

Police Accountability Today: A Review of Oversight Methods to Limit Civil Liabilities
and Maintain Community Relations after Use of Force Incidents

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Acknowledgements

I made the decision to pursue my master's degree while in the hospital waiting to bring my newborn daughter home. Already having a daughter entering her teens and welcoming my second into the world caused me to evaluate my life goals. I had already served in the Marine Corps, graduated with a bachelor's degree, and was six years into a career in law enforcement. I felt comfortable with my accomplishments, but wanted to set an example for my family to continually set new goals and pursue new ventures. I wanted to be a husband and father that demonstrated the importance of constantly challenging yourself to understand your true potential.

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Abstract

**Police Accountability Today: A Review of Oversight Methods to Limit Civil Liabilities
and Maintain Community Relations after Use of Force Incidents**

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Statement of the Problem

Police subcultures are defined as a set of values, beliefs, and acceptable forms of behavior typical of American police. Police misconduct can greatly affect the ability for law enforcement officers to maintain positive relationships within the community that they serve as well as expose the department to civil liabilities (Schmallegger, 2011). In fact, one of the most common complaints against law enforcement is police misconduct regarding the use of force (Walker, 2011).

To address these incidents, departments have established formal control mechanisms to control the actions of police officers (International Association of Chiefs of Police [IACP], 2000). The validity of these programs has been controversial, as many forms of investigation have been done without external transparency (Ortmeier & Meese, 2010). Internal affairs divisions have been the traditional leaders of police misconduct investigations; however, there has been a paradigm shift in the oversight models used by law enforcement agencies in response to societal demands (Walker & Bumphus, 1992).

Alternatives such as independent agency, citizen, and joint review boards have allowed for more transparency regarding incident investigations (Thurnauer, 2006). Adversely, the alternative review models have not been well received from the law enforcement community (Gaines & Kappeler, 2008). Varying views on how departments

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should handle complaint investigations, specifically use of force reviews, has led to a lack of national procedural uniformity among law enforcement agencies in the US.

Recently, the law enforcement community has seen a growing lack of trust from the public especially when it is related to use of force incidents, which has limited their ability to employ modern police methods and has exposed departments and individual officers to increased civil liabilities. The erosion of community relationships has been fueled by the sensationalizing of controversial police use of force incidents through increased media outlets. The large marketplace has created rapid, often unreliable, reporting to be injected into news absorbed by the American public. Now more than ever, law enforcement agencies must develop new policies and procedures involving use of force that is tailored to educate the community, build trust, and hold law enforcement agencies and individual officers accountable.

Methods

Information was obtained from readily available empirical datasets from the numerous national databases coupled with qualitative research obtained from literature review. The information was established from peer-reviewed journals, textbooks, local and federal agency websites, and news reports. Current issues in law enforcement use of force methods were examined with related court decisions. Varying oversight models were reviewed through a mixed method approach. All information used was derived from secondary sources.

Findings and Recommendations

Modern law enforcement methods are centered on engagement and relationships within the community the department services. To adequately achieve the departmental objectives, law enforcement agencies must be proactive in the community and have quick and effective response to incidents that have historically damaged relationships and decreased trust (Collins, 2011). Law enforcement agencies must invest in training that is designed to elicit quick, safe, and legally informed decisions (Collins, 2011).

Departments should develop a comprehensive use of force policy that incorporates clear guidance for officers in accordance with legal standards to minimize use of force incidents to only when necessary (Advancement Project, 2014). Building community education and involvement is critical for all agencies to garner support for departmental objectives, passively affirm authority, and limit irrational backlash when controversial incidents occur (Dacchille & Thurau, 2013). Focusing on modern information sharing outlets, such as Facebook and Twitter, to develop and build a department's brand helps a department to address incidents as they occur with the most accurate and favorable information (Burger, 2013). Lastly, adopting use of force review models that incorporate educated and trained civilian involvement instills trust in the community through transparency (International Association of Chiefs of Police [IACP], 2000).

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Police Accountability Today: A Review of Oversight Methods to Limit Civil Liabilities and Maintain Community Relations after Use of Force Incidents

Introduction

In the United States, law enforcement officers are tasked with providing citizens with both protection and service for a variety of reasons. The role of police officers has changed overtime from “watchmen” that ensured the safety of citizens through the night, to modern day police officers whose job is multifaceted (Gaines & Kappeler, 2008). The police profession is an inherently dangerous profession and officers around the country work diligently day and night to perform to the highest standard. In 2012, the nation saw 120 officers lose their life in the line of duty (Officer Down Memorial Project [ODMP], 2013).

Officers are tasked with making arrests and stopping violent actions which unfortunately will occasionally require the use of force (Gaines & Kappeler, 2008). The establishment of early law enforcement in the United States included the privilege for law enforcement officers to use force to the extent necessary to secure observance of the law or to restore order. The parameters of the privilege have always recognized that it is to be used when persuasion and orders have not gained citizen compliance. This privilege, or as this paper will better describe as a burden, is an awesome responsibility placed on to law enforcement. The issue is highly controversial and has historically divided citizens who struggle to balance their rights as citizens with the responsibilities with law enforcement (Walker, 2011).

Physical restraint and the use of force by law enforcement officers often causes them to act within the controversial gray of governmental power and social control. Laws defining the parameters in which officers are required to operate have changed over

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the years. Additionally, the courts have established precedents ensuring the actions of officers are clearly defined to adhere to the constitutional rights of American citizens (Nazemi, 2009).

Current forms of information sharing and mainstream media outlets have become a medium for controversial uses of force by law enforcement. Now more than ever, the actions of officers are displayed, reported, evaluated, and judged by the community. The fluid nature of police use of force incidents has caused controversy and confusion among the officers that are tasked with the application, a society that is unfamiliar with the tactics used, and the courts and political boards tasked with the review of these incidents. These varying entities all have input into the creation of new legislation, which ultimately provides guidance and regulation over the privilege (Marcou, 2014).

There are numerous trends within legislation that are shaping the way use of force is reviewed. Highly publicized uses of force by law enforcement officers, regardless if it is found to be justified or not, can have devastating consequences on both the internal operations of the police department and the community in which they serve (Marcou, 2014). Departments are adjusting to the paradigm shift influenced by both societal pressure and legislative design to provide more transparency into the review of incidents to educate the community, gain compliance, limit the need for force, and maintain community relations (Marcou, 2014).

This paper will review legislation and case law that regulates when officers may use force and discuss the civil liabilities that may apply to actions outside those that are justified. The paper will examine the handling of several recent controversial uses of

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force reviews and the effect it had on community relations. The paper will also include an outline of several uses of force oversight methods currently in use and provide recommendations of oversight that may help to rebuild and maintain community relations. The purpose of this paper is to identify disconnects between the need for the use of force privilege for law enforcement and the community's perception of law enforcement when it is applied. The paper aims to provide law enforcement agencies with suggestions based on past practices that will assist departments in restoring their "brand" to the community to garner continued support.

Historical Review

Police enforce social order through legitimized use of force. It is recognized that officers are tasked with using force when protecting themselves, others, or making lawful arrests of private citizens. The National Institute of Justice [NIJ] (2012) defines the use of force by police officers as the amount of force required by police to compel compliance from an unwilling subject. The NIJ definition derives from years of court opinions that help provide clarity to officers tasked with carrying out various uses of force. In contrast, Klockars defines excessive force as the use of any more force than a highly skilled police officer should find necessary to use in that particular situation (Gaines & Kappeler, 2008; 284). It is important the law enforcement officers are adequately trained to perform their duties, especially in use of force tactics to ensure they are meeting the correct amount of force necessary to compel compliance, but also not using more force than is necessary given the situation.

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Training

The U.S. Supreme Court has held that the failure to train law enforcement officers in essential functions of their jobs may result in civil liability against municipalities for acts of police officers violating constitutional protection rights of citizens (Collins, 2011). Therefore, it is imperative that law enforcement officers are adequately trained to perform their duties especially in use of force concepts and tactics. Training for officers is extensive with an emphasis on officer safety, the safety of the community, and the constitutional rights of the public. Officers are required to meet strict standards in preparation for their employment and real world application of the learned techniques. Despite training, methods of oversight regarding the use of force are an internal and external necessity (Collins, 2011).

Law enforcement officers work in high stress environments that require each officer to use their decision-making skills and judgment during every situation they are involved with. In order to thrive in this type of environment each officer has to possess strong critical thinking skills and problem solving ability. To ensure proficiency in all aspects of the profession, law enforcement training needs focus on developing and enhancing these skills to ensure each law enforcement officer is able to thrive and succeed in all perceivable situations (Ortmeier & Meese, 2010).

The State of Wisconsin Law Enforcement Standards Bureau (2012) requires all sworn officers in the state to complete a 520-hour police academy that has various topics relating to the use of force such as defense and arrest tactics and constitutional law. Many departments require annual training for officers to train for the newest case law

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decided by the courts. Departments must stay vigilant to the culture of the courts and adjust trainings as new judicial decisions are made. Despite high levels of training, methods for oversight regarding the use of force is an internal and external necessity.

Foundational Use of Force Cases

Graham v. Connor, 490 U.S. 386 (1989). Inherently, any amount of force against a citizen can be considered a violation of a person's constitutional rights. Society has accepted that officers need to use force from time to time in their job; however, issues arise as to the level of force that should be used. One of the cases that established the foundation in which officer's actions are measured is *Graham v. Connor* (1989).

In *Graham v. Connor* (1989) it was determined that the review of the use of force or actions that a law enforcement officer made should be viewed through the eyes of the officer at that specific time with consideration of only the facts available to them at that time. This standard is referred to as the objectionable reasonableness standard and allows courts to determine if a reasonable officer in the same circumstance would have acted in the same manner. The reasonably proportionate standard was also established that implies an officer must only use the amount of force reasonably necessary in relation to the severity of the crime, danger to the officer, and risk of flight by the individual.

Tennessee v. Gardner, 472 U.S. 1 (1985). *Tennessee v. Gardner* (1985) shaped the way law enforcement officers can use force in relation to fleeing suspects. Prior to this case, it was still acceptable to use deadly force to apprehend a fleeing felon. The problem with the previously established law was that the majority of felonies in the US were punishable by death and the apprehension of a felon by the use of deadly force

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seemed reasonable. With changes in law, numerous felonies were entered into legislation that should be considered non-violent. The courts determined that for the use of deadly force on a fleeing subject officers must illustrate that the escape of the subject would result in a significant threat to officers or others.

Use of force alternatives. As previously discussed in the history of police use of force, society has begun to call for alternatives to brute force. Advancements in technology have led to new options for officers to deliver force to gain compliance of subjects. These alternatives have been designed to make both officers and the public safer when the use of force is applied. Items such as Electronic Control Devices (TASERS) and beanbag rounds have decreased the amount of deadly force incidents by police (NIJ, 2012). With the implementation of a new category of force, the courts were tasked with cases to review regarding the use of less-lethal force.

Electronic control devices. The electronic control device was created to incapacitate an individual that posed a threat to an officer, themselves, or others through the use of electrical currents. It was created to give officers a tool to use to stop deadly action encountered in their job other than a firearm. President of Taser International, Doug Klint, estimates that as of 2007, over 9,000 lives have been saved by the electronic control device technology (Klint, 2007).

The US Supreme Court held that it is not excessive for officers to use less-lethal alternatives provided to avoid the use of deadly force in *Russo v. City of Cincinnati*, 953 F.2d 1036 (1992). In addition, *Bryan v. McPherson*, 630 F.3d 805 (2009) held that the use of an electronic control device must be justified by a strong governmental interest and

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justification for the use of force. *Bryan v. McPherson* essentially recognized the use of electronic control devices as a significant use of force and that may result in substantial injury and the severity of the incident in which it is used should be justifying the reasonableness of its use.

Less-lethal options. Other options for law enforcement have been established such as ballistic alternatives. These alternatives, such as beanbag rounds, result in a unique evaluation of their use by the courts. One fear officers have with new less lethal technology is the scrutiny they will face when deadly force is used and the officer had a less lethal tool available. This technology does not change the factors in the justification or use of deadly force; rather is designed to provide an alternative when feasible (*Russo v. City of Cincinnati*, 2009).

The US Supreme Court also recognized in *Plakas v. Drinski*, 19 F.2d 1036 (1994) that if a suspect's actions justify the use of deadly force, the officer is not required to deploy less lethal force first, regardless that less lethal options were available to officers. While *Plakas* helped officers to understand that less lethal force is an option, not a requirement, the justification of less lethal force was not further defined until *Deorle v. Rutherford*, 272 F. 3d 1272 (2001). *Deorle* determined that less lethal force could be used when feasible warnings of its use are given and there is a strong government interest that warrants its use.

These decisions have provided law enforcement officers with the ability to apply new options in the performance of their duties while maintaining citizen's rights as defined by the Supreme Court. Officers are bound to act within the law and the

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jurisprudence set in previously heard cases. Case law decisions are the basis for police training, tactics, and policies (LESB, 2012).

Vehicle pursuits. Movies, television, and other media outlets have long portrayed car chases and vehicle pursuits as an “entertaining” part of their job. Daytime news channels run live feeds from helicopters as officers chase their suspect. More often than not, the chase results in the suspect, officers, or the general public hurt in the incident (LESB, 2012).

To ensure the safety of all parties in situations where chasing someone in a vehicle is absolutely necessary, officers in Wisconsin take part in mandatory training to learn how to safely operate emergency vehicles. It is one of the few areas of training that require yearly training, partially in response to keeping liability down. (LESB, 2012)

While pursuits grasp the attention of the American public, the law enforcement community has seen the danger to all involved and uninvolved parties surrounding a vehicle chase. Various Supreme Court cases have helped shape policies that law enforcement agencies use to limit their liability in vehicle pursuits. The most prevalent claim in vehicle pursuits is the violation of a person’s Fourth Amendment right. *Scott v. Harris* involves the use of force (i.e. ramming) to end a vehicle pursuit. The court held:

“A police officer's attempt to terminate a dangerous, high-speed car chase that threatens the lives of innocent bystanders does not violate the 4th Amendment, even when it places the fleeing motorist at risk of serious injury or death.”

In 2007, the *Scott v. Harris* ruling was applied to *Breshers v. Harrison*. *Breshers* led law enforcement on a car chase and his actions prior to the chase suggested that he

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was highly intoxicated. Breshers avoided police tactics to end the chase and he continually placed the general public at risk by attempting to avoid the tactics employed by police. Officers eventually collided with the fleeing subject; however, there was a factual debate as to if the vehicle was rammed or struck by accident in the pursuit. The case was examined with both opinions in mind (Batterton, 2014).

To determine this case, The Court revisited the objectionable reasonableness standard. The Supreme Court limited the application of *Tennessee v. Garner* in the case by citing that it did not matter if the officer's actions constituted deadly force as long as they were reasonable. The courts advised that the subject's actions must be weighed against the governmental interest in ensuring public safety. It was determined that Breshers' intoxication level and his erratic and high risk driving justified the use of deadly force, if it was in fact applied. In general, federal liability is limited in vehicle pursuits and the options that officers use to end them (Batterton, 2014).

Civil Liabilities

Section 1983 created the right to sue a person acting under the color of state law that violates their constitutional rights. This section has created a marketplace for individuals to seek monetary gains against law enforcement agencies and municipalities alike. Police officers must understand the liability that the section entails as it is the most common vehicle used to sue departments today. Civil lawsuits against police departments, officials, and municipalities are common and recently the same civil liability has extended to federal law enforcement agencies through a Supreme Court ruling often referred to as a Bivens action (Means, 2004).

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Lawsuits against police can be damaging to the officer and the department. They are stressful and often originate from an officer trying to perform his or her job. To guide officers, training must be current and extensive to protect them from acting in a manner that exposes them, or the department, to civil liability. While specific immunities have been established to protect government officials, it must be understood that officers work and survive in an occupation that is unique. They are expected to apply the black and white tenets of law to the gray areas in which society behaves. Not truly understanding the complete dynamics of their job can threaten their careers and personal finances (Means, 2004).

42 U.S.C. Section 1983

Law enforcement officers around the nation go to work daily aiming to protect and serve their community. Section 1983 was established to protect citizens from unjust practices by government and ensure that individual constitutional rights remain unaltered by legislation and officials. Section 1983 can serve as a balance between citizens and police to provide the services needed by police while ensuring the private rights of citizens. Police must continue to develop new advancements in technology to make their jobs safer; however, they must also understand how the tactics will be examined when it is inevitably challenged by the jurisprudence of previous Section 1983 case rulings (Means, 2004).

Section 1983 provided all citizens with the ability to pursue damages, or monetary relief, from the state and officials that violate their Constitutional rights. The section aimed to enable victims of unconstitutional practices to sue the wrongdoer for their

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actions. The section is defined and supported by case laws that have led to both municipalities and officials ensuring the constitutional rights of all citizens are protected. The section is a designed check against government from infringing on the rights of citizens and allows for monetary relief when the rights are violated (Collins, 2011).

Civil Liability Case Law

Monroe v. Pape, 365 U.S. 167. During a homicide investigation in Chicago, IL, officers forcefully entered a home without a warrant. The officers corralled the family and brought them into a common room while other officers searched the residence. Extensive damage to items was caused by the search (Collins, 2011). Monroe was placed under arrest for the homicide and held at the police station for 10 hours without access to a phone or attorney. Monroe was later released and not charged with the murder. Monroe attempted to file suit against the City of Chicago for violating his civil rights (Collins, 2011).

The Supreme Court determined that individual officers could be named and sued in a civil proceeding. The case defined that civil actions can be taken against a “person” that deprives another of their constitutional freedoms. The court further clarified that civil action can be taken if the officers were acting under the color of the law. However, the courts ruled that municipalities could not be held responsible for the actions of those illegally infringing on the rights of another because it was the opinion of the court that Section 1983 was designed to hold “persons” liable for actions. The municipalities in general could not be sued. While civil actions against single officers are still admissible

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today, more recent case law has established that municipalities can be liable in certain situations (Collins, 2011).

Monell v. Department of Social Services, 436 U.S. 658. In 1971, New York City had a policy that required pregnant women to take an unpaid leave of absence prior to what was medically required. Jane Monell, a female city employee, along with other employees, filed a lawsuit for back pay for the time they were required to take off. The women argued the policy was unconstitutional and prior to the completion of the case, the district eliminated the policy. Despite changing the policy, the district refused to provide back pay claiming that the city was not a person, therefore, not liable for damages (Collins, 2011).

Upon appeal, the courts ruled that local government entities can be held liable under Section 1983. The court found that the policies were unconstitutional and the municipality was ordered to pay the women their owed back pay. The ruling clarified that municipalities can be considered “persons” for civil liability purposes and they could be sued under Section 1983. The municipalities were still not liable for the individual actions of their employees, but they could be held liable for any policies or practices that were found to be unconstitutional (Collins, 2011).

Monell v. Department of Social Services significantly changed who can be viewed as civilly liable in the US because it allowed municipalities to be identified as an entity that was liable for actions that are taken by their employees. This ruling broadened the net of civil liability in the US and created a climate in which substantial monetary awards were ordered in civil cases against municipalities compared to prior to the case

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ruling which determined civil action against government agencies was limited to injunction relief. Unfortunately, the US adversarial legal system and open tort laws created opportunities for individuals to bring forward a substantial amount of civil cases towards municipalities regardless of how frivolous or sensible the case is (Collins, 2011).

Control Mechanisms and Oversight Methods

When an officer acts outside the laws governing police actions, they are exposed to internal reviews from their department and external reviews from the courts and review boards. Reviews can result in numerous inner departmental disciplines up to and including job termination, civil liabilities, and even criminal prosecutions. These oversight models insure that officers are acting within the law and citizen's constitutional protections are not compromised. These reviews serve as a checks and balances system that protects citizens and departments alike. Having a system of internal and external review ensures transparency and consistency in regulating and monitoring law enforcement officer behavior (Ortmeier & Meese, 2010).

Internal Review Methods

Members of the same department conduct internal reviews of all complaints against officers, including use of force. Ortmeier and Meese (2010) suggest that the police subculture is the greatest obstacle to achieving police accountability and is the greatest obstacle in conducting an unbiased internal investigation. Police officers develop unintended provisions that protect officers from occupational hazards. Internal reviews are one of the most scrutinized practices by law enforcement agencies because of the

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relationship between the investigators and the investigated. Courts have established strict guidelines for departmental policy and procedure governing internal investigations.

Relying upon internal investigations to rid police misconduct and build community relations is challenging. There should be clearly defined policy and procedure that is consistent and transparent. The public and media must be able to evaluate the disciplinary culture of the department to ensure that there is no bias in decision-making to strengthen the relationship with the community (Walker, 2011).

The internal control mechanism for police departments is the Internal Affairs Division. They are comprised of internal investigators and are tasked with investigating any claim of misconduct by police, including the use of force. Supervisors assigned to an internal affairs division generally conduct these investigations (Ortmeier & Meese, 2010). Internal Affairs is generally an assignment as one develops a career. They assume the position through promotion and have worked previously with other members of the department. Internal investigators also know that at some point they will return to the rest of the department and hold a different assignment that will likely put them back alongside the officers they were assigned to investigate (Ortmeier & Meese, 2010).

The function of any internal affairs office of a United States Law Enforcement agency is clearly noted in the mission statement the agency provides. Many agencies highlight the same themes such as protecting the trust of the community in which they serve and ensuring that all citizen complaints will be thoroughly investigated in a professional and ethical manner. According to Bureau of Justice Advisor and Coventry, CT Chief of Police Beau Thurnauer (2006), it is important for each department to set a

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rationale for receiving complaints, assign a person to receive them, and develop a formal policy format explaining how complaints are accepted. A policy stating that all agency employees will accept any and all complaints is the easiest to understand and teach other employees. A transparent policy can be an effective way to investigate complaints and provide consistency in discipline as it relates to the misuse of police powers (Thurnauer, 2006).

Unfortunately, the abuse of power by law enforcement officers is a reality in law enforcement. The abuse is usually progressive and occurs or escalates over an officer's career (Ortmeier & Meese, 2010). The abuse of power or unauthorized use of force may be attributed to numerous internal or external factors. Patterns such as high numbers in arrests, use of force incidents, resisting arrest incidents, and increased complaints made by citizens against a particular officer provide internal affairs divisions with warnings of misconduct that needs to be addressed. Identifying and addressing the issues and deficiencies are imperative in not only correcting the officer's behavior, but also in protecting the department in potential civil litigations (Ortmeier & Meese, 2010).

Internal Affairs Divisions may implement an early warning system that law enforcement agencies can use to monitor and control employee behavior. Early warning systems are internal tracking mechanisms used to identify and track the behavior patterns of police officers employed by the agency. Their purpose is to identify problematic behavior and intervene prior to having to take formal disciplinary action. These systems can be used to track all sorts of behaviors and identifiers and each system can choose what data to track (Gaines & Kappeler, 2008).

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Early warning systems have become a popular oversight method used by Internal Affairs Divisions that are tasked with supervising and monitoring large departments. In fact, nearly 40% of law enforcement agencies with civilian populations over 50,000 have implemented the early warning monitoring method (Walker, Alpert, & Kenney, 2001). The goal of the system is to identify and correct or eliminate problem officers.

According to Walker et al. (2001), Chiefs of Police believe that 90% of all departmental problems stem from less than 10% of officers and in severe cases departments identify that nearly 50% of departmental problems stem from less than 2% of officers. Early warning systems appear to have a dramatic effect on reducing citizen complaints and other indicators of problematic police performance among those officers subject to intervention. Early warning systems allow departments to identify the officers that are most susceptible to misconduct or complaints and subsequently develop training, coaching, and counseling to correct their behavior prior to formal discipline.

After intervention techniques are employed, routine monitoring of the officer's performance ensures that the training and efforts were successful. If the measures have failed, the department will then follow clear progressive disciplinary policies and procedures. These disciplinary procedures may result in suspensions and termination. The documentation of all attempted measures and discipline protect the department from future civil litigation and also any wrongful termination actions (Walker et al., 2001).

Civilian Review Methods

The main criticism of internal investigations is that police investigators that have the ability to influence the outcome. Skeptics believe that police investigators are

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interested in protecting fellow officers and may be reluctant to properly address police misconduct. Police have an instilled subculture that is the greatest obstacle in achieving police accountability (Ortmeier & Meese, 2010).

Due to public distrust in internal review processes, police leaders are being asked to adopt civilian review procedures (IACP, 2000). When citizens lack faith in internal control mechanisms, they become less comfortable allowing police to police themselves. Civilian review boards were created to maintain effective discipline of police, provide satisfactory resolution of citizen complaints against officers, maintain citizen confidence in the police, and influence police administrators by providing feedback from citizens (Gaines & Kappeler, 2008).

Advocators for civilian review promise many benefits, most importantly improved citizen and police relationships. Police officers have been resistant to civilian review boards fearing that they would become a tool for retaliation towards them. Despite officer's deep-rooted fear of retaliation, research indicates that civilian review boards are no more punitive than internal control mechanisms when reviewing police misconduct complaints (Gaines & Kappeler, 2008).

The IACP (2000) classify civilian review models into four classifications. The first class is a citizen review board. This model is the most independent model. It is comprised wholly of citizens who review, investigate, and make recommendations for disciplinary action. These citizens either volunteer or are elected to the board that is tasked with the review. While there is great support for the idea of a review by individuals with no ties to law enforcement, there is an obvious disconnect in the

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expertise of the reviewers. Having a group of individuals critically review complex incidents with no training or experience cannot be reasoned in any professional review board. It is comparable to tasking a medical review board comprised of citizens to evaluate a medical procedure. To establish a legitimized, all citizen review board, training for board members must be extensive and continuous (Wyllie, 2015).

The second class includes a police review with citizen oversight. Complaints are reviewed and investigated by law enforcement officers. The findings of each case are then presented to a citizen board with recommendations for disciplinary action. This model provides some of the basic independent principles of reviews and couples it with the investigatory expertise of law enforcement. Those that question the internal investigatory procedures will oppose this model as it still tasks the department with fact finding upon which recommendations are made (IACP, 2000).

The third class of citizen review model includes police review with a citizen-police appeal board. This model has the most involved parties. Under this model, complaints are reviewed and investigated internally and recommendations for discipline are made to the Chief of Police. Any disputes in the resolution of the case are appealed to a review board consisting of both citizens and law enforcement officers. This model includes objective and subjective views throughout the review process, allowing for an equitable review. The idea of mixing the expertise of internal investigators with the opinions and independence of citizens seems to illustrate the combined efforts of the police and community working together to meet a common goal and understanding (IACP, 2000).

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The fourth classification of review model is an uncommon model used by law enforcement. This model utilizes an independent citizen auditor that reviews an agency's internal review process and makes recommendations as needed. This model is often associated with police review and is often used case specifically as questions surrounding the effectiveness of the model are questioned. This model may best be applied to departmental policy regarding the appeal processes in disciplinary actions (IACP, 2000).

Independent Agency Review

Independent agency reviews are investigations into police incidents or complaints by a law enforcement agency outside one's own agency. The model is designed to include the benefit of law enforcement procedural knowledge without the stigma and mistrust in the internal review process. Supporters of this procedure argue that having skilled and knowledgeable investigators without the internal bias of internal reviews is the most accurate way to portray an altruistic representation of the incident in question. Opponents of this model argue that without public oversight, external investigations conducted by another law enforcement agency will produce similar results of internal investigations (Gaines & Kappeler, 2008).

The tenets of the independent agency review model have garnered support among community activists and those searching for a change in the status quo of police investigations into their own actions. This support has led to recent legislation regulating how some use of force incidents, specifically the use of deadly force, is reviewed (Gaines & Kappeler, 2008).

Recent Legislation

The aforementioned support for the independent agency review has led to legislative changes in the State of Wisconsin with the passing of Wisconsin Assembly Bill 409. The new law requires two outside investigating parties from different agencies to look into officer involved shootings that result in the death of an individual. The bill also states that if district attorney chooses not to charge officers involved in the incident, the investigators must release their report into the death to the public. Affected families must also be told how to file complaints and pursue charges through a judge if they don't agree with the district attorney's decision (Alcindor, 2014).

Despite the appearance that this new law was a big win for those targeting police, the majority law enforcement agencies had already been using similar review procedures and supported legislation that illustrated their desire to remain transparent in investigatory procedures. The new legislation was described as a bipartisan effort, and the result of collaboration with law enforcement, families and community advocates. The Wisconsin Professional Police Association, the Badger Sheriffs Association and the ACLU supported the bill. A recent public opinion poll conducted by the WPPA indicated 81% of Wisconsinites support an independent investigation of an officer-involved death. The support for change allows the public to see law enforcements shared desire for transparency in all incidents (Taylor, 2014).

Current Events

The law enforcement community faces a public perception of police use of force that is influenced by media depictions. Media frames the appropriateness and frequency

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regarding the use of force by police and has saturated nightly reports with unrealistic and outlandish representations of law enforcement action. The overemphasis and inaccurate reporting of these incidents has raised questions regarding police use of force practices within communities. As a result, there has been a divide created amongst law enforcement and the community that they serve (Tracinski, 2014).

Current law enforcement efforts rely upon community support and co-participation in maintaining social norms through formal and informal procedures. This divide between law and enforcement and the community has raised concerns about the public's support of the public safety mission of most departments. Regardless of which side of the argument someone may stand, there is an agreement between both law enforcement and the community that the use of force by police garners significant attention (US Department of Justice [DOJ], 2012).

Milwaukee, WI

On April 30, 2014, Dontre Hamilton was shot and killed by Milwaukee Police Officer, Manney, in a downtown park. Initial reports indicated that Officer Manney had contact with Hamilton because Hamilton was homeless and sleeping in the park. The contact resulted in a physical altercation that ended in Officer Manney's baton being taken from him and Hamilton being shot 14 times. Initial reports varied but were ultimately clarified to indicate the contact consisted of some type of pat search that instigated the altercation. It was also later learned that Hamilton suffered from mental illness to include paranoid schizophrenia (Barton, 2014).

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Manney was cleared of any criminal wrongdoing and there was an announcement that his use of deadly force was within privilege. There were instantly protests and demonstrations surrounding the fact that there would be no prosecution against Manney for the use of deadly force. The demonstrations were relatively peaceful; however, there was a large group that chose to lie in traffic along a major highway and the incident resulted in numerous arrests. Manney was also fired for acting out of policy when he conducted a pat-down search of Hamilton without cause. Unrest and mistrust between the Milwaukee police and the community has ensued and Milwaukee Mayor Tom Barrett stated that changes in policy and procedure in the Milwaukee Police Department internal incident review would be the first step in trying to rebuild community relations (Barton, 2014).

New York, NY

On July 17, 2014, Eric Garner died after an altercation with police who were trying to place him under arrest for selling loose cigarettes. The encounter was video recorded by a cell phone and shows Officer Pantaleo try to make an arrest and Garner pulling away. Other officers moved in and Officer Pantaleo took Garner down by wrapping his arm around Garner's neck. Officers pinned Garner to the ground and Garner was heard saying he can't breathe. Garner later died from what medical examiners referred to as compression of the neck, chest, and prone positioning. The NYPD conducted a review of their procedure and invested heavily in training officers regarding using force when dealing with a subject (Sanchez & Prokupecz, 2014).

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Officer Pantaleo was cleared through a grand jury process which determined there was no just cause to prosecute him for any criminal action. The announcement resulted in a divide amongst law enforcement supporters and a section of the community that believed Officer Pantaleo should have been charged criminally in the matter. Even President Obama said the Garner case reflected a “longtime concern on the part of too many minority communities that law enforcement is not working with them, and dealing with them in a fair way” (Sanchez & Prokupecz, 2014, National Moment of Grief section, para. 1). President Obama added, “We are not going to let up until we see a strengthening of the trust, and a strengthening of the accountability that exists between our communities and our law enforcement” (Sanchez & Prokupecz, 2014, National Moment of Grief section, para. 2). The incident appeared to further establish mistrust between community and law enforcement (Sanchez & Prokupecz, 2014).

Ferguson, MO

On August 9, 2014, Michael Brown was shot and killed by Officer Darren Wilson of the Ferguson Police. Media reports instantly highlighted that Brown was unarmed and early representation was presented that Brown was surrendering with his arms in the air. The early reports were that Brown was a good young man bound for college, that the shooting was totally unprovoked, that he was shot multiple times in the back, and that he was executed in cold blood. As more and more evidence emerged, each of these claims was found to be unsupported (Tracinski, 2014).

The misreporting and use of unconfirmed facts in the case led to instant unrest in Ferguson including violent riots and looting in the community. The violent outrage

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fueled by false information hit its highest point when Officer Wilson was not charged with a crime and there was no trial for his actions. The City of Ferguson was left in ruins with millions of dollars of damage to repair a relationship between the police and the community that many view as not repairable (Tracinski, 2014).

Current Event Review

As seen in the aforementioned incidents and in numerous subsequent nationally recognized incidents, today's mainstream media is vigorous, expedient, rapid, and quick to release as much information as possible often times based on questionable credibility and unfounded facts. The adversarial marketplace creates numerous media outlets from mainstream television and radio to social media and blogs. Each of these examined incidents left communities with broken down relationships and mistrust from the general public towards all law enforcement. These inaccurate reports not only fuel division in communities, but they have cause impromptu reactions from legislative bodies trying to maintain the popular sovereignty of their constituents through a haze of moral panic (Chiricos, 2004).

Moral panic over violence has been used to justify expanding the punitive apparatus of the state and garner publicity ratings through sensationalizing disputes regarding deeply seeded opinions. Today's flooded media outlets have continued to demonstrate a sensationalized emphasis on violence in the United States that has seemingly diverted attention away from a class war that has disenfranchised urban communities and caused imprisonment rates to reach a peak (Chiricos, 2004). Moral panic does not suggest that nothing is there, but societal responses are fundamentally

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inappropriate. It is the highly publicized fundamentally inappropriate responses to incidents that are celebrated the most by media (Chiricos, 2004).

“Celebrated” cases have had continued effects on policy-making that address issues that do not portray an altruistic view of societal concerns. Most historically notable, the White House convened a summit a few weeks after the Columbine High School shooting in Littleton, CO in April of 1999. The widely covered tragedy prompted an intense period of legislative activity in which 35% of all bills addressing school violence were introduced in April and May of 1999, whereas no other month of the year for the legislative session contained more than nine percent of bills on juvenile crime (Chiricos, 2004).

Celebrated cases, while not always representative of the criminal justice system, can help bring serious issues to light and trigger legislative response just as the celebrated case of Columbine High School initiated an aggressive response to the ongoing juvenile violence epidemic. Johnson (2011) refutes that the aggressive responses to celebrated cases will be impulsive and will not address realistic problems in society. Moral panic provides a vocabulary of punitive motive to justify massive expansion of the state’s power, but if coupled with extensive research in a well-designed justice model, moral panic can precipitate progress towards societal issues that were not being addressed through traditional bureaucratic means.

Restoring and Maintaining Community Relations

Community Policing Concepts

Community policing is a philosophy that promotes the departmental strategies that focus on community resources to address needs and services identified by the community. The philosophy calls for close partnerships with various community resources to cohesively develop problem-solving techniques to proactively respond to immediate communal concerns. Community policing methods recognize that police rarely can solve public safety problems alone and encourages partnerships with all community stakeholders (United States Department of Justice [DOJ], 2015).

Community policing relies upon community partnerships, organizational transformations, and problem solving. Under the community policing model, police management infuses community policing ideals throughout the agency by making a number of critical changes in climate and culture of the department. Law enforcement organizations can partner with a number of other government agencies to identify community concerns and offer alternative solutions. This fundamental change allows for departments to better focus efforts towards the communal needs of their jurisdiction while garnering support from the community towards common goals and earning respect and cooperation in upholding societal accepted norms (DOJ, 2015).

In the community policing model, law enforcement leaders are tasked with taking risks and building collaborative relationships to implement community policing. Community policing removes much of the immediate decision-making from the upper echelon and entrusts in officer's ability to be innovative in policing procedures that best

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serve the community. Decentralized decision-making allows frontline officers to take responsibility for their role in community policing. A shared “buy-in” from officers and the community in a policing partnership is the foundation of community policing methods. If the basic tenets of the model are not satisfied, the program cannot be successful (DOJ, 2015).

Community Policing Investment

While progressive departments first began enacting community-based policing programs in the 1960s, the philosophy began to be much more widely accepted in the late 1980s. The program was most clearly presented after extensive research and definition by Robert Trojanowicz and Bonnie Bucqueroux. Since their development of the National Center for Community Policing, community policing has become the preferred policing philosophy amongst departments in the US. Municipalities clamor for it, chiefs of police buy into it, and the public demands it. The philosophy has become so widely accepted that it has generated federal funding for over 20 years. Even those departments that have not fully adopted the program have taken basic tenets and infused them into their operations (Means, 2004).

To further illustrate the national support for community policing models, President Bill Clinton instructed his Justice Department to create an office dedicated to the advancement of community policing in 1994. The office is now known as Community Oriented Policing Services (COPS). Since its inception, COPS has spent nearly \$14 billion to fund agencies nationwide with the goal of helping them instill the community policing concepts and fund over 100,000 new officers nationwide (Moraff,

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2015). This significant financial investment shows the dedication and trust in the philosophy that both the law enforcement community and federal government had in the program (Moraff, 2015).

Since the nationwide investment in 1994, community policing has become the sacred cow of law enforcement philosophies. According to the Bureau of Justice Statistics [BJS] (2015), in 2003 more than half of all US police departments, whom also employ 82% of all law enforcement officers, used community policing officers. In total, there were 54,800 local police officers that were designated as community police officers. Also, more than 80% of departments that service over 25,000 people had written problem-solving agreements with community groups (BJS, 2015).

Effectiveness of Community Policing

The community policing philosophy was clearly accepted and enacted through law enforcement agencies nationwide; however, the successes of the program have been debated. A study conducted by Gill, Weisburd, Bennett, and Telep (2014) used qualitative analysis of 65 independent community-policing assessments to measure the effectiveness of the philosophy. The study found that community policing strategies have had a positive effect on citizen satisfaction and trust in the police, but there was no empirical data to support that the strategies had a direct impact on reducing the public's fear of crime. The strategies expose the public to police, but they do little to make them feel safer in their own communities.

The study also concluded in 27 of the 65 reviews community policing was at best responsible for 5% to 10% of the reduction of crime and the findings were determined to

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not be statistically significant (Gill et al., 2014). The strategies were more successful in changing the community's actual perception of crime in the community rather than effecting the actual commission of said crimes. Perhaps the most relevant conclusion for the purposes of this paper is that in 80% of the cases, citizens reported being almost 40% more satisfied with the work of police (Gill et al., 2014). These findings suggest that community policing strategies tend to build citizen relationships and trust, rather than address some of the pressing crime reduction demands (Gill et al., 2014).

“Safe and clean” initiative (new jersey). In 1970, New Jersey introduced a state funded initiative called “Safe and Clean Neighborhoods Program”. The program was designed to improve the quality of life for individuals in 28 select cities. The program called for officers to be more involved in the community by assigning them to walking beats. With officers out of their squad cars and more engaged in the community, state officials aimed to reduce crime rates. Wilson and Kelling (1982) imply that officers on foot patrols elevate the level of public order in the neighborhoods to prevent the breakdown of community control. The response to officer's high visibility and ability to address minor disorderly behavior will encourage engagement in the community and result in crime rates decreasing.

An evaluation of the program confirmed that foot patrols didn't affect crime rates, but they were successful in making people feel safer. The Kansas City Preventive Patrol Experiment contradicts the suggestion that the level of patrol effects how “safe” a community perceived. The experiment tested the idea that a heightened police presence would deter crime and it concluded that the level of patrol may have had no effect on crime rates or citizen fear of crime (Walker, 2011).

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Wilson and Kelling (1982) also declare that officers in squad cars are not as effective in addressing disorderly behavior because they are disconnected from the community. The inability to address small forms of deviant behavior will result in the flourishing of serious street crimes. Walker (2011) disputes this conclusion by referencing a phenomenon known as the phantom or residual effect. This deterrence theory suggests that even if there are no police around, the impression of a police patrol previously encountered stays with people and they carry on as if the same patrol is still present. In essence, there does not need to be a significant police contact to effect the perception of police presence in a community.

Wilson and Kelling (1982) conclude that the standard to which a neighborhood is determined to be “safe” is based on individual surveys that identify the perception of how safe the community is. They chose to support their new approach to policing by using public opinion surveys after the program was implemented rather than compare statistical data to support their hypothesis. The authors themselves suggest that the introduction of foot patrols result in a more favorable opinion of police in the community. This subjective opinion may carry biases that affect the ability to altruistically evaluate the success of the program’s ability to reduce crime. The introduction of comparative crime rate data amongst communities that introduced foot patrols and those that maintained current policing strategies would have been more effective in supporting their conclusions.

RECOMMENDATIONS

Invest in Training

As previously discussed, the Supreme Court has recognized that the job of a law enforcement officer is stressful, dynamic, and may be rapidly evolving. There is a need for highly trained officers with the ability to make quick, safe, and legally informed decisions. Often, these are split-second decisions that need to be almost reactionary in nature. Investing highly in training and human capital is important to the officer and the department. The ability to make these decisions may help to save the officer from harm and also may ensure that the reaction was within the “privilege” bestowed in them through their title. Ensuring that officers are trained to make these decisions may also protect themselves and the department from future civil litigations (Collins, 2011).

The Supreme Court has also upheld that the failure to train officers to make these decisions can be perceived as negligent on behalf of the department. This negligence exposes the department to further civil liabilities when officers make decisions that are not supported by reputable training procedures. Developing continual training for officers that is supported by nationally accepted tactics and procedures is an effective way to ensure that officers continually make justifiable decisions (Collins, 2011).

Law enforcement officers should undergo training that builds the skills that exemplify problem-solving strategies, conflict mediation techniques, and de-escalation tactics. The goal should be to make officers adept at being responsive to community needs while achieving consistency and continuity in engaging community while enforcing the law. This investment in training also protects departments from the

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repercussions of officer behaviors or decisions that are untrained and deviate from trained tactics. The department can show that every effort to train officers were made and the decision in question strayed from the departmental guideline; therefore, limits the liability assumed by the department and justifies the disciplinary actions taken by the department to correct the behavior (Advancement Project, 2013).

Designing training for law enforcement officers to recognize dynamic situations and immediately react with acceptable and justifiable decisions can be challenging. The training must be designed for various types of learners and must facilitate the processing abilities of the learner. One of the most effective learning methods that addresses instructional demands is the cognitive load theory. The cognitive load theory suggests that instructional methods be closely related to the recognition of schemes and are designed to trigger an approved response (Bennell, Jones, & Corey, 2007).

Canadian police departments have implemented the cognitive theory of learning into simulation training scenarios. This simulation is designed to expose officers to scenarios that are likely to be encountered in daily patrols and assists in relating a desired response once the scenario scheme is recognized. Repetition of the training is implemented in an attempt to confirm the response and increase the officer's ability to act in the desired manner repeatedly. The continued simulation training helps illustrate that efficient training was conducted and helps departments demonstrate their exhaustive efforts to ensure acceptable officer behavior (Bennell et al., 2007).

Develop Sufficient Policy and Procedure

There is no single, universally agreed upon use of force policy. The National Institute of Justice [NIJ] (2015) examined the differences in use of force policies across the country, focusing on the use of force continuum. The use of force continuum is the most widely recognized model in department use of force policies with over 80% of agencies adopting some form of the model. These policies describe an escalating series of actions an officer may take to resolve a situation. Despite the prevalence of the model, there is a significant discrepancy in the uniformity of use of force continuums within departmental polices. The research identified 123 variations in force progression, which further emphasizes the need for clarity among specific department policies.

Good policy and procedure provides subsequent legal protection for the individual officer and the department; however, according to an American policing review by Dwyer (2007), many police departments are still operating from policy manuals that were drafted in the 1970s and 80s. Use-of-force training, policy assessment, and legal updating must be a constant activity within an agency. The potential liability in a use of force incident begins well before the event takes place.

Law enforcement agencies should strive to develop a comprehensive use of force policy that includes a clear values statement affirming that officers should employ only the amount of force necessary to gain compliance as well as provide detailed guidance on how and when force may be used in accordance with legal standards. Designing an updated policy provides the officer with direction and understanding of the most current guidelines desired by a given agency. This clarity ensures that both the officer and the

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public are provided with the most current and acceptable protections available while limiting potential risks. This written outline provides transparent guidelines that help to limit future civil liabilities and also helps restore community relations after a use of force incident by providing an illustration and explanation of the actions (Advancement Project, 2014).

Dwyer (2007) suggests that a good use of force policy should be comprehensible, consistent, contain current legal standards, and utilize contemporary police practices. The policy should define use of force and detail all situations in which certain options or “weapons” can be used to remedy the event. The policy should be simple, clear, and understandable to all that operate under its guidance. The policy should not be overly broad, but must not be so lengthy that the officer is overloaded with information to consider during a dynamic use of force incident. The policy must strive to be consistent and not contradict other sections of policy. Developing conflicting definitions or policy within a manual only confuses an officer on what the intent of the policy is and makes it challenging to operate under.

It is important to remember that policy is a guideline designed to help the officer with decision-making. The policy must also adhere to current legal standards. Annual review of the policy is preferred as case law continually defines new legal standards. Partnering with a local legal representative, such as a district attorney, to help revise and update policy is encouraged. Lastly, the policy should consider contemporary police practices that are widely accepted within the criminal justice community. Law enforcement theories and methods change and adjust to societal norms and the policy

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must reflect the organizational goals of the department to maintain community relations (Dwyer, 2007).

Build Community Education and Involvement

During a symposium conducted by the International Association of Chiefs of Police [IACP] (2012), only 4 of 36 attendees believed that citizens had the ability to remain objective when reviewing police use of force incidents and only one in ten had confidence that the public would examine the facts and circumstances unique to each individual incident. There was a consensus view that police leadership is responsible for educating the public regarding how police use force. It is recommended that a proactive national communications strategy is developed to provide clarity on the issue. The failure to provide a cohesive fact-based message to the community through the media left the public to frame incidents without direction or education. Framing incidents without context caused the media and community to sensationalize the reported incidents, creating the previously discussed “celebrated” cases that damaged community relationships.

The IACP (2012) supported a variety of programs focused on developing better relationships between the police, the public, and the media. Citizen academies and ride along programs were suggested to better grasp the complexities and realities of being a law enforcement officer. These inclusive activities serve the critical function of making law enforcement policy and practice transparent. The community involvement and public education in these types of programs have been recognized as a strategic necessity to facilitate a rapid response to a publicized use of force incident. The injection of

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education into the community will help alleviate some of the initial backlash received from the large portion of the public that perceives force as excessive when it is not.

The IACP (2012) also encouraged the development of a national media guide to inform the public regarding the dangers of policing and the necessity to use appropriate force in furtherance of public safety. Reminding the community that the police are a resource designed to serve and protect the community through a message that emphasizes cohesiveness in achieving the goal will garner support for the methods and tactics that are utilized. Explaining that there is a large body of case law that permits the police to use force that is reasonably necessary to overcome the force used against them helps the community relate to incidents as they arise. Departments can facilitate this education by developing a sustainable online resource library detailing programs and summaries of approaches that have proven to build better relationships between police and their communities.

Educating the community regarding police interaction and response is a long-term investment. It is an investment that not only focuses on those immediately involved in police interactions, but should also allocate resources to the youths in the community. Dacchille and Thureau (2013) suggest that law enforcement officers are not trained to specifically deal with youth in the community and often rely upon the tool that they are most accustomed to, which is arrest. The author's findings are supported by a 109% increase in youth arrest for minor offenses since 1985. More concerning, the authors found that youth of color between the ages of 16 and 19 account for 7.5 percent of police contacts, but they represent 30% of police contacts involving force. These statistics

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suggest that there is likely a lack of understanding between both the police and youths in conflict resolution and there is a need for a better approach for police-youth interaction.

Unfortunately, youths are influenced easily and reeducating them after they have adopted misleading information as fact is challenging. Many young people are provided with incorrect and inaccurate information from various mediums of information. Many youths are unaware of the adverse effects and consequences of an arrest and court involvement. Older siblings, peers, and adult family members often negatively influence them to believe that the best approach to authority is to challenge it. Law enforcement officers then respond with an adult approach towards the behavior, which has led to an “adultifying” trend within the juvenile justice system (Dacchille & Thureau, 2013).

Partnerships with community groups, local schools, and law enforcement are essential to increase community education. Officers should establish relationships and engage in open communication with the community to help educate the public on law enforcement roles, demonstrate a commitment to the community, and assert their inherent authority through non-confrontational dialog. The public can voice their concerns for the community and help develop initiatives and goals that can be accomplished through partnerships with various community resources. This open dialog creates transparency in the missions of the police department and helps the public “buy-in” to common goals for the community (Dacchille & Thureau, 2013).

Community involvement is accelerated when a personal investment is made. This collaboration of community and governmental resources to work towards common goals allows for an altruistic view of perceived issues within the community and allows law

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enforcement to proactively address the issues with the public support. This approach provides the added benefit of preparing the community for potential responses to the assertion of authority when challenged and helps to weather initial “blow-back” from any “celebrated” incidents if they arise (Collins, 2011).

Recognize the Importance of Media Relations

As previously discussed, the law community faces many challenges regarding reporting factual representations of police actions due the various mediums of information sharing available in today’s society. Unfortunately, the majority of these mediums have no obligation to report factual findings or maintain any journalistic integrity. Despite the unreliability of these sources, 74% of American adults still rely upon social networking sites for their news and information. The arena for discussion and information sharing involving breaking news events is even more staggering. During the riots in Ferguson, Missouri, a reported 46% of social media account holders commented, shared, or posted media relating to the issue (Anderson & Caumont, 2014).

While social media is often an arena to share similar views or engage in productive conversation, controversial incidents tend to divide individuals and break apart constructive dialog. The American public strives on fast-paced, violent, and controversial news. When riots and violence garner around the clock attention for a specific issue and create “celebrated” cases, the public becomes accustomed to the response to the point that similar cases are almost sure to garner similar, almost automated, responses (Collins, 2011).

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The American public was exposed to a form of operant conditioning during the riots in Ferguson as the public's involvement in what would normally be seen as antisocial behavior was provided with positive reinforcement of praise, recognition, and relevance in social media. The attention garnered support and the media portrayed the actions as a justified and acceptable response to social injustice and social economic disparity. This conditioning was further demonstrated in succeeding incidents, like Baltimore, that garnered similar media attention (McLeod, 2015).

Build a department brand. Agius (2015) suggests whether you want to sell products, gain subscribers, persuade followers, or convince readers to your cause, they've got to know who you are. Your ability to encourage any of these actions comes from your brand's authority. The author notes that it is widely accepted that social media is the largest and fastest growing vehicles for organizational branding. In fact, 71% of America's top companies plan to increase investment in social media to build brand reputation.

The Force Science Institute is a leading organization that provides law enforcement agencies with training and direction for modern policing issues. The Force Science Institute's Editor-in-Chief Chuck Remsberg (2015) identified department branding as law enforcement agencies' number one initiative in changing cop culture and public perception of police. Remsberg (2015) suggests that a paradigm shift that focuses an allocation of resources by law enforcement towards community relations and engagement will benefit and strengthen the departmental brand, which may help the department survive the inevitable controversial incident. If top grossing private sector organizations and leading public sector advisory organizations with resources that far

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outweigh those available to public sector organizations have recognized the significant benefit in building the brand of their company through social media outlets, it can be intelligently argued that similar brand building techniques and investments can be made to garner community support for law enforcement departments.

Law enforcement agencies investing in social media accounts have already been adopted by over 3,450 agencies in the United States. Burger (2013) notes that having a social media presence benefits departments and the communities that they serve by building trustworthy relationships and a sense of community engagement, restoring control over the department's reputation in the community, providing a forum for the community to engage in dialog while allowing the department to share tips that they normally would not be able to, and spread knowledge through the community with minimal effort. The ability to control the factual release of information may be the most important element of social media presence and it serves as a credible source of departmental and community information that mitigates the careless release of contradictory information.

Utilizing social media to garner community involvement can be accomplished in numerous ways. As previously recommended, to maintain community relations, it is imperative that the community feels involved in the mission and goals of the police departments. Involving the community in helping to identify suspects or provide information regarding specific crimes allows them to feel personally vested in the incidents within their community. Explaining the investigation and providing the public with non-sensitive information not only garners support for the police department, but also provides investigators with a lead-producing outlet. Providing updates about cases

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provides the community with a sense of participation and also illustrates the intricacies of the profession, which builds respect for the department while limiting civil liabilities in cases by exhausting all available resources in an investigation (Burger, 2013).

Partnering with other positive resources in the community goes to further show the department's loyalty to the community. Linking and sharing events that take place in the community that garner community building and support is a good way to further expand upon the department's image. The days of flyers and bulletins are gone as young people now communicate through social media outlets. Having a Twitter or Facebook page that publicizes events that emphasize community involvement can be shared more rapidly and reach more people. The imprint the department can have on the community is strengthened by the involvement in positive community events. It is encouraged that partnerships are made with the fire department and other public service entities to show a joint initiative in information sharing. Linking these events shows widespread support for community strengthening. Community strengthening and support for the department will reduce irrational responses to future incidents involving law enforcement that may not be in a favorable light or reported by unreliable sources (Coppola, 2013).

Adopt Transparent Reviews

It is no secret that when police are burdened with the need to use force to assert authority there is a high probability that the incident will negatively affect the police's relationship with the misinformed members of society. Modern police practices stress community strengthening and the erosion of the trust hinders effective community

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policing strategies. The struggle to maintain community relations through use of force incidents has been recognized by leaders in law enforcement and in response the Justice Department launched the National Initiative for Building Community Trust and Justice. The program is designed to combat distrust and hostility between law enforcement and the communities they serve. The initiative brings together law enforcement experts to help identify ways to strengthen community relationships through turbulent times (Advancement Project, 2014).

Unfortunately, this relationship building is continually met with resistance as police around the country are under scrutiny for using excessive force. Lawmakers across the country have responded by developing legislation regulating the way use of force incidents are reviewed. Across the nation, legislation has been established to regulate how the incidents are clearly presented and documented. One of the most common, albeit expensive, options is equipping officers with video recording devices, such as body cameras. It is an effective way to document the incident from the views of all involved parties (Martin, 2015).

Video recording technology offers several potential benefits including increased transparency that expedites the resolution of citizen complaints and improves behavior on the part of both citizens and police due to the knowledge that they are being recorded. The Rialto (CA) Police Department enacted a policy in which body cameras were supplied for random officers to measure the affect they had on use of force incidents. Over a 12-month period, the department reported that there was a 50% reduction in use of force incidents and nearly twice as many of the actual incidents involving use of force came from an officer not equipped with a body camera. The department saw the added

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benefit of an 88% drop in citizen complaints, which one can intelligently relate to community satisfaction. The Rialto Police Department findings suggest that the use of body cameras limited use of force incidents, which in turn limits civil litigations, and also provided transparency in incident reviews, which helps to restore the community's trust in law enforcement (Stross, 2014).

The process in which use of force incidents are investigated and reviewed is another opportunity in which law enforcement agencies can garner community support by designing an oversight method focusing in transparency. As previously discussed, the IACP has developed four main review models for law enforcement agencies to consider. Establishing a clear oversight model tailored to the demands of a specific law enforcement agency's community is an essential tenet in establishing a community oriented policing model (IACP, 2000).

While there is debate regarding the need for independent or external review in police use of force incidents, the most favorable review models tend to have civilian input or involvement. Despite law enforcement's reluctance to establish citizen review boards, surveys indicate that about 80% of the American public is in favor of citizen review. As law enforcement agencies begin community policing initiatives, they put strong emphasizes on the ability of officers to work closely with the community and citizen review boards appear to be an effective way to bring the sides together (IACP, 2000).

It is recommended that the choice to develop a review policy that includes external review of use of force incidents by civilian board members should take into

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consideration the expertise and knowledge of those tasked with the review. Wyllie (2015) suggests that all members of a civilian review board must complete a standardized level of training that exposes them to the specific demands and situations that law enforcement officers are exposed to. The author suggests that leaders in the law enforcement review community, such as the Force Science Institute, are adequately equipped to provide training and education surrounding use of force review.

Organizations that invest heavily in explaining use of force through a scientific method ensure that individuals that understand challenges and limitations of human performance conduct reviews. Appointing civilians with an altruistic, rational understanding of police use of force incidents to review boards is an effective way to meet the demands of external, independent review from the community while mitigating the concerns of law enforcement officers exposed to the reviews. The use of civilian panel findings in use of force review removes the perception of bias in the investigation. The limiting of bias in review methods is essential in increasing the perceived transparency in review, which will increase community support and trust while limiting the expose to civil liabilities as the incident would have already been reviewed independently (Wyllie, 2015).

CONCLUSION

This paper intended to demonstrate the complexity of police use of force in America. When officers are required to use force in the execution of their sworn duties, adverse effects will inevitably follow. These effects include the erosion of law enforcement and community relations, the exposure of civil litigation towards the

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department, and in extreme circumstances, large-scale revolt and violence within the community. Departments must develop progressive initiatives that are designed to limit civil liabilities and increase community support in the face of highly publicized use of force incidents.

This paper demonstrated various case law decisions that provided the historical framework from which law enforcement officers train and exercise the use of force within the confines of the US Constitution. Section 1983 created a marketplace for civil litigation against law enforcement agencies and there must be new approaches in how and when force is used to reduce litigation risks. While there have been some legislative protections for government officials acting within their legal capacity, the increasing presence of lawsuits against police can be damaging to departments financially and adversely affect their reputation within the community. To ensure that proper use of force is exercised, departments should couple a comprehensive use of force policy with adequate and reputable training designed to illicit an appropriate response to dynamic situations.

Law enforcement agencies nationwide have responded to the growing public distrust within law enforcement use of force incidents with methods of oversight and review that emphasize transparency. Current review methods include a mixture of internal and external review; however, trends suggest that there will be a continually growing demand for external review. It is hard to compare the success of each model, as each community has different dynamics of police-community relationships. It is clear that having a balance of internal and external review procedures assists in the removal of the stigma and mistrust regarding police investigations into use of force incidents. Every

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department's success can be traced to community relationships and having reviews of uses of force viewed both subjectively and objectively will help to lay the foundation for mutual trust.

Mutual trust is important in maintaining community relationships when the inevitable "celebrated cases" arise. The US has recently witnessed the damaging effects that controversial incidents can have on police-community relationships and communities themselves. Milwaukee, WI, New York, NY, and Ferguson, MO are just some of the most recent highly publicized incidents in which controversial use of force incidents, coupled with the departments' inability to adequately respond, have left communities in ruins. A comprehensive review of these incidents suggests that these community relationships were severed and turned hostile because of misinformed media portrayals and a lack of community understanding. Modern information sharing, such as social media, is an effective way to communicate, garner community support, and limit irrational responses. It is recommended that aggressive, accurate, and assertive reporting of the facts be released from law enforcement officials to various media outlets in an attempt to combat the inevitable misreporting by unreliable media sources.

The need for law enforcement officers to use force in the execution of their job duties is an inveterate aspect of the profession. Unfortunately, the manner in which officers are trained to utilize the use of force privilege is often misconceived. This widespread public misconception derives from a lack of topic education, rapid media reporting that is not credible, and a lack of transparency in use of force review. To limit civil liabilities and restore community relationships after a controversial use of force incident, it is proposed that departments invest heavily in use of force training, develop

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sufficient policy and procedure regarding the use of force, strive to build community education involving police response and tactics while encouraging involvement and dialog, recognize the importance of maintaining good media relations that builds the department's brand, and adopt a transparent use of force review model that adheres to the predilection of the community. The ability to adhere to these five recommendations will build community trust, reduce civil liabilities, and prepare departments to survive celebrated or controversial use of force incidents.

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