

A NATIONAL POLICE CRISIS

Learning Objectives

After reading this chapter, you should be able to answer the following questions:

1. What has been the effect of the national police crisis?
2. What do we mean by “police accountability”?
3. What is the purpose of the PTSR Framework?
4. Why is the goal of organizational change important?

FERGUSON 2014: THE SHOOTING OF MICHAEL BROWN

Michael Brown, an 18-year-old African American man, was shot and killed by a white police officer in Ferguson, Missouri, on August 9, 2014. Brown was unarmed, and officials left his body in the middle of the street for four hours. Local residents quickly gathered to protest the shooting. Around noon that day, Officer Darren Wilson had received a dispatcher report of a “stealing in progress” at a local store. Wilson then saw Brown jaywalking in the street and stopped him. A physical encounter ensued, and Wilson’s gun discharged while he was still in his patrol car. Brown then fled and was about 30 feet away from Wilson when he began approaching again. Wilson fired six shots, killing Brown.¹

As protesters continued to gather, the police sent multiple police cars and canine units to the scene. The following day, peaceful memorials were held at the scene, but in the evening some people at the scene became disorderly. The police responded with about 150 officers in riot gear. Some protesters then turned violent and began looting stores, destroying vehicles, and confronting police officers. With

national television news channels providing continuous coverage, the violence continued for weeks. Sympathy protests occurred in cities across the country. Further protests erupted on November 24 when the grand jury did not indict Officer Wilson on criminal charges. National political leaders, including the president of the United States, commented on the violence. A national police crisis was born.

A NATIONAL POLICE CRISIS

The shooting of Michael Brown drew national attention to the chokehold death of Eric Garner in New York City 3 weeks earlier. Garner had been illegally selling individual cigarettes on the street and was confronted by several officers. One officer wrestled Garner to the ground and applied a chokehold in violation of New York City Police Department policy. Garner repeatedly cried, “I can’t breathe,” but he soon died. A grand jury declined to indict any officer for Garner’s death.² The fatal shooting of 12-year-old Tamir Rice in November 2014 by a Cleveland police officer, who did not hesitate to shoot as he exited his patrol car, further inflamed public opinion.

The deaths of African Americans had a significant impact on the racial divide in public attitudes toward the police. A 2016 poll by the Pew Research Center found that 84% of African Americans agreed that in dealing with the police, “blacks were treated less fairly than whites,” compared with only 50% of whites.³

The protests against police violence and the fatal deaths of African Americans focused attention on police accountability issues. Critics of the police argued that the deaths of Brown and Garner were completely unnecessary and that they were symptomatic of a national pattern of fatal shootings of African Americans. The deployment of military equipment by the police in Ferguson created an image of military occupation of African American neighborhoods. The chokehold death of Eric Garner convinced many people that African American males could be killed even for a minor, nonviolent crime. Additional violence erupted in Baltimore on April 12, 2015, when Freddie Gray, a 25-year-old African American, died in custody while the Baltimore police were transporting him to jail.⁴ African American activists expanded a loosely organized national movement under the name Black Lives Matter.⁵ Shootings of African American men and protests continued into 2018, a year that included the fatal shooting of an unarmed man by Sacramento, California, police.⁶

The President’s Task Force and Other Responses

In response to the growing national police crisis, then-President Barack Obama in late December 2014 appointed the President’s Task Force on 21st Century Policing to study police problems and make recommendations for reform. The task force was an unprecedented event in the history of American policing as the first-ever presidential commission or task force devoted exclusively to the police. (The 1960s Kerner Commission, appointed to study the causes of the wave

of urban riots, by comparison, covered a broad range of social and economic issues and devoted only two chapters of its report to the police.)⁷

The President's Task Force held seven "public listening sessions" in three cities across the country, hearing from 140 witnesses, and in May 2015 issued its *Final Report*. The report's 59 recommendations brought together the new thinking about policing that had been developing within the police profession and among police experts for several years. It opened with the stark declaration that "recent events . . . have exposed rifts in the relationships between local police and the communities they protect and serve."⁸ To address this problem, the report argued that the American police needed to establish legitimacy in the eyes of the public. Legitimacy is defined as members of the public having confidence and trust that the police will serve them fairly and equitably. To achieve legitimacy, the task force recommended that police departments adopt procedural justice; be more open and transparent by making their policies available to the public and engaging community groups in the development of new policies or the revision of old policies; and make publicly available systematic data on arrest and uses of force. None of the ideas and reforms was new; the main contribution of the task force report was to bring these ideas to national attention and integrate them into a package of reforms, creating a focused road map for police reform efforts.

The national police crisis prompted the national news media to give intense scrutiny to police practices. Most Americans were shocked to learn that there was no reliable data on the number of people shot and killed by the police. *The Washington Post* (and *The Guardian*, an English newspaper) undertook a survey of police shootings in 2015, using all available sources of information, including social media, and discovered that the number was twice what the FBI had been reporting every year. *The Post* found that the police had shot and killed 986 people in 2015, compared with the official FBI figure of 459.⁹ The reason for the discrepancy is that the FBI system is voluntary, and many police departments simply do not submit data (there is no penalty for not submitting reports). Criminologist Franklin Zimring's book *When Police Kill* examined all three of the federal sources of data on deaths at the hands of the police (the FBI Supplemental Homicide reports; Vital Statistics of the United States; the Bureau of Justice Statistics Arrest-Related Deaths), and found that they too estimated only about half the actual total.¹⁰

A study of media coverage of police-related deaths in three communities (Ferguson, Missouri; North Charleston, South Carolina; Baltimore, Maryland) found important changes in how such events were reported. More stories blamed the police than the victims, and there was considerable coverage given to "police violence." Particularly notable, news coverage identified "accountability deficiency," meaning that police officers were "rarely held accountable for their misconduct," as an issue. The authors concluded that "mainstream news reporting may be contributing to a 'new visibility' and critique of police wrongdoing."¹¹ The impact on public attitudes generated support for accountability-related reforms, and 35 state legislatures responded in 2015 and 2016 by passing 79 police accountability-related laws.¹²

Public anger at the police among African Americans prompted recognition that some police crime-fighting programs had severe adverse consequences for community relations. Intensive patrol and/or high rates of pedestrian vehicle stops

were particularly resented by African Americans. In a study of traffic stops in the Kansas City metropolitan area, Charles Epp and his colleagues found that investigatory stops (where the stop involves suspicion about the driver and/or passengers, rather than driving behavior) are deeply resented by African Americans.¹³ The idea that some aggressive crime-fighting tactics harmed community relations was nothing new. The Kerner Commission in its 1968 report on the urban riots of the 1960s reached a similar conclusion.¹⁴ The national police crisis that erupted in 2014 simply gave the idea a new urgency. The President's Task Force responded by recommending that "law enforcement agencies should consider the potential damage to public trust when implementing crime fighting strategies."¹⁵

The growing understanding that much police misconduct—use of force, abuse of stops and frisks, racial and ethnic profiling—is the result of crime-fighting policies and not individual officers acting alone raises serious questions about "hot spots" policing, currently the most popular and rigorously evaluated police crime-fighting program. Skeptics warn that police abuses seem almost inevitable in a program that targets intense law enforcement activity in certain high-crime places, which are almost always in communities of color. David Weisburd, one of the top experts on hot spots policing, however, notes that to date there is "little evidence" of this negative outcome. Future research is needed to determine whether the successes of hot spots policing can be combined with effective accountability-related measures to ensure that it is done in a procedurally just and bias-free manner.¹⁶

Increased public scrutiny of American policing also brought attention to the role of police unions as obstacles to police accountability. The news media reported that police union contracts gave officers privileges and protections that do not exist in other employment situations. A number of contracts, for example, gave an officer involved in a questionable incident (e.g., use of force) 48 hours before he or she could be interviewed by a department supervisor. (In Maryland and Baltimore, the waiting period was 10 days; although the publicity surrounding the national police crisis resulted in a change in the law that cut it to a still unbelievable 5 days.)¹⁷ Other police union contract provisions allowed officers to purge their disciplinary files after 3 years or in some cases only 1 year.¹⁸

The digital revolution played a major role in the protests against police shootings and other misconduct. Cell phones are ubiquitous among ordinary people, and they have captured videos of police encounters where an officer's conduct was highly questionable. Many Americans who simply had no experience with the police, and were skeptical about the stories of questionable shootings, could now see such incidents for themselves. The choke-hold death of Eric Garner in New York was replayed endlessly on national television, with its vivid scene of officers holding him down despite his pleas that he could not breathe. The most devastating video involved the shooting of African American Walter Scott in North Charleston, South Carolina, on April 4, 2015, as he was fleeing unarmed from the officer who had stopped him. It is safe to say that for most white Americans, this was the first time they had ever seen a video record of an outrageous fatal police shooting. The impact of the Scott video and others on public attitudes about police misconduct is incalculable.

The ubiquity of cell phones made virtually everyone an instrument of police accountability. Cell phones were joined by police body-worn cameras (BWCs). Already growing in use by police departments, the national police crisis spurred their rate of adoption to greater heights. While far from a perfect record of police–public encounters, BWCs are nonetheless the closest thing we will ever get to an objective record of those events.¹⁹ BWCs captured several serious police misconduct incidents in the 2014–2017 period.

The national police crisis also highlighted the role of the traditional police officer subculture in both promoting aggressive policing and opposing accountability measures. In a highly influential 2015 article, Sue Rahr and Stephen K. Rice argued that the American police had developed a “warrior cop” mindset, and too many Americans perceived them as “an occupying force, detached and separated from the community.” Police training emphasized “physical control tactics and weapons,” with too little attention given to “communication and de-escalation skills.” On the street, officers focused on “aggressive enforcement,” with crime reduction strategies that alienated the community. They called for a return of a “Guardian” mindset that emphasized respectful treatment of and active communication with people they encounter. The Guardian mindset, they argued, is more in tune with the values of American society.²⁰ Rahr was a member of the President’s Task Force, and many of its recommendations reflected her concept of the Guardian mindset.

A Political Backlash

The national protests against the police provoked a political backlash. Police officers and their union leaders accused police critics of unfairly criticizing the police, who they argued had a very difficult challenge in dealing with serious crime and faced threats to their lives on a daily basis. In New York City, for example, many police officers turned their backs on the mayor in December 2014 when he spoke at the funeral of a recently slain officer.²¹

Feeling under attack, police officers and their union leaders claimed they were backing away from aggressive crime-fighting police tactics because they were afraid of being criticized and disciplined. This phenomenon is known as “de-policing,” and police supporters argued that it contributed to a rise in violent crime. (It happened that homicides did increase in a number of cities in 2015.)²² In May 2016, then-FBI Director James Comey stated that because of officers’ “fears of appearing on internet videos confronting suspects, . . . there’s a perception that police are less likely to do the marginal additional policing that suppresses crime.”²³ De-policing is examined in Chapter 3 of this book.)

Inevitably, politicians jumped into the national controversy over policing. In the 2016 presidential election, Republican candidate Donald Trump expressed strong support for the police and denounced their critics. As president in 2017, he appointed Jeff Sessions as attorney general, and in March 2017, Sessions announced a “review of all Departmental activities—including . . . existing or contemplated consent decrees.”²⁴ All observers understood that the review meant an end to the Justice Department “pattern or practice” program through which the Civil Rights Division had reached court-enforced reforms in 40 different law enforcement

agencies. The Justice Department program was an unprecedented event in the history of the American police. It had conducted formal investigations of 69 local departments and reached formal settlements, usually called consent decrees, with 40. These judicially enforced agreements required police departments to adopt a set of accountability-related reforms, many of which we discuss in this book. Attorney General Sessions later also canceled the existing Collaborative Reform Initiative in the Justice Department, which involved voluntary agreements between the Justice Department and local police departments to undertake reforms related to officer-involved shootings, excessive force, and community relations.²⁵ Sessions replaced it with a much revised collaborative reform program, which had a very different agenda. In addition, the words and actions of the Trump administration Justice Department indicated that it was not in sympathy with the guiding philosophy and recommendations of the President's Task Force. In short, many people believed that an era of police reform had come to an end, and the future of reform was uncertain; Samuel Walker, however, argued that police reform had acquired considerable momentum and was very likely to continue in the future.²⁶

THE NEW CONVERSATION ABOUT POLICING AND POLICE REFORM

All the events surrounding the national police crisis that began in 2014 produced what Samuel Walker has labeled a New Conversation about policing and police reform.²⁷ The New Conversation involves a rough consensus of opinion about basic principles of policing and the reforms that were needed to achieve professional, respectful, and constitutional policing. Three major sources contributed to the New Conversation.

The President's Task Force on 21st Century Policing articulated basic *principles* of policing.²⁸ The most important principles include the need for police departments to achieve legitimacy in the eyes of the communities they serve; that the police should practice procedural justice when interacting with members of the public (and that police managers should also practice it in dealing with their own officers); that de-escalation is an important method of reducing police officer uses of force; that police departments should be more open and transparent with the public and, to that end, should make data about their operations public; and also that police departments should engage the public in developing new policies or revising old ones.

A series of reports by the Police Executive Research Forum (PERF), a professional association of police chiefs, developed a closely related set of *policies* designed to control officer uses of force and build better community relations.²⁹ These policies include practicing de-escalation in encounters with members of the public; training officers in tactical decision making, through which they assess and reassess their tactics in any unfolding encounter and choose the best option for the circumstances; and police departments revising their training methods to move away from lectures and toward scenario-based (or reality-based) training methods that better prepare officers for the real-life situations they encounter in the field.

The 40 settlements with local police departments negotiated by the Special Litigation Section of the U.S. Justice Department's Civil Rights Division embodied a set of *practices* designed to end police misconduct.³⁰ The most important include having a state-of-the-art use of force policy; requiring officers to file reports that are complete and accurate accounts of each use of force incident; sergeants critically reviewing all use of force reports by officers under their command, and demanding greater detail and clarity where needed; and departments maintaining a use of force review board (UFRB) that reviews use of force reports for the purpose of identifying possible problems in policies, training, or supervision that need to be corrected.

All three of these sources are cited frequently in this book. Another extremely influential source is the short report by Sue Rahr and Stephen K. Rice, *From Warriors to Guardians: Recommitting American Police Culture to Democratic Ideals*, which is a strong critique of the prevailing warrior culture in policing and the policies and training that contribute to it.

The principles, policies, and practices in the New Conversation developed gradually over time and only recently coalesced as a coherent package. Given this history, it is very likely that new ideas and perspectives will continue to develop, and the New Conversation will evolve as they do.

THE CHALLENGE OF POLICE ACCOUNTABILITY

Policing in America: Images and Reality

America is deeply divided over policing. The country is polarized politically and divided over issues of race, ethnicity, and gender. All these issues affect policing, so division over policing should be no surprise. A 2016 Pew Research Center survey found that white and black Americans live in “worlds apart” on issues related to policing, the criminal justice system, and other aspects of American society.³¹ In a study of traffic stops in the Kansas City metropolitan area, Charles Epp and his colleagues found a “deep racial divide” between whites and African Americans with respect to being stopped by the police.³²

The questions facing us in policing are basic ones. How can we achieve the best policing possible? How can we hold individual officers accountable for how they use their awesome powers of stopping people, arresting them, and even using deadly force to shoot and kill them? How can we end the deep racial divide in policing and establish professional and equitable policing for all people in this country?

Incidents of police misconduct have dominated the news media in recent years, with a profound effect on the public image of the police. Ron Weitzer examined the impact of the famous 1991 Rodney King incident, in which someone videotaped Los Angeles police officers repeatedly beating King. Public attitudes toward the LAPD dropped significantly among both white and African American

Los Angeles residents after the beating, which was repeatedly broadcast over television. Attitudes improved with time, but the attitudes of whites rose more than those of African Americans.³³ Events such as the Rodney King beating are often called “celebrated cases” and do not necessarily represent American policing as a whole. The national police crisis of 2014–2018 is different, however, as there has been a steady flow of controversial incidents nationwide, almost all involving race.

This book looks beyond the headlines and provides an evidence-based picture of the basic patterns and trends in policing. Is the quality of American policing worse than it was, or are things getting better? Positive developments—major improvement in police training, for example—are generally quiet events that do not make headlines and take time to make their full impact on day-to-day policing.

All the protests and controversies over police shootings and race and policing in recent years might easily lead a reasonable person to conclude that there has been little progress in American policing since the strife-torn urban riots of the 1960s. The massive 1965 Los Angeles riot was sparked by a simple traffic stop in the African American community of Watts on a hot August day. The even larger 1967 Detroit riot began with a police raid on an after-hours club in the African American community. Most of the riots of the period began with a police incident. The Kerner Commission, appointed to study the riots, opened with the ominous warning that “our nation is moving toward two societies, one black, one white—separate and unequal.”³⁴ (Many observers, including the authors of this book, would argue that the United States was and had always been divided by race.)

Can it be true that policing has not really changed since the 1960s? Have we made no progress at all in policing? The answer to that question is no.

Since the 1960s there has been a steady wave of important police reforms. Community policing and problem-oriented policing emerged in the late 1970s and early 1980s. “Hot spots” policing and CompStat did not exist. In the 1960s a police officer could legally shoot to kill an unarmed fleeing 15-year-old whom the officer believed had committed a felony. The landmark 1985 Supreme Court decision on police use of deadly force, *Tennessee v. Garner*, involved the shooting of 15-year-old Edward Garner.³⁵ Today, there are detailed rules governing police use of deadly force. Police department policies governing how police should handle domestic violence incidents did not emerge until the 1970s. Traditionally, police officers left the scene of many incidents without making an arrest, even if there was evidence of a felonious assault.³⁶ Big-city police departments were overwhelmingly white, despite large African American communities. In Cleveland, for example, African Americans represented 34% of the community but only 7% of the police officers.³⁷ There were no women officers on patrol duty until 1968.³⁸ By the end of that decade, there were no citizen review boards for police departments.³⁹ Today, there is some form of citizen oversight of the police in all big cities and many smaller ones.

If all these reforms have occurred, how do we explain the current national police crisis? The answer is that several social and economic forces have been running counter to the police reforms, creating increasing inequality in American society. Racism and race discrimination are still deeply embedded in American society, despite the great gains of the civil rights movement between 1954 (the *Brown v. Board of Education* decision) and 1965 (the Voting Rights Act). The gains

made by many African Americans have accentuated the class divisions within the African American community. While individuals such as former President Barack Obama and former Attorney General Eric Holder have achieved great success, there remains an impoverished community at the bottom, which some sociologists call an “underclass.”⁴⁰ Escape from the underclass is extremely difficult. Economic trends, moreover, have accented class divisions. The richest 1% of Americans own over 40% of all the country’s wealth, while the bottom 50% have actually lost ground economically since the 1970s.⁴¹

Mass incarceration has put 2.3 million Americans in prison as of 2017, a disproportionate number of them African Americans and Latinos.⁴² In the process, it has had severe collateral consequences. Six million people have lost the right to vote, and ex-offenders are denied the right to work in certain occupations or denied benefits such as access to public housing. Drug abuse has flourished. In addition to cocaine, heroin, and methamphetamines, a national crisis has arisen over the abuse of opioid drugs.⁴³ Social service programs have been cut. The erosion of mental health services means that mentally ill people do not receive the services and treatment they need. Often difficult mental health-related 911 calls have become an increasing part of a police officer’s work load. A veteran Portland, Oregon, police commander explained in 2012 that since he started his career, the number of mental health-related 911 calls has gone from “a couple of times a month to a couple of times a day.”⁴⁴

A DEFINITION OF POLICE ACCOUNTABILITY

It is a basic principle of a democratic society that the police are answerable to the public.⁴⁵ That is the core meaning of police accountability. Only in totalitarian dictatorships can law enforcement agencies do whatever the supreme leader wants, with the public and individual citizens having no avenues of redress and no courts to hold the leader in check. The United States is the oldest continuously operating constitutional democracy in the world, and despite our many social problems, that is a major achievement. The fundamental principle of a constitutional democracy is that government officials and agencies are answerable to both the people they serve and to the law as enforced by the courts.

Achieving greater accountability in a democracy is extremely difficult, however. And it is especially difficult with regard to the police. Democracy is a messy process. The famous British Prime Minister Winston Churchill once said that “democracy is the worst form of government, except for all those other forms that have been tried from time to time.”⁴⁶ Achieving police accountability is an enormous challenge, in part because democracy itself is a challenge. People disagree over what our governments—city, state, and national—should do. On many issues today, those disagreements are very sharp. The special nature of policing poses additional problems. How much power should the police have? How much input should citizens have in police policy? Too often in our history, the majority has wanted tough crime control measures, with the result that racial and ethnic minorities have suffered.⁴⁷

Police accountability has two basic dimensions. On one level it refers to holding law enforcement *agencies* accountable for the services they deliver: crime control, order maintenance, and miscellaneous services to people and communities. The community policing movement has been a major effort to reorient what police departments do—their basic mission—and to develop close and productive relations with the communities they serve.⁴⁸ At the same time, accountability also refers to holding *individual officers* accountable for how they treat individual citizens, particularly with regard to the use of force, equal treatment of all groups, and respect for the dignity of individuals. This book focuses on accountability with respect to the conduct of individual officers.

The two dimensions of police accountability merge, interact, and reinforce each other in many ways. Effective crime control, order maintenance, and service to the public depend on what individual officers do on the street. Officers who stop people because of the color of their skin rather than with reasonable suspicion that those people have committed or are about to commit a crime are not effectively addressing crime in the community. Law-abiding people, obviously, are not part of the crime problem. Officer misconduct, such as excessive force, also undermines effective police crime control by alienating community residents. The police depend on public trust and cooperation. They need people to report crimes and suspicious activities in their neighborhoods, to provide information about crimes, to serve as witnesses when they in fact witness a crime, to participate in neighborhood crime prevention programs, and so on. This form of cooperation between the police and community residents is defined as the “co-production” of police services. The President’s Task Force gave this idea a strong endorsement.⁴⁹

Law enforcement agencies are ultimately accountable to the public through the political process, by which elected officials translate the will of the people into public policy. Through their control of budgets and appointments, elected officials exercise control and oversight of the law enforcement agencies. Mayors appoint police chiefs, governors appoint the heads of state police agencies, and the president appoints the attorney general and the director of the FBI. At the same time, however, the police are also accountable to the law and should conform to established standards of lawfulness in all their operations. The courts are the principal mechanism for holding the police accountable to the law.⁵⁰

Democratic control of the police in the United States has also historically had unfortunate consequences, producing policing that violates constitutional rights of individuals and the rights of powerless groups. In an article on the history of governing the American police, Samuel Walker argues that the police are not “out of control,” as many police critics charge. Too often in our history, city police departments have been directed by mayors and city council members who respond to public demands to “get tough” on crime.⁵¹ In the 19th and early 20th centuries, “getting tough” involved violating the rights of immigrants, the poor, and the unemployed. By the mid-20th century, the focus of “tough” crime-fighting shifted to African Americans and Latinos.⁵² The sad fact of this history is that the majority of white and middle-class Americans have been quite willing to tolerate abusive police conduct toward powerless groups, including unconstitutional stops and searches, “sweep arrests,” and coerced confessions, because they believe these actions will reduce crime. Majority white opinion has encouraged or tolerated

racial bias in policing. The worst historical example of majority rule and the misuse of police power was the era of segregation in the South, where the police and the entire criminal justice system helped maintain a racial caste system, first during the slavery era before the civil war and later in the Jim Crow era (1876–1960s).

Accountability and Police Legitimacy

The most important new perspective on policing in recent years is the concept of legitimacy, which has important implications for the governing of the police and for police accountability.⁵³ The President's Task Force on 21st Century Policing made legitimacy of the police its guiding principle, arguing that "people are more likely to obey the law when they believe that those enforcing it have the legitimate authority to tell them what to do."⁵⁴ The concept holds that the police have legitimacy when they enjoy the understanding, trust, and support of the people they serve. Legitimacy goes far beyond the old issue of police–community relations (PCR), which focused narrowly on police relations with racial minority communities; legitimacy applies to everyone a police department serves. PCR programs were never very successful, mainly because they were always separate from basic police operations of patrol and criminal investigation, and as a result did not address day in, day out police conduct on the streets.⁵⁵

Legitimacy takes a comprehensive view of policing, looking at contacts between individual officers and members of the public, police departments as organizations, and relations between the police and the entire community. The concept of legitimacy is rooted in the academic discipline of procedural justice, which holds that when people are treated with respect by someone in authority and are allowed to express themselves, they will be more likely to respect and comply with that person.⁵⁶ The sense of legitimacy increases the more people feel they were treated with dignity and respect, were not singled out for mistreatment, and had an opportunity to express their voice in the event.⁵⁷

Procedural justice research has found that people who trust the legal system are more likely to obey the law, cooperate with authorities, and accept the results of any proceeding (a ticket, a guilty verdict, and so on).⁵⁸ The implications of procedural justice for policing are enormous. If people feel they are treated with respect and dignity, they are more likely to regard the police as legitimate and as a consequence are more likely to trust and cooperate with police officers. For the police, that means people will be more likely to obey the law, call the police for help when they have a problem, report crimes and neighborhood problems they know about, be witnesses in criminal cases, and be more respectful and cooperative in encounters with officers on the street. Public cooperation with the police is important to police effectiveness. Research years ago found that the most important factor in the police clearing crimes is whether there is a witness who can provide relevant information about the crime.⁵⁹ The community policing movement grew out of the recognition that the police depended heavily on citizen cooperation, which has been called the "co-production" of police services, and that police departments had become insular bureaucracies that had lost touch with people in their communities.⁶⁰

Procedural Justice on the Street and in the Classroom

A routine traffic stop illustrates how procedural justice operates. A driver is more likely to accept the legitimacy of the stop if the officer was respectful, explained the reason for the stop, and answered his or her questions. Positive feelings about the *process* are likely to neutralize any bad feelings the person has about the *outcome*, a traffic ticket. If on the other hand the officer was rude, did not explain anything, and refused to allow the driver to say anything, the driver is likely to be angry at the officer and the department. In fact, the driver is likely to be angry at a rude officer even if he or she did not receive a ticket.

Examples from other areas of life illustrate the distinction between the process and the outcome. A student's grade on a test or paper represents the outcome. The process involves whether the teacher provided comments on what was wrong or missing, or was willing to spend some time with the student explaining a low grade. Returning something to a retail store is another good example. The outcome is whether the company accepts the return. The process is whether the clerk was friendly or rude and accepted or questioned the customer's explanation. With respect to health care, people are more often unhappy with long waits with no explanation rather than the treatment they finally received.

Police leaders increasingly recognize the importance of police legitimacy. At a 2012 PERF conference on police use of force and de-escalation, the chief of the Arlington, Texas, police department said, "We want this topic [legitimacy] to be on the forefront of our officers' minds. They need to ask themselves: What have I done today, in this encounter, on this traffic stop, on this call, to earn the right to police this community?"⁶¹ All the policies and procedures of the new accountability discussed in this book contribute to legitimacy.

PTSR: A FRAMEWORK FOR ACCOUNTABILITY

The most important aspect of the new world of police accountability is that it represents a *set of policies and programs that work together, interact, and reinforce one another*. Failure to develop any one of those elements undermines the entire system. It is not sufficient, for example, for a police department to have a state-of-the-art policy on use of force if it is not reinforced by thorough and accurate training. (In the highly publicized suit against the New York City Police Department's stop-and-frisk practices, it was discovered that the NYPD was providing its officers incorrect training over the law of stops and frisks.)⁶² Similarly, a department can have an excellent policy and training over the handling of mentally ill people but nullify those contributions by having completely

inadequate supervision on the street. To understand the interrelatedness of the various elements of the new police accountability, it is useful to think of them in terms of the acronym PTSR, which stands for *Policy, Training, Supervision, and Review*.

Policy

An effective system of police accountability requires that departments have clear and detailed policies on all *critical incidents*, defined as police encounters that involve the life, liberty, and well-being of people they encounter. Written policies provide officers with proper guidance on how to handle the many situations they face on the street. They need guidance on what they *may not* do and what they *must* do. Almost all deadly force policies today, for example, prohibit the firing of warning shots as a means of getting a fleeing person to stop. Additionally, because in so many situations the exact nature of what is happening is not clear, most policies leave room for the officer to exercise his or her judgment about how best to respond to the situation. In the case of the decision to initiate a vehicle pursuit, for example, most policies allow officers to use their discretion about whether the road conditions (rain or snow) make a pursuit too dangerous.

As we will learn in Chapter 3, policies *structure* discretion by specifying the factors an officer should consider when exercising discretion. All policies today, meanwhile, require that officers complete a written report after each critical incident—a use of force report after each use of force incident, for example. The 2015 Seattle Police Department policy on use of force, adopted as a result of the Justice Department consent decree, illustrates the components of a thoroughly up-to-date policy.⁶³

- The policy opens with a statement of basic *principles*: “It is the policy of the Seattle Police Department to accomplish the police mission with the cooperation of the public and as effectively as possible, and with minimal reliance upon the use of physical force.”
- It then quickly states the *basic standard* for the use of force: “The community expects and the Seattle Police Department requires that officers use only the force necessary to perform their duties and that such force be proportional to the threat or resistance of the subject under the circumstances.” Notice that this part of the policy begins with a reference to what the community expects.
- The policy then *structures* the exercise of discretion. The first substantive section states that de-escalation shall be officers’ first option: “When safe under the totality of the circumstances and time and circumstances permit, officers shall use de-escalation tactics in order to reduce the need for force.” Note that the policy says officers “shall use” de-escalation unless circumstances dictate otherwise. A subsequent section provides more detail on the department’s de-escalation policy.

- Consistent with the principles of tactical decision making (which we discuss in detail later), the policy states that “officers should continually assess the situation and changing circumstances, and modulate the use-of-force appropriately.” Here, the policy clearly advises officers that they are expected to think about the situation and adjust their course of action as things change.

Good policies also require several other factors, which we will now discuss.

The SOP Manual

A police department’s policies are collected in a standard operating procedures (SOP) document (departments use a variety of different terms for this document). The SOP is not a static document, however. It is a living document that changes in response to new policies and new perspectives on existing policies. In a professional department, the policies are continually revised and added. Not too many years ago, for example, few departments had policies on foot pursuits. Today, however, foot pursuits are recognized as potentially very dangerous and are increasingly covered by department policies. The new 2015 New Orleans Police Department policy on foot pursuits (adopted as a result of a consent decree) begins with the statement that “foot pursuits are inherently dangerous and require legal justification, sound tactics and heightened officer safety awareness.” Note that the policy expresses the department’s values by stating that the primary emphasis is not on apprehending a fleeing suspect but on avoiding possible harm to citizens and officers alike.⁶⁴

Openness and Transparency

Both the Seattle and New Orleans police departments, moreover, post their policy manuals on their websites (as do an increasing number of other departments). This approach is consistent with the recommendation of the President’s Task Force for greater openness and transparency on the part of police departments.⁶⁵

Clarity

Policies need to be very clear about what they mean. In many cases this requires revising existing policies to eliminate any possible confusion. The Collaborative Reform Initiative report on the Las Vegas Metropolitan Police Department, for example, found the department’s deadly force policy to be generally sound but in need of some improvement. The report found that “the format [of the policy] is cumbersome and not structured in a clear and concise manner that allows officers to quickly apply guidance in the field.” It recommended that the policy be divided into “several smaller policies,” one of which would be “a core policy that serves as the foundation for the other related policies.”⁶⁶

Consistency

Policies need to be consistent throughout a department’s SOP manual. A recurring problem is that, as departments continually revise their policies, inconsistencies begin to

appear. The inspector general for the New York City Police Department found in 2015 that the NYPD's "current procedures for documenting and reporting force incidents are fragmented across numerous forms, and officers frequently use generic language that fails to capture the specifics of an encounter."⁶⁷ As a result, force reports were often inconsistent, which impeded the department's ability to effectively monitor the use of force and identify problematic patterns that needed corrective action.

Incident Reporting Requirements

In addition to the substantive element (when force can and cannot be used; factors to be considered before initiating a vehicle pursuit), policies also include the procedures for reporting the incident. Reporting procedures is a crucial element of accountability. In unprofessional departments, officers often fail to file complete and accurate force reports. The Justice Department investigation of the Cleveland, Ohio, police department, for example, found that the department "does not ensure that officers adequately report the force they use." Officers' reports did not "adequately convey the force they have used or why," thereby making it impossible for supervisors to determine whether the level of force used was appropriate and within policy.⁶⁸

The Impact of Good Policies

The quality of a department's policies has a major impact on the quality of police services delivered to the public. Inadequate policies fail to curb unprofessional and possibly illegal actions. The Justice Department in 2011, for example, found that the New Orleans Police Department had inadequate policies related to the investigation of sexual assaults. The inadequacies included "such basic, essential functions as: initial and follow-up victim interview protocol; collaboration with victim advocates; protocols for forensic examinations of victims; suspect interviews and forensic examinations; evidence preservation and crime scene management in the sexual assault context; and services/assistance to be offered to victims." The result was a pattern of violations of the rights of sexual assault victims. A consent decree in 2013 ordered a complete revision of all policies on the handling of sexual assaults.⁶⁹

Inadequate officer reports on the use of force, meanwhile, make it difficult if not impossible to effectively discipline officers. Command officers, for example, will not know that a particular officer has a pattern of using excessive force. That officer may be promoted to sergeant even though he or she is not the most qualified to supervise other officers. Since use of force reports are entered into a department's early intervention systems (EISs), inadequate reports will mean the EIS cannot effectively monitor officer performance and identify those who are in need of corrective intervention.

Training

Training needs to ensure that officers fully understand the requirements spelled out in department policies. A lawsuit challenging the NYPD's stop-and-frisk practices revealed that the department's training program was providing

officers with incorrect information on the law of stops and frisks.⁷⁰ In the 1989 case of *Canton v. Harris*, meanwhile, the Supreme Court ruled that “the need for more and different training is so obvious” that the City of Canton’s failure to adequately train was “deliberately indifferent.”⁷¹

A near revolution has occurred in police training in recent years, with respect to training philosophy, content, and instructional methods. Daytona Beach, Florida, police chief Michael Chitwood told a 2015 PERF conference on police training that “what we did 20 years ago is not good enough.”⁷²

The new developments have been driven mainly by an effort to reduce officer uses of force, including both deadly force and physical force. The report on the PERF conference provided data that police academy training programs devoted an average of 58 hours of training to firearms and 49 hours to “defensive tactics,” but only 10 hours to communication skills and 8 hours to de-escalation.⁷³ The overemphasis on use of force in police training has reinforced what Sue Rahr and Stephen K. Rice referred to as the “warrior” mindset in policing.⁷⁴

In practice, police training is far more than just preservice police academy for new recruits. The other parts include regular in-service training for all officers, roll-call training on special issues (a new department policy or court ruling), and special remedial training for certain officers (a basic component of EISs, which we will discuss in Chapter 7).

In-service training is particularly important. Art Acevedo, then chief of the Austin (Texas) Police Department, explained that “the vast majority of improper uses of force, especially deadly force, are a direct or indirect result of officers abandoning the tactics that we spent a lot of time and money training them on.”⁷⁵ Almost every state requires all its law enforcement agencies to have a mandatory in-service training program. The required number of hours varies from state to state, ranging anywhere from 12 hours to 40 or more a year.⁷⁶ In-service training is necessary not only to refresh officers on previous issues but also to introduce new subjects (e.g., a new state law or court decision) or new perspectives on old issues (as in recognizing types of mental illness).

California has a special in-service training requirement regarding “perishable skills.” At least once every 2 years, officers are required to take 12 hours of training, with 4 hours on each of three subjects: arrest and control, driver training and awareness on a driving simulator, and tactical firearms training on a use of force simulator.⁷⁷ The concept of “perishable skills” reflects the recognition that officer skills on certain subjects can erode over time, even with repeated use.

Tactical Decision Making

The emphasis on reducing officer uses of force has shifted the focus of training from the moment when an officer is about to use force to what the officer did leading up to that moment. The new focus is on tactical decision making and de-escalation.

De-escalation is a process whereby an officer uses verbal and nonverbal tactics to guide an encounter with a member of the public away from aggressiveness and confrontation and toward a peaceful resolution of the situation. The 2015 Seattle Police Department on de-escalation, for example, outlined the tactics an officer

can use: keeping your distance from the subject; avoiding a physical confrontation; moving to place a barrier between you and the subject; using communication skills such as simply listening and explaining, verbal persuasion, advisements, or warnings; or calling for backup.⁷⁸ The benefits of de-escalation are many: When an encounter is successfully de-escalated, no force is used. There is no possibility that the person will be injured, no possibility that the encounter will lead to a physical struggle in which the officer might be injured, no use of force report, no administrative review of a use of force report (thereby saving considerable time for internal affairs), no community protest or formal public complaint, no lawsuit, and no media coverage unfavorable to the police department. In short, everyone benefits.⁷⁹

De-escalation is only one part of a new approach to police-public encounters known as tactical decision making. Police experts increasingly recognized that officers have the capacity to shape the outcome of encounters with the public (not absolute capacity, of course, but some capacity in many incidents). If an officer chooses one tactic, the chances of a use of force increases; choosing a different tactic reduces the possibility of a use of force. The idea of officers facing a “split-second decision” applies to relatively few encounters. Cathy Lanier, then chief of the Washington, DC, police department explained that many police shootings are the product of “the decisions leading up to the moment when you fired a shot.”⁸⁰

Tactical decision making involves several components. The PERF report on training emphasized the need to “slow the situation down” and for officers to “buy themselves more time to communicate with the person, assess the situation, develop a plan for resolving the incident, and get additional resources to the scene, if necessary.”⁸¹ Keeping a safe distance from a person is a good way to buy time. The new formula for tactical decision making is summarized as distance = time = communication = a plan = resources.⁸²

Scott Thomson, chief of the Camden, New Jersey, police department summed up the new thinking: “In the past, we spent a lot of time teaching officers how to safely handle and shoot a gun, but not enough on how to avoid drawing your gun in the first place. It’s about distance, cover, dialogue and time: properly using distance and cover to your advantage; giving yourself more time to assess and diffuse the situation; formulating a safer response. It’s important for us to reward restraint.”⁸³

In an extremely important decision, the California Supreme Court ruled that it was constitutional for the San Diego Police Department to consider the pre-shooting tactical decisions made by an officer “if the tactical conduct and decisions leading up to the use of deadly force show, as part of the totality of circumstances, that the use of deadly force was unreasonable.” In short, police shooting decisions should not be reviewed solely on the basis of final moments related to the decision to shoot.⁸⁴

An important new element of police training involves the issue of unconscious racial and ethnic bias in policing. The theory of unconscious bias holds that unflattering stereotypes of different racial and ethnic groups are deeply ingrained in American culture, to the point where people who do not indicate bias on written tests or interviews unconsciously act on them in real-life situations. Several studies using police shooting simulations, with cohorts of police officers compared with non-officers, found that test subjects were both more likely to shoot African Americans than whites

in comparable scenarios and also likely to decide to shoot in scenarios involving African Americans.⁸⁵ The President's Task Force endorsed training on unconscious bias, and the Fair and Impartial Policing Project, created and run by Lorie Fridell, provided training to a steadily increasing number of police departments.⁸⁶

Training and the Culture of Policing

The police academy experience has traditionally involved more than just teaching the policies and procedures of the department. It has been a “rite of passage” into a profession, with much emphasis on group solidarity.⁸⁷ In their highly influential paper, Rahr and Rice argue that academy training has traditionally reinforced the “warrior” culture of policing, with its emphasis on toughness, maintaining complete control of situations, and never showing weakness.⁸⁸

The “take charge” mindset increases the possibility that an officer will have to use force, however. If an officer gets too close to a disturbed or angry person, for example, that person has a greater opportunity to attack and get into a physical fight with the officer.⁸⁹ The traditional “warrior” culture described by Rahr and Rice encouraged officers to never “back down,” on the grounds that it would be perceived as a sign of weakness and encourage people to attack the officers. The PERF report argued in favor of “tactical disengagement,” which involves officers keeping their distance to avoid confrontations, even to the point of stepping away from a potentially violent encounter. The chief of the Woburn, Massachusetts, police department told the PERF conference that he trains officers to “step back and put a wall around the situation,” and that “there is no shame in tactically retreating and calling for backup.” (The term *retreat* is usually avoided among police leaders because it suggests surrender, and the term *disengagement* is preferred.) The main point of disengagement is that it “can save officers’ lives.”⁹⁰

A number of police shootings involve officers shooting to defend themselves against a vehicle that is driving straight toward them. In a certain percentage of those cases, however, the officer was standing in an exposed location (knowing there was a suspect in the vehicle); had the officer stood behind another vehicle, he or she would have been protected. In tactical decision making, this is referred to as “positioning” and “cover.”⁹¹

Tactical decision making changes the way police training programs view police officers. Instead of teaching officers to just follow the rules as stated in the department’s force policy, it teaches officers to *think* about the situation and *choose* the most appropriate response. A commander with the Los Angeles Police Department explained that in the past we “told recruits to sit down, shut up, and listen for six months.” Today, we want “self-motivated, interdependent, community-motivated, critical thinkers and problem-solvers.”⁹²

Problem solving involves officers continually reassessing the situation as it unfolds and adjusting their response accordingly. In the case of a mental health-related 911 call, it might happen that the person suddenly draws a weapon that was not previously evident. This calls for an immediate reassessment by the officer.⁹³ Alternatively, the person’s immediate mental health crisis might pass, as they often do, and the situation can be resolved peacefully.

But do procedural justice and tactical decision making actually work? Do they make a difference in how officers on the street interact with people? Are there any measurable changes in police activity? An evaluation of the Seattle Police Department LEED program (Listen and Explain with Equity and Dignity), a Washington State Criminal Justice Training Commission program, found very promising results. A group of officers was selected for the program and matched with a control group. At regular engagement meetings, the sergeant would ask officers whether they applied procedural justice during previous incidents. Officers were asked open-ended questions and expected to reflect on their conduct without fear of judgment. They were asked whether they were satisfied with the outcome of the incident and whether they would do anything differently. The evaluation found that participating officers became involved in more incidents, were less likely to use force, and made fewer arrests than officers in the control group. In short, the program achieved significant improvements in officer performance. Particularly important, the officers were not told how they should handle incidents but were instead asked to think about their style of police work.⁹⁴

Training Methods

Instructional methods in police training have also experienced a revolution. As one Los Angeles police commander explained, the traditional system of classroom lectures mainly succeeded in “boring officers to death.”⁹⁵ Today, training increasingly involves scenario-based training (also referred to as reality-based training), in which officers actively participate in a mock incident involving, for example, a mentally disturbed person or someone who is belligerent and actively hostile to the officer. The Collaborative Reform report on shootings by Philadelphia police officers found that recruits were actually requesting scenario-based training.⁹⁶ Following the court-ordered settlement of the stop-and-frisk suit, the New York City police department created mock locations at its police academy and also took recruits out onto the streets for additional reality-based training.⁹⁷

Training officers themselves also need to be well-trained and knowledgeable about the best practices related to training content and methods. In Philadelphia, the Collaborative Reform review found that training officers were certified as trainers once but then never again in their careers.⁹⁸

In the end, police training is a highly complex and continually changing process. Police departments need to provide different types of training to constantly keep up with emerging best practices in policing.

Supervision

The heart of day-to-day policing, and the crucial element in accountability, involves a sergeant and a crew of 8 to 10 officers (the standard ratio generally recognized in the profession). Sergeants are responsible for directly observing their

The Responsibilities of Sergeants

The duties of a sergeant include “responding to, investigating, and documenting force . . . ; ensuring that officers are working actively to engage the community with the goal of increasing public trust; monitoring, commanding, and controlling incidents and calls for service; reviewing arrest reports for compliance with law . . . ; identifying training and professional development needs; and providing leadership, counseling, redirection, and support to officers as needed.”

Source: *United States v. City of Cleveland*, Settlement Agreement (2015), 74 (para. 322), <https://www.justice.gov/crt/case-document/file/908536/download>.

officers, supporting and backing them up, monitoring their actions, and directly intervening when necessary or appropriate. Additionally, sergeants are responsible for critically reviewing officers’ reports to make sure they are complete and truthful. This involves asking for more detail when reports are inadequate, looking for contradictions in the officer’s account, seeking additional information about the incident from witness officers and/or bystanders who witnessed the incident, and requiring the officer to provide additional detail. (Box 1-2 contains the requirements regarding the duties of sergeants in the consent decree with the Cleveland, Ohio, police department.)

In practice, there is no common approach to how sergeants supervise. (And there is shockingly little research on the activities of sergeants.) Robin Engel’s research identified four different supervisory styles used by sergeants. About a quarter of all the supervisors in the study adopted a “supportive” definition of their role, seeking to protect their officers against upper management. That approach is unacceptable in the new accountability. Another quarter of the supervisors were defined as “traditional” in their role definition, emphasizing strict discipline of officers.⁹⁹ As we shall see later in this book, important elements of the new accountability—particularly EISs—go beyond mere discipline and emphasize supervisors’ role in using problematic encounters with citizens as opportunities to counsel, coach, and train officers in how to be better officers.

When an officer violates a department policy, as in using excessive force, the sergeant has a duty to report it to internal affairs for investigation. When an officer’s conduct is simply less than ideal but not a violation, the sergeant may choose to advise, counsel, or mentor that officer about proper police action. Such actions represent the best kind of “early intervention” to improve officer performance. The quality of use of force reports has major implications for other accountability policies and programs. The Justice Department investigation of the Cleveland, Ohio, police department in 2014 “almost never found” cases where sergeants deemed that the use of force was unreasonable.¹⁰⁰

A department's EIS, however, depends on getting use of force report data that accurately reflects officers' performance. If sergeants are covering up officers' use of excessive force, the EIS becomes useless.

Review

Review, the final component of the PTSR Framework, is a form of self-monitoring and organizational development for law enforcement organizations. It involves formal procedures for the continuous review of important activities and operations—uses of force or possible racial, ethnic, or gender discrimination in arrests or in uses of force—for the purpose of identifying problems related to policy, training, and supervision that need corrective action. In short, review procedures are designed to ensure that the other components of the PTSR Framework continue to function effectively. They represent the implementation of what William A. Geller described as police departments becoming “learning organizations.”¹⁰¹

Review takes several forms, both internal to police departments and from external oversight agencies. An important recent development is a UFRB, which is responsible for reviewing all uses of force for the purpose of identifying problems related to policy, training, or supervision that might need corrective action. The purpose of a UFRB is not discipline, which remains the responsibility of a department's internal affairs or professional standards unit. When a UFRB identifies a problem, it reports the matter to the chief of police, who then either initiates a more extensive study of the issue or immediately initiates corrective action. The mission of the UFRB in the Cleveland, Ohio, police department, for example, is “to serve as a quality control mechanism for uses of force and force investigations, and to appraise use of force incidents from a tactics, training, policy, and agency improvement perspective.”¹⁰²

An EIS is another form of review. An EIS is a computerized database of officer performance, with systematic data on as many as 15 specific areas of performance: uses of force, citizen complaints, vehicle pursuits, officer use of sick leave or overtime, and others. (EISs are covered in detail in Chapter 6.) Using an established threshold formula, EIS managers identify those officers with apparently problematic patterns of performance (a high number of citizen complaints, for example). A more detailed inquiry into the performance of those officers who are initially identified is conducted, and some of those officers are selected for corrective intervention. Possible interventions include counseling by the officer's immediate supervisor or higher-level command officer; referral to professional counseling for substance abuse, anger management, or some other issue; or retraining on a particular police activity (how to conduct a field stop and interview, for example). Following the intervention, an officer's performance is monitored to determine whether it has improved.¹⁰³

The review of department policies and practices is also conducted by external oversight agencies. They include police auditors and inspectors general. They have the authority to review any and all aspects of the police department for which they are responsible and to issue public reports with recommendations for improvements. Chapter 7 discusses the work of these agencies in detail.

BASIC THEMES IN THE NEW POLICE ACCOUNTABILITY

Several themes emerge from the examples of the new world of police accountability we have discussed so far.

The Goal of Organizational Change

One of the most important themes in the new accountability is the focus on *organizations* rather than individual officers. Law professor Rachel Harmon argues that “much police misconduct is not accidental, or inevitable,” and therefore systemic reform “requires structurally changing police departments . . . in order to create accountability for officers and supervisors and foster norms of professional integrity.”¹⁰⁴ A 2017 Justice Department report on the Civil Rights Division’s “pattern or practice” program explains that its “cases focus on systemic police misconduct rather than isolated instances of wrongdoing.”¹⁰⁵ The Justice Department Findings Letter on the Albuquerque Police Department adds that “the use of excessive force by APD officers is not isolated or sporadic”; rather, it “stems from systemic deficiencies in oversight, training, and policy.”¹⁰⁶

The focus on *organizational change* is a significant departure from past reform efforts that focused too much on individual officers who may have used excessive force or made a racially biased arrest.¹⁰⁷ The so-called “rotten apple” theory of police misconduct persists, even though it no longer has credibility among police experts.¹⁰⁸ The theory continues to appeal to many members of the public and public officials, mainly because it has powerful emotional appeal. It personalizes misconduct by giving it a human face—the officer involved in a shooting or excessive force case—and points toward a solution: firing or prosecuting the officer involved. Organizational change, by contrast, involves adopting complex administrative procedures (e.g., use of force reporting requirements, EISs) that lack emotional appeal, have no human face, and are often difficult for the ordinary person to immediately understand. The results, moreover, lie in the future rather than in the emotionally charged present.

The PTSR Framework embodies the organizational change focus of the new world of police accountability by emphasizing that the four components of policy, training, supervision, and review are an integrated package that reinforce and rely on one another. Shortcomings in one component of the framework can cause the entire system of accountability to collapse and the department to sink into patterns of abusive conduct.

Little research, however, exists on the issue of organizational change of the sort we are concerned with in this book: reforms not focused on one particular aspect of policing but on the organization as a whole for the purpose of reducing and hopefully ending practices that violate people’s constitutional rights and establishing department-wide practices that enhance legitimacy and positive community relations.¹⁰⁹

Changing the organization also involves changing the organizational culture of a police department and the police officer subculture. The organizational culture involves police practices that are the result of the official policies of the department (for example, its policy on vehicle pursuits). The police officer subculture, on the other hand, refers to practices that are the result of the attitudes and informal understandings among the police officer rank and file (a practice of aggressive conduct toward homeless people, for example). As Scott Thomson, chief of the Camden, New Jersey, police department told a PERF conference, “culture trumps policy.”¹¹⁰ In Chapter 3, we will discuss how well-designed policies on use of force can begin to change the police officer subculture.

Challenges Facing Organizational Change

Attempting to change an entire organization—whether a police department or a private corporation—is a major challenge. Many different parts of the organization have to be changed all at once, and many changes need to be made before others can be made. A department needs to revise its policy of handling mentally ill people, for example, before the training unit can implement a new training program on that issue. The Justice Department Findings Letter on New Orleans explains that, for example, just to develop community policing and/or problem-oriented policing in a department requires changing “each aspect of its management, structure, and use of resources.” That includes “leadership, policies, climate and culture, systems of accountability, and training and deployment of personnel.”¹¹¹

Samuel Walker argues that attempting to change a seriously troubled police department with patterns of abusive practices poses a conundrum.¹¹² A troubled department is defined as one that has inadequate policies on use of force and other critical incidents; has poor records systems of uses of force, traffic stops, and public complaints; and most important, does not have the mindset of accountability. Command officers have no experience with accountability systems. In short, we are asking a department to do new things that it does not know how to do and has no experience with. How can we expect that department to transform itself?

The answer to that question can be found in the experience of the 40 Justice Department consent decrees and memoranda of agreement with local police departments.¹¹³ The key to success in those cases involves the role of the court-appointed monitors. The monitoring process involves an independent team observing on a regular basis the various reforms. Monitors regularly report to the district court and to the public the degree of progress made. Monitors play a variety of roles in this process: monitor, goad, counselor, tough-grading school teacher, and resource person.¹¹⁴ A police department is not attempting to implement the required reforms entirely on its own. Evaluations of the Pittsburgh and Los Angeles police departments found that while officers complained about the new accountability-related requirements placed on them (calling them “burdensome paperwork”), an examination of law enforcement activities found that officers’ work efforts did not decline and a number of officers explained how they and others were complying with the new requirements.¹¹⁵ We will examine this issue in greater detail in Chapter 3.

Data-Driven Policing

Professionally managed police departments today are data-driven. That is, they rely on the collection and analysis of systematic data to guide their operations. Data-driven operations involve both police work in the community and internal police operations. Policing today is an information enterprise from the bottom of the organization to the top. Top management today cannot effectively run a department without systematic data on reported crimes, arrests, traffic stops, uses of force, and so on. The data also need to be detailed, including demographic data on the people who are arrested or stopped.

One of the most important police innovations of the past two decades is CompStat, a program pioneered by the New York City Police Department in the 1990s. A CompStat program involves the collection and analysis of timely data on neighborhood crime and calls for service. The data are presented at regular CompStat meetings, and precinct or district commanders are expected to explain what they are doing in response to any increase in particular offenses. A CompStat program requires accurate and timely data on criminal activity. This, in turn, requires that a police department have a sophisticated computerized infrastructure.¹¹⁶

“Hot spots” policing is one of the most important innovations in police response to crime in recent years. It also requires accurate and timely data on crimes and calls for service so the hot spots can be identified and the police response can be evaluated.¹¹⁷ An EIS to identify officers with performance problems requires accurate and timely data on many aspects of police performance: uses of force, citizen complaints, officer discipline histories, and so on. Many less-than-professional police departments do not have these data in compatible computerized formats. The data also need to be checked for accuracy and must be entered into the EIS in a timely fashion.¹¹⁸

The President’s Task Force, in response to public concerns about racial profiling, recommended that police departments collect, analyze, and make public data on “all detentions (stops, frisks, searches, summons, and arrests).”¹¹⁹ To accomplish this task, a department needs to have an up-to-date computer infrastructure and personnel with the capacity to use it, and it must have policies that require officers to report all stops, including demographic information about the person stopped, the location and circumstances of the stop, and the outcome (no action, warning, ticket, arrest, use of force). The Justice Department, for example, faulted the Seattle Police Department for not collecting demographic data on persons stopped on the street by precinct or district. It noted that “data collection is just one piece necessary to address policing practices.”¹²⁰

Data-driven policing imposes substantial burdens on many police departments. Few officers are proficient in systematic data analysis, and this subject has never been a part of police academy curricula. To make full use of the potential of data analysis, departments will need to revise training accordingly.

Police Departments as Learning Organizations

Several of the accountability policies and procedures we have discussed involve police departments becoming *learning organizations*. In proposing this idea years ago, William A. Geller asked, “Can our police and sheriffs’ departments find ways to work smarter, not just harder?” He answered his own question by arguing that police departments should “institutionalize the organizational learning process, just as our Nation’s best run companies do.”¹²¹ Working smarter involves being proactive regarding current or potential issues (on policy and training, for example) and developing data systems that document current operations, help identify trends, and provide the basis for informed action.

There are many examples of police departments becoming learning organizations. Charles Ramsey, when he was the reform-minded commissioner of the Philadelphia Police Department, launched an anticorruption program, saying “a learning organization is one that has a shared vision and mission, has the means and the willingness to learn from the experiences of its members, seeks out best practices and makes changes as required.”¹²² A UFRB, which we have already discussed, is an excellent example. UFRBs analyze data on force incidents to learn about possible problems with regard to the department’s policy, training, or supervision and then recommend corrective action. External citizen oversight agencies, as we also have discussed (and will discuss in more detail in Chapter 7), have free rein to examine possible problems with a police department’s operations and recommend needed improvements.

From Punishment to Behavior Change

New thinking about police disciplinary practices has begun to shift from punishment to changing and improving the behavior of officers. Police experts pointed out decades ago that police departments were historically “punishment-centered,” emphasizing meting out discipline for any rule violation, including on minor issues.¹²³ Mere punishment—a reprimand or suspension, for example—does not necessarily result in better conduct by the officer, however. It has been assumed that punishment has a deterrent effect. But there is no evidence that deterrence works in this context. Often, it only creates resentment among disciplined officers and reinforces their negative attitudes about the department. Darrel Stephens, director of the Major City Chiefs Association,¹²⁴ argued in a report called *Police Discipline: A Case for Change* that “alternative courses of action that would lead to behavioral change are seldom part of the sanctions imposed on officers who have had sustained misconduct charges.”¹²⁵

EISs are also designed to change behavior. They are not a part of a department’s discipline system, and the interventions they deliver are designed to correct the performance problems with an officer that the EIS has identified. Interventions can include counseling by an officer’s supervisor or by command officers, referral to the department’s employee assistance program, referral to professional

counseling for substance abuse or anger management, or retraining on the specific issues where an officer is having performance problems (e.g., properly conducting traffic stops).¹²⁶

Darrel Stephens has endorsed the education-based discipline program developed by the Los Angeles Sheriff's Department. Instead of a reprimand or suspension, an officer is required to engage in a project designed to enhance understanding of the social problems he or she faces on the street. Projects might include volunteering for several hours at a homeless shelter (for an officer with complaints about excessive force against homeless people).¹²⁷

Best Practices in Accountability

The term *best practices* is widely used in discussions of policing and police accountability. Yet there is no official list of best practices or even a universal agreement about what items should be on such a list. The accreditation standards of the Commission on Accreditation for Law Enforcement Agencies (CALEA) are the closest thing there is to such a list in policing. The CALEA standards have been criticized on a number of grounds. Actually, it is best that there is no list of best practices on police accountability. When we look at the use of that term over the years, it is evident that it has been applied to a constantly changing list of items, and the specifics of some items have changed over time. This is as it should be. It is best that recognized best practices should be allowed to change as new ideas, new perspectives, and new research findings arise. It is also good that there be competing lists, as that will provoke valuable debate over which items are indeed the "best."¹²⁸

Today, there are three sources for policies and practices in police accountability that represent the best thinking on the subject. They are widely cited in this book. They are the *Final Report* of the President's Task Force on 21st Century Policing; the "PERF 30," a list of thirty recommendations in PERF's report *Guiding Principles of Use of Force*; and the basic set of reforms contained in the U.S. Justice Department's various consent decrees and memoranda of agreement.¹²⁹ We will return to these three sources, and how they can guide police reform in the future, in Chapter 10.

The Challenge of Sustaining Police Reforms

In the long run, the greatest challenge facing police accountability reforms is to sustain them over time and make them a lasting part of any police department. There is a long history of important police reforms that simply faded away and disappeared.¹³⁰ One of the most notable examples involves the corruption-control reforms developed by New York City Police Commissioner Patrick V. Murphy in the early 1970s. In the wake of the highly publicized corruption scandal investigated by the Knapp Commission (and generally associated with the name of Officer Frank Serpico, who wrote a book about his experience from which a

movie was made),¹³¹ Murphy decentralized corruption control in Field Investigative Units. These units were designed to be closer to streets where the problems existed than the old centralized unit and therefore presumably more effective. Yet 20 years later another corruption scandal erupted in the department. The 1994 Mollen Commission investigated and found that the reforms had completely collapsed and blatant corruption flourished. Even worse, the commission found a new and even more insidious form of corruption within the NYPD, a combination of brutality and graft.¹³²

Before the idea of community policing developed, police departments in the early 1970s experimented with “team policing,” which included some but not all of the elements of community policing. Very quickly, it became the fad of the moment (or “the flavor of the month”), and departments across the country claimed to be doing team policing. Then, suddenly, the idea lost its luster, and team policing disappeared as quickly as it had arisen.¹³³

Wesley Skogan, in an important article on “Why Reform Fails,” lists the many obstacles facing reform efforts. They include resistance by police managers who feel threatened by change; resistance by sergeants who also feel threatened by change to their established ways of working; resistance by rank-and-file officers; resistance by special units; resistance by police unions; competing demands and expectations, both within a police organization and between the police and community groups; the difficulties in “measuring what matters” in policing; frequent leadership changes in police organizations; and others. These are formidable obstacles, and they have doomed many important reforms over the decades. To the traditional list we can add the impact of the national financial crisis, which has constrained the budgets of all government agencies and for the police has resulted in loss of police officers, delays in hiring new officers, cuts in specific programs such as training, and in general has forced police managers to focus on immediate needs rather than planning and innovation.¹³⁴

THE CHALLENGE AHEAD: REASONS FOR HOPE, REASONS FOR CAUTION

The new police accountability is an exciting development that holds great promise for the future. A number of new programs, policies, and perspectives on accountability have emerged in recent years. Procedural justice is an important new issue in policing, UFRBs are a new way for police departments to become learning organizations, and we have new perspectives on how to control officer use of force. We can now see these and other new developments as an integrated package in the PTSR Framework, in which they interact and reinforce themselves. There are also three “road maps” to reform, three sets of reform principles and policies: the recommendations of the President’s Task Force, the PERF 30, and the various reforms embodied in the Justice Department’s “pattern or practice” litigation program.¹³⁵ Police departments across the country are implementing programs based on these three road maps.

We should not ignore the challenges that lie ahead, however. It is important to emphasize that the *promises* of the new accountability are not yet fully realized across the country. The long and depressing history of important reforms simply fading away is a sobering fact.

Many cynics believe that the American police are incapable of reforming themselves and that the police subculture is resistant to all efforts to achieve accountability. Regrettably, a review of police history lends an uncomfortable amount of support to this very pessimistic view. This book argues, to the contrary, that self-sustaining commitment to accountability is indeed possible and has in fact already made some important gains. A number of law enforcement agencies across the country have made a significant commitment to accountability, and in several important respects there are efforts to build on and strengthen critical incident policies and internal review of patterns and trends in police operations that affect the lives, liberties, and safety of the American people. The remainder of this book describes the important developments in police accountability.

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