CRITICAL ISSUES IN POLICING SERIES:

Strategies for Resolving Conflict and Minimizing Use of Force

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Contents

Foreword

It's not likely that the challenges and consequences of police use of force will ever be completely resolved. Police executives are constantly striving to discover new strategies, tactics, and weapons to safely conclude a violent encounter. For law enforcement agencies dealing with the challenges inherent in police use-of-force incidents, this book provides valuable perspectives and vital assistance.

This book is the fourth in the ongoing *Critical Issues in Policing* series supported by Motorola. The first book, *Exploring the Challenges of Police Use of Force,* provided guidance to police executives on how to ensure that force is used only when justified, and provided examples of mechanisms for dealing with unjustified incidents when they occur. The second book, *Police Management of Mass Demonstrations,* highlighted a number of issues and provided guidance for police executives on how to effectively manage resources and interact with various constituencies while dealing with large numbers of demonstrators. The third book, *A Gathering Storm—Violent Crime in America,* provided information about the rise in violent crime in the United States between 2004 and 2005 and the first six months of 2006 and captured the perspective of law enforcement leaders on this increase. These books have been widely used throughout the country as a resource for police executives. In a number of jurisdictions, the books are used for promotional exams and police leadership programs. This fourth book builds on the success of the previous books, and focuses on:

- Building community trust around issues of force, including the management of high-profile incidents;

- Managing police use of force while interacting with people with mental illness, emphasizing specialized approaches and promising training;

- Examining less-lethal technology—both currently available and future devices—as well as discussing how technology relates to less-lethal force decision-making; and

- Presenting a glossary of terms on conducted energy devices and proposed national guidelines for their use.

Collaboration is a theme that recurs consistently throughout these pages. Especially in preventing and resolving use-of-force incidents, police agencies need to partner with other professions and agencies, to bring the right mix of professional acumen to potentially violent incidents. Consider, for example, what happens when a police officer confronts an agitated man or woman with mental illness, and it is clear that the agitation may spiral upward into violence. Police are called on to respond to high volumes of these calls, and each one can take a long time to resolve. But there has been productive work on this issue. Agencies are developing promising strategies. In one strategy, a team composed of a law enforcement officer and a mental health professional arrive on the scene together when a person with mental illness is causing a disturbance. They collaborate to gain control of the individual and also to provide crisis intervention and referrals to mental health facilities.
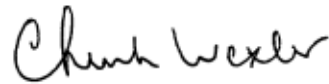
There has been a steady rollout of new products that give police officers more options—and thus more flexibility—in responding to potentially violent individuals. On the horizon, beyond familiar tools like conducted energy devices, are

innovations using technologies that include laser-lights, acoustic devices, and malodorants.

It would be easy, amid all the excitement about new less-lethal weapons, to lose sight of the principal objectives of the use of force. It is not the tool used that matters, after all—it is the desired outcome and how to best plan for it. The principal objectives regarding any potential use of force are to ensure the safety of citizens and officers, as well as to prevent self-destructive behavior. Police officers have learned how to do both these things by, for instance, keeping a safe distance and talking the subject into surrendering. But there are many situations where these kinds of practices just are not adequate. Even if the officers are carrying the latest and best less-lethal weaponry, they still need to be aware of the latest information available to help them make sound decisions in force situations.

So, while use of force doubtless will be a complex issue for many decades to come, this book will share with you some of the latest thinking in this area and will provide examples of promising practices. Importantly, the book will encourage you to review your own efforts in scrutinizing your policies, practices, tactics, and weapon alternatives. It is our hope that this book will help law enforcement professionals and other stakeholders learn from the experiences, approaches, and research of others, and advance the debate on police use of force.

Chuck Wexler

Executive Director
Police Executive Research Forum
Washington, D.C.

Acknowledgments

On behalf of PERF's staff and members, I would like to thank the many people who have worked hard in the creation of this book. It has been a collaborative effort, and the insight and expertise offered by those involved will certainly contribute to the collective wisdom of our profession. As I worked on this project for more than a year, I was continuously amazed—and grateful— that the law enforcement field is filled with innovative, brilliant, and empathetic people who are committed to serving the public.

It has been an enriching experience for me personally, working with police officers, subject matter experts, and other people from throughout the United States—and around the world—who are committed to improving police service. I hope that this book will provide valuable information to aid those in the profession to make more informed decisions about police practices.

Special thanks are due to our partners at Motorola for their support of the *Critical Issues in Policing* series. This book—the fourth in a series that Motorola has supported—reflects their continued efforts as an exceptional corporate partner that truly cares about the law enforcement profession. We are grateful to Mr. Greg Brown, President and Chief Operating Officer; Mark Moon, Corporate Vice President and General Manager, Government and Commercial Markets; and Rick Neal, Vice President, Government Strategy and Business Development.

PERF was fortunate to have a talented array of writers who lent their expertise to this endeavor and wrote chapters in this book. Thanks to: Associate Professor Lorie A. Fridell, University of South Florida; Major Steve Ijames, Springfield (MO) Police Department; Lieutenant Will Johnson, Arlington (TX) Police Department; Melissa Reuland, former PERF Senior Associate; and Major Mark Warren, Baltimore County (MD) Police Department.

Special thanks to Sheriff Ken Jenne of the Broward County Sheriff's Office for giving PERF permission to discuss their Force Accountability Model.

In addition, commentaries and articles by the following contributing writers provide valuable perspectives and are essential elements of this book: Research Fellow David Bradley, Victoria (Australia) Police Department; Dr. Theodore Chan, Department of Emergency Medicine, University of California, San Diego Medical Center; Deputy Chief Daniel Dugan, Chicago Police Department; Executive Director Michael Fitzpatrick, National Alliance on Mental Illness; Associate Professor David Klinger, University of Missouri, St. Louis; Bryce Kolpack, former PERF Deputy Director of Management Services; Chief Commissioner Christine Nixon, Victoria (Australia) Police Department; Executive Director Annie Russell, Policing for Prevention Division, Metropolitan Police Department (Washington, DC); Chief Christine Silverberg (ret.), Calgary (Canada) Police Department; Dr. Christian Sloane, Department of Emergency Medicine, University of California, San Diego Medical Center; Chief Darrel Stephens, Charlotte-Mecklenburg (NC) Police Department; Jessica Toliver, PERF Research Associate; and Dr. Gary Vilke, Department of Emergency Medicine, University of California, San Diego Medical Center.

Also playing a critical role were many individuals who were interviewed, who reviewed various

Joshua Ederheimer

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Introduction

by JOSHUA EDERHEIMER and WILL JOHNSON

The management and applications of police use of force are perhaps the most important, complex, and pressing issues in modern law enforcement. The use of force—including deadly force—is at once *necessary* to achieve law enforcement goals and *contrary* to the core mission to protect life. Law enforcement is bound by a moral obligation and an oath of office to keep the peace, enforce society's laws, and provide the framework for individuals to live free from the fear of victimization. To accomplish these ends, there are times when it is necessary for law enforcement officers to use force.

This awesome power to use force against the citizenry comes with a great responsibility to use it only when necessary and justified. The profession has made progress over the years in the search for the proper balance between restraint and the justified use of force. This progress has resulted from social mandates, legal precedents, and progressive leadership. Successful police executives sought out information about the most contemporary police approaches and technology, and applied them within their own agencies to improve service to the community.

Police executives not only have an obligation to ensure that their officers are operating within the law, but also have a responsibility to ensure that their practices incorporate successful strategic approaches and modern equipment. Accordingly, providing officers with resources to carry out their duty—while minimizing the risk of injury and death to themselves and the public—is essential. In order to aid law enforcement officers to accomplish their duties in the most reasonable and objective fashion, police leaders must be vigilant in seeking out and identifying more efficient and innovative resources to provide to their officers. These resources include: updated policies that reflect both the law and contemporary industry guidelines; comprehensive strategies that incorporate modern

methods based on promising practices; integration of tactics that create opportunities for minimum-force application and de-escalation during a violent encounter; and equipment—including less-lethal devices—that offers police officers alternative force options during all stages of a confrontation.

Cumulatively, these innovative resources and strong leadership increase accountability and strengthen community trust in a police organization. A cycle of innovation, implementation, and critical review is at the heart of progressive policing. It is important for the policing profession—and for the communities that it serves—that law enforcement leaders continually scrutinize policies, practices, tactics, and weapon alternatives. Expanding beyond myopic police perspectives and seeking out innovative practices on a global scale allow police leaders to create positive organizational and cultural change. Further, critical self-examination and resistance to the status quo can help law enforcement provide exceptional service.

It is in this context that *Strategies for Resolving Conflict and Minimizing Use of Force* is presented. This book—the fourth in the *Critical Issues in Policing* series[1]—provides perspectives in three critical areas: building community trust; police use of force and people with mental illness; and less-lethal weaponry and force decision-making. It also includes reports on the Police Executive Research Forum's (PERF) national studies on conducted energy devices (CEDs). The thematic chapters present historical perspectives, successful approaches, and practical examples on how law enforcement agencies—nationwide and abroad—are dealing with these critical issues. There is no single best practice for all agencies to emulate. However, by presenting information and various strategies that executives can consider, law enforcement executives will be better equipped with information that will help them make informed decisions on force issues. The chapter conveying PERF research provides critical information to inform policy makers and practitioners on the use of CEDs.

The information in this book came from a number of sources. Authors reviewed academic and practitioner literature, examined stakeholder reports and studies, reviewed agency policies, conducted two national surveys on CEDs, and interviewed numerous experts and practitioners. Other sources of information were presentations and discussions from two PERF conferences: PERF's National Summit on Conducted Energy Devices, held in October 2005 in Houston (which was supported by the U.S. Department of Justice, Office of Community Oriented Policing Services), and the 2005 Critical Issues in Policing Forum, held in San Diego in December 2005. Many experienced law enforcement executives and stakeholders attended both events.

A police executive's goal is to optimize force through sound policies and training and the use of effective equipment and tactics. No amount of effort to optimize force, however, can guarantee that an agency will not have an event that is challenged by members of the public. The police executive must be prepared to handle those events effectively and in a manner that conveys transparency and accountability to the public and the news media (Ederheimer and Fridell 2005). The content of this book helps to prepare police executives to better handle such events.

ABOUT THE BOOK

Each chapter includes at least one commentary written by an academic or practitioner expert on a related topic. Most chapters are also accompanied by at least one article describing a discussion session or presentation on promising approaches that occurred as part of the 2005 Critical Issues in Policing Forum held in San Diego.

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1. The other publications in the series are *Exploring the Challenges of Police Use of Force, Police Management of Mass Demonstrations—Identifying Issues and Successful Approaches,* and *A Gathering Storm—Violent Crime in America.*

Chapter 1: Introduction

This chapter establishes an understanding of the force-related issues discussed. It includes a commentary from Chief Darrel W. Stephens of the Charlotte-Mecklenburg (NC) Police Department, who offers six principles on developing community trust in both crisis and non-crisis situations. In addition, an article from the 2005 Critical Issues in Policing Forum shares the perspectives of Chief Constable Sir Hugh Orde on how his agency—the Police Service of Northern Ireland—manages conflict and builds community trust in that country.

Chapter 2: Building Community Trust Around Issues of Force

The trust and confidence that a community has in its police department are primary indicators of an agency's success. A police use-of-force incident—and the department's handling of it—directly impact public perception. However, according to author Lorie A. Fridell, the interaction, dialogue, and collaboration between a police department and the community *prior* to such an incident play perhaps the most significant role in defining community trust and gauging community confidence in the aftermath of a force incident. This chapter discusses the components and importance of trust building—and considers trust-enhancing practices. It reviews traditional accountability and trust-building mechanisms, and shares promising practices. The innovative "promising practices" from around the country include citizen education efforts, interventions to reduce tensions following critical use-of-force incidents, and shared decision-making on issues of force.

In commentaries, Annie Russell of the Metropolitan Police Department in Washington, D.C., imparts her experiences in building community trust in that city—where use of force had been a significant issue. There is also an international view in a commentary by former Calgary Police Chief Christine Silverberg on the role of leadership, transparency, and accountability in affecting public confidence and trust. In addition, two articles are included that summarize panel presentations and discussions from the 2005 Critical Issues in Policing Forum. The first consists of a summary of the panel presentation by former Lowell Superintendent Edward Davis, Phoenix Police Chief Jack Harris, and former Portland (OR) Police Chief Derrick Foxworth, in which they described their successful efforts in connecting with communities in their cities in order to develop trust. The second article summarizes the panel presentation on how four police executives—Sheriff Lee Baca, Los Angeles County Sheriff's Department; Chief William Bratton, Los Angeles Police Department; Chief Noble Wray, Madison (WI) Police Department; and Commander Simon Foy, London Metropolitan Police Service—successfully managed high-profile use-of-force incidents in their jurisdictions.

Chapter 3: Police Use of Force and People With Mental Illness

Interaction with people with mental illness has emerged as one of the most critical use-of-force issues facing police today. Deinstitutionalization of persons with mental illness, high-profile force incidents involving people with mental illness, and greater public awareness have pushed this issue to the forefront of the profession. In Chapter 3, Melissa Reuland examines issues related to use of force on people with mental illness, including frequency of interaction and dangerousness. The chapter describes nine essential program elements for a successful, proactive approach to the issue, and highlights several strategies implemented in the United States.

Also included in this chapter are three articles summarizing panel presentations and discussions from the 2005 Critical Issues in Policing Forum. The articles—focusing on training, creating new strategies, and generalist and specialist approaches to people with mental illness—stem from two panels. The first focuses on what is known about police interaction with people with mental illness. It contains information from this chapter's author, Melissa Reuland; Executive Assistant Chief Bill

box 1.1

COMMENTARY:
Creating Community Relationships That Will Survive Controversial Uses of Force

by Darrel W. Stephens

The public grants the police authority to use necessary force in making arrests and to protect the public. That authority is limited both by law and by the policies that police agencies develop to guide this critical area of discretion. Use-of-force policy and practice have also been greatly influenced by civil litigation. One of the most significant cases was the 1985 U.S. Supreme Court decision *Tennessee v. Garner,* which established parameters for shooting at fleeing felons.

Inevitably, when police use deadly force or physical force, there are questions from the community about the appropriateness of the force. When a life is lost or there are significant injuries, the intensity of the questions increases. In situations where the use of force involves a white officer and citizen from a minority group, the questions may create tension between the police and community—particularly if there have been multiple incidents. It is well documented that police use of force—especially deadly force—has been the flash point for a number of civil disturbances in urban communities since the 1960s. However, usually such incidents have created community tension but have not led to civil unrest. Many factors influence whether or not a controversial police shooting will lead to civil unrest, but one of the most important is the relationship the police have developed with the community. If the relationship is positive and there is some level of trust, a foundation exists to resolve community concerns without violence.

Police executives face many challenges in dealing with controversial uses of force. First, police executives must be able to demonstrate to the community that force is used only when necessary and that, when it is used, police are accountable to the public for its use. Second, police executives must demonstrate support for police officers who have used force in a manner consistent with established policy. Third, when the force used was not consistent with policy, mistakes must be acknowledged as soon as possible. And finally, police leaders must be able to accomplish the first three in a way that does not negatively impact subsequent criminal or civil litigation that follows the incident. Meeting these challenges is very difficult under the best of circumstances, and it is nearly impossible if good relationships with the community have not been developed. When sufficient trust has been established, it gives police the time to complete the investigation that will be the basis for demonstrating that the police are accountable for their authority to use force.

I have learned some basic principles about developing trust from working in communities over the years in both crisis and non-crisis situations. I believe that these principles will help police executives develop relationships that will survive the controversial use-of-force incident as well as provide the foundation for more effective policing. These principles include:

Trusting relationships cannot be developed in a crisis.

Although a crisis may provide an opportunity to begin the development of a relationship that can grow into trust, it obviously is not the best environment for the first introduction to an important community leader. Chiefs who are new to a community should systematically make every effort to reach out to community leaders within the first six months of their tenure. Developing

relationships with community leaders requires that police executives invest time in finding opportunities to build productive relationships. Those opportunities come in many different ways. Attending community events where leaders are present is one of the best ways to make an initial introduction, provide a business card, and extend an invitation for a longer conversation at a later time. The larger the community, the more difficult it is to develop these relationships, so it is important that responsibility for relationships be shared with people throughout the organization.

Trust comes from relationships that have been established over a period of time.

Relationship-building takes time and must be thought of as an investment that requires continued attention. It is also important to recognize that trust can grow over time through mechanisms other than direct contact. Community leaders are influenced by opinions of other leaders and people in the community. Goodwill can carry over from one community leader to another as they talk about their interactions with police executives. They are also influenced by media reports of how police executives handle situations in which they may not be directly involved and by employees in the department they may have known for years. Community leaders, like employees in the department and colleagues in government and the business community, develop impressions over a period of time based on what they see a police executive do—or not do—in a variety of situations.

Institutional trust cannot be developed and maintained without individual trust.

Trust in the police department comes from trust in the individuals in the executive offices to the officers in patrol cars. The strongest impressions that people in the community hold of the police come most often from their individual experiences and those of

family and friends. Annual community surveys in Charlotte tell us that residents' impressions of the police are most influenced by their personal interactions with officers, followed by the stories they hear from family and friends. It is very important that employees throughout the department understand that each and every citizen interaction leaves an impression. My experience suggests that the negative impressions have the most lasting impact. Developing trust in the police department comes from the hundreds of daily individual interactions with citizens and neighborhood leaders that form partnerships.

Trust is a two-way street.

To be trusted, one must be willing to trust. It is sometimes difficult for police executives to trust members of the community. There is risk involved in developing a relationship of trust. It may require that information important to understanding a particular situation be privately shared if the information cannot be released to the general public. How that information is handled helps define the level of trust and the nature of the relationship.

Trust can be lost much quicker than it can be gained.

Community relationships require continued attention and maintenance. Trust is not likely to be lost over one incident, but it can be lost very quickly if the police executive does not pay attention to the relationships and foundation on which it was built. A change in direction or policy without a discussion or communication with community leaders could influence the level of trust enjoyed in the relationship.

It is obviously a better state of affairs when police executives have had the opportunity to develop relationships with community leaders

before a controversial use of force occurs. It is not always possible, particularly for the new police chief from outside the community, to reach out to community leaders to address concerns or for community leaders to feel comfortable calling to ask questions. There are several steps that a police chief can take, whether newly appointed or not, that will help manage a controversial use-of-force incident in a way that minimizes negative outcomes and impressions.

Steps to help manage a controversial use of force.

First, particularly in cases where a life has been lost from a shooting, *I believe it is very important that the chief respond to the scene*. That is the best way to demonstrate the importance of the incident and show concern for the officers involved as well as the victim and family. The role of the chief is not to personally direct the investigation but to represent the face of the department—dealing with impact on the community and the officers involved. The chief must maintain the critical balance between support for the officers involved and ensuring that an objective investigation of the circumstances of the incident is completed.

Second, *the communication process must begin as soon as possible*. In today's world, there are very few significant events in which the police are involved that do not quickly come to the attention of the news media. In many cases, by the time the chief arrives at the scene, the press will already be there and, depending on the time of day, the media may have begun making initial reports. It is very important that the chief notify the city manager, mayor, council members, and community leaders.[2] At this stage, there are usually many more questions than answers, so the notifications will not include much information beyond that the incident occurred and is being investigated. These are important notifications, because many people in the community who have questions about the incident will contact political and community leaders to obtain information. Depending on the circumstances of the shooting, the chief may or may not want to provide an initial statement to the press.

Third, it is very important that *the chief provide as much information as possible to the community as soon as practical*. This is a difficult area for the police chief. Most of the people involved with the investigation—detectives and prosecutors—are predisposed toward limiting the amount of information to be publicly released until the investigation is complete. City attorneys and police legal staffs see the situation in a similar way. The chief must take care not to harm the investigation, but it is clear that controversy and tension about a use-of-force situation can increase if the department is, or appears to be, withholding information about the situation. In most cases, it is not necessary to go into too much detail about the case under investigation, but it is necessary to talk about the process that must take place, relevant department policy, and the circumstances and frequency in which force is used. It is also important for the chief to express regret over the loss of a life. This is sometimes difficult for police executives to do because some people in the department may believe that conveying regret for loss of life implies that the police have not acted properly. The reality, however, is that if an officer must take a life, then it is a difficult situation for

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2. The determination of who is appropriate depends on the circumstances of the incident. Age, race of the victim, location of where the incident took place, injuries to officers, and how the incident is initially portrayed by the media are all factors that can influence the timeliness, nature, and extent of the initial notifications.

both the officer and the community. Expressing regret over the loss of a life demonstrates caring and compassion for everyone involved.

It is also very important in the initial communication process to get out in front of the rumors that quickly spread in the neighborhood. It is not at all unusual for some to claim they witnessed the incident and make up a story that is designed to make the police look bad. In some cases, they just repeat what they have heard from others and add a little bit to the story. The police may not be able to explain what happened in detail, but they can certainly say what did not happen if the rumors have it all wrong.

Fourth, *the chief must be available to spend time in the community talking about the incident* and other concerns community members may have about the police department. These are important opportunities for the chief to further develop relationships and trust within the community. They also allow the department to speak directly to people in the community without the news media filter. It has become increasingly important for the police to use as many mechanisms as possible for reaching the community with their message. Community meetings provide that direct contact. They also provide the chance for citizens to speak directly to police executives. In many cases, what they have to say may not be about the specific incident; what is critical is their perception that the police executive is listening to and cares about what they have to say. This is

an important part of the process for reducing community tension and correcting misinformation that is being shared in the community about the incident.

Finally, when the investigation is complete, *the department must inform the community of the outcome*. These investigations should be a high priority for the department and completed as soon as possible, but they do take time. It is also important to acknowledge any mistake made in the use of force. If the force used was within the department's policy, then that must be explained as well.

A high-profile incident where there is tension in the community about what happened is not the best time to begin working on building a relationship. To the extent possible, that work must be done in advance. Handled with care and sensitivity, the police executive response does provide an opportunity for strengthening relationships and increasing community confidence in the department. On the other hand, a police executive response that hides behind the investigation and fails to communicate can seriously damage community confidence in the department and its leadership. If the department is not officially telling the story of what happened, the story will be told by people in the community and unidentified sources within the department, neither of whom generally has the best information on what took place. It is always better to be open and as transparent as possible in dealing with these situations. ■

Maheu, San Diego Police Department; and Dr. Lee Bowlus, San Diego County Psychiatric Hospital. The second, focusing on agency response models, contains perspectives from Chief Richard Myers, Appleton (WI) Police Department; Chief Bernard Melekian, Pasadena (CA) Police Department; Chief Theron Bowman, Arlington (TX) Police Department; and Chief Dave Been, Tulsa (OK) Police Department. Also included is a statement from Executive Director Michael J. Fitzpatrick, National Alliance on Mental Illness, who shares information on bipolar disorder following the December 2005 shooting of a mentally ill man at Miami International Airport.

Chapter 4: Less-Lethal Weaponry and Less-Lethal Force Decision-Making

Law enforcement leaders are constantly seeking ways to minimize use of force and create greater opportunities for de-escalation during encounters between police and the public. Various kinds of weaponry—including less-lethal devices—provide options for officers that help them achieve such goals during the course of their duties. Chapter 4 builds on information about use of force tools that were included in PERF's first use-of-force book, *Exploring the Challenges of Police Use of Force*. In this chapter, Steve Ijames and Joshua Ederheimer provide a comprehensive history of less-lethal devices—including the history of some contemporary weapons. Also included is an exploration of *future less-lethal technologies* that are being developed to provide a greater variety of less-lethal alternatives. Further, Chapter 4 looks beyond less-lethal weapons and examines less-lethal force decisions that affect desired force outcomes.

Chapter 4 contains three commentaries. Professor David A. Klinger discusses the role of less-lethal weapons in high-risk entries. Arlington (TX) Police Lieutenant (and former PERF Fellow) Will Johnson and former PERF Deputy Director of Management Services Bryce Kolpack provide a comprehensive model—from a systems perspective—on force accountability. There is also an

international perspective on use-of-force issues from Chief Commissioner Christine Nixon and Research Fellow David Bradley of the Victoria Police Service in Australia. They share how police use of force has evolved in that country.

Finally, Chapter 4 contains an article that summarizes a panel from the 2005 Critical Issues in Policing Forum that provides perspectives on how several police leaders implemented less-lethal technology into their departments. Included are perspectives by Chief Darrel Stephens, Charlotte-Mecklenburg (NC) Police Department; Chief Albert Najera, Sacramento (CA) Police Department; Chief Harold Hurtt, Houston Police Department; and Chief James Corwin, Kansas City (MO) Police Department.

Chapter 5: Conducted Energy Devices: PERF's National Studies and Guidelines for Consideration

Chapter 5 provides the latest information available to the profession about conducted energy devices (CEDs). Will Johnson, Mark Warren, Joshua Ederheimer, and Lorie A. Fridell report on two national studies conducted by PERF's Center on Force and Accountability. These findings influenced the development of PERF's 52 CED guidelines for consideration and CED glossary that were released in October 2005. One study concentrated on deaths occurring in proximity to a CED activation, while the other was the first to gather information to determine the state of the field related to the devices. Both the guidelines and glossary are included in this book.

There are two commentaries included in Chapter 5. The first, by Dr. Gary M. Vilke, Dr. Christian M. Sloane, and Dr. Theodore C. Chan from the University of California, San Diego Medical Center, contains information about a systematic process to efficiently make medical assessments of persons activated by a CED. The other, by Chicago Deputy Chief Daniel Dugan, provides an overview of the Health Insurance Portability and Accountability Act (HIPAA) in a use-of-force context.

Chief Constable Sir Hugh Orde: Managing Conflict—The Northern Ireland Experience

by Jessica Toliver

Sir Hugh Orde became chief constable of the Police Service of Northern Ireland (PSNI) on May 29, 2002. He was selected after many years of distinguished service with the London Metropolitan Police Department. His career began in 1977 in London, where he rose through the ranks, becoming a commander in 1998 and then deputy assistant commissioner in October 1999. His achievements were recognized in 2001 when Queen Elizabeth II appointed him as an Officer of the British Empire (OBE) at the Queen's Birthday Honors in 2001, and then again in 2005, when he was knighted by the Queen for his significant contributions to the United Kingdom.

As chief constable, Sir Hugh is responsible for police service in a territory measuring more than 5,000 square miles. He leads the 7,500 officers policing the 1.7 million people living in Northern Ireland. The population is mainly composed of two communities—Catholic and Protestant. While Northern Ireland has long been a center of protest and violent conflict, a dramatic change occurred in 1998. A political resolution—enshrined in the Good Friday Agreements—provided a framework for the opposing national identities to resolve constitutional issues based on the principle of consent. The reformed Police Service of Northern Ireland (formerly the Royal Ulster Constabulary) grew out of this agreement as well. The reengineered police service was created in November 2001, in an effort to make the police more accountable to the community. It is supervised by a separate agency—the Northern Ireland Policing Board. While considerable progress has been made, Northern Ireland continues to face challenges, with much of the conflict centering on the sectarian divide.

Chief Constable Orde is faced with a number of policing challenges on a daily basis, but among the greatest challenges are the approximately 2,500 parades of varying sizes that occur each year. Both sides involved in disagreements see parades as an opportunity to further their political purpose. To better contain contentious situations that arise during these events and in order to keep the peace, Chief Constable Orde has led his organization through a number of changes. Successful crowd management activities that the police service has demonstrated at recent parades can be attributed in large part to the lower-level police managers, designated as bronze commanders. They provide local, front-line executive leadership and are trained in the crowd management discipline through repeated practical exercises. The commanders operate under the principle of *graduated response* and are able to minimize police use of force with varied tactics, including aerial surveillance, taking cover, and intelligence gathering (including alerts about bombers). Above all, Chief Constable Orde emphasizes one basic principle in managing parades and any related protests: decisions must be lawful, proportional, and necessary. Chief Constable Orde's philosophy, combined with employing police tactics that are in accordance with that philosophy, has strengthened relations and trust between the PSNI and the community.

The tremendous restraint PSNI officers have learned and exhibited was demonstrated in the policing of events surrounding two particularly contentious parades last year that culminated in significant violent disorder.

In July 2005, Orange Order[3] members took part in annual twelfth-of-July celebrations. A standoff between nationalist protestors and police occurred when protestors refused to move from the main street. Following a period of disorder that included the throwing of missiles, petrol bombs, and blast bombs, the standoff was resolved through discussions between police officers and community representatives.

The September Whiterock Parade presented another opportunity for Chief Constable Orde and the PSNI to demonstrate how stronger community relations help its officers to effectively manage a situation. The primary disagreement about this particular parade was that the Parades Commission—responsible for approving parade routes—had banned Protestant groups from parading through a Catholic area. Chief Constable Orde relayed that police were aware that the Protestant group was determined to march on their original route—through the Catholic community. In order to promote safety, the PSNI mounted a substantial police operation.

As police worked to enforce the Parades Commission's decision, serious disorder broke out. Police officers and soldiers came under sustained attack from missiles, petrol bombs, blast bombs, and pipe bombs. More than 150 live rounds were fired at police lines. The police officers on the scene were equipped with body armor, shields, and flame-retardant boiler suits, and they needed this equipment as they tried to manage an angry crowd of approximately 1,000 people. However, the police officers showed restraint and maintained their composure, and eventually they dispersed the crowds.

Reorganizing the command structure to foster stronger accountability, adequately training police leaders to manage civil disorder, and equipping officers with the skills to handle confrontations have all contributed to the organization's increasing success with managing conflict. Chief Constable Orde cited several points that he believes will enable a police service to better manage civil disorder and emphasize conflict management to strengthen community trust.

In addition to constant personal interaction with community members, Chief Constable Orde suggested that police spend time throughout the year investing in communication and building relationships with the news media, especially key journalists. He also suggested that holding pre- and post-event press conferences about major demonstrations fosters transparency and better informs the media and the public. Chief Constable Orde also recommended that police leaders analyze the agency's command structure for weaknesses and then make necessary adjustments to ensure accountability. He also recommended investing in closed-circuit television for real-time and post-incident intelligence gathering. He believes that the use of this technology will help thwart threats to officer and citizen safety before they occur and also, when necessary, help in the investigation of incidents after they occur. Finally, Chief Constable Orde encouraged the development of command-level specialists to maintain the front lines and engage in graduated responses during incidents of civil disorder.

Members of the Police Service of Northern Ireland have learned a great deal about maintaining community trust while managing civil disorder situations. More American cities are experiencing mass demonstration and civil disorder situations in their communities. The perspectives shared by Chief Constable Orde can help police leaders in the United States better manage conflict in these types of situations. ■

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3. The Orange Order is a Protestant patriotic organization in Northern Ireland.

Conclusion

The issues surrounding police use of force are extensive, and they will always be among the most critical issues facing the law enforcement profession. The ability of police to use force—including deadly force—creates a profound responsibility on law enforcement officers to strike the proper balance between restraint and the justified use of force. Police leaders must remain vigilant in their efforts to find innovative strategies and opportunities that give officers options to minimize use of force and/or de-escalate confrontations.

The perspectives, contemporary information, successful approaches, and practical examples in the four focus areas in this book—building community trust; police use of force and people with mental illness; less-lethal weaponry and force decision making; and PERF's national studies on conducted energy devices—all serve to better equip police executives. The information presented in this book will help police executives make more informed decisions on force issues and build stronger relationships with the community.

2

Building Community Trust Around Issues of Force

by LORIE A. FRIDELL

"For too many people in America, the trust that is so essential to effective policing does not exist because residents believe that police have used excessive force, or that law enforcement is biased, disrespectful and unfair."

JANET RENO, 1999[1]

INTRODUCTION

In the mid-1960s, many urban communities were burning. The six-day 1965 riot in the Watts section of Los Angeles led to 34 deaths and nearly $40 million in property damage. In July 1967, Newark lost 23 lives to rioting and experienced $10 million in property damage. Less than two weeks later, Detroit erupted; 43 people died and property damage amounted to $32 million. During that turbulent period of our country's history, the trigger for violence and unrest often involved a law enforcement officer's use of force against members of a minority group.

Referring to the riots of 1966, the National Advisory Commission on Civil Disorders (known as the Kerner Commission) reported, "Although there were considerable variations in circumstances,

intensity, and length [of the riots], they were usually ignited by a minor incident fueled by antagonism between the Negro population and the police." (1968, 40).

The riots in the 1960s were not all about police and use of force. The underlying cause was the greatly reduced opportunities for minority citizens—particularly African-American citizens. The causes were segregation and a lack of housing, quality education, and employment opportunities. Minority groups viewed the government as oppressive and abusive, with police being the face of that oppression and abuse. Referring to this era, Samuel Walker (2005, 22) reports: "The police officer in the ghetto became the symbol of the national crisis in race relations." These riots and more recent incidents of unrest represent critical breaches in the

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1. U.S. Department of Justice [USDOJ] 1999, 3.

perceived legitimacy of and trust of police. In the 1960s especially, people in many communities viewed police as forces with few or no restraints on their behavior and no accountability.

Minority access to housing, quality education, and employment has improved substantially since the 1960s. Police are more responsible in their use of force and other powers and, overall, there is a much greater level of professionalism. As then-Attorney General Janet Reno said in 1999, "In so many ways, the police are doing their jobs and doing them better" (USDOJ 1999, 2). Law enforcement agencies are reaching out to their diverse communities and involving them in policing efforts. Agencies are recognizing they are accountable to the people they serve.

In jurisdictions where police have become more professional, there has been a vast reduction in incidents of community violence following police use of force. According to the U.S. Department of Justice, Community Relations Service [CRS] (n.d.):

> "Where there are good police-community relations and high confidence within the minority community in the integrity and accountability of the police department, a use-of-force incident may result in little turmoil. However, in communities where there is a lack of confidence between police and minority residents and a perception that complaints about police misconduct will not be addressed fairly, no issue can be more racially explosive or more easily lead to violent disturbances."

This chapter is about developing community trust, particularly on issues of force. I describe in the next section the many consequences to agencies and communities of a breach in trust and, conversely, the payoff when trust is strong. I list some traditional practices and describe promising practices from around the nation. Most of these practices are not targeted for implementation exclusively toward minority communities within a particular jurisdiction. However, whether an agency is providing education, holding discussions, implementing measures to reduce post-incident tensions, or involving citizens in shared decision-making around issues of force, a key constituency should be those who have had—and to this day have—the least amount of trust in police. The pay-off in these strengthened relationships will be great.

THE IMPORTANCE OF BUILDING COMMUNITY TRUST AROUND ISSUES OF FORCE

Lack of trust regarding issues of force between the police and communities is a critical issue. Trust varies across communities and within jurisdictions, but in general, minority residents have the least trust in police (Tyler 2005; Huang and Vaughn 1996). In some agencies, the trust in police has been severely breached; in others, the relationship is much stronger. But even in agencies with relatively high levels of citizen trust, efforts to maintain that trust are never-ending. Thus, all agencies can benefit from learning about some of the promising approaches identified from around the country that serve to promote trust around issues of force.

That trust is imperative is indicated by the practical consequences of its breach. The consequences are felt by the officer on the street as well as the agency as a whole. As Carlson (2005: xvi) states, "When citizens lack trust in law enforcement, the job of being a police officer becomes much, much more difficult." People who do not trust the police are less likely to report crimes, provide information to investigators about crimes, and assist police in solving neighborhood problems (see, e.g., Rovella 2000; Tyler 2005). When police are seen as lacking legitimacy, they may encounter more resistance from citizens (see "Mayor Heartwell, Commissioners Must Do More to Support the Police" 2005).

This lack of cooperation "on the street" reduces the effectiveness of a law enforcement agency. An agency needs citizens to report crimes and provide vital information. Lack of trust affects the agency and the jurisdiction when residents refuse to serve as witnesses in court or, as jurors, are disinclined to believe the testimony of the officer in court. The lack of trust impacts the agency in the form of civil litigation and a lack of political and financial support. As reported above, this lack of

trust in the police manifests itself most destructively in civil disturbances.

Conversely, the benefits of strong trust between police and the community are significant. Strong trust produces support for the law enforcement function at the incident level (that is, residents are more inclined to report crimes, provide information, and serve as witnesses in criminal justice proceedings), support for the law enforcement agency (for instance, in the form of support for budget requests), and involvement in cooperative problem-solving efforts. It may even, practitioners believe, reduce the level of physical conflict between police and citizens (Fridell 2004b). Strong trust allows residents and police to come together to address crime problems and otherwise improve the quality of life in communities.

COMPONENTS OF TRUST BUILDING

There are two critical components of efforts to strengthen trust between the police and the community around issues of force. First, the agency must optimize its use of force. 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). "A police department's procedures—what it actually *practices*—are, of course, a fundamental element in determining relationships with the community." (USDOJ, CRS 2003, 29). Second, the agency must be accountable to its constituency for its use of force.

We will not, in this chapter, cover how an agency ensures that the force used by its personnel is necessary and just. This broad and critically important topic is addressed in numerous publications, including the book published by PERF entitled *Exploring the Challenges of Police Use of Force* (Ederheimer and Fridell 2005). That publication describes promising practices in use of force policy, policy enforcement, training, and tools, and describes responsible agency practices following an incident of force.

This chapter focuses on the second critical component of trust building around issues of force:

accountability. To "account" is "to furnish a *justifying* analysis or explanation" (*Merriam-Webster Dictionary* 2006 [emphasis added]). Accountability exists at the officer and agency levels. At the officer level, accountability mechanisms can facilitate adherence to policies in place to optimize force. The agency as a whole is "accountable" if it accounts for and/or shows responsibility for the acts of its officers.

It is important to note here that being accountable is not only needed in order to build trust but also is a moral imperative of police departments. Police are given great powers; most awesome is the power to use force, even deadly force. It is unthinkable that an agency would not be accountable to its constituency for its use of this great power: "It is a basic principle of a democratic society that the police should be answerable to the public" (Walker 2005, 8). That these two components—optimized force practices and accountability—go hand in hand is indicated by the fact that an agency will, in fact, be unable to provide "a justifying explanation" for its use of force if force is often used unnecessarily or in ways that are not justified under policy.

Walker (2005) explains that some accountability mechanisms are internal to the agency and some are external to it. A police department's internal mechanisms include its policies and procedures. External mechanisms are managed by people who are not members of the law enforcement agency. (See also National Research Council 2004.) Traditional internal accountability mechanisms include routine supervision, early intervention systems, use-of-force reporting, and internal affairs processes. Traditional external mechanisms of accountability include independent police commissions, citizen complaint review boards, the courts (pursuant to their role in civil lawsuits), and political bodies (such as city councils and county commissions). Agency trust is strongest when both forms of accountability are in place. While agencies across the United States have, over the last two decades, greatly enhanced their internal accountability, they have not, for the most part, embraced external accountability. This chapter raises the issue of whether accountability is more than merely *justifying an agency's actions* but also involving *constituents in deciding what those actions*

box 2.1

COMMENTARY:
Building Community Trust—A Major Thoroughfare

by Annie Russell

At the beginning of the new millennium, the efforts of the Metropolitan Police Department of the District of Columbia (MPD) to build community trust, implement community policing, and change the culture of the department required that a number of obstacles be overcome. In 1999, *The Washington Post* ran a series documenting that the MPD used deadly force more often (per capita) than any other police department in the country. Community perceptions—as well as resistance to lasting change by police, community members, and others—presented a number of challenges. Concerns about use of force were prevalent between the police and the variety of communities that they served and a major thoroughfare of issues ran through the police department's relationship to the city's residents. For example, use-of-force issues needed to be considered in connection with the city's efforts to implement community policing.

It is gratifying to be able to report that the MPD's efforts to improve the community's trust in the police have produced successes, and that the work that was accomplished by community leaders and progressive police executives was cutting-edge. Police and community leaders seized the opportunity to create collaborative partnerships that gave residents and the police a means of "working through" trust issues. They "expanded the partnership base" by creating new liaison units for groups such as deaf residents and gay and lesbian residents. They informed and educated residents, evangelized throughout communities, and created new publications to spread the word about success stories.

There are lessons that can be learned from Metropolitan Police Department's experience in building community trust and creating a viable community policing environment (especially with a backdrop of use-of-force incidents and other challenges). Components of the successful strategies implemented in the District of Columbia are discussed below.

There must be a broad definition of community that includes significant numbers of people who believe that police have the professional disposition to welcome and respect their involvement.

In April 1998, Charles H. Ramsey became the chief of police of the nation's capital. He served as chief for almost nine years. One of the greatest challenges Chief Ramsey initially faced was strained relations between the Latino community and the police department. Previously, there had been a high-profile use-of-force incident that resulted in local rioting. To restore and build trust, Chief Ramsey began by hosting town hall meetings in all police districts. At these sessions, community members had the opportunity to offer perspectives about the history of force in their neighborhoods and describe their desires about public safety, crime prevention, and police accountability.

Chief Ramsey's second significant step was dealing head-on with use-of-force issues. In January 1999, he made an unprecedented request that the U.S. Department of Justice review all aspects of the MPD's use-of-force processes. He created the Civil Rights and Force Investigations Division to investigate incidents in which officers used force. The division would also monitor and improve the department's use-of-force policies and procedures. In June 2001, the U.S. Department of Justice, the

District of Columbia, and the Metropolitan Police Department entered into a Memorandum of Agreement that addressed the department's use-of-force practices.

The Metropolitan Police Department had made previous efforts at building trust with special-need populations when it established an Asian Liaison Unit in 1996. Chief Ramsey expanded upon this idea and established additional special population units—including the Latino Liaison and the Deaf and Hard of Hearing, Gay and Lesbian, Gang Intervention and Prevention, Youth Violence Prevention, and Victim Assistance units. Further, he employed a language-line to provide translation services for street officers via the 911 system, and implemented a provision that provides monetary incentives for personnel who qualify to speak another language. Additionally, a partnership between local clergy and the department proved invaluable in addressing some of the use-of-force issues as well as crime in general.

The community must know its role.
This requires education and training.

In September 1998, the Metropolitan Police Department created the Community Partnership Section and charged the unit with creating a collaborative process that would train and engage the community and police in joint problem-solving initiatives on local neighborhood crime and disorder issues. In the spring of 1999, the MPD, working with community leaders, produced the *Partnerships for Problem Solving* process—a system for training police officers, community volunteers, and workers from other government agencies to work together to solve neighborhood problems. The MPD also established *Policing for Prevention* as the community policing strategy for the department.

At citywide events to introduce the Policing for Prevention strategy, Partnerships for Problem

Solving training teams, consisting of police commanders and Community Partnership Section staffers, jointly presented Policing for Prevention to community workgroups from each of the seven police districts. The success of the team training became an outreach tool that attracted more community participation in local police service area meetings for problem solving and partnership activities.

The community must have realistic expectations of the department and its members. An informed community must have significant input.

Many community residents signed up to volunteer as trainers for the Policing for Prevention strategy. However, as the Policing for Prevention strategy was shared with police officers, problems surfaced that included competing priorities, lack of "buy-in" by some officers, and unrealistic expectations from the community. These obstacles began to weaken recently formed partnerships, and doubts about trust resurfaced. Improvements in partnerships and training were sorely needed. As a result, the Metropolitan Police Department revamped the police academy curriculum to emphasize Policing for Prevention concepts. In addition, all officers were required to participate in a 40-hour in-service training program that included the Policing for Prevention and Partnerships for Problem Solving curriculum. In 2003, Chief Ramsey held an executive command staff retreat to determine the priority needs for instituting Policing for Prevention throughout the department. Professionalism was determined to be the highest priority. As a result of the brainstorming, the department created a new Audit and Compliance Inspection Unit. Further, the Policing for Prevention Unit coordinated

>> *box 2.1 continued*

department-wide training for all lieutenants and captains on identified priority topics.

The community had a number of opportunities and resources that helped to inform their side of the partnership. The department developed Policing for Prevention resource manuals with significant community input. Publications included the *Partnerships for Problem Solving Manual* as well as a document helping to establish community expectations, entitled *Role of Community*. In addition, a computer listserv group was established in each police district for officers and community members to share information daily.

All partners should be attentive to the trust relationship, contribute and hold up their end of the partnership, keep their word, share information, and explain changes and limitations.

In the District of Columbia, it became apparent that community policing had intermittent success with other city agency partners that needed to do more to create lasting change in neighborhoods. Then-Mayor Anthony Williams was receptive to Chief Ramsey's recommendations to ensure that all city agencies became active and engaged partners in community policing.

The City's Office of Neighborhood Services began to oversee mandated participation by all city agencies to work in 14 selected neighborhood hot spots with high violent crime rates and a barrage of disorder, housing, infrastructure and human services problems. As crime rates declined in double digits in all but one of the hot spots, trust among community residents, police, and other agencies deepened.

There must be successes, and they must be shared.

In Partnership for Problem Solving, shared success began to build trust. As part of one of the steps of the Policing for Prevention process—entitled "Evaluate and Celebrate"—police and community members enjoyed potluck meals, presented certificates to outstanding community and police partners, and publicized success stories in local news outlets. The police department also regularly publishes success stories in its internal publication. It also has instituted an annual award ceremony in each of the seven policing districts, as well as a citywide award ceremony, where police and community representatives are acknowledged for outstanding work.

Conclusion

Time after time, partnerships have demonstrated that community trust can be achieved, community policing can work, and mutual respect can be established. Distrust can be diminished when all the partners get involved, share information, and are co-equal in their collaborative problem-solving efforts to create safer, healthier, and friendlier neighborhoods. Even though community policing and the efforts to build community trust have had a great deal of success, the potential to lapse back into poor trust relationships is ever present. Continued progress will require watchfulness and the capacity to respond by police and community leaders. Over time, responsible leadership can create community policing environments and levels of community trust that are resilient. ■

should be. True accountability may be manifested in shared decision-making.

In the following section, I describe some increasingly common forms of accountability. These are likely familiar to most executives, so I do not discuss them at length. In the subsequent section, I present some promising practices in the realm of building trust around issues of force. Each of these practices reflects an agency's effort to account for its use of force (for instance, through education, dialogue, or post-event tension-reducing mechanisms), and some represent our expanded definition of accountability in that they involve citizens in the process of deciding policies and practices related to use of force.

INCREASINGLY COMMON FORMS OF ACCOUNTABILITY: TRUST-ENHANCING PRACTICES

There are several accountability mechanisms adopted by an increasing number of police agencies in recent years that can build trust around issues of force. In *The New World of Police Accountability*, Sam Walker (2005) describes some of these mechanisms developed over the past 15 years, and he proclaims that "it is astonishing how much has changed in this field" over that time period (p. vii). He describes various mechanisms of accountability that have implications for the use of force, such as investigations and reports on use of force and other critical incidents, open and accessible citizen complaint procedures, and early intervention systems. I will discuss these and other more common practices, including educating citizens about use-of-force issues and conveying transparency in an effort to reduce tensions following an incident.

Use-of-Force Reports and Investigations

Departments now document use of force by their officers to a much greater extent than in the past. Today most agencies require officers to submit use-of-force reports for all but the lowest-level uses. Chapter 2 of *Exploring the Challenges of Police Use of Force* (Ederheimer and Fridell 2005) describes some of the promising practices in this realm and highlights the need for meaningful review of such reports by supervisors. Chapter 4 of this same PERF publication (Anderson et al.) conveys the importance of credible, timely, and substantive investigations of serious use-of-force incidents and describes some promising practices in this realm that have a payoff in greater "external trust and confidence" (124).[2]

Agencies can increase trust around issues of force by implementing credible reporting, review, and investigation systems. Educating the public about these processes and their results is also important.

Credible and Transparent Citizen Complaint Systems

To hold officers accountable, promote the optimal use of force, and earn the trust of its constituency, an agency must have a credible, transparent, and accessible citizen complaint system. Again, the key elements and current uses of such systems are familiar to most executives and have been addressed elsewhere (see, for instance, Ederheimer and Fridell 2005 and Walker 2005).

Many of these are internal accountability systems in that the processes are wholly internal to the agencies. Over the past 15 to 20 years, an increasing number of jurisdictions have developed systems that incorporate citizens in the complaint receipt and review process. Models vary with regard to the extent and nature of citizen involvement. In some systems, citizens are involved in both the intake and investigation processes and have input into case dispositions. The Auditor Model, in contrast, maintains investigations within the police department but uses civilians to review, monitor, or audit the department's complaint processes. The various models are described by Walker (2001, 2005).

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2. See also Walker 2005 for discussions of the history and key elements of use-of-force reporting and investigations.

Early Intervention Systems

More recently, an increasing number of agencies are adopting early intervention systems. With these systems—increasingly taking the form of electronic databases—agencies collect, combine, and monitor information about individual officers' behaviors. These systems identify officers who may be experiencing personal or professional problems. Agencies commonly use them to identify problematic or potentially problematic officer behavior so they may intervene sooner and prevent excessive use of force, corrupt behavior, complaints, or lawsuits. The information gathered by early intervention systems also can be used to guide management decisions, such as officer assignments.

Much of the attention to early intervention systems (EIS) has focused on the front-end part of the system, including the identification of behaviors and other relevant information—and the determination of the "thresholds" that will prompt review and/or intervention. A new publication (*Supervision and Intervention within Early Intervention Systems: A Guide for Law Enforcement Chief Executives* [Walker and Milligan 2005]) gives needed attention to the reviews and interventions prompted by the identified thresholds.[3] This document provides guidance on "defining the role of the first-line supervisor, structuring the intervention process for officers who have reached (or are about to reach) a threshold within the system, identifying ways to provide the various programs and services that supplement and reinforce EIS, and creating a broader culture of accountability in law enforcement agencies" (3). It highlights promising practices in agencies across the country.[4]

Citizen Education

Public concerns about police use of force generally and perceptions of its abuse in specific situations are sometimes the result of citizens' lack of understanding of force issues. Law enforcement agencies have, for many years, used various vehicles to educate the public about use of force and other aspects of policing. For instance, citizens' academies are used by many departments to provide this education, as are special forums targeting particular segments of the community. Some promising practices in the realm of citizen education are set forth in Chapter 4 of *Exploring the Challenges of Police Use of Force* (Anderson et al. 2005).

This education allows citizens a transparent view into police departments, and goes hand in hand with accountability. It shows "this is what we do and this is why we do it." As Chief William Bratton stated in a 1999 *New York Times* editorial, "A police organization that willfully shuts itself off from scrutiny and public exposure can lose public trust."

Reducing Tension Following a Critical Use-of-Force Incident

Chapter 4 of *Exploring the Challenges of Police Use of Force* presents promising practices for handling the aftermath of use of force incidents (Anderson et al. 2005). Being transparent and accountable to the residents was the objective of the highlighted procedures, and promoting public trust was a key desired outcome. A message of the chapter was that constructive outcomes following a controversial use-of-force incident are most likely if the agency executive has built up trust with the community ahead of time. According to the authors, "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" (Anderson et al. 2005, 83). This valuable "capital of good will" (96) could be produced before the crisis by any of the traditional and promising practices described in this chapter. In the period after a controversial

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3. A companion guide written by the same authors is entitled *Strategies for Intervening with Officers through Early Intervention Systems: A Guide for Front-Line Supervisors*.

4. This PERF document, which was funded by the U.S. Department of Justice, Office of Community Oriented Policing Services, is available on the COPS Office website at www.cops.usdoj.gov.

incident, the authors advocate that the executive be as forthcoming as possible with information about the incident. The timely and comprehensive release of information—manifesting transparency and accountability—will facilitate trust. Lack of information and defensiveness, on the other hand, will reduce it. The authors highlight the need for credible and timely post-incident investigations.

The Community Relations Service (CRS) of the U.S. Department of Justice has worked with many communities around the country to defuse tensions following allegations of excessive use of force against members of minority groups and other police-citizen incidents involving minorities.[5] They provide technical assistance and mediation to communities during these times of potential crisis. The CRS "checklist" guiding police executives on the heels of critical use-of-force incidents is contained in Appendix 1 of this book.

PROMISING PRACTICES TO BUILD TRUST AROUND ISSUES OF FORCE

In this section, I present some of the innovative practices individual police agencies around the country are using. Some of these are creative enhancements of traditional techniques, and others are cutting-edge practices that involve shared police-citizen decision-making around issues of force. Categories of promising practices include community education, police-community dialogue, reducing tensions following critical incidents, and shared decision-making. I include several of the outreach and partnership efforts of the Seattle Police Department to convey the importance of an agency's developing multifaceted programs to strengthen and maintain trust with diverse communities.

Promising Citizen Education Practices

As noted above, citizen education has been a long-standing mechanism for enhancing trust in the police. Two agencies, the Bakersfield (CA) Police Department and the Seattle Police Department, have developed stronger versions of these traditional methods.

The Citizens' Forum of the Bakersfield (CA) Police Department

Conducted by the training unit of the Bakersfield Police Department (BPD) in California, The Citizens' Forum is an award-winning version of programs used by some departments nationwide to inform citizens about the challenges associated with police use of force. Lt. Don De Geare, who manages the BPD training unit, reports in an April 4, 2005 e-mail communication that they "wanted to move away from standard police forums that are 'Q and A' in nature, and turn into complaint sessions about tickets and barking dogs." According to Officer Ron Rice, who runs the program in the field, *telling* residents about the challenges police face has little effect. Instead, he reports, residents understand the difficult decisions and limitations associated with use of force only when they themselves are put into officers' shoes.

The forum won the California State Attorney General's Crime Prevention Award. In high demand among professional and community groups, the program uses humor, music, props, and other background visuals. The program does not begin with the usual introductions and opening remarks; instead, with music playing and slides portrayed on the wall, the facilitating officers (in "trade show-like uniforms") initiate the first use-of-force scenario. Audience members are brought forward to play bystanders, officers, and "bad guys."

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5. As reported on the CRS Homepage (at www.usdoj.gov/crs), the "Community Relations Service is the [DOJ's] 'peacemaker' for community conflicts and tensions arising from differences of race, color, and national origin. Created by the Civil Rights Act of 1964, CRS is the only Federal agency dedicated to assist State and local units of government, private and public organizations, and community groups with preventing and resolving racial and ethnic tensions, incidents, and civil disorders, and in restoring racial stability and harmony." The CRS website contains various publications that address police and minority community relationships.

box 2.2

ARTICLE:

Building Community Trust[6]

by Jessica Toliver and Joshua Ederheimer

Law enforcement executives recognize that the success of a police department is directly linked to the trust that a community affords it. Today, more than ever, police departments are held accountable to the community, and police executives are constantly developing strategies to enhance communication and organizational transparency. Evolving community demographics, critical incidents, and even budgetary constraints influence police-community trust.

Edward Davis III, former superintendent of the Lowell (MA) Police Department and currently Boston Police Department Commissioner; Chief Jack Harris of the Phoenix Police Department; and former Chief Derrick Foxworth of the Portland (OR) Police Bureau were selected to speak at PERF's 2005 Critical Issues in Policing Forum because of their successes in building community trust in their jurisdictions. Each panelist described their community and shared their perspectives to connect with the public and enhance community confidence.

Superintendent Edward F. Davis III, Lowell Police Department

From 1993 to 2006, Edward F. Davis III was in charge of Lowell Police Department, a mid-sized police agency serving a population of more than 100,000 people. Lowell, described as an "old mill town," has many diverse constituents, including burgeoning African and Asian communities. The Asian community also includes the largest Cambodian population east of the Mississippi River. This has brought unique policing challenges to the Lowell Police Department.

Lowell has traditionally been a community of immigrants, including Irish, Greek, and Puerto Rican residents, so the police department has experience interacting with diverse communities. However, it had been a long period of time since the city experienced such a rapid demographic shift, so it was imperative for the police department to understand and respect its residents' cultures and their experiences with agents of authority. Approximately 10 years ago, the Lowell Police Department embraced the philosophy of community policing. Its goal today is to emphasize this philosophy in order to build a greater trust among the city's new immigrant communities.

The first steps Superintendent Davis and his officers pursued were to learn the community's expectations of police service and educate the community on the department's expectations of their behavior. The superintendent emphasized the importance of informing the citizenry of the qualities that help foster strong police-community relationships.

Superintendent Davis also emphasized that he believes the essential component of community policing is trust. He believes that building trust requires personal interaction; therefore, he made a point of being visible in the community to allow for personal interaction. It is critical to conduct these meetings with the public prior to the occurrence of a high-profile sensitive incident, he indicated. Accordingly, the superintendent established an ongoing dialogue with many community-centered organizations, including local faith-based organizations. To begin strengthening community trust, the department established a race-relations council and invited people who

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6. This article summarizes panelists' discussions on this topic at the Police Executive Research Forum's 2005 Critical Issues in Policing Conference in San Diego.

were not normally involved in positive police communication efforts.

An initial meeting, facilitated by the Police Executive Research Forum (PERF), focused on racial profiling issues. At that session, it was evident that tension existed between officers and community members. However, continued face-to-face dialogue fostered communication and success in reducing tensions. At these sessions, line-level officers interacted directly with community members on specific topics. At one meeting regarding use-of-force rules of engagement, it became clear that the community perception of use-of-force training was drastically different from reality, revealing a significant divide between police and the community. As a result, specific use-of-force training information was shared with the community to improve the public's understanding of police use-of-force realities.

Conversely, the superintendent and his officers learned a great deal from the community as well. For example, they learned that in some Liberian (and in other African) communities, it is a sign of respect to exit your motor vehicle and walk back to a police officer's vehicle—an act that is not encouraged in American policing. Additionally, in some Liberian communities it is customary to keep wallets or similar valuables in socks, which might inadvertently escalate an interaction with police in the United States if a citizen reached down during an encounter. Understanding cultural norms allowed the Lowell Police Department to train its officers to be aware of these behaviors in order to build community trust.

Superintendent Davis said he was pleased that such dialogue contributed to positive police-community understanding and that there had not been a significant sensitive incident due to misunderstandings or misperception. He noted that a chief executive's responsibility involves delicately balancing the support of police officers while building trust with the community. He believes that Lowell officers have learned that

forming an equal partnership with community members is an effective method for gaining "buy-in." As a result, if a highly sensitive situation does occur, the focus is on resolving problems rather than assigning blame.

Chief Jack Harris, Phoenix Police Department

Jack Harris has served the Phoenix Police Department for more than 30 years and was named chief in 2004. Phoenix has a population of approximately 1.5 million residents, and its police department has generally enjoyed strong community support. The demographics of the city (along with the approximately three million people living in jurisdictions surrounding it) are evolving. Nearly 30 percent of the community is Hispanic, and with the city's proximity to the border, many are of Mexican descent. In addition, there is a growing Cambodian population along with other minority groups. A significant challenge facing the Phoenix Police Department is the divergent experiences of the Mexican population. Some residents' previous encounters with Mexican police have influenced their interaction with American police, who have different procedures and practices. This has led to some degree of misunderstanding and mistrust.

In order to address the city's changing demographics, Chief Harris said he emphasizes credibility and full community engagement, and maintains an "open-door" policy, not just for himself, but for the entire police department. Chief Harris learned that community leaders want interaction with all levels of the department, especially directly with the chief as its leader. Accordingly, Chief Harris has developed an outreach program consisting of several advisory groups, including representatives from Muslim, Sikh, and gay and transsexual organizations, to meet with him every month. These meetings have contributed significantly to strengthening the bond between the community and the police department. In fact, the

>> *box 2.2 continued*

meetings helped foster cooperation when the police department involved members of the Hispanic community in developing departmental policy on interaction with Mexican immigrants.

Chief Harris has also encouraged and nourished an open relationship with the media. Journalists from both print and electronic media, along with community members, are invited to participate in a Citizen Police Academy, where they are given information about officer-training protocols. These include such use-of-force topics as the 21-foot safety rule when confronting edged weapons, use of various types of police equipment, and police tactics. Such communication is a two-way street. For example, following an incident where a detective discharged a firearm at a suspect who had thrown a brick at him, community members learned that detectives were not issued conducted energy devices. During a Citizens Police Academy, community members inquired about why detectives were not armed with such devices. As a result, the department began to explore this possibility, and later issued CEDs to all of its patrol officers.

Chief Harris emphasized that community trust revolves around ensuring there is a public perception that the police department wants to—and is trying to—be professional and "do the right thing." The police department can demonstrate this through transparency. Chief Harris believes that greater accessibility results in greater trust, and therefore he has instituted an open review process. For example, many agencies only provide summaries of internal affairs investigations when case reports are requested. In the spirit of transparency, Chief Harris provides all information for public review—including reports, memos, and policies. He noted that there are some restrictions, and in some cases information is redacted, but even interviews and statements will be released. Chief Harris credits this policy with creating a successful relationship of trust with the community, because it demonstrates that the department is not hiding anything.

Finally, Chief Harris highlighted the importance of hiring a diverse workforce to reflect the community being served. He believed that this positively affects community perceptions and influences the way the department operates.

Chief Derrick Foxworth, Portland Police Bureau

Chief Derrick Foxworth served with the Portland (OR) Police Bureau for more than 24 years, and served as chief from 2003 to 2006. Portland is growing in size, and the police department now serves a population of more than 550,000 residents. The current mayor, Tom Potter, is Portland's former police chief.

When Chief Foxworth was first appointed to his position, he was immediately faced with several challenges. In May 2003, an African-American woman was shot and killed by an officer during a traffic stop, and in March 2004, an African-American man was fatally wounded during a traffic stop. In response to these shootings, the relationship and trust between the community and the police department were strained. An external review of police department operations recommended several organizational and procedural changes. Chief Foxworth looked inward, and focused on improving all facets of police operations. According to Chief Foxworth, "people, policy, and training" were all reviewed. The initial step involved attracting police recruits who possessed desired characteristics. The police department's recruitment process was revamped to focus on diversity and on hiring people who wanted to become police officers because they cared about people, wanted to help people, and expressed an interest in "making a difference." To accomplish this, the department concentrated its recruitment strategies to attract such candidates on college campuses and other locations.

The chief also reinstated 40 hours of in-service training that had been previously discontinued for

budgetary reasons. The department also sought community input on the types of training they thought officers needed. That input encouraged the department to focus classes on competencies that included cultural understanding, epilepsy awareness, TASER™ training, and firearms skills. To encourage citizen involvement in the department's use-of-force and discipline processes, Chief Foxworth took the Phoenix Police Department as a model and allowed the community to review documents and become part of the process. The department also has embraced transparency. There is now a performance review board that includes citizens and police officers, which has helped to bolster citizen and employee confidence on how the department operates.

Chief Foxworth developed plans to continuously improve the police department, and he set goals—some of which have already been accomplished—to continue reform within the agency. They include:

- Creating an Office of Professional Standards,

- Instituting a strong policy-review procedure,

- Pursuing accreditation through the Commission on Accreditation for Law Enforcement Agencies,

- Establishing an early intervention system,

- Ensuring that neighborhood association meetings always have a police officer present,

- Continuing the Chief's Forum in which representatives from each citizen council meet with the chief to discuss policy issues, and

- Continuing and expanding the Crisis Response Team of volunteers from the community to work directly with police and victims (and families of victims) when traumatic incidents occur.

Chief Foxworth underscored the importance of changing the culture of the police department.

He instituted a set of core values and expects all police department employees to know them and subscribe to them. They are: *Integrity, Compassion, Accountability, Respect, Excellence,* and *Service.* Chief Foxworth believes these values are necessary for a successful relationship with the community.

Moreover, Chief Foxworth said he constantly analyzed public perceptions as well as internal organizational operations. A recent department survey revealed that while Part-I offenses had declined, so had citizen satisfaction. Through analysis of the survey results, Chief Foxworth determined that officers must be more *customer-focused* and friendly. For example, he believes that responding officers should engage in more than report-taking and collecting basic information. At a burglary scene, for example, providing extra service could include touring the rest of the house to see if anything else is missing, giving the resident a brochure about being a victim of burglary, asking if the person is a member of the neighborhood or block watch association, and providing referral information to the victim for follow-up questions.

Chief Foxworth recommended that police view every citizen contact as a "potential sale." The law enforcement profession should begin to think more like the private sector, he indicated. Chief Foxworth believes that such an approach will increase citizen satisfaction and build community trust and support.

Conclusion

Each of the panelists has embarked on a series of activities to strengthen trust between the community and the police department. It is challenging to meet both the needs of the community and those of officers, and communication by the chief to both constituencies is imperative. The desires of officers and community members intersect, and transparency and respect are mutually beneficial. These police executives have been successful in creating and emphasizing core values and initiatives that foster such understanding. ∎

In one scenario, some audience members are brought up to serve as restaurant patrons as others are outfitted in police shirts, badges, and duty belts. The duty belts hold a rubber baton, air gun, and handcuffs. The citizens portraying police are told they have been called to the restaurant because a man, seeming to be high on drugs, is inside the establishment and is a possible danger to the patrons. A large officer wearing a red man's suit appears, "acting crazy." The subject starts pushing folks who are eating in the restaurant, requiring the citizen-officers to act. According to Officer Rice, the citizen-officers "really get into it." More often than not, he reports, they quickly understand that "it's harder than it looks" and are surprised at their own violent actions. This is revealed in a brief discussion following each scenario. Said one participant following her portrayal of an officer in the restaurant scenario: "I'm as liberal as they come, but I shot this guy. I can't believe I did it, but I had to. I have to rethink some things." Another man, a minority community activist, shared that a particular scenario helped him understand a real-life event for which he had criticized the department. "I understand now why the officers did what they did," he said.

The forum, which lasts two hours, proceeds at a quick pace with several preselected scenarios and ends with an opportunity for residents to ask questions. If the officers are asked, for instance, "Why don't you shoot the criminals in their legs or the guns out of their hands," the response is not verbalized; it is portrayed through action.

According to Bakersfield Chief William Rector in a February 24, 2006 e-mail communication, "The Citizens' Forum is a very valuable program for the department and the community. The program was designed by a street-level patrol officer and has proved to be one of the most innovative ways to build our relationship with the community we serve. Many of the participants have personally told me that they have a much better understanding of what officers have to deal with on a day-to-day basis."

Seattle Police Department's
Special Reports on Use of Force

More and more in recent years, agencies have provided information to the public regarding their use of force. This frequently comes in the form of an end-of-year report summarizing aggregate statistics on use of force. It might be a stand-alone document or might be part of a larger publication regarding the agency's performance and accomplishments for the year. Under Chief Gil Kerlikowske, the Seattle Police Department (SPD) has been creative and comprehensive in its application of this traditional accountability measure. The department has produced and uploaded some particularly comprehensive documents to keep the community informed about the use of force. The department's website (www.cityofseattle.net/police/publications) includes the agency's strategic plan, reports from the office of professional accountability, after-action reports (for instance, the "Mardi Gras After Action Report," the "WTO After Action Report"), a special report on the agency's response to the issue of racial profiling, and so forth. With regard to force, community members can read a variety of informative reports, including the following:

- September 2000 reports produced by an internal agency committee and a community workgroup on less-lethal weapons (the work of these two groups is described below),

- May 2001 "Use of Force Report,"

- May 2002 "M26 TASER™, Year One Implementation, Special Report,"

- May 2002 "Less Lethal Options—Year One, Progress Report,"

- April 2005 "Department Policy Governing Less Lethal Options: The TASER and the Patrol Less Lethal Shotgun with Beanbag Rounds," and

- August 2005 "TASER Use Update."

The 18-page "M26 TASER, Year One Implementation" special report (Seattle Police Department

2002) provides information to the public regarding the TASER and the history of its adoption by the department; the extent to which TASERs have been deployed to line staff; the extent and nature of the weapon's use; characteristics of the subjects against which the TASER was used (for instance, demographics, level of impairment, weapon possession); effectiveness of use; and outcomes (including injuries to officers and subjects). The report ends with a section on "Lessons from Year One of TASER Implementation."

According to Chief Kerlikowske, "the report serves the public by giving it comprehensive information about the agency's use of this new and sometimes controversial weapon, but also serves the agency by helping to set appropriate community expectations regarding the TASER." To assist in conveying realistic expectations, the report reads: "…the reality is that the TASER does not signal the end of police shootings. Instead, officers will still need to employ lethal force when situations so warrant. For officers' part, the reality is that while the TASER does some things really well, it is not the answer in all cases. There are some uses for which the TASER is simply inappropriate; and it cannot overcome its inherent limitations in field applications" (p. 17).

The May 2001 special report, *Use of Force by Seattle Police Department Officers,* can serve as a model for other agencies because of its comprehensive and thoughtful content. This report, which is included in Appendix 2, provides the public with the following information:

- The nature and extent of overall use of force by departments nationwide and by the Seattle Police Department

- The nature and extent of fatal police shootings by departments nationwide and by the Seattle Police Department

- The need for less-lethal weapons and the types of less-lethal force options available nationally and in Seattle

Particularly instructive are the "Frequently Asked Questions" contained within each major section. The questions that are posed and answered are ones that could be and are asked by citizens nationwide. They include:

- What should people do if they feel unnecessary or excessive force is being used on them?

- When are police officers authorized to use deadly force?

- Why don't officers just shoot weapons out of people's hands or shoot to wound them?

- Often when there has been a police shooting, I hear that the officer has been placed on "administrative duty." What does this mean?

- If officers have less-lethal weapons, why do I hear about people still getting shot?

Promising Practices to Educate and Enhance Dialogue

The education practices described above help the agency provide information to the community. Some promising practices are designed to facilitate *two-way* communications and mutual education. The Seattle Police Department uses its Community Outreach Program (formerly called the "Citizen Advisory Council Program") to develop strong, ongoing relationships with various demographic communities and also to facilitate the transmission of comprehensive and timely information following a potentially controversial use-of-force incident. When Norm Stamper became chief in 1994, he continued the Precinct Advisory Councils (PACs) developed by a predecessor. He noted, however, that primarily white, middle-class residents attended the meetings of these geographically defined groups. As a result, in 1995, the chief created seven demographically focused advisory councils. Chief Kerlikowske has expanded the program further to include the following communities: African American; East African; Filipino; Korean;

Latino; Southeast Asian; Arab, Muslim, and Sikh; Native American; youth; and sexual minority.[7]

There are two major goals of the Community Outreach Program (COP): (1) create and strengthen communications between the police and minority communities, which will, in turn, build mutual trust; and (2) increase participation of residents from the various demographic communities to work in partnership with the SPD on issues of public safety.[8] Efforts to reach the two goals are organized into three components, each of which has its own objectives. As indicated in the informational brochure for the Demographic Advisory Councils (see Appendix 3), these components and objectives are as follows:

Relationship-Building Component

- OBJECTIVE 1. Break down negative perceptions of law enforcement in minority communities by building relationships between individual officers and members of minority communities.

Education and Training Component

- OBJECTIVE 2. Improve officer training and education regarding cultural norms that may impact police and citizen interactions.

- OBJECTIVE 3. Enhance the understanding of the role of police in the United States through educational materials tailored to specific communities and translated into appropriate languages.

Dialogue Component

- OBJECTIVE 4. Increase and institutionalize ongoing dialogue between Seattle Police and minority communities about perceptions of law enforcement in the community.

- OBJECTIVE 5. Increase internal Seattle Police dialogue regarding issues in minority communities.

- OBJECTIVE 6. Institutionalize what is learned from minority communities into Seattle Police's strategic planning and decision-making process.

The council members "create their own agendas, and strategize ways for making police services more responsive to their communities' needs" (Seattle Police Department n.d., 1). Each council has an officer assigned to it who, according to COP documentation, will "attend the advisory council meetings and spend non-enforcement time at community-based organizations referred by the advisory councils, educate the community about the Department and its role, respond to crisis situations in their respective communities, and facilitate meetings regarding police/citizen interactions" (2).

Additionally, Chief Kerlikowske linked each council to a particular assistant or deputy chief to give the members quick and effective access to the highest levels of the police department. Civilian staffers, including a full-time program manager, support and coordinate the work of the councils.

Quarterly, the 10 demographic councils that form the Community Outreach Program come together with the five Seattle geographic (precinct) councils as the City-Wide Advisory Council, created in October 2003. Attending these meetings, which are chaired by the chief, are representatives from all demographic and geographic councils and the officers who serve as liaisons. The group discusses issues that may be affecting many different segments of the Seattle community.

One community forum, developed by a liaison officer, was designed to facilitate effective and safe interactions between residents from East Africa and police. As reported by Harris (2005, 38): "Since many East Africans have had unusual misunderstandings with Seattle police officers during what should have been routine encounters, the workshop, attended by members of both the East African community and the police department, addressed areas of community concern through mutual education, with sessions on policing issues, on immigration, and even on becoming a city employee." The police learned how to effectively

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7. A sexual minority is a person of a sexual orientation that is not part of the majority (e.g., gay, lesbian, bisexual, and transgender).

8. Some of the recent work and development of the COP has been supported by funds from the U.S. Department of Justice, Office of Community Oriented Policing Services.

and respectfully interact with the East African community, and the community members learned how they should behave during a traffic stop. In East Africa it is considered disrespectful to stay in the car if an officer has stopped you. The common behavior is to exit the vehicle and approach the officer. Further, East African men often keep money and documents (for instance, a driver's license) in their socks (see Harris, 2005). Clearly, without dialogue to promote mutual education regarding expectations, these behaviors could lead to misunderstandings and even use of force during an encounter.

The Community Outreach Program has also developed brochures, forums, and videos in the languages of the various communities that provide information on the role of the police in the United States, how to most effectively interact with police, and how to contact the police for services or to communicate concerns. Information transmitted includes policies, procedures, and tools pertaining to use of force.

Reducing Tensions Following a Critical Use-of-Force Incident

Seattle's Community Outreach Program is also used to getting accurate and timely information out following a critical incident, including but not limited to a use-of-force incident. For instance, recently U.S. Immigration and Customs Enforcement (ICE) conducted a drug raid on a Seattle house occupied by suspected MS-13 gang members. Upon request, SPD provided assistance. The joint operation concerned residents of a primarily Latino neighborhood who thought SPD might be assisting in the enforcement of immigration laws. Members of the Latino Advisory Council were able to contact the officer liaison on his cell phone that night and get some preliminary answers to the questions that their fellow residents were asking.[9] Within 48 hours of the raid, the department held community meetings attended by Chief Kerlikowske and Deputy Chief John Diaz, who was the command staff liaison to the Latino Advisory Council. The chief and deputy chief explained to community members the purpose of the raid, the association with ICE, and the department's intention to deal aggressively with violent gang members but not to enforce immigration laws.

Over the years, the post-event communication mechanisms have become even stronger. Some of the councils have developed extensive phone and/or e-mail trees so that when communications regarding critical events come to the council leaders from the department, those leaders can, in turn, quickly disseminate the information further into their communities.

Following critical events, the department also e-mails community leaders, conducts briefings for elected officials, provides updates on the agency's website, and provides comprehensive press briefings. According to the chief, this dissemination of information generally occurs within 24 hours of the incident.

Shared Decision Making

Community policing has helped to promote partnerships between the police and residents. Most notably, police and residents come together to jointly identify and solve problems in the various communities. In describing the implementation of community policing, Bonnie Bucqueroux (2004, 73) reports, the police have done "a good job of reaching out to the community for help and support." She claims, however, that the full potential of community policing will not be manifested until the police make the community "a full partner" (73). "In a true partnership, the police and citizens make important decisions together about agency policies, practices and direction." (Fridell 2004a, 5). Yet a national survey of community-policing

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9. Each liaison officer is assigned a cell phone by the department so that advisory council and other community members can access them quickly and easily. Officers are on an "Officer Liaison Crisis Notification List" so that they can be notified of events, including but not limited to crises that are occurring within their demographic communities.

box 2.3

ARTICLE:

Managing the High-Profile Use-of-Force Incident

by Jessica Toliver and Joshua Ederheimer

High-profile use-of-force incidents can have a defining effect on a law enforcement leader as well as on an entire organization. How such crises are handled directly affects the level of trust and confidence that a community affords its law enforcement agency. Whether or not an incident involves use of force or some other high-profile occurrence, learning how other law enforcement leaders have managed such situations has great value. At PERF's 2005 Critical Issues in Policing Forum, panelists shared their perspectives on managing high-profile incidents that occurred in their jurisdictions.

The panel members—Sheriff Lee Baca, Los Angeles County Sheriff's Department; Chief William Bratton, Los Angeles Police Department; Chief Noble Wray, Madison (WI) Police Department; and Commander Simon Foy, London Metropolitan Police Service—were selected to speak at the conference because of the successes their agencies had in managing high-profile incidents.

Sheriff Lee Baca,
Los Angeles County Sheriff's Department

Sheriff Lee Baca joined the Los Angeles County Sheriff's Department more than 40 years ago. He rose through the ranks and was elected sheriff in December 1998. The Los Angeles Sheriff's Department is the largest sheriff's department in the United States. In addition to operating jail facilities, it provides full-service law enforcement duties in locations throughout the county of Los Angeles.

Sheriff Baca discussed his experiences in managing a high-profile shooting involving members of his department that occurred in the city of Compton. Following a low-speed pursuit, several sheriff's deputies discharged their service weapons and fired approximately 120 shots at the fleeing vehicle. The incident was captured on video by the news media. The subject in the vehicle was wounded, and bullets sprayed the neighborhood.

Sheriff Baca immediately addressed the incident publicly. He believed it was important to set a deadline for the investigation (and he was in a position to do so) because the crisis would remain in the public's mind until it was settled. To make the investigation more "transparent," internal affairs investigators and civil rights attorneys from the Office of Independent Review were involved in it. To further soothe community tension, the sheriff attended five community meetings to assume responsibility for the officers' actions. He also met with highly visible advocacy leaders, including Reverend Al Sharpton, at the scene of the incident. In his conversations with Reverend Sharpton and others, Sheriff Baca acknowledged that his department's policies and training were insufficient. He underscored his willingness to be accountable and reassured the community that there would be a thorough investigation.

Sheriff Baca noted that planning and preparation—combined with constant improvement—helped the sheriff's department manage this high-profile incident. He shared his view of seven essential actions that are needed to handle such a high-profile incident.

First, Sheriff Baca stressed the need to create a value-driven law enforcement culture by establishing core values, such as standing against all forms of racism, sexism, and homophobia. Second, he stated that law enforcement agencies should become leadership-driven organizations by conveying a belief that all police officers are leaders—that there is no distinction on that point

between ranks and titles. Third, he suggested that law enforcement agencies should establish themselves as learning organizations—agencies should acknowledge that they do not know everything, will never know everything, and that the agency's posture is that it can always do better. Fourth, he suggested that officers be encouraged to participate in local charities, noting that his department joins in the local Boys & Girls Club activities. Sheriff Baca sets an example by managing four nonprofit Youth Athletic League Centers serving at-risk youths in after-school programs—all involving academics, sports, and cultural arts. Fifth, he emphasized transparency, suggesting that agencies make it a principle that "the good, the bad, and the ugly" of an organization should be revealed. This principle of openness conveys that an agency has nothing to hide. Sixth, Sheriff Baca suggested that agencies promote a media-friendly strategy, noting that he rarely leaves a press conference without conversing with various media representatives, including camera operators and assistants. Finally, the sheriff emphasized that law enforcement leaders must support their officers, taking responsibility—especially in areas of policy and training—instead of simply blaming officers and deputies.

Chief William J. Bratton,
Los Angeles Police Department

Chief William Bratton leads the third largest police department in the United States. Prior to becoming chief of the Los Angeles Police Department, he was the New York City Police Commissioner, Boston Police Commissioner, and chief of the New York City Transit Police Department. He was also chief of the Massachusetts Bay Transportation Authority Police and the Massachusetts Metropolitan District Commission Police. His vast experience in the field has taught him to rely on what he refers to as two truisms: *Everything old is new again* and *no two incidents are the same*.

Chief Bratton emphasized that transparency is essential. Failing to face up to organizational shortfalls is not prudent, he said. He believes that it is imperative to share information publicly and that failure to do so is inadvisable and futile. Chief Bratton believes that negative information finds a way of surfacing in some manner—often in the news media—and that transparency fosters stronger community trust. At the same time, he believes that confidentiality is important. Though he noted that it might seem contradictory to the principle of transparency, there are instances—due to the nature of criminal investigations—that police are compelled to keep information confidential.

Chief Bratton also highlighted the importance of building trust with the news media. Building relationships with reporters prior to a high-profile incident is essential, he said. He noted that if members of the media believe that the police are hiding something, they press even harder. Chief Bratton also recommended that law enforcement executives consider the political consequences of a high-profile incident. He noted that a police chief works for an elected leader or some type of council or commission, and those officials need to be aware that the police chief will assume responsibility to address any incident, remedy any problems, and keep them informed.

Chief Bratton also discussed the importance of case resolution. Even though a municipal police chief has parameters that are different from those of a sheriff—who often is the final authority on internal investigative matters—both police chiefs and sheriffs must keep in mind that there is a need for timely and uniform resolution of cases. Chief Bratton noted that reviews of high-profile incidents in his jurisdiction—some portions of which he does not control—can take more than a year to resolve. This time span, he points out, can allow community tension to fester, but sometimes it serves as a cooling-off

period. Nonetheless, consistency in the resolution process is key to meeting community expectations and the complexity of the incident may determine the appropriate timing for resolution, he said.

Finally, Chief Bratton emphasized that it is essential to continuously educate the public and the news media about the issues surrounding specific high-profile incidents, highlighting the differences and unique aspects of each incident for the public. He concluded that constant communication can build trust and help ease tension between officers and the public.

Chief Noble Wray, Madison Police Department

Noble Wray is a 21-year veteran of the Madison (WI) Police Department. He was appointed chief in October 2004 after serving as acting chief for six months. Early in his tenure, Chief Wray was faced with his first high-profile incident—the alleged abduction of a University of Wisconsin student, which was later revealed as a hoax. However, the national media attention forced him to prove himself as a strong manager while simultaneously strengthening relationships with community leaders. Chief Wray stated that this experience helped him when another high-profile incident arose involving the use of a conducted energy device (CED) on a teenager on school grounds. The controversial incident again brought news media scrutiny to the Madison Police Department, especially in light of other CED incidents throughout the country.

Chief Wray chose to approach the CED incident as an opportunity to advance his trust-based vision of policing. In order to achieve this goal, he subscribed to several principles. First, he said, educate the community on your department's capabilities and limitations with regard to use of force. To accomplish this, Chief Wray created a

baseline report describing how CEDs have been used since their introduction in the department during the summer of 2003. He then posted this report—and the department's CED policy—on the agency's website. Within several days, there were more than 2,000 "hits" to their website. Next, Chief Wray asked community leaders about their perspectives on CEDs and acknowledged that he and the department could make policy improvements. Third, Chief Wray recognized that gaps exist in the trust between the police and the community, and that it is the police department's responsibility to begin to address those gaps. Fourth, he held a series of press conferences and media updates explaining CED policy and procedures. Fifth, he encouraged departments to learn from external and internal resistance to changes. For example, police leaders should not ignore objections from line officers' valid points that can help ensure that proposed solutions to a problem are workable. Finally, Chief Wray recommended humanizing the issue. He admitted to the community that the way his department was using CEDs at the time may not have been the best way, and that he was seeking reform.

Additionally, Chief Wray noted that it is important to be aware of—and address—things that may interfere with the ability of police to connect with the community and establish trust. He recommends that law enforcement executives understand the following eight key issues in order to strengthen community trust:

1. *Confusing jargon:* When speaking to a layperson, be mindful of the "language-disconnect" that jargon can cause.

2. *Lack of employee self-discipline:* Law enforcement agencies—and even officers involved in an incident—can take responsibility for actions without demonizing the subject.

3. *Refusing to reform:* Agencies sometimes simply fail to reform when change is needed.

4. *Tension between fairness and efficiency:* It may be efficient to use a particular tactic or weapon—but in some cases it is not appropriate to the situation.

5. *Failure to adequately serve juveniles:* Community standards may not mesh with police tactics-even if they are sound (e.g., activating a juvenile with a CED).

6. *Lack of empirical data:* Maintaining objective data is important. In the CED case, the police department only had data provided by the manufacturer.

7. *Poor media communication:* Announce when media briefings will occur—and then hold them. Chief Wray found it helpful in building trust with the public to communicate and follow up when he said he would.

8. *Lack of minority viewpoints:* Chief Wray emphasized the importance of understanding the unique perspectives of various groups, such as women and minorities.

Chief Wray concluded that addressing these issues will foster stronger bonds between the police department and the community when high-profile incidents occur.

Commander Simon Foy,
London Metropolitan Police Service

Simon Foy is a commander with the London Metropolitan Police Service. It is the largest police department in the United Kingdom and is primarily an unarmed police service. Only about 10 percent of the department's more than 35,000 officers are armed.

Commander Foy shared perspectives on the department's handling of several events. On July 7, 2005, four separate suicide bomber attacks occurred on the London transit system—both on trains and on a bus. The bombings—killing 56 people and injuring 700 more—were the deadliest attacks in London since 131 people were killed by a V2 rocket on March 27, 1945, near the end of World War II. The bombings surprised a city that was busy celebrating; the day before the attack, London had been selected to host the 2012 Summer Olympics. Two weeks later, a second series of four explosions took place. Luckily, only the detonators, and not the bombs themselves, exploded, minimizing casualties. The attacks placed both the public and the police service on edge.

Previously, the Metropolitan Police Service had begun a process of consultation about a policy for situations when officers faced a suspected suicide bomber. The policy—developed after extensive research—was based on lessons learned from law enforcement officials in Israel and Sri Lanka, who have extensive experience with suicide bombers. Unfortunately, the policy, combined with the high tension from the London bombings, set the stage for a tragic occurrence. The problem was that officers on the street did not have access to critical intelligence held by officials at higher levels, yet these officers were required to make split-second decisions about use of deadly force. The day after the failed second wave of bomb attacks, police in London were searching for individuals who they suspected were responsible for the attacks. Police became suspicious of a male subject and believed he was a suicide bomber. Following a confrontation, officers shot the man. It was later learned that the man was not a suicide bomber and was unarmed.

The public reaction was one of shock and anger, especially in minority communities that feared they would be unfairly targeted in the future, Commander Foy said. Compounding the situation was the fact that police-involved shootings are extremely rare in the primarily unarmed

>> *box 2.3 continued*

police service. Moreover, the incident not only affected public perceptions, Commander Foy said, but also prompted discussions within the police service about how to deal with the threats posed by terrorists, when the police service is largely unarmed and most officers prefer to remain unarmed.

Sir Ian Blair, Commissioner of the London Metropolitan Police Service, recognized that a series of actions needed to be implemented in order to advance public confidence and trust in the police service. A significant obstacle was reconciling the fact that the police service is largely unarmed with the need for authorities to intervene and protect the citizenry. The police service needs to address this issue—but do so within the accountability level that is demanded by a liberal democracy. Further, Commander Foy explained the police service was focusing on how to ensure that an individual police officer's decision to use force should be based on the best information available, while acknowledging the reality that certain types of intelligence about suspected terrorists cannot be routinely shared far and wide.

Commissioner Blair and Prime Minister Tony Blair both held numerous briefings to educate the public about policing strategies in this area as well as to keep the citizenry informed of developments during the course of the shooting-review investigation. The goals of these briefings were not only to inform the public but also to address policy questions and calm fears. They issued assurances that the London Metropolitan Police Service would remain primarily unarmed, but asked the public to join in a strategy discussion of how a largely unarmed force would combat terrorism.

Sir Ian characterized it as direct-collaboration policing. In October 2005, a brochure explaining the department's deadly-force policy was disseminated throughout the police service, clarifying internal policy and communicating priorities and values within the agency.

Commander Foy said that Commissioner Blair and the leadership of the London Metropolitan Police Service are continuing to keep the public informed of developments related to the transit- shooting investigation, as well as seeking their input on strategies to address terror threats in accordance with public needs and expectations. He stated that the police service has enjoyed some significant success. On July 28, 2005, the London Metropolitan Police Service successfully captured an Al Qaeda terrorist cell—the only police organization in the world to do so—without incident or casualties.

Commander Foy closed by emphasizing that the London Metropolitan Police Service will continue to inform and communicate with the public, while at the same time preparing to thwart and respond to any threats to the United Kingdom.

Conclusion

The panelists shared their experiences in dealing with high-profile incidents that occurred in their communities. Each of the incidents affected public confidence—for individual police leaders and departments as a whole. The panelists' philosophy, strategies, and actions in dealing with these unique situations offer opportunities for learning. The lessons that they shared provide a better understanding of issues so that other police executives can make more informed decisions. ∎

practices conducted in 2002 indicates that only a minority of agencies nationwide involve citizens in decisions regarding the internal workings of the department. Less than 30 percent of the agencies reported that citizens participate in the promotional process, reviewed complaints against police, participated in officer selection, helped to evaluate personnel, or helped to develop policies (Fridell 2004b). Likely movement in this direction has been slow because chiefs acknowledge that involving residents in such decisions can be risky because of a lack of understanding of policing by the citizenry. As Chief John F. Timoney of the Miami Police Department explained in a September 19, 2005 interview, "Through no fault of their own, citizens often do not have enough knowledge of police and policing to provide valuable input."

As indicated by the samples in this section, some executives have successfully involved residents in making what are normally considered "internal decisions." These chiefs are expanding the concept of accountability beyond merely justifying an agency's actions, to involving constituents in deciding what those actions should be. These examples of shared decision-making pertain to selecting weapons and other tools for the agency and developing policies regarding their use. Reflecting the important concern raised by Chief Timoney, these initiatives have included extensive citizen-participant education components.

Seattle Police Department

It was following discussions with the members of SPD's demographic councils that the leadership of the Seattle Police Department decided to involve residents in decisions regarding less-lethal weaponry.[10] In April 2000, a man with mental illness, armed with both a knife and gun, was heading toward a downtown intersection around which were a number of pedestrians. The man had fired at store security guards minutes before. Unable to otherwise control the subject and ensure the safety of the pedestrians, SPD officers shot and killed the man. The community, including the members of the various councils, expressed concern that there were not alternative methods for controlling this dangerous subject. The department developed two workgroups: one was an internal workgroup and the other comprised Seattle residents. The groups were asked to make recommendations to the chief about how to better prepare and arm officers for dealing with such incidents. A key question was whether the department needed additional types of less-lethal technology to support the work of line personnel for dealing not just with citizens with mental illness but with other subjects as well. At that time, the department used batons and O.C. spray as their primary less-lethal weapons.

The group of residents selected to form the committee represented a cross-section of the community, including members of the various demographic and geographic councils. Organizations represented by members of this Community Workgroup on Less Lethal Options included:

- East African Advisory Council

- U.S. Department of Justice, Community Relations Service

- Community Policing Action Council

- Hispanic/Latino Advisory Council

- West Precinct Advisory Council

- Mothers for Police Accountability

- Seattle Neighborhood Group

- Minorities Advisory Council

- Ballard Merchants' Association.

Before developing their recommendations, the members of the Community Workgroup received considerable education from SPD personnel. Topics covered during their training included use-of-force policies and procedures, firearms training,

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10. Chief Kerlikowske gives the credit for this initiative to Assistant Chief Harry Bailey, who was serving at the time under acting Chief of Police Herbert V. Johnson.

box 2.4

COMMENTARY:
Building the Public Trust: Leadership, Transparency, and Accountability

by Christine Silverberg

"Building community trust": That is a term we are seeing more and more often in relation to public institutions—government, health, education, to name a few, and yes, policing. The term, which generally refers to the responsibility the public places on a government or its institutions to care for their interests, is so popular now that there is risk that the term "the public trust" or "the community trust" will be tossed out as a time-limited phrase—trendy at best, meaningless at worst. Relegating the "public trust" to another "flavor of the month," however, would be a serious mistake.

There is nothing, in my view, that is more important to the delivery of policing services today than that it is supported by the trust of diverse communities. There must be broadly based confidence across communities, local governments, and stakeholders in the ability of the police to deliver its services, ethically, in a transparent and publicly accountable way, and with a leadership dedicated to earning that trust. Over the years, through the practice of policing, the study of criminology, and the practice of law, I have come to several conclusions:

1. The word "trust" has several definitions, including one not usually considered in the context of policing, a definition with a fiduciary aspect—"holding something of value for another person." This raises the idea that the safety and well-being of the community are held in trust by the police for current and future generations. As a fiduciary, the police owe a duty of care to the community, a duty founded on honesty and integrity, diligence and even-handedness in approach.

2. Building or restoring and retaining the public trust depends on four key approaches: (1) a culture of accountability within the police organization, (2) an understanding of the central role of leadership, (3) an embracing of the spirit of transparency, and (4) ensuring that those who breach their fiduciary responsibilities are dealt with appropriately, in a fair and consistent process.

3. The police discipline process is a mechanism of final resort. True public accountability rests on the connectivity among all the parties, where governing authorities support police leadership to establish ethical police services, where police chiefs are responsible for strong leadership and inculcation of core values, and where police members are personally responsible for engaging in ethical behaviors toward those they serve.

4. The excellence with which policing services are delivered derives from excellence within the organization. Building such internal excellence requires competent and sustained leadership at the police chief and executive level—a leadership schooled in the art and craft of policing, knowledgeable about organizational systems and processes, and skilled in strengthening the capacities of institutions, communities, and individuals.

The police operate in a highly contextual environment.

The police often operate in a highly emotional atmosphere, in a context within which there are differing views of the role and mandate of the police and in an environment that is highly political

and often ambiguous. In such an environment, there is little consistency in the public perception of the scope or depth of the services the police provide or the manner in which the police deliver them. This is especially so when the stimulus for public opinion is a crisis (such as the proliferation of gun crimes, gang violence, or serious officer misconduct) and the issue tends to be ephemeral, once media coverage diminishes. The challenge for the police is in being responsive to these shifting tides of public opinion and in managing the often-changing and competing expectations of diverse communities, while at the same time retaining the independence of office.

Public perception is both a driver and a challenge.

There is a dichotomy that arises in public sentiment towards the police. A rights-based culture drives public perceptions as to what is considered just treatment. The police are applauded when they provide services directed against those who violate the law or regulation, but criticized when there is a perceived or actual abuse of their power. This dualism is especially true when the public or any constituent group views police actions as discriminatory and thus a violation of the principle of even-handedness that is so much a part of the foundations of the public trust.

Diversifying methodologies, not altering values, is key to delivery of policing services.

In the post-9/11 era of anti-terrorism initiatives, where there is increased power accorded to policing authorities by the state and where freedoms are frequently restricted for the very purpose of protecting those freedoms, there lies enormous risk of fractionalizing a community. This risk is amplified when one or more parts of a community or police agency rationalize or justify police abuse of power or excessive use of force on the basis of the "greater good." In such a "means versus ends" context, the impartiality of the police and their adherence to core values are often questioned. In such a world, police use of force and the application of coercive state authority come under intense scrutiny; public perceptions of the police are influenced by what is happening not only in one's own community but around the globe; and the ability of the police to build and sustain community trust is often shaken. The public trust is not a partisan concept, and building it or restoring it means understanding diverse perspectives and delivering different, though equitable, services in these circumstances. Delivering such services requires an agency to be flexibly organized and poised to respond to change and crisis by diversifying its methodologies, not altering its values.

Police accountability operates at two levels: individual and institutional.

The public will not tolerate real or perceived threats of injustice, corruption, police abuse of power, or political influence from an institution that affects their daily lives and has the lawful authority to constrain their freedom or, in exceptional circumstances, use deadly force to ensure public safety. In some cases, elaborate procedures and systems have been developed to ensure that issues of police officer misconduct are properly addressed. Aside from any criminal, civil, or disciplinary action that is taken in such individual cases, policies or standards are often articulated by governing bodies to prevent recurrences of abuses.

Governance that is merely reactive to public complaint or misconduct, however, neglects the role of institutional accountability in the broader accountability framework—an institutional accountability brought about by effective and inspirational organizational leadership focused on developing a culture of accountability within

the organization, a culture founded on ethical decision-making and integrity of action. When a chief of police disciplines an officer for excessive use of force, for example, but fails to examine the systems and decision-making processes that may have given rise to the conduct in the first place, the chief has failed to reassure the public that underlying causes are being addressed. Intuitively, just as the public knows that good police work is not simply a series of independent police actions but a complex network of interrelated individual behaviors and organizational processes, so, too, officer misconduct is generally not perceived by the public to be an isolated event, but rather, the result of organizational systems gone awry.

In the final analysis, it is a combination of personal, organizational, and situational factors that affect police decision-making, and it is a combination of those same factors that is at the root of police misconduct and institutional corruption. An individual officer can apply a wide margin of discretion in highly constructive or highly destructive ways; however, focus on individual control of misconduct, while clearly critical as part of the broader scheme of accountability, becomes a bandage that falls short of addressing the underlying symptoms. Too often, the "bad apple" approach to officer misconduct supplants deeper inquiry into organizational climate.

The public trust is earned in the "here and now."

A police chief does not have the luxury of waiting weeks for an investigation report, or years for inquiry recommendations. Part of earning the public trust is balancing competing interests and taking decisive action in the "here and now." Taking such decisive action is always risky for the chief of police trying to stay ahead of news reports and demonstrations. Even when the actual police response to a crisis is multi-dimensional, focusing across all issues, police leaders often appear in public and simply state, "I have ordered an immediate investigation into the incident and the surrounding circumstances. As the matter is under investigation, I am restrained from commenting further. Our sympathies go to the loved ones of all who died." Such a response will do little to engender public trust. The police chief simultaneously must respond (1) internally to deal with whatever policies, systems, and processes may be in place that shaped the alleged misconduct, and (2) externally, to demonstrate that the police understand their duty to the community and will be held accountable both as an institution and as individuals for their conduct. Conveying these sentiments and commitments to the community cannot be done without honest, forthright, and transparent approaches.

Whenever incidents of officer misconduct occur, the chief of police must be able to communicate, implicitly and explicitly, that accountability mechanisms are in place in the agency. Moreover, there must be a culture of accountability within the organization with members committed to core values. Chiefs should exercise the leadership necessary to identify the issues and resolve gaps in service or accountability. Any discussion of police integrity and thus police accountability must transcend an individualized focus to a broader examination of organizational systems and structures, leadership, and supervision. The chief should demonstrate and articulate the department's fiduciary relationship with the community.

True accountability is brought about by leadership, not coercion.

Integral to any restoration of the public trust is an understanding that true accountability is institutionally centered and culturally driven, brought about by leadership, not coercion. True accountability is simply, in my experience, not achieved

only by laws, rules, regulations, and orders, but also by effective and sustained leadership—leadership which is values-based, focused on people and across systems, committed to learning, and built on a foundation of ethics. Leading such change in police agencies is complex and requires strategies aimed at ensuring that systems within the organization are integrated one with the other and aligned with community needs.

Systems thinking is critical.

Both overcoming negative public perceptions built up over time and actively demonstrating unfailing commitment to the principles underlying the public trust require an ability on the part of police leaders to work within and between communities as well as across the systems that make up a community. Racially motivated attacks, for example, require the police to understand both the historical wrongs and grievances of the group involved as well as the motivations in a particular incident. Solutions are found not only in managing the specific incident from an operational perspective but by working closely with the communities of interest to redress their grievances as a whole. Thus, systems thinking and "know-how" in systems integration are core competencies for policing leaders—the silos and partisanships that characterized police organizations of yesterday must continuously be rejected in favor of a model in which relationships are built, not mere contacts made; issues analyzed; impacts understood; and expectations managed person by person, community by community, and issue by issue. Fighting crime and disorder and maintaining public safety are simply not one-dimensional. Communities share in the responsibility for maintaining peace and order; one-dimensional approaches by the police, such as tactical operations without broader community and strategic considerations, are bound to result

in failing relationships and a fracture in the deep-seated trust that is fundamental to effective policing.

Policing from the inside out.

The excellence with which police deliver their services outside the organization is dependent on the excellence within, a notion I call "policing from the inside out." While community policing contemplates change to policing structures and systems, attention to building a well-performing police organization from the inside out is often ignored when budgets are limited and the police are faced with ongoing crises. In my experience, a well-performing police organization has at least five characteristics: there is an emphasis on people; police leadership is participative and embraces uninhibited dialogue up, down, and across all ranks, throughout the organization; the values of excellence and high performance are the same on the street as they are in the executive offices; the police are committed to their communities and believe that community consultation, participation, cooperation, and joint resolution of problems are central to how the police conduct business; and finally, there is priority placed on continuous learning and systems thinking.

Leading-edge strategies.

In the Calgary Police Service, our strategies were leading-edge and were introduced at a time in history that paved the way for managing in more complex times. Among other initiatives, we focused on rebuilding community policing across a broad spectrum of communities; increased investigative capacity; enhanced the capability of analytical support and the utilization of technology to strengthen the effectiveness of front-line and investigative services; and built human resource systems and practices to reflect the

learning and development of members and the needs and expectations of communities. We also redefined the roles of management to lower the levels of decision-making, increased systems capacity, and worked to align programs and services to community expectations and policing requirements. A few specific initiatives include:

- Introducing cross-functional and interdisciplinary issue teams focused on diverse concerns of front-line personnel.

- Flattening the agency by creating a modified matrix organizational structure, in which vertical rank structures were established inside functional divisions (to retain a command and control orientation for operational matters) and horizontal structures allowed for strategic decision making and more timely responsive communications.

- Introducing a strategic framework for an integrated approach to competency-based human

resource systems, including recruitment, promotion, transfer, and developmental assessment, all aligned with community expectations.

Leadership courage, community synchronicity, and enduring leadership practices.

Police leaders require knowledge of organizational systems and corporate culture as well as the art and craft of policing. Introducing complex systems changes requires courage, and there is a need to ensure a synchronicity with the community. Of fundamental importance in a system in which the police have been given authority to restrict or remove the liberties of another, and in which police are routinely invited to help solve the community's problems, are checks and balances that prevent the exercise of abusive or manipulative practices. Checks and balances on their own, however, will not sustain the public trust. Leadership is pivotal. Without leadership guiding sustained and predictable strategies, accountability is moot and so, too, is the public trust. ∎

SWAT policies and procedures, law enforcement models for dealing with citizens with mental illness, and the SPD's Crisis Intervention Program. They observed, and some participated, in firearms simulator training. They also received education on less-lethal options and observed demonstrations of their use. The education on various types of less-lethal weapons came from the internal work group referenced above, named the Force Options Research Group (FORG), which had been charged with the same task of producing recommendations for the chief. This internal workgroup was asked to make recommendations based on their examination of "the state-of-the-art regarding less-lethal force options and their deployment by law enforcement agencies … and make recommendations to ensure that SPD is at the forefront in the training, deployment, and use of such tactics and munitions." (Force Options Research Group 2000, 4). To this end, the members of the group reviewed the relevant literature and law, consulted with national experts on less-lethal weapons, surveyed other law enforcement agencies, contacted vendors and distributors of various weapons, and tested various less-lethal options. The Force Options Research Group shared its findings with its community counterpart.

Other than the training of the Community Workgroup by the Force Options Research Group, the two groups worked independently, and each submitted recommendations to Chief Kerlikowske. The two groups made similar recommendations. They recommended that more training be provided to line officers on dealing with citizens with mental illness and that a larger group of officers receive the more-intensive Crisis Intervention Training. Further, both groups recommended the adoption of TASERs and Beanbag Launchers.[11] Chief Kerlikowske reported in a February 15, 2006 e-mail communication that "these key recommendations have been adopted by the department. We valued the input of the community and their full partnership in this process and we have all benefited from it."

Richmond (VA) Police Department

Jerry Oliver, who served as chief of police in Richmond, Virginia, from 1995 to 2002, expressed, in an interview on November 15, 2005, his strong belief in involving residents in the decisions of the department. According to Chief Oliver, community policing is more than just working with citizens to solve the problems in their own neighborhoods. Community policing means including residents more broadly in making decisions about how the agency will serve its constituency—decisions normally made only by police personnel. To this chief, *accountability is more than just justifying an agency's actions; it also means involving constituents in deciding what those actions should be.* Chief Oliver involved residents in critical decisions such as whether Project Exile—an initiative focused on illegal guns—would be adopted in Richmond and much more minor ones such as the color of new vehicles. He involved citizens when the agency selected a new firearm.

His use of this shared decision-making model in early 1998 to select tools for the Richmond Police Department Special Weapons and Tactics (SWAT) team produced great payoff in the form of shared accountability with residents. When the Richmond Police SWAT team needed new equipment, Chief Oliver developed a committee comprising both Richmond Police personnel and Richmond residents. He included a cross-section of residents, with priority for people from the high-crime areas where the tools/weaponry would most likely be used. The community residents on the committee received 16 hours of training across four sessions on why SWAT teams are needed, what these teams do, the kinds of weapons and other tools that they need, and the kinds of weapons/tools that were available. The residents met the members of the SWAT team, who discussed why they were selected and some of their experiences as team members.

The police-citizen group selected frangible (capable of breaking) breaching rounds to be fired

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11. The full list of recommendations from each group is contained in their reports posted on the SPD website at http://www.seattle.gov/Police/Publications/default.htm.

from a shotgun for high-risk forced-door entries. The rounds chosen by the agency were, according to the manufacturer, "made of compressed powdered zinc, which disintegrates into fine powder upon impact with the target." (*Green v. Ingram* 2005, 7). The reported value of these rounds was that the compressed metal slugs would defeat the door-lock mechanism but cause no further damage or harm because the metal would then disintegrate into powder.

In one highly publicized case, these frangible breaching rounds were used when police went to a low-income, high-minority area to conduct a high-risk warrant search of a residence for weapons. When the team ultimately gained entry, after firing five of the breaching rounds into the door, they found a woman lying dead on the floor with her body draped over her 3-year-old daughter. It appeared that her death was the result of the breaching process. (An autopsy later confirmed that the woman's death was caused by fragments from the frangible rounds.)

Within hours, Chief Oliver stood at the front of the police academy auditorium, which was filled with angry community members as well as reporters. He conveyed to the group all he knew about the incident. There were hostile questions and comments, and then a resident of the neighborhood stood up to speak. This person had been one of the citizens who served on the SWAT tools committee. This man reported that residents had asked the police to rid the neighborhood of the person whose home was searched. He reported that he and his fellow citizens on Chief Oliver's committee had helped to select the equipment that the police had used during the incident. He conveyed that bad things can happen even when police try to do everything right—including consulting citizens about how they should do their jobs. The hostility and brewing community outrage abated considerably, and the tragic accidental death was a short-lived news story.

The underlying message of the statements made by the citizen in the tense forum was one of shared responsibility. The man seemed to be saying that, since he and others were consulted, they could not condemn the police for what happened and even shared responsibility for the tragic event. Chief Oliver reported that there are multiple benefits of shared decision-making including, but not limited to, enhanced trust.

Orange County Sheriff's Office

Residents in Seattle and Richmond helped their police departments select weapons and other tools. In Orange County (FL) and St. Petersburg (FL), residents were involved in developing policies for the use of weapons. In both jurisdictions, the weapon of focus was the TASER. Sheriff Kevin Beary of Orange County started acquiring TASERs in 2000, and by 2004 approximately 80 percent of line personnel were carrying them.

With a national controversy around TASERs growing and Orange County at the center of the controversy, the sheriff in 2004 decided to involve residents in discussions regarding their use. He formed the TASER Task Force Committee, made up of seven residents and five sworn personnel. Among the resident members were a minister, a representative from the Hispanic Coalition of Central Florida, a past president of the Central Florida chapter of the NAACP, a member of the Orange County School Board, and a doctor who practices forensic and social psychology. A lieutenant, one captain, and three sergeants represented patrol, professional standards, and training. The lieutenant served as chair, and one of the residents, a business leader in the community, served as co-chair. The committee had a broad mandate to review policy, training, reporting, and other deployment issues. According to Sheriff Beary in a February 2006 e-mail communication, "the TASER has generated national interest and in light of that attention, I thought that the assembly of a committee and a careful review of the training and implementation of the M26 and X26 TASER would be both timely and appropriate."

Before developing recommendations, the committee received extensive education from subject-matter experts. The lieutenant who chaired the group, now a captain, reports, "The education

process was critical to the overall work of the committee." The resident members learned about:

- Use of force generally, including use-of-force continuums, statutes, and case law,

- The TASER

- How Orange County Sheriff's Office (OCSO) officers were trained in TASER use and the history of this training,

- The nature and extent of OCSO use of TASERs to date, and

- Use-of-force reporting-and-review requirements and procedures.

Additionally, the committee read current medical literature pertaining to the TASER and requested input from local medical professionals. These professionals were asked to "independently look at the research and render an expert opinion on the medical aspects of TASER safety issues." (Ogden 2005, 5). During their own training on how deputies were trained, several resident members volunteered to be subjected to TASER activation. One member received three activations in order to understand the various ways TASERs could be deployed. The police-citizen committee held a public forum to hear the opinions of other residents of Orange County.

Three pages of recommendations for the sheriff addressed training, documentation, policy, and other issues. These included recommendations that:

- The general public receive education about the TASER and the OCSO's use of it,

- Initial training be expanded from four hours to eight hours,

- Deputies not be required in training to be subject to TASER activation,

- Data be collected on incidents where the presence of the TASER appears to produce subject compliance without its activation,

- The sheriff's office have a separate policy on TASER instead of incorporating it within the overall use-of-force policy,

- The agency continue to allow for TASER use at the level on the response-to-resistance matrix denoting passive physical aggression on the part of the subject, but the committee did "not encourage the use of a TASER on someone who merely verbally refuses to comply with a deputy's order" (Ogden 2005, 38), and

- The committee continued to exist for another year "to monitor its results and recommendations and be available to consult with on any future initiatives with regards to the TASER." (Ogden 2005, 39).

The sheriff adopted all of the committee's recommendations. In responding to the committee's concern about the use of TASERs against subjects whose verbal resistance did not indicate imminent threat, the agency revised its response-to-resistance matrix and provided two hours of in-service training to all officers regarding this change.

Captain Dave Ogden, who led the committee, commented on one of the positive results of the revised policies for TASER use and the process of sharing decision-making with stakeholders. In an interview in January 2006, he stated, "We had previously been in the forefront of negative national news pertaining to TASER use. Now the coverage is much less frequent and sometimes even positive."

Sheriff Beary reported, "I am most proud of the fact that a committee of 12 came together to carefully and objectively examine the facts. They held public meetings, documented data concerning these devices, and several members volunteered to be activated themselves so they could fully understand the ramifications of the use of this tool. They provided my agency with the basis for the development of an ECW [electronic control weapon, also known as a conducted energy device] policy that is being reviewed and embraced by law enforcement agencies across the country."

St. Petersburg (FL) Police Department

St. Petersburg Police Department (SPPD) Chief Chuck Harmon implemented a streamlined version of the Orange County involvement of citizens in developing force policy. Chief Harmon had paid close attention to the debate swirling around TASERs and, only after much research and discussion, decided to deploy 400 TASERs in 2006 in St. Petersburg. Groups of personnel had advised the chief on strategies for TASER deployment and training and had produced a draft policy for the weapon's use. Chief Harmon wanted to confer with key community stakeholders regarding the circumstances of TASER use in their community. To that end, he organized an all-day "EMDW [Electro-Muscular Disruption Weapon] Committee Meeting" in October 2005. He invited approximately 20 St. Petersburg residents to this meeting. The chief ensured that the group represented the broad community, but he also targeted stakeholders who would likely have the most concern about TASER deployment, including local leaders in minority communities. Included in the group were a homeless coalition advocate, several neighborhood association presidents, the president and CEO of the local Urban League, the deputy superintendent of schools, members of the local youth council, and a mental health professional.

Much of the gathering was spent presenting information to the participants to facilitate an informed review of the draft policy that they would see towards the end of the day. Following introductory remarks by the chief, an officer presented information on the department's linear use-of-force continuum (the Response-to-Resistance Matrix) and the nature and extent of the training that department recruits receive on this topic. The president of the company that distributes TASER International products in Florida introduced the TASER to the group and gave the manufacturer's standard marketing presentation touting the benefits of TASERs. This was followed by a demonstration in which one of the members of the department's command staff experienced TASER activation.

The chief did not want the participants' information about the safety of the weapon to come solely from a person representing TASER International. Instead, he arranged for three local medical professionals to speak to this important issue. This presentation included the medical examiner for the county, the medical director of the county's emergency medical services, and a trauma surgeon. A sergeant in the training unit described how the SPPD would deploy TASERs and train personnel in their use. There were opportunities throughout the day for participants to ask questions and make comments.

After the participants received this half-day of education regarding use of force and TASERs, Chief Harmon presented them with the draft policy that the department had developed. He walked through the policy with the community stakeholders, answering questions as they arose and responding to comments. A key aspect of the discussion was the use of TASERs on school grounds. Based on these comments, the chief agreed to sit down with representatives from the school system to obtain additional input. The chief agreed to consider the other feedback received during this discussion prior to finalizing the agency policy. Chief Harmon reports, "At the end of the day, it was clear the *process* of involving the stakeholders was just as important as the outcome. The group validated our proposed policies and served as ambassadors in the community."

CONCLUSION

Good policing practices and accountability are essential to developing trust with communities. Agencies must use policy, training, and oversight mechanisms to ensure, as much as possible, that only justifiable and necessary force is used by their personnel. Agencies, too, must account to their communities with regard to their power to use force, even deadly force, against them.

A strong majority of agencies in this country claim to be practicing community policing. Yet according to Smith (1994, 5), "No other police activity has the capacity to place obstacles in the path of community policing like the use of force."

He notes that "we ask police to take on a difficult task when we expect them to convince wary communities to take the right hand of police partnership while the left hand holds a nightstick that may be used against them at any given moment." But agencies around the nation are taking on this difficult task and are doing so with great reward.

I have reviewed in this chapter the more traditional accountability mechanisms and presented promising practices from around the nation. These initiatives have provided education to citizens, facilitated police-community dialogue, reduced tensions following critical incidents, and brought shared decision-making by police and residents. For shared decision-making endeavors, it is important for a law enforcement agency to properly educate citizens about pertinent police practices and tactics (this would be extremely important, for example, when jointly selecting the type of ammunition that officers will carry). The message from Seattle is that not a single program but, instead, multiple initiatives can go furthest in building up trust with communities generally and with minority communities in particular.

We can be heartened that policing in this country and relationships between police and communities have come a long way since the turbulent 1960s. Police initiatives to build trust—generally and around issues of force—must continue. These sustained efforts will pay off in peaceful communities working together to address crime and improve the quality of life.

3

Police Use of Force and People with Mental Illness

by MELISSA REULAND

Each day across the United States, police officers respond to incidents involving someone who is behaving erratically, irrationally, and perhaps dangerously. The person may be under the influence of drugs or alcohol, may have a mental illness, or may be experiencing a combination of these or other factors. In some cases, the situation will be calmed by law enforcement's presence; in other cases, the person's behavior may escalate and invoke an officer's use of force. In the latter case, community and family reaction can be outrage and sorrow, and involved officers can be deeply affected as well. These incidents often prompt demands that the police department "do something" so that people who are disabled (by their addiction, their mental illness, or both) can be helped—not harmed—during police encounters.

The Police Executive Research Forum (PERF) began to focus on policing and people with mental illness almost 20 years ago with Gerard Murphy's 1986 publication, "Managing Persons with Mental Disabilities," which PERF updated in 1997 (Murphy 1986; PERF 1997). Since that time, PERF has worked collaboratively with the Council of State Governments (CSG) on the "Criminal Justice/Mental Health Consensus Project," which released its report in 2002. Most recently, in 2004 and 2005, PERF produced two guides on implementing and enhancing police-based diversion programs for people with mental illness, through grants from the Technical Assistance and Policy Analysis (TAPA) Center (Reuland 2004; Reuland and Cheney 2005). Currently, PERF and the Council of State Governments are collaborating on a U.S. Department of Justice, Bureau of Justice Assistance (BJA)-funded project to promote awareness of specialized law enforcement responses to people with mental illness. Deliverables from this project, called the BJA Law Enforcement/Mental Health Partnership Program, will include an Essential Elements Policy

Brief, a Training Toolkit (including guidelines for developing training and content modules), a national program database, and a Statewide Law Enforcement Initiatives Policy Brief.[1]

This chapter will draw on PERF's previous work, relevant current research, and agency experiences shared at PERF's 2005 Critical Issues in Policing Forum in San Diego to describe the characteristics of those difficult encounters, why they occur, and the intersection of use of force and this population. The chapter will detail practices law enforcement agencies can adopt to improve safety and to provide appropriate assistance for these citizens.

THE NATURE OF POLICE ENCOUNTERS WITH PEOPLE WITH MENTAL ILLNESS[2]

"Officers complain that taking someone to the psychiatric service of the hospital is a tedious, cumbersome and uncertain procedure. They must often wait a long time… and are occasionally obliged to answer questions… that appear to place their own judgments in doubt."
(BITTNER 1967, 281).

Although this quote comes from a 1967 article reporting on seminal research on police discretion regarding emergency detention of people with mental illness in the community, it could just as easily have come from a study done today. In Bittner's field observations study, officers brought 1,600 people to the hospital for emergency evaluation in one year (which equaled the total arrests for murder, manslaughter, rape, robbery, grand theft, and aggravated assault), but they handled the majority of their encounters with this population in the field informally, often providing what Bittner termed "psychiatric first aid" (1967). While today's situation is similar in some ways, much has changed since Bittner's study, particularly the reasons for police encounters with people with mental illness and officers' disposition options. For example, the emergence of larger numbers of people with severe mental illness on city streets, and in private and group homes, is associated by many with their release from state institutions in the 1970s.

This "deinstitutionalization" began in response to several factors, including a federal court case that ruled that mental institutions were failing to provide for a Constitutionally guaranteed right to treatment (Perez, Leifman, and Estrada 2003; Teplin 1984; Patch and Arrigo 1999). These agencies were primarily warehousing people with mental illness, too often in inhumane circumstances (Perez et al. 2003). At the same time, psychotropic medications were beginning to show promise in managing the symptoms of mental illness, and community mental health centers were being created (Perez et al. 2003; Lamberti 2004). Consequently, the outcome of the federal court case was to order the release of individuals for whom community-based treatment would be appropriate. This situation left the states to assume the responsibility for creating a comprehensive community treatment base with the funds available from closing the mental institutions (Perez et al. 2003). Although some communities did generate this care continuum (Finn and Sullivan 1987), many areas did not use funds to create community-based care, and stringent involuntary commitment criteria were instituted to restrict access to the now-smaller number of mental health institutions (Lamberti, 2004; Lamb and Weinberger 1998; Abram and Teplin 1991; Wachholz and Mullaly 1993; Perkins, Cordner, and Scarborough 1999; Teplin 2000; Vickers 2000). This landscape change created situations that continue to challenge community services agencies. DeCuir and Lamb (1996) wrote, "From law enforcement's perspective, if the system were working as planned, the alleys and bus stations

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1. See http://consensusproject.org/projects/law-enforcement for project information and updates.
2. This chapter uses the term "people with mental illness," which respects the wishes of people with disabilities.

would not be filled with homeless mentally ill people…and state jails would not be holding thousands of psychotic misdemeanants."

"Our experience is that police come into contact with three types of mentally ill people: the homeless, 70 to 80 percent of whom have a substance abuse problem; a mentally ill person who is acting out in public (because of failed medication regimen); and lastly, a category that doesn't get much attention, the housed mentally ill, people who are living with aging parents or siblings who are watching after them. These people will call the police because they have been assaulted by their own children. These families are attempting to deal with a problem with limited resources and means, and the only number they have to call is 911."
—PASADENA (CA)
CHIEF BERNARD MELEKIAN

The frequency of law enforcement encounters with people who are mentally ill today is undeniable.[3] Despite the lack of national statistics, several law enforcement agencies have individually tracked this trend. For example, according to the late James Fyfe, former director of training in the New York City Police Department, the NYPD responds to a call involving a person with mental illness once every 6.5 minutes. In one year, law enforcement officers in Florida transported persons with mental illness for involuntary examination (Baker Acts) more than 40,000 times, which exceeds the number of arrests in the state for aggravated assault or burglary (McGaha and Stiles 2001). Recent data also support earlier estimates that encounters with people with mental illness comprise approximately 3 to 7 percent of an agency's call load (Deane et al. 1999; Ruiz and Miller 2004). These calls can also require that officers spend a considerable amount of time managing the scene and/or attempting to effect a mental health evaluation. The Los Angeles Police Department reports spending approximately 28,000 hours a month on these calls (DeCuir and Lamb 1996), and analysis of data from 60 mental health calls received by a suburban Colorado police department revealed the average amount of time spent on these calls was 74 minutes (Pogrebin 1986–87). The amount of time it takes officers to deal with these encounters is disproportionate to the percentage of cases they handle and can frustrate officers under pressure to respond to radio calls. Dispositions typically available to officers include informal resolution at the scene (occurring the majority of the time) and transport to a mental health facility for evaluation or arrest (Teplin 2000; Lamb, Weinberger, and DeCuir 2002). In Teplin's observational study, data revealed that officers generally arrested people exhibiting signs of mental disturbance because the person fit into a "gray area"—the person was not sick enough for admission to the mental facility but was too sick to be left unsupervised (Teplin 1984). As a consequence of the limited alternatives for people in this "gray area," the largest mental institutions in the United States today are actually jails—the Cook County Jail in Chicago, Riker's Island in New York City, and the Los Angeles County Jail (http://consensusproject.org/info center/factsheets/fact_jails). On a national level, the prevalence rate of severe mental disorder in jails is 16 percent (Ditton 1999), and is nearly 9 percent for male detainees entering jail (Teplin 2000) and from 12.2 percent to 18 percent for female detainees (Teplin 2000; National GAINS Center 2001).

"Law enforcement officers are always the first responders in these situations because of a lack of information and insufficient mental health facilities; officers end up running people with mental illness through the criminal justice system."
—SAN DIEGO (CA)
EXECUTIVE ASSISTANT CHIEF BILL MAHEU

The next section reviews existing literature on the intersection of police use of force in situations

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3. This discussion focuses on people with mental illness who are the *subject* of the call to police. This discussion does not address situations where the person with mental illness is a victim of a crime, which also are frequent. For more information on victims with mental illness, see Hiday et al. 1999 and www.consensusproject.org.

involving people with mental illness. Unfortunately, as many communities know firsthand, situations involving people with mental illness that result in injuries and deaths can galvanize community criticism of the police as few other circumstances can. The literature reviewed below aims to provide a foundation for the emerging proactive models of police response that can reduce these kinds of critical incidents.

POLICE USE OF FORCE AND PEOPLE WITH MENTAL ILLNESS

Whenever police agencies seek to revise policies and procedures, they first look to understand the nature and extent of the problem they are facing. For example, in this case, policy makers will likely want to know *how often* police use force in situations involving people with mental illness—and with what outcomes—and *why* officers may use force in these situations. To understand why police officers use force in certain circumstances, researchers have examined the influence of two general factors: *suspect* characteristics (such as social standing and on-scene behavior) and *officer* characteristics (such as attitudes and past experience) (Terrill and Mastrofski 2002).

This section begins by reviewing the literature on frequency of use of force in incidents involving people with mental illness and incidence of injuries and death. The section then reviews relevant literature to identify the relationship between use of force and both *suspect* characteristics, such as violent or dangerous behavior, and *officer* attitudes about these encounters.

How frequently do police use force during encounters with the mentally ill?

Police Kill Bronx Man After He Stabs Family Members
— *THE NEW YORK TIMES*,
NEW YORK CITY 2/14/06

Man Dies After Trading Gunfire with Police
— *THE REGISTER-GUARD*,
EUGENE (OR) 2/18/06

Man Says Police Killed His Son
'In Cold Blood'
— KSAT,
SAN ANTONIO (TX) 2/27/06

Media reports, such as those above taken from recent U.S. media outlets, and advocacy literature may have fueled a public perception that police use force frequently in situations involving people with mental illness and that these situations result in injury and death (of either the officer or the person with mental illness) more often than in other cases. For example, a well-cited statistic released by the Treatment Advocacy Center (TAC) is that people with mental illness are killed by police at a rate four times greater than the general population (2005). These rates are misleading, however, because they were derived using national population estimates for the denominator. To accurately develop rates that would indicate whether police use force more frequently in situations involving people with mental illness than in situations involving emotionally healthy people, however, the denominators would need to reflect the number of people with mental illness, and those without, who came into contact with the police nationwide. Unfortunately, these figures are not known, nor is it known whether they would serve to support or refute the commonly held beliefs. According to Lt. Paul Geggie of the Los Angeles Police Department, the LAPD has collected information about the number of injuries and deaths to those involved in mental illness-related incidents. In this department, over a three-year period, 13 people with mental illness died during a police encounter—an average of just over four people per year. The author estimated that the Los Angeles Police Department responded to approximately 68,000 calls for service in 2003 involving someone with mental illness. This frequency results in a rate of 5.9 per 100,000 calls involving people with mental illness. Still, these estimates apply to Los Angeles specifically and cannot be extrapolated to the general public.

A more reliable way to estimate use of force involving people with mental illness is to conduct prospective studies of police behavior. Two such

research projects looked closely at the issue of whether "mental impairment" is associated with use of force. In 2002, Terrill and Mastrofski analyzed data collected as part of the Project on Policing Neighborhoods (POPN). This study used field observations of more than 3,000 citizen-police encounters, and recorded information on a range of use-of-force actions, including categories for "verbal commands and threats," "restraint techniques," and "striking methods" (Terrill and Mastrofski 2002, 225). Field observers also recorded suspect characteristics, such as attitude, demographics, and mental impairment, defined here as "the inability to perceive situations as a reasonable person would or to control one's emotions and actions" (Terrill and Mastrofski 2002, 233). Heightened emotional states (fear and anger) were coded elsewhere. Only 3 percent of the police-citizen encounters were coded as involving a suspect with a mental impairment, and this variable was not significantly related to use of force.

Unlike the study reviewed above, much of the literature on the use of force and "impairments" has tended to collapse mental impairment with drug and alcohol impairments. Because this work has been inconclusive, Kaminski and colleagues surveyed officers on their use of force to better understand the independent contributions of the differing sorts of impairment (Kaminski, Digiovanni, and Downs 2004). The definition of mental impairment is based on the "officer's perception of whether the subject was mentally ill" (314). In the series of 2,227 arrests occurring over seven months, officers categorized 2.4 percent of their arrests as involving someone with mental illness. The data showed that as a group, impaired people were significantly more "threatening" to officers and "required more effort to arrest" (319), but were not more likely to injure officers. The data revealed no significant relationship between use of force and either alcohol impairment or mental illness alone; the significant relationship between impairment and use of force was due to drug use.

It may be difficult to extrapolate from these findings to policy and practice, however, because for an officer in the field, it can be very difficult to differentiate between the different causes of impairment. Given that almost 25 percent of people with mental illness also use substances (Epstein et al. 2004), and nearly three-quarters of people with mental illness in jails and prisons have a substance-use disorder (Abram and Teplin 1991), the likelihood that police will encounter someone with co-occurring impairments is high. Policies and procedures addressed later in the chapter will need to account for this situation, particularly in light of the findings presented next.

How often does the violent or dangerous behavior of a person with mental illness result in police involvement?

Several recent large-scale studies of the relationship between mental illness and violence have shown little association between severe mental illness and violence (Angermeyer, Cooper, and Link 1998). The relationship becomes robust when the person has a co-occurring substance-use disorder and is not taking his or her medication (Steadman et al. 1998; Swartz, Swanson, and Burns 1998). Studies reveal that much of the violence is committed against caretakers and family members who call the police when they can no longer manage the ill person (Finn and Stalans 2002; Solomon, Cavanaugh, and Gelles 2005), but this violence is similar to domestic violence perpetrated by people who are not mentally ill (Steadman et al. 1998).

The critical policy question for law enforcement is how often violent or dangerous behavior results in calls to the police. In an analysis of interviews with people who had been involuntarily committed, Borum showed that recent violent behavior was indeed a significant predictor of police involvement, as was the combination of medication noncompliance and substance abuse (Borum et al. 1998). Further, in another study, in approximately 30 percent of cases where violence involved family members of the person with mental illness, the family member had called the police for help (Solomon, Cavanaugh, and Gelles 2005).

What are officer attitudes about dangerousness of encounters with people with mental illness and do they relate to their use of force?

In the decades after the creation of the "dangerous to self or others" criteria for involuntary commitment, research has shown an increase in the number of people who believe people with mental illness are dangerous (Phelan and Link 1998). Officers, like the citizenry they reflect, may also believe that people with mental illness are dangerous, but their perceptions may derive in part from responding to calls for service where the person's violent behavior is at issue (Borum et al. 1998; Finn and Stalans 2002; Solomon, Cavanaugh, and Gelles 2005). Two studies of police attitudes support this supposition. In the first, a survey of law enforcement agencies in Pennsylvania, Ruiz found that 43.8 percent of the law enforcement agency respondents agreed or strongly agreed with the statement: "People with mental illness are dangerous" (Ruiz and Miller 2004). In another study, which used a series of vignettes to assess officers' decision-making in situations involving people with mental illness, respondents were significantly likely to view suspects with a "schizophrenic" label as more dangerous than other suspects (Watson, Corrigan, and Ottati 2004). The Watson study hypothesized that officers who view suspects as potentially dangerous would then interact more "aggressively" with those suspects, perhaps escalating into use of force when they might not otherwise (52). There is, however, no evidence that these attitudes are related to greater use of force. In fact, the Terrill and Mastrofski analysis revealed that the belief that an encounter was "potentially violent" did not significantly increase the use of force in that encounter (Terrill and Mastrofski 2002).

APPROACHES THAT ENHANCE SAFETY IN POLICE ENCOUNTERS WITH PEOPLE WITH MENTAL ILLNESS

While the research provides no indication that police use force more frequently in incidents involving people with mental illness, media headlines reflect community sentiments that *any* deaths of people with mental illness at the hands of police are unacceptable. To reduce as much as possible the need for force against this population, agencies need to prepare officers to respond to situations involving people with mental illness that may be potentially dangerous or violent, in ways that enhance everyone's safety.

How can law enforcement agencies enhance safety and reduce use of force during encounters with people with mental illness? Since the seminal work of Egon Bittner in 1967, agencies have developed two approaches to improve safety—*specialized proactive approaches* that reduce the likelihood that police encounters with someone with mental illness will escalate into a crisis, and *enhanced critical-incident responses* (to situations involving barricaded or suicidal suspects) that focus on less-lethal technologies and the on-scene availability of mental health professionals that reduce the likelihood of injuries or death. Some agencies have adopted both of these approaches that are designed to deal with different types of situations.

Specialized Proactive Approaches: Overview

Law enforcement agencies across the country have been changing practices to improve their responses to people with mental illnesses coincident with deinstitutionalization. Survey data support the growing trends in these types of responses, particularly in large departments. For example, data from a 1996 survey of 174 U.S. cities with populations of 100,000 or more reveal that 78 departments have a specialized response for people with mental illnesses (Deane et al. 1999). A recent conference on Crisis Intervention Teams, held in Columbus, Ohio, in May 2005, demonstrated the widespread adoption of these models in the last 10 years; more than 700 attendees from across the United States attended the conference to share their experiences and learn from others. Deane's 1996 national survey identified three types of strategies that involve particularly important partnerships with the mental health community that are still in use today. The first strategy, termed "police-based specialized

police response," uses officers who have received special mental health training to provide crisis intervention services and to act as liaisons to the mental health system. Six of the 174 departments surveyed used this method. Deane and her colleagues refer to the second strategy as "police-based specialized mental health response." Under this strategy, police departments hire mental health consultants to provide on-site and telephone consultations to officers (20 agencies). The third strategy was referred to as the "mental-health-based specialized mental health response" and included programs that relied solely on mobile crisis teams (52 of the surveyed agencies).

The Criminal Justice Mental Health Consensus Project was funded by public and private organizations in the late 1990s with the aim of translating these strategies into a compendium of policy recommendations that would improve system responses to this population. (See www.consensus-project.org for detailed information about the project, its funding, and the project report.) A multidisciplinary advisory board—composed of experts in mental health, advocates, and law enforcement—developed the law enforcement recommendations based on the pioneering work of several law enforcement agencies (including Memphis and San Diego County), and on their own expertise. As the project name implies, this board was responsible for reaching consensus on the recommendations before they could be included in the report. The Consensus Project Report provides guidance for law enforcement agencies but does not advocate a particular model or approach. Instead, policy recommendations are offered for more than 20 decision-making points along a continuum of circumstances—from an initial failure to receive adequate mental health treatment to a release from incarceration—where criminal justice and mental health professionals must choose how best to respond to this population. It is left up to individual jurisdictions to decide where to focus their efforts (most likely where they are experiencing a problem) and which model to implement.

Several additional projects have produced information on how law enforcement agencies in the United States have built on the work of earlier innovators to develop these specialized police responses to people with mental illness. PERF staff interviewed almost 30 agencies on two occasions to learn how core program elements—such as specialized training and partnership with mental health professionals—affect the police response from the initial point of contact through disposition (Reuland 2004; Reuland and Cheney 2005). Agency officials described why approaches had been put into practice, how law enforcement agencies initiated and implemented their approaches, and how agencies overcame challenges. This research showed that agencies were continuing to develop the two police-based approach styles identified by Deane and her colleagues (1999), now typically referred to as the Crisis Intervention Team (CIT) response, where a cadre of specially trained officers responds to calls involving people with mental illness (such as the program within the Memphis Police Department), and the Co-Responder model, where certain law enforcement officers pair with mental health professionals to offer crisis intervention and referral services at the scene. These approaches involve significant change to police policies and procedures and require strong partnerships with a wide range of community members. The largest mental illness advocacy group, the National Alliance on Mental Illness (NAMI), actively supports and encourages these specialized approaches, as is evidenced by their executive director's statement on the December 8, 2005, shooting in Miami of a man with bipolar disease (see box 3.1).

It is critical that each community spend adequate time adapting approaches that enhance safety to ensure that they are responsive to the nature of the problem the community is facing and that they fit the characteristics of the jurisdiction. For example, factors that may determine which program is best for the jurisdiction include, among other things, the department philosophy, jurisdiction size, and available community mental health resources. Therefore, CIT programs are better suited to agencies that support specialized teams more generally, and Co-Responder models work well in communities with strong community-based

mental health resources. For agencies that follow a more generalized approach to policing or have limited mental health resources, variations on these models likely will be more appropriate and will encounter less resistance. An article from PERF's 2005 Critical Issues in Policing Forum, about initiating special approaches to people with mental illness, is included in box 3.2.

Specialized approaches typically are adopted in communities where there has been a problem. For instance, in some agencies studied by PERF, the agency had become aware that encounters with people with mental illness were increasing and that arrests were not solving the problem; and in others,

community members had raised questions about troubling encounters with officers (Reuland and Cheney 2005). Importantly for this discussion, however, in almost half of the agencies PERF surveyed, the programs began because of a tragic incident involving the death of an officer or a person with mental illness.

"Since the start of the HOPE team, 120 people have been helped into long-term solutions, 308 have been diverted from jail, and 300 are in hospitals. We responded to 3,200 incidents, saved 2,400 hours of patrol time. We recently added a night team, which has made a lot of difference. I have committed

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box 3.1

Statement of Michael J. Fitzpatrick, Executive Director, National Alliance on Mental Illness, December 8, 2005: Miami Shooting of Man with Bipolar Disorder

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NAMI's heart goes out to the family of Rigoberto Alpizar and to the marshals involved in the shooting, who we know must be profoundly affected by this tragedy. We recognize that air marshals have very difficult jobs and sometimes have to make split-second, life and death decisions.

NAMI calls upon the Federal Air Marshal Service and all other law enforcement agencies to take a close look at its training and education protocols and, if currently lacking, adopt measures to prepare officers to respond effectively to people with severe mental illness.

Law enforcement officers frequently come into contact with people who may be acting erratically or irrationally due to severe mental illnesses or other brain disorders, such as Alzheimer's disease. Many communities throughout the United States, including Miami, have adopted Crisis Intervention Team (CIT) programs to better prepare officers to respond to these situations. These programs work and save lives!

The U.S. Surgeon General has reported that: "The overall contribution of mental disorders to the total level of violence in society is exceptionally small." Acts of violence are exceptional. When they do occur, it is a sign that something has gone terribly wrong.

It is important to examine all factors that may have contributed to the tragedy. Treatment of mental illnesses is effective. Unfortunately, news reports indicate that Mr. Alpizar may not have taken his medication, for whatever reason.

Bipolar disorder is a serious brain disorder that causes extreme shifts in mood, energy, and functioning. It affects 2.3 million adult Americans, which is about 1.2 percent of the population, and can run in families. Bipolar disorder is a chronic and generally life-long condition with recurring episodes that often begin in adolescence or early adulthood, and occasionally even in children. Bipolar disorder is characterized by episodes of mania and depression that can last from days to months. It can also lead to psychiatric episodes marked by delusions or hallucinations. ∎

1 percent of department staffing to this effort, which is currently being funded by a Local Law Enforcement Block Grant. Although the grant will be gone next year, I am confident the county will pick up the cost."
—PASADENA (CA)
CHIEF BERNARD MELEKIAN

Program objectives and goals tend to reflect a desire to improve the circumstances that instigated program development. For example, police agencies seek to reduce injuries to police and residents; to provide better services to people with mental illnesses; to divert people from jail where appropriate; to improve officer understanding of mental illness and crisis response in this population; and to strengthen their relationships with mental health professionals, people with mental illnesses, and their families (Reuland and Cheney 2005).

"CIT-trained officers understand how to deescalate the situation. We have seen dramatic evidence that this results in getting people into treatment safely."
—APPLETON (WI)
CHIEF RICHARD MYERS

Although long-term program outcomes have not been fully evaluated or have shown mixed results (Steadman et al. 2000; Broner et al. 2004), police agencies report that programs have achieved a great deal in the short-term (Borum et al. 1998; Cochran, Deane, and Borum 2000; Steadman and Naples 2005). Many communities report that officers now have greater information and understanding about mental illness and have built strong, effective relationships with the community (Reuland and Cheney 2005). Data also demonstrate that specialized responses reduce the frequency of arrest of people with mental illness (Steadman et al. 2000). In addition, some jurisdictions report fewer injuries and SWAT team callouts (Dupont and Cochran 2000; Reuland and Cheney 2005). A vast majority of the agencies PERF surveyed noted that strong partnerships with mental health service providers and people with mental illness, and improved awareness of mental illness, have been critical to fostering better long-term outcomes for people with mental illness. An article from PERF's 2005 Critical Issues in Policing Forum about generalist and specialist approaches in dealing with people with mental illness is included in box 3.3.

"I got a letter from a family member who had been very concerned about calling the police; she did not want them to exacerbate her son's situation When she learned about the CIT in Appleton, she decided to call the police and ask for a CIT officer. Her letter said the officer clearly knew a lot about mental illness, was very respectful, and convinced the person to go into treatment."
—APPLETON (WI)
CHIEF RICHARD MYERS

Specialized Proactive Approaches: Essential Program Elements

Research conducted to date on these specialized approaches (Deane et al. 1999; Steadman et al. 2000; Council of State Governments 2002; Reuland 2004; Thompson, Reuland, and Souweine 2003) has identified several elements that are essential to comprehensive program development. As programs proliferate across the country, it has become ever more important to elucidate these elements clearly and to gain stakeholder agreement about them, so that policy makers can establish program benchmarks and fidelity measures. Program outcomes can then be assessed and more properly assured. The new BJA Law Enforcement/Mental Health Partnership Program (see above) will develop and promote widespread discussion of an Essential Elements Policy Brief, which is intended to delineate these features and identify consensus about them. This project is in its early stages, and these elements, discussed below, represent only the first iteration; it is expected they will change over time.[4]

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4. The document will be available at www.consensusproject.org.

ARTICLE:
Initiating Specialized Police Approaches to People Who Are Mentally Ill

by Melissa Reuland

This article is one of three that includes perspectives from two panel presentations and discussions from PERF's 2005 Critical Issues in Policing Forum in San Diego. The first panel, entitled Police Interaction with People with Mental Illness—What We Know, *contains information from this chapter's author, Melissa Reuland; Executive Assistant Chief Bill Maheu, San Diego Police Department; and Dr. Lee Bowlus, San Diego County Psychiatric Hospital. The second panel, entitled* Chief's Response Models to People with Mental Illness, *contains perspectives from Chief Richard Myers, Appleton (WI) Police Department; Chief Bernard Melekian, Pasadena (CA) Police Department; Chief Theron Bowman, Arlington (TX) Police Department; and Chief Dave Been, Tulsa Police Department.*

In the Police Executive Research Forum's 2002 survey of 28 agencies engaged in police-based responses to people with mental illness, interviewers asked about circumstances leading up to the adoption of the specialized approach (Reuland 2004). Most frequently (in 13 out of 28 agencies), an incident involving the use of force was the impetus for program development. These tragic incidents involved deaths of people with mental illness as well as deaths of police officers. For the remaining 15 agencies, program development stemmed from a recognition that calls involving people with mental illness either were increasing in number, were involving the same people repeatedly, or were consuming a great deal of time. These situations led agencies to work with community partners to seek long-term solutions.

Panelists at PERF's 2005 Critical Incidents in Policing Forum provided perspectives about how their departments developed programs and their views about the best way to manage the organizational changes that resulted. Appleton (WI) Chief Richard Myers discussed his department's emerging philosophy in responding to people who have mental illness and how it relates to the department's use of force. Even though the Appleton department had been using less-lethal force options for several years, there were still cases in nearby departments when these options resulted in death. One incident in particular made the case for a new approach to incidents involving mental illness. In this case, officers from a nearby department responded to a mentally ill man whom that department had been in contact with for years. The person had barricaded himself in his home, and officers used numerous impact rounds—both beanbag and rubber bullets—to subdue him. The person went into a coma and later died.

The Appleton Police Department began to focus on its policies to improve their response to people with mental illness, and an officer came forward with the idea to start a Crisis Intervention Team (CIT) locally. Organizational resistance to change can be strong, and the chief in Appleton believes this strain can be eased by identifying a credible champion for the process. This champion should not be the chief, but should be someone from the line level of the department who has the desire and the capacity to "pull the pieces together." That person can then sell the program to other officers "from the bottom up." This diminishes resistance, because officers cannot disregard the approach as simply another program "the chief

got from a conference." The interested officer became the CIT champion in Appleton.

Pasadena Police Chief Bernard Melekian began to think about situations involving people with mental illness as a consequence of a desire to manage Pasadena's homeless population more effectively. The chief believed that homelessness was not a result of failed economic policy. Rather, homelessness is a result of a failed mental health system that releases people who have only a marginal ability to survive independently. Consequently, Pasadena's initial focus on homelessness soon spread to include mental illness and even drug and alcohol abuse as well.

The program in Pasadena also began with the efforts of an interested patrol officer, who subsequently worked with the Los Angeles County Mental Health Department to identify clinicians who would be willing to pair with officers. Patterned after the Mental Evaluation Teams (MET) in Los Angeles, Pasadena implemented the Homeless Outreach and Psychological Evaluation (HOPE) team in February 2002. The Homeless Outreach and Psychological Evaluation team's goal is to find alternatives to arrest and to improve long-term solutions, which can include placing a person into a rehabilitation program, into a hospital for treatment, or into a shelter to prepare him/her for reentry to society. When the Pasadena Police Department implemented this program, it justified the focus on special populations based on the principle that the department has an obligation to help people who are mentally ill. Chief Melekian believed that principles such as this must be an integral part of the organizational culture. A chief can address resistance to change by emphasizing how the program fits within the department's core values: the *why* they are doing it, not just the *what*. Although the chief is responsible for articulating the values, the department also needs champions who can echo the chief and operationalize program elements.

In Tulsa, Chief David Been indicated that the police department's culture promotes the dignity of all people and is ingrained in a large majority of officers, so the program "wasn't a hard sell." In fact, the department has three times as many applicants for each training session as they have space to accommodate. Chief Theron Bowman from Arlington (TX) agreed with the need for a champion but went further, stressing the need also for a catalyst. He noted that while the champions may exist, there must be a catalyst to identify them. Chief Bowman believes that the police department should not limit itself to internal champions; he notes that police departments are often motivated by a citizen who comes to them with an emotional plea to get involved. ∎

box 3.3

ARTICLE:

Should the Police Approach to People with Mental Illness Be Generalist or Specialist?

by Melissa Reuland

This article is the second of three that includes perspectives from two panel presentations and discussions from PERF's 2005 Critical Issues in Policing Forum in San Diego. Box 3.2 provides a description of these panels.

When law enforcement agencies begin the process of adapting specialized response models to people with mental illness in their own jurisdictions, they will need to decide whether to develop a generalist or a specialist response. For example, the traditional Crisis Intervention Team model is essentially a specialist approach, because it relies on a cadre of officers who have received training to enable them to respond effectively to situations involving people with mental illness. These teams are dispatched directly to these incidents. A generalist approach in this context would mean that all officers receive specialized training, and all are expected to handle calls involving people with mental illness.

The choice of specialist or generalist approach is influenced by logistical realities (department size and the size of the area it must patrol) as well as philosophical beliefs (whether all officers or only some are able or willing to respond to calls involving people with mental illness). There are valid differences of opinion among police leaders regarding whether training can overcome individuals' indifference to or biases related to mental illness. It may not be possible to make all officers sensitive to the struggle of people with mental illness. On the other hand, it may not be possible to deploy special teams in geographically large jurisdictions or in especially small departments.

At the Police Executive Research Forum's 2005 Critical Incidents in Policing Forum, a conference discussion revealed that the distinction between specialist and generalist approaches is in fact becoming blurred as agencies increase the baseline level of training all officers receive, while at the same time offering advanced training for select teams. This "middle ground" approach acknowledges the realities of geographically large jurisdictions that cannot expect to have special teams respond first, while retaining the elements of a specialized response.

Panelists at the conference's session on police interaction with people with mental illness presented their views on this distinction and how it relates to the approach they chose. Arlington (TX) Chief Theron Bowman characterized his organization as embracing a community policing philosophy. One of the issues Arlington police have struggled with generally is whether their community policing approach should be generalist or specialist. In various contexts, the question has been, "Does everyone have a role, or should a specialist group be responsible?" This debate carried over into Arlington's choice of a response to people with mental illness.

Chief Bowman eventually chose a generalist approach, and the department prepares all of its officers to handle incidents involving mental illness. This choice is consistent with his department's community policing philosophy. The chief recognizes it is highly likely that every officer will confront a situation involving a person with mental illness who is in crisis, and he wants each officer to be prepared to address that situation. Further, he feels that there is often no time to dispatch a special team.

The choice to take a generalist approach and train every officer has resulted in his department's investment of significant organizational resources. Arlington, where approximately 5 percent of calls for service involve someone who is mentally challenged, is seeing a "high return on that investment," Chief Bowman said. In 2005, the police department transported approximately 700 persons to the designated psychiatric unit, and officers called the Mental Health Law Liaisons 391 times.

In San Diego, the Co-Responder specialist approach was taken because agency leaders believed that while "an agency can train officers to de-escalate situations as well as they can train them to do anything else in law enforcement, they cannot train for the compassion needed to help a family in crisis and cannot train for the passion needed for the subject matter." San Diego has not had difficulty finding officers to volunteer for its Psychiatric Emergency Response Teams (PERT). Executive Assistant Chief Bill Maheu said, "It is not hard to find volunteers when one in five families is affected by mental illness. Many of our officers have seen mental illness in their own families."

San Diego also chose the Co-Responder model over a CIT approach because CIT approaches attempt to train officers to be clinicians, but this is "taking them out of the realm of being police officers," Executive Assistant Chief Maheu indicated. "These CIT teams are training officers in de-escalation techniques and in bringing people into custody, but these officers do not reach the level of clinicians. A department could, in theory, train officers to the level of a clinician, but they still won't have access to medical files because police lack patient/client privilege." This access to information is a significant benefit of the Co-Responder model because officers respond to calls with mental health clinicians in the patrol car. The department chose to pair the officer with the clinician, rather than have clinicians respond to the scene on their own (as mobile crisis teams do), because the interaction provides an enhanced education for the officer. ∎

Element 1:
Collaborative Planning and Administration

The first essential element of these specialized police responses is a strong collaboration between law enforcement and advocates, consumers,[5] medical and mental health professionals, and others who have a direct stake in improving conditions of people with mental illness in the community. The goal of collaboration is to share the responsibility of responding to this population and improve the quality and continuity of services provided. Within the collaborative framework, a committee should be constructed that represents all stakeholder parties. This committee is then responsible for developing training, determining on-scene policies and procedures, evaluating progress, and creating innovative solutions to seemingly intransigent problems.

Participants in the collaborative committee should include those who have the ability to make operational decisions on behalf of their agencies and are well respected in the community. Participants should share an understanding of the nature of the problem in the community that has prompted the need for the specialized program. While partnership success can be a function of strong interpersonal relationships at the executive level, this foundation can falter when staffing changes. An antidote to this challenge is the involvement of all organizational levels in crafting the program within the agency from the outset.

Element 2:
On-Scene Mental Health Expertise

Specialized responses are unique in that they bring mental health expertise directly to the scene in one of two ways: through police officers who are trained to provide mental health assessments; or through mental health experts, either as part of an on-scene response team or by telephone. This element directly addresses one of the frequent difficulties agencies face when police officers must manage situations involving mental illness—officers who

do not possess mental health expertise can feel poorly prepared when confronted with a person who is acting irrationally.

"We have worked to create a Mental Health Liaison Program where mental health professionals are available 24/7 by phone to talk to any officer who has a question, or is facing a challenging situation. These officers need guidance. Last year, 384 officers called the mental health liaison officer and received advice. This program is particularly important because when the full work force is involved, we must make sure no one falls through the cracks. Having these services available provides a safety net for the officers in the field."
—ARLINGTON (TX)
CHIEF THERON BOWMAN

Element 3:
Unique Officer Role

These specialized approaches require police officers to fill a crisis management role that is quite distinct from crisis management in other situations. For example, officers generally are trained to display their authority to gain control over a situation. In situations involving people with mental illness, however, officers must downplay this authority—by standing back and speaking softly in a non-threatening way—because authoritative displays can exacerbate the crisis. Officers who volunteer to become involved in the specialized response must be able and ready to switch their tactics depending on the assessment they make of the situation. The recruitment and selection process for these officers therefore is critical.

Element 4:
Training

Substantial and specially designed training is critical to the specialized approach. A wide variety of agency employees, including call takers, dispatchers, patrol officers, and mental health crisis workers, are

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5. The term "consumers" is used in this chapter to refer to people with mental illness who are consumers of mental health services.

tasked with successfully handling calls involving people with mental illness. Advanced in-service training is necessary, largely because police academy coverage of issues related to mental illness is limited. A 1999 study of training requirements related to mental health issues revealed that the median number of recruit training hours was six, while the median number of in-service hours was one (Hails and Borum 2003). The training required for specialized responses is extensive, typically 40 hours, and includes information about mental illness assessment, co-occurring disorders, crisis de-escalation techniques, determining appropriate dispositions, legal issues, psychotropic medications, and community resources. Trainers are often law enforcement practitioners, mental health professionals, medical professionals, consumers, and family members. The training audience often includes both law enforcement and mental health crisis workers.

Training methods and techniques that enhance interactive learning opportunities are recommended. These can include role-playing, ride-alongs, site visits, and simulations of mental illness symptoms. These opportunities invite people with mental illness to share their day-to-day experiences with officers who serve them, and can enlighten mental health partners about the realities of law enforcement. Although officers may not typically rate these techniques as the most effective, as was shown in a study of officers in Massachusetts who were not involved in specialized approaches (Vermette, Pinals, and Appelbaum 2005), CIT coordinators from around the country agree they are critical for this training (Council of State Governments, forthcoming). Developing such extensive training can present challenges for agencies implementing specialized responses, and adaptations may be required. For example, there may be a lack of qualified trainers locally, and smaller or rural areas may lack resources either to send officers to outside training or to pay outside experts. In addition, although some training topics related to policing and people with mental illness are universal, such as psychotropic medications, many other topics, such as community resources, must be tailored to available resources. This takes time and expertise, and can be costly for communities with limited resources. Collaborating with mental health professionals, advocates, and consumer groups can counteract these challenges (Council of State Governments 2002). An article from PERF's 2005 Critical Issues in Policing Forum, about police training for interaction with people with mental illness, is included in box 3.4.

Element 5:
Call Taker and Dispatcher Protocols

Call takers and dispatchers are vital to effective resolution of calls involving people with mental illness, especially in departments with special response teams. One agency PERF surveyed noted, "Call dispatch is critical to the success of a CIT." Call takers are responsible for clarifying if a call might involve mental illness, whether the person has a history of mental illness or violence, and the availability of weapons. Although this information may be difficult to obtain if the caller does not know the person, it is important that call takers ask; this information positions responders to protect the safety of those involved.

Agencies should use the computer-aided dispatch (CAD) or other databases to track calls involving mental illness. Tracking data serves two purposes. First, if a location repeatedly involves mental illness or has involved violence in the past, a flag in the CAD system would alert the responding officer or team to what may be happening at the scene currently. Second, flagging locations helps the agency identify locations where they are responding repeatedly and perhaps not addressing the problem effectively. Most agencies that track call data do so with flags or other hazard codes.

"It is important to know who and where these special-needs people are. If we know their locations and choose to flag them in the CAD system, there are important operational questions the department must address. In Arlington, we flag known locations in dispatch, and if we receive subsequent calls to that location, the dispatcher will tell the officer what has happened in the past. We

ARTICLE:
Police Training for Interaction with People with Mental Illness

by Melissa Reuland

This article is the third of three that includes perspectives from two panel presentations and discussions from PERF's December 2005 Critical Issues in Policing Forum in San Diego. Box 3.2 describes these panels.

Substantial training is indicated as an essential element of a specialized approach to people with mental illness. For many agencies that implement Crisis Intervention Teams (CIT), this training typically consists of 40 hours of instruction. As agencies begin thinking about these approaches—and adapting them to their own jurisdictions and department philosophies—one of the first questions that comes up is whether the training needs to be 40 hours in length.

Departments need to develop training that will enable officers to safely and effectively resolve incidents involving people with mental illness, while not stressing agency resources. The amount of time spent in training is a function of two issues: the depth and breadth of topics covered by the training, and the techniques used to impart that knowledge. For example, one department may choose to spend four hours on a classroom discussion of the major mental illnesses and officer identification of relevant signs. Another department may choose to spend less time in classroom discussion and more time conducting role plays during which officers can practice de-escalation skills. The second department may end up using more time to address the same topic, but it may produce a better result.

Because no research has determined which specific topics and techniques present the most effective combination, police departments must collaborate with community members to determine which training aspects are most critical to them and how much time the agency can realistically devote to the training. Fortunately, many communities have traveled this road and have tremendous experience to assist others.

Panelists and attendees at PERF's December 2005 conference on use of force discussed their experiences in adapting the typical 40-hour training curriculum to their circumstances. For several agencies, the solution has been to "raise the bar" for everyone in the department by increasing the basic training provided in the academy, while at the same time offering an advanced course for officers who wish to become certified or designated as Crisis Intervention Team officers. These officers go through the same selection process as permanently assigned CIT officers.

For example, in Arlington, Texas, all new officers get 20 hours of training that relates to interacting with people with mental illness. In addition, all officers receive periodic in-service training on mental health issues, and interested officers are urged to complete Texas's Mental Health Police Officer certification course. This course provides 24 hours of instruction about problem-solving, domestic violence, and identifying and recognizing mental health challenges. To date, 85 of Arlington's 240 patrol officers have been trained in this mental health course and have become certified Mental Health Police Officers.

The coordinator of the specialized program in Los Angeles made a similar adaptation to the curriculum. To accommodate the large number of LAPD officers who require training, the department is developing an online course, including approximately 12 two-hour blocks of instruction, which all field personnel—approximately 6,500

members—will be required to take over the next two years. The purpose of this online course is to increase the baseline awareness of *all* first responders to issues related to encounters with the mentally ill. Officers who are interested in receiving more advanced training, and obtaining the Crisis Intervention Team officer certification, will be selected to participate in an intensive eight-hour course at the academy that emphasizes role-playing scenarios.

Ideally, police will work closely with community stakeholders to adapt the curriculum and make decisions regarding length of training. This team can also identify the community's needs and any overlap with existing training. When Tulsa Chief David Been began exploring the Crisis Intervention Team concept, he obtained a copy of the Memphis Police Department's curriculum and realized that his recruits already received approximately 36 of the 40 hours Memphis was providing in its Crisis Intervention Team course. Although his agency was close to the requirement, he nonetheless worked with a staff psychologist and hostage negotiation team to determine how they could improve their training. The Tulsa Police Department eventually created a Mental Health Response Officer Team (MHROT). MHROT officers receive 40 hours of specialized training, but the training is tailored to Tulsa's needs. The mission of the Mental Health Response Officer Team is to assist people with mental illness safely and with dignity, and to increase positive mental health outcomes. Tulsa's training minimizes lectures and maximizes practicing interventions, which helps officers to acquire the needed skills. There has been great interest in taking the Tulsa course, both by officers inside the department and from law enforcement agencies around the state.

In Appleton (WI) where police also based training on the Memphis curriculum, a strong partnership with the National Alliance on Mental Illness (NAMI) has been critical, but involving the partner in the training has been sometimes turbulent. One of the advocates who initially began training officers alienated some of them by telling negative stories about police encounters with mentally ill people. The chief eventually convinced the advocate that a strong working relationship required that both organizations move beyond negative incidents in the past. Their relationship has since improved greatly, and the department is now making its training available to other agencies across the state.

The panelists raised another important training issue related to time that can adversely affect community relationships: the extended time it can take to develop curricula and train officers. For example, in Tulsa, it took close to a year to develop the curriculum, and the department training is ongoing. The amount of time it takes to train enough officers for the program—sufficient to provide adequate patrol shift coverage—is also affected by the chosen class size. For example, Tulsa determined that the class size for its advanced training should not exceed 20 officers and five clinicians. The department has learned that teaming the clinicians with officers in small groups has had a great impact on relationships and learning.

Both Tulsa and Appleton have had to reassure their community partners about their commitment to the program and ask for their patience as they "rolled it out" as quickly as possible.

Specialized training for the law enforcement response to mental illness is explored in greater detail in a forthcoming Council of State Governments publication (check the www.consensus project.org website for publication updates for the *Law Enforcement/Mental Health Partnership Program*) and is addressed in the Criminal Justice/Mental Health Consensus Project Report and other PERF publications (Council of State Governments 2002; Reuland 2004; Reuland and Cheney 2005). ∎

also dispatch a minimum of two officers to each of these calls."
—ARLINGTON (TX)
CHIEF THERON BOWMAN

Training and specific protocols for dispatch are also critical. When calls are dispatched, the dispatcher must know who is trained to respond and what to do if teams are not available. Also, dispatchers need to be aware that language used on the radio can be stigmatizing to the individual, a point that is of great concern to consumers and their families. Specialized response programs either use 10 codes, plain language that is not stigmatizing but still informative, or dispatch the call using the team name only ("this is a CIT call").

Element 6:
On-Scene Assessment and Disposition

On-scene practices typical of these approaches enable officers to recognize the signs and symptoms of mental illness and to de-escalate crisis behavior. Officers will need to determine if the behavior that prompted the call to police is a consequence of the mental illness, and if a serious crime has occurred. To assist in making that determination, officers should engage the person, and knowledgeable others, to uncover the person's history of mental illness and medication use pattern, and to identify case managers or others, such as family members or friends, who may be able to help.

"When an officer realizes that the person doesn't reach the threshold of danger to themselves or others, he or she has a choice either to leave the person or take a problem-solving approach. My department embraces community policing and problem solving, and we don't leave these mentally ill people out of the loop. It is not enough to intervene and then leave when the person is stabilized. As others have indicated, if we go once and leave, we will be back, and the next time, the outcome may be worse."
—ARLINGTON (TX)
CHIEF THERON BOWMAN

The officer must use information collected at the scene to select the appropriate disposition for the person with mental illness. Specialized programs such as these are unique because they provide a wider range of options for officers when the person falls into the "gray area" as described above—too ill to be left alone and not ill enough to be brought for emergency evaluation. These programs are also notable for their recognition of the complexities surrounding involuntary emergency evaluation. This process has been made stringent for many very good reasons; the involuntary commitment process involves deprivation of freedom and loss of vital personal control. Officers in specialized response programs know how important it is to encourage the person to seek voluntary help first before resorting to involuntary commitment.

Element 7:
Connection to Mental Health Services

Without being able to make connections to readily available mental health options, programs would only come half the way toward improving responses to people with mental illness. Once officers have determined that mental illness is a factor in a situation and care is required, they must be aware of the full range of mental health services in their community. Those services, including specially designated psychiatric emergency departments, must streamline their intake of clients who are brought in by police for assessment.

Mental health partners involved in the collaboration can provide these linkages to community services and resources and can negotiate with law enforcement to ensure procedures are "police-friendly" (Steadman et al. 2001). A variety of mental health resources should be available, such as crisis centers, psychiatric emergency rooms, and mobile crisis teams. Transportation can be a major barrier to services. In these models, police often do provide courtesy transport, as do mental health partners; in some areas ambulances or even cabs are used. Whenever possible, agencies should arrange transportation using the least restrictive restraints possible to safeguard the dignity of the person who is in crisis.

Mental health services must be available seven days a week, 24 hours a day, and must maintain a "no refusal" policy for police. For example, as stated previously, many people with mental illness have a co-occurring substance-use disorder. When such a person is in crisis, it may be very difficult for officers—or even mental health professionals—to know whether observed behavior is due to the alcohol or drug use or to an underlying mental illness. For this reason, arrangements must be made to accept *all* individuals brought in by police who appear to be under the influence of substances.

Element 8:
Engagement in Treatment and Supports

The mental health treatment options identified for disposition of police-referred cases must provide long-term care. Further, these resources must include a variety of supports as well as services. Services typically include counseling and medication and even temporary housing. Supports include drop-in centers, clubhouses, and other places where people with mental illness can find help with employment and companionship.

Element 9:
Data Management and Evaluation

When an agency or community decides to embark on a specialized response, program evaluation issues must be considered at the outset so that baseline data may be collected against which future processes and outcomes can be compared. Evaluation requires that communities set measurable goals and objectives and be able to track their progress with objective data collection. As any information collected about people with mental illness can negatively impact their case processing, information collected should document only observable behaviors, rather than diagnoses.

Law enforcement agencies typically face challenges in collecting data about patrol situations that do not involve a crime. Although some agencies have officers complete forms for non-criminal incidents, agencies primarily collect information regarding criminal activity. As a way to assemble information on specialized police responses to

people with mental illness, many agencies require officers to complete a tracking form designed specifically for that purpose. These forms typically capture information related to the cause of the disturbance, the behavior of the person with mental illness (including violence and alcohol or drug use), and the disposition of the incident.

Once data have been collected consistently and accurately by the police department and other partners, they can be analyzed both to assess program processes (how quickly officers are making it to the scene, how many people with mental illness have been seen by program partners) and program outcomes (how many people who are referred to the mental health services actually become engaged in services). These types of analysis usually present data in the aggregate—no names are attached to the reports, and individual privacy is respected. Partners can then communicate about problems that arise and develop solutions to manage them without infringing on individual rights to privacy.

However, some cases may require individual attention, as the program may find it is not achieving long-term solutions for certain people. These individuals may require individualized follow-up contacts and planning. For this type of evaluation, strict adherence to confidentiality requirements (see below) is necessary.

Element 10:
Confidentiality

Information about a person's mental illness, like all medical information, is private. During the course of managing encounters with people with mental illness, however, law enforcement officers may become aware of personal mental health information, either through the person, knowledgeable others, or the mental health partner (particularly if the situation constitutes an emergency). While mental health professionals have access to mental health records, state and federal confidentiality laws limit the information available to police responders. As part of program planning, the partners must review these laws and agency procedures, and must develop protocols to help overcome traditional barriers to information sharing without invading the privacy

of the individual, violating the ethics of providers, or endangering public safety. Information shared with law enforcement should be limited to what is relevant to the incident and should be shared appropriately. Protocols must be developed to ensure that this information does not enter a person's arrest record and is not used to jeopardize a person's rights in criminal proceedings.

Enhanced Critical-Incident Responses

"The HOPE [Homeless Outreach Psychiatric Evaluation] team cannot end all police-involved shootings. We recently had a tragic shooting of a mentally ill person on the front lawn of a mental health facility. The subject attacked the officer with scissors and the officer retreated 150 feet in an attempt not to shoot him. The officer did end up killing the person in front of his parents. It turned out the son was eight days away from giving his mother one of his kidneys so she could survive kidney failure. Although the HOPE team was the second unit to arrive, the situation had already escalated."
—PASADENA (CA)
CHIEF BERNARD MELEKIAN

The specialized proactive approaches described above are designed to link people who have mental illness with an effective treatment so that they will no longer experience serious crises that require police intervention. These approaches are appropriate for most situations in which police encounter a person with mental illness, but some situations will require enhancements of critical-incident responses. Although rare, people with mental illness can be involved in two types of critical incidents—those involving a weapon, which can unfold very quickly, and those involving barricaded, often suicidal suspects, which can take a long time to resolve. Agencies must therefore contemplate two distinct response strategies for these different event types. The discussion below is informed both by the research literature and by experiences of agency representatives who attended PERF's 2005 Critical Issues in Policing Forum.

"The TASER™ has proven to be extraordinarily effective in limiting violent confrontations. In the last eight months, four people would have been shot if the officer had not had the TASER."
—PASADENA (CA)
CHIEF BERNARD MELEKIAN

For those encounters that occur very quickly, many departments have focused on training officers to use less-lethal force, such as beanbags and conducted energy devices (CEDs), to subdue suspects with mental illness. In fact, a recent study of less-lethal force methods used in "suicide-by-cop" incidents revealed these methods to be associated with better outcomes in these situations. This study reviewed 73 incidents of "suicide by cop" where the immediate deployment of lethal force was not obviously required (Homant and Kennedy 2000). The researchers compared outcomes of several types of police responses to suicide-by-cop incidents: less-than-lethal (LTL) instrumental force, LTL physical force, and negotiation. Here, LTL instrumental force included CEDs, batons, non-lethal bullets, and some form of gas or spray. The LTL physical force generally meant the officer attempted to "overpower" the suspect. Analysis of the data revealed that outcomes for the LTL options—both instrumental and physical—were associated with comparatively fewer suspect deaths (Homant and Kennedy 2000). The authors caution strongly that their data do not demonstrate a causal relationship between LTL force and improved outcomes; they stress that additional research must be done to provide clarity on the exact nature of the relationship between these variables. Additional research on pepper spray has suggested that this form of LTL force may not be as effective in subduing a person with mental illness or someone who is under the influence of drugs (Edwards, Granfield, and Onnen 1997).

"In March, an officer went to a bar to address a person who was not in control. He saw the mental illness signs and realized this was not just another out-of-control drunk. The officer deployed his TASER and was concerned about health implications of the TASER round and took the person to the

In situations involving barricaded, suicidal suspects who may or may not have hostages, the question becomes, "How do agencies coordinate the roles of specialized teams—like those described above—with SWAT and hostage negotiators to minimize use of force?" In these situations, reasonable people will likely disagree about what is needed to manage the negotiation. It is likely that SWAT members will have one idea about how to proceed, while the mental health team has another, such as a situation where SWAT wants to initiate force to resolve the incident and mental health team members do not. Tulsa Police Chief Dave Been noted this debate can be a healthy sign, because it means that a range of options is being discussed. Chief Been said, "If you are not doing that, you may be missing a critical question. I like it that we don't have one-size-fits-all anymore. We need to look at the different variables; we should be uncomfortable and they should struggle." In Pasadena and other cities, tactical incident commanders are in charge of decision-making at the scene of a critical incident. Pasadena Police Chief Bernard Melekian noted that the incident commander's role is to synthesize the available information and make the determination about when force will be used. If the critical incident involves a person with mental illness and the specialized Homeless Outreach Psychiatric Evaluation (HOPE) Team is on duty, incident command stays with the commander, but the understanding is that the HOPE Team will work to resolve the incident. Chief Melekian noted, "If the person with mental illness is on the front porch holding someone hostage, the ideal is to take time to allow the incident to unfold, and the primary focus is on Homeless Outreach Psychiatric Evaluation Team officers."

One way to promote coordination among SWAT and other specialized response teams is to include SWAT team members and hostage negotiators in the specialized training. In Tulsa, hostage negotiation and SWAT members are part of Mental Health Response Officer training. Here the Mental Health Response Officer coordinates issues until SWAT and police negotiators arrive. Once the SWAT or specialized teams arrive, they coordinate with the Mental Health Response Officer to ensure that commanders make informed decisions about entry.

The Consensus Project report recommends that agencies "ensure that specially trained mental health professionals are available to respond to scenes involving barricaded or suicidal suspects" (Council of State Governments 2002). These professionals should have expertise in crisis negotiation and familiarity with police operations, and they may help understand the motivation for the incident, which is critical to defusing the situation. In the Tulsa Police Department, trained psychologists respond to all critical incidents to provide this kind of support. In Los Angeles, the police department has full-time SWAT and crisis negotiators, two of whom are trained psychologists, who operate under specific protocols. In Los Angeles, the special teams are often among the first to arrive at the scene of a barricaded suspect. Initially, these teams were turned away, but SWAT now calls the teams in to support data-gathering. The Los Angeles Police Department Systemwide Mental Assessment Response Team (SMART) members can talk to family members, who are a great resource, and gather intelligence. Lieutenant Rick Wall of the Los Angeles Police Department noted: "We bring out a community substation and sit down with family and counselors and keep them apprised. Recently a barricaded subject called his uncle who was with us in the substation. Eventually he agreed to speak with the negotiator and surrender."

CONCLUSION

"We further propose that this work, which has been called 'keeping the peace' in differentiation from 'enforcing the law,' consists of occupational routines with particular procedures, skills, standards and

Bittner's description of the police response to people with mental illness reflects both the need and the legitimacy of this role for police, as it was then and as it is today. His comment is also aimed at those who fear officers will not consider this "real" police work. The preceding discussion demonstrates that this work is indeed "craft" and that it represents at least one fundamental aspect of police work—that of maintaining community safety.

Thankfully, the proactive, preventive approaches and reactive, crisis approaches described here position law enforcement agencies not only to ensure the safety of people with mental illness, but also to have tremendous influence on their well-being. By engaging community partners, including consumers and their family members, service providers and law enforcement agencies have vastly improved their shared abilities to establish critical linkages between people in crisis and treatment.[6]

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6. For those concerned about the availability of mental health treatment services to meet these needs, state legislatures and state referenda are beginning to supply funding streams. For example, in 2004, California voters passed Resolution 63, which became known as the Mental Health Service Act (MHSA), which "imposed a 1-percent income tax on personal income in excess of $1 million." This act is expected to generate revenue in the hundreds of millions of dollars in years to fund county mental health services and prevention efforts. (http://www.dmh.cahwnet.gov/MHSA/default.asp).

The federal government is also supporting these activities. In recognition of the promise of specialized criminal justice approaches, the Mentally Ill Offender Treatment and Crime Reduction Act (S. 1194) was approved by Congress and signed into law by the President in October 2004. If appropriated at the recommended level, this law would authorize $50 million in federal grants to promote criminal justice and mental health agency collaboration at the state and local level to improve responses to people with mental illness who come to the attention of the criminal justice system. Grants can be used to develop pre- and post-booking interventions (including crisis intervention teams and law enforcement training), as well as other diversion programs in court and correctional settings (www.consensusproject.org).

This law will allow more communities to attempt these types of specialized approaches. As these communities innovate and explore these programs, continual adaptation will occur. This situation presents a unique opportunity to conduct more rigorous evaluation of these approaches to determine which elements have the most impact on the stated goals—perhaps most importantly, the goal of improving the health and well-being of people with mental illness.

4

Less-Lethal Weaponry and Less-Lethal Force Decision-Making

by STEVE IJAMES and JOSHUA EDERHEIMER

Advancements in less-lethal weaponry and force decision-making have enabled police officers to better resolve dangerous situations and reduce rates of incident death and serious injury. Less-lethal weaponry can help resolve challenging situations and confrontations safely and effectively. But the devices have also played a role in deaths and critical injuries. This chapter shares the history of various less-lethal technologies, examines the latest trends in less-lethal weapon development, and discusses how officer decision-making influences force outcomes.

WHAT'S IN A NAME?

Referring to a particular device as less lethal or non-lethal does not necessarily make it so. The labels are attached innocently enough, but they can generate unrealistic expectations—both among the public and among police officers—concerning the potential for death and serious injury outcomes.

A logical approach involves using terms that describe the technology itself, (e.g., impact rounds, conducted energy devices, pepper spray, etc.) as opposed to what the technology was designed to do.

For example, the Ninth Circuit U.S. Court of Appeals, in the 2001 case *Deorle v. Rutherford* (263 F. 3d 1106), stated that the term *beanbag* is "a euphemism that grossly underrates the dangerousness of the projectile, that is not some sort of hackey-sack; it is a projectile capable of inflicting serious injury or death, rather than some child's toy." This description is a characterization of one of the most commonly used less-lethal weapons today and was written after the court had concluded that the projectile had caused serious injury.

Law enforcement leaders today should be aware that nomenclature influences the perception of a weapon—by the public and officers alike. Product names also influence perception, as terminology such as "disruptor," "shocker," and "Xtreme"

can sensationalize a weapon and confuse the public. As noted above, it would be prudent for police leaders to refer to weapons in simple terminology that describes the technology it uses.

HISTORICAL OVERVIEW

The Supreme Court has used the term *force less than deadly* (*Graham v. Conner,* 490 U.S. 386, 104 L.Ed. 2d 443, 109 S. Ct. 1865 (1989)) to describe weapons designed to exert the will of one over another without causing death or serious injury. Accordingly, tools designed to incapacitate and immobilize—as opposed to kill—have been documented numerous times in conflicts during the course of human history (Thorp 1991). The Spartans are credited with using the first area- deployment chemical munitions in 428 B.C. They burned piles of wood saturated with tar, pitch, and sulfur upwind of their enemies, creating a tearing smoke that drove enemies from their positions of cover.

In feudal Japan between 750 and 1800 A.D., those tasked with order maintenance used a wide variety of tools to assist with safely subduing violent persons. These included *metsubushi* (meaning "to crush the eyes"), consisting of powdered red pepper thrown into eyes to temporarily or permanently blind, and *torimono sandogu* (meaning "three tools of arresting"), consisting of an immobilizing, U-shaped, long pole arm. Authorities employed such devices to subdue armed suspects (Cunningham 2004).

During the Civil War siege of Charleston, Confederate forces burned wood and sulfur to create choking smoke to drive out Union troops. In Singapore during the 1880s, police fired sections of broom handles from black powder shotguns during riots. These rounds delivered baton-like energy from greater than hand-to-hand combat range, which allowed officers to suppress rioting crowds without risking physical assault. In 1912, Paris police were the first to use tear gas. They deployed a chemical agent, ethylbromacetate, designed to attack the tear ducts. They used it to force roving gangs of violent youths out of the center-city business areas.

In American history, the aftermath of the coal field massacres in the early 1900s precipitated the move towards police use of force that is less likely to result in death or serious injury. In Ludlow, Colo., and Matawan, W.Va., security guards used armored cars, machine guns, and dynamite against rioting union-member coal miners and their families (University of Denver, n.d.) This use of force by the security guards resulted in numerous deaths. The tragic events led to a call for safer and more humane ways to handle such situations. The U.S. military responded in 1923 by sharing "non-lethal" crowd control agents with civilian chemical companies in hope that they would be sold to civilian police and security forces who would use them to control mobs without having to resort to deadly force.

Since that time, American law enforcement has sought additional methods, tools, tactics, and techniques to assist in overcoming resistance put forth by violent and non-compliant individuals in a safer manner. The initial focus was on tear gas (Chloroacetophenone-CN) grenades, used liberally to disperse crowds such as those that gathered during the labor unrest situations noted earlier. The technique proved relatively safe and effective, especially when compared to the deadly force that had previously been more commonplace, and was welcomed by police and civilian observers alike. The public order successes led progressive police managers to look for ways to use the new technology in more general police situations. This resulted in the development of tear gas launchers that were concealed inside ink pens and police batons. Officers carried the portable devices and used them to subdue violent and resisting subjects. The launchers used .38 caliber and 12-gauge blank cartridges to propel CN particles towards a subject's face. The high-velocity chemical impact earned a reputation for effectively stopping even a determined adversary (Schmidt 1938). However, miniature CN gas projectiles sometimes caused permanent and disfiguring eye injuries, which led agencies to discontinue their use (Levine and Stahl 1968).

During the 1960s, the FBI Uniform Crime Reports and local newspaper headlines suggested that violent crime in America was on the rise.

CN "tear gas" pen guns and other hand-held chemical munitions
Photo courtesy of Steve Ijames

Consequently, "law and order" and "crime in the streets" themes became key election issues during the 1964 presidential campaign. President Lyndon Johnson, in an address to Congress in 1965, called for the establishment of a blue-ribbon panel to probe "fully and deeply into the problems of crime in our nation" (O'Bryant and Seghetti 2002). President Johnson's request led to the creation of the Commission on Law Enforcement and Administration of Justice. The group, headed by Attorney General Nicholas Katzenbach, comprised a wide variety of experts who investigated virtually every aspect of crime, law enforcement, and the administration of justice in the United States. In its report, *The Challenge of Crime in a Free Society,* the committee recommended that the federal government provide more financial assistance to state and local agencies for law enforcement purposes, and called for the development of "non-lethal" weapons for police officers in the field. This was the catalyst for a number of innovative technological advancements and led to the development of some of the most significant "less-lethal" force options in use by law enforcement today (O'Bryant and Seghetti 2002).

CN-Based Chemical Mace™

In 1965, a belt-mounted CN gas-based chemical aerosol spray was introduced to American law enforcement. The product was a five-by-one-inch inch metal canister with an actuator/spray button on top. It contained approximately four ounces of 1-percent CN dissolved in a petroleum-based carrier,

and it could project a stream onto the face of a violent subject from approximately 10 feet away. This was intended to be a safer alternative than hands-on "baton-focused" tactics, and it gave officers immediate access to a device that allowed them to engage combative subjects from greater than contact range. Safe and generally effective, CN "Mace" was used by thousands of police officers between 1965 and 1984. It eventually became less popular for two main reasons:

1. Anecdotal evidence suggested that the product failed to stop a significant number of people who were sprayed—especially those who were intoxicated, under the influence of mind-altering substances, or suffering from certain types of mental illness. Formal studies were not conducted to determine the actual track record of the product, and rumors of poor performance continued to spread.

2. The product earned a reputation for secondary contamination, and it was practically impossible for officers to work in an area—or effectively handle suspects—once the agent had been deployed. More than one booking room was "cleared out" after a prisoner was sprayed, and officers who used the product in the field often contaminated themselves or bystanders.

Chemical Mace offered much to American law enforcement, in the context that it promoted a "less-intrusive" method to handling a subject than the use of "hands-on" force. It helped set the tone for how police could safely handle future confrontations. Although Chemical Mace would eventually disappear from police inventories, it was around long enough for officers to grow accustomed to a personal chemical incapacitation tool. They learned the inherent value of extending the "reactionary gap" between officers and suspects and

using this distance to reduce injuries on both sides. Next came Oleoresin Capsicum (pepper) sprays, which are now universally accepted by American law enforcement.

Oleoresin Capsicum (O.C.) Spray

In the early 1920s, the Army Chemical Research Unit at the U.S. Army Edgewood Arsenal extracted the essential oil from the cayenne pepper plant and produced a chemical that would later become known as oleoresin capsicum (U.S. Army 1997). Human-effects testing revealed that the product was very effective on individuals but did not produce the secondary-drift contamination[1] necessary for large-area battlefield deployment. The secondary-drift finding would ultimately prove advantageous for law enforcement (Thorp 1991).

Oleoresin capsicum spray was developed in 1960 at the University of Georgia by Professor James H. Jenkins and Dr. Frank Hayes to serve as an effective repellent for attacking dogs. Their product, Halt Animal Repellent™, was first sold commercially in 1963 to the U.S. Postal Service. It continues to be used by the Postal Service and is an effective spray repellent that protects mail carriers from dog attacks (Lee Enterprises n.d.).

In 1970, complaints from police officers concerning the effectiveness of CN-based Chemical Mace led a Columbus, Ohio, entrepreneur to develop an O.C. spray/flashlight combination device called the Nebulizer. The idea of using O.C. spray as opposed to CN gas developed from successful deployments that postal employees documented following their use of the spray against dogs. In 1987, the FBI Firearms Training Unit completed a study of O.C.-based sprays. The 18-month test exposed 899 persons to O.C. products; exposure included face/eye spray, direct skin contact, and inhalation. The tests involved volunteers in a controlled environment as well as suspects in operational contact with 39 police agencies and three correctional institutions. The study revealed almost universal success (incapacitation), with no injuries or medical intervention required. The FBI study strongly endorsed the use of O.C.-based sprays and in 1988 issued Cap-Stun to all of its field agents (Weaver and Jett, n.d.).

In 1990, several major chemical-agent manufacturers began producing O.C.-based sprays, and within three years most police departments in America were using it. In the years that followed, a number of deaths occurred proximate to the use of O.C. spray. Advocacy groups protested the use of the product and alleged that O.C. spray was killing those against whom it was used. Subsequent reviews indicated that O.C. spray was generally safe and effective, and the benefits of its use greatly outweighed the potential concerns (IACP 1995). Oleoresin capsicum sprays have been in regular-duty use now for nearly two decades. They have been evaluated in a number of studies and found to be effective at incapacitating resistant subjects in approximately 81 percent of the cases (Edwards, Granfield, and Onnen 1997). O.C. spray filled a void in the police use-of-force decision-making process, adding a viable option between verbal dialogue and the baton during incidents in which officers have grounds to arrest or detain a person, and the person indicates by action, word, or deed that physical violence will be used to resist arrest. In addition, O.C. spray is cost-effective, easy to use and deploy, and statistically unlikely to cause serious injury or death (IACP 2006). Because of these advantages, O.C. spray can now be found on nearly every police duty belt in America and is considered by many to be a significant incapacitation and injury-reduction tool in law enforcement (Jane's Information Group, 2000).

Impact Projectiles

The use of extended-range impact energy is not new. From Biblical times to the present, those who have studied the dynamics of human physical conflict have recognized the inherent safety that comes with distance. This is especially true when a person is facing an adversary who has a weapon that

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1. The movement of spray droplets outside a target site at the time of application.

12-gauge shotgun bean-bag munition
Photo courtesy of Steve Ijames

requires close contact to be effective (for instance, a knife). Police agencies understand this and have taken advantage of the extended-range impact technology developed and improved upon since President Johnson's law enforcement commission called for "non-lethal" weapons in 1967.

In the late 1960s, some police agencies on the West Coast of the United States used 12-gauge and 37mm lead shot-filled "beanbags" to quell violent Vietnam War protests. These flexible projectiles consisted of lead pellets sewn into sturdy cloth bags and varied in weight from 40 to 150 grams. They were designed to deliver "baton-like" impact energy without penetration and to deter violent and riotous behavior such as rock throwing, assaults, and property damage. The rounds were thought to be "non-lethal," but in 1971 police in New Mexico reported that a teenager died after being hit in the chest with a beanbag round. This unexpected death led many agencies to abandon impact-round technology. These weapons did not reappear in substantial numbers until the late 1980s. In 1985, the British ARWEN 37 (Anti-Riot-Weapon-Enfield) baton launcher was imported to the United States and procured by a number of police agencies. The 37mm device had a rifled barrel for accuracy, a five-round capacity, and fired a 77.5-gram PVC projectile at 240 feet per second. This weapon, which delivered 160 foot-pounds of impact energy, was intended to be used primarily when facing armed, mentally ill, and/or suicidal subjects.

Many law enforcement agencies in the United States used the ARWEN 37 and found that it was an effective way to deal with some of law enforcement's most challenging situations. In 1989, beanbag-type munitions began creeping back into the American police arsenal. Situations

in which extended-range impact capability would prove beneficial were ever-increasing. Many police agencies already had 12-gauge shotguns, and bean-bag rounds that worked in those guns were viewed as a cost-effective alternative to the higher-priced ARWEN projectiles. The new rounds were similar to previous ones, but their velocity was reduced 25 percent to 300 feet per second. Between 1989 and 1997, *less-lethal* became the popular terminology in American policing, and agencies clamored for technology and equipment thought to be less likely to cause death or serious injury than conventional police weapons. Manufacturers responded to this demand by providing almost 100 different types of impact rounds, ranging from single oak projectiles to those containing hundreds of pieces of plastic bird shot.

This rapid influx of technology and procurement outpaced objective evaluation of the various rounds and progressive training. The number of operational deployments dramatically increased, as did the number of deaths and serious injuries (Ijames 2001). Often, many of the negative outcomes occurred because officers did not understand how to prevent them, or they used rounds that were so inaccurate they couldn't keep them from striking vulnerable areas—such as the eyes. As a result, agencies began to improve training to promote safe and effective use of impact technology, and sought to procure accurate single-round deployment systems. The training initially came

ARWEN 37 baton launcher
Photo courtesy of Steve Ijames

box 4.1   COMMENTARY:

High-Risk Entries and Less-Lethal Weapons

by David A. Klinger

Experienced police officers who engage in high-risk entries are aware that there are three basic sorts of high-risk entries in police work: dynamic entries for hostage rescue and to serve search warrants for evidence; deliberate entries, which are generally undertaken to seek out hidden subjects; and crisis entries, which are generally done to stop an imminent threat inside a location. Each of these general sorts of entries is associated with a specific pace of gaining entry into a location and with specific tactics to secure the scene and make it safe once officers are inside.

Dynamic Entries

With dynamic entries, officers attempt to use surprise, speed, domination, and prioritization to gain control of a location and occupants. Officers breach a preselected entry point—usually a door, sometimes a window—as quickly as possible. Officers usually employ mechanical tools, such as metal rams, quickly enter the location, and then move swiftly through the site in an attempt to secure subjects and evidence before subjects can arm themselves, destroy evidence, or both.

Deliberate Entries

Deliberate entries are completely different. They normally occur as part of an extended police action (e.g., a barricaded-subject incident involving a SWAT team mobilization) in which the object of police interest is normally aware that the police are outside the location. Deliberate entries happen when the on-scene commander determines that the tactical situation justifies the risk of having officers go inside. The first order of business is to determine the optimal entry point(s)—which could be a door, a window, or even a portion of a wall. The point is then breached with whatever tools are appropriate (a ram, explosives, etc.). The officers may stay outside for some period of time (typically called a "breach and hold") and attempt

to use verbal tactics, or they may visually explore the area inside the opening (often with mirrors, fiber optics, or video system) and then enter when they believe it is safe to do so. The entry itself is made at a much slower pace than in the case of a dynamic entry, and officers then move slowly and cautiously through the location as they look for the subject(s).

Crisis Entries

Crisis entries can occur in two distinct sorts of situations: first, when officers on the scene of a fast-evolving threat believe they must enter using rapid deployment tactics to protect an innocent person from an immediately life-threatening situation (e.g., an active shooter event); and second, when the commander on the scene of an extended situation such as a hostage incident determines that the most prudent thing to do to protect innocent life is to send officers (usually members of a SWAT team) inside. In a rapid deployment scenario, a small number of officers will come together, quickly determine assignments (e.g., point, rear guard, and so on), and then enter the location where the subject is situated. Officers will then move as a team through the location until they confront the subject and take whatever action is necessary to immediately stop the life-threatening behavior of the subject.

In crisis entries during extended situations, officers who make entry are preassigned by the tactical commander as an entry team, and are pre-positioned near a breach point and will generally make entry in one of two distinct sorts of circumstances. In the first scenario, a commander directs officers to enter immediately if a specific event occurs that threatens innocent life. For example, a tactical commander may direct an entry team to immediately enter a location and attempt to rescue hostages if they hear gunfire inside. The second type of scenario is a fully pre-planned entry in which a team enters only when the commander gives the order to do so because

he or she has determined that doing so at that specific time is appropriate to protect innocent life. Whatever the circumstances are that lead to the initiation of a preplanned crisis entry, once inside, officers will move as rapidly as possible to locate the subject and take whatever action is necessary to protect innocent people.

There are many variations on the three general sorts of high-risk entries mentioned in this article. Different situations call for different tactics, and different operational philosophies will lead different groups of officers to make entry and move through locations in varying ways. The objective of all high-risk entries is to permit officers to carry out hazardous duties in the safest fashion possible.

Use of Less-Lethal Weapons

In recent years, may law enforcement agencies have incorporated various less-lethal weapons (e.g., conducted energy devices and impact munitions) into their entry protocols as a means to increase their officers' ability to effectively—and safely—handle whatever level of resistance they might encounter inside a location. When officers make entry with only lethal weapons, their options are limited when they confront noncompliant subjects whose level of resistance does not justify deadly force. Officers must use verbal tactics and hope the individual eventually complies, or go "hands-on" and use physical tactics to control the individual. Each of these options presents problems to officers during an entry scenario. Officers often cannot afford to stand fast and give repeated verbal orders during the uncertain—and frequently quite dangerous—circumstances they confront during entries. Similarly, it is often tactically untenable for officers to close in and to physically take a subject down.

Less-lethal weapons can help bridge the gap in force/resistance options that occurs when officers face circumstances where deadly force is not appropriate, and it would be unsound to either give repeated verbal orders to or physically close in on a noncompliant subject. Several options are available to agencies that want to incorporate less-lethal weapons into their entry protocols.

One option is to assign a small number of officers—even a single officer—to carry a less-lethal device as their primary weapon while other officers on the entry team are armed with lethal firearms. With this approach, the officers carrying less-lethal weapons will take a subordinate position as the team moves through the location, remaining far enough behind officers carrying lethal weapons to permit those officers to quickly deal with any lethal threats that might present themselves—yet close enough to the lead elements that they can quickly be brought to bear on a situation where their less-lethal weapon would be appropriate. Many trainers recommend that in dynamic clearing operations, officers carrying a less-lethal device as their primary weapon remain near the entry point as a means to ensure their safety from lethal threats that may arise. A variation on this theme is to have some officer carry less-lethal devices as a secondary weapon. Officers so equipped then take subordinate positions on the entry team with their lethal weapons in hand, but remain ready to transition to their nonlethal weapon if circumstances warrant it.

A wholly different approach that some agencies have adopted is to integrate less-lethal weapons into the primary firearm that officers carry on entries. This controversial tactic is accomplished by mounting either a conducted energy weapon or a single-shot 37/40mm launcher to the underside of the barrel of officers' shoulder weapons. When officers need to discharge a less-lethal weapon so mounted, they move their weak/support hand into a firing posture and pull the trigger. With this approach, each officer carrying the combined weapons system has both lethal and less-lethal force options—obviating the need to call upon another entry team member should the need arise to deliver less-lethal force from a distance. *There are great concerns with this methodology, notably the unintentional use of deadly force.*

In sum, whichever methodology a team uses to incorporate less-lethal weapons into its entry protocols, these tools help bridge the gap between verbal and hands-on tactics and thus can enhance the capacity of a team to carry out successful entries. ∎

from sources independent of the manufacturers, but it was to the manufacturers that agencies turned when it came to procuring accurate rounds. The rifle barrel ARWEN was no longer being imported, so procurement officers approached the Penn Arms company, which responded by developing the 37mm rifled system that would eventually become the SAGE SL6 weapon. This weapon was ballistically identical to the ARWEN 37, used the same ammunition, and offered six accurate shots as compared to the five shots of its British predecessor. The SL6 was a higher-quality, more accurate system, but a vast majority of agencies still used a 12-gauge shotgun platform and were not yet inclined to switch to the new tool.

The traditional square beanbag had significant problems. It was notoriously inaccurate beyond 30 feet and, as a result, sometimes struck areas of the body that were not intentionally targeted. The square projectile also had a propensity to strike on its edge and sometimes penetrate the skin. Manufacturers responded in 1998 by introducing rounder projectiles that were shaped like a small sock. This simple design change transformed beanbag performance and corrected the accuracy, angle of presentation, energy density, and related safety deficiencies that had plagued this class of weapon since its inception. The 12-gauge beanbag projectile of today is the most common impact-delivery system in American policing.

All of these devices were intended to be used when officers have the need and justification to use impact energy and are unable to safely approach a possibly dangerous person. This often occurred when officers were facing a person who was not aggressive or overtly assaultive, but who might be suicidal, suffering from mental illness, armed in some manner, and/or noncompliant. Properly trained and equipped officers have successfully used impact projectiles to safely assist in the resolution of countless high-risk situations across the United States and abroad. However, the devices have been associated with some deaths and critical injuries in the United States and Canada (Ijames 2005). As a result, special consideration must be given to the potential for negative outcomes, as well as the need to prevent such outcomes by ensuring officers are properly trained and equipped. This is especially true as it relates to where officers aim the weapons.

Conducted Energy Devices (CEDs)

In response to President Johnson's blue-ribbon panel's call for less-lethal alternatives for police, the industry responded with the development of chemical munitions and impact rounds. Scientist Jack Cover responded by experimenting with electricity. He discovered that a short duration-high energy DC current could be applied to humans via fish-hook type probes and fine wire and cause immediate incapacitation of a person with no apparent negative side effects. This work eventually led to his creation of the TASER™ conducted energy device. The device has evolved, and the M26 and X26 models now dominate the CED police marketplace. A broader history of the TASER and other CEDs is available in several publications, including PERF's *Exploring the Challenges of Police Use of Force* (Ederheimer and Fridell 2005). In addition to covering the history of CEDs, the book describes promising practices in conducted energy device policy, policy enforcement, and training. Further, the latest information about CEDs can be found in Chapter 5 of this book, including PERF's CED guidelines for consideration and glossary of CED terms.

TASER International reports that CEDs are being used by more than 9,500 police agencies in the United States and abroad, with more than 2,500 agencies issuing them to all patrol officers (TASER International n.d.). Anecdotal evidence from the field suggests that the effectiveness of the CED may possibly exceed that of other law enforcement incapacitation tools. While CEDs cause muscular disruption, many other less-lethal weapons (such as O.C. spray, batons, and impact projectiles) cause some degree of pain to gain compliance. However, it appears that a large number of people confronted by police are under the influence of mind-altering drugs or alcoholic beverages and/or are suffering from mental illness. These factors can influence a person's tolerance for pain, which correspondingly decreases the effectiveness of pain-compliance

weapons in those circumstances. The effectiveness of CEDs in these situations has helped to fuel their increased deployment.

The CED, however, has also generated a level of public criticism. As of January 2006, it is estimated that more than 175 people in the United States and Canada have died following a CED activation (Hall 2006). PERF has conducted research to identify practices that might reduce such outcomes (see Chapter 5), but it is important to note that deaths that occur in proximity to police restraint are not a new phenomenon. Approximately 200 custodial deaths are reported in the United States each year (Hall 2006). In-custody deaths have been linked to numerous factors in the past, including choke holds, positional asphyxia, excited delirium, pepper spray, and now conducted energy devices. There is ongoing research and debate on the topic of deaths that occurred in proximity to the use of a conducted energy device.

THE FUTURE OF LESS-LETHAL WEAPONS

The future of less-lethal weaponry is encouraging—especially if we view this issue from a technological standpoint and in terms of what the profession *hopes* to see in the years ahead. There are "high-tech" less-lethal devices that are being developed today, and research is under way that is intended to further expand the number of less-lethal weapon options. A review of available literature reveals that a significant amount of time, energy, and money is being expended on improving and developing technologies for police officers.

Impact Rounds

Law enforcement agencies are likely to see improvement in the overall accuracy and effective range of impact projectiles, with a corresponding reduction in the risks associated with excessive amounts of energy being expended on close-range targets. The *Range Variable Non-Lethal Kinetic Energy Munition* presently under development by the U.S. military is being designed to reduce both noncombatant and combat casualties (U.S. Department of Defense n.d.). It is anticipated that the new system will offer precision accuracy and non-lethal effects to a maximum expected effective range of 100 meters. The device will attempt to accomplish this by adding a proximity sensor that determines target range and "time to contact" for each projectile fired. This smart technology would allow the round to "sense" how far it is from the target and reduce its energy to a safe level by increasing surface area and slowing the projectile down prior to impact (Defense Update n.d., a).

Dual Use Impact/Chemical Systems

Dual-use impact-round systems are available today. Dual-use, less-lethal weapons consist of both impact projectile and chemical incapacitant sprays in a single system. They have varying energy levels, as well as being able to handle various size payloads of O.C. spray or C.S. gas, and they have accurate marking capabilities (similar to paintball technology).

Several manufacturers are developing what they describe as enhanced versions of the dual-use impact/chemical projectile systems, characterized as long-range, discriminating chemical rounds. Efforts appear primarily geared towards public disorder situations. Single targets might be more effectively engaged at longer ranges than with the technology currently available—as the targeted subject is exposed to impact energy *and* the instantaneous effects of a high-tech bursting, encapsulated round filled with liquid or micropulverized C.S. dust or PAVA-synthetic O.C. spray (Police Scientific Development Branch n.d.).

Conducted Energy Devices

CEDs continue to be updated and modified. New products are now available, with Stinger Systems reporting near full production of its four-dart launcher—a CED that the company claims offers greater velocity, accuracy, and effective range than other devices currently on the market (Stinger Systems n.d.). TASER International now offers a video battery pack for its X26 model that provides

A Force Accountability Model of Integrity: A Systems Perspective

by Will Johnson and Bryce Kolpack

Police use of force is undoubtedly one of the most important issues facing communities and the policing profession. Ineffective force policies and/or practices can undermine community policing, reduce agency effectiveness, and increase a jurisdiction's civil liability. Even a single incident of inappropriate use of force can have far-reaching ramifications for a department and its community. A lack of organizational transparency and ineffective communication regarding force can damage public trust—the cornerstone of all successful police activities. In order to more fully understand the cause-and-effect relationship between the use of force, employee behaviors,

and effective supervision, it is important to objectively evaluate and manage the use-of-force culture of an agency.

The Broward County, Florida, Sheriff's Office partnered with the Police Executive Research Forum (PERF) to develop a *Force Accountability Model* under the auspices of an initiative sponsored by the U.S. Department of Justice, Office of Community Oriented Policing Services, entitled *Creating a Culture of Integrity*. This commentary summarizes the model, the goal of which is to effectively manage organizational culture related to the use of force. Key components of the model are set forth in Figure 4.1, which lists the ways that use of force can become a department liability.

Figure 4.1: When Can the Use of Force Become a Department Liability?

Policy Development

- No department policy is issued or policy is unclear, overly broad, or too narrow.
- Accepted practice is not in conformance with policy.
- Policy is not consistent with legal mandates or not routinely updated.
- Conflicting policies or conflicts between training standards and actual practices.

Training

- Insufficient training provided to employees.
- Employee lack of knowledge or experience.
- Misapplied knowledge or tactics.

- Failure to utilize or recognize alternative resources or tools in lieu of force.

Communication

- Internal failures; departmental executive's expectations were not clearly stated.
- External failures; stakeholders were not informed about acceptable alternatives, policies or legal mandates.

Supervision

- Failure to identify trends and/or failure to intervene in a timely manner, i.e., no early intervention.
- Failure to provide immediate and consistent field supervision.
- Failure to hold employees accountable for behaviors and to be responsive to

complaints of unreasonable force or disparity of force used.

Documentation

- Failure to thoroughly document the use of force and subsequent use-of-force investigations.
- Failure to conduct and document trend analysis and distribute findings to appropriate personnel.
- Inability to track complaints and complaint dispositions.

Oversight/Accountability

- Employee intentional actions of misconduct.
- Employee act of omission that is in conflict with use-of-force philosophy.

Law enforcement executives face the challenge of instilling an appropriate use-of-force vision throughout an organization, and aligning all aspects of service delivery to support that vision. This is a complex task, because police organizations are highly compartmentalized. The logistics of providing service 24 hours a day dictates that many employees—including key management officials—may have limited interaction with members working elsewhere in the organization. Lack of communication and understanding within a police department can erode positive organizational culture, especially related to the use of force.

The key to understanding organizational culture is the concept of "shared values and goals." Having a clear mission statement and clearly expressing organizational values is critical, but to develop consistent behavior or performance, the philosophy should be embraced by all members of the department. When positive behaviors are in concert with the values of the department, the department has a culture with integrity.

Every law enforcement agency has an organizational culture regarding the use of force. Although culture is an intangible concept, the results of a police use of force are readily observable to the community. A positive force philosophy emphasizes restraint and the use of force only when necessary. Agencies whose leaders have effectively communicated such a philosophy will likely have fewer misapplications of force than agencies that have low expectations or do not communicate a positive force philosophy effectively. A positive force culture can reduce the potential for unnecessary or excessive force and can optimize community relations.

A comprehensive Force Accountability Model—developed from a systems perspective—is helpful in understanding how to improve an agency's use-of-force culture. The Force Accountability Model discussed in this essay addresses several key components of a successful accountability model and can serve as a foundation to sustain a *culture of integrity*. Components of the model include policy development, hiring, training, supervision, and review and accountability.

The Force Accountability Model can be viewed as a process map. Components of the model contain different functions such as tasks, decisions, intermediate results, and review. Since the actual force event represents an organizational transition point, it is also represented in the model. The legend contained in Figure 4.2 identifies symbols used in the model.

This model will not automatically influence behavior, just as a strong mission or values statement will not necessarily influence employee behaviors. However, it can serve as a tool to observe, monitor, and evaluate behaviors. When reinforced, it can provide the process for police executives and managers to effectively implement and manage force philosophy. When all the components of the model are effectively managed and coordinated, it can unite the department's efforts at every level, bridge informational silos, and produce an environment where "shared values" can thrive and promote positive behavior. The Force Accountability Model is circular in design to stress the interdependence of each component on the others (see Figure 4.3).

Policy Development

The first component of the model is the adoption of sound use-of-force policies (Ederheimer and Fridell 2005). Policy is the written expression of the philosophy of any organization. It is necessary for agencies to enact strong policies that thoroughly convey organizational expectations and scope of authority and define reasonable actions. Police administrators should not be hesitant to develop comprehensive, strong, and definitive policies and procedures; they should not be fearful that these strong policies will prove prejudicial to a future court assessment of an officer's conduct.

Organizations that choose to gain accreditation from the Commission on Accreditation for Law Enforcement Agencies (CALEA) have already demonstrated their desire to develop comprehensive policies. However, in the creation of a culture of integrity, it is necessary to view these CALEA standards as a foundation on which to build. The authority to use force is periodically refined by

Figure 4.2

Figure 4.3: Force Accountability Model
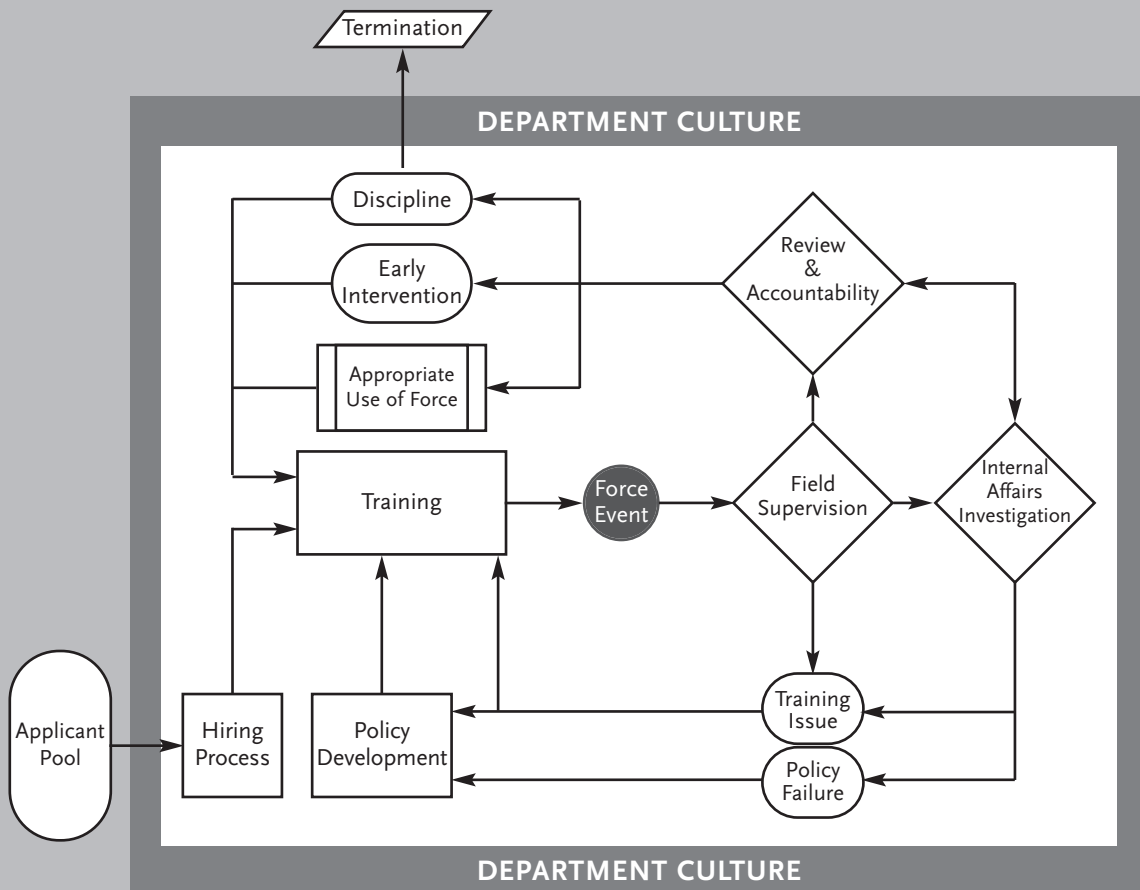
regulatory agencies, the legislative process, and the judicial system. Departments must ensure that all policies and procedures are continually updated to be consistent with these various sources of law.

In some cases, it is necessary for the agency to decide if policy will be consistent with or more restrictive than the law requires. Further, the agency must decide which officer actions, besides use of firearms, are to be categorized as deadly force. Less-lethal force should be addressed in policy with the same level of detail as deadly force, and uses of it should receive equivalent scrutiny.

Strong and clear language in policy will communicate expectations regarding how supervisors are to manage less-lethal and deadly-force incidents. Through policies that promote effective field management, the needs of the employee, the community, and the investigation of an incident can all be met.

Hiring

The goal of the hiring process is to identify and select individuals who possess the requisite educational credentials and life experiences and who display behaviors and character attributes that are compatible with current organizational beliefs. Failure to effectively execute the hiring function can lead to the selection of employees who will not be able to assimilate into the desired culture of the organization. Obviously, successful recruitment and retention of high-quality employees leads to healthier organizations.

Agencies should focus on hiring individuals who mirror the organization's critical values. The service-oriented traits that have been identified as being critical for effective policing include integrity, courage, teamwork, strong communication skills, and highly developed interpersonal skills. Executives should consult with the local community in efforts to hire officers who reflect positive community values. Local residents, who have an investment in the community and want to see the department succeed, can provide useful insights into the type of person who best reflects community values.

Departments should adopt a strategic hiring plan for finding and employing personnel who meet organizational standards as well as the high expectations of the community. This strategic plan should identify the critical values and attitudes expected from new recruits. It should set forth not just the minimum requirements for recruits, but also the higher standards that will allow the agency to achieve a culture of integrity.

Senior executives of the department should convey unambiguous expectations to the hiring staff regarding the standards for recruits. The hiring expectations can be incorporated into department policies and in the recruitment materials and recruiting activities. The department executives should provide direct and measured feedback to hiring staff members on the outcomes of recruitment and hiring practices. There are police chiefs from small and medium- sized departments who personally interview each final applicant. While this is labor-intensive, these chiefs feel the time invested is well spent. Interview panels and assessment centers should use a behaviorally anchored rating scale that incorporates the characteristics found in the work of effective police officers. Obviously, agencies should conduct a thorough background investigation of all candidates who successfully complete the initial testing process.

Training

The training component is a vital part of the Force Accountability Model. In addition to covering communication skills, problem solving, defensive tactics, diversity and managerial skills, training can and should be used to convey the values of the department as they pertain to the use of force. Prior to the implementation of use-of-force training programs, a careful review and planning process should take place. The planning process should be guided by the mission statement of the organization and should include an analysis of the actual circumstances in which force is used and the circumstances in which force might be used unnecessarily or excessively.

>> *box 4.2 continued*

Integrated training programs will combine the skills pertaining to the various types of use-of-force, decision-making, and communication skills. The communication skills will enable trainees to defuse and de-escalate potentially violent situations and resolve them without force or with less force than might otherwise have been necessary. A critical component of every segment of training in the use of force should be the option of disengaging from the subject. Management training related to the supervision of the use of force should also be provided. Finally, agencies should regularly review training curricula that pertain directly or indirectly to use of force.

Supervision

Field supervision is critical for identifying potential policy failures and misapplications of force that can damage a healthy culture and place the organization in a position of increased risk. The particular roles of a law enforcement supervisor are twofold. First, during day-to-day work activity, the supervisor monitors the performance of all officers during all types of calls, but particularly during critical-incident calls for service. Secondly, after a use-of-force incident has occurred, the supervisor ensures that appropriate documentation and forms are completed, and reviews those forms and forwards them through the appropriate chain of command.

Regarding day-to-day oversight, the effective first-line supervisor monitors dispatched calls and officer-initiated activities, and responds to the scene of incidents where force might be used. During a critical incident, the on-scene supervisor monitors the activities of the assigned officers to ensure that department policies are followed and provides needed resources. When supervisors observe officer conduct that could be described as tactically incorrect or not in alignment with the department's mission, the supervisor should proactively provide immediate correction or suggestions for change. After the critical incident has been resolved, the supervisor should provide informal feedback on the performance of officers.

With regard to force documentation and review, the first-line supervisors should not be a "rubber stamp." Supervisors must provide a level of review that will not have to be duplicated at other staff positions. Supervisors should also be required to complete their own reports of their observations and actions at the scene of a use-of-force incident. Supervisors' reports should include their observations of events, persons contacted, observations of the suspect's demeanor, suspect injuries or lack thereof, statements obtained, and comments about the incident and/or investigation.

The messages sent by first-line supervisors—conveyed in many ways, including how they manage use-of-force incidents—can have a profound impact on the use-of-force culture of the agency.

Review and Accountability

Effective monitoring of use of force within the Force Accountability Model includes documentation, incident review, and trend analysis. The development of a use-of-force reporting form is critical. This instrument should produce sufficient information to support accountability and build community confidence. Policy and practice should ensure that the information is timely and accurate (IACP National Law Enforcement Policy Center n.d.). Failure to adhere to reasonably established reporting deadlines can reduce the department's ability to identify emerging trends and implement corrective measures. Accurate information will facilitate useful analysis and advance the integrity of the review process.

To establish an effective review process, it is important that clearly defined procedures express which use-of-force actions require reporting, to whom, and how the information is to be communicated. The primary goal of this process is to increase the level of accountability, which, in turn, can increase public trust. Supervisors should be held accountable for officer actions they approve to reduce the likelihood of "rubber stamping" or passively condoning undesirable behavior.

The unit supervisor and the officers' chain of command will review most routine incidents.

While an administrative review may adequately assess whether a minor incident was conducted within department policy, a more in-depth review may be required for serious use-of-force incidents. Some large-sized law enforcement agencies have a full-time internal staff—commonly Internal Affairs or Professional Compliance Units—which are responsible for responding to the scene of use-of-force incidents. Policies should outline the circumstances under which the unit will respond to incidents, which use-of-force thresholds would initiate an investigation, and the responsibilities of the internal investigative team. Most law enforcement agencies do not have a fully staffed, full-time internal unit assigned the responsibility of investigating use-of-force incidents. As an alternative, some agencies call upon unit supervisors to comprise a temporary review team. Under most circumstances, the review team should not impanel members from the same work unit as the officers involved in the incident. Moreover, some smaller agencies have pooled resources—-including trained personnel—in order to create regional teams to conduct use-of-force investigations. Finally, regardless of assignment, agencies' use-of-force review panel members should receive initial training in conducting internal use-of-force investigations.

Just as positive behavior must be praised, behavior found through the incident investigation to be inconsistent with agency philosophy or policy must be dealt with swiftly and fairly. Failure to address negative behavior is the same as affirming or supporting the behavior. Behavior that is egregious and inconsistent with the philosophy should lead to severe repercussions. This is a critical point in the Force Accountability Model. Just as the act of hiring seeks to identify individuals with beliefs consistent with the department's expectations, termination of employment is the removal of individuals whose behaviors are inconsistent with the department's expectations.

The incident reports and reviews can also be of value to training personnel. They should review all use-of-force incidents and evaluate the effectiveness of tactics used to determine if additional training should be developed or existing training modified. Finally, agencies should consider implementing a Force Review Board as part of the review process. Such boards can serve as a credible, transparent force-management tool.

Not only should individual incidents be reviewed, but also information regarding force incidents should be aggregated to provide an overall agency picture of the use of force. A review of the total number of use-of-force incidents should be conducted annually, and trends over time should be evaluated. Publishing a summary review increases public trust and increases communication with community stakeholders. The department should seek routine and frequent community input, as meaningful community input and interaction with the police are absolutely necessary for the creation of a culture of integrity. Agencies should actively communicate how citizens can commend or complain about an officer's behavior.

Conclusion

The processes within the components of the Force Accountability Model are not new. Many agencies are already implementing the processes we describe under the components of policy, hiring, training, supervision, and review and accountability. The value of the Force Accountability Model is that it is a tool that views force from a *systems,* rather than from a task, perspective. It can be difficult to measure success in changing organizational culture, and it can be likewise difficult to identify specific responsibilities for specific individuals when trying to do so. This is the benefit of a process map like the Force Accountability Model, which visually depicts each area of the organization that contributes to the use-of-force culture and demonstrates the interdependence of each component and the value of each to achieving an overall positive culture. ∎

digital recording capability. This technology produces documentation of the circumstances of an officer-subject encounter.

In the near future, hand-held, medium-range wireless electronic incapacitation devices will reportedly be available. The L-3 Titan Group has created operational versions of its Sticky Shocker™ weapon (L-3 Titan Group n.d.). This device combines 37mm impact energy with a 50,000-volt shock (Defense Update n.d., b), and extends the effective range of electronic incapacitation by sticking a propelled device to a suspect using a barb and an adhesive projectile tip. TASER International announced that in 2007, it will produce a wireless CED projectile. According to the company, a projectile fired from a 12-gauge shotgun (the company calls it the Extended Range Electro-Muscular Projectile, or XREP) will produce effects similar to an impact round combined with a wireless conducted energy effect. The company claims the device will be effective at 30 meters (TASER International 2006).

Water Cannons

Hydro technology has been proven safe and effective in large-scale public disorder situations around the world. Advancements in flow rate, pressure, accuracy, and payload modification—including pepper-based water—appear likely to enhance its performance even further. Water cannon delivery systems are expensive but generally recognized as one of the most efficient methods available for managing large, violent, and unruly crowds. The water cannon is able to engage specific individuals at ranges of up to 200 feet—although agencies must avoid high-pressure application directly to the face or other vital body parts, especially at close range. Water cannons have been successfully deployed outside the United States for public disorder situations, and tactics have been updated to address human rights issues. For example, the Police Service of Northern Ireland requires that the water temperature used in such devices be regulated to minimize discomfort. Despite a positive performance record, there is a significant negative attitude towards water cannon use in the United States—

primarily because of police deployment of such devices during civil rights demonstrations in the 1960s (University of Virginia n.d.). Accordingly, many fire departments today have strict policies that prohibit using water hoses against human beings as a direct result of such abuses. It would likely take a concerted effort to generate understanding and support for this technology (University of Virginia n.d.).

Laser Light Technology

Research is being conducted to determine the viability and practicality of using light and laser technology to divert and/or distract a subject's attention by creating an *optical shield* that would limit subject access to a particular area. This type of device would be beneficial in mass demonstration and situations in which police wish to deny persons access to a certain area. However, concern has been raised about the potential for eye injury in cases where sufficient energy is focused (either laser or light) to create a desired effect. Historically, laser light systems have been too powerful at close ranges and ineffective at long ranges. The U.S. Air Force Research Laboratory at Kirtland Air Force Base in New Mexico recently announced that it has operational prototypes of the first portable laser-driven optical deterrent device intended for controlling crowds and protecting personnel. The device, called the PHaSR, was created by the laboratory's Directed Energy Directorate. It is intended to temporarily impair adversaries by illuminating or "dazzling" them with the beam of super-high-intensity light. The National Institute of Justice recently awarded ScorpWorks Corporation a grant to make an advanced prototype that will add an eye-safe laser range finder into the Air Force's PHaSR device (Blaylock 2005).

The model that is being pursued by the military and others using laser technology is a high-tech manifestation of a tool that law enforcement has used for years—extremely bright flashlights. Add the distracting and disorienting effects of a strobe light, and a readily available, effective, non-contact distraction device is created. The *Gladius* device is

manufactured by Strategos International (Strategos International n.d.) and is an 80+ lumen LED flashlight that offers a rapid strobe effect. Preliminary research suggests that the strobe effect offers more than just distraction but other effects, too, such as "imbalance, involuntary closing of the eyes, turning of the head, a loss of depth perception, a feeling of pending physical impact, and an increase in heart and respiration rate due to the psychological stress caused by the mental overload" (Borelli 2004).

Acoustic Devices

Studies are under way examining the viability of using acoustics as a less-lethal weapon. Acoustic technology devices—beyond basic noise generators—are large, unwieldy, and generally unsuitable for most police applications. Nonetheless, various acoustical devices are being considered for use in public-disorder and barricaded-subject situations. The inner ear regulates spatial orientation; thus, saturation by high-intensity sound can cause disorientation in people. Loud music was used by American military personnel to help force Manuel Noriega from the Vatican Embassy in Panama in 1990. The *Curdler,* a device that emits a high shrieking noise at irregular intervals, was used successfully by the British as a means of deterring rioters in Northern Ireland. More potent and intrusive devices are also under consideration. In the early 1990s, the Russian government developed a high-powered, very-low-frequency (VLF) modulator that was capable of deploying an "acoustic bullet" from a one- to two-meter electronic dish. Tests determined that at low power, the system could cause general physical discomfort, and increasing the power could induce nausea, vomiting, and abdominal pains (Globalsecurity.org 2005a).

The Long Range Acoustic Device (or LRAD) is a crowd-control and deterrent sonic weapon developed by the American Technology Corporation. The device weighs 45 pounds and is generally vehicle-mounted. It can direct sound in a 15- to 30-degree beam at up to 151 decibels (dB). By comparison, a busy office has a sound level in the 65 dB range, heavy motor vehicle traffic in the 90 dB range, a jet aircraft takeoff in the 125 dB range, and a tactical noise-flash diversionary device in the 175 dB range. The LRAD is capable of transmitting spoken words as well as a shrill high-pitched warning tone similar to a smoke detector. It has been effectively deployed in Iraq, in Afghanistan, and by some large police departments in the United States for use during mass demonstrations and other public disorder situations.

Malodorants

The use of extremely foul-smelling substances is not a 21st Century less-lethal breakthrough, but rather an outgrowth of the Office of Strategic Services and CIA espionage campaigns waged during World War II and in Vietnam (Police Scientific Development Branch n.d.). The renewed interest is not geared towards clandestine operations, but towards compelling crowds to leave a particular area or covertly disrupting illegal public activity. Eco Technologies Corporation patented the odor of human feces in 2001. Company officials report, "The use of obnoxious olfactory stimuli to control or modify human behavior is an attractive concept for modern urban warfare." Military psychological studies at the U.S. Military's Edgewood Arsenal in Maryland have concluded that malodorants would generally not be an effective stand-alone option but would be potentially valuable as a force multiplier when combined with other minimally intrusive tactics (Police Scientific Development Branch n.d.).

Active-Denial Devices

Active-denial technology uses electromagnetic energy to rapidly heat up an approaching subject's skin and ultimately deter the subject from advancing on a particular position. Active-denial technology uses a transmitter to send a narrow beam of 95-GHz millimeter waves toward a specific subject or group. Traveling at the speed of light, the energy reaches the subject and penetrates less than 1/64 of an inch into the skin, heating it to 130 degrees in less than two seconds. This produces an intense burning sensation that stops when the transmitter is switched off or when the individual backs away

from the beam. Injury risks are minimal, as someone would need to stay in the beam for approximately four minutes before it burned the skin (Globalsecurity.org 2005b).

However, one of the challenges of public order management is that those in the front of a crowd often have no control over those in the back. Should a group of several thousand people advance on a police position equipped with an active-denial system, those in the front of the crowd could be pushed into the beam of electromagnetic energy and could be physically unable to retreat once the effects were felt.

FORCE DECISION-MAKING

Advancements in technology are exciting, and considerable amounts of time, energy, and money are being committed to improving the less-lethal weapons that are available. However, the pursuit of technology has focused many in the law enforcement profession on *less-lethal weapons* but has not emphasized *less-lethal outcomes*. Some have suggested that the future of less-lethal successes will be found in use-of-force *processes,* rather than simply use-of-force *equipment* (IACP n.d.).

While there are situations in which police officers have an absolute need and obligation to confront subjects, there are also scenarios where direct confrontation is ill-advised and possibly even counterproductive. Sometimes officers create scenarios that permit the justifiable use of force, but if the officer had handled the situation with different tactics, he could have avoided an escalation of the confrontation. Some in the profession describe this as "officer-created jeopardy."

For example, consider a scenario in which officers are dispatched to a "check the well-being" call. Upon arrival, they find a person pressing a knife against his own throat, telling officers to stay away. In circumstances such as this, most officers appropriately focus on the following objectives:

- Ensure officer and surrounding citizen safety, and

- Prevent the self-destructive behavior and save the subject's life.

Officers may attempt to meet these objectives by maintaining a safe distance, keeping passersby away, and talking the subject into surrendering. In some cases, however, ineffective dialogue may frustrate the officers, who in the absence of adequate training and supervision may feel compelled to take steps that do not further their objectives. This could involve getting closer to the subject and attempting to use O.C. spray or a baton in a manner that the devices were not designed for or intended to be used.

Officers may endanger themselves by using poor tactics and closing in on an armed and/or dangerous subject and placing themselves in dangerous proximity to them. Organizations should provide clearly established policies, training, and tactics that reduce *inappropriate* officer-created jeopardy. Police executives should seek to develop policies and training that foster not only justifiable use of force but justifiable and *necessary* use of force.

UNDERSTANDING AND COMMUNICATING THE ROLE OF LESS-LETHAL WEAPONS

Many people in the community, as well as some in law enforcement, incorrectly view less-lethal weapons solely as alternatives to deadly force. It is important for police management to address this issue and clarify that less-lethal weapons are not intended to be substitutes for deadly force. When a police officer faces imminent deadly jeopardy, deadly force is an appropriate response. On rare occasions, an opportunity may present itself where deadly force is *legally* justified, but a less-lethal option can be deployed safely and appropriately. Less-lethal weapons are designed to be used when force is needed to overcome subject resistance, but not in all cases where force likely to cause death or serious physical injury is justified.

CONCLUSION

Policing in a democratic society is challenging, and no area of this endeavor is more complex or controversial than police-citizen interactions involving

the use of physical force. The profession has heeded the call of President Johnson's Commission on Law Enforcement and Administration of Justice. There are an increasing number of less-lethal force options available to law enforcement, including chemical sprays, impact projectiles, and CEDs, and more are under development. As indicated by our current situation with CEDs, these developments sometimes bring criticism and challenges. The endeavor, however, is worthwhile, because less-lethal weapons can help our officers on the street resolve violent or potentially violent situations with reduced risk to themselves and the people they face.

box 4.3

ARTICLE:

Implementing Less-Lethal Technology: A Chief's Perspective

by Jessica Toliver and Joshua Ederheimer

Law enforcement executives are constantly seeking out strategies to reduce deadly-force incidents. Strategies have included reforms to policy, training curricula, tactics, as well as the introduction of new technologies. Since 2000, the advent of conducted energy devices (CEDs) has greatly impacted the profession, and many claim that the introduction of these devices into the field has led to reductions in police use of deadly force.

The panel that was assembled at PERF's 2005 Critical Issues in Policing Forum brought together police executives who had introduced this new technology. Chief James Corwin, Kansas City (MO) Police Department; Chief Harold Hurtt, Houston Police Department; Chief Albert Najera, Sacramento Police Department; and Chief Darrel Stephens, Charlotte-Mecklenburg (NC) Police Department, all offered their perspectives on the implementation of TASER™-brand conducted energy devices in their jurisdictions.

All of these police leaders felt the obligation to provide their officers with an additional less-lethal alternative. Their experiences in this area were shared at the conference, and their perspectives can serve to inform police executives about implementation strategies and dealing with critical incidents involving CEDs.

Chief Darrel Stephens,
Charlotte-Mecklenburg (NC) Police Department

Darrel Stephens has been chief of the Charlotte-Mecklenburg Police Department since 1999. He was previously the city administrator for the City of St. Petersburg, Florida, and also served as police chief there. He is also the former chief in Newport News, Virginia, and Largo, Florida, and the former executive director of PERF. Chief Stephens also has held leadership positions in other agencies and police organizations. In all of his endeavors, he has continuously sought ways to reduce incidents of police use of deadly force.

In February 2001, he deployed CEDs into the field in Charlotte-Mecklenburg.

Chief Stephens chose to approach the use of CEDs by implementing the technology gradually, deploying the devices to one police division for a trial period of about a year. Prior to deploying CEDs, members of the police department met with members of the community to introduce them to the devices and educate them on the use and effects of this new tool. The department initially deployed the TASER M-26 models. The community component of the CED rollout lasted approximately six weeks, and emphasis was placed on sharing the police department's desired outcome of reduced injuries and deaths to both police officers and suspects. The department established three seminal guidelines upon implementation:

1. The CED was not to be used unless there was a physical threat to the officer.

2. When a CED was activated on a person, that person was required to be transported to a medical facility to have the probes removed.

3. A use-of-force investigation was required on any deployment of the device. The initial investigation was to be conducted by the officer's supervisor and reviewed by Internal Affairs.

During the initial pilot year, the department found CEDs were not routinely activated, but that their appearance and display by officers provided a significant deterrent effect. Due to this success and belief that the CED was a useful tool, the devices were deployed throughout the department; by January 2004, nearly 600 TASERs were deployed. The police department publishes a detailed report on CED use at the end of each year to provide information and updates to the community. Using 2002 as a comparison point, the following results were highlighted:

- In 2004, there were 122 recorded uses of the CED.

- While arrest statistics have remained about the same, overall police use of force was down 18 percent.

- Officer injuries had declined 56 percent.

- Suspect injuries fell 80 percent.

- There were no custodial deaths.

One controversy that did arise in relation to CEDs was the activation of the device in high school settings. The department reached out to the community and emphasized the value of the CED in the context of the results noted above.

Chief Albert Najera, Sacramento Police Department

Albert Najera became chief of the Sacramento Police Department in October 2003, after serving as interim chief for seven months. Chief Najera has served as a member of the Sacramento Police Department for more than 32 years, so he brought with him an extensive knowledge of the culture of the police department and the community. Like Chief Stephens, Chief Najera was seeking additional less-lethal alternatives for his department in an effort to reduce deadly-force incidents. In addition, he was searching for new strategies to manage mass demonstrations that occur in Sacramento, the capital of California.

Chief Najera applied a similar approach in deploying CEDs in that he kept members of the community informed about the devices and their deployment to the field. The chief was prepared for the difficulties and controversies often associated with the implementation of a new police tool, but he found that the community did not react negatively to the introduction of the devices. Chief Najera noted that the use of the devices during a mass-demonstration event—when used properly—can be extremely effective in managing crowds and providing a deterrent affect.

Chief Najera said that his department later experienced the death of a person in proximity to the activation of a CED and that this event focused community attention on the devices. As a result, Chief Najera reexamined the department's CED policies and reviewed various recommendations on CED deployment—including those issued by the Police Executive Research Forum and the Northern California American Civil Liberties Union. Chief Najera has adopted the majority of recommendations from these organizations—many of which are congruent—and he believes that this has greatly enhanced his department's accountability for the use of these devices. Chief Najera believes that these actions have addressed community concerns and that the Sacramento Police Department is enjoying strong community support in this area.

Chief Harold L. Hurtt, Houston Police Department

Harold Hurtt was appointed chief of the Houston Police Department in February 2004. During his 38 years of law enforcement service, he has served as chief of police in Oxnard, California, and Phoenix, Arizona. During his career, Chief Hurtt has been a proponent of less-lethal technology, and he has championed the use of conducted energy devices. During his tenure in Phoenix, the Police Department was the first large agency to deploy CEDs to all officers in patrol. Currently, the Houston Police Department deploys more CEDs in the field than any other police department in the world.

Upon his arrival at the Houston Police Department, Chief Hurtt discovered that significant community concerns existed about police use-of-force issues. Prior to his appointment, two unarmed teenagers had been killed by police officers, causing significant public consternation. Therefore, addressing use-of-force issues became his first priority to address as chief. Chief Hurtt decided to introduce CEDs into the field to reduce the likelihood of police deadly-force incidents. He found that, initially, police officers and community members alike were skeptical of the devices. To educate both constituencies, Chief Hurtt instituted a working group of police officers, trainers, and supervisors to develop training for the use of CEDs. The training that was developed originally consisted of four hours per officer; it now has been extended to eight hours, and includes

>> box 4.3 continued

extensive scenario-based training. The chief also has filmed a video—his own personal message to officers—outlining his expectations and the proper use of CEDs.

Chief Hurtt and the Houston Police Department played an active role in PERF's efforts to develop national guidelines for consideration of CED use. A national summit on CEDs was co-hosted by the Houston Police Department and held in Houston in October 2005. Following the development of the PERF guidelines, Chief Hurtt updated his agency's policies in several areas. One change requires that all persons stunned (activated) by a CED be seen or examined by medical personnel or brought to the jail for treatment by health care technicians there.

Chief Hurtt believes that the deployment of CEDs into the field has been successful and that deadly-force incidents have been averted. Specifically, at the time of this writing, the Houston Police Department had identified 48 cases in which a CED was used where deadly force would have been justified. Chief Hurtt is extremely pleased with the success that the police department has enjoyed in this area.

**Chief James Corwin,
Kansas City (MO) Police Department**

James Corwin has been a member of the Kansas City Police Department for more than 26 years and was named chief in October 2004. Like Chief Najera, Chief Corwin rose through the ranks of the department and has a deep understanding of the culture of the police department and the community.

In 2004, the Kansas City Police Department deployed TASER conducted energy devices to all officers in patrol. Chief Corwin noted that 2004 also saw the fewest police-involved shootings in nine years. Some speculate that CEDs affected this figure. However, shortly after his appointment as chief, Corwin was immediately faced with a police use-of-force controversy involving a CED. An in-car police camera caught on videotape an incident in which officers stopped a car and repeatedly activated an irate individual with a CED. Chief Corwin felt strongly that in order to maintain community credibility, he had to demonstrate that officers would be held accountable for their actions. The officers involved in that incident were eventually removed from the department.

The Kansas City Police Department updated its CED policy in 2005. The department restricts CED use against passive persons and permits activation only when a person is exhibiting active aggression. Further, the department specifically prohibits activation of the device in a punitive manner. In addition, Chief Corwin requires that a supervisor respond to the scene of all CED activations.

Chief Corwin promotes the department's Customer Service Task Group that was created to achieve the goals of the department's strategic plan and provide excellent customer service. In this vein, Chief Corwin emphasized that constant communication with the community and a focus on customer service can improve the public's perception of the police department—especially following a high-profile use-of-force incident.

Conclusion

All of the police leaders on the panel felt that it is imperative to continuously seek out various strategies to reduce incidents of deadly force. They all found that CEDs—when used properly in accordance with sound department policy—were excellent force options and contributed to a reduction in deadly-force incidents. The panelists all emphasized that a full understanding of the devices is necessary—both by the public and by police officers. Education and transparent processes concerning CEDs help to raise awareness and protect the police and the people they encounter. ∎

box 4.4

Policing Us More Gently: An Australian Case Study on the Police Use of Force

by Christine Nixon and David Bradley

There are two ways in which the modern liberal state can deliberately kill its citizens—execution following conviction or shooting by police. The former takes place (in an increasingly rare number of places in the developed world) through the elaborate, ritualized, and methodical official processes of investigation, charge, trial, sentence, and appeal with their accompanying checks and balances. The latter typically takes place in brief, largely unpredicted confrontations between citizens and police officers. The official, lengthy judgmental phase comes afterwards.

Having insisted that its citizens must not use violence against each other to resolve disputes, the state has a monopoly in the use of legitimate coercive force. This monopoly is exercised by the police; indeed, some regard this as the unique feature of the public police (Bittner 1980). All police forces have access to firearms and the capability to use them. Some organize this lethal capacity through specialist backup squads, special operations groups, tactical operations squads, tactical response groups, and the like—with general-duty officers *not* routinely armed or armed only under particular nonroutine sets of circumstances. Others, including all U.S. and Australian police, require all operational police to routinely bear firearms as both a general deterrent against the use of violence by citizens and also to resolve incidents in which lives—those of police and/or others—are put at risk by the threatened or actual violent actions of citizens. Which arrangements are a feature of which police agencies is a product of the particular history and traditions of different societies. The British still pride themselves on their generally unarmed disposition, but more and more of their officers are becoming routinely armed.

The Victoria Police Department is the single public police agency for the state of Victoria, part of the Federal Commonwealth of Australia. We have some 11,000 sworn and 2,000 non-sworn members. In common with other Australian police, the operational officers of the Victoria Police Department are routinely armed—in our case with the .38 Smith and Wesson revolver. Officers are also equipped with handcuffs, batons, and capsicum spray, and are trained in defensive weaponless tactics. The routine general bearing of arms by our operational police came only recently and gradually, during the late 1970s. The police union had pressed for it as a safety issue. Until then, uniformed police could be required under particular, predictably dangerous circumstances to bear a Colt or Browning .32 pistol hidden beneath the tunic, but at all times were able to call upon a "crime car" whose occupants were armed officers. Detectives were routinely armed. This changed during the 1980s, with all operational police trained and required to wear the .38 model Smith and Wesson revolver. What did this mean in terms of fatal police-involved shootings? With a growing population (now at about five million) and a growing police force, and in contrast to some other developed democratic states, between 1980 and 2005 police fatal shootings generally were sporadic and "small" in number. During these 26 years, the police shot dead 48 people, an average annual number of police shooting fatalities of just under two. For all but two of those years, the number of police fatal shootings ranged between zero and three, with no fatalities occurring in seven of the years. However, two spikes are discernible over these years. In 1988, there were six deaths; and in 1994, nine deaths.

The 1988 aberration did not generate a public crisis; however, the 1994 deaths did. This case study is about the crisis of 1994 and how we as a police force reacted to it and what lessons we learned that are still relevant today with regard to the police use of lethal force.

>> box 4.4 continued

In Victoria, as with all the other Australian states and territories, the fatal shooting of a citizen by a police officer is generally a rare event. Such events are taken seriously, of course, both by the police agency concerned and by the independent state coroner. The latter will determine the lawfulness of the death and comment upon its circumstances and what might be learned about police policies and procedures. But as rare events, generally precipitated during a robbery or by the actions of a violent and mentally disturbed person, police shooting fatalities are publicly regarded as regrettable but unavoidable, as traumatic and upsetting for the police involved as much as for the deceased person's family and friends. What happened in 1994 in Victoria was quite different.

In 1994, following a recent rate of around two deaths per annum, Victoria Police shot and killed nine citizens. The year before, only one police-involved fatality was recorded, although an increase of 10 police woundings occurred. In contrast with the earlier rise in 1988, the media-informed public reaction this time was of heightened concern. Previously, the general response to the police use of force was that, during times of growing rates of violent crime, the police had a difficult and dangerous job to do and were deserving of strong public support. In 1985, a man shot and wounded five police officers. He was later shot and killed by police. In March 1986, a car bomb was detonated outside Police Headquarters, killing a young female constable, wounding 11 other officers, and injuring 22 members of the public. In September that year, car thieves shot and killed a constable with his own revolver. In 1987, two shooting rampages occurred, resulting in the deaths of a total of 15 members of the public. In 1988, two officers were assassinated by armed criminals after being called out at night to examine a car (deliberately) abandoned in the middle of Walsh Street (Grogan 1998). In this context it is understandable that the police began to feel vulnerable and that the public would give them strong and sympathetic support. But, times and circumstances were to change.

Some crises can occur instantaneously. Others creep up. The Victoria Police use-of-force crisis was of the latter kind. A portent of the crisis was the police-involved shooting deaths of two suspects of the Walsh Street police murders, which some perceived as a reprisal. Then in the first week of 1994, over two successive days, police fatally shot two mentally disturbed persons—one a woman who lunged at responding police with a knife, the other a man who pulled a knife on an officer, who shot and killed him. The public debate that ensued raised the question of why police were treating mentally ill people in the same way they treated criminals. The debate started to widen to encompass the actions of the public health authorities.

The deinstitutionalization of long-term chronically and episodically acute mentally ill people, through the closing down of psychiatric hospitals and the return of their inmates to the community, was to be welcomed. But, questions arose about whether there was a commensurate shift of resources from the closed-down hospitals to adequate care in the community. A shift had now occurred in the content and tenor of the public debate about fatal police-involved shootings. At first, the government, police chief, and police union went on the defensive. But as the shootings increased and the public debate grew more critical, the police chief felt the need to do something, and then later so did the police minister. The police union eventually threatened to sue the government both for its inadequate community support for the mentally ill and for not properly providing resources for police training.

The acting chief commissioner of police had denied that a significant problem existed, but he sought to reassure the public. He instituted a range of independent inquiries into the police response to critical incidents and into police training, inquiries that involved participation by the U.S. Federal Bureau of Investigation and the Royal Canadian Mounted Police, both perceived as "best practice" police agencies (Victoria Police 1996). In the meantime, public attention had been drawn to the contrast between Victoria Police and the police in the neighboring state of

New South Wales. Why did the smaller Victoria Police kill 28 people between 1986 and 1994 while the larger New South Wales Police killed "only" 10? As the debate continued along these lines, three more police fatal shootings occurred in Victoria, and now the police minister intervened, not, as before, to offer unqualified support for his police, but to suggest that there must be some social or cultural factor unique to Victoria Police that caused the spate of killings. He invited the Australian Institute of Criminology, located at the federal capital Canberra, to review the Victoria police shootings. The state coroner then added to the plausibility of the minister's suggestion of a police "cultural" factor in his report on one of the deaths, in which he maintained that in his examination of it he detected a police culture of "consequential confrontation" (Grogan 1998). The acting chief commissioner of police publicly admitted that his force was in crisis. "There is a problem and we are going to fix it," he wrote in a letter published in all the main newspapers (Victoria Police 1996).

The fix took the form of Project Beacon (Victoria Police 1996). By March 1995, all operational police, over 8,500 of them, had undertaken a five-day training program on how to deal with critical incidents likely to involve the use of force. When earlier general-duties police had been routinely equipped with the American-manufactured .38 Smith and Wesson revolver, their training had been drawn from the United States but, apparently on grounds of cost, only with regard to the technical safe handing and use of the weapon (Grogan 1998). The other elements of "best practice"—planned containment and the use of less-lethal options, such as negotiation—had not been included. Now they were made part of the training. Project Beacon was based on a philosophy of "safety first." Its 10 principles included risk assessment, effective command and control, the conversion of unplanned responses to planned responses, cordon and containment where at all possible, avoidance of confrontation, tactical withdrawal, avoidance of use of force, and only minimal use of force where it could not be avoided in order to save innocent lives. The

training recognized that this more gentle policy and set of practices would most certainly take up more resources and require longer time frames, but this was considered an acceptable price to pay for saving lives. Beacon also abandoned the use of a "continuum of force" model for fear it could lock police decision-making into an otherwise unnecessary escalation. Instead, police were trained in the use of a "Tactical Options Model." At its hub were "Communication and Safety" and, around its rim, a range of options including "Presence," "Tactical Disengagement," "Negotiations," "O.C. spray," and "Empty Hand Tactics." Underpinning the curriculum was a comprehensive "Incident Planning" decision-making model (Victoria Police 1996).

The year 1996 saw no fatal police shootings in Victoria. Project Beacon was announced a success and, as it was a special project, it was closed down. However, its legacy was substantial. Now all operational police are required to undertake two two-day refresher training sessions in officer safety and tactics. In policy terms, officers now have to report all incidents in which they use force in encounters with citizens, from push-and-shove to handcuffing, use of capsicum spray and foam, and the drawing as well as discharge of firearms. Use of Force forms are faxed to a Use of Force Register Unit, and the latter now constitutes an intelligence databank from which trends, locations, and patterns in the police use of force can be monitored. Further, these data can be used to identify officers and teams appearing to be associated with higher than might be expected violent incidents.

All these are the lessons learned from Beacon, and all are now embedded in the way we do police business here in Victoria and in Australia generally (Hamdorf et al. 1998). Police fatal shootings appear to have remained rare events, each closely examined in the context of Beacon's philosophy of safety first and the minimal, reasonable use of force. Also now in place is a new Office of Police Integrity (OPI). Part of the Ombudsman's Office—and reporting directly to Parliament—the Office of Police Integrity has the authority to

initiate any inquiry into the actions of the Victoria Police. A recent OPI report on police shootings reminds us of the need to maintain an intelligence-based monitoring of the police use of force, and of the need to sustain the intensity and integrity of continuing police education in officer safety tactics (Office of Police Integrity [OPI] 2005). We are reminded, too, that police must work harder and more effectively in collaborating with other agencies, especially with the Public Health Mental Health Branch. We have improved our capability and capacity to respond to critical incidents through the creation of Critical Incident Response Teams (CIRTs) that provide a level of response that fills a gap between initial-response general duties and the Specialist Operations units.

Carefully, Victoria Police will continue to sustain and improve its safety-first philosophy in regard to the use of force. The TASER™ is now an additional option to be used only by special response units. We have been invited to look at how we might adopt the Memphis Model of a larger number of additional trained volunteer police to serve as members of critical incident response teams, especially in Victoria with its large land mass and small population (OPI 2005). We are fortunate that Project Beacon has given us a strong, evidence-based foundation upon which to police as gently as possible in pursuit of the safety and security of our citizens. ∎

5

Conducted Energy Devices: PERF's National Studies and Guidelines for Consideration

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INTRODUCTION

Conducted energy device (CED) technology has gained a dominant place in the law enforcement arsenal of less-lethal weaponry over the past several years. Conducted energy devices deliver an electrical current that interferes with the human body's neuromuscular system, temporarily incapacitating a person. It is estimated that more than 8,000 law enforcement agencies have purchased such devices, and more than 100,000 of them are currently deployed in the field in the United States. While the most common devices in use are the TASER™ M26 and X26 models, several other companies have entered the market.[1] It is likely that more types of devices using this kind of technology will be developed for sale to law enforcement agencies in the future. Many law enforcement executives have praised the devices, citing them as an effective less-lethal option; CED devices have been credited with helping to reduce instances of deadly force. More information on the history and operation of these devices is available in Chapter 4 of this book and in PERF's 2005 use-of-force publication entitled *Exploring the Challenges of Police Use of Force*.

However, as deployments of CEDs increased across the United States, controversy emerged. Advocacy organizations raised questions about the devices, claiming that they were being misused and overused and that they pose health risks. Law enforcement executives were inundated with

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1. Other CED products include the Stinger 4-Dart Less Lethal Gun®; the LEA Stun Gun®; and Titan's Sticky Shocker®.

questions about CEDs, and yet there was little available information to help them formulate answers. To produce information that would help police leaders make informed CED policy decisions, PERF's Center on Force & Accountability (CFA) and PERF's Law Enforcement Center for Survey Research (LECSR) conducted two major national surveys of law enforcement organizations. These two studies, and a national summit of law enforcement experts that was supported by the U.S. Department of Justice Office of Community Oriented Policing Services, were instrumental in producing the 52 CED guidelines and accompanying CED glossary that PERF released in October 2005. The guidelines and the glossary are included in this chapter.

The first study, conducted in early 2005, was coordinated by Major Mark Warren of the Baltimore County (MD) Police Department, who served as a PERF research fellow. Recognizing that police CED practices were rapidly changing, the study sought to determine the state of the field to better understand how the devices were being used. The study provided a national snapshot of the field at the time. The information was valuable in developing questions for the second study and later in the development of the guidelines.

The second study, coordinated by Lieutenant Will Johnson of the Arlington (TX) Police Department, who also served as a PERF research fellow, focused on deaths occurring in proximity to a CED activation. Information was collected on various aspects of specific incidents in which proximity deaths occurred. In addition, data were collected from a comparison group of CED incidents where a death did not occur. The information learned from this study helped to not only better understand the state of the field as it related to proximity deaths but also to identify factors present when the deaths occurred.

It is important to note that much has changed since the first exploratory survey took place.

Nonetheless, the information from both of the PERF studies was instrumental in the creation of the PERF CED guidelines and helped police executives answer some of the challenging questions that had emerged. It is likely that, since that time, many law enforcement agencies have updated their CED policies and procedures as new information has emerged about this latest technology. What these studies have not addressed are the positive and negative outcomes of CED deployment. In late 2006, PERF began conducting a national study of the impact that the devices have had in the field. Focus topics include injuries to officers and members of the public; circumstances where the CED was used to resolve police-citizen encounters; and instances where the use of the CED affected the application of more serious levels of force. In addition, CED issues will be explored in the context of a larger, long-term joint study on less-lethal weapons that PERF is conducting with partners and with funding from the National Institute of Justice.[2]

PERF'S FIRST STUDY: CEDs—THE INITIAL STATE OF THE FIELD

As more and more law enforcement agencies adopted CEDs, deployment and policy issues received increasing attention. Police executives issuing CEDs were facing questions such as: who should get the weapons; how should they be carried; where should they be placed on a use-of-force continuum; for which subject populations should use be restricted; what restrictions, if any, should be placed on the number and length of activations; and so forth. To find out how agencies were approaching these issues, PERF conducted an exploratory study to determine the state of the field in early 2005. Through this study, PERF hoped to identify critical issues and trends related to CED deployment and policy in order to aid agencies nationwide.

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2. Partners include the University of South Carolina and the University of South Florida.

Methodology

Prior to drafting the questions for the survey, PERF developed a master list of potential issues by examining news articles, manufacturer and stakeholder reports, and agency policies, and by speaking with law enforcement practitioners nationwide. After the initial set of questions was developed, they were reviewed by PERF staffers and other subject-matter experts. Once the survey was finalized, it was piloted by law enforcement professionals with expertise in use-of-force issues.

PERF identified 82 law enforcement agencies that each deployed at least 100 conducted energy devices to the field or experienced significant issues with them.[3] The agencies represented a cross-section of departments, varying by size, geography, and jurisdiction. Agencies were asked to participate on a voluntary basis, with the understanding that no agencies or individual participants would be identified in the survey results. Each agency was asked to designate an employee knowledgeable about their agency's CED practices to (1) participate in the survey and (2) provide copies of policies regarding CED use and general use of force, for post-survey policy analysis. In most cases, participating agencies tasked officers from their departments who were familiar with both policy and training issues (often agency CED instructors) to complete the PERF survey.

The surveys were all conducted via telephone interview by Mark Warren. Having a single person conduct all interviews ensured consistency in survey administration. The survey instrument itself was generated electronically in the software program *Teleform* and was placed on a website where it could be accessed by both the interviewer and the interviewee simultaneously. (The interviewee could print the survey in advance of the interview and revisit the website as necessary during the two-month period that the survey was administered.) Although both individuals could access the survey at the time of the interview, only the interviewer was able to enter data and submit the completed form into the survey database at PERF. Of the 82 agencies targeted for the survey, 74 participated.

Findings

Setting the Stage

Portions of the survey solicited information regarding general agency characteristics, CED acquisition history, types of CEDs being used, and frequency of CED use.

Agency Type and Level of CED Deployment

The group of 74 participating agencies varied significantly and comprised 52 local police departments, four state law enforcement agencies, and 18 sheriff's offices. The sizes of the participating agencies varied significantly in terms of authorized strength and number of CEDs in use. Officer strength varied from as few as 65 officers to a high of more than 13,000 officers. The number of CEDs in use within each agency varied from nine to more than 3,000. Overall, the average participating agency had just over 1,100 officers and 46 civilian employees, and had more than 400 CEDs in use at the time of the survey.

CED Acquisition

The purchase of the CEDs took many forms, and many agencies used more than one funding source to acquire the devices. Almost 80 percent of the respondent agencies used their agency budget, while 28.4 percent purchased the weapons with grant funds. Only one agency (1.4 percent) had the officers pay for their own CEDs. Another 13.5 percent used other resources for acquiring CEDs, including: risk management funds, asset forfeiture funds, Racketeer Influenced and Corrupt Organizations (RICO) funds, school board funds (for school resource officers), civilian donations, federal appropriations, and trade-in exchanges of other weapons. The acquisition of CEDs in the participating agencies has been a recent occurrence. Only eight percent

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3. TASER International provided PERF with a list of agencies deploying at least 100 CEDs.

of the participating agencies utilized CEDs prior to 2000. At the time of the survey, in early 2005, the vast majority of initial CED acquisitions—more than 90 percent—had been spread fairly evenly over the years 2000 to 2004.

CED Types in Use

The CEDs in use by our respondent agencies were TASER-brand products. (At the time the survey began, other conducted energy devices products were not yet available.) The respondent agencies used both the M26 and X26 TASER brand models, with the majority using both versions. Among respondent agencies utilizing M26 CEDs, 76.5 percent had black models and 28.8 percent had yellow models. This was very similar to respondent agencies using X26 CEDs; 76.3 percent had black models and only 26.3 percent had yellow styles. Both color styles have advantages and disadvantages. During discussions with representatives from respondent agencies, it was noted that the black model gives officers an advantage in a concealment situation, in that a subject may not readily see or identify the CED. On the other hand, an officer arriving as a secondary unit to an incident may see another officer with a black model and confuse it with a firearm, creating the possibility of escalating force levels. The yellow model makes it apparent to other officers that a less-lethal weapon has been

drawn rather than a deadly weapon, helping to reduce the possibility that higher levels of force will be inappropriately introduced by responding officers. Agencies may consider providing darker-colored CEDs to tactical and other specialized units that require higher degrees of concealment, and providing brighter-colored CEDs to line officers. This would follow a practice used by some agencies to use specific colors to distinguish less-lethal and deadly weapons.

CED Activation Statistics

The survey solicited information regarding the number of CED uses during four full calendar years. These numbers encompass activations of a CED in either the probe mode or the drive stun mode and do not include mere display or arcing of the CED or use of the laser dot. For the agencies participating in the survey, CED activations appeared to have increased during the 2001 to 2004 reference period. This is consistent with agencies' gradual acquisition of new devices since 2000, as noted earlier. The average number of activations per year per agency (Table 5.1) and the number of agencies having at least 100 activations in any one calendar year (Table 5.2) are noted below.

This rise is further demonstrated by the reduced percentage of agencies reporting no CED activations during each year (Table 5.3).

Table 5.1: Average number of CED activations per year per agency (N=74)

Year	Average # of Activations
2001	17.6
2002	39.4
2003	72.0
2004	150.2

Table 5.2: Number of agencies with at least 100 activations in a calendar year

Year	100 or More Activations
2001	1 agency
2002	4 agencies
2003	11 agencies
2004	29 agencies

Table 5.3: Percentages of agencies reporting no activations (by year)

Year	Percent of Agencies with No Activations
2001	41.7 %
2002	30.0 %
2003	12.7 %
2004	1.5 %

Assignment of CEDs

Almost all of the agencies assigned CED devices to both front-line officers and supervisors. Further, the majority of respondent agencies assigned CEDs to or permitted their use by specialized units, including tactical teams or other support operations-type units. Respondent agencies were not asked which personnel received M26 versus X26 devices. Several respondents noted, however, that M26 models were favored by individuals in specialized units such as tactical teams due to their large grips, while the X26 models were favored by front-line officers due to their smaller overall size and the ease of carrying them on their gun belts. With regard to individual assignment, 85 percent of participating agencies permanently assigned CEDs to their officers, while 24 percent required that their officers sign out the CED at the beginning of their shifts. Some agencies utilized both methods of assignment, and one agency assigned the CED to the patrol vehicle permanently, rather than to a designated officer.

Policy Models and Off-Duty Restrictions

Information was collected regarding whether agency CED policies were stand-alone or not and whether and how they restricted off-duty use of CEDs by officers. When asked about their CED policies, 51 percent of respondent agencies described it as a "stand-alone" policy and 47 percent described it as part of their general use-of-force policy. Several reported that they maintained individual CED policies *and* integrated CED use into their use-of-force continuum, which was usually contained in their general use-of-force policy.

Since many agencies permanently assign CEDs to their officers, off-duty use was examined. Seventy-seven percent of respondent agencies permitted use of the CED during secondary employment when the officer was in uniform, and 56 percent allowed CED use when the officer was not in uniform. Some agencies qualified their remarks by noting that the secondary employment had to be related to a law enforcement function for CED use to be permitted.

Deployment Restrictions

Also pertaining to agency policy, the survey solicited information regarding how and where the CED was placed on a use-of-force continuum.

Type of Crime or Incident

Respondent agencies were asked whether crime classifications were linked to parameters in policy on use of a CED. In all but one case, the type of crime confronted had no bearing on whether a CED could be used (one agency would not allow use of a CED during a property crime). With regard to non-criminal incidents, 96 percent of respondent agencies permitted use of a CED when confronting a suicidal person. Respondent agencies were also asked about incidents in which subjects were armed. More than 93 percent of agencies permitted use of CEDs against a subject with a firearm, while 99 percent permitted use against a subject with an edged weapon. *In most cases, however, respondent agencies pointed out that the tactical use of cover was a key factor in determining whether the CED would be used in a deadly-force situation.*

Compliance and Resistance

As noted above, the type of crime was generally not a factor in setting parameters on CED use. A key factor was the level of resistance demonstrated by the subject. All of the respondent agencies said that the CED could be used in an incident involving aggressive resistance, and 87 percent of respondent agencies permitted CED use during active resistance. Thirty percent permitted CED use against a subject manifesting passive resistance. Some agencies explained that their definition of passive resistance included verbal resistance by a subject displaying an *intention* to disregard the officer's orders. Others reported that the use of a CED at the level of passive resistance could be permitted based on the subject's stance or the officer's knowledge of the subject's past behavior. Further information regarding CED placement relative to other weapons is contained in this chapter in the section on training. It is noted that definitions concerning aggression levels vary widely among agencies. PERF

has established a CED glossary of terms that helps to foster consistency and a better understanding of terms. The glossary is included later in this chapter.

Situational Limitations

Responding agencies were asked about policy restrictions on shooting CEDs to or from vehicles, CED use in crowd control situations and for homeland defense, and policy parameters for flammable situations and situations where secondary injury of the subject is possible.

Vehicle-Related Incidents

Fifty-seven percent of respondent agencies permitted the activation of a CED at an individual operating a vehicle. However, many respondents pointed out that—like a firearm—even if the CED use is successful, there is a risk that the vehicle will not stop or will veer off the road, causing other injuries or fatalities. Also, they noted that the potential for success was low. It is difficult to hit a moving target, and to effectively do so through a car window would be a challenge. Because of the difficulties and dangers associated with CED use against people operating vehicles, many agencies prohibit CED activation on persons operating all-terrain vehicles (ATVs), minibikes, and even bicycles. Because these other vehicles do not have safety features like seatbelts or airbags, the potential for secondary injuries from falling off of the vehicle is great.

Crowd Control

CEDs have been deployed for events like the World Trade Organization (WTO) meetings in 1999, the Winter Olympics in 2002, and the Democratic National Convention in 2004. More than 90 percent of the respondents said their agencies permitted CED use in crowd control situations. Several respondent agencies noted that in crowd control situations, actual activation of the CED was not always necessary; a simple display of the CED, laser dot, or arcing of the weapon was frequently effective in deterring and dispersing crowds.

Flammability Situations

Because there is a potential for a CED activation to start a fire, respondent agencies were queried as to whether the CEDs could be used in situations where flammability might be an issue, such as around methamphetamine laboratories or in proximity to alcohol-based O.C. spray, gas leaks or fumes, or hair gels. Only seven percent of respondent agencies allowed the activation of CEDs in any of those situations. A primary concern is the activation of a CED in conjunction with O.C. spray, because a spark from a CED can ignite an alcohol-based O.C. spray (Donnelly et al 2002).[4] Many respondent agencies indicated that they transitioned to a water-based O.C. spray upon acquiring their CEDs. Several respondent agencies, however, were unsure as to the type of O.C. spray carried by neighboring jurisdictions.

Secondary Injury Risks

A consideration in the use of a CED is the potential for injury from a fall or from the environment in which the subject will land after being activated by a CED. To that end, respondent agencies were asked whether their officers could use a CED against subjects in the following at-risk situations: in or near water, or on a ledge or otherwise in an area above ground level. Most agencies allowed use of a CED against someone in or near water as well as in areas above ground level. In these situations, several respondent agencies qualified their remarks by noting that CED use was permitted only if the officers had formulated a plan (for instance, a plan for preventing a subject from drowning or for mitigating the effects of a fall). One agency used this prudent formula: "*The potential for injury from the CED strike must be less than the potential for injury from the activity in which the subject was engaged at the time of CED deployment.*"

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4. In its report entitled *Evaluation of Taser Devices,* the UK Police Scientific Development Branch found that use of PAVA (similar to O.C. spray but made from a synthetic source) in conjunction with a CED activation could produce target ignition.

Secondary injuries were also a concern with regard to handcuffed subjects. Although most agencies allowed use of a CED against a handcuffed subject, many did so with specific limitations. Factors the officers were to consider in those situations included: level of resistance, potential for injury (from kicking, head butting, and so forth), position of handcuffs (front versus back), mobility of subject (that is, in leg irons or other containment), and environment (for instance, whether the subject is in a police vehicle or open space).

Homeland Defense

Also considered was where CEDs fit in relation to homeland defense. The majority of respondent agencies indicated that a CED could be used against a suicide bomber, while some agencies do not permit use on a suicide bomber because there may be a risk of activating an electric detonator. Respondent agencies noted that CEDs have been considered for use in vessels and ports as well as on airplanes and in airports. One respondent offered that CEDs would be an effective tool against an individual attempting to leave a quarantine area.

It should be noted that PERF is developing guidelines for patrol-level response to a suicide bomb threat that will address the use of a CED in such a circumstance. The guidelines will be released in mid-2007.

Other Situations

Almost 98 percent of respondent agencies permitted CED use during adverse weather. In fact, few had concerns about the weapon's reaction in adverse weather as much as they did about the clothing worn by a subject. The more adverse the weather, the more protective—and usually heavier—the subject's clothing. The heavy clothing can make it more difficult to obtain an effective probe strike on a subject. Some respondent agencies also noted that extreme cold may cause the CED's plastic parts to crack or may shrink the CED cartridge doors, reducing their ability to open.

Ninety-three percent of respondent agencies permitted CED use against animals. Although the M26 and X26 devices are designed for humans,

many respondent agencies reported their successful use against aggressive dogs in particular. This use may result in fewer aggressive dogs being fatally shot by police responding to calls for service.

Target (Subject) Considerations

Many agencies across the country have policy provisions that pertain to specific target populations. The survey collected information about provisions regarding juveniles, pregnant women, and the elderly.

Juveniles

Community stakeholders have expressed particular concern about use of CEDs on juveniles. Despite the sensitivity to this type of CED use, all surveyed agencies permitted use on a juvenile, but only under certain circumstances. As with elderly and pregnant subjects (discussed below), the threshold of deadly force was frequently cited as a requirement for CED use on a juvenile; in some policies, officers must be able to articulate reasons that use against a juvenile was required. Only 11 percent of respondent agencies actually cited an age limit for CED use. Their cut-off points for CED use are noted in Table 5.4.

Two respondent agencies cited weight, rather than age, limits, with one prohibiting activation on juveniles who are 60 pounds or less and the other prohibiting activation on juveniles weighing 80 pounds or less.

Table 5.4: Number of agencies prohibiting CED activation by specific age

Age Restriction (in years)	# of Agencies Prohibiting Activation Against Specific Age
7	3
9	1
12	1
13	2
14	1

Pregnant Women

Eighty percent of respondent agencies allowed use of a CED on a pregnant subject. As mentioned before, some respondent agencies adopted a deadly-force threshold for visibly pregnant women; one agency's policy specifically referenced women who were in late-term pregnancy. Many agencies were concerned with the potential for harm due to a secondary injury (to mother and/or fetus) from falling forward after a CED activation.

The Elderly

All but one agency allowed CED use on the elderly. Only two agencies had age limit restrictions—age 70 and older and age 81 and older. Just as with juveniles and pregnant women, good judgment was mentioned as a key factor, and the deadly-force threshold was sometimes linked to this group in the policy.

Activation and Effectiveness

The policing profession is learning more about the number and length of activations used to gain compliance from a subject. At the time of this survey, most agencies had not yet established restrictions on activations. For TASER-brand CEDs, the activation from a single trigger pull is usually five seconds, although it can be longer if the deploying officer continues to depress the trigger. Respondent agencies were asked whether their policy had a specified threshold for abandoning the CED in favor of another weapon due to the ineffectiveness of the CED. Twenty-eight percent of respondent agencies said that their policy had language to that effect. Decisions regarding the number of activations and whether to go to another type of force are crucial ones. While many respondent agencies noted the authority of a supervisor to overrule an officer, all respondent agencies stated that because of rapidly evolving scenarios, the initial decision pertaining to number and length of activations would be at the discretion of the officer deploying the CED. This question is explored further later in this chapter, and is addressed in PERF's CED guidelines for consideration.

Tactics

The respondents provided information regarding policy priorities for probe and drive stun modes, tactical considerations included in policy, and pre-deployment requirements.

CED Modes

All respondent agencies said that their agency permitted CED use in both the probe and the drive stun mode. (In the drive stun mode, officers remove the probe cartridge and apply the CED directly to the subject's body. The drive stun feature can help subdue a subject by administering pain, but it does not have a significant incapacitating effect on the central nervous system.) Agencies also were asked whether their policies classified these modes as either primary or secondary. Forty percent of agencies utilized those terms, and of those, all listed the probe mode as primary and the drive stun as secondary.

Another CED feature is the laser used for aiming and targeting. Placing the laser dot on the subject prior to activating the CED greatly improves the potential for good probe placement. This action is very popular in law enforcement and is considered an effective tool for deterring resistance as well.

Tactical Considerations

How the CED is carried affects its accessibility. Ninety-six percent of respondent agencies had some or all of their officers carry the CED in a holster on their person. Seventeen percent had some or all of their officers secure the CED in a vehicle. All of respondent agencies that had officers carry the CED in a holster permitted officers to carry it on their weak (support) side; 17 percent permitted carrying on the strong (sidearm) side. Another issue is whether agencies permit the use of the CED and their departmentally issued sidearm at the same time (that is, one in each hand). Thirty-two percent of respondent agencies allowed this practice.

This is a controversial tactic, as there is a risk that deadly force could be used unintentionally.

Also, at a time of increased regionalization and need for sharing of resources, agencies must also consider their use of weapons in multijurisdictional situations. In our survey, respondent agencies were asked whether they would allow CED-certified officers from another agency to use their CEDs in a multi-jurisdictional incident. Forty-four percent of respondent agencies permitted such a practice.

Pre-Deployment Requirements

Virtually every agency has some requirement that must be met prior to the deployment of a CED during an incident. One consideration is the role of supervision. Only three percent of our participating agencies required supervisory approval prior to CED deployment. Only four percent required that a supervisor respond to the scene before a CED could be deployed, although many respondent agencies commented that a supervisor is required to respond after a CED deployment. Several respondent agencies noted that the spontaneity and quick escalation of incidents usually precluded significant supervisory participation prior to deployment. Fifty-eight percent of respondent agencies indicated that when feasible, additional officers should be present before a CED activation.

Another consideration is the potential need for emergency medical services (EMS) after CED deployment. Again, noting how quickly a situation can escalate, in many situations it would be impossible to request EMS response prior to CED deployment. Within that context, respondent agencies were asked if they were required to request EMS response prior to CED deployment *when feasible*. Eight percent of respondent agencies indicated that policy required such action be taken. Most other respondent agencies indicated that EMS response, when required, would be requested post-deployment.

The final consideration relates to warnings of pending CED deployment. Fifty-three percent of respondent agencies indicated that their personnel were required by policy, when feasible, to give a vocal warning to a subject prior to CED deployment. Eighty-nine percent of respondent agencies required that a warning be given to other *officers* on the scene.

Post-Deployment Response

Virtually all policies reference post-deployment responsibilities of officers on the scene or others. Key provisions address subject aftercare and reporting/ investigation.

Subject Aftercare

One of the things law enforcement agencies must do is provide appropriate aftercare to persons activated by a CED. The survey focused on aftercare subsequent to an activation and/or dart penetration from the probe mode. Sixty-eight percent of respondent agencies permitted law enforcement personnel to remove the probe darts. Within that group of respondent agencies, 98 percent said that officers trained and certified to use a CED could perform that removal. One caveat to the above responses was the occurrence of darts striking sensitive areas of the body such as the breast, groin, eye, and cheek. Sixty percent of respondent agencies reported that a dart penetration of a sensitive area required fire, EMS, or hospital attention. One agency required EMS response in every deployment to check an activated subject's vital signs. Another agency required that any juvenile activated by a CED be transported to the hospital for treatment.

Another consideration related to aftercare was whether additional medical treatment was required—even after the darts had been removed at the incident scene. Twenty-nine percent of respondent agencies required additional treatment.

CED Activation Investigations

Since agencies are under great scrutiny regarding the potential for CED abuse, it is imperative that activations be properly documented and investigated. The need for transparency extends to accidental CED activations.

Every respondent agency indicated it used one or more post-incident reporting processes. To document elements of the activation, 81 percent of respondent agencies utilized a general form, while 38 percent used a CED-specific form. Fifty-six percent of respondent agencies had an accidental-discharge investigation procedure. In many instances, respondent agencies noted that they

COMMENTARY:

Accelerated Triage for Medical Evaluations Following CED Activations

by Dr. Gary M. Vilke, Dr. Christian M. Sloane, and Dr. Theodore C. Chan

As the use of conducted energy devices (CEDs) by police officers continues to increase, the frequency with which the emergency medical community will be interacting with law enforcement will also continue to increase. Many uses of CEDs will result in an unruly individual's becoming more compliant—allowing for a facilitated arrest into custody. With these individuals, often the only medical evaluation and treatment required is removal of the CED dart, as well as addressing local wound care and tetanus status as needed. Alternatively, individuals under the influence of drugs or suffering from decompensated psychiatric disorders may not have their behavior modified with one or multiple activations of a CED. These individuals are more likely to require additional physical-restraint measures and are the same individuals who are more likely to be exhibiting signs of excited delirium.

The Police Executive Research Forum's (PERF) CED guidelines for consideration that were released in October 2005 included a guideline that stated, "All persons who have been exposed to a CED activation should receive a medical evaluation." Options and considerations for this medical evaluation will be briefly reviewed here.

Uncomplicated CED activations are ones that occur in individuals where (1) the dart is not in an anatomically sensitive location, and (2) the subject is alert, acting appropriately, and compliant after the activation. In these cases, many law enforcement agencies have policies and procedures to allow police officers to remove the darts. This seems reasonable if the officer has been specifically trained in the dart removal, if the officer utilizes universal precautions (the darts are considered a biohazard), and if the dart is not located in a medically sensitive area—typically considered as the face, neck, female breast tissue, groin or genitalia. The subject should still obtain a medical evaluation that would include local wound care and updating tetanus status; however, this could potentially be performed by medical staff at the jail or by field paramedics. This practice will vary from jurisdiction to jurisdiction.

However, many CED activations will occur in subjects who do not meet these criteria after activation. Many subjects under the influence of illicit drugs or with untreated psychiatric illnesses will exhibit combative, hallucinatory, and noncompliant behavior, and when they undergo CED activation in order to be taken into custody by police, these subjects are at risk to develop what is termed excited delirium, a clinical syndrome based on several medical findings—which may include agitation, disorientation, delirium or confusion, hallucinations, and abnormal vital signs including elevated body temperature and heart rate. Not all of these findings will be found in every patient. Law enforcement officers should recognize that subjects presenting with these types of findings, particularly with a history of cocaine, methamphetamine, or PCP use or an untreated psychiatric illness, are possibly suffering from excited delirium. The importance of suspecting excited delirium—with or without CED activation—is that these persons need rapid medical evaluation and treatment because of their increased risk for sudden death syndrome. Officers should consider calling for EMS following or even prior to CED activation whenever possible in this population of subjects.

For logistical, training, or medico-legal reasons, some law enforcement agencies have opted not to train their officers to remove CED darts. In this case, medical clearance by a physician with removal of the dart is often required prior to the subject's being accepted for booking at a police facility or jail. The transport of the subject to the local emergency department by police for medical clearance can result in a long wait for the subject to be seen as a patient. Moreover, uncomplicated CED patients may get triaged as a lower-acuity

patient, resulting in even longer waiting times in the emergency department. These delays often result in frustration for the accompanying police officers and increased staffing costs for the arresting agency.

ACT, or *Accelerated Care at Triage,* is a novel approach created by a collaboration between the San Diego Police Department and the University of California, San Diego (UCSD) Medical Center. ACT is a program implemented at the UCSD Medical Center Emergency Department to facilitate the evaluation and rapid disposition of subjects who received an uncomplicated CED activation and have no other obvious medical issues. The ACT algorithm is demonstrated in Figure 5.1.

The ACT program establishes a systematic process that not only addresses medical assessment needs of activated subjects, but also addresses law enforcement's operational needs to limit police officer downtime. The ACT program has been successful in getting low-risk compliant and controlled patients quickly discharged from the emergency department and police officers back onto the streets. ACT also has offered the opportunity for earlier evaluation and initiation of therapy for patients brought in by police who are still agitated and combative and, thus, at higher risk for morbidity and mortality. This is exactly the population of patients who need rapid evaluation and treatment. Another positive effect of the ACT program is that it has improved relations between police officers and medical staff, as both groups feel that optimum care for these patients is delivered in an appropriate time frame. ∎

Figure 5.1: Accelerated Care at Triage Protocol for Conducted Energy Device Activation University of California, San Diego, Medical Center

CED-activated patient presents at Emergency Department (ED) Triage → RN calls MD to Triage for evaluation (if no ED bed available)

Accelerated Care at Triage (ACT) Protocol for CED Activation

Significant acute medical condition (i.e., delirium, trauma, chest pain, shortness of breath)
OR
CED probe in sensitive area (i.e., face, breast, neck, groin)
OR
At risk co-morbidities (i.e., cardiac disease, pregnancy, pacemaker)

YES → To ED room for further ED care and evaluation

NO → Remove CED probe at Triage and update tetanus as needed → Discharge with wound care instructions and follow up at jail clinic

required officers to self-report in order to obtain replacement cartridges.

With regard to intentional activations, 82 percent of respondent agencies required that a supervisor conduct an investigation. Twelve percent of respondent agencies allowed activating officers to investigate their own CED deployments. According to some respondents, this was more likely to be the practice in agencies that have outlying posts and limited access to supervisors. Respondent agencies were asked to indicate the minimum types of evidence collected after *every* CED activation. Their responses are noted in Table 5.5.

Training Issues

Responding agencies provided information on CED-related training, including training program components, whether officers were required to experience activation, and training injuries.

Program Components

Eighty-two percent of respondent agencies indicated that their training program had a scenario-based component. Fifty-three of respondent agencies indicated that they had a weapons retention component built into their CED program.

In light of the availability of CEDs to the public, 74 percent of respondent agencies trained their officers on how to confront a subject armed with a CED. Twenty-four percent of respondent agencies had a policy dictating the type of force permissible

for use on a subject threatening an officer with a CED. Ninety-four percent allowed deadly force in that situation. Although deadly force is a legitimate consideration, other mitigating factors may exist. For example, the presence of other officers on the scene may remove the need for deadly force, as might the lack of a cartridge in the subject's CED. Further, deadly force may not apply to a subject using the CED in the drive stun mode or a subject outside of the maximum range of the CED.

Twenty-five percent of respondent agencies provided training about CEDs to some noncertified personnel (such as noncertified patrol officers, forensic technicians, and evidence couriers).

CED Exposure During Training

CED training exposure means that as part of the certification process, an officer is subjected to experiencing a CED activation. Many agencies have moved away from mandatory exposure, with some actually forbidding exposure. Ten percent of respondent agencies had mandatory exposure for certification. Of those 10 percent, four of the agencies requiring exposure conducted a general health screening for its officers (for instance, screening for osteoporosis, prescription medications, and over-the-counter drugs) prior to administering activations.

Training Injuries

Twenty-seven percent of respondent agencies had experienced officer injuries during certification

Table 5.5: CED activation physical evidence collection (percentage of agencies requiring collection by type of evidence)(N=74)

Evidence Type	Percent of Agencies Requiring Collection
Photographs of subject injuries	76 %
CED cartridge	65 %
Darts/prongs	61 %
Data downloads	37 %
Car video	37 %
Confetti ID tags (AFIDs)	35 %
Photographs of incident scene	22 %
Radio transcripts	4 %

Table 5.6: Force option placement in relation to CED placement in a force model

Force Option	Below CED	Equal to CED	Above CED
Verbal control	100 %	0 %	0 %
Control holds	58 %	32 %	10 %
Chemical	16 %	77 %	7 %
Chemical/kinetic (hybrid)	12 %	53 %	36 %
Strikes/batons	3 %	33 %	64 %
Impact (beanbags)	1 %	31 %	67 %
Firearms	0 %	0 %	100 %

training. Of the respondent agencies reporting officer injuries during CED training, only two agencies reported injuries that were considered serious or that required hospitalization.

CEDs and Use-of-Force Policies

In regard to where the CED fits into an agency's use-of-force policy, many agencies use a linear force continuum, while others have instituted a circular response-to-force resistance model. Regardless of the type of force model used, respondent agencies were asked to compare the CED to several general force options and measure them as: below, equal to, or above a CED in their particular model (Table 5.6).

CED Weapon Draw

Ninety-three percent of respondent agencies allowed their officers to draw the CED with their strong (sidearm) hand, while 39 percent allowed officers to draw the CED with their weak (support) hand. With regard to the strong-hand draw, 96 percent of respondent agencies allowed a cross draw, while only 15 percent allowed a strong-side draw. The strong-side CED draw presents the danger of grabbing a firearm accidentally due to the close proximity of the weapons on the body. With regard to agencies that permitted a weak-hand draw, 75 percent trained their officers to transfer the CED from the weak hand to the strong hand for activation purposes. Twenty-five percent of respondent agencies allowed their officers to activate the CED with either the weak hand or the strong hand.

Table 5.7: Percentages of respondent agencies collecting CED data by data analysis schedule (N=49)

CED Data Analysis Schedule	Frequency
Annual	37%
When requested	16%
Semiannual	16%
Quarterly	12%
Monthly	8%
For cause	8%
As needed	6%
Weekly	2%

Inspections of CEDs

Seventy-four percent of respondent agencies conducted physical inspections of the CEDs beyond their officers' daily spark tests. Of those respondent agencies, 72 percent conducted scheduled inspections—usually at in-service or annual range training, while 50 percent conducted random inspections.

In regard to periodic CED data analysis—whether through data downloads or CED use statistics—68 percent of respondent agencies indicated they did conduct periodic data analysis (Table 5.7).

Twenty-eight percent of respondent agencies also conducted random—and unannounced—CED data audits. Usually these downloads are conducted by quality assurance units like Professional Standards or Internal Affairs. One respondent noted that random data audits are not just important for maintaining departmental integrity, but also to ensure that officers are conducting required daily test activations.

Conclusion

The procurement and use of CEDs by law enforcement continues to grow. As technology advances, so will the number and type of CED weapons. During this time, law enforcement professionals will need to continually examine the evolving issues surrounding these and other less-lethal devices. This study enabled PERF to provide the law enforcement profession with a better understanding of the critical issues surrounding CEDs at that time. This study—the first receiving full and comprehensive participation from agencies throughout the country—identified trends and universal issues. It established the foundation for PERF's proximity-death study (described below) and played a seminal role in the development of PERF's CED guidelines for consideration and glossary of terms. *Finally, as mentioned earlier, it is important to note that CEDs are still relatively new to the field, and many agencies have made significant changes to their policies as new information emerged.*

PERF'S SECOND STUDY: CEDs—A REVIEW OF CUSTODIAL DEATHS IN PROXIMITY TO USE

As the frequency of CED use has increased, so have questions regarding the safety of these devices and concerns about possible misuse. Deaths following the use of a CED have resulted in increased public notoriety, news media attention, and speculation concerning CED policies, practices, and safety. Civil rights groups, individual activists, and academics have questioned the value of CED technology. Several of these groups have raised concerns that custodial deaths occurring in proximity to the use of a CED may have been caused by the device. PERF's second study did not provide a medical review of CEDs and did not produce medical recommendations. However, the information gathered for the study does provide law enforcement executives with meaningful information concerning agency experiences surrounding these custodial deaths.

PERF examined deaths nationwide that occurred in proximity to a CED activation that occurred between September 1999 and May 2005. The goal was to better understand these incidents and circumstances surrounding CED use, as well as to provide information to police executives in order to reduce the risk of future deaths occurring, if possible. This research produced a profile of these proximity deaths and identified factors that distinguished these incidents from others where CEDs were used and no deaths occurred.

Background

Many discussions involving custodial deaths in proximity to CED use—especially in the news media—have focused on the fact that a death occurred and a CED was used, followed by a discussion of concerns regarding the safety of CEDs. These deaths are not discussed in the context of the total number of police custodial deaths that occur in the United States every year. Many people die in police custody every year for a variety of reasons.

Some of these reasons include preexisting health issues, at-risk behavior such as illicit drug use, and use of force. To assist in understanding and tracking this issue, the U.S. Department of Justice Bureau of Justice Statistics (BJS) requires that all states report custodial deaths.[5] Prior to the 2000 enactment of the Death in Custody Reporting Act (DICRA), BJS collected custodial death information primarily as it pertained to corrections environments—specifically persons incarcerated in federal and state penal institutions. Despite the passage of DICRA, collection of valid statistics has been a challenging task. BJS is planning to issue a comprehensive report that should offer researchers, police executives, and others at least baseline information concerning police custodial deaths to assist in monitoring trends. Although not comprehensive, custody-death information collected from 42 states and the District of Columbia for 2004 suggested that approximately 600 subjects died for various reasons while in police custody.

Methodology

For this study, PERF used a targeted approach and identified 118 deaths in proximity to a CED activation in the United States. These deaths occurred in 96 law enforcement jurisdictions within 26 states between September 1999 and May 2005. All 96 agencies were invited to participate in a voluntary, anonymous survey. Agencies invited to participate represented a broad range of departments in terms of types (that is, municipal and sheriffs' departments), size, and geographic location. Agencies were informed that participation was not an affirmation that a CED was the cause of death, but rather that a custodial death was experienced and a CED was used at some point during the incident. Information surrounding 77 deaths was obtained.

PERF's staff developed a comprehensive survey instrument. An independent panel reviewed the survey for content and clarity. The panel also was tasked with ensuring that the law enforcement

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5. Death in Custody Reporting Act (DICRA) of 2000 (Public Law 106-297).

terminology would be uniformly understood by agency personnel across the nation. This electronic survey was placed on a secure website, and participants were provided with instructions and a password to complete it. Each agency was given a control number that allowed PERF staff to validate completed surveys and track the response rate. All information identifying participating agencies was discarded following the data collection phase of the study to ensure confidentiality for respondents.

Respondents provided comprehensive data for each death. The survey instrument was designed to identify information in three general categories: agency information, incident information, and post-incident information. These data provided insight into the collective experience and established a description of the subjects activated, tactics used, and autopsy findings.

Importantly, PERF staff also developed a comparison group of CED incidents where a person did not die. Comparison data from 662 incidents in which a custodial death in proximity to a CED activation did not occur were collected and examined.

Findings

Agency Information[6]

The survey asked a series of questions regarding total calls for service answered, arrests made, use-of-force incidents, and the total number of CED activations. It is generally understood that the frequency with which police use force is relatively small compared to overall contact with the community, and the survey results support this point. Between January 1, 2002, and May 31, 2005, respondents reported answering

an average of one million calls for service per year. Eight percent of these calls for service resulted in an arrest. Importantly, only one-tenth of 1 percent of these calls for service resulted in the use of force, as noted below (Table 5.8).

The use of force occurred infrequently in relation to the total number of contacts with the community. Respondents reported that 25 percent of the total reported use-of-force incidents involved a CED. Figure 5.2 depicts the trend of use-of-force incidents reported by the respondents since 2002.

The rise in CED activations is expected, given the increased number of agencies that acquired and use the devices. Further research is required to

Table 5.8: Percent of respondent agency calls for service resulting in arrest and use of force

Calls for Service	Average	Percent of Calls for Service
Total calls for service	1,074,502	N/A
Total number of arrests	86,345	8 %
Total number of use-of-force incidents	1,145	0.1 %

Figure 5.2: Responding Agencies' Overall Use of Force and Use of CEDs, Number of Incidents, 2002–2005
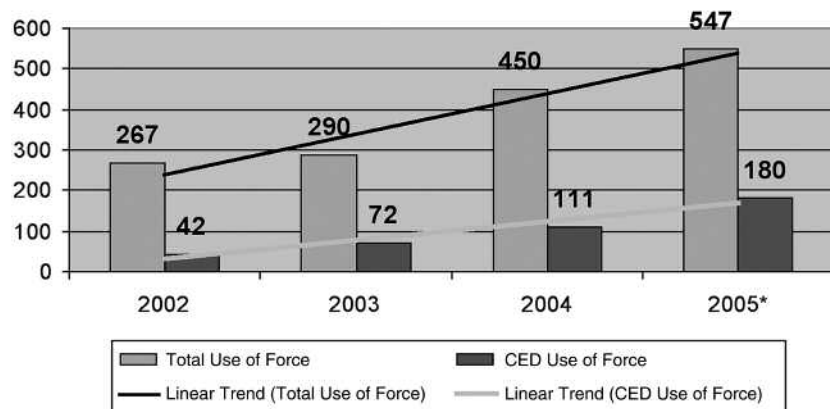
*Graph represents a full-year projection based upon actual data received for the first five months of 2005.

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6. Comparison agencies not included.

assess the increases in the context of all police use-of-force incidents. For example, while there may be an increase in the use of CEDs, there may be reductions in the use of other forms of less-lethal weapons such as collapsible batons and O.C. spray.

Additional Information Concerning Incidents

Aggression Encountered

It is imperative to begin any use-of-force incident review with an evaluation of the aggression or resistance encountered. The type of aggression would dictate the appropriate police response or range of responses. Each agency described the behaviors exhibited by the deceased subject. The following conveys the highest level of aggression encountered for the cases reviewed (Table 5.9, response categories are not mutually exclusive).

Twenty-six percent of the subjects were armed or attempted to arm themselves during the incident. Of those, 20 percent were armed with a firearm, 40 percent with a knife or cutting object, 25 percent with a club or blunt object, and 25 percent were armed with some other weapon.

In six percent of the incidents, the respondent agency considered the subject as manifesting deadly aggression. It appears that officers in these incidents did not uniformly view an armed subject as a deadly threat. In several follow-up interviews with respondents, it was determined that in some of the cases the subjects disarmed themselves sometime during the incident. However, the majority of the respondents indicated that officers sought to avoid using deadly force against even an armed opponent.

Situational Factors

The level of aggression presented is just one factor in the decision regarding appropriate use of force. Situational factors include: the amount of information available prior to arriving on the scene, the number of suspects or officers, spatial limitations, and tactical considerations.

The *type* of call for police service is related to the level of information that officers have prior to making contact with a subject. Calls for service that prompted police response were classified as follows: suspicious persons, 30 percent; drunk and disorderly, 18 percent; property crimes, 10 percent; violent crimes, 17 percent; domestic offenses, 15 percent; assist fire or EMS, 5 percent; barricaded persons, 1 percent; and other types of calls, 16 percent.

Table 5.9: Highest level of aggression encountered during an incident that resulted in a CED activation

Level of Aggression[7]	Percent
Passive–Dead Weight	2 %
Noncompliant	12 %
Active Aggression	22 %
Severe Aggression	59 %
Deadly Aggression	6 %

Table 5.10: Percentage of CED incidents by location (not mutually exclusive)

Location	Percent
Outside	57 %
In a dwelling	31 %
In a vehicle	6 %
Police facility (and jails)	5 %
In a business	3 %
Hospital/crisis center	2 %
Other	12 %

7. This survey was completed prior to the creation of the CED glossary. Therefore, for the purposes of this survey, levels of aggression were defined as: *Passive-Dead Weight*—Physical actions that do not prevent the officer's attempt to control. For example, a person who remains in a limp, prone position; *Noncompliant*—Subject was failing to comply with officer's orders but was not physically engaging in any other type of resistance; *Active Aggression*—Physically evasive movements to defeat an officer's attempt at control, including bracing, tensing, pushing, or verbally signaling an intention to avoid or prevent being taken into or retained in custody; *Severe Aggression*—A threat or overt act of an assault, coupled with the present ability to carry out the threat or assault, which reasonably indicates that an assault or injury to any person is imminent; and *Deadly Aggression*—subject was threatening or assaulting an officer in a manner that would likely result in death or serious bodily injury.

CED incidents occurred in a variety of physical locations (Table 5.10).

Respondents identified additional tactical considerations relevant to each case. Multiple factors could be recorded depending on the circumstances of the incident. These tactical considerations are reflected in Table 5.11.

The need for immediate incapacitation—the most prevalent response—was in many instances accompanied with an explanation. One of the most frequent explanations was that the incident occurred in, or near, lanes of traffic of busy roadways. Other respondents described the need to immediately place the subject under control because the subject was attempting to take a hostage, had a weapon or was attempting to reach for a weapon, or was actively fighting with officers. Spatial limitations were also frequently cited as a tactical factor. Explanations included subjects inside small storage areas, closets, on rooftops, and on narrow staircases. The inability to approach subjects from a tactically prudent position because of limited space could have reduced the force options available to officers. Two other interesting points were discovered when reviewing responses for tactical considerations.

First, a significant number of respondents indicated the presence of biohazards such as subjects covered in blood. Not only is this a potential health risk for officers, but it also can increase the difficulty in bringing a subject under control by physical hands-on tactics. The second point of interest was the low percentage of respondents listing availability of cover as a consideration. Cover can be described as a position of safety for officers. Because the availability of a CED does not replace lethal force, the presence and availability of cover are particularly necessary for an officer attempting to use a CED on an armed subject.

Subject Information

Subjects involved in the incidents resulting in death were predominately male (96 percent). Forty-six percent of the subjects were white and 40 percent were black. Hispanics made up the remaining 14 percent. Ninety-two percent of the subjects were between 21 and 50 years of age. This breakdown of subjects by age is contained in Table 5.12.

A description of subjects who died in proximity to a CED activation is provided in Table 5.13.

Table 5.11: Tactical considerations reported during CED activations

Tactical Considerations	Percent of Cases
Need for immediate incapacitation	65 %
Spatial limitations	38 %
Poor lighting conditions	32 %
Bystanders	29 %
Officer size relative to subject size	18 %
Presence of a weapon	16 %
Availability of cover	3 %
Other	3 %

Table 5.12: Age of subjects who died in proximity to CED use

Years of Age	Percent
16 – 20	3 %
21 – 30	27 %
31 – 40	38 %
41 – 50	27 %
51 – 60	5 %

Table 5.13: Characteristics by highest percentage of subjects who died in proximity to a CED activation

CED Proximity Deaths	Findings	Percent
Subject sex	Male	96 %
Subject age	31 – 40 years	38 %
Subject height	5'7''– 6'0''	71 %
Subject weight	161 – 280 lbs	85 %
History of violence	Yes	56 %
Local criminal history	Yes	70 %

Officer Information

The number of officers present during a use-of-force incident is a vital factor when evaluating the reasonableness of force used and the effectiveness of tactics employed. Two officers were present for 39 percent of the cases reviewed. Only seven percent of the cases involved a single officer. Sixteen percent had three officers present, 18 percent had four, and 21 percent had five or more officers. Eighty percent of the cases involved the use of a CED by a line officer, while 18 percent of the cases involved the use of a CED by a supervisor.

CED Use

CEDs in these incidents were almost exclusively devices produced by TASER International. Model M26 was used in 59 percent of the cases, while model X26 was used in 40 percent of the cases. An early model Air TASER was used in one case. There were no reported occurrences of multiple CEDs being used simultaneously. Seventy-seven percent of the incidents involved CED applications in probe mode.

The number of CED cycles and the total duration of CED activations were reviewed. Several challenges were encountered trying to obtain this information. The internal recording device for the M26—which was used in the majority of cases—does not record the length of the CED activation. The X26 records both number and duration of activations. Additionally, both the M26 and X26 are designed to cycle activation for five seconds after the trigger has been depressed, *but if the trigger is held down the device will activate continuously*. Both models can be manually shut off before the full five-second cycle is completed.

Several respondents reported that in some instances data retrieved from M26 models have been faulty. Incorrect dates, times, and days of the week were cited. Figure 5.3—from an actual download—depicts an M26 download with incorrect data. This download indicates multiple trigger pulls occurring during what was in fact a single activation, based on time intervals noted.

Figure 5.3: A Sample M26 Download With Incorrect Data
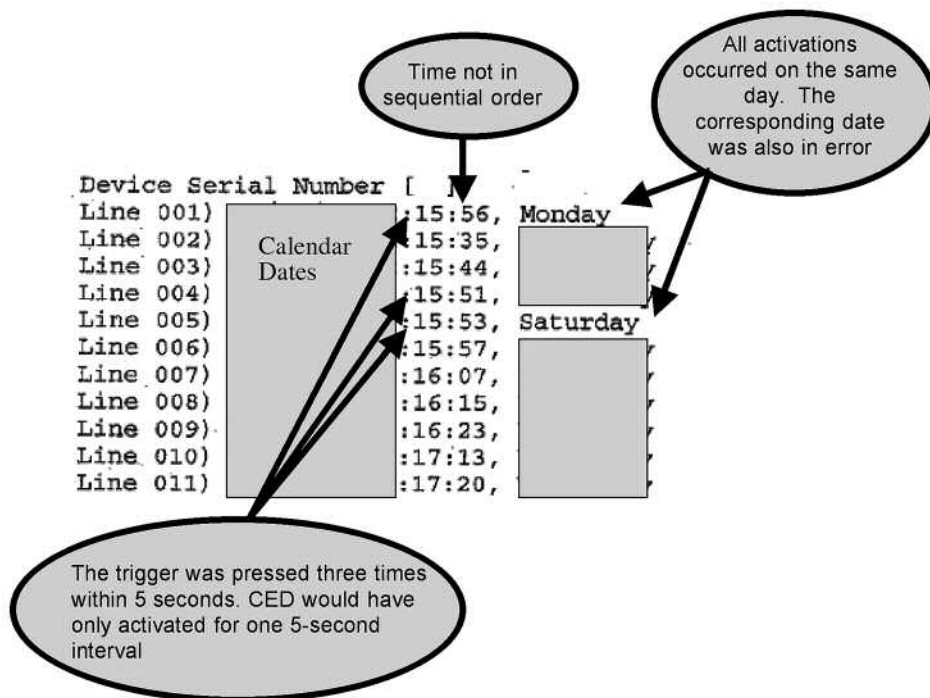
Respondents provided the total duration of activation and the number of cycles for each incident. This total duration does not necessarily represent a continuous exposure to CED activation, but rather the cumulative activations that occurred during the incident. It is possible, however, that the CED exposure occurred in a single application. The total duration was evaluated in three different categories: when only probes were used, when only drive stun was used, and when a combination of both was used. In addition to providing the average duration, Table 5.14 includes the median and mode for the total duration.[8]

Post-Incident Information

Medical attention was given to 91 percent of the subjects following activation. Seventy-eight percent of the subjects were transported to the hospital. Thirty-six percent were transported in the first 10 minutes, 66 percent in the first 20 minutes, and 88 percent were transported in the first 30 minutes following CED usage. In the reported cases, the average time of death following the use of a CED was 63 minutes (see Figure 5.4).

Table 5.14: Total duration of CED activation (in seconds) during incidents where a person died in proximity to exposure

Activation	Mean Duration	Median Duration	Mode Duration
Probe	28 seconds	25 seconds	25 seconds
Drive stun	31 seconds	25 seconds	20 seconds
Both	39 seconds	30 seconds	25 seconds

Figure 5.4: Time Elapsed Between CED Activation and Subject's Death
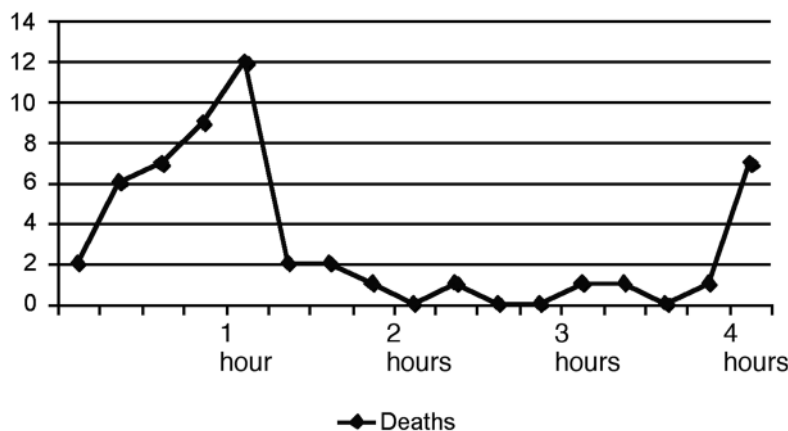
8. The *mean* time represents the duration of CED activations obtained by dividing the sum of reported duration times by the reported number of incidents; the *median* time represents the time duration at the midpoint of all reported duration times; and the *mode* time reflects the most frequently reported duration time.

Autopsy Results

Autopsy findings have proved to be a critical, often contested, source of information in proximity death cases. Much discussion has revolved around medical examiner findings; attention is paid to whether the CED was listed as a contributing or primary factor in the death, reports of the level and toxicity of drugs, and other contributing factors. Respondents indicated that autopsies were performed in 92 percent of the cases. "Primary cause of death" findings were grouped into six different categories in Table 5.15. Autopsy data were provided to PERF from law enforcement agencies.

Toxicology reports are indicated in Table 5.16. Respondents reported that in some cases there were several *contributing* factors that influenced death. Contributing factors are listed in Table 5.17.

Contributing factors provide insight as to behaviors that officers observed during the confrontations. Although it is unrealistic to expect that officers can diagnose a subject based on field observations, certain behaviors can prompt a series of procedural responses. Officers may readily observe obesity and the effects of illicit drug and alcohol use in a person. Recognition of such factors can and should affect decisions to obtain medical treatment for the subject.

Excited delirium is an important contributing factor. The PERF CED glossary describes excited delirium as a *state of extreme mental and physiological excitement, characterized by extreme agitation, hyperthermia, epiphoria, hostility, exceptional strength, and endurance without fatigue.* There is not agreement within the medical community whether this diagnosis for a conglomerate of symptoms is medically valid. Proponents of the concept of excited delirium argue that it is a valid medical diagnosis and represents a medical emergency. Regardless, it would be prudent for law enforcement to focus training not on the final possible diagnosis of excited delirium, but rather on the signs of this state that field personnel might observe.

Table 5.15: Number and percentage of primary cause of death findings in CED proximity deaths incidents

Cause of Death	Number of Cases	Percent
Drug issues	20	26%
Excited delirium and drug-use issues	16	21%
Excited delirium	10	13%
Health and drug-use issues	8	10%
Unknown	8	10%
Health issues	4	5%
Autopsy not finished	2	3%
CED	1	1%
Other	8	10%

Table 5.16: Reported toxicology results in primary cause of death findings involving reported deaths occurring in proximity to a CED activation

Drug	Detected	Probably Intoxicated	Overdose or Critical Toxicity
Alcohol	15%	18%	2%
Prescription drugs	6%	–	5%
Illicit drugs	9%	10%	69%

Table 5.17: Contributing factors that influenced death in cases where persons died in proximity to a CED activation

Contributing Factors	Percent
Illicit drug use	82%
Excited delirium	39%
Health problems	33%
Alcohol use	13%
Obesity	11%
CED Use	8%
Prescription drug use	5%
Positional asphyxia	3%

Comparison Group

The comparison group used for this study consisted of 662 incidents involving CED activations that were *not* fatal. Two cities (Madison, Wisc., and Seattle) that maintained comprehensive electronic data on CED use—and were not part of the original sample of 96 law enforcement agencies with proximity deaths—were selected as comparison sites. It is noted that there are methodological limitations of using these comparison groups, which are discussed at the end of this chapter. These cases occurred between 2001 and 2005. An incident profile was created to compare individual and situational facts against the reported proximity death cases. Several aspects of both proximity death and non-fatal cases were similar. The gender and race of individuals involved were consistent. Subjects involved in nonfatal cases were 92 percent male, 46 percent white, 42 percent black, and 12 percent other. Officers experienced similar levels of aggression and resistance as those involved in the proximity death cases. Subjects in nonfatal cases exhibited 38 percent active aggression, 31 percent severe aggression, and 11 percent deadly aggression, while in proximity death cases officers experienced 22 percent active aggression, 59 percent severe aggression, and 6 percent deadly aggression.

Fifteen percent of the subjects in the comparison group were noncompliant, compared to 12 percent in proximity death cases. The proportion of armed subjects was also similar. Twenty percent of the individuals involved in nonfatal cases were armed or attempted to arm themselves during the confrontation. These included 13 percent armed with firearms, 49 percent armed with edged weapons, and 38 percent

armed with some other type of weapon. Seventeen percent of the subjects were described as behaving as if they suffered from a mental illness, while 67 percent were described as under the influence of alcohol, illicit drugs, or both.

PERF also examined the duration of CED activations for both nonfatal and proximity death incidents.[9] In nonfatal situations, 88 percent of the subjects were activated for 15 seconds or less. Forty-five percent of the nonfatal cases consisted of only one five-second cycle.[10]

In proximity death situations where probe mode was used, subjects were activated for an average of 28 seconds. In proximity death situations where drive-stun mode was used, subjects were activated an average of 31 seconds. In proximity death situations where both probe and drive-stun modes were used, subjects were activated an average of 39 seconds. Figure 5.5 depicts the contrasting applications between proximity death and nonfatal cases.

Figure 5.5: Comparison of Proximity Death and Non-Fatal Cases by Number of CED Cycles
(For the purposes of this study, a cycle was defined as five seconds.)

Percent of death and non-fatal CED cases by number of CED cycles

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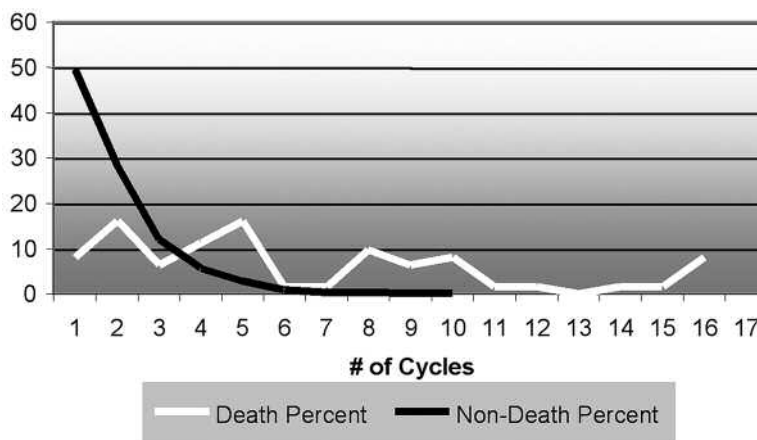
9. For the purposes of this study, a CED cycle was defined as 5 seconds.
10. Comparison data do not distinguish between probe and drive-stun mode.

Risk Mitigation Factors

Bivariate statistical techniques were used to compare the death and non-death cases. Using this method, several significant variables were identified as having an association with proximity death cases. *While we recognize that association does not mean causation, there are important issues that were identified that may influence policy development.* Proximity death cases seems more likely to involve:

- A longer duration of activation,

- Multiple CED cycles in either probe, drive stun, or combination (the greater number of cycles increases the risk of a proximity death occurring),

- Multiple officers using a CED,

- A subject exhibiting severe aggression and/or fleeing,

- A subject who appeared to be under the influence of drugs,

- A subject who appeared to be under the influence of both alcohol and drugs,

- A subject who appeared to be suffering from a mental illness,

- The use of a CED in probe mode,

- An incident where an officer is injured, and/or

- A traffic incident.

Respondents were asked to describe any lessons learned after internal investigations were completed in each death case. While few agencies indicated that their department would no longer use CED technology, many respondents indicated that training and CED policies needed to be improved. The recurring themes that emerged were: mandatory monitoring periods for individuals who received a CED activation; a more comprehensive policy for CED use; more thorough training that emphasized the individual department's use of force philosophy—rather than a generic version from a manufacturer; and, importantly, emphasizing in training that if a CED (or other force option) is not producing the desired effect, then changing to a different force option or tactic may be necessary.

Caveats/Limitations of Information Regarding PERF CED Data

The goal of the PERF CED project was to make a contribution to the field that would help law enforcement leaders make more informed decisions about CEDs. This has largely been achieved. Nonetheless, PERF notes several items related to the data that were used in these exploratory studies. All information used by PERF was obtained directly from law enforcement agencies. However, in the first study, prior to contacting law enforcement agencies directly, PERF relied on a list obtained from TASER International consisting of agencies that purchased at least 100 CEDs. In the second study, prior to contacting law enforcement agencies directly, PERF used information from the *Arizona Republic* and Amnesty International about deaths occurring in proximity to a CED activation. In both cases, PERF used such information from these organizations because they were at the time the major source of available data for identifying agencies using CEDs and agencies that had experienced proximity deaths. However, the information we received was obviously limited to the quality of the record-keeping system and honest cooperation from the aforementioned sources. It is possible that we might have missed some eligible agencies in our study. A survey of all law enforcement agencies in the United States obviously would have been more comprehensive.[11] Further, both PERF CED studies are based on self-reports[12] from agencies themselves, without independent verification of the

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11. Given the exploratory nature of this study, data sources were deemed to be reasonably reliable for the descriptive purposes of our research.

12. The response rate for the first survey was 90% (74/82); the response to the second survey was 65% (77/118).

information provided (e.g., interviewing the officers involved in the CED incident). The issue of relying on self-reports is not a limitation unique to policing studies.

In addition, it would have been desirable to also collect data on non-death CED activations from the original sample of 96 law enforcement agencies rather than only the two comparison sites. However, to complete the study in a timely manner, PERF instead chose a large sample from only those two sites.[13] The limitations of using non-equivalent comparative designs are well documented, but PERF believes that the 662 incidents studied were sufficient for these initial exploratory studies.[14] Finally, PERF relied on existing electronic data from the two comparison cities, and the data collected were not originally collected for PERF's survey but for internal law enforcement agency use, thus limiting the number of comparisons that could be conducted.

Conclusion

Ultimately, additional longitudinal research studies are necessary to achieve a more complete understanding of the effects of conducted energy devices on individuals, especially individuals engaging in at-risk behaviors like illicit drug usage and physical aggression toward police. These types of studies can take years to complete and can be costly. Law enforcement executives do not have the luxury to wait years for definitive results. The need for current information is critical. Like many other public policy decisions, police administrators must formulate use-of-force strategies based on organizational needs and the needs of a diverse community. Police executives need to evaluate and prioritize disparate information to formulate policies and training that effectively serve their officers and their communities. It is our hope that the information presented here will be important in guiding police executives and policy-makers as they develop and refine policies and procedures.

The 52 PERF CED Guidelines for Consideration and the PERF CED Glossary—contained in the next section—can significantly aid law enforcement executives who are developing CED policies, training, and procedures. As noted earlier, these two studies and a summit of law enforcement experts were instrumental in crafting these conservative, narrow, and pragmatic guidelines. However, there is clearly more research needed to better understand both the strengths and limitations of these devices.

THE DEVELOPMENT OF PERF CED GUIDELINES FOR CONSIDERATION AND CED GLOSSARY OF TERMS

Police executives are constantly striving to identify new strategies to create safe encounters between police officers and violent persons. An important part of any such strategy involves the identification and deployment of less-lethal weapons such as conducted energy devices. It was in this context that law enforcement agencies throughout the United States began to acquire and deploy CEDs. Any technology—especially one that has the potential to cause injury and possible death—must be carefully assessed using whatever reliable information is available. While longitudinal research on CEDs is necessary and indeed under way, long-term studies can take years to complete, and police executives needed CED information quickly so they could develop effective new policies—or refine, calibrate, and strengthen current ones. This pressing need for standardization and well-researched guidelines prompted PERF to begin examining CEDs in depth.

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13. Such an approach would have avoided the problem of comparing cases from different places that are subject to a variety of different environmental factors (e.g., different policies and training for officers on the use of CEDs in one community compared to another).

14. See Campbell, D. T., & J. S. Stanley (1963). *Experimental and quasi-experimental designs for research.* Boston: Houghton Mifflin.

| box 5.2 | **COMMENTARY:** |

The Health Insurance Portability and Accountability Act (HIPAA) in a Use-of-Force Context

by Daniel Dugan

On August 21, 1996, Congress passed the Health Insurance Portability and Accountability Act (HIPAA/Public Law 104-191, 110 Stat. 1936, 1996). With this law, Congress ordered the development of a series of new regulations to simplify the administration of health insurance (Bilimoria 2002). HIPAA amended the Internal Revenue Code of 1986, and its purpose was to improve the portability and continuity of health insurance as well as to combat waste, fraud, and abuse in health care and health insurance. The law resulted in establishment of privacy standards that directly impact law enforcement practices in a use-of-force context—notably in access to subjects' and officers' medical records.

The Act required the U.S. Department of Health and Human Services to submit recommendations for national privacy standards to Congress. Regulations were finalized on April 14, 2001. Health care providers required to comply with the HIPAA privacy standards were then given a compliance deadline, and on April 14, 2003, the grace period ended and the privacy provisions went into effect.

HIPAA privacy provisions apply to all health information regardless of format: electronic, paper, or oral. The privacy provisions apply to all states and preempt contrary state law, unless the contrary state law provision is more stringent than HIPAA. HIPAA's privacy provisions prohibit a covered entity from disclosing protected health information, except as authorized by the individual who is subject of the information or as explicitly permitted by regulation. Protected health information is defined as individually identifiable health information that is (a) transmitted by electronic media, (b) maintained in an electronic medium, or (c) transmitted or maintained in any other form or medium (Title 45 Code of Federal Regulations). A covered entity is defined as any health plan, health care clearinghouse, or any health care provider that transmits health information in electronic form (45 C.F.R.).

Initially, there was some confusion about the complex statute when it came to exemptions of protected health information for law enforcement purposes. Police officers interact with the medical community on a daily basis and have a legitimate need for protected health information. A significant issue that was raised about HIPAA is whether its exemptions actually undermine its strong privacy protections. There is a long list of instances in which protected health information can be disclosed without the patient's consent (45 C.F.R.). Included in that list are exceptions for law enforcement. Investigations of police use-of-force incidents routinely include documentation of any injuries to the subject. This is a legitimate goal of the use-of-force evaluation and documentation process. Some law enforcement agencies specify medical provider interviews, photographs of injuries, and/or retrieval of medical records as part of the minimum required investigation into a use-of-force event (Bozeman 2005).

The Department of Health and Human Services has provided guidance to frequently asked questions relating to the HIPAA's privacy rules, including when entities are permitted to disclose protected health information to law enforcement officials (U.S. Department of Health and Human Services, 2005). The privacy rules are balanced to protect an individual's privacy while allowing important law enforcement functions to continue. The rule permits covered entities to disclose protected health information to law enforcement officials without the individual's written authorization under specific circumstances. Highlighted circumstances are listed below (45 C.F.R.):

- To comply with a court order or court-ordered warrant, a subpoena or summons issued by a judicial officer, or a grand jury subpoena;

- To respond to an administrative request;

- To respond to a request for protected health information for purposes of identifying or locating a suspect, fugitive, material witness, or missing person;

- To identify a suspected perpetrator of a crime when the report is made by the victim who is a member of the covered entity's workforce;

- To identify or apprehend an individual who has admitted participation in a violent crime

- To respond to a request for protected health information about a victim of a crime, if the victim agrees;

- In cases of child abuse or neglect;

- In cases of adult abuse, neglect, or domestic violence (where individuals agree, a report is required by law or expressly authorized by law, or the information is necessary to prevent serious harm to the individual or others);

- To report protected health information to law enforcement when required by law

- To alert law enforcement to the death of the individual;

- To report protected health information that the covered entity in good faith believes to be evidence of a crime that occurred on the covered entity's premises;

- To identify or apprehend an individual who appears to have escaped from lawful custody

- To federal officials authorized to conduct intelligence, counter-intelligence, and other national security activities; or

- To respond to a request for protected health information by a correctional institution or a law enforcement official having lawful custody of a person.

Except when required by law, in disclosures to law enforcement by a covered entity, the entity may rely upon the representations of law enforcement officials as to what information is the minimum necessary for their lawful purpose (45 C.F.R.). Moreover, if the law enforcement official making the request for information is not known to the covered entity, the covered entity must verify the identity and authority of such person prior to disclosing the information (45 C.F.R.). Further, in some states, local statutes may be more stringent than HIPAA regulations; therefore, it is important for law enforcement agencies to understand their own jurisdiction's laws on protected health information (45 C.F.R.).

Law enforcement agencies should prepare in advance for medical records retrieval. It is important that agencies understand the needs and requirements of medical facilities and, conversely, that medical facilities understand the needs and requirements of law enforcement. Some agencies have an internal or municipal legal affairs office that can help develop a police department's HIPAA-related processes. Further, included in Appendix 4 of this book are sample templates of memoranda forms for law enforcement agencies to use in order to obtain medical information. The forms were developed by Dr. William P. Bozeman, a professor of Emergency Medicine at Wake Forest University, who is leading a National Institute of Justice study on injuries resulting from the use of less-lethal weapons. The forms are included with his permission.

Law enforcement agencies must develop procedures for obtaining protected health information, both to achieve legitimate law enforcement objectives and to respect an individual's privacy regarding medical information. This article provides a broad overview of HIPAA-related issues and shares information that will help police executives make informed decisions about police department health-information policies. ■

PERF began its research by identifying and assessing available academic and professional studies and reports. PERF participated in and hosted several international symposiums on CEDs, and partnered with Canadian and British counterparts. We reviewed a large number of police and sheriff's department policies, consulted with medical doctors, and examined media reports. PERF used the data collected to develop and conduct the two national CED studies presented in this book. Subsequently, on October 18, 2005, with the support of the Office of Community Oriented Policing Services (COPS) and the Bureau of Justice Assistance of the United States Department of Justice, PERF brought together representatives from more than 50 law enforcement agencies that used CEDs, medical doctors, labor union representatives, academic researchers, and other experts to carefully vet a set of proposed CED guidelines and glossary. All of these efforts culminated with the painstaking development of the 52 PERF CED Guidelines for Consideration and CED Glossary of Terms presented in this book. A detailed report chronicling the development of the PERF CED guidelines and glossary is available in a COPS Office publication entitled *Conducted Energy Devices: Development of Standards for Consistency and Guidance.*

The field urgently needed this guidance about CEDs. While the guidelines and glossary are not meant to represent the final and definitive perspectives on CEDs, they do provide needed clarification, information, and consistency that can help guide police executives in developing and refining CED policy. The glossary and guidelines address such critical topics as delineating the levels of a subject's resistance to police authority at which CED activation is permissible; parameters on the number and duration of CED cycles that can be applied; restrictions on CED use against at-risk populations; how police should respond to a suspect who is armed with a CED; tactical considerations about when a CED can be activated; and numerous other concerns.

PERF developed the glossary of terms and guidelines for consideration in the hope that they will be useful in providing the kind of information that law enforcement leaders and policy makers need to better protect the public and the safety of their officers. PERF was pleased to bring this information to the field to convey the best possible police service to all communities, and to provide officers with the maximum number of alternatives in use-of-force situations.

These CED guidelines for consideration are presented with the understanding that many use-of-force situations can change rapidly and may require law enforcement officers to make quick decisions about force options. It is impossible to anticipate every possible use-of-force situation or circumstance that may occur, and in all cases officers need to rely on their training, judgment, and instincts. However, the guidelines that follow can help law enforcement officers make more informed judgments about CEDs and how and when to use CEDs to protect themselves and the public.

While every effort was made to consider the views of all contributors and the best thinking on the vast amount of information received, the resulting PERF guidelines do not necessarily reflect the individual views of every stakeholder involved in the development process, nor the views of the U.S. Department of Justice. What they do represent is our best judgment given the available information we had at the time of these studies. It is our hope that as new information and research become available, researchers and policy makers will continue to review and refine these guidelines.

PERF CED Guidelines for Consideration

1. CEDs should only be used against persons who are actively resisting or exhibiting active aggression, or to prevent individuals from harming themselves or others. CEDs should not be used against a passive suspect.

2. No more than one officer should activate a CED against a person at a time.

3. When activating a CED, law enforcement officers should use it for one standard cycle and stop to evaluate the situation (a standard cycle is five

seconds). If subsequent cycles are necessary, agency policy should restrict the number and duration of those cycles to the minimum activations necessary to place the subject in custody.

4. Training protocols should emphasize that multiple activations and continuous cycling of a CED appear to increase the risk of death or serious injury and should be avoided where practical.

5. Training should include recognizing the limitations of CED activation and being prepared to transition to other force options as needed.

6. That a subject is fleeing should not be the sole justification for police use of a CED. Severity of offense and other circumstances should be considered before officers' use of a CED on the fleeing subject.

7. CEDs should not generally be used against pregnant women, elderly persons, young children, and visibly frail persons unless exigent circumstances exist.

8. CEDs should not be used on handcuffed persons unless they are actively resisting or exhibiting active aggression, and/or to prevent individuals from harming themselves or others.

9. CEDs should not generally be used when a subject is in a location where a fall may cause substantial injury or death.

10. When a subject is armed with a CED and attacks or threatens to attack a police officer, the officer may defend him- or herself to avoid becoming incapacitated and risking the possibility that the subject could gain control of the officer's firearm. When possible, officers should attempt to move outside the device's range (approximately 21 feet) and seek cover, as well as request back-up officers to mitigate the danger.

11. When possible, emergency medical personnel should be notified when officers respond to calls for service in which it is anticipated that a CED may be activated against a person.

12. Officers should avoid firing darts at a subject's head, neck and genitalia.

13. All persons who have been exposed to a CED activation should receive a medical evaluation. Agencies shall consult with local medical personnel to develop appropriate police-medical protocols.

14. All persons who have been subjected to a CED activation should be monitored regularly while in police custody even if they received medical care.

15. CED darts should be treated as a biohazard. Officers should not generally remove CED darts from a subject that have penetrated the skin unless they have been trained to do so. Agencies should coordinate with medical personnel to develop training for such removal. Only medical personnel should remove darts that have penetrated a person's sensitive areas.

16. Following a CED activation, officers should use a restraint technique that does not impair respiration.

17. CEDs should not be used in the known presence of combustible vapors and liquids or other flammable substances including but not limited to alcohol-based Oleoresin Capsicum (O.C.) Spray carriers. Agencies utilizing both CEDs and O.C. Spray should use a water-based spray.

18. Agencies should create stand-alone policies and training curriculum for CEDs and all less-lethal weapons, and ensure that they are integrated with the department's overall use-of-force policy.

19. Agencies should partner with adjacent jurisdictions and enter into a Memorandum of Understanding to develop joint CED policies and protocols. This should include addressing non-alcoholic O.C. Spray carriers. Agencies should also establish multijurisdictional CED training, collaboration and policy.

20. If officers' privately owned CEDs are permitted to be used on duty, policy should dictate specifications, regulations, qualifications, etc. The devices should be registered with the department.

21. The CED "Probe Mode" should be the primary setting option, with "Drive Stun Mode" generally used as a secondary option.

22. CEDs should be regulated while officers are off duty under rules similar to service firearms (including storage, transportation, use, etc.).

23. CEDs should not be used against suspects in physical control of a vehicle in motion to include automobiles, trucks, motorcycles, ATVs, bicycles and scooters unless exigent circumstances exist.

24. The use of brightly colored CEDs (e.g., yellow) reduces the risk of escalating a force situation because they are plainly visible and thus decrease the possibility that a secondary unit mistakes the CED for a firearm (sympathetic fire). Note that specialized units (e.g., SWAT Units) may want dark-colored CEDs for tactical concealment purposes.

25. CEDs should be maintained in a holster on an officer's weak (support) side to avoid the accidental drawing and/or firing of an officer's sidearm.

26. Officers should be trained that the TASER™ CED's optimum range is 15 feet.[15]

27. Auxiliary/Reserve officers can be armed with CEDs provided they receive all mandated training and maintain all requalification requirements. Training and local statutes may dictate policy.

28. A warning should be given to a person prior to activating the CED unless to do so would place any other person at risk.

29. When applicable, an announcement should be made to other officers on the scene that a CED is going to be activated.

30. A supervisor should respond to all incident scenes where a CED was activated.

31. A supervisor should conduct an initial review of a CED activation.

32. Every instance of CED use, including an accidental discharge, should be accounted for in a use-of-force report.

33. Agencies should consider initiating force investigations outside the chain of command when any of the following factors are involved:
    a. A subject experiences death or serious injury;
    b. A person experiences prolonged CED activation;
    c. The CED appears to have been used in a punitive or abusive manner;
    d. There appears to be a substantial deviation from training; and
    e. A person in an at-risk category has been subjected to activation (e.g., young children; persons who are elderly/frail, pregnant women, and any other activation as determined by a supervisor).

34. When possible, supervisors and back-up officers should anticipate on-scene officers' use of CEDs by responding to calls for service that have a high propensity for arrest and/or use of a CED.

35. Every substantial investigation (and when possible every preliminary investigation) should include:
    a. Location and interview of witnesses (including other officers);
    b. Photographs of subject and officer injuries;
    c. Photographs of cartridges/darts;

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15. Association of Chief Police Officers, 2004. Independent Evaluation of the Operational Trial of TASER.™

d. Collection of CED cartridges, darts/prongs, data downloads, car video, confetti ID tags; and

e. Copies of the device data download.

f. Other information as indicated in guideline #45.

36. Police leaders should be aware that CED download data may be unreliable. Police leaders and investigators should be able to articulate the difference between the actual duration of a CED activation on a person and the total time of discharge registered on a CED device.

37. CED activations should be tracked in the department's early intervention system (EIS).

38. The department should periodically conduct random audits of CED data downloads and reconcile use-of-force reports with recorded activations. Departments should take necessary action as appropriate when inconsistencies are detected.

39. Audits should be conducted to ensure that all officers who carry CEDs have attended initial and recertification training.

40. Departments should not solely rely on training curriculum provided by a CED manufacturer. Agencies should ensure that manufacturers' training does not contradict their use-of-force policies and values. Agencies should ensure that their CED curriculum is integrated into their overall use-of-force systems.

41. CED recertification should occur at least annually and consist of physical competency and device retention, changes in agency policy, technology changes, and reviews of local and national trends in CED use.

42. Exposure to CED activation in training should be voluntary; all officers agreeing to be subjected to a CED activation should be apprised of risks associated with exposure to a CED activation.

43. Supervisors and command staff should receive CED awareness training so they can make educated decisions about the administrative investigations they review.

44. Statistics should be maintained to identify CED trends and deployment concerns. Agencies may include display and arcing of weapons to measure prevention/deterrence effectiveness. CED statistics should be constantly analyzed and made publicly available.

45. The following statistical information should be included when collecting information about CED use:

a. Date, time, location of incident;

b. The use of the laser dot or display of the CED that deterred a subject and gained compliance;

c. Identifying and descriptive information of the suspect (including membership in an at-risk population), all officers firing CEDs, all officer witnesses, and all other witnesses;

d. The type and brand of CED used;

e. The number of CED cycles, the duration of each cycle, the duration between cycles and the duration that the subject was actually activated;

f. Level of aggression encountered;

g. Any weapons possessed by the suspect;

h. The type of crime/incident the subject was involved in;

i. Determination of whether deadly force would have been justified;

j. The type of clothing worn by the subject;

k. The range at which the CED was used;

l. The type of mode used (probe or drive stun);

m. The point of impact of probes on a subject in probe mode;

n. The point of impact on a subject in drive stun mode;

o. Location of missed probe(s);

p. Terrain and weather conditions during CED use;

q. Lighting conditions;

r. The type of cartridge used;

s. Officer suspicion that subject was under the influence of drugs (specify if available);

t. Medical care provided to the subject; and

u. Any injuries incurred by an officer or subject.

46. Law enforcement agencies should conduct neighborhood programs that focus on CED awareness training. CED training should be part of any citizen's training academy program.

47. The agency's Public Information Officer should receive extensive training on CEDs in order to better inform the media and the public about the devices. Members of the media should be briefed on the department's policies and use of CEDs.

48. CED awareness should extend to law enforcement partners such as local medical personnel, citizen review boards, medical examiners, mental health professionals, judges and local prosecutors.

49. CEDs can be effective against aggressive animals. Policies should indicate whether use against animals is permitted.

50. Officers should be aware that there is a higher risk of sudden death in people under the influence of drugs and/or symptoms associated with excited delirium.

51. CED cartridges with longer barbs may be more effective in extremely cold climates.

52. Agencies should be aware that CED cartridges have experienced firing problems in extremely cold weather.

PERF CED Glossary of Terms

A

Accidental Discharge — The unintentional firing of a conducted energy device (CED).

Activate — Depressing the trigger of a CED causing a CED to arc or to fire probes.

Active Aggression — A threat or overt act of an assault (through physical or verbal means), coupled with the present ability to carry out the threat or assault, which reasonably indicates that an assault or injury to any person is imminent.

Actively Resisting — Physically evasive movements to defeat an officer's attempt at control, including bracing, tensing, pushing, or verbally signaling an intention to avoid or prevent being taken into or retained in custody.

Aggravated Active Aggression — Deadly force encounter.

Air Cartridge — A replaceable cartridge which uses compressed gases to fire two probes on connecting wires, sending a high voltage/low current signal into a subject.

Applicable Response — Response determined appropriate for the given operational scenario.

Arcing/Arching — Activating a CED without a cartridge.

Automatic External Defibrillator (AED) — An apparatus that monitors the heart of the patient and then automatically administers a controlled electric shock to the chest to restore normal heart rhythm.

B

Basis Response — Generic responses that describe how people routinely behave as the result of the application of a weapon or technology [or tactic, or procedure] employed against them.

Bodily Injury — Injury to the human body that requires treatment by a doctor or other health professional.

C

CED Cycle — Duration of a CED electrical discharge following a CED activation.

Central Information Display (CID) — Display of data on the back of a conducted energy device.

Circular Situational Force Model — A circular force training model that promotes continuous critical assessment and evaluation of a force incident in which the level of response is based upon the situation encountered and level of resistance offered by a subject. The situational assessment helps officers determine the appropriate force option, ranging from physical presence to deadly force.

Coincidental Injury — Injuries received in the incident not directly related to CED use (such as baton use, self-inflicted wounds, gunshot wounds).

Conducted Energy Device (CED) — A weapon primarily designed to disrupt a subject's central nervous system by means of deploying electrical energy sufficient to cause uncontrolled muscle contractions and override an individual's voluntary motor responses.

Confetti Tags — Confetti-like tags expelled from a cartridge of a CED when fired to shoot probes. Each tag contains a serial number unique to the specific cartridge used.

Continuum of Force/Response to Resistance — A training model/philosophy that supports the progressive and reasonable escalation and de-escalation of officer-applied force in proportional response to the actions and level of resistance offered by a subject. The level of response is based upon the situation encountered at the scene and the actions of the subject in response to the officer's commands. Such response may progress from the officer's physical presence at the scene to the application of deadly force.

Crowd Control — The use of police action to stop the activities of persons assembled.

Crowd Management — Observing, monitoring, and facilitating the activities of persons assembled.

D

Dart Placement — Point of entry for a probe on a person's body.

Dart (Barb) Removal — The act of removing a probe from a person's body or clothing.

Darts — Projectiles that are fired from a CED and penetrate the skin; wires are attached to the probes leading back to the CED.

Deadly Force — Any tactic or use of force that has an intended, natural, and probable consequence of serious physical injury or death.

Defensive Resistance — Physical actions that attempt to prevent officer's control including flight or attempt to flee, but do not involve attempts to harm the officer.

Deployment — Sending CED devices into the field with law enforcement officers.

Discharge — Barbs fired at a subject.

Drive Stun — To stun a subject with a CED by making direct contact with the body after a CED cartridge has been expended or removed for pain compliance.

Duration — The aggregate period of time that CED shocks are activated.

E

Electrocardiogram Monitor (ECG/EKG) — The machine that measures and records the electrical activity of the heart.

Electromuscular Disruption/Incapacitation (EMD) (EMI) — Effect CED has on the body. Overrides the brain's communication with the body and prevents the voluntary control over the muscles.

Environmental Factors — Factors such as wind speed, temperature, humidity, lighting, precipitation, terrain, etc.

Excessive Force — The application of an unreasonable amount (or force too long applied) of force in a given incident based on the totality of the circumstances.

Excited Delirium — State of extreme mental and physiological excitement, characterized by extreme agitation, hyperthermia, epiphoria, hostility, exceptional strength, and endurance without fatigue.

Exigent Circumstances — Circumstances that would cause a reasonable person to believe that prompt action is necessary to prevent physical harm to civilians and/or officers.

F

Firing — Discharging CED darts at a person.

Fleeing — An active attempt by a person to avoid apprehension by a law enforcement officer through evasive actions while attempting to leave the scene.

G

Group Cohesion — The ability to disrupt or control a group of individuals by either restricting or enhancing their organization, cooperation, and density.

I

Initial Basic Operator Training — The first basic CED training provided to officers prior to issuance of a CED.

Intentional Discharge Investigation — An investigation of the circumstances surrounding the firing or drive-stunning of a CED.

Intermediate Weapon — A weapon usage category situated between a verbal command and lethal force on a traditional force continuum.

L

Laser Pointing (Red Dot) — Unholstering and pointing a CED at a person and activating the device's laser dot.

Less Lethal — A concept of planning and force application that meets an operational or tactical objective, with less potential for causing death or serious injury than conventional more-lethal police tactics.

Less-Lethal Weapon — Any apprehension or restraint device that, when used as designed and intended, has less potential for causing death or serious injury than conventional police lethal weapons.

M

Measures of Effectiveness — Measures indicating the degree to which a target response satisfies a requirement within an operational context.

Measures of Response — Measures indicating how a target reacts to a system's effects.

O

Objective Reasonableness — Reasonableness of a particular use of force must be judged from the perspective of a reasonable officer on the scene in light of the facts and circumstances confronting the officer.

Onset Time — (ideally equal to zero) The period between the deployment of a less-lethal weapon

system [or tactic, technique, or procedure] and the point when the magnitude of the desired effect attains some particular threshold.

Operational Effectiveness — That level of force necessary to achieve compliance, safeguard persons and property, or prevent injury.

Operational Safety — That degree of risk determined to be acceptable in order to accomplish a mission without unduly endangering officers, bystanders, or suspects.

P

Passive Resistance — Physical actions that do not prevent the officer's attempt to control, for example, a person who remains in a limp, prone position, passive demonstrators, etc.

Pointing/Aiming — Unholstering and pointing a CED at a person.

Post-Activation Investigation — An investigation of the circumstances surrounding the intentional or unintentional firing of probes or drive-stunning of a CED.

Primary Injury (1ˢᵗ Order Effect) — Immediate or delayed consequences of a CED resulting directly from an electrical current flow in the body.

Probe Spread — The amount of distance between probes fired from a CED (e.g., approximately one foot spread for every seven feet travel distance).

Proximity Death — The death of a person that occurred in proximity to the use of a conducted energy device (usually within 24 hours).

Psychological Intimidation — Non-verbal cues in attitude, appearance, demeanor, posture, or physical readiness that indicate an unwillingness to cooperate, pre-assaultive posturing, or a threat.

Physical Weapon Characteristics — The intrinsic qualities of a weapon including dimensional design values associated with a weapon (weight, caliber, size, power requirement, shelf life, etc.).

S

Secondary Injury (2ⁿᵈ Order Effect) — Physical trauma indirectly associated with CED use (e.g., injuries from falls).

Sensitive Areas — A person's head, neck, genital area, and a female's breast areas.

Serious Bodily Injury — Bodily injury that, either at the time of the actual injury or at a later time, involves a substantial risk of death, a substantial risk of serious permanent disfigurement, a substantial risk of protracted loss or impairment of the function of any part or organ of the body, or breaks, fractures, or burns of the second or third degree.

Spark Test — Non-contact testing of a CED by arcing it to ensure it is in proper working order.

Standard CED Cycle — A five second electrical discharge occurring when a CED trigger is pressed and released. The standard five-second cycle may be shortened by turning the CED off. (Note: If a CED trigger is pressed and held beyond five seconds, the CED will continue to deliver an electrical discharge until the trigger is released.)

Substantial Investigation — An extensive investigation into the use of a conducted energy device that is conducted by investigators outside the chain of command of the firing officer.

T

Target Recovery — (ideally full recovery immediately at the end of the desired duration) The period when the target response falls below a particular threshold and a full recovery of unimpaired functionality is desired in an operationally meaningful context.

U

Unintentional Discharge — The unintentional firing of a CED (includes discharges caused by involuntary muscle contraction and mechanical malfunction).

V

Ventricular Fibrillation (VF) — Ventricular fibrillation is a condition in which the heart's electrical activity becomes disordered.

Verbal Non-Compliance — Verbal responses indicating an unwillingness to comply with an officer's directions.

Book Conclusion

by JOSHUA EDERHEIMER

American society has continually transformed itself to meet the challenges of the modern age. So too has law enforcement. Every aspect of policing has evolved, from policy and practice to equipment and tactics. Progressive police leaders have led the profession's advancement by seeking out new ideas and implementing innovative strategies. Two issues that have remained a constant focus for police throughout this evolution have been use of force and police accountability. And the importance of community collaboration and public confidence have emerged as critical factors in measuring police success.

Law enforcement agencies are now more "transparent," and they have learned that collaboration with a variety of other organizations and individuals leads to more effective policing. In addition, police officers today are more accountable than they have ever been before. This is, in part, due to cultural and technological advancements. Communities, better informed because they have greater access to information technology, have demanded more police accountability. These demands, along with the leadership of progressive police leaders, have led to positive change. This book's emphasis on building community trust is a reflection of this positive change. The dialogue and collaborations that have occurred between the police and the public—especially interactions that occur *before* the occurrence of a high-profile incident—have led to a greater degree of mutual understanding.

The strategies cited in this book for reducing community tensions, improving citizen complaint processes, intervening early when officers shows signs of being troubled, and fostering citizen/police education demonstrate police agency efforts to be more collaborative, transparent, and accountable. This desire for collaboration is also illustrated in law enforcement's efforts to improve how it interacts with people with mental illness.

In regard to less-lethal weaponry, law enforcement leaders will continue to seek ways to minimize use of force and create greater opportunities for de-escalation of conflicts. This book helps in understanding the historical evolution of current less-lethal devices, and adds context to their deployment and use today. Further, this book's examination of future less-lethal technologies will help police leaders think about the possibilities of more efficient weapons and tactics. Moreover, the book helps police executives to look beyond less-lethal weapons and focus on desired force outcomes. Finally, the information provided in this book on conducted energy devices (CEDs) led to the development of PERF's 52 CED guidelines for consideration and CED glossary. This information, and the accompanying guidelines, are being used throughout the United States.

The information in this book provides law enforcement leaders with practical guidance on these sensitive and timely issues. It is important for law enforcement leaders to continually scrutinize their policies, practices, tactics, and weapon alternatives. Law enforcement leaders must always seek out new concepts and strategies by looking to fellow police leaders—as well as outside the profession—to be better equipped to handle the challenges of the future.

We hope that this book will play a role in fueling innovation in policing and will contribute to the progress that the law enforcement profession has enjoyed.

APPENDIX 1

U.S. Department of Justice, Community Relations Service[1]
Responding to Incidents Involving Allegations of Excessive Use of Force
A Checklist to Guide Police Executives

Years of good policing practices and community trust can be jeopardized by a single act of, or perception of, police excessive use of force (EUF). When an EUF incident occurs, police executives should be prepared to take appropriate and carefully considered action to promote peace, maintain community trust, and sustain departmental morale. When there are allegations of EUF, the department's officers and staff, as well as the community they serve, must be assured of a fair and impartial investigation. Community tensions and violence may develop in the aftermath of an incident involving use of force or other police conduct. This checklist of immediate steps suggests actions to take right after an incident. The checklist of other actions identifies steps which can help create positive police-community relationships—the best protection against violent community reaction to an EUF incident.

IMMEDIATE STEPS

I. Provide Information Promptly

_____ Advise the Mayor, County Executive, and other officials, key civic and community leaders and clergy about the situation.

_____ Provide what information you can to the public about the incident and the circumstances which prompted police action, but avoid any negative comments about the suspect(s) or victim(s).

_____ Avoid making any prejudgments about the officers' conduct before you have complete information and the investigation is completed.

II. Get an Investigation Underway Promptly

_____ Advise the family of the involved person(s) and the public about the investigation, including its scope, resources allocated, and projected timetables.

_____ Publicly clarify departmental policies governing the status of the involved officer(s) while the investigation is underway.

_____ Announce publicly your willingness to cooperate with investigations by other agencies (local, State, and Federal).

_____ Hold periodic meetings with community leaders to advise them of the progress of the investigation and any other developments.

_____ Take precautions to avoid new incidents or confrontations.

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1. No copyright is claimed on the text of this document.

III. Enlist the Community's Help and Support

_____ Brief community leaders and ask for their help in defusing community tensions by getting accurate information to the community, organizing community street patrols, and scheduling neighborhood meetings.

_____ Conduct dialogues with community groups to help establish a common understanding of the legal and administrative requirements of EUF investigations.

_____ Survey community perspectives and invite commentary and any expression of concerns about police arrests, stops, ticketing, profiling, and other issues.

IV. Anticipate and Plan for the Announcement of the Results of Investigations

_____ Brief the family, their associates, and community leaders on the results of the investigation before making a public announcement. Seek their assistance in keeping the community peaceful.

_____ Arrange, where possible, for at least two hour advance notice of public announcement of the decision by a grand jury, district attorney, or court.

_____ Be ready to implement a contingency plan in the event that the announcement may lead to community tension or unrest.

_____ Meet with leaders of protest activities to secure agreement on the scope and limits of marches, flash points, demonstration sites, use of marshals, and other ground rules.

_____ Deploy sufficient resources to contain any disruptive activity or disorder.

Other Actions

Below is a list of questions which police leaders should review periodically to assure adequacy of policies and procedures governing issues involving Police Use of Force.

_____ Does the Department have a written, legally sound and publicly understood policy governing the circumstances for appropriate use of force? Were community representatives consulted in the drafting or review of this document?

_____ Does the Department keep accurate records of incidents of the use of force? Are these records reviewed regularly for trends, officer patterns, and other potential areas of concern?

_____ What are the attitudes of the department's officers and staff about use of force issues?

_____ Are these attitudes consistent with the Department's policies? Is additional orientation or training required?

_____ Does the Department have a Standard Operating Procedure (SOP) governing its response to allegations of EUF? Does the SOP caution against making any premature judgments about the circumstances of the EUF incident and actions of the involved officer?

_____ Does the SOP include arranging prompt assistance, including community resources, for the family of any alleged victims? Does the SOP provide for timely updates on the resources committed, and progress and results of any investigation?

_____ Does the Department have established contacts with all levels of community leadership who can be called upon in times of crisis?

_____ What training is made available to officers on alternatives to use of force, including conflict resolution, problem solving, and communications skills?

_____ Does the Department have a written complaint procedure that is simple to activate and requires a minimum of forms?

_____ How does the Department respond to public reports of use of force? How is the Department's response viewed by its staff and the community it serves?

_____ Does the Department have a SOP on involving community leadership in ongoing discussion of community/police concerns? How do patrol officers and all other ranks participate in the discussions?

_____ Has the Department developed a mission statement and set of Department values? Are community leaders aware of the values of the Department?

The Community Relations Service (CRS), U.S. Department of Justice, has additional information and guidance for police departments on responding to excessive use of force incidents. Contact the Regional office nearest to you (see listing) or access its website at (address). CRS can help you prepare for and respond to EUF incidents. Its services are available free of charge.

CRS Contact: CRS Headquarters, 202-305-2935
Fax: 202-305-3009
www.usdoj.gov/crs

(Revised April 2007)

APPENDIX 2

Seattle Police Department
Special Report: Use of Force by
Seattle Police Department Officers[1]

SPD SPECIAL REPORT

Use of Force by Seattle Police Department Officers

Citizen/police encounters resulting in the use of force and in particular the use of deadly force, by police officers can provoke strong reaction in the community. This is as it should be. In a civil and civilized society, the resort to violence, even by duly constituted authority, should give us pause.

Fortunately, incidents involving police use of force are infrequent. Their relative infrequency, however, intensifies their significance as singular events and makes them difficult to interpret and understand. Moreover, the rarefied atmosphere surrounding most police shootings is more suited to examining the dynamics of the circumstances and individuals involved in these incidents, than to drawing larger lessons or conclusions. And any attempt to place these incidents in context, or to "learn from" them, can appear to rob such events of their individual seriousness.

Despite these difficulties, understanding police use of force is fundamental to understanding what it means to live in a free society governed by the rule of law. The purpose of this report is to contribute to community understanding of this important issue by examining use of force by Seattle Police Department officers and placing it in both its historical and national contexts. The report consists of three sections: (1) use of force by police officers across the nation and in SPD, (2) fatal shootings by police officers across the nation from 1990-2000, and by SPD officers from 1980 to present, and (3) use of less lethal force options across the country and in Seattle.

courtesy of the Seattle Police Department, 2001

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1. Full report available at http://www.cityofseattle.net/police/Publications/useforce/default.htm.

Executive Summary of Findings Contained in Report

Findings Concerning the Police Use of Force

Nationally	Seattle
Nationally, it is estimated that just under 1% of citizen-police contacts involve the use of force.	In Seattle, use of force in police-citizen contacts is even lower than that reported nationally. Only 0.13% of responses to dispatched calls and of the traffic stops and on-view events logged in 2000 resulted in the use of force.
Nationally, police officers tend to use force at the low end of the spectrum, employing hands or fists in 87% of incidents; use of firearms, on the other hand, occurs in 5% of use of force incidents.	For the year 2000, the most common type of force used by Seattle police officers were their hands, reported in about three fourths of use of force incidents. There were nine firearms discharges by Seattle officers in 2000, two of them accidental.

Findings Concerning Police Use of Deadly Force

The Seattle Police Department ranks behind most other large jurisdictions as well as other major city police departments when rates of fatal uses of deadly force are compared using a variety of measures. In particular, SPD is below the median for the thirty two largest, urban law enforcement agencies on the following measures: fatal shootings per 100,000 residents, fatal shootings per 1,000 sworn officers, fatal shootings per 10,000 violent crimes, and fatal shootings per 10,000 arrests for any type of crime.

Findings Concerning Police Use of Less Lethal Force Options

Nationally	Seattle
Nationally, crisis intervention training (i.e., training to defuse and peacefully resolve situations involving persons in crisis) appears to be limited to what officers receive as recruits in their basic training academy, and less often to officers in hostage negotiation or crisis response units.	The Seattle Police Department has a greater investment in crisis intervention training (CIT) for first responding officers. Presently, 185 patrol officers have received 40-hour CIT training and another 200 patrol officers have received 8 hour CIT orientation training in addition to training they receive in the basic academy.
Nationally, chemical agents are the less lethal options most widely distributed to police officers, followed by the 12-gauge shotgun with beanbag rounds, and to less extent, the taser (a device emitting a disabling electrical charge).	The Seattle Police Department conforms to the general practice of other departments in the distribution of chemical agents, but is deploying tasers to more officers than are other agencies and at a level equal to the deployment of the shotgun armed with beanbag rounds.

Use of Force by Police Officers[1]

The National Picture – The conclusions of recent national studies and surveys about police use of force are, as follows:

Police use force infrequently. The most recent report by the National Institute of Justice on *Contacts Between Police and the Public*[i2] indicates that while more than 44 million Americans had contact with police officers in 1999, fewer than 1% of these contacts involved the use of force. This confirmed the findings of previous studies in which it was concluded that police use of force is a relatively rare event. Self-reporting by more than 110 police agencies in 1995 as compiled by the International Association of Chiefs of Police, for example, put the use of force rate at about 0.4% of dispatched calls for service.[3] A pretest of the Bureau of Justice Statistics study of police/public contacts study found that the threat or actual use of force was present about 1% of the time.[4]

Police use of force typically occurs at the lower end of the force spectrum. In a study of adult custody arrests in six police agencies, Garner and Maxwell found that nearly 98% of arrests were accomplished without the use of a weapon.[5] When weapons were used, the most likely was a chemical agent used in 1.2% of arrests, followed by flashlights in 0.5% of arrests, and handguns, rifles or shotguns in 0.2%. The IACP study[6] found that officers used physical force (use of hands) in 87% of the use of force incidents. This was followed by use of chemical agents (i.e., mace, pepper spray, etc.) in 7% of the incidents, and firearms in 5% of the incidents. The 1999 Justice Department survey had similar findings, with citizens reporting that officers used or threatened physical force about 85% of the time, used or threatened with a gun about 20% of the time, and used or threatened chemical agents in about 9.8% of the incidents.[7]

When injuries occur as a result of the police use of force, they are likely to be minor. Consistent with the lower level of force used by police, citizens reported injuries in about 15% of the use of force incidents, with the most likely injuries being bruises or cuts.[8] Self-reports by police agencies

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[1] This paper adopts the definition of "use of force" used by Langan, et. al. (see footnote 2 below), which includes contacts in which the police officer pushed, grabbed, kicked, or hit the citizen by striking with a hand or an object held in the officer's hand. Also included within this definition are police dog bites, spraying with pepper spray or a chemical, and pointing a firearm in the citizen's direction. Also included is the threat to carry out any of these types of force.

[2] See Patrick A. Langan, Lawrence A. Greenfield, Steven K. Smith, Matthew R. Durose, and David J. Levin, *Contacts Between Police and the Public, Findings from the 1999 National Survey*, (Washington, DC: US Department of Justice, NCJ 18457), February 2001.

[3] See Mark A. Henriquez, "IACP National Database Project on Police Use of Force," in *Use of Force by Police, Overview of National and Local Data*, (Washington, DC: US Department of Justice, NCJ 176330), October 1999.

[4] See Lawrence A. Greenfield, Patrick A. Langan, and Steven K. Smith, "Revising and Fielding the Police-Public Contact Survey," in *Use of Force by Police*, op. cit.

[5] See Joel H. Garner and Christopher D. Maxwell, "Measuring the Amount of Force Used By and Against the Police in Six Jurisdictions," in *Use of Force by Police*, op. cit.

[6] See Henriquez, op. cit. Finding is based on 1995-97 data.

[7] See Langan, et. al., op. cit.

[8] Ibid.

put the rate of suspect injuries at 38% of use of force incidents, with just 1.5% of those incidents resulting in injuries described as "major".[9]

Use of force typically occurs when police are trying to make an arrest and/or conduct a search of a person or vehicle. In the IACP study, arrest-related situations constituted "the vast majority" of use of force incidents.[10] In the Justice Department survey, two thirds of the use of force incidents involved arrests, searches, or handcuffing suspects.[11] A study of use of force and suspect resistance in Miami-Dade County found that active resistance to arrest occurred 36% of the time, officer assaults about 25% of the time, and escape attempts about 21% of the time.[12] A majority of the respondents in the Justice Department pilot survey, who reportedly experienced police use of force, conceded that their behaviors may have caused the officers' response.[13]

The Seattle Story – Use of force reports and reviews of firearms discharges were totaled for the year 2000, to develop information for Seattle police officers that would be comparable to that reported nationally. These data are reported below.[14] As can be seen, Seattle officers use force less often than their counterparts elsewhere, but the types of force and circumstances giving rise to its use show great similarity to national trends and patterns.

Seattle police officers use force very infrequently. Use of force reports in 2000 totaled 617 and firearms discharges amounted to nine (two of which were discounted because they were accidental). At the same time, Seattle police officers had approximately 470,000 police/citizen encounters and effected more than 29,000 arrests.[15] This works out to a rate of one use of force for every 753 dispatched calls, traffic stops, or on-view events to which Seattle patrol officers responded in 2000, and one use of force for every 46 arrests. The vast majority of police-citizen interactions (99.87%) were resolved without use of force in 2000, with only 0.13% of patrol officers' direct responses to 911 dispatches, traffic stops, and on-view events and just over 2% of all arrests resulting in the use of force.

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[9] See Henriquez, op. cit. Finding based on 1996-97 data.

[10] Ibid.

[11] See Langan, et. al., op. cit.

[12] See Geoffrey P. Alpert and Roger G. Dunham, "The Force Factor: Measuring and Assessing Police Use of Force and Suspect Resistance," in Use of Force by Police, op. cit.

[13] See Greenfield, et. al., op. cit.

[14] Seattle officers and their supervisors are required to complete and submit use of force reports following any use of force incidents in which they are involved. These generally include all uses of force short of firearms discharges, which are subject to a Firearms Review Board procedure. A total of 617 use of force reports and 7 firearms discharges were reviewed for 2000. These are compared with patrol dispatches and logged responses and with total arrest figures, even though some of the use of force incidents may not have involved patrol officers.

[15] The police/citizen encounters used here are 911 calls dispatched to patrol units, and traffic stops and on-view events logged by radio. Arrests are total arrests of adults and juveniles. This is a significant underrepresentation of the number of citizen contacts that Seattle officers had in 2000. For this reason, the Seattle data are not directly comparable to the data in the Bureau of Justice Statistics survey cited above. That survey counted more types of citizen contacts, such as reporting or being a witness to a crime. If similar data were available for Seattle, the use of force rate would be even lower.

Most use of force incidents by Seattle Police officers in 2000 involved force at the low end of the spectrum. As elsewhere, the typical level of force used by Seattle officers was hands, reflected in about 74% of the use of force reports. At the other end of the spectrum, there were nine incidents in 2000 when Seattle police officers discharged firearms, two of which were accidental. The remaining seven discharges represented 1.1% of the use of force incidents.

The most frequent type of injury recorded in use of force incidents in Seattle was abrasions, bruises and scrapes. These are reflected in about a third of the use of force reports. Dental or facial injuries and cuts or lacerations are the next most common injuries reported. Often, suspect injuries were sustained prior to the arrival of police officers and in some instances, were self-inflicted. Several suspects, for example, kicked out the windows of patrol vehicles, sustaining cuts in the process.

Seattle police officers' use of force occurred most often when suspects fought with officers or attempted to flee from them. In about 80% of the reports, suspects either engaged in a fight with officers and/or attempted to flee from them. Compared with fighting or flight behavior, use of a weapon by suspects was reported far less frequently, in just over 3% of the reports.

Seattle police officers' use of force was most likely to occur when effecting an arrest in response to dispatched calls or on-view events. About a third of use of force reports resulted from dispatched calls and another third were in response to on-view events. Only 9% of the use of force reports in 2000 were associated with traffic stops. In terms of the frequency of these officer/citizen encounters, use of force reports were prepared in 0.08% of dispatched calls, in 0.16% of on-view events, and in 0.08% of traffic stops in 2000. Among arrests, assaults and drug violations appeared to generate the most use of force.

Frequently Asked Questions About Police Use of Force –
The public often has questions when subjected to or observing the police use of force. Some of the more common questions are addressed below.

How do officers know how much force to use? Police are in a reactive mode when they use force. To ensure public safety and protect persons and property, officers in Seattle, as elsewhere, are trained to gain control of the situations they encounter as quickly, safely, and effectively as possible. This means using a level of force necessary[16] and reasonable under the circumstances to accomplish their lawful purpose. It is recommended that officers meet force with superior force. This is because studies have shown that officers are at great risk of injury when they use force, and that there is a greater chance of both suspect and officer injury when officers fail to meet

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[16] According to RCW 9A.16.010(1) "Necessary" means that no reasonably effective alternative to the use of force appeared to exist and that the amount of force used was reasonable to effect the lawful purpose intended.

suspect resistance with a greater amount of force.[17] However, since no two situations are likely to be the same, there are no "cookie cutter" guidelines for officers to follow. Instead they are expected to use their training, experience, and judgment in applying force.

In Seattle, police recruits are exposed to a training guideline known as the "Continuum of Force" (attached as Exhibit A). This continuum describes the types of force available to an officer to address escalating types of suspect resistance or assault. Seattle police trainees are given more than 120 hours of scenario-based and simulator training on use of force situations.

Many use of force situations seem to involve multiple officers. Are the police "ganging up" on people they are trying to arrest? Officers are trained to call for back up in use of force situations. This is done to *prevent* an incident from escalating to the point that a greater use of force may be required. In other situations, an officer may seek the guidance of a supervisor on the scene. Though suspects may view the arrival of additional officers as an aggressive action, experience has shown that if an arrest has to be made, it is wise to have additional officers available. Their presence may reduce the need for, and even prevent the use of force.

What should a person do if they feel unnecessary or excessive force is being used on them? The best course of action is to comply with the officer's directives and seek a timely end to the encounter, noting the time and place of the incident and the officers' identification. Then, at the earliest opportunity, call the police agency involved and ask to speak with a supervisor to discuss the matter. If unsatisfied with the response, one can file a formal complaint. In Seattle, any supervisor can assist citizens who are concerned about an officer's behavior. Formal complaints can be made at any precinct or directly with the Investigation Section of the Office of Professional Accountability. Exhibit B provides contact information for reaching police precincts and filing citizen complaints.

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[17] See Alpert and Dunham, in *Use of Force by Police*, op. cit.

Police Use of Deadly Force – Fatal Police Shootings

The National Picture – As noted above, use of any type of force by police officers is a relatively rare event, particularly in light of the number of interactions that police officers have with the public. Rarer still are incidents that involve the use of deadly force. Rarest of all are police shootings in which there is a fatality.

A recent series of stories by The Washington Post profiled fatal shootings by police between 1990-2000 in the fifty largest law enforcement agencies in the United States.[18] The data for the profile were drawn from surveys of individual departments, state police agencies, FBI Uniform Crime Report data, and the U.S. Census Bureau. Medians for a series of measures were calculated for the whole group of agencies and the fifty agencies were also ranked against each other on the selected measures. Each of these measures is profiled below, together with the findings of the analysis. A comparison of the data for the thirty-two urban jurisdictions is reported below in the "Seattle story" section.

Fatal shootings per 100,000 residents. The *Post* computed an average number of shootings per year over the eleven-year study period for each agency. However, that statistic can be somewhat misleading, unless total population is taken into account. The New York Police Department, for example, had the highest average of fatal shootings per year (24.1), but when the number of people in the jurisdiction is taken into account, they rank 28th in rate of fatal shootings among the fifty agencies studied.

To adjust for population base, the number of fatal shootings per 100,000 residents was computed. The median for all fifty agencies was 0.36 fatal shootings per year per 100,000 residents. The Washington, D.C. police department recorded the highest rate of fatal shootings over the 1990-2000 time period, averaging 1.53 fatal shootings per year. *Seattle ranked 37th among the fifty agencies studied, with a rate of 0.22 fatal shootings per year per 100,000 population.* West Coast cities with which Seattle is often compared all had higher rates of fatal shootings. For example, Los Angeles ranked 12th with a rate of 0.53, Portland ranked 18th with a rate of 0.45, San Diego ranked 10th with a rate of 0.55, and San Francisco ranked 26th with a rate of 0.37.

Fatal shootings per 1000 sworn officers. In order to adjust for the varying size of police agencies, the *Post* computed a rate of fatal shootings per 1000 officers on a force. The median for all the fifty agencies was 1.45 fatal shootings per year per 1000 officers over the period 1990-2000.

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[18] See the four part series by Craig Whitlock and David S. Fallis, Washington Post Staff Writers, *The Washington Post*, July 1 – July 4, 2001. The series focuses on deadly force incidents involving Prince George's County, MD, police officers. The data referred to here are presented in a table in which the fifty largest agencies are compared to Prince George's County. This appeared in the article on Sunday, July 1, 2001.

It was on this measure that Prince George's County (MD), the focus of the *Post* series, stood out, ranking first with a rate of 3.37 fatal shootings per year per 1000 officers. San Diego ranked second, with a rate of 3.27 fatal shootings per 1000 officers, followed by Phoenix at 3.14 fatal shootings, San Bernardino, CA, at 2.75, and Riverside County, CA, rounding out the top five agencies at a rate of 2.73 fatal shootings per 1000 officers. Among West Coast cities, Portland ranked 8th with a rate of 2.41 fatal shootings per 1000 officers, Los Angeles ranked 12th with a rate of 2.19, San Francisco ranked 29th with a rate of 1.35, and *Seattle ranked 36th with a rate of 0.95.*

Fatal shootings per 10,000 violent crimes. The rationale for this measure is that violent crime incidents and suspects are potentially more likely to generate fatal shootings by police than are other types of crime or of police/public interactions. Therefore, in jurisdictions having a large number of violent crimes, police might be expected to encounter potentially dangerous suspects more often, giving rise to a greater number of fatal shootings. The *Post* adjusted for this by computing the rate of fatal shootings per 10,000 reported violent crimes. The median for all fifty agencies on this measure was 3.36 fatal shootings per year per 10,000 violent crimes.

When adjustments are made based on the number of violent crimes in a jurisdiction, the relative rankings of police agencies change. On this measure, San Bernardino County, CA ranks first among the agencies studied, with a rate of 10.01 fatal shootings per year per 10,000 violent crimes. (In other words, San Bernardino has a high rate of fatal shootings relative to the number of violent crimes reported there.) Boston, on the other hand, rates lowest on this measure with a rate of 0.82 fatal shootings per year per 10,000 reported violent crimes. Other high ranking jurisdictions on this measure are Denver, 2nd with a rate of 8.06 fatal shootings, Fairfax County, VA, 3rd with a rate of 6.95, Phoenix, 4th with a rate of 6.69, and Washington, D.C., 5th with a rate of 6.35 fatal shootings per 10,000 reported violent crimes.

Among West Coast cities, San Diego ranks 9th with a rate of 5.86, Los Angeles is 10th with a rate of 5.23, Portland is 35th with a rate of 2.88, San Francisco is 41st with a rate of 2.61, and *Seattle ranks 43rd with a rate of 1.99* fatal shootings per 10,000 reported violent crimes.

Fatal shootings per 10,000 arrests for all crimes. As noted in the earlier section, use of force incidents are frequently associated with police attempts to effect arrests. To examine this relationship, the *Post* calculated the rate of fatal shootings by each agency relative to the number of arrests made. The median rate for all agencies was 0.60 fatal shootings per 10,000 arrests made.

Relative to the number of arrests made per year, Prince George's County recorded the highest rate of fatal shootings (2.71) among the agencies profiled in the *Post* study. Fairfax County, VA, and King County, WA recorded the lowest rate of fatal shootings per 10,000 arrests made. Other jurisdictions showing high rates of shootings relative to arrests were

Riverside County, CA, ranked 2nd with a rate of 1.98, Harris County, and TX, 3rd with a rate of 1.83, Washington, D.C., 4th with a rate of 1.69, and Los Angeles County, 5th with a rate of 1.68.

Among West Coast agencies, Los Angeles ranked 8th with a rate of 1.15, San Diego, 13th with a rate of 1.01, Portland, 19th with a rate of 0.83, San Francisco, 27th 0.58, and *Seattle, ranked 41st with a rate of 0.34* fatal shootings per 10,000 arrests made each year.

Fatal shootings per 1000 arrests for violent crime. If arrests generally are associated with use of force, it follows that arrests for violent crimes hold a greater potential to produce violent encounters and result in a greater number of fatal police shootings. For the fifty jurisdictions studied, the *Post* computed a rate of fatal shootings per 1000 arrests for violent crimes. The median for all agencies on this measure was 0.94 fatal shootings per year per 1000 violent crime arrests.

Adjusting for the number of arrests for violent crimes, Harris County, TX, had the highest rate of fatal shootings among the fifty agencies studied at 3.47. Boston once again recorded the lowest rate of fatal shootings among the jurisdictions at 0.20 per 1000 violent crime arrests. Boston police appear to experience fewer fatalities relative to the number of arrests they make for violent crimes, than do other large police agencies. Other jurisdictions that recorded high fatality rates relative to violent crime arrests were Houston, ranked 2nd with a rate of 2.76, Phoenix, 3rd with a rate of 2.47, Prince George's County, 4th with a rate of 2.21, and San Antonio, TX, 5th with a rate of 2.15. Among West Coast cities, Portland, ranked 8th with a rate of 2.03, San Diego, 18th with a rate of 1.22, *Seattle, 20th with a rate of 1.15*, Los Angeles, 30th with a rate of 0.84, and San Francisco, 42nd with a rate of 0.59.

The Seattle Story – As the foregoing review of national data indicate, Seattle Police Department ranks below most other large jurisdictions as well as other major West Coast cities when rates of fatal uses of deadly force are compared using a variety of measures.

Among the jurisdictions compared in the Washington Post study were a number of suburban police agencies. These were disaggregated from the data, leaving the experience of thirty-two urban law enforcement agencies to which Seattle could be compared. What was found is that Seattle has for the last decade recorded a lower rate of fatal shootings than many of its peer agencies. The table on the next page illustrates this comparison.

Comparison of Seattle with the Medians for the Fifty Largest Law Enforcement
Agencies and for the Thirty Two Largest Urban Police Departments,
on Selected Measures concerning Fatal Police Shootings,
1990-2000 (Source: *The Washington Post*, July 2001)

Selected Measure	Median for 50 largest agencies	Median for 32 largest urban agencies*	Measure for Seattle	SPD's ranking relative to 32 urban depts
Fatal shootings per 100,000 residents	0.36	0.44	0.22	28th of 32
Fatal shootings per 1,000 sworn officers	1.45	2.00	0.95	27th of 32
Fatal shootings per 10,000 violent crimes	3.36	3.33	1.99	28th of 32
Fatal shootings per 10,000 arrests for all crimes	0.60	0.98	0.34	27th of 32
Fatal shootings per 1,000 arrests for violent crimes	0.94	0.62	1.15	14th of 32

* Data derived from table provided in *Washington Post* series.

This is not to suggest that the fatal shootings that have occurred in Seattle are insignificant or unimportant. On the contrary, each resulted from a unique set of circumstances and in a context that must be analyzed and understood; and each has aroused considerable concerns both within the Department and in the community. For this reason, the Department has conducted debriefings and reviews after each shooting with the aim of determining how each might have been avoided and what can be learned from the incident. The Firearms Review Board is the mechanism used by the Department to review officer uses of firearms in general, and fatal shootings in particular. Included on the Firearms Review Board is a civilian observer, who attends its proceedings but does not vote or participate in its deliberations.[19]

Exhibit C and Exhibit D provide two different summaries of use of deadly force by Seattle Police Department officers. Exhibit C is a tabular presentation of all officer-involved shootings for the years 1999-2001 through July, showing the date, location, incident number and brief description of the shooting. As the table shows, Seattle police officers discharged a firearm 11 times in 1999, 9 times in 2000, and through July, 7 times in 2001. Two of the discharges this year and in 2000 were accidental ones while the officer was either off-duty or at the Range. In each of the three years, two fatal shootings are shown.

Exhibit D is a tabular summary of all fatal police shootings by Seattle Police Department officers from 1980 to the present. This table provides a

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[19] The Firearms Review Board is discussed further at p.12 below.

more detailed look at the circumstances and persons involved in fatal shootings. As this recap clearly illustrates, police shootings occur under widely varying conditions. They present unique situations with dynamics and circumstances that are unlikely to recur. Some characteristics of these shootings are, as follows:

- The table summarizes *a total of 33 fatal police shootings* over a period of 22 years. The most in one year was 6 in 1988. The fewest in one year was zero, recorded in 1986, 1987, 1991, 1994, 1997, and 1998.

- *All of the persons shot by Seattle police officers were male.*

- In all but two of the fatal shooting incidents, the *person was armed with a weapon* or what officers believed to be a weapon, as follows:

Weapons Used by Persons Shot by Seattle Police

Type of Weapon	No of Incidents	% of Incidents
Gun	22	66.66%
Knife	2	6.06%
Knife & Gun	2	6.06%
Mistaken Item	2	6.06%
Other items*	3	9.09%
No weapon	2	6.06%

*Sword, wrench, car.

- Of the 24 incidents where persons were armed with guns, *officers were fired upon 14 times.* In 7 of those 14 incidents, officers were shot.

- The *racial/ethnic description* of persons fatally injured by Seattle police is the following:

Racial Identity of Persons Fatally Injured by Seattle Police

Race of Person	No of Fatalities	% of Fatalities
White	16	48.40%
African American	12	36.30%
Hispanic	2	6.00%
Asian/Pacific Islander	2	6.00%
Native American	1	3.00%

Frequently Asked Questions about Police Use of Deadly Force

– Each police shooting raises questions about police use of deadly force in general, as well as the nature and circumstances involved in the incident itself. Some questions are of a recurring nature and are addressed below.

When are police officers authorized to use deadly force? In Washington as elsewhere, police officers are authorized to use a level of force (including deadly force) that is "reasonable" to ensure public safety and to prevent harm

to themselves and others.[20] Instead of having a hard and fast standard to apply to every incident, "reasonable force" is typically determined by the facts and circumstances involved in a particular situation. When courts have been asked to review use of force by police officers, they have done so by considering what they call "the totality of the circumstances," using the perspective of what a "reasonable police officer" would have done in the same situation.

SPD policy (1.145) restricts Seattle police officers' use of force to the *amount of force necessary* to resolve a situation. However, the manual section goes on to state that this requirement establishes the basis on which use of force incidents will be evaluated and does not create a higher standard than that provided in state law.

Why don't officers just shoot weapons out of people's hands or shoot to wound them? Police officers are taught that their paramount duty is to ensure public safety by protecting themselves and others from harm. When confronted by persons who are armed and dangerous, the officers' goal is to stop these persons before they can harm others. In Seattle as in other law enforcement agencies, officers are trained that the most certain and effective way to stop armed and dangerous assailants is to aim for their "center of mass". Movies and television programs make it seem that shooting at a person's arm or leg is easily done. In real life, such a shot is both improbable and risky. Deadly force incidents evolve in seconds, often presenting officers with limited opportunities to intervene. In light of this, officers are trained to take the high percentage shot, which is center of mass.

Why don't the police fire "warning shots" and give suspects the chance to throw down their weapons? The national standard among police agencies is not to fire warning shots. The Seattle Police Department complies with that standard. The carefully scripted plots of movies and television programs frequently involve armed suspects who appear easily persuaded to relinquish their weapons and surrender to police officers. Unfortunately, many of the people that police officers confront are not nearly so compliant. Some may be incapable of making a rational decision to surrender, because of a mental state or chemically induced condition. Others may have so strong a motivation to flee or fight that they will not consider complying with officers' orders to stop. As noted above, officers may only have one chance to use their weapons. Making (likely to be ineffective) shots in the air that have the added potential of harming others may not be the best use of that one opportunity.

Often when there has been a police shooting, I hear that the officer has been placed on "administrative duty." What does that mean? Officers on "administrative duty" remain in a paid status, but are removed from their regular assignments and assigned other duties. Because police shootings are

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[20] RCW 9A.16.040 provides for the use of deadly force by peace officers in the State of Washington. Section (1) identifies situations (e.g., effecting arrests, preventing escapes, or suppressing a riot) when officers may justifiably use deadly force. Section (2) specifies that in considering the use of deadly force, officers must have probable cause to believe that the person they are confronting has committed a crime inflicting "serious physical harm" or poses a "threat of serious physical harm" to the officer or others.

such rare and significant events, they have a dramatic effect on the officer(s) involved. Officers frequently experience emotional trauma and may be dealing as well with physical injuries associated with the incident. The attendant publicity and/or controversy surrounding such events practically guarantee that their impacts will be both life changing and career shaping for an officer. Administrative duty assignments give officers time to sort things out, understand, and accept the events that occurred. Placing officers on administrative duty also has the practical effect of making them available for internal and external review systems that are set in motion by such events.

In Seattle, administrative duty assignments may include taking crime reports by telephone, performing follow-up duties on found property reports, doing clerical work, or gathering statistics for commanders. There is no set time that an officer may be placed on administrative duty, rather the nature of the circumstances may dictate the course taken by the Department. For all firearms discharges, a Firearms Review Board is convened (see below). If there has been a death, there will also be an inquest proceeding. These processes require the availability of officers for interviews, etc., and the Department may continue an officer's administrative duty assignment until these review procedures are completed.

I've heard different opinions about the Firearms Review Board and the inquest process here in Seattle. How do these work and why don't people like them? Each of these procedures is distinct and will be addressed separately. The Firearms Review Board (FRB) is an internal SPD mechanism designed to review <u>any</u> discharge of a firearm (even accidental) by a Seattle police officer. Chaired by an Assistant Chief, an FRB is composed of a captain and a lieutenant from outside the unit or precinct to which the officer is assigned and the commander of or a representative from the Training Section. A citizen observer and a bargaining unit representative observe the activities of the FRB, but do not vote or participate in its deliberations. The FRB is convened within 14 days of an incident, unless special circumstances dictate otherwise. If an inquest is scheduled, Department policy has been to delay the FRB's final recommendations until that process is completed. The purpose of the FRB is to make a factual determination of whether an officer's actions conformed to Department policy and regulations, training guidelines, and applicable law. Based upon its findings the FRB may recommend to the Chief of Police further action and/or make referrals for further investigation.

The inquest is a process established under state law to review the facts and circumstances surrounding an officer-involved death. Inquests are administered at the county level. In King County, the County Executive calls for an inquest upon recommendation of the Prosecuting Attorney. A District Court judge presides over the inquest, which is an open, public proceeding. Parties participating in the inquest include the Prosecuting Attorney or designee, the family of the deceased who may be represented by an attorney, and the officer(s) involved in the death, who may also have an attorney(s) present. The inquest jurors are drawn from the Superior Court jury pool. The jury is charged with determining the identity of the decedent, when, where, and by what means the death occurred, and the circumstances attending the death.

The jury does this by answering a series of yes/no questions provided by the Court. The Court transmits the jury's responses (i.e., their findings) to the County Executive.

Public dissatisfaction with the FRB and the inquest process usually stems from a misunderstanding of the purpose and function of these proceedings. Neither process is designed to determine guilt or innocence, to establish civil or criminal liability, or to say whether what happened was "right or wrong." Instead both procedures focus on a *factual documentation/review* of the circumstances involved. The FRB compares the actions taken by officers to Department policies, procedures and guidelines to determine whether their actions were in compliance. The inquest proceeding documents who died, how, when, and where the death occurred, and an officer's involvement in that death. Questions of criminal or civil liability need to be resolved in other proceedings.

Less Lethal Force Options

The National Picture – A decade ago only a small number of law enforcement agencies had well-developed less-lethal options programs. A major reference work produced by the Police Executive Research Forum in 1992[21], for example, cited the statistics from and the activities of the New York Police Department, Kansas City, Los Angeles, and the Los Angeles Sheriff's Office as illustrative of less lethal weapons programs at the local level[22]. Since that time, police interest in less lethal weapons has continued to grow and the technologies involved in these options have improved.

When Seattle Police Department was exploring its less lethal options, a survey of twenty-three regional and national agencies was conducted. Agencies were asked about the various aspects of their less lethal options programs. Some of the survey findings are summarized below.

- *Crisis intervention training* (CIT) is designed to equip officers to deal effectively with mentally ill persons, suicides, and other persons in crisis. In most agencies (14 of the 23), such training is limited to a few hours in the basic training academy. Two of the departments provide all officers with 40 hours of such training. The rest provide this training only to selected officers who are designated as CIT officers or hostage negotiators.

- In the area of *chemical agents,* all the agencies surveyed make OC (i.e. pepper) spray available to officers. Use of the pepperball device is more limited, with seven agencies reportedly testing and evaluating its use by specially trained units.

- *Less lethal weapons* are deployed in patrol by 17 of the agencies surveyed, but usually only to designated officers (15 of the 17). In eight of the agencies, patrol supervisors carry less lethal weapons and issue them to officers for deployment under appropriate circumstances.

- The 12-gauge *shotgun with beanbag rounds* is the less lethal weapon deployed most often, with 12 agencies reporting its deployment to all patrol officers and another seven deploying it to specialized units. Twelve agencies reported use of 37mm batons and beanbag rounds, all within special response units. Eight agencies reported use of tasers, devices capable of delivering disabling electrical charges.

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[21] See William A. Geller and Michael S. Scott, *Deadly Force – What We Know: A Practitioner's Reference on Police-Involved Shootings,* (Washington, D.C.: PERF, 1992).
[22] Ibid., at pp. 358-398.

Other sources of information on the use of the less lethal weapons include the National Tactical Officers Association (NTOA), a professional association of special response or special weapons units, and equipment manufacturers themselves. Taser International, the maker of the M26 taser, for example, reports over 500 law enforcement agencies now using their products.

The Seattle Story – Like most large law enforcement agencies, Seattle Police Department has embarked on a program to equip officers with less lethal alternatives to the use of deadly force. An internal study group, called the Force Options Research Group (FORG), was created to develop the Department's program. At the same time, a Community Workgroup on Less Lethal Options was also convened, to provide a citizen perspective on the use of such options. Both the FORG[23] and the Citizens Workgroup[24] recommendations were presented to the Mayor and Council in September 2000 and resulted in support for an SPD program to be implemented in 2001 and 2002. Major components of the SPD Less Lethal Options Program include the following:

Expanded Crisis Intervention Training in Patrol. The Department committed to expanding the number of patrol officers being trained and certified as CIT officers. Through a 40-hour training class, CIT officers learn advanced communication and crisis intervention skills. They are then called to scenes where people are in mental or emotional crisis and attempt to defuse the situation without resort to use of force. The goal is to have a cadre of 200 officers with CIT training in Patrol at any time. The Department has also embarked on a briefer CIT orientation course for all patrol personnel, designed to give them basic communications tools for use with persons in crisis, and annual refresher training for all current CIT officers. To date, the following has been accomplished:

- *An additional 75 officers in Patrol have received CIT training*, with another class of 23 being planned in October 2001. This will bring the number of CIT officers in Patrol to 185.
- *More than 200 Patrol officers have received the 8-hour CIT orientation training.*
- *Two in-service refresher and skill building courses have been held for current CIT officers.*

Patrol deployment of the M26 Taser. The M26 Taser is a new device. It projects two prongs via copper wires, which deliver 26 watts of electricity at over 50,000 volts. The resultant charge overrides sensory and large motor functions,

[23] See the SPD Force Options Research Group (FORG), *A Less Lethal Options Program for Seattle Police Department, A Report with Recommendations*, September 2000. The report is accessible via the Seattle Police Department website at www.cityofseattle.net/police under "Overview of SPD" or at the City of Seattle website at http://www.cityofseattle.net/police/images/forg.htm

[24] See the citizens' report, *Less Lethal Weapons Options – Community Workgroup Recommendations*, September 20, 2000. This report is accessible via the City of Seattle website at http://www.cityofseattle.net/police/images/LessLethal92000.htm

allowing officers to gain rapid compliance from subjects without resulting in injury or lasting effects on subjects. The effective range is distances up to 21 feet. The Department received funding to deploy 130 tasers in Patrol Operations with the goal of having at least one taser officer per patrol sector squad, per watch, on a 24/7 basis. To date, about half of the tasers have been deployed, with the rest to be deployed before the end of 2001.

The Department has been carefully monitoring taser use since the first devices were deployed in December 2000. Feedback from officers in the field has led to changes in the training classes and orientation on the taser has been provided to other officers so they know what to expect when a taser officer is called to a scene. A preliminary review of 37 taser uses through early May 2001 yielded the following information:

- *Types of Incidents.* While tasers were used in a wide variety of incidents, the largest categories were assaults, mental illness cases, and drug sales. These are typically the types of incidents where police use of force generally occurs.

- *Characteristics of Subjects.* In only two incidents were the subjects female, all other taser subjects were male. Many of the subjects were in highly intoxicated or disturbed states and totally non-compliant with officers and/or paramedics who were trying to help them or resolve the situation. The racial background of the male subjects was 55% white, 34% African American, and 10% Asian/Pacific Islander.

- *Injuries sustained.* As a precaution, Department protocols call for emergency medical personnel to be called to the scene of every taser deployment. In only seven cases were injuries to subjects reported and these consisted primarily of superficial marks or welts. Generally, subjects were cleared for booking either at the scene or at the hospital where they had been treated. The only subjects admitted to the hospital were those involuntarily committed for mental health evaluation. Officers were reported injured in two cases.

Patrol deployment of less lethal shotguns with beanbag rounds. A second less lethal weapon being deployed by Seattle Police Department is a less lethal shotgun with beanbag rounds. These rounds are designed to stop assailants from distances of 20-50 feet and have less potential for fatal injury than regular munitions. The Department has been funded to deploy 130 less lethal shotguns in Patrol Operations. They will be deployed before the end of 2001. Two thirds will be assigned to individual officers. The remaining third will be placed in sergeants' and watch commanders' vehicles, for use by officers with the appropriate training and certification. The goal is to have one qualified less lethal shotgun officer per patrol sector squad and to have patrol supervisors' vehicles equipped with less lethal shotgun kits.

Frequently Asked Questions About Less Lethal Force –

Though less lethal options are relatively new and rapidly evolving, there are already many public misconceptions about them. Some of the most common questions are addressed below.

Why are the weapons called "less lethal?" Are they lethal or not? There is no such thing as a "non-lethal" weapon. Even a child's toy can prove lethal under certain circumstances. So called "less lethal" weapons are given this designation because they are *less likely to result in death* or serious injury than are deadly weapons. However, there will always be the possibility for injury or lethal outcomes, and this must be recognized.

If officers have less lethal weapons, are they required to use them first before they resort to deadly force? The paramount duty of police officers to protect themselves and the public does not change because of the deployment of less lethal options. These options do not constitute "first steps" in some progression of responses, nor are officers required to employ or exhaust all less lethal options before resorting to deadly force. Instead officers at a scene will continue to exercise their best judgment in using reasonable force, and will not be expected to deploy less lethal options when such deployment is neither appropriate nor likely to be effective. Furthermore, it is important to recognize that the capacity to use less lethal options safely is dependent upon the ready availability of lethal force as protection and back up. Officers with tasers or with crisis intervention skills, for example, can only use them safely when other officers are in a position to support and protect them.

If officers have less lethal weapons, why do I hear about people still getting shot? The Department's less lethal options program is resulting in a *limited deployment* of officers who have received specialized training to use less lethal weapons and crisis intervention skills. When completed, the initial deployment will result in about 50% of officers in Patrol Operations being trained and equipped with some form of less lethal option. While the goal is to provide coverage with these options throughout the city on a 24/7 basis, there is no guarantee that an officer, trained and equipped with a less lethal option, will always be available. In addition, situational dynamics – in particular the timing and volatility of an incident – will dictate the response of officers. A high risk, rapidly evolving situation will not lend itself to the application of a broad range of response options, even if some of these options happen to be available.

Exhibit A – Continuum of Force Training Guideline used by the Seattle Police Department.

Exhibit B – Seattle Police Department Contact Information for discussing officer conduct with supervisors or for filing citizen complaints.

Exhibit C – SPD Officer-Involved Shootings 1999 – July 2001.

Exhibit D – Recap of Fatality Shootings by SPD Officers 1980 – July 2001.

Seattle Police Department Demographic Advisory Councils

SEATTLE POLICE DEPARTMENT

DEMOGRAPHIC
ADVISORY COUNCILS

The Seattle Police Department Demographic Advisory Councils include members of the African American, East African, Korean, Southeast Asian, Filipino, Hispanic, Native American, Muslim-Arab-Sikh, youth, and the LGBTQ communities. The department also has a City-Wide Advisory Council, comprised of the Demographic Advisory Councils and Precinct Advisory Councils.

BACKGROUND

The Seattle Police Department formed the Precinct Advisory Councils in the late 1980s as one of the department's first community policing efforts. The goal of the councils was to have groups of citizens, who were geographically based, become more knowledgeable about law enforcement in their communities and more invested in partnering with the department on public safety issues.

In the mid-1990s, Seattle Police observed that established community groups were not reflective of the diverse communities living in the city, and believed it was critical to create an avenue for the department to reach out and develop relationships with minority communities, as well as a way for their diverse voices to be heard.

Consequently, the department implemented the Citizen Advisory Council Model in 1995. The goal was to create more diverse advisory groups to work with Seattle Police on highly charged issues, and educate the communities about the role and function of police. Seven advisory councils were initially created. Council members worked together to create their own agendas, and strategized ways for making police services more responsive to their communities' needs.

In 2002, Seattle Police was awarded the Minority Community Engagement Initiative (MCEI) grant by the U. S. Department of Justice, Community Oriented Policing Services to continue its work with advisory councils under the funding topic area of the grant. It was natural that the department moved to enhance and expand its Citizen Advisory Council Program.

Under the MCEI grant, Seattle Police strengthened the infrastructure, consistency, and continuity of the citizen advisory council program with the ultimate goal of institutionalizing the program within the department. The number of advisory councils grew to its present number of ten, and after the grant ended in December 2004, the advisory councils became part of a new Community Outreach Program.

GOALS & OBJECTIVES

■ Create and strengthen programs and communication efforts that build trust between police and minority communities.

■ Increase participation of individuals from minority communities working in partnership with Seattle Police on public safety issues.

The mission of the Seattle Police Department is to prevent crime, enforce the law and promote public safety by delivering respectful, professional and dependable police services.

There are six objectives that fall under three components:

■ Relationship Building Component
Objective 1. Break down negative perceptions of law enforcement in minority communities by building relationships between individual officers and members of minority communities.

■ Education and Training Component
Objective 2. Improve officer training and education regarding cultural norms that may impact police and citizen interactions.
Objective 3. Enhance the understanding of the role of police in the United States through educational materials tailored to specific communities and translated into appropriate languages.

■ Dialogue Component
Objective 4. Increase and institutionalize ongoing dialogue between Seattle Police and minority communities about perceptions of law enforcement in the community.
Objective 5. Increase internal Seattle Police dialogue regarding issues in minority communities.
Objective 6. Institutionalize what is learned from minority communities into Seattle Police's strategic planning and decision-making process.

DEMOGRAPHIC ADVISORY COUNCILS

In an effort to increase opportunities for police officers and community members to come together, and work toward breaking down stereotypes, Seattle Police assigned at least one police officer to work in a liaison role with each of the demographic advisory councils. In addition to the police officer liaisons assigned to each council, there is also one designated command staff to act as an additional liaison between the department and the council. This was to ensure that relationships developed with community members are at the street level, as well as at the decision-making level staff.

Officer liaisons attend the advisory council meetings and spend non-enforcement time with community-based organizations referred by the councils, educate the community about the department and its role, respond to crisis situations in their respective communities, and facilitate meetings regarding police and citizen interactions. Officer liaisons communicate major issues that concern community members to assigned command staff liaison for discussion and possible resolution.

The partnership between Seattle Police and the demographic advisory councils has been successful, and have been effective conduits of communication during times of crisis. For example, when a crisis occurs within the African American community, the department begins to contact advisory council members and other community leaders who then reach out to the community at large and quickly disseminate vital and accurate information. Advisory councils can play a key role with regard to changing department policy. The African American Advisory Council was instrumental in assisting in the development of the department's Crisis Intervention Team and Less Lethal Weapons policy.

The advisory councils benefit communities in that they provide opportunities for communities to work with Seattle Police and have their concerns raised at the highest levels in the department. Community advisory councils are also a way to gain knowledge and understanding of policing and build relationships with law enforcement personnel.

In October 2003, a new City Wide Advisory Council, also known as CWAC was implemented. CWAC is comprised of representatives from each of the citizen advisory councils, precinct advisory councils, and the disbanded Community Policing Action Council. CWAC meets with the Chief of Police on a quarterly basis to discuss broad issues that are affecting many different segments of the community.

CONTACT

For further information, contact Maggie Olsen, Community Outreach Program Manager, at 206-684-8672 or by email at margaret.olsen@seattle.gov.

APPENDIX 4

Health Insurance Portability and Accountability Act Guidelines

(courtesy of Dr. William Bozeman)

— Law Enforcement Agency Letterhead —

Hospital Medical Records Retrieval

To: Medical Records Department, _____ Hospital
From: _____
Date: _____
Re : Administrative Request for Health Information

Suspect / Patient Information
Name: _____   Date of Birth: _____
Date of Medical Evaluation: _____   Social Security Number: _____

The above referenced individual was evaluated at your medical facility on or around the above referenced date while in police custody. The apprehension of that individual is now the subject of an authorized investigation by this department. Physical injuries sustained, if any, during his/her apprehension are pertinent to this investigation.

Pursuant to 45 C.F.R. §164.512(f)(1)(ii)(C), we are hereby requesting that you provide us with the following information:

     Copies of records related to the medical evaluation provided and any physical injuries sustained including prehospital, emergency department, radiology, laboratory, operative reports, inpatient records, and any other pertinent documents.

This Department, in accordance with 45 C.F.R. §164.512(f)(1)(ii)(C), hereby certifies that:

(1) The information sought is relevant and material to a legitimate law enforcement inquiry;

(2) The request is specific and limited in scope to the extent reasonably practicable in light of the purpose for which the information is sought; and

(3) De-identified information could not reasonably be used.

This request for information is in full compliance with the federal Health Insurance Portability and Accountability Act (HIPAA) regulations (See 45 C.F.R. §164.512(f)(1)(ii)(C)). Patient authorization for release of this information is not required. (See reverse of this page.)

Thank you for your immediate attention and compliance.

EMS Records Retrieval

To: _____ <Name of EMS agency>
From: _____
Date: _____
Re : Administrative Request for Health Information

Suspect / Patient Information
Name: _____   Date of Birth: _____
Date of Medical Evaluation: _____   Social Security Number: _____

The above referenced individual was evaluated by your agency's prehospital medical care providers on or around the above referenced date while in police custody. The apprehension of that individual is now the subject of an authorized investigation by this department. Physical injuries sustained, if any, during his/her apprehension are pertinent to this investigation.

Pursuant to 45 C.F.R. §164.512(f)(1)(ii)(C), we are hereby requesting that you provide us with the following information:

   Copies of records related to the medical evaluation provided and any physical injuries sustained including prehospital reports and any other pertinent documents.

This Department, in accordance with 45 C.F.R. §164.512(f)(1)(ii)(C), hereby certifies that:

(1) The information sought is relevant and material to a legitimate law enforcement inquiry;

(2) The request is specific and limited in scope to the extent reasonably practicable in light of the purpose for which the information is sought; and

(3) De-identified information could not reasonably be used.

This request for information is in full compliance with the federal Health Insurance Portability and Accountability Act (HIPAA) regulations (See 45 C.F.R. §164.512(f)(1)(ii)(C)). Patient authorization for release of this information is not required. (See reverse of this page.)

Thank you for your immediate attention and compliance.

Medical Examiner Records Retrieval

To: _____ <Medical Examiner / Coroner>
From: _____
Date: _____
Re : Administrative Request for Health Information

Suspect / Patient Information
Name: _____   Date of Birth: _____
Date of Death: _____   Social Security Number: _____

An autopsy was performed on the above referenced individual on or around the above referenced date. The apprehension of that individual prior to death is now the subject of an investigation by this department. Physical injuries sustained, if any, during his/her apprehension are pertinent to this investigation.

Pursuant to 45 C.F.R. §164.512(f)(1)(ii)(C), we are hereby requesting that you provide us with the following information:

Copies of autopsy records documenting any physical injuries found.

This Department, in accordance with 45 C.F.R. §164.512(f)(1)(ii)(C), hereby certifies that:

(1) The information sought is relevant and material to a legitimate law enforcement inquiry;

(2) The request is specific and limited in scope to the extent reasonably practicable in light of the purpose for which the information is sought; and

(3) De-identified information could not reasonably be used.

This request for information is in full compliance with the federal Health Insurance Portability and Accountability Act (HIPAA) regulations (See 45 C.F.R. §164.512(f)(1)(ii)(C)). Patient authorization for release of this information is not required. (See reverse of this page.)

Thank you for your immediate attention and compliance.

HIPAA regulations pertaining to Law Enforcement investigations:

Federal Health Insurance Portability and Accountability Act (HIPAA) regulations state [45 CFR section 164.512(f)] that patient consent, written authorization, or opportunity to agree or object is *not required* for disclosures of privileged health information for law enforcement purposes. Applicable portions are highlighted below.

45 CFR Section 164.512 Uses and disclosures for which consent, an authorization, or opportunity to agree or object is not required.

A covered entity may use or disclose protected health information without the written authorization of the individual, or the opportunity for the individual to agree or object, in the situations covered by this section, subject to the applicable requirements of this section.

  (a) Standard: uses and disclosures required by law.

  (b) Standard: uses and disclosures for public health activities.

  (c) Standard: disclosures about victims of abuse, neglect or domestic violence.

  (d) Standard: uses and disclosures for health oversight activities.

  (e) Standard: disclosures for judicial and administrative proceedings.

  (f) Standard: disclosures for law enforcement purposes.

   (1) Permitted disclosures: pursuant to process and as otherwise required by law. A covered entity may disclose protected health information:
    (i) As required by law including laws that require the reporting of certain types of wounds or other physical injuries, except for laws subject to paragraph (b)(1)(ii) or (c)(1)(i) of this section; or
    (ii) In compliance with and as limited by the relevant requirements of:
      (A) A court order or court-ordered warrant, or a subpoena or summons issued by a judicial officer;
      (B) A grand jury subpoena; or
      (C) An administrative request, including an administrative subpoena or summons, a civil or **an authorized investigative demand, or similar process authorized under law, provided that:**
        (1) **The information sought is relevant and material to a legitimate law enforcement inquiry;**
        (2) **The request is specific and limited in scope to the extent reasonably practicable in light of the purpose for which the information is sought; and**
        (3) **De-identified information could not reasonably be used.**

  (g) Standard: uses and disclosures about decedents.

  (h) Standard: uses and disclosures for cadaveric organ, eye or tissue donation purposes.

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Dr. Theodore C. Chan is professor on the faculty in the Department of Emergency Medicine at the University of California, San Diego, Medical Center. Dr. Chan serves as the clinical director for both of the university's emergency departments as well as the codirector for custody services at UCSD. He has been principal investigator on two National Institute of Justice-funded studies on O.C. spray and conducted energy devices. Dr. Chan has been involved in numerous studies evaluating law enforcement restraint and control techniques, and has also served as editor for a new textbook on deaths in police custody.

Daniel Dugan is a deputy chief with the Chicago Police Department and is responsible for the four police districts that comprise the northeast corner of the city. He currently chairs the department's

committee on conducted energy devices. Deputy Chief Dugan's previous assignment oversaw the citywide Special Operations Section. At the time, the Special Operations Section included Hostage/ Barricaded/Terrorist (HBT) Containment teams as well as a contingent of rapidly deployable officers. Canine handlers and part of uniformed patrol also were components of the Special Operations Section, along with the Canine Training Center, which had the responsibility of training dogs for the Narcotics Section and bomb dogs for the airports. In addition, subordinate units included the Marine Unit, Mounted Unit, Targeted Response Unit, School Patrol Unit, Summer Mobile Force, and the Enhanced Foot Patrol. Deputy Chief Dugan received his bachelor of science degree in law enforcement administration from Western Illinois University and is a graduate of the 165th FBI National Academy.

Dr. David A. Klinger is associate professor of criminology and criminal justice at the University of Missouri-St. Louis. He also has held positions as assistant professor (1992–1998) and associate professor of sociology (1998–1999) at the University of Houston. Prior to pursuing his graduate degrees, Professor Klinger was a "street cop" with the Los Angeles Police Department and in Redmond (WA). He has held research positions at the Police Foundation in Washington, D.C.; the University of Washington, Seattle; the Washington State's Attorney's Office; and the Seattle Police Department. In addition to his scholarly pursuits, Professor Klinger conducts training sessions for police officers and managers on the use of deadly force, serves as a police-practices expert in law enforcement litigation, and is regularly sought out by the news media regarding various police issues. He holds an M.A. in justice from American University in Washington, D.C., and a Ph.D. in sociology from the University of Washington in Seattle.

Bryce Kolpack is the former deputy director of the Management Services Division at PERF. Mr. Kolpack conducts ongoing research and provides management services to police departments around the United States. He assesses current practices, develops recommendations for enhanced

effectiveness and efficiency of all operational and administrative components, and delivers written reports of findings and recommendations. Mr. Kolpack joined the PERF staff after a 23-year law enforcement career, including the last 20 years with the Appleton (WI) Police Department, a CALEA-accredited agency. Mr. Kolpack was deputy chief in Appleton for nine years prior to joining PERF, and his responsibilities included development and management of the agency's budget as well as oversight of all operational services. Mr. Kolpack has a bachelor of science degree in management and a master's degree in management and organizational behavior. He is a graduate of the FBI National Academy and the Senior Management Institute for Police.

Christine Nixon joined the New South Wales Police Service in 1972 and became a member of the first group of policewomen to be operationally deployed in uniformed and armed general duties in the inner suburb of Darlinghurst in Sydney. In her years with New South Wales Police, she enjoyed a varied policing career in policy-making, training, research, human resource management and, eventually, as assistant commissioner in charge of a large operational region. She has been a Harkness Scholar, was seconded to the London Metropolitan Police, and has been a visiting lecturer at a number of universities. In 2001, she became the first woman in Australia to head a police agency when she was appointed chief commissioner of police, Victoria Police. She has been the recipient of many awards and honorary doctorates, including the Australian Police Medal in 1997 and the Glass Ceiling Award of the National Center for Women and Policing in 2002. She spent two years' study leave in the United States, where she graduated with a master of public administration from Harvard University.

Annie Russell has more than 30 years of professional experience in community organizing. She was recruited to join the District of Columbia's Metropolitan Police Department (MPD) in 1998. She presently serves as the executive director of the MPD Policing for Prevention division that is charged with internal and external community-policing policy development, partnership development, and

training. Her commitment to ensuring that people have the information and opportunity for full participation in building safe and healthy neighborhoods has earned her many awards, such as the Harold Washington Award for Leadership, the Chicago Police Department Partnership Award, and the Metropolitan Police Department's Meritorious Service Medal. Ms. Russell earned a B.A. in adult education and curriculum development from Chicago State University and completed M.S. studies in management and development of human resources at National-Louis University.

Christine Silverberg is an accomplished chief executive and respected leader whose career in public safety spanned 30 years in both eastern and western Canada. Ms. Silverberg was admitted to the Bar of Alberta in June 2005 and now practices at the national law firm Gowling Lafleur Henderson LLP. Prior to her current job, she retired in the fall of 2000 after a five-year term as chief of the Calgary Police Service, then commenced studies at the University of Calgary Law School. At the same time, she launched a successful consulting practice advising chief executives and governance authorities on managing important issues facing policing agencies, governments, and private-sector clients. She is a graduate of both Ontario and Canadian Police Colleges. In addition to her LLB, she holds an M.A. in criminology from the University of Toronto, Professional Accreditation in Public Relations, is a graduate of the Queen's University School of Business Executive Program, and is a graduate and member of the FBI's National Executive Institute.

Dr. Christian M. Sloane is an assistant professor on the faculty in the Department of Emergency Medicine at the University of California, San Diego, Medical Center. Dr. Sloane is an experienced and active educator of emergency-medicine residency and medical students. His research focus has been in the area of CED use. He has recently coauthored a textbook chapter that reviews the complete medical literature for deaths associated with CED use. Dr. Sloane also serves as a physician leader for the San Diego-based CA-4 Disaster Medical Assistant Team (DMAT).

Darrel W. Stephens was appointed Charlotte-Mecklenburg (NC) police chief in September 1999. Under his leadership, the department has continued and expanded its community problem-oriented policing philosophy. He has served as police chief in St. Petersburg (FL) (1992–97); executive director of the Police Executive Research Forum (1986–92); police chief in Newport News (VA) (1983–86); police chief in Largo (FL) (1979–83); assistant chief in Lawrence (KS) (1976–79); and police officer, sergeant, and unit commander in Kansas City (MO) (1968–76). He also served for two years as the St. Petersburg city administrator (1997–99). He currently serves as the vice president of the Major Cities Chiefs Association. He was a member of the Harvard Kennedy School Executive Session on Domestic Preparation, which produced several policy-oriented publications on terrorism issues between 2000 and 2003. He has coauthored several books and published many articles on policing issues. He holds a B.S. degree in the administration of justice from the University of Missouri-Kansas City and an M.S. degree in public administration from Central Missouri State University.

Jessica Toliver joined PERF as a research associate in April 2005. Her work experience includes criminal justice and homeland security research, analysis, and technical assistance. Prior to joining PERF, she served as a policy analyst in the Homeland Security and Technology Division at the National Governors Association. There she developed, executed, and publicized the Anniversary Survey project; managed homeland security grant programs; and organized policy academies to provide technical assistance to state teams. Ms. Toliver received her bachelor's degree in political science and journalism from the University of Richmond and her master's degree in public policy from the Gerald R. Ford School of Public Policy at the University of Michigan.

Dr. Gary M. Vilke is a professor on the faculty in the Department of Emergency Medicine at the University of California, San Diego, Medical Center. Dr. Vilke serves as medical director for the County of San Diego Emergency Medical Services (EMS) as

well as codirector for custody services at UCSD. He is active in prehospital policy and serves on multiple local and national EMS committees. His research focus has been in the areas of tactical medicine and prehospital care. Additionally, Dr. Vilke serves as a medical director for the San Diego County Metropolitan Medical Strike Team (MMST).

About the Police Executive Research Forum

T he Police Executive Research Forum (PERF) 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 U.S. population. In addition, PERF has established formal relationships with international police executives and law enforcement organizations from around the globe. 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 nonprofit 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, use of force, less-lethal weapons, 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, with the core faculty from Harvard University's Kennedy School of Government.

PERF's success is built on the active involvement of its members. The organization also has types of membership that allow the organization to benefit from the diverse views of criminal justice researchers, law enforcement professionals of all ranks, and others committed to advancing policing services to all communities. As a nonprofit organization, PERF is committed to the application of research in policing and to promoting innovation that will enhance the quality of life in our communities. PERF's objective is to improve the delivery of police services and the effectiveness of crime control through the exercise of strong national leadership, the public debate of criminal justice issues, the development of a body of research about policing, and the provision of vital management services to all police agencies.

PERF has developed and published some of the leading literature in the law enforcement field. Recently, PERF released two publications on contemporary law enforcement issues. The books— entitled *Exploring the Challenges of Police Use of Force* and *Police Management of Mass Demonstrations: Identifying Issues and Successful Approaches*— serve as practical guides to help police leaders make more informed decisions. In addition, PERF has 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 the only authoritative work on racial profiling, *Racial Profiling: A Principled Response* (2001); *Recognizing Value in Policing* (2002); *The Police Response to 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); and *Police Antidrug Tactics: New Approaches and Applications* (1996). PERF publications are used for training and promotion exams and to inform police professionals about innovative approaches to community problems. The hallmark of the program is translating the latest research and thinking about a topic into police practices that can be tailored to the unique needs of a jurisdiction.

To learn more about PERF, visit www.policeforum.org.

About the PERF Center on Force and Accountability

Created in April 2005, the PERF Center on Force and Accountability (CFA) is designed to be a significant resource for PERF members and others in law enforcement, and to serve as the principal clearinghouse for ideas, strategies, and data that will address problems related to police use of force and accountability. Ultimately, the Center provides law enforcement executives with information and strategies that will help them make more informed decisions as they serve their communities.

The PERF Center on Force and Accountability has four primary objectives:

- Identify emerging trends and seek out effective new strategies;

- Conduct groundbreaking research;

- Provide high-quality technical assistance to law enforcement agencies;

- Create a central resource for information regarding use-of-force and police accountability issues.

To that end, the CFA is continually developing competencies in several specific areas. For use of force, CFA competencies include community outreach and accountability; equipment and weapons;
investigations; police canines; policy development; review boards; tactics; technology; training; trends and identification of promising approaches; statistics, tracking, and analysis; vehicle pursuits; and violence against law enforcement officers. Regarding police accountability, CFA competencies include community involvement; consent decrees/memoranda of agreement; discipline and conduct review; early intervention systems and processes; equal employment opportunities; internal investigations; law enforcement ethics; misconduct statistics, tracking, and analysis; policy development; technology; training; and trends and identification of promising approaches.

The CFA released national guidelines for conducted energy devices that have been embraced by law enforcement agencies throughout the country. Further, the CFA completed two guides on early intervention systems to help agencies better manage their human resources. The CFA provided technical assistance to municipalities seeking to assess their use of force and disciplinary systems within their police departments. The CFA also examined critical use of force issues in a 2005 publication entitled *Exploring the Challenges of Police Use of Force.*

**To learn more about PERF and the
Center on Force & Accountability, visit www.policeforum.org.**

About Motorola

Motorola 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. $35.3 billion in 2005.

Today, Motorola is comprised of three businesses: Connected Home Solutions; Mobile Devices; and Networks & Enterprise.

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.

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.

Networks & Enterprise is a leading provider of end-to-end infrastructure, integrated voice and data communications, and information solutions. Networks & Enterprise delivers mission-critical secure two-way radio, cellular and wireless broadband systems to meet the needs of public safety, government, private, service provider and enterprise customers worldwide.

For more information go to www.motorola.com.