had been shot in the back. Having confirmed with the homicide lieutenant earlier, I made it clear that this was not true. I went so far as to arrange with the medical examiner and the family to allow a retired African-American police chief and a local minister to examine the body and report back to the family and community whether or not the deceased had been shot in the back.

As you can imagine, the shooting led the evening newscasts that Sunday and would remain in the news for several weeks. Behind the scenes, I met regularly with the investigators and supervisors working on the case. I also kept key community leaders informed at each step of the investigation as rumors continued to fly and community tensions continued. I answered questions and promised the leaders at the meetings that I would have my investigators prepare a presentation that would review every detail of the case and each piece of evidence. When our investigation was over, I wanted no question left unanswered as to how the final decision was reached

on whether the shooting of Courtney Williams was administratively justified. Some officers openly balked at my efforts to stay connected to the community during this challenging time, accusing me of allowing the community to "drive the investigation." The lack of insight into how important and necessary this communication was became frustrating. But it did not deter me from doing what I believed was the right thing to do.

Throughout the investigation, I took every effort to prevent even the slightest appearance of bias. I was fortunate to have two homicide investigators available who were well respected in the community, and I assigned them to handle the investigation. This went a long way to maintaining the fragile trust in the months ahead. Their relationships would also prove critical in obtaining information from key witnesses who were with Courtney Williams the night of the shooting. As time went on, it became increasingly clear that the officer was justified under the circumstances to use deadly force. A grand jury was going to review the evidence and make a formal decision, but I couldn't see any other conclusion, based on the totality of the investigation. I also knew this finding would not be well received by some community leaders and Courtney's family and friends.

After the grand jury decided on a no-bill, I arranged to meet with the leaders and Courtney's family for a private briefing, complete with a formal presentation by homicide investigators. Although just a few questions about the distance of the pellet gun from Courtney's body immediately after the shooting and the position of Courtney's hands in the seconds before the shooting, the presentation was respectful and left no other

## box 4.5 *continued*

conclusion that the officer had no choice other than to use deadly force based on the circumstances he faced. One of the toughest experiences was when I looked Courtney's aunt in the eye, and with a lump in my throat, told her why I believed the shooting of her nephew was justified. As a parent, I could feel for the loss of a child. Before we left the meeting, Courtney's aunt put her hand over my heart and said to tell the officer she loved him, and that she understood what he and his family had been going through.

Following the meeting, we met with the media where I publicly stated the shooting was a tragedy for everyone involved, but that under the circumstances it was justified. Later, I visited with students at Courtney's High School, and briefed them about the circumstances and outcome of the incident and investigation. The entire case file was also released to the public so anyone could see how the MPD investigated a high-profile, officer-involved shooting. As one would

expect, not everyone in the community was satisfied with the results of our investigation. But what was remarkable, and noted in the news media, was how calm the community stayed under emotional circumstances. There were no anti-police marches on city hall and no street riots.

Looking back at the Courtney Williams case, I am convinced the relationships I established with minority community leaders, even before I was sworn in as chief of police, proved critical in the aftermath of the shooting. From the earliest days when I arrived in Minneapolis, we exchanged cell phone and pager numbers to stay in touch and to solicit community input. I would be the first to admit it is a fragile relationship that takes constant, open communication and unrelenting honesty. But building and cultivating trust between police and community members is essential for everyone. I hope by sharing this example, I have advanced the debate on what decisions police chiefs should consider following a shooting.

to implement a comprehensive internal process will result in greater external scrutiny.

Law enforcement agencies' investigation of police use-of-force incidents must be objective, extensive, and transparent. However, comprehensive investigations are a relatively recent phenomenon. Until the riots of the late 1960s, the professional criminal justice community, and most of the public, paid little attention to how wisely or how well police used force (Fyfe 1999). As discussed in Chapter 1, it was within the context of the civil rights movement that restrictions on police use of force developed (Geller and Scott 1992). Use-of-force policy must be accompanied by mechanisms to ensure that personnel understand it, adhere to it, and are disciplined if they do not (Alpert and Anderson 1986).

### *Internal and External Investigations*

The need for accountability has led to both internal and external approaches to investigating police use-of-force incidents. In an internal system, all investigative processes are conducted within the agency by agency personnel, while external systems involve non-department employees and sometimes community members in some aspect of the process.<sup>13</sup>

An effective internal investigation mechanism is a critical component of a police department's efforts to control force and foster public trust. Proponents of internal review claim that external processes are politically influenced and dilute the authority of a police chief. Many in the profession prefer an internal agency approach, citing political independence, professional expertise of investigators, and understanding of police field situations. It is for these reasons that

many police executives believe internal review mechanisms provide the most effective means of holding police accountable for incidents of police use of force. However, the nature of internal accountability makes such police review systems very controversial (Geller and Toch 1995). Failure to implement an internal process that is effective and trustworthy has led to more intense external review and oversight, which in turn leads to agencies' loss of independence. Supporters of external review claim that internal investigations favor police officers (Crank, Kuykendall, and Roberg 2000). Most police departments use the internal approach.

As with different levels of force, there are different levels of force review. Lower levels of force (hand control, O.C. spray, etc.) are often investigated by line supervisors—sometimes followed by an assessment by a review or tactics board. In these types of cases, the special skills of an independent investigator are not necessary (Geller and Toch 1995), and often the cases are simply documented by a reporting form as discussed in Chapter 2. However, cases involving more serious use-of-force incidents require investigations that are much more comprehensive. Such investigations are generally required for more serious occurrences such as deadly force (primarily firearm discharges and blows to the head with a blunt instrument), incidents resulting in subject hospitalization, canine bites, alleged criminal conduct, and instances of in-custody deaths.

### *Post-Incident Realities*

Failure to quickly, comprehensively, and objectively investigate a police use-of-force incident

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13. Joshua A. Ederheimer of PERF wrote this section of Chapter 4.

can damage a police department’s credibility with the community. Even when force is used with restraint, in the aftermath of a force incident confusion often reigns concerning the *type of review* facing police officers who were involved. There also may be uncertainty about *who* will conduct the investigation. In many instances, the lines have blurred between the criminal investigation of a use-of-force incident and the administrative (or policy review) investigation. As a result, police officers, citizens, and sometimes even prosecutors get confused about a police officers’ rights and status following a use-of-force incident. It is important to note that after an incident, police officers become the target of a criminal investigation that could lead to criminal and/or criminal civil rights charges. Complicating matters further is essentially the need to conduct four concurrent investigations that involves all of the same information. Those investigations include the

- criminal investigation of the incident that led up to the use of force,
- criminal investigation of the involved officers’ actions,
- possible criminal civil rights investigation of the officers’ actions, and
- administrative (or policy review) investigation of the officers’ actions.

Another possibility is a civil trial based on civil litigation stemming from a use-of-force incident. The constitutional protections afforded officers during the course of all of these investigations and reviews depend on the *kind* of investigation that is conducted. The challenge is not only to set up different operational mechanisms for each type of use-of-force investigation, but to do so in a manner that respects the rights

of all individuals involved—including police officers.

In order for an internal use-of-force investigation process to be credible, standardized policies and procedures must be in place. This is essential to promote consistency and objectivity. Investigative reports should be completed in a standardized format (e.g., a template) to ensure that questions unique to a use-of-force investigation are addressed and documented in a uniform manner. Establishing a transparent investigative process is needed to gain the confidence and trust of the public and police officers alike. The process must be able to withstand both internal and external review. Police executives can be certain that use-of-force investigations will be scrutinized by the courts (both criminal and civil), the media, labor unions, and review boards. Moreover, federal agencies (such as the Federal Bureau of Investigation and the U.S. Department of Justice) may review the investigations as well.

### *Constitutional Protections*

Police officers—like any citizens—cannot be compelled to give self incriminating testimony. The use-of-force investigation must balance the public’s demand for timely information against police officers’ rights. Obtaining the involved officer(s)’ statement is perhaps the most crucial and sensitive aspect of a use-of-force investigation. Police officers are constitutionally protected against self incrimination by the Fifth Amendment and against unreasonable searches by the Fourth Amendment. They have the right to counsel under the Sixth Amendment and are entitled to due process under the Fourteenth Amendment. They are entitled to *Miranda* warnings<sup>14</sup> and *Garrity* warnings<sup>15</sup> that ensure this

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14. *Miranda v. Arizona*, 384 U.S. 436 (1966).

15. *Garrity v. New Jersey*, 385 U.S. 493 (1967).

protection. The threshold for review in a criminal investigation is *probable cause* (beyond a reasonable doubt), while the standard in an administrative investigation is the less stringent *preponderance of the evidence* (more likely than not). Criminal investigations could result in a police officer's incarceration; administrative investigations could result in discipline, termination, or other personnel action. The rights of officers vary depending on the *kind* of investigation that is under way. It is critical that internal investigators understand these complexities while conducting use-of-force investigations, and they must be trained to address these intricacies.

Many prosecutors believe that it is in the best interest of police officers to fully cooperate and provide voluntary statements after a force incident. From a criminal liability perspective, prosecutors review the actions of a police officer in accordance with the U.S. Supreme Court case of *Graham v. Connor*.<sup>16</sup> The *Graham* decision established the legal and police industry standard for judging a police officer's use of force. Specifically, the decision states that the reasonableness of an officer's use of force must be judged "from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight." Thus, if a police officer provides a voluntary statement, prosecutors must consider the involved officer's perspective of the incident *at the time it occurred*—including the information (or lack thereof) that the officer had in formulating the decision to use force. This is a very high prosecutorial standard. Moreover, if officers provide an immediate statement following a use-of-force incident, they enjoy another benefit—the strengthening of community trust. The public is reassured that officers are cooperating, and the perception of misconduct—fostered by the lack

of a voluntary statement—is mitigated. Sometimes union representatives or counsel will caution officers against providing immediate interviews because they are concerned that the trauma associated with a shooting will affect the accuracy and tenor of officer responses—given what is at stake, some officers may be advised to wait for counsel.

### *The Traditional Model of a Use-of-Force Investigation*

One of the most common models of a use-of-force investigation divides the circumstances of a force incident into two separate investigations handled by distinct sets of detectives from different organizational divisions. In this traditional model, one investigative group is composed of regular field detectives (often homicide unit investigators) assigned to handle the criminal investigation of a force incident—both the crime leading up to the use of force and any possible criminal negligence on the part of the officer. The other group is composed of internal affairs investigators assigned to handle the administrative (or policy review) investigation of an officer's conduct. This bifurcated structure originally emerged to address the need to gather information quickly—while respecting the constitutional rights of involved police officers. The separation was intended to address evidentiary requirements protecting a police officer from self incrimination, while at the same time gathering information by compelling involved officers to provide a statement *solely* for administrative purposes. Criminal investigators could not compel a police officer to provide a statement because of *Miranda* protections, but administrative investigators could compel statements because the

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16. *Graham v. Connor*, 109 S. Ct. 1865 (1989).

administrative investigation was “separate” and no constitutional guarantees applied. However, it was critical to keep compelled statements isolated from criminal investigators in order to prevent information—and the fruits of that information—from being legally tainted. Often, to maintain this separation, officers provided separate statements to both sets of investigators at different times.

This structure has proved to be troublesome, creating confusion among both members of the public and police officers alike. This process can lead to unintentional contradictory statements and sometimes conflicts in written reports between the criminal and administrative investigations—often because of long time periods (sometimes months or years) between interviews conducted by the various sets of detectives. Furthermore, regular field detectives are often not trained to conduct use-of-force investigations and may overlook important force-related information. For example, use-of-force investigators consider the availability of other force options or equipment, civil rights and policy concerns, and justifications for force use (e.g., justification for every bullet fired during the course of a police shooting). Conversely, the administrative investigators sometimes play “second fiddle” to the criminal investigators, and are not privy to essential information early in their administrative review—later learning of key facts from prosecutors or reading about them in criminal case files. These conflicts eventually led to uneven, incomplete, and untimely use-of-force investigations—and ultimately a lack of accountability. Two police departments provided project staff with information on how they recently reengineered their use-of-force investigation processes to address these issues and the unique challenges associated with these complex reviews. Perspectives on various investigative models

from PERF’s Critical Issues Forum are included in Box 4.6 in this chapter.

### *The Washington, D.C., Model*

In 1999, the chief of the Metropolitan (D.C.) Police Department (MPD), Charles Ramsey, created the Force Investigation Team (FIT) to investigate police use-of-force incidents in the nation’s capital. The unit is assigned to the MPD’s Office of Professional Responsibility, which reports directly to the chief of police. The chief’s action was part of several reforms that he instituted in response to a Pulitzer-prize winning series in the *Washington Post* entitled “Deadly Force.” The series highlighted the department’s inordinate number of police shootings and serious problems with its use-of-force investigation processes. Chief Ramsey took the opportunity to completely reengineer MPD’s use-of-force investigation systems. The department had been using the traditional bifurcated use-of-force investigation model, which was the subject of much criticism in the newspaper series. MPD’s “separate division” approach led to the problems described earlier in this chapter—low-quality investigations, content inconsistency, as well as long periods of lag time between incident and administrative resolution. Finding the traditional model duplicative and inefficient, the MPD developed a consolidated model.

### *Structure and Responsibilities*

The MPD merged all use-of-force investigations—both criminal and administrative—for review by one single team. The new unit was to provide MPD with an established system in which a neutral internal entity could complete a standard comprehensive investigation of force incidents. Originally, the team investigated only police shootings, but the team’s success and

high-quality investigations led to its expansion, with the establishment of a second team responsible for investigating incidents when less-lethal force was used. Regardless of the type of force investigated, the processes are identical.

The FIT has two operational units (called teams) that are available for on-duty or callback response twenty-four hours a day, seven days a week: the Deadly Force Team and the Less-Lethal Force Team. While both teams concentrate on serious use-of-force incidents—not minor force incidents investigated by line supervisors—one team focuses primarily on firearm incidents and circumstances resulting in death, while the other investigates serious uses of less-lethal force. Responsibilities are divided as follows:

#### **Deadly Force Team**

- Firearm discharges (except range and training incidents, and discharges at animals)
- Uses of force resulting in death
- In-custody deaths
- Officer suicides (with service weapon)

#### **Less-Lethal Force Team**

- Uses of force resulting in a broken bone
- Injuries requiring hospital admittance as a result of police use of force
- Head strikes with impact weapons or hard objects
- Uses of force resulting in a loss of consciousness, risk of death, serious disfigurement, or disability or impairment of the functioning of any body part or organ
- Incidents where persons receive a bite from a MPD canine
- Serious use-of-force referrals from the Office of Citizen Complaint Review that are forwarded to the United States Attorney's Office for review
- Criminal allegations of police use of excessive force

#### *Investigative Process*

Formal internal reporting and investigative systems are needed to ensure quality control and accountability. The teams, which took a business-related perspective to force investigations, have been recognized for their high-quality investigations and unique approach to use-of-force issues.

At the outset, the MPD Force Investigation Team initiates two investigations: the criminal and the criminal civil rights investigations of the police officer's decision to use serious force. While FIT investigators do liaison with the field detectives investigating the underlying offense that led up to the incident (for example, the jewelry store robbery that led to the use of force), FIT personnel are solely responsible for interviewing the officers who used force, and are required by policy to read involved officers their *Miranda/Garrity* protections. This requirement ensures that statements are not compelled. While involved officers are never compelled to answer questions during this criminal portion of the force investigation, they may do so voluntarily. Often police officers confer with their attorneys on the scene of the incident or via telephone. The great majority of D.C. officers waive their *Miranda/Garrity* protections and provide a full statement about the incident (often participating in a "walk-through" at the scene). FIT investigators may compel statements later during the administrative phase.

In addition to taking the statements of involved officers, the FIT investigators collect all related information, manage the collection of evidence by technicians, and attend autopsies when applicable. The FIT investigators complete a preliminary report—in an enumerated format—and provide it to the chief of police by the next business day. After completing a preliminary report, members of the FIT present the facts of the incident to their local prosecutor's office—which in the District's case is the United States

## Use-of-Force Investigations and Tactical Assessments

by Heather Davies

Deputy Chief Michael Berkow of the Los Angeles Police Department, PERF Senior Associate Joshua Ederheimer, and Executive Director David Wood from the Police Ombudsman’s Office of Northern Ireland discussed use-of-force investigations and tactical assessments at PERF’s December 2004 Critical Issues in Policing Conference.

Investigations of police use of force typically address three general areas: whether the officer’s actions were justifiable under criminal law; whether the officer’s actions were justifiable under departmental policy; and whether the tactics used by the officer were appropriate. The panelists emphasized the importance of a having a well-established, thorough investigation process in place prior to use-of-force incidents, and they offered suggestions for reengineering existing policies.

### OVERVIEW OF CRITICAL ISSUES

The first critical issue addressed by the panel was how best to structure investigations of use-of-force incidents. Joshua Ederheimer described three models that agencies currently follow to conduct use-of-force investigations. In the *traditional model*, field investigators focus on criminal aspects of an incident, while internal investigators focus on departmental policies and procedures. In the *single-team model*, the two types of investigations are conducted by a single unit. In the *single-division model*, two teams working under a single command investigate the two types of investigations. (These models are described more fully in this chapter.)

A second critical issue panelists discussed involved the use of tactics that can reduce incidents of use-of-force. One participant noted three aspects of officer conduct that can lead to use of force. First, law enforcement officers need to consider their own safety when handling a difficult encounter with a suspect, and they cite self-defense as the reason for use of force. There was disagreement among conference attendees about what actions are reasonable in achieving self-protection. For example, one attendee commented that the practice of handcuffing a suspect and placing him or her on the curb while an officer conducts a search of a car—under the umbrella of officer safety, can be demeaning and disrespectful. Others commented that agencies that emphasize officer safety to the exclusion of other concerns may, in fact, encourage officers to take risks and even escalate the need for force. Some participants believed that officers could be more aggressive with suspects if they are taught that their own safety trumps other responsibilities. Conversely, others emphasized the importance of officer safety when assessing tactical decision-making. These executives believed officer safety is critical to support. However, use-of-force incidents can occur when officers deliberately and unnecessarily put themselves in a dangerous situation. For example, officers who become frustrated by a suspect’s refusal to abide by a command may move closer to the suspect than is safe. This action increases the possibility that force will be used. Some participants suggested that police organizations should train officers to help “manage their own jeopardy,” and take greater risks.

A third issue raised by the panel was the need to instill in officers an awareness of the differences between *necessary force* and *justifiable force*. Use-of-force investigations reveal that officers sometimes use force that is likely justifiable under the law but could have been avoided if the officer considered other tactics or strategies to handle the situation. Another chief reiterated this point, citing the possibility that officers may use force because policies permit them to do so—not because their lives are in danger. Deputy Chief Berkow described these use-of-force incidents as “awful, but lawful.”

#### **SUCCESSFUL APPROACHES AND PRACTICAL ADVICE**

Successful approaches in use-of-force investigations address several considerations. One consideration is to facilitate the efficiency, fairness, and accuracy of the investigative process. Another consideration is the desire to improve an agency’s ability to learn from investigative findings in order to enhance policies, procedures, and training.

For conducting use-of-force investigations, agencies should consider establishing a single component (either a single team or dual teams of specialized detectives to investigate criminal and policy aspects of an incident). Panelists agreed that use-of-force investigations should apply the same standards as are applied in all criminal investigations—using similar protocols. One participant recommended conducting an investigation process with the same speed and accuracy as a traditional criminal investigation. For example, it was suggested that investigators separate

witnesses and not interview them in a group—which is especially important for witnesses who are officers. As in any criminal case, the first forty-eight hours are essential when investigating use of force by police. The panelists discussed the need for the investigative process to respect officers’ constitutional rights and treatment.

David Wood discussed his agency’s use of a unified team to investigate use-of-force incidents. The Police Ombudsman’s Office is an official independent government agency tasked with investigating the conduct of members of the Police Service of Northern Ireland (PSNI). The Ombudsman’s Office investigates all firearm discharges, in-custody deaths, and misconduct allegations involving members of the PSNI. Their goal is to ensure the best possible police service and public confidence in policing. The Ombudsman’s Office involves all parties (families, lawyers, community members, police officers) in the investigation, and it seeks to provide stakeholders with productive feedback. Involved parties are informed of an investigation’s emerging findings.

After the investigation, the Ombudsman’s Office develops lessons learned, which are used to make significant recommendations on how to train officers and develop policies. “In forward-thinking communities,” said Deputy Chief Berkow, “internal affairs departments and their investigations of officer complaints drive the training agenda for the next year.” To foster these connections, force investigation teams should have close relationships with the agency’s policy office and training unit. Lessons from use-of-force investigations support new policies and training programs that emphasize appropriate

## box 4.6 *continued*

tactics and decision-making. For example, during the course of a use-of-force investigation, Deputy Chief Berkow learned of problems with communication dispatchers in Los Angeles. To remedy the situation, he brought dispatch commanders together for appropriate training to ensure a more efficient response. In Washington, D.C., reenactments of force incidents are used in role-play training to improve tactics and officer safety. Some agencies emphasize training and tactics immediately. For example, the Montgomery County, Maryland, police department ensures that an instructor from the training academy is dispatched to all police shooting scenes to obtain information that may enhance training.

By changing use-of-force policies, police executives can better manage use-of-force tactics. The Metropolitan (DC) Police Department's policy changes included stronger restrictions on use of police firearms, training enhancements, and greater accountability through reengineered investigations. One policy change restricted shooting at vehicles (and prohibited considering a vehicle as a weapon). Miami's police chief and Minneapolis's chief shared that they also implemented policies that restricted their officers from shooting at vehicles.

PERF Executive Director Chuck Wexler asked the forum participants for suggestions on how to implement policy changes—while being sensitive to officers' concerns—which might also preempt a no-confidence vote by police unions against police executives. One Chief commented that an implementation strategy should begin with the training division and should include communication with the community on the policy changes. Before restricting vehicle pursuits in certain of-

fenses, one police executive wrote an op-ed article and discussed the proposed changes with the local police union. Another chief found that his presence at roll calls fostered positive policy explanation and implementation.

The panelists emphasized organizational integrity and the need for officers to identify any inappropriate conduct by coworkers. Unfortunately some law enforcement agencies sometimes fail to create a safe and confidential environment for officers to come forward and report misconduct by other officers. Another participant underscored that officers are not comfortable reporting other officers' misconduct if sergeants and lieutenants do not enforce the rules and regulations. He warned that the failure of supervisors to intervene when misconduct occurs indirectly endorses wrongful behavior.

### PROMISING APPROACHES

Panelists and forum participants shared some promising approaches that they've learned from handling use-of-force investigations and modifying policies in their departments. The following are several suggestions that emerged during the panel's discussions:

*Construct a unified force investigation unit that investigates both criminal and administrative aspects under a single command.*

A unified specialized investigation team (or two teams—criminal and administrative—under a single command) is advisable when resources are available. It promotes uniform management of a force incident as well as consistent policy changes in officer tactics, strategies, and training.

A use-of-force investigation process should apply the same standards as in any other criminal case.

*Implement policy and training changes based on investigation findings.*

Strengthen the relationship and open communication between force investigators and personnel in a law enforcement agency's policy office and training unit. An instructor from the training academy can be dispatched to police use-of-force incidents or work closely with the force investigators to improve training. Further, immediate changes should be made in training in order to reflect new policies.

*Emphasize tactics to avoid using force in addition to officer safety.*

The investigation process should help officers understand the importance of employing good tac-

tics that can deescalate confrontations. Even after successful encounters, agencies should continue to train officers in ways to avoid using force when possible—even though force might be justified.

*Promote detection systems that involve officers.*

Law enforcement agencies should create an environment that is conducive for officers to report improper and/or unlawful conduct by their peers. Managers and supervisors—especially sergeants and lieutenants—need to be consistent in overseeing policy and encouraging open discussion on use-of-force issues, policy, and tactics.

Attorney’s Office (USAO)—within three business days. Once the criminal and criminal civil rights investigations are completed, the USAO issues a written decision indicating whether the involved police officer will be prosecuted. Only after the USAO issues a written declination does the administrative (or policy review) portion of the investigation begin. It is noted that the same set of facts and circumstances apply to both the criminal and administrative investigations, thus the administrative investigation has, in effect, been ongoing since the incident occurred. Initially, the USAO was concerned about the ability of the FIT to protect the criminal investigation from being tainted if a compelled statement was necessary. However, its concerns were addressed when FIT personnel formalized a policy to read officers *Miranda/Garrity* warnings in every incident.

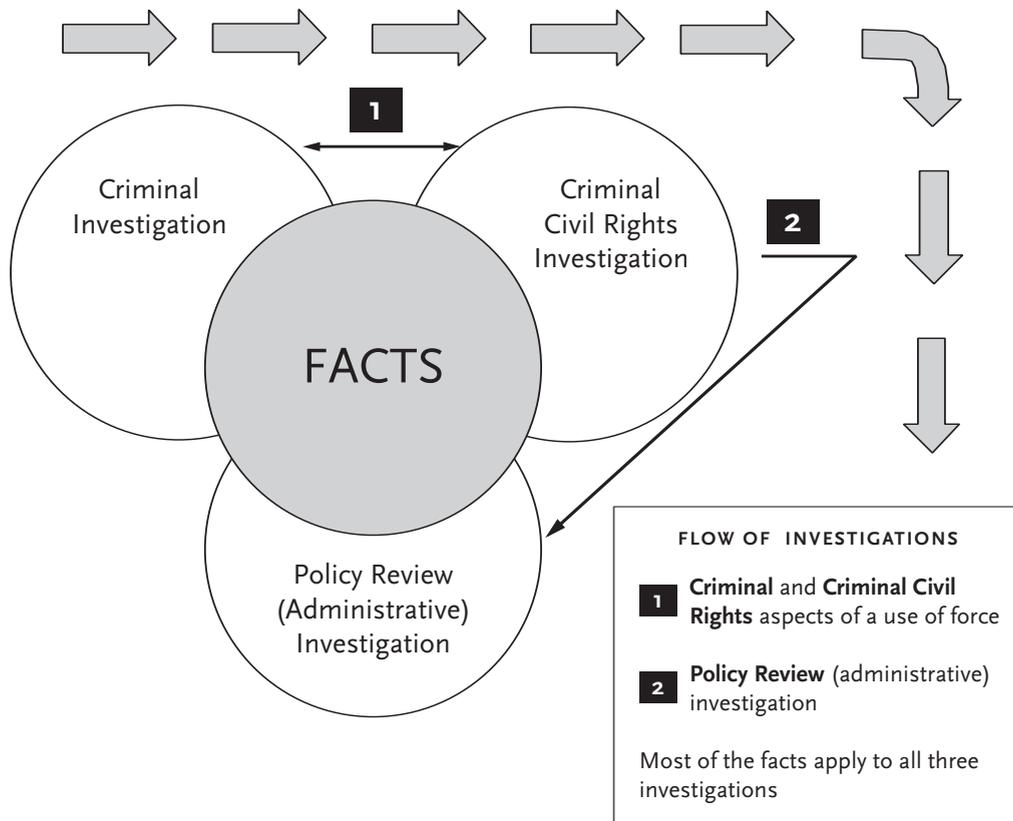
Because of this “single-team” approach, the time it takes to complete the administrative review is significantly reduced; case information already has been collected, and the same detective that worked the criminal investigation completes the administrative investigation. Of course, in the rare case that there is a decision to prosecute, criminal proceedings will begin. During the administrative (or policy review) investigation, officers can be compelled to make statements concerning the deadly force incident. Figure 4.1 depicts the MPD’s overlapping investigative processes.

The preliminary and final investigative reports follow a standardized template based on the needs of identified stakeholders. Important investigative activities (traditional criminal investigative activity and activity unique to force investigations) are documented. For example, the template ensures that investigators document less-lethal equipment available to an officer at the time of an incident, the number of bullets found in an officer’s gun after a shooting incident,

and whether that number is consistent with the number of rounds fired. The team makes investigative conclusions in the final investigative report that reflect both the legal and policy-related findings. The categories of findings are described in an article written by D.C. Police Inspector Matthew Klein located in Box 4.7.

Detectives assigned to these teams receive specialized training that covers the unique aspects of a use-of-force investigation. Experienced criminal investigators are recruited to be on the teams, and they receive traditional investigative training such as the training provided at homicide and crime scene certification schools. Additionally, team members attend civil rights classes sponsored by the Department of Justice and the FBI, as well as focused training on topics such as “suicide by cop” and on internal department policies.

The Force Investigation Team ultimately completes a comprehensive final report that analyzes the involved police officer’s adherence to departmental policy and training, force options, and tactics. The team’s operations are encapsulated in an operational manual that is updated frequently, and which contains updated template examples for preliminary and final investigative reports. In order to promote transparency, the manual and templates are shared with the public, and are available on the Internet. This single-team approach is part of an established system that fosters an efficient use of resources. Case resolution is faster and processes are less redundant because force investigators are already well versed on the facts and circumstances of the case, as well as the requirements associated with the complex nature of a force review. The transparent standardized process protects individual rights while at the same time holding officers accountable. It has gained the support of both internal and external stakeholders.



**Figure 4.1 Use-of-force investigations (MPD)**

### *The Los Angeles Model*

The Los Angeles Police Department (LAPD) model built upon the general structure of the MPD model. However, it addressed some of the concerns previously made by prosecutors—primarily worries about tainting the criminal investigation by using information from compelled statements. LAPD had overhauled its use-of-force investigation processes in response to a 2000 consent decree with the U.S. Department of Justice. It was at that time that LAPD created the Critical Incident Investigation Division (CIID). While this structure led to higher quality investigations, it was still based on the traditional

bifurcated model explained earlier. Upon assessing the new processes, LAPD Chief William Bratton wanted a more effective method for conducting use-of-force investigations.

### *Structure and Responsibilities*

In August 2004, Chief Bratton created a new structure that replaced the CIID for investigations that had components of both the single-team approach and the bifurcated traditional model. Chief Bratton created the LAPD Force Investigation Division (FID) composed of two separate teams of investigators—one team to conduct the

## box 4.7

### COMMENTARY:

## Use-of-Force Investigative Findings

by Matthew Klein, Inspector,  
Metropolitan (DC) Police Department

The Force Investigation Team (FIT) of the Washington, D.C., Metropolitan Police Department (MPD) has investigated hundreds of incidents of officer-related uses of force since its inception in 1999—from shootings that killed a suspect to bites from police dogs. The team has become a model of competence and impartial investigation of police practices. Undoubtedly, it has helped reduce the staggering number of uses of force seen in years prior to FIT’s creation.

The Force Investigation Team follows a multi-tiered investigative process formalized in an operational plan. The plan is handed to every new member assigned to the unit. To ensure consistency—and more important, impartiality—it employs templates for all phases of use-of-force investigations. For example, templates shape preliminary reports, supplemental documentation, case files, and the final investigative report that includes findings. Each final report created by the FIT is classified in one of the following ways:

- Justified, Within Departmental Policy
- Justified, Policy Violation
- Justified, Tactical Improvement Opportunity
- Not Justified, Not Within Departmental Policy.<sup>17</sup>

A “Justified, Within Departmental Policy” determination is made when all agency guidelines were followed, and the use-of-force comports with all laws and procedures—both legally justified and within departmental policy. A “Justified, Policy Violation” refers to a use of force that met all legal and departmental standards but violated a peripheral departmental policy prior to, or concurrent with, the use of force. For example, an officer used force while off duty. The investigation revealed that the officer used the proper level of force to meet the threat he faced, and the force used met all departmental guidelines and training. However, during the course of the investigation, it was revealed that the officer was working an unauthorized off-duty job, thereby violating a departmental guideline tangential to the use of force.

A “Justified, Tactical Improvement Opportunity” determination is made when the use of force was justified and did not violate departmental guidelines. Nevertheless, an analysis of the tactics used by the officer revealed deficiencies when compared to the instruction given by the agency. It is the policy of the MPD to forward recommendations to the agency’s training staff so that the officer can receive supplemental training.

A “Not Justified, Not Within Departmental Policy” is made in response to a use of force that does not meet departmental or legal standards. The MPD sends all such cases to the agency’s

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17. Examples of these classifications are found in the FIT 2002 Annual Report found at [http://mpdc.dc.gov/news/pubs/pdf/fit\\_ar\\_02.pdf](http://mpdc.dc.gov/news/pubs/pdf/fit_ar_02.pdf).

criminal investigation and another to conduct the administrative review. However, both sets of detectives are assigned to a *single division*—promoting internal quality control through consistency and communication, while at the same time allowing for the ability to obtain compelled statements separate from the criminal investigation.

The Force Investigation Division has three distinct responsibilities: assessing the criminal culpability of the civilian suspect; determining the legal justification for the officer’s use of deadly force; and evaluating the officer’s compliance with administrative policies. The division investigates “categorical uses of force,” which consist of the following:

- incidents involving the use of deadly force.
- use of an upper body control hold (including a carotid neck restraint),
- use of force resulting in an injury requiring hospitalization,
- head strikes with an impact weapon,
- uses of force resulting in death,
- in-custody deaths, and
- incidents where a member of the public is bitten by a police canine and hospitalization is required. (Note that a canine bite is not considered a use of force.)

disciplinary review division for an assessment of appropriate discipline—from suspension to termination.

The FIT has proven to be an invaluable tool for the agency in the investigation of uses of force by its officers. The unit and its methods have become embedded in the agency’s culture—a difficult if not impossible task for large police

The LAPD assigns additional duties by tasking the division to investigate use-of-force incidents involving officers from other jurisdictions that occur within the boundaries of the city of Los Angeles.

### *Investigative Process*

In reengineering its use-of-force investigation processes, LAPD executives recognized that a single-team structure would not be feasible for their agency. The culture in the LAPD was such that officers did not routinely provide voluntary statements to investigators, requiring force investigators to compel statements from them (Berkow 2004). As a result, LAPD selected a dual structure—a criminal team and an administrative (or policy) review team—but placed them under a single command. A graphic depicting the LAPD FID’s investigative protocols are reflected in Figure 4.2. In this model, the criminal team conducts a criminal investigation of a force incident using physical evidence and witness statements, but not using the officer’s compelled statement. However, the administrative teams takes compelled statements. The compelled statements can be used to determine duty status, administrative

organizations. Each use-of-force case is carefully dissected; every decision by the officer and every tactic employed during the incident are examined. The benefits of the Force Investigation Team are unmistakably clear and should be seriously considered by other police agencies looking for ways to reduce uses of force by officers.

sanctions, and identify tactical improvement needs. The “single-division” concept fosters consistency by creating sets of specially trained detectives under a *single command* that allows both types of investigations to proceed without conflict. The dual structure lowers the risk of “investigative contamination” by tasking the most experienced investigators to conduct the criminal investigation while allowing other detectives from the same division to immediately initiate the administrative investigation. The single command ensures consistent training and informed decision making.

Under the LAPD model—like the MPD model—detectives assigned to the criminal and administrative teams receive specialized training that addresses the unique aspects of a use-of-force investigation. Criminal and administrative investigators train together to ensure continuity and communication. Required training includes homicide investigation schools and supervisory skills classes. FID investigators attend state-sponsored officer-involved shooting classes and quarterly full-day training sessions on specialized topics determined by management officials. For example, investigators will receive training on forensics or interviewing practices. Training is ongoing, and topics for specific sessions are fluid and are determined based on needs and recent information.

The Force Investigation Division completes two separate reports. The division’s criminal investigators write a report forwarded to the District Attorney’s Office for a criminal assessment. This report does not contain compelled statements nor any information gleaned from them. Simultaneously, administrative investigators—who have complete access to all of the criminal investigators’

files—complete an administrative report. Both reports, which simply convey findings of fact and not recommendations, are eventually presented to the LAPD’s Use of Force Review Board. The board makes a policy determination and in some cases recommends action against the involved officer(s).

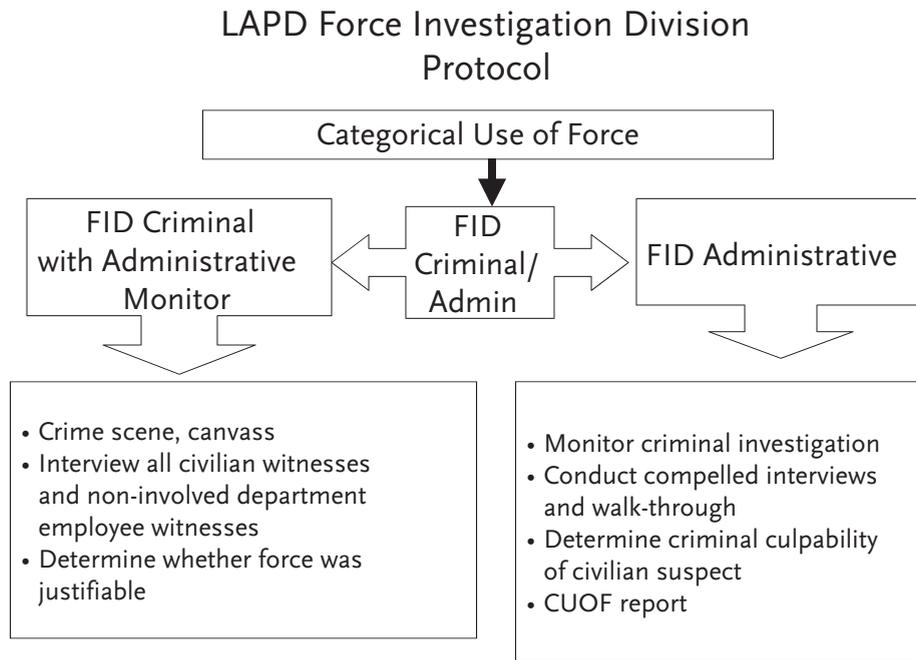
The MPD and LAPD models represent innovative approaches to addressing the unique challenges of conducting use-of-force investigations. Police executives considering reengineering or creating new investigative processes can look to these two approaches, and can incorporate aspects that can be successfully integrated into the culture and within the statutory parameters of their own agency and jurisdiction. The MPD model works well in an environment where involved officers routinely provide voluntary statements, while the LAPD model works well in a department culture in which compelled statements are necessary. In both models, streamlined investigative processes utilizing reporting templates and highly-trained specialized investigators have led to high quality investigations and greater internal and external trust and confidence.

## **POLICE USE OF FORCE: THE ESSENTIALS OF OFFICER AFTERCARE**

Police officers are no longer regarded as invincible and impervious to the ravages of traumatic events.<sup>18</sup> This fact was never more evident than in the aftermath of the terrorist attacks of September 11, 2001. The world watched in horror as the twin towers collapsed, entombing thousands of innocent people along with the police officers and firefighters who had rushed into harm’s way

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18. Dr. Beverly J. Anderson (B.C.E.T.S.), Clinical Director/Administrator, Metropolitan Police Employee Assistance Program, Washington, D.C. wrote this section of Chapter 4 on officer aftercare.



**Figure 4.2 FID investigative protocol**

to rescue them. These selfless acts of bravery witnessed by a stunned nation were not a new phenomenon but in the aftermath of that horrific day, these unsung heroes captured the hearts of Americans even if for only a brief moment.

Not surprisingly, the public's interest in the effects of traumatic exposure has waxed and waned throughout history. It seems to peak immediately following mass catastrophes like the attacks of September 11th and more recently the tsunami disaster in Asia and East Africa. Nonetheless, for the thousands of law enforcement officers who risk their lives every day, traumatic exposure is a very real part of their jobs. More than ever, the increase in violence in our society echoes throughout the law enforcement community. Unlike combat veterans to whom police are often compared, police officers

encounter traumatic experiences day after day over a period of twenty-plus years.

Law enforcement, the media, and the public frequently perpetuate the myth that police officers can handle any crisis without being affected. The profession demands emotional stamina and resilience, but shootings and other critical incidents can be traumatic even to the most well-adjusted officers. No one, no matter how healthy, well trained, or well adjusted, is immune to the normal reactions following a critical incident. Repeated, cumulative exposure to victims of violence, natural and man-made disasters, and the threat of personal assaults and death places police officers at risk for developing stress-related problems that can affect them personally and professionally.

In addition to the tremendous human costs to officers who are valued by their agencies and communities, there are costs that policy makers and other leaders should understand. Each officer represents an investment of thousands of dollars. The effects of stress and traumatic exposure exact a high toll in lost dollars and inferior services rendered to the department and the community. The cost of worker's compensation, absenteeism, permanent disability, or replacing officers due to psychiatric retirement can be staggering. Moreover, agencies are exposed to civil liability that could exceed millions of dollars when the use of force by officers is adjudicated to be excessive. It is essential that police executives provide prevention and early intervention strategies to ensure that their officers have the proper tools to cope with the stress of use-of-force incidents.

### *Background*

Influenced primarily by contemporary media, there is a misperception by the public that police-involved shootings are a routine part of police work.<sup>19</sup> In reality, however, they comprise a very small part of the police experience. Nonetheless, when an officer fires a weapon in the line of duty, the scrutiny devoted to the shooting is significant. In the weeks and months that follow, the criminal justice system and the department will decide if the officer's "split-second" decision to shoot was justified.

There is a paucity of empirical data regarding the post-shooting adjustment of police. However, several surveys and valuable clinical data have been collected in the past two decades by police and trauma psychologists who have worked directly with officers. The results of two large studies conducted by Honig and Roland

(1998) and Honig and Sultan (2004) of the Los Angeles County Sheriff's Department are of particular interest. The studies were conducted in 2004 with 982 subjects and in 1998 with 348 subjects. (The 348 subjects in the first study were included in the 982 subjects of the second study.) Over 90 percent of the approximately 430 critical incidents studied were officer-involved shootings. The subjects were evaluated by the authors within 3 to 5 days of the incident and prior to participation in the department's mandatory debriefing. The study was voluntary and confidential and yielded 100 percent participation. The post-shooting reactions reported by 30 to 50 percent of the respondents within 3 to 5 days after the incident included increased startle response, nightmares, sleep disturbances, flashbacks, intrusive recollections, increased feelings of anger and rage, a sense of vulnerability and/or heightened sense of danger, and fear about future situations, concentration problems, and physical distress after the shooting (Honig and Sultan 2004). Not surprisingly, the authors elucidated "fear and vulnerability" as key factors in post-incident adjustment. The results of their post-shooting interventions will be discussed in the section on critical incident debriefing.

The results of another important study funded by the U.S. Department of Justice (Award 97-IJ-CX-0029) and reported in 2001 bears mention. Conducted by sociologist and former police officer David Klinger, this study examined the reactions of officers during and after shooting incidents. The eighty study participants hailed from nineteen different municipal and county agencies in four states. Each participant completed a seventeen-page questionnaire and sat for an audio-taped interview with Klinger. Entitled *Police Responses to Officers Involved in Shootings*,

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19. In fact, most police officers never fire their weapon during the course of their entire career.

## box 4.8 Aftercare Terms and Definitions

**Traumatic event:** An event or events that involved actual or threatened death or serious injury, or a threat to the physical integrity of self or others; and the person's response involved intense fear, helplessness, or horror (American Psychiatric Association 1994).

Traumatic events or critical incidents in policing include

- police-involved shootings;
- death or injury of a fellow officer;
- serious injury or death of a child;
- gruesome homicides;
- natural, accidental, and man-made disasters;
- failed or prolonged rescues;
- viewing and handling decomposing bodies;
- police officer suicide;
- automobile accidents resulting in serious injuries or death; and
- performance-of-duty injuries that are serious or life-threatening.

**Post-traumatic stress/critical incident stress:** The reactions caused by exposure to an event or events that are of such intensity that a person's normal coping patterns are disrupted. Traumatic events often shatter a person's assumptions about the predictability of life and control over it. Post-traumatic stress is a normal reaction to an abnormal event and involves the person's thoughts and emotions. The person's autonomic nervous system activates the brain's production

of chemicals that also affect behavior (Kirschman 1997).

Reactions to critical incidents can last anywhere from a few hours to several weeks after the event and may include any of the following symptoms (Bohl 1995; Kirschman 1994; Kates 1999; Honig and Sultan 2004; Bonifacio 1991).

### *Emotional Signs*

- Impatience, irritability, anger, aggression
- Recurrent thoughts about the event
- Depression, anxiety, guilt
- Thoughts of suicide
- Emotional numbing
- Under-reacting or over-reacting
- Feeling hopeless and/or powerless
- Feeling vulnerable

### *Physical Signs*

- Headaches, indigestion, tightness in the chest
- Hypervigilance, easily startled
- Dizziness, trembling, excessive sweating
- Sleep problems, nightmares, loss of appetite, diarrhea
- Fatigue, muscle aches, hypertension

### *Behavioral Signs*

- Tearfulness, angry or violent behavior
- Avoidant behavior, withdrawing from friends and family
- Increased use of alcohol, tobacco, food, or medication

## box 4.8 *continued*

- Increase in risk-taking behavior, recklessness
- Changes in work habits
- Engaging in other self-soothing behaviors like gambling, promiscuity, credit card abuse

### *Cognitive Signs*

- Problems with memory, focus, and concentration
- Forgetfulness, trouble with decision making
- Confusion and disorientation
- Disruptions in logical thinking

These words of an officer after his second shooting illustrate the psychological impact of a police shooting: “I didn’t want to talk to anyone about my shooting. I refused to go to debriefing despite being ordered by the department. I tried not to think about it. Looking back on it now, I guess I felt ashamed for having to kill this young man and angry because he gave me no choice. But, when I returned to work, I was

different. I reacted more quickly. I was more paranoid and distrustful. There were certain behaviors that I would no longer tolerate. I would catch myself becoming enraged—something that never happened before my shooting. I would no longer discuss with a citizen ‘why’ I was writing a ticket. I found myself fighting back when I was assaulted versus getting them down and in handcuffs. My fiancé and I split up after being together for three years.”

**Post-traumatic Stress Disorder (PTSD):** A diagnosable disorder brought on by exposure to severe, usually life-threatening events. It causes considerable disruptions in thoughts, feelings, and behaviors and lasts for more than a month. (American Psychiatric Association, 1994). Only a professional can make a diagnosis of post-traumatic stress disorder. Factors that can predispose a person to PTSD are the following: absence of a support system, the inability to talk about distressing events, past unresolved traumas, a poor sense of self, the need to feel invulnerable, and poor coping skills.

the entire work is a “must read” for police executives. While some question a few of the “psychological” interpretations that Klinger makes as a nonclinical professional, the study examines the most salient issues regarding police departments’ policies and procedures for handling police-involved shootings. Klinger discusses officers’ perceptual distortions during the shooting and memory deficits in the aftermath (for example, forgetting how many shots were fired). Investigators should realize that an officer’s recall may be inaccurate. This does not mean the officer is dishonest. Klinger cautions that investigators need to take the officer’s account as a point of departure for the rest of the inquiry and work back and forth between this testimony and other evidence to develop the most accurate possible picture of what occurred (Klinger 2001).

The Metropolitan Police Employee Assistance Program (MPEAP) in Washington, D.C., has provided debriefing to over 800 officers involved in shooting incidents in the past 20 years. General Order 201.28 requires that officers attend a total of six mandatory debriefing sessions conducted by therapists who staff the program. In 1998 *The Police Post-Shooting Impact Scale* was created by the MPEAP to identify those factors that influence the impact of deadly force encounters on police officers. Using the criteria in the scale helps to predict, with considerable accuracy, how officers will respond after they have been involved in a shooting. These criteria are listed below:

#### **Magnitude of the Event**

- Was the officer(s) injured? If so, how seriously?
- Was the officer’s partner injured or killed?
- Was the suspect injured or killed?
- Who was the suspect? (for example, a child, mentally ill person)

- What were the precipitants of the shooting? (“Suicide by Cop?”)
- Grotesqueness of the shooting.
- Physical proximity of the officer to the suspect.
- Disruptions of the officer’s expectations. (For example, a young woman asks an officer for directions, then shoots at him at “point blank” range.)
- Were citizens’ lives in danger?
- Were officers’ lives in danger?
- Potential for liability.
- Degree of warning.

#### **Officer Demographics**

- History of prior shootings or critical incidents.
- Officer’s reaction immediately after the shooting. (Did he/she feel vulnerable?)
- Officer’s coping style (withdraws, uses alcohol, for example).
- Officer’s prior learning or mastery (previous training/debriefing).
- Amount of stress, change, or losses in the officer’s life at the time of the shooting.
- Nature and degree of family support.
- Officer’s financial status. (for example, credit card debt that is a source of stress).
- Assessment of alcohol use.
- Ability of officer to accept help from a support system.

#### **External Factors**

- The police department’s response.
- Was the officer debriefed? How soon after the shooting?
- Were peers supportive?
- What was the media’s response? (Were the facts distorted?)
- What was the community’s response?

The stress of a shooting can be compounded by the actions taken by the police department in the aftermath. The following suggestions for departmental post-shooting procedures were made by officers attending the MPEAP debriefing groups over a fifteen-year period:

- Officers should be given time off to recover from negative reactions of a shooting without being made to feel guilty.
- Police departments should not release the name(s) of officers involved in shootings. The practice of releasing this information to the press is detrimental and perhaps even dangerous to officers and their families.
- Police officials should receive training regarding the dynamics of shooting incidents.
- Police officials should discourage rumors within the department by providing accurate information to fellow officers regarding the circumstances of the shooting.
- Police officials should call the officer who is out on administrative leave after a shooting to provide information and to communicate concern and interest for the officer's well-being.
- Some officers are not comfortable working on a limited duty assignment in the station immediately after their shooting, especially if they are assigned to work the desk taking citizens' complaints.
- Some officers feel vulnerable when the department takes their weapons in the aftermath of a shooting. Arrangements for a "loaner" weapon should be made as soon as possible after the shooting. The process for obtaining a "loaner weapon" should not be lengthy or time-consuming. Officers are sometimes easily frustrated when they are forced to deal with complicated or confusing bureaucracy.

### *Critical Incident Stress Debriefing: The Standard for Officer Aftercare*

The term *critical incident stress debriefing* (CISD) is most widely associated with the work of Jeffrey Mitchell, Ph.D., who designed a system of brief group meetings based on the principles of crisis intervention practice and theory (Mitchell 1983). The meetings take place in the aftermath of a critical incident such as a police shooting. There are several variations of brief psychological care following traumatic events such as mass disasters. Mitchell, however, was the first to introduce a structured model based on his work with emergency services personnel in the early 1980s. The desired outcome for all models is the mitigation of symptoms that may occur after exposure to traumatic events.

Sufficient empirical data do not exist at this time to prove the efficacy of CISD in preventing post-traumatic stress disorder; however, that does not mean that CISD is not a necessary and valuable tool. Even detractors of the critical incident stress debriefing model advise some form of clinical screening and intervention for individuals who are at risk for developing the disorder—for example, those with a history of prior trauma, low social support, hyperarousal (Bonnano 2004, 22). Critical incident debriefing is most effective when it takes place as soon as possible after the incident (ideally within the first 24 to 48 hours) before officers isolate and suppress the thoughts, emotions, and reactions that occur naturally after a critical incident.

The goals of critical incident stress debriefing are:

1. To mitigate the painful effects of the incident. (Debriefing allows officers the opportunity to vent their feelings in an atmosphere of support and understanding.)
2. To provide valuable education about critical incident stress and how to inoculate against cumulative stress.

3. To normalize the many reactions that officers experience after a critical incident.
4. To offer a safe, confidential environment where officers can share their experiences with other officers who have experienced a critical incident.
5. To communicate to officers that they are the most valuable resource the department has and that the police family takes care of its own.
6. To restore the officer to a fully functioning level so that he or she can return to work.

Countless surveys of debriefing participants have yielded consistently high marks as to its beneficial effects. Findings in Honig and Roland (1998) and Honig and Sultan (2004) were consistent for resiliency, the type and frequency of reactions experienced, the tendency to not seek services voluntarily, and the extremely high rate of subjects who found these interventions valuable (Honig and Sultan 2004). Following the initial study in 1998, the authors noted that virtually all subjects reported finding the intervention valuable. In addition, an evaluation of both worker's compensation claims and stress disability retirements among this group lend further support to the usefulness of this type of intervention. Although all of the study participants reported that the debriefing was valuable, 60 percent of the officers stated that they would not have attended the debriefings if they had not been ordered to do so by the department. The high degree of reactivity (3 to 5 days after the shooting) reported by 30 to 50 percent of the respondents and the measurable results regarding overall adjustment support the efficacy of critical incident care.

Klinger (2001) found that the efficacy of post-shooting interventions depended upon the context within which the counseling sessions took place. Many of the officers in his study did

not view the sessions as helpful because they felt that the department's only interest was in covering itself from a liability standpoint. Consequently, these officers reported that they either withheld information from the mental health professional hired by the department or "flat-out lied" because they did not wish to offer up any information to a "stranger" who was affiliated with their department.

Debriefings should be a part of a comprehensive, integrated program of stress education that begins in the police academy and continues throughout an officer's career as part of retraining. Mandatory debriefing and follow-up aftercare should be given officers involved in critical incidents, and police managers should be trained in identifying officers who may be suffering as a result of exposure to traumatic events. Critical incident stress debriefing is likely to stand the test of time as the standard of care for law enforcement officers.

### *Overview of Officer Aftercare Programs*

Some police officers are inherently distrustful of mental health services. Although job-related stress increases in proportion to levels of violence and traumatic exposure, officers are less likely to seek help than the average person. While many occupations give rise to a variety of stressors, most do not constitute the culture of law enforcement. No matter how "numbed out" police officers appear, they are not impervious to the psychological assaults of their work. Therapists cannot be of real help until they come to understand the danger that accompanies the police on every tour of duty.

It appears that the law enforcement profession's acceptance of the need for mental health services for police officers emanated less from an overall understanding of "occupational stress" than from the emotional series of several traumatic and

highly publicized incidents involving police officers. Although employee assistance programs (EAPs) have existed since the 1940s in business, industry, and government, in law enforcement they came much later. It was not until 1968 that the Los Angeles Police Department became the first law enforcement agency to employ a full-time police psychologist, Dr. Martin Reiser. His duties were all-encompassing and included treatment for officers and their families, testing, hostage negotiations, and management consultations. Among the many articles and books that he authored, Reiser's most noted work was entitled *The Police Department Psychologist* (Reiser 1972).

As a result of an increased awareness about the deleterious effects of traumatic exposure, many departments provide some form of psychological services for officers and their families. Counseling programs consist of three basic options: "in-house" programs staffed by department employees; contracted "external" programs that offer services independent from the police department; and a combination of both these models. Many departments also use police peer counselors who have been trained to provide critical incident debriefing. The Los Angeles County Sheriff's Department (LASD) pairs officers who have been involved in a shooting with a "mentor" officer who has also experienced a shooting and can offer a unique kind of support. Other departments offering unique peer support programs include the Ohio State Highway Patrol and the Virginia State Police. Rybicki and Nutter (2002) found that nearly 55 percent of the departments they surveyed offered some form of peer support program. Officers derive comfort, support, normalization, and validation from fellow officers who have been involved in shooting incidents. While all employee assistance programs have their advantages and disadvantages, a department should select a program that fits its unique needs and funding resources.

### *What Do Officers Want from a Counseling Program?*

In a 1998 survey of 150 police officers of the Metropolitan (D.C.) Police Department (cited in Anderson 2002) the following characteristics of a police counseling program were ranked in this order of importance:

1. Licensed professional therapists who are completely separate from the department to ensure strict confidentiality.
2. Long-term counseling for me and my family for as many times as we need.
3. Therapists who have many years of experience with the Metropolitan Police Department.
4. Ongoing stress training for officers and management.
5. Private, comfortable offices far removed from any police facility.
6. Free services.
7. Debriefings and mandatory counseling after critical incidents, like shootings.

These results were similar to those reported by Ebert (1986). Dr. Marketa K. Ebert, an employee assistance counselor for Anne Arundel County, Maryland, administered a needs assessment survey to seventy-four Anne Arundel County police officers. Officers were asked to check all applicable factors out of a list of fourteen that would make it easier for them to seek help. They are listed in Table 4.1 in order of importance.

Not surprisingly, in the surveys by both Anderson (2004) and Ebert (1986), officers expressed concerns related to privacy and confidentiality as well as therapist competence. The most crucial issues to be considered for the success of any law enforcement program are program structure and staffing, program location, and the program's relationship to the department. To ensure that the best interests of the officers are served,

counseling components should be separate from evaluative units. A detailed description of programs for law enforcement agencies is provided in Finn and Tomz (1997).

### *Promising Approaches to Officer Aftercare Programs*

Although many departments offer innovative approaches to officer aftercare, the following programs contain some of the key elements highlighted in this section.

The Phoenix Police Department offers a comprehensive program consisting of peer support on the scene of a use-of-force incident and a mandatory post-incident debriefing facilitated by a contracted mental health professional and CISM members. (Officers cannot return to full duty until the debriefing is completed.) Counseling is available on an as-needed basis around the clock, and five follow-up sessions are provided at no cost to the officers. Command personnel may also contact officers and their families to provide agency support and assistance. Officers who are involved in use-of-force incidents resulting in the serious injury or death of a suspect may be assigned to their homes for three days after the incident and then given a non-enforcement position pending the department's administrative review. However, the chief of police retains the authority to return the officer to full duty prior to the review board's findings and upon the recommendation of the officer's division commander.

The Pittsburgh Bureau of Police provides mandatory debriefing by the department psychologist who is dispatched to police headquarters immediately following a shooting. Officers are placed on paid administrative leave during the initial phase of the department's internal investigation. Returning to full duty is based on the recommendation of the police psychologist. In addition to the services of the department

psychologist, the Chapel Corps is available for officers who feel more comfortable in that setting.

As noted earlier, the Los Angeles Police Department was the first department to hire a full-time police psychologist. In 1968 it initiated an innovative program to encourage interaction between officers and the department's mental health professionals. In 2000, department psychologists were assigned to each of the divisions where they were integrated into the daily police routine by participating in roll calls, supervisor meetings, and ride-alongs. This interesting approach, profiled in *Police Chief Magazine* in 2003, encourages relationship building between psychologists and police officers. Dr. Christopher Gerber, LAPD police psychologist, believes that integrating psychologists into the police routine encourages familiarity between line officers and psychologists who can ease officers' concerns regarding confidentiality. As mutual respect between the two professions grows, old stereotypes are diminished, resulting in higher utilization of the mental health professionals.

The Metropolitan (D.C.) Police Department's program opened its doors in October of 1988. The Metropolitan Police Employee Assistance Program (MPEAP) combines the advantages of the "in-house" and "contracted" program models. It is a joint union/management program under Article 45 of the collective bargaining agreement between the Metropolitan Police Department in Washington, D.C., and the Fraternal Order of Police Labor Committee. Operating as a free, comprehensive, long-term, counseling program for police officers and their families, the MPEAP also provides a range of services in a private location far from any police facility. Neither the department nor the union has access to records or information about officers seeking help. General Order 201.28 makes critical incident debriefing mandatory for all officers involved in shootings and other traumatic incidents. The

**Table 4.1 Preferences of police officer sample (N=74) regarding psychological help**

Factor	Total number of points
Strict confidentiality	117
Costs partially or fully covered by the department	87
Professional has no connection with the police department	65
Ready availability and flexible hours	55
Office located away from headquarters	50
Professional shows interest in police work	48
Program available for the entire family	36
Peers' positive attitude toward psychological help	26
Mandatory counseling following high stress situations	25
Supervisors' positive attitude toward psychological help	19
Personal acquaintance with professional	14
Services provided by a member of the clergy	13
Professional employed by the police department	11
Services provided by police officers trained as counselors	10

staff of the MPEAP does not perform fitness-for-duty evaluations. A separate police and fire clinic program performs that function.

There are four full-time MPEAP therapists. They are on call 24 hours a day and respond to officer-involved shootings and critical incidents. Other program services include marital and relationship counseling, alcohol recovery and relapse prevention groups, conflict resolution, domestic violence education, grief counseling for families of officers killed in the line of duty, children's play therapy, expert witness testimony, hospital and home visits, stress management, educational

retreats for specialized units, team building, and human factors training. To date, the MPEAP has provided counseling and debriefing to over 6,500 officers and their families and critical incident debriefing to approximately 800 officers involved in shootings. It has also trained over 10,000 officers, police officials, family members, and community groups. In 1991 it was chosen as a model for all law enforcement agencies by the U.S. House of Representatives Select Committee on Children, Youth, and Families in the hearing *On the Front Lines—Police Stress and Family Well-Being*.

### *Conclusion*

An understanding of the stress caused by use-of-force encounters has led to the implementation of progressive programs in officer aftercare. Departments are providing more comprehensive and proactive intervention services, and the results have been noteworthy: Officers feel more valued and supported; lower turnover of officers; fewer early retirements and workers' compensation claims due to stress-related disabilities; and reduced potential for civil liability due to "excessive force" complaints. Police officers are a department's most important resource—a compelling reason in itself to provide thorough aftercare for those who protect and serve.



# Book Conclusion

Policing has changed considerably in the past fifty years. Nowhere is this metamorphosis more evident than in the increased attention paid to issues of force. Whereas once even large-city police departments had minimal policies on the use of deadly force against citizens, today agencies of all sizes have comprehensive policies on what types of force can be used and in what circumstances. Accordingly, deadly force by law enforcement is on the decline.<sup>1</sup> For many years, law enforcement weaponry consisted of a gun and a baton. Today some officers complain that they don't have enough room on their belts to hold the increased array of less-lethal technologies such as O.C. Spray and conducted energy devices. Some of the current chiefs joined law enforcement when

training was primarily “on the job” and, at best, force training consisted of shooting an already-unholstered gun at a bull's eye. Officers now receive training in how to use force and when to use force in training environments that are highly realistic. Additionally, departments document and require review of all but the lowest levels of force, conduct comprehensive investigations of serious uses of force, and pay attention to the psychological consequences to officers who use high levels of force, including deadly force.

The profession can be extremely proud of the progress it has made, albeit under intense external pressures. As explained in Chapter 1, the challenge for police executives is to optimize the use of force, and great strides have been made to

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1. Geller, W. and M. Scott (1992). *Deadly Force: What We Know*. Washington, D.C.: Police Executive Research Forum.

this end. Chiefs and sheriffs are putting into practice various methods for strengthening police relations with diverse communities. By sharing information about force policies and incidents with residents, they have fostered mutual trust and demonstrated accountability of police officers to the public they serve. By examining use-of-force issues currently facing agencies and describing what appear to be promising practices for addressing them, this book, it is hoped, will continue the progress already made in this field.

The specific challenges related to force that law enforcement leaders face may change in the future, but the challenge will always exist. It is highly unlikely that a flawless blueprint for optimizing force will ever be developed. As this book goes to press, law enforcement leaders are faced with complex decisions such as what parameters to place on shootings at vehicles and whether to adopt conducted energy devices. Tragic incidents involving vehicle shootings and in-custody deaths highlight the high stakes of police executives' decisions concerning use-of-force policies and practices. Unfortunately, there is no crystal ball or that perfect guide to propel the profession

toward what would be optimal force in all circumstances. Choosing to deploy conducted energy devices might save the life of a suicidal resident or person in crisis or possibly lead to incidents where the device unintentionally contributes to a death—or do both. And in the end, it all comes down to split-second decisions made by humans in extremely stressful situations.

It is imperative that chiefs and sheriffs receive guidance to help them address critical issues concerning officers' use of force. Some of this information could and should come from large-scale research projects that examine the impact of various decisions by executives on outcomes. For example, research is needed on the effects of decisions concerning weapon adoption, policy content, and choice of tactics on outcomes such as officer injury, subject injury (including in-custody deaths), law suits, complaints, and nature and level of force. Guidance can also come from the lessons learned in departments nationwide. Chiefs and sheriffs must look to their peers for promising practices and, in turn, share their own successes. We hope that this book will facilitate this sharing.<sup>2</sup>

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2. Check the PERF website at [www.policeforum.org](http://www.policeforum.org) for links and frequent updates to use-of-force documents and information.

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# About PERF

**P**ERF is a professional organization of progressive chief executives of city, county and state law enforcement agencies, who collectively serve more than 50 percent of the nation's population. Membership includes police chiefs, superintendents, sheriffs, state police directors, university police chiefs, public safety directors, and other law enforcement professionals. Established in 1976 as a non-profit organization, PERF is unique in its commitment to the application of research in policing and the importance of higher education for police executives. Besides a commitment to police innovation and professionalism, PERF members must hold a four-year college degree.

PERF continues to conduct some of the most innovative police and criminal justice research and provides a wide variety of management and technical assistance programs to police agencies throughout the world. PERF's groundbreaking work on community and problem-oriented policing, racial profiling, and crime reduction strategies has earned it a prominent position in the police community. PERF is one of the founding agencies of the Community Policing Consortium and the Commission on Accreditation for Law Enforcement Agencies (CALEA). PERF continues to work toward increased professionalism and excellence in the field through its publications and training programs. PERF sponsors and conducts the Senior Management Institute for Police (SMIP). This program provides comprehensive professional management

and executive development training to police chiefs and law enforcement executives. Convened annually in Boston, SMIP instructors include professors from leading universities, though they are primarily from Harvard University's Kennedy School of Government.

PERF has developed and published some of the leading literature in the law enforcement field. Recently, PERF released a series of white papers on terrorism in the local law enforcement context, *Protecting Your Community from Terrorism: Strategies for Local Law Enforcement*, which examined such issues as local-federal partnerships, working with diverse communities, bioterrorism, and intelligence sharing. Other recent publications include *Managing a Multijurisdictional Case: Identifying Lessons Learned from the Sniper Investigation* (2004) and *Community Policing: The Past, Present and Future* (2004). Other PERF titles include an authoritative work on racial profiling, *Racial Profiling: A Principled Response* (2001); *Recognizing Value in Policing* (2002); *The Police Response to People with Mental Illness* (2002); *Citizen Review Resource Manual* (1995), *Managing Innovation in Policing* (1995); *Crime Analysis Through Computer Mapping* (1995); *And Justice For All: Understanding and Controlling Police Use of Deadly Force* (1995); *Why Police Organizations Change: A Study of Community-Oriented Policing* (1996); *Police Antidrug Tactics: New Approaches and Applications*; and *Under Fire: Gun-Buy Backs, Exchanges and Amnesty Programs* (1996).

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**M**otorola is a *Fortune* 100 global communications leader that provides seamless mobility products and solutions across broadband, embedded systems, and wireless networks. Seamless mobility means you can reach the people, things, and information you need in your home, auto, workplace, and all spaces in between. Seamless mobility harnesses the power of technology convergence and enables smarter, faster, cost-effective, and flexible communication. Motorola had sales of U.S. \$31.3 billion in 2004. Today, Motorola is comprised of four businesses: Connected Home Solutions, Government & Enterprise Mobility Solutions, Mobile Devices, and Networks.

Connected Home Solutions provides a scalable, integrated end-to-end system for the delivery of broadband services that keeps consumers informed, entertained, and connected. Its technology enables network operators and retailers to create and execute on new business opportunities by providing innovative products and services to the home.

Government & Enterprise Mobility Solutions is a leading provider of integrated radio communications and information solutions, with more than 65 years of experience in meeting the mission-critical

requirements of public safety, government, and enterprise customers worldwide. It also designs, manufactures, and sells automotive and industrial electronics systems and telematics systems that enable automated roadside assistance, navigation, and advanced safety features for automobiles.

Mobile Devices offers market-changing icons of personal technology—transforming the device formerly known as the cell phone into a universal remote control for life. A leader in multi-mode, multi-band communications products and technologies, Mobile Devices designs, manufactures, sells, and services wireless subscriber and server equipment for cellular systems, portable energy storage products and systems, servers, and software solutions and related software and accessory products.

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