

Minorities and the Excessive Use of Force by Law Enforcement Officers: The Scope of the
Problem and Solutions to Minimize Occurrences

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Date: March 26, 2009

Minorities and the Excessive Use of Force by Law Enforcement Officers: The Scope of the
Problem and Solutions to Minimize Occurrences

A Seminar Paper

Presented to the Graduate Faculty

University of Wisconsin-Platteville

In Partial Fulfillment of the Requirements for the Degree

Master of Science in Criminal Justice

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March 2009

Acknowledgements

I would like to first and foremost thank all of the professors and instructors affiliated with the University of Wisconsin-Platteville whose hard work and dedication helped me succeed both academically and professionally. A special thanks to Dr. Cheryl Banachowski-Fuller for her endless patience and her 110% dedication to her students. Dr. Fuller, you are the consummate professional and an inspiration to all of us who aspire to be college professors. Thank you not only for your patience, but for your guidance as well.

I would also like to thank my partner, Kim, for her endless support and motivation over the past several months. I would also like to thank my mother, Carolyn, for her words of encouragement. Mom, I know you never finished high school but you are the smartest woman I know and you are the best mother anyone could ever have!

Finally, I would like to dedicate this paper to my late father, Michael Edwin Caron Sr., who constantly pushed me to go after my dreams and to never stop learning. Dad, I miss you and love you very much! Thank you for watching over me! I would also like to dedicate this paper to the late Bristol Township Police Lieutenant Joseph Fehn (ret.). Lieutenant, eight years ago I was terrified of you. Today I miss our conversations and your accusations of me stalking you. You influenced me more than you will ever know. Thank you sir!

Abstract

Minorities and the Excessive Use of Force by Law Enforcement Officers: The Scope of the Problem and Solutions to Minimize Occurrences

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Under the Supervision of Dr. Cheryl Banachowski-Fuller

Statement of the Problem

The purpose of this study is to develop an effective policy for law enforcement agencies to utilize in an effort to prevent incidents of excessive force against minorities. A review of theoretical and empirical research will be conducted as well as a review of use-of-force and similar policies from other law enforcement agencies.

Nearly every police agency in the United States has endured the accusations that their officers are racist due to the fact they used excessive or unjustified force against a minority citizens, mainly African Americans, regardless of the facts surrounding the incident. The issue ballooned after the Rodney King incident in Los Angeles, California, in 1991. On April 29, 1992 a jury acquitted the officers resulting in intense widespread rioting throughout the city of Los Angeles. Similar incidents have troubled the New York Police Department as well leading many to believe police brutality against African Americans is a widespread problem. Many officers believe they act accordingly when using force, but agree that sometimes too much force is used.

There are several strategies that law enforcement agencies can adopt to effectively reduce incidents of excessive use-of-force against African Americans. One such strategy is the implementation and use of civilian review boards. Initially developed by government officials during the 1950's and 1960's, civilian review boards were designed as a method of external control of law enforcement agencies with the sole purpose of reviewing allegations of police misconduct, including claims of excessive force (Alpert and Dunham, 2004). According to a 1999 published report by the National Institute of Justice, civilian review boards have proven their worth in both reducing and controlling the frequency of incidents involving the excessive use of force. They are an effective way of holding police accountable in that there is no bias (Smith and Holmes, 2003).

The second strategy is the use of an early warning or early intervention system. The early warning system was developed nearly 25 years ago as law enforcement's crisis management response to public outcry over incidents involving the excessive use of force by law enforcement officers (Walker and Alpert, 2004). According to the National Institute of Justice, the United States Commission on Civil Rights made a recommendation in the early 1980's that all law enforcement agencies create an early warning system which would help to identify "problem officers". An early warning system, or early intervention system as it is also referred to, is a data-based tool which can be utilized by law enforcement managers to identify those officers who exhibit problematic behavior so that appropriate measures can be utilized to correct that behavior (National Institute of Justice, 2001). In other words a law enforcement agency intervenes before an officer's problematic behavior demands disciplinary action and instead offers counseling and/or training as a means to help modify the officer's behavior. According to

Walker and Alpert (2004), early warning systems serve as one of the most effective mechanisms for enhancing accountability.

The third is for law enforcement agencies to improve civilian complaint procedures. The most important issue surrounding the use of excessive force against African Americans is officer accountability. According to Wagner and Decker (1997), citizen complaints filed against law enforcement officers should be viewed as a “weather gauge” of performance within the agency itself (as cited in United States Department of Justice, 1999). Most complaints filed against law enforcement officers by civilians concern the use of inappropriate or excessive use of force (Flynn, 1996). According to Terrill and McCluskey (2004) the most serious complaints that can be filed against a law enforcement officer concerns the use of excessive force. “These complaints are also the most difficult to substantiate” (Terrill and McCluskey, 2004: 146). According to the National Advisory Commission on Criminal Justice Standards and Goals (1973) there are many obstacles civilians face when filing complaints against law enforcement officers (as cited in United States Department of Justice, 1999). They include fear of retribution, the overall difficulties of filing the complaint, and the possibility of having criminal charges filed against them for filing a false report. Law enforcement agencies need to change the way in which civilians file complaints against their officers.

Agencies also need to maintain and strict and frequent training regiment. Training on the use-of-force and self-defense should be conducted as often as possible. “All reasonable police administrators recognize that unnecessary force can be directly affected by training” (Fyfe, 1996: 167). According to Flynn (1996) training in the field of law enforcement is a continuous process that continues throughout an officer’s career. According to May and Headley (2008), regular

training in the proper use of force should be conducted by every law enforcement agency. “Training is essential to the safe, effective, and legal conclusion of police-citizen encounters” (Flynn, 1996: 127). Some law enforcement officers use force inappropriately due to the fact that they do not have enough or adequate training on how to accomplish their job related tasks without utilizing force (Perez and Moore, 2002). Furthermore some law enforcement officers utilize force when no force is needed due to their misunderstanding or misinterpretation of the law when it comes to when they can utilize force (Perez and Moore, 2002). Training must be both continuous and realistic.

Methods of Approach

Methodology consists of theoretical, empirical, and statistical data from several secondary sources to establish the need for law enforcement agencies to develop effective policies to prevent incidents of excessive force against minorities. Examples of civilian review boards will be discussed and data on early warning or early intervention systems will also be reviewed.

Criminological theory, specifically Authority Maintenance Theory, will be discussed in terms of its relationship to the excessive use of force by law enforcement officers against minorities. Through personal research Alpert and Dunham (2004) developed their Authority Maintenance Theory in an attempt to explain officer-citizen interactions from an interpersonal perspective rather than a psychological one. The main tenant of the theory is the officer’s incessant need to maintain their authoritative presence when interacting with citizens (Alpert and Dunham, 2004). Law enforcement officers are very sensitive to anyone or anything that undermines their authority (Reisig, McCluskey, Mastrofski, and Terrill, 2004). According to

Paoline, Myers, and Worden (2004), law enforcement officers cope with the danger and uncertainty associated with their profession by maintaining an authoritative, take-charge attitude which may involve them creating, displaying and maintaining their authority over citizens. In other words officers who feel they are not maintaining enough of an authoritative presence will do whatever they have to do to regain it, even if it means using force.

Results of the Study

Through this research the problem of law enforcement officers frequently using excessive force against minorities should be confirmed and acknowledged as a problem. This research will conclude with recommendations for improvements in programs and/or policies which law enforcement agencies can adopt and utilize in an effort to reduce the frequency with which law enforcement officers use excessive force against minorities.

Through this research the problem of law enforcement officers frequently using excessive force against African Americans is reaffirmed and acknowledged as a problem. This paper noted several causes to the use of excessive force against minorities and also made several recommendations which law enforcement agencies can utilize to minimize such incidents.

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I. INTRODUCTION: Need for Improvement in Law Enforcement Training Programs to Deal with the Use of Excessive Force Against Minorities

A law enforcement officer is permitted to use the minimum amount of force necessary to stop a perceived threat and/or affect an arrest. In other words once the perceived threat no longer exists the officer must cease his/her use of force. Additionally the officer can escalate or de-escalate the amount of force used as the situation dictates. There are several conditions where the use of force would be unnecessary and therefore deemed excessive. They include the use of physical force without an arrest, the use of force by an officer when a citizen did not resist him/her, and/or the continued use of force after the citizen is in custody. What is the definition of excessive force?

According to the International Association of Chiefs of Police (IACP) excessive force can be defined as “the application of an amount and/or frequency of force greater than that required to compel compliance from a willing or unwilling subject” (International Association of Chiefs of Police, 2001). Past research suggests that minorities are often subjected to the excessive use of force by law enforcement officers with the typical victim of such incidents being a young man who is African American or Latino (Russell, 2000). The International Association of Chiefs of Police (IACP) developed a Use of Force Database in an attempt to maintain accurate statistics on use of force incidents and released those statistics in a 2001 published report titled *The Use of Force in America*. Of the 7,495 use of force complaints filed between 1994 and 2000 only 750 were sustained (International Association of Chiefs of Police, 2001). The IACP analyzed the 8,148 use of force incidents that occurred between 1995 and 2000 and they found that 38% of the incidents involved white officers using force on white suspects while 45% involved white officers using force on African American suspects

(International Association of Chiefs of Police, 2001). Those officers who use force on minorities reported feeling threatened by the suspect for one reason or another. “Some suggest that the disproportionately high levels of police abuse against Black and Latinos can be explained by their high rates of offending” (Russell, 2000: 138). Statistics also show that minorities commit more assaults against law enforcement officers than whites (United States Department of Justice, 2006).

According to the 2006 Uniform Crime Report published by the United States Department of Justice 48 law enforcement officers were feloniously killed in the line of duty. Of the 55 known assailants, 29 were African American with the average age being between 18 and 24 (United States Department of Justice, 2007). Many police officers feel that attitudes and actions of minorities represent danger which makes them react more cautiously and even use force if necessary (Smith and Holmes, 2003). That force can sometimes be excessive. There are ways in which law enforcement agencies can minimize excessive use of force incidents with one of the most important being training programs which focus on the proper use of force.

Law enforcement officers receive their initial training on the use of force while attending the police academy. In the Commonwealth of Pennsylvania municipal police academies are governed by the Municipal Police Officers’ Education Training Commission (MPOETC) which mandates that academy recruits receive 758 hours of instruction in various topics (Municipal Police Officers Education and Training Commission, 2008). Recruits receive only eight hours of instruction on the use of force. This instruction is in addition to 32 hours of practical self-defense training. Additionally recruits only receive eight hours of cultural diversity training. Although all law enforcement officers in the Commonwealth must attend annual mandatory

training updates there is no retraining on the use of force other than applicable case law (Municipal Police Officers Education and Training Commission, 2008). There is also no retraining on race relations or cultural diversity (Municipal Police Officers Education and Training Commission, 2008). According to the Human Rights Watch (1998) data on excessive force incidents is lacking and where it does exist there is very little evidence to reflect police administrators utilizing it to establish effective plans to deter it. According to a 2000 published report the U.S. Commission on Civil Rights calls for increased and improved officer training and disciplinary action in an effort to reduce incidents of the use of excessive force by police. According to Flynn (2002: 127), “the potentially negative consequences of the use of force, especially when force is used inappropriately, require that police departments ensure that officers are properly trained”. These facts alone are proof that more training programs are necessary to minimize incidents of excessive force against minorities and holding those officers accused of such conduct accountable for their actions.

According to Weitzer (2004), one of the most contentious issues in the United States has been holding law enforcement officers accountable for their actions. There are a few programs which can help law enforcement agencies minimize incidents of excessive force against minorities. They include the use of civilian review boards and early warning systems.

One significant problem with current programs focusing on reducing excessive force claims is the poorly structured citizen review boards which exist in some law enforcement agencies. Several cities including New York City and Salt Lake City, Utah use citizen review boards in law enforcement disciplinary proceedings. Initially developed by government officials during the 1950's and 1960's, civilian review boards were designed as a method of external

control of law enforcement agencies with the sole purpose of reviewing allegations of police misconduct, including claims of excessive force (Alpert and Dunham, 2004). The problem with citizen review boards is the fact that they consist of average citizens who are appointed by government officials, some with little to no background in criminal justice, who review all civilian complaints against officers (Alpert and Dunham, 2004). Those municipalities who initially adopted civilian review boards as a way of overseeing their police departments were met with stiff opposition from the police and the programs were quickly eliminated however resurfaced in the 1990's after a series of highly publicized incidents involving the use of excessive force by police officers (Alpert and Dunham, 2004). According to a 1999 published report by the National Institute of Justice, civilian review boards have proven their worth in both reducing and controlling the frequency of incidents involving the excessive use of force. They are an effective way of holding police accountable in that there is no bias (Smith and Holmes, 2003). The majority of Americans, especially minorities, believe that police internal affairs units would be too lenient in the investigations of complaints against fellow officers (Wietzer, 2004). According to a 1992 Harris poll (as cited in Wietzer, 2004), 70% of African Americans surveyed and 58% of Hispanics surveyed believed that police internal affairs units would be too lenient in investigations of the misconduct complaints against fellow officers. Many speculate the law enforcement officers cover up for each other thus leading to the term "blue code of silence" (Perez and Moore, 2002). According to Perez and Moore (2002) the "blue code of silence" leads even the most honest officers who know about incidents of misconduct to remain silent and not cooperate with an internal investigation or fail to report incidents of misconduct altogether. According to Smith and Holmes (2003) involving citizens in the process of investigating

complaints against the police not only ensures a more thorough investigation but should result in fewer incidents of excessive force as well.

The general theory behind civilian review boards is that police officers who know their actions could be investigated by citizens may be less likely to use excessive force (Smith and Holmes, 2003). The results of the 1992 Harris poll (as cited in Wietzer, 2004) also found that the majority of Americans supported the use of civilian review boards as a means of responding to complaints of police misconduct. According to a 2001 published report by the United States Department of Justice titled *Citizen Review of Police: Approaches and Implementation*, civilian oversight of law enforcement agencies has not only helped to improve the image of those law enforcement agencies who have adopted civilian review boards but has also reduced the number of civil suits brought against their department for allegations of civil rights violations. The problem with civilian review boards, at least in the eyes of law enforcement professionals, is their lack of knowledge with regard to the day to day operations of the respective law enforcement agencies whose allegations of misconduct they are charged with reviewing. According to the Human Rights Watch (1998), law enforcement agencies and their officers oppose civilian review boards claiming that such a system will undermine police authority in terms of handling police misconduct. Law enforcement officers also assert that members of civilian review boards know nothing about how law enforcement agencies operate, how officers react in certain situations, and often harbor anti-police motivations (Human Rights Watch, 1998). There is one more program which has been established to reduce allegations of excessive force against minorities and other police misconduct.

According to Goldstein (as cited by the National Institute of Justice, 2001) the phenomenon of the “problem officer” was established in the 1970’s and these officers are well known to their fellow officers, supervisors, and citizens who live in the communities they are sworn to protect and serve however little is done to alter their misconduct. The United States Commission of Civil Rights (as cited by the National Institute of Justice, 2001), defines a “problem officer” as one “who is frequently the subject of complaints or who demonstrates identifiable patterns of inappropriate behavior”. The early warning system was developed nearly 25 years ago as law enforcement’s crisis management response to public outcry over incidents involving the excessive use of force by law enforcement officers (Walker and Alpert, 2004). According to the National Institute of Justice, the United States Commission on Civil Rights made a recommendation in the early 1980’s that all law enforcement agencies create an early warning system which would help to identify “problem officers”. Although no standard has been established to identify a “problem officer” there are criteria which can help select officers who fall under the definition (National Institute of Justice, 2001).

Performance indicators such as the frequency of citizen complaints, firearm discharge, number of use of force reports, civil litigation, and frequency of resisting arrest charges filed by the officer against suspects are just some behaviors which can help law enforcement managers select officers for early intervention (National Institute of Justice, 2001). An early warning system, or early intervention system as it is also referred to, is a data-based tool which can be utilized by law enforcement managers to identify those officers who exhibit problematic behavior so that appropriate measures can be utilized to correct that behavior (National Institute of Justice, 2001). In other words a law enforcement agency intervenes before an officer’s problematic behavior demands disciplinary action and instead offers counseling and/or training

as a means to help modify the officer's behavior. According to Walker and Alpert (2004), early warning systems serve as one of the most effective mechanisms for enhancing accountability. According to the International Association for Chiefs of Police (IACP) Personnel Early Warning Systems serve as a proactive management tool which is not only useful in drawing attention to problem officers but serves as a way to identify a wide range of problems. In fact in order for a large agency to become accredited through the Commission on Accreditation for Law Enforcement Agencies (CALEA), the agency must have a Personnel Early Warning System in place (Walker and Alpert, 2004).

According to the National Institute of Justice (2001) by 1999 nearly 39% of law enforcement agencies who service populations greater than 50,000 citizens either had an early warning system in place or were planning on implementing one. Where early warning systems exist reviews of officers are often only conducted after several complaints are lodged against them in a short time period (Human Rights Watch, 1998). This can be problematic to the effectiveness of such systems due to the barriers citizens often face when filing complaints against officers. In the field of law enforcement there is the phenomenon that a "blue code of silence" exists. According to Perez and Moore (2002) the "blue code of silence" will make law enforcement officers, including supervisors, more prone to protect their fellow officers and not take police accountability, to include citizen complaints, seriously. As a result many "problem officers" are not identified. Even civil litigation alleging civil rights violations are usually not counted as "complaints" even if they are found to be in favor of the officer (Human Rights Watch, 1998). If complaints are not filed and problem officers are not identified then the risk of frequent incidents of excessive force remain high.

Therefore, the purpose of this research is to examine the frequency of excessive use of force by law enforcement officers against minorities. It will also address perceptions of excessive use of force incidents from the view of both law enforcement and civilians. In addition, this research will examine current law enforcement training programs that exist or lack of, focused on the use of excessive force against minorities, especially in the area civilian review boards and complaint procedures. Authority Maintenance Theory will be used as the framework to explain why excessive force may be targeted towards minorities, as well as why there is a need to revise current law enforcement training programs to prevent excessive force used against minorities. It is hoped that the results of his research will help in understanding why excessive force is used against minorities, and thus why there is a need to revamp currently law enforcement training programs to eliminate the amount of excess force used against minorities.

II. LITERATURE REVIEW

A. Definition of Excessive Force

Burns and Crawford (2002: 73) states: “Perhaps the most controversial issue in policing is an officer’s use of force.” A law enforcement officer is permitted to use the minimum amount of force necessary to stop a perceived threat and/or affect an arrest. According to Klockars (1996) the force law enforcement officers use during the lawful performance of their duties (i.e. taking suspects into custody, restrain belligerent persons, handcuff suspects, etc.) would be criminal offenses if utilized by civilians. In fact, law enforcement officers have the distinct privilege being the only group of citizens capable of legally utilizing “non-negotiable, coercive force” in an effort to control the behavior of individuals and maintain public order (United States Department of Justice, 1999). Additionally the officer can escalate or de-escalate the amount of force used as the situation dictates. If the amount of force an officer uses exceeds this threshold it is considered to be excessive force (Alpert and Dunham, 2004). The mere fact that law enforcement officers work in an environment deprived of direct supervision not only makes the abuse of this authority all too easy, but it also makes it extremely difficult for researchers to study law enforcement officers and their possible abuse of authority (Alpert and Dunham, 2004). According to the Human Rights Watch (1998), police abuse (i.e. the use of excessive force) constitutes one of the most severe violations of human rights in the United States. What is the definition of excessive force?

According to Klockars (1996), there is no clear, precise definition of excessive force. According to the International Association of Chiefs of Police (IACP) excessive force can be defined as “the application of an amount and/or frequency of force greater than that required to

compel compliance from a willing or unwilling subject” (International Association of Chiefs of Police, 2001). The concept of reasonable force is not only problematic but also difficult to define and measure (Alpert and Dunham, 2004). Due to the lack of a universal definition for both reasonable and excessive force, it is difficult to obtain an accurate measurement of the number of use of force incidents (Burns and Crawford, 2002). It is possible to measure the reasonableness of the amount of force used by a law enforcement officer however.

In the landmark United States Supreme Court case *Graham v. Connor*, 490 U.S. 386, the Court established standards for determining the reasonableness of the use of force by law enforcement officers (May and Headley, 2008). The Court based the reasonableness regarding the use of force by a law enforcement officer on the following: the severity of the crime committed by the suspect; whether or not the suspect posed an immediate threat to the officers and/or others; whether or not the suspect was actively resisting; and whether or not the suspect was attempting to evade arrest by flight (May and Headley, 2008). The United States Supreme Court ruled that a law enforcement officer’s use of force should be judged under the scope of the Fourth Amendment’s objective reasonableness standard which mandates that an officer’s use of force must be “judged from the perspective of a reasonable officer coping with the same tense, fast evolving situation” (Carmichael and Jacobs, 2002: 28). According to May and Headley (2008) objective reasonableness requires a third party to ask whether the officer’s actions were objectively reasonable given the facts and circumstances they faced at the time. In short, if the amount of force used by an officer is deemed to be unreasonable than it is also considered to be excessive.

B. Use of Force Continuum

Law enforcement officers receive their initial training on the use of force while attending the police academy. In the Commonwealth of Pennsylvania municipal police academies are governed by the Municipal Police Officers' Education Training Commission (MPOETC) which mandates that academy recruits receive 758 hours of instruction in various topics (Municipal Police Officers Education and Training Commission, 2008). Recruits receive only eight hours of instruction on the use of force. During their use of force training recruits receive instruction on the use of force continuum which can be a useful tool for both determining and comprehending how and why an officer increases the amount of force he/she uses against a suspect (Burns and Crawford, 2002). The use of force continuum usually consists of six levels with the lowest level being officer presence and the highest being deadly force (or firearms) (Burns and Crawford, 2002). The intermediate levels in the use of force continuum include verbal commands, restraints, chemical agents (i.e. pepper spray), and tactical weapons (i.e. baton, taser, etc.) (Burns and Crawford, 2002). A potentially violent police-citizen encounter can be easily quelled by the mere presence and words of a law enforcement officer which represents the lowest level of the use of force continuum (Flynn, 2002). According to Flynn (2002: 131) "an officer's attitude, body language, and demeanor convey a world of information that cannot be communicated through words alone". As previously mentioned an officer can escalate or de-escalate the amount of force used as the situation dictates.

The use of force by law enforcement officers is strictly situational in nature and depends upon the circumstances of each incident which can be very fast moving (May and Headley, 2008). Situational factors such as the demeanor of the suspect involved in the incident as well as the characteristics of the immediate surroundings (i.e. bystanders, other officers, etc.) can also

have an impact on a law enforcement officer's decision to use force (Burns and Crawford, 2002). An officer's age, sex, size, physical training, and amount of police experience when compared to the physical conditioning, size, age, and sex of the suspect have an impact on the level of force a law enforcement officer will use (Flynn, 2002, Burns and Crawford, 2002). A petite female officer could easily justify her use of intermediate level force (i.e. pepper spray, baton, taser) if she was confronted by a large, violent male suspect (Flynn, 2002).

C. Behaviors that Define the Use of Excessive Force

The decision by a law enforcement officer to use force against a suspect is the most serious decision he/she can make and is also one of the most significant interactions law enforcement officers can have with citizens (May and Headley, 2008). According to Klockars (1996), law enforcement officers do not invoke a specific law when they use force on a suspect however they may use force to invoke the law. Likewise officers do not need the consent of a suspect in order to use force and there are no occasions where a person has the legal right to resist the use of force by law enforcement officers, even when that force is deemed to be excessive in nature (Klockars, 1996). Although there is no clear cut universal definition of excessive force defining it through behavior is rather simple. A law enforcement officer is permitted to use only the amount of force necessary to affect an arrest or stop a real or perceived threat. Once the perceived threat no longer exists the officer must cease his/her use of force. As previously mentioned use of force incidents are purely situational and a law enforcement officer can escalate or de-escalate the amount of force used as that situation dictates.

There are several conditions where the use of force would be unnecessary and therefore deemed excessive. They include the use of physical force without an arrest, the use of force by an officer when a citizen did not resist him/her, and/or the continued use of force after the citizen is in custody. According to Perez and Moore (2002) the use of excessive force is a type of police misconduct that scorned by the general public and generates not only a lack of respect for law enforcement officers, but for the criminal justice system as a whole. When questioned about the use of excessive force some law enforcement officers feel their behavior is justified. There are many ways to explain this.

D. Police and Public Perceptions on the Use of Excessive Force

Law enforcement officers represent a distinct group of middle-class professionals who tend to look down on others who do not live by their standards, including criminals, chronic alcoholics, and the homeless (Human Rights Watch, 1998). According to Bouza (1990), the field of law enforcement is viewed as the “brotherhood in blue” and thus inspires a fierce and unquestionable loyalty to all members of the law enforcement profession (as cited in McNamara, 2002: 55). As a group law enforcement officers share a set of values and are part of a unique subculture which few people can understand. Meese III and Ortmeier (2004:92) suggest “A subculture is an enclave within a culture that is characterized by a distinct, integrated network of attitudes, beliefs, and behaviors.” According to Crank (1998) loyalty and solidarity are two of the central features of the law enforcement subculture (as cited in McNamara, 2002). A code of secrecy also exists within the field of law enforcement and essentially personifies the group loyalty that exists among law enforcement officers (Holmes and Smith, 2008). According to

McNamara (2002) law enforcement officers are members of a unique culture which promotes such values as solidarity, secrecy, and the overall mistrust of outsiders. Law enforcement officers tend to believe “that they are misunderstood and unappreciated by the public” (Holmes and Smith, 2008: 45). According to McNamara (2002) solidarity in the field of law enforcement is both formally and informally reinforced during the first few years of a law enforcement officer’s career. Once a rookie law enforcement officer enters the law enforcement subculture he/she is faced with a unique set of norms and values that he/she is expected to conform to (Meese III and Ortmeier, 2004). The values of loyalty and solidarity can become so blurred and distorted that the promise to “protect and serve” the public becomes less important than protecting fellow law enforcement officers, even when they commit acts of misconduct such as the use of excessive force (McNamara, 2002). Additionally the “we versus them” mentality and the “thin blue line” present within the field of law enforcement makes it difficult to prove excessive use of force claims due to the fact that officers refuse to “rat” on their corrupt brothers or sisters (Daniels, 2000).

When it comes to the use of excessive force, particularly the use of excessive force against minorities, law enforcement officers believe their actions are justified due to the fact that the attitudes and actions of minority citizens symbolize danger which leads them to act more cautiously (Smith and Holmes, 2003). According to Skolnick (1994) “young black men are widely viewed as “symbolic assailants” among police officers specifically” (as cited in Brunson and Miller, 2006: 615). According to the United States Department of Justice (2007), African Americans accounted for just over 56 percent of all homicides and approximately 57 percent of all robberies in 2006. According to McNamara (2002) the patterns of violence are known; it occurs mostly in urban settings during the summer months and its perpetrators are mostly young

minority males. Additionally, according to Meyer et. Al. (1981), the majority of assailants on law enforcement officers are male and nonwhite (as cited in Carmichael and Jacobs, 2002). Some researchers and criminal justice professionals suggest that the disproportionately high levels of excessive force incidents against African Americans and Hispanics can be justified by their high rates of offending (Russell, 2000). In the eyes of Walker, Spohn, and DeLone (2004), African Americans are not necessarily “crime-prone” however are instead overrepresented as violent criminals. They also contend that predominantly African American “neighborhoods experience more serious crimes than other neighborhoods” (Walker, Spohn, and Delone, 2004: 10). When it comes to the use of force the views of law enforcement officers can and do vary.

In 2000 the National Institute of Justice published results from a 1997 telephone survey of 925 law enforcement officers representing 121 law enforcement agencies nationwide. Of those officers surveyed 92% were male, 81% were white, and 19% were minorities. The survey was conducted in an attempt to gauge law enforcement officers’ attitudes toward the abuse of authority by law enforcement officers. When asked about the stance their respective agencies took on the issue of police abuse, an estimated 57 percent of officers surveyed reported that their agency takes a “touch stance” on police abuse. Approximately 60 percent of the officers surveyed reported that it is not unusual for an officer to use more force than is legally allowed when making an arrest. Approximately 55 percent of the officers surveyed believed that it is unacceptable to use more force than is legally allowable to control someone who physically assaults a fellow officer (National Institute of Justice, 2000). The survey found it is not unusual for law enforcement officers to ignore improper behavior of their fellow officers. In cases where excessive force is used, 52.4% of the officers surveyed felt it was wrong to protect wrongdoers but many did not report it. Nearly 67% of the officers surveyed believe that an officer who

reports the misconduct of another officer is likely to be given the cold shoulder by fellow officers. More than 80% of officers surveyed do not accept the “code of silence” that is associated with law enforcement nor do they think the “code of silence” is essential to good policing however an estimated 25 percent agreed that whistle-blowing is not worth it. To betray another would lead to feelings of deep resentment, anger, and heartache (Delattre, 2002). The issues of race, social class, and police abuse were also addressed in the survey.

The majority of American law enforcement officers surveyed by the National Institute of Justice (2000) do not believe race and social class are important issues in understanding the abuse of authority and the use of force. African American and Hispanic law enforcement officers disagree however. An estimated 57 percent of the minority law enforcement officers surveyed felt officers were more likely to use force against African Americans and other minorities than against whites in similar situations (National Institute of Justice, 2000). Of the white officers surveyed 95% disagreed. An estimated 45% of the African American officers agreed that officers used physical force against poor people more often than middle class people in similar situations. The issue of reducing excessive force incidents was also addressed in the survey.

Of the law enforcement officers surveyed by the National Institute of Justice (2000), 67 percent believe that good first-line supervisors can help prevent the use of excessive force. An estimated 48 percent of the officers surveyed believe that more effective methods of supervision could help reduce excessive force incidents. An estimated 82 percent of the law enforcement officers surveyed believe that ethics training would be effective in reducing excessive force incidents and an estimated 80 percent believe that training in interpersonal skills would be an

effective method in reducing excessive force incidents. In addition, 75 percent of the officers surveyed believe that training in human diversity or cultural awareness would be effective in reducing excessive force incidents. In a study conducted by Barker (1983) similar police views on abuse of authority were found.

According to Barker (1983) law enforcement officers viewed sleeping while on duty to be more deviant and unethical than the use of excessive force (as cited in Lester, 1996). In fact Barkers study found that the excessive use of force was viewed by officers to be less deviant than drinking on duty, perjury, and having sex while on duty (as cited in Lester, 1996). Law enforcement officers feel that the use of excessive force is sometimes necessary to show an officer's authority or in retaliation for a physical attack by a suspect (Lester, 1996: 183). While these views represent those in the field of law enforcement, members of the minority community hold their own views.

According to Smith and Holmes (2003) minority citizens do not trust law enforcement officers whom they view as threatening members of an oppressive power structure. This can best be explained by the fact that minority citizens who live in poor, disadvantaged urban neighborhoods are the recipients of proactive and aggressive policing strategies but various forms of police misconduct as well (Brunson and Miller, 2006). According to Kane (2002) the actions of law enforcement officers in disadvantaged urban communities are far different from those taken in middle and upper class neighborhoods (as cited in Brunson and Miller, 2006). According to Holmes and Smith (2008) police crime control strategies in disadvantaged, urban communities are intrusive and infringe on personal freedoms of those who reside in such neighborhoods. As a result of this minority citizens are subjected to more antagonistic face-to-

face confrontations with law enforcement officers than whites (Walker, Spohn, and DeLone, 2004). An observational study of police-citizen contacts found that police officers were more likely to be disrespectful towards those who reside in disadvantaged, urban neighborhoods” (Walker, Spohn, and DeLone, 2004: 22). Additionally, minority residents in disadvantaged neighborhoods feel that the police do not provide adequate services in their communities (Walker, Spohn, and DeLone, 2004). African American views of law enforcement are filled with scorn and distrust.

According to Brunson and Miller (2006) African Americans as a whole report more feelings of dissatisfaction and distrust with law enforcement officers than any other ethnic group. African American citizens routinely report that they believe that law enforcement officers treat members of their ethnic group unfairly or that they themselves have experienced unfair treatment, to include the use of excessive force, at the hands of law enforcement officers (Walker, Alpert and Kenney, 2001). According to Weitzer (2004) African Americans are far more likely to report incidents of police abuse (i.e. verbal abuse, excessive force, etc.) or being unjustifiably stopped by the police than any other ethnic group. The use of excessive force by law enforcement officers against minorities continues to be a serious issue.

E. Research that Supports Excessive Force is Used Against Minorities

According to the Human Rights Watch (1998) race continues to be a central factor in police excessive force incidents in the United States. Past research suggests that minorities are often subjected to the excessive use of force by law enforcement officers with the typical victim of such incidents being a young man who is African American or Latino (Russell, 2000).

Through their research in fourteen United States cities over a two and a half year period for the purpose of obtaining statistics on police abuse, the Human Rights Watch (1998) found that minorities tend to be victims of human rights violations at the hands of law enforcement officers more frequently than whites. Additionally the International Association of Chiefs of Police (IACP) developed a Use of Force Database in an attempt to maintain accurate statistics on use of force incidents and released those statistics in a 2001 published report titled *The Use of Force in America*. Of the 7,495 use of force complaints filed between 1994 and 2000 only 750 were sustained (International Association of Chiefs of Police, 2001). The IACP analyzed the 8,148 use of force incidents that occurred between 1995 and 2000 and they found that 38% of the incidents involved white officers using force on white suspects while 45% involved white officers using force on African American suspects (International Association of Chiefs of Police, 2001). Furthermore, Weitzer (1999) found that African Americans residing in low-income, high-crime, disadvantaged neighborhoods in Washington, D.C., frequently reported that law enforcement officers unjustly used excessive force against their neighbors more than they did against middle-class African Americans and whites from two more affluent neighborhoods (as cited in Reisig, M., McCluskey, J., Mastrofski, J., and Terrill, W., 2004). Additionally it was found that African American suspects from low-income, high-crime, disadvantaged neighborhoods behaved more disrespectfully towards law enforcement officers who in turn suppressed their disrespect by using force (Reisig, M., McCluskey, J., Mastrofsky, S., and Terrill, W., 2004).

According to Burns and Crawford (2002) a suspect's behavior may be the strongest predictor of police violence especially when the suspect is acting aggressively, being disrespectful, or is resisting arrest. This view is further supported by Carmichael and Jacobs

(2002) who found that a suspect's demeanor affected how they were treated by law enforcement officers. "Suspects who physically or verbally challenged officers were much more likely to be subjected to unwarranted police violence" (Carmichael and Jacobs, 2002: 31). According to Walker, Spohn, and DeLone (2004), African Americans are usually more disrespectful to law enforcement officers than any other ethnic group and are therefore subjected to more force from officers and are also arrested more often. "These arrests only heighten their feelings of alienation and hostility toward the police" (Walker, Spohn, and DeLone, 2004: 109). Minority youth are not exempt from police misconduct including the use of excessive force.

In 1999 Brunson and Miller (2006) conducted surveys of 40 young African American males between the ages of 13 and 19 who reside in a disadvantaged neighborhood in St. Louis, Missouri, in an attempt to gauge their perceptions of police misconduct and harassment. All of the young males surveyed were considered at-risk based on their past or recent delinquent behavior. An estimated 83 percent of the respondents reported having been mistreated by the police and 93 percent reported knowing someone who has been harassed or mistreated by the police (Brunson and Miller, 2006). According to Brunson (2007) past research has shown that the perception on how minorities perceive the police also reveals that much is learned vicariously through their contact with others, not just through their own direct personal contact or observation (as cited in Holmes and Smith, 2008). Furthermore all of the respondents reported that the police are physically intrusive with one of the respondents describing how he was stopped by two officers and thrown down in the dirt for no apparent reason (Brunson and Miller, 2006). Additional statistics support the theory that law enforcement officers use excessive force more frequently against minorities.

According 2001 report titled *Contacts between Police and the Public: Findings from the 1999 National Survey* published by the Bureau of Justice Statistics, an estimated 209,350,660 people had contact with the police in some capacity in 1999. Of those people who had contact with the police an estimated 422,000 either had force used against them or were threatened with the use of force. Of those 422,000 people only 12 percent were African American and nearly 50 percent had charges filed against them. Additionally, 75 percent reported the force they were subjected to was excessive (Bureau of Justice Statistics, 2001). In addition 92 percent of those who had force used against them or were threatened with the use of force reported that the officers acted improperly (Bureau of Justice Statistics, 2001). The Bureau of Justice Statistics (2001) found that African Americans and Hispanics experienced the use of force as a consequence of their contact with the police more than whites. In addition to the Bureau of Justice Statistics' report, the International Association of Chiefs of Police (IACP) found that African Americans statistically have more force used against them. According to use of force statistics obtained by the IACP, of the 8,148 incidents of force reported with race being a descriptor between 1995 and 2000, 44 percent of the incidents involved white officers using force on African American suspects. Only 39 percent involved white officers using force on white suspects. Furthermore a study conducted by Garner, Maxwell, and Heraux (2004) utilizing self-report surveys from police officers in six United States jurisdictions found that Hispanics were more likely to have force used against them than any other ethnic group. There are external and internal programs and/or methods that law enforcement agencies have attempted to utilize to help reduce the frequency of excessive use of force incidents against minorities.

F. Research that Supports Ineffective Law Enforcement Programs Dealing with the Use of Excessive Force Against Minorities

One external program that law enforcement agencies can utilize to minimize excessive use of force claims is the use of civilian review boards. Initially developed by government officials during the 1950's and 1960's, civilian review boards were designed as a method of external control of law enforcement agencies with the sole purpose of reviewing allegations of police misconduct, including claims of excessive force (Alpert and Dunham, 2004). According to Perez and Moore (2002) the idea behind civilian review boards is to provide an external, non-law enforcement view to the task of investigating police misconduct to include the use of excessive force. The premise behind civilian review boards is that law enforcement officers cannot be trusted to "police" themselves due to the code of secrecy and loyalty for officers to protect each other (Perez and Moore, 2002). According to Smith and Holmes (2003) involving citizens in the process of investigating complaints against the police not only ensures a more thorough investigation but should result in fewer incidents of excessive force as well.

According to Walker and Wright (1995) only sixty-five law enforcement agencies had civilian review boards in place in 1995 (as cited in Alpert and Dunham, 2004). Civilian review boards are not as effective as they should be and, according to Weitzer (2004), there is virtually no research on the effectiveness of civilian review boards. Civilian review boards have also met great challenges from the law enforcement agencies they are charged with reviewing. Civilian review boards are inhibited by both law enforcement unions and law enforcement officers who refuse to cooperate with them (Human Rights Watch, 1998). Law enforcement officers do not trust civilian review boards and assume that they automatically side with the general public (Perez and Moore, 2002). Law enforcement officers also assert that members of civilian review

boards know nothing about how law enforcement agencies operate, how officers react in certain situations, and often harbor anti-police motivations (Human Rights Watch, 1998). There is another internal program which law enforcement agencies can use to minimize incidents of excessive force.

“In 1981 the United States Commission on Civil Rights recommended that all law enforcement agencies create an early warning system in an attempt to identify problem officers” (National Institute of Justice, 2001: 1). The United States Commission of Civil Rights (as cited by the National Institute of Justice, 2001), defines a “problem officer” as one “who is frequently the subject of complaints or who demonstrates identifiable patterns of inappropriate behavior”. In a 2001 report titled *Principles for Promoting Police Integrity* published by the United States Department of Justice early warning systems were listed as one of the best things a law enforcement agency could do (Walker and Alpert, 2004). The Commission on Accreditation for Law Enforcement Agencies (CALEA) requires that all large agencies establish an early warning system in order to receive accreditation (Walker and Alpert, 2004). According to Walker and Alpert (2004) early warning systems should be established and integrated into an agency’s supervision program so that supervisors are mandated to use it on a regular basis. There are three components which Walker and Alpert (2004) state are part of an early warning system. The first is to identify officers in need of formal intervention by analyzing certain performance indicators (i.e. number of use of force reports filed, frequency of citizen complaints, use of sick leave, frequency of resisting arrest charges, etc.). The second involves formal intervention during which supervisors confidentially counsel those officers selected during the first phase and refer them to counseling or suggest additional training. The third component involves post

intervention follow-up during which the officer's performance is observed and evaluated by his/her supervisor. There are problems with early warning systems.

According to Walker and Alpert (2004) the main problem with early warning systems is the failure of law enforcement agencies to fully utilize it once it is created. Another problem with citizen review boards is the fact that they consist of average citizens who are appointed by government officials, some with little to no background in criminal justice, who review all civilian complaints against officers (Alpert and Dunham, 2004). Other problems include the lack of consistency by supervisors when applying interventions, supervisors failing to utilize the system as it was designed, and the lack of established criteria for identifying problem officers (Walker and Alpert, 2004).

Therefore the purpose of this research will examine current law enforcement training programs, or lack thereof, that are focused on preventing the use of excessive force against minorities, especially in the area civilian review boards and complaint procedures. Authority Maintenance Theory will be used as the framework to explain why excessive force may be targeted towards minorities, as well as why there is a need to revise current law enforcement training programs to prevent excessive force used against minorities. It is hoped that the results of his research will help in understanding why excessive force is used against minorities, and thus why there is a need to revamp currently law enforcement training programs to eliminate the amount of excess force used against minorities.

III. Theoretical Framework

A. Authority Maintenance Theory

Through personal research Alpert and Dunham (2004) developed their Authority Maintenance Theory in an attempt to explain officer-citizen interactions from an interpersonal perspective rather than a psychological one. The main tenant of the theory is the officer's incessant need to maintain their authoritative presence when interacting with citizens (Alpert and Dunham, 2004). Law enforcement officers are very sensitive to anyone or anything that undermines their authority (Reisig, McCluskey, Mastrofski, and Terrill, 2004). This need to maintain authority can be explained by Regoli and Poole (1979) which argue that an officer's feeling of cynicism which intensifies their need to maintain their respect and increase their desire to exercise their authority over others (as cited in McNamara, 2002). According to Paoline, Myers, and Worden (2004), law enforcement officers cope with the danger and uncertainty associated with their profession by maintaining an authoritative, take-charge attitude which may involve them creating, displaying and maintaining their authority over citizens. In other words officers who feel they are not maintaining enough of an authoritative presence will do whatever they have to do to regain it, even if it means using force.

B. Application of Authority Maintenance Theory to Use of Excessive Force

One aspect of the police culture is the importance of honor; that is, "there are strong norms indicating that aggression is an appropriate response to insults to one's honor" (Baron, Byrne, & Branscombe, 2005). This can be done by yelling, threatening or even using force. Through their development of Authority Maintenance Theory, Alpert and Dunham (2004)

believe that a police officer's need to maintain authority is exaggerated in many cases. A police officer's behavior is no doubt influenced by the overall nature of their interaction with citizens. A suspect is very likely to react to an officer's actions, comments, and demeanor (Alpert and Dunham, 2004). According to Reisig, McCluskey, Mastrofski, and Terrill (2004), if a suspect feels a law enforcement officer's actions are unfair, he/she may resist. "Authority of this scope and magnitude is not only going to be resented, resisted, and complained of, even when it is exercised appropriately, but it is easily abused" (Kerstetter and Rasinski, 1996: 2). These reactions cause the officer to feel as though his/her authority and honor have been undermined and could lead to the officer using force to regain it.

Law enforcement officers feel that the use of excessive force is sometimes necessary to show an officer's authority or in retaliation for a physical attack by a suspect (Lester, 1996: 183). In some cases the more disrespected an officer feels the more force the officer will use. Violent suspects often encounter violent law enforcement officers and, according to Toch (1990), it is during these encounters a battle over self-esteem and respect emerges with the end result being violence (as cited in Burns and Crawford, 2002: 83). According to Burns and Crawford (2002) a suspect's behavior may be the strongest predictor of police violence especially when the suspect is acting aggressively, being disrespectful, or is resisting arrest. This view is further supported by Carmichael and Jacobs (2002) who found that a suspect's demeanor affected how they were treated by law enforcement officers. According to Walker, Spohn, and DeLone (2004), African Americans are usually more disrespectful to law enforcement officers than any other ethnic group and are therefore subjected to more force from officers and are also arrested more often.

Alpert and Dunham (2004) reviewed use of force incidents in the Miami-Dade Police Department over a two year period from 1996 through 1998. They found that white officers

used more force against African American and Hispanic suspects than they did white suspects (Alpert and Dunham, 2004). They also found that force was used in nearly 48% of the incidents that involved verbal confrontations between police officers and African Americans (Alpert and Dunham, 2004). As previously stated a law enforcement officer is permitted to use only the minimum amount of force necessary to stop a perceived threat and/or affect an arrest. Therefore the use of force by a law enforcement officer in the absence of a defined threat is considered excessive. A comment or gesture made by a citizen does not pose a threat to a highly trained law enforcement officer and therefore does not justify the officer's use of force.

There are training programs law enforcement agencies can utilize to minimize the excessive use of force.

C. Application of Authority Maintenance Theory to Effective Training Programs Tailored to Eliminate the Use of Excessive Force

The basic principal of Authority Maintenance Theory is that law enforcement officers possess the incessant need to maintain their authoritative presence when interacting with citizens (Alpert and Dunham, 2004). Law enforcement officers are very sensitive to anyone or anything that undermines their authority (Reisig, McCluskey, Mastrofski, and Terrill, 2004). This can be done by yelling, threatening or even using force. Incidents of excessive force not only create hostility within the community but attitudes of mistrust towards law enforcement as well. "Public trust is difficult to attain, important to maintain, and easily lost" (Coderoni, 2002: 16). One incident of police misconduct can destroy years of hard work to bridge the gap between law enforcement agencies and the communities they serve. There are two training variations which law enforcement agencies can utilize in an attempt to minimize the frequency of excessive use of force incidents.

One such training method is the utilization of cultural diversity training. The use of inappropriate or excessive force by law enforcement officers can be attributed to racial hatred or a lack of familiarity or understanding of another person's culture (Geller and Toch, 1996). According to Coderoni (2002) law enforcement officers in mainstream America come across varying situations which lead to miscommunication and, inadvertently, tragic consequences should they not have the training necessary to identify and comprehend citizen reactions which are based on cultural norms. According to Meese and Ortmeier (2004) misunderstandings are possible during cross-cultural communication due to the misperceptions and misinterpretations that are perceived differently. It is for this reason that law enforcement administrators adopt a proactive stance to eliminating community disorder by ensuring that their officers are adequately trained in cultural diversity (Coderoni, 2002). Such training helps law enforcement officers break free from their traditional attitude of being separated from the community they serve to a more inclusive philosophy of being part of the community they serve (Coderoni, 2002).

“Law enforcement agencies must examine their own organizational culture (i.e. thin blue line, code of silence, us vs. them mentality, etc.) and determine how it affects the way they view and value the people in their communities” (Coderoni, 2002: 17). Additionally law enforcement administrators must understand the attitudes, biases, and prejudices that are both brought into their agency and acquired through on the job experiences that their personnel take into their communities (Coderoni, 2002). Understanding and appreciating those from different cultures can help to strengthen police-community relationships as well as increase respect between both groups (Meese and Ortmeier, 2004). Cultural diversity training achieves this goal by helping law enforcement officers develop interpersonal skills (i.e. active listening) as well as helps them understand their own values and biases (Coderoni, 2002).

In terms of Authority Maintenance Theory law enforcement officers must understand that they are not better than anyone else. According to McNamara (2002) law enforcement officers tend to view themselves as guardians who are responsible for ridding the communities they serve of deviants which allows them to use excessive force from time to time. Although law enforcement officers can easily become jaded and cynical due to the nature of their profession, they should remember that the community they serve also gives them their authority (Tetrowski, 2002). There is one more training method which law enforcement agencies can utilize to minimize the frequency of excessive force incidents.

As previously mentioned the basic focus of Authority Maintenance Theory involves law enforcement officers feeling the need to maintain their authority during interaction with citizens. This need to maintain authority can often lead to the use of excessive force. According to May and Headley (2008), regular training in the proper use of force should be conducted by every law enforcement agency. This training can include both hands on training as well as video simulated scenarios. Role-playing scenarios are very effective however they are also very time consuming (May and Headley, 2008). Training must be both continuous and realistic. "Training for any endeavor should simulate as closely as possible the actual working conditions for which trainees are being prepared (Fyfe, 1996: 169). According to Fyfe (1996) some of the most important violence reduction skills are used so rarely that they degenerate over time and remain dormant unless officers receive refresher training. There are barriers to use of force training however.

"The dilemma facing use of force trainers is how to prepare law enforcement officers to use reasonable force when faced with a multitude of situations" (Tetrowski, 2002: 25). Officers must be taught to recognize and understand when they are faced with an imminent threat (Tetrowski, 2002). Therefore the basic principal of use of force training should be overall threat

assessment or the ability to recognize a threat and/or hostile intent by a suspect (Tetrowski, 2002). Through regular training in the appropriate use of force law enforcement officers will learn to use only the appropriate amount of force that is needed for the given situation which will therefore reduce incidents of excessive force.

There are several other programs and training methods which law enforcement agencies are currently using to help minimize the frequency of excessive force incidents against minorities.

IV. Current Law Enforcement Training Programs Dealing with the Use of Excessive Force Against Minorities

According to the Human Rights Watch (1998) there are several contributing factors to excessive force incidents. They include weak and/or powerless civilian review boards, leadership failure within the law enforcement agency, and the inability for civilians to file complaints against “problem” officers. The Human Rights Watch (1998) defines a “problem officer” as an officer who has a significant number of complaints from the public and thus should receive special monitoring, training, and counseling to reduce the risk of future misconduct to include excessive force. Those officers who fall in this category account for the majority of civilian complaints (Human Rights Watch, 1998). Additionally Pate and Fridell (1993) noted that the use of excessive force by law enforcement officers is a low visibility form of misconduct since many victims do not report such incidents and many law enforcement agencies do not collect information on such events (as cited in United States Department of Justice, 1999). There are ways which law enforcement agencies can control excessive force incidents (Klockars, 1996). They include such internal mechanisms as monitoring the use of force by members of their agency, holding officers accountable for their actions, and annual use of force training to external programs such as civilian review boards among others which will be reviewed here.

A. External Review Programs

Civilian Review Boards

The field of “law enforcement has shifted from an era of self-regulation to an era of external regulation in the 1960’s” (Alpert and Dunham, 2004: 11-2). All law enforcement

agencies should create an external oversight system which has the power to review police misconduct and authorize additional investigations, participate in disciplinary proceedings and make recommendations for reform (Human Rights Watch, 1998). As previously mentioned one external method of review that law enforcement agencies can utilize to minimize excessive use of force claims is the use of civilian review boards. Initially developed by government officials during the 1950's and 1960's, civilian review boards were designed as a method of external control of law enforcement agencies with the sole purpose of reviewing allegations of police misconduct, including claims of excessive force (Alpert and Dunham, 2004). According to Perez and Moore (2002) the idea behind civilian review boards is to provide an external, non-law enforcement view to the task of investigating police misconduct to include the use of excessive force. The premise behind civilian review boards is that law enforcement officers cannot be trusted to "police" themselves due to the code of secrecy and loyalty for officers to protect each other (Perez and Moore, 2002).

According to Smith and Holmes (2003) involving citizens in the process of investigating complaints against the police not only ensures a more thorough investigation but should result in fewer incidents of excessive force as well. Civilian review boards themselves are wholly accepted by the public which, in turn, believes that civilian review boards will be fair and objective in the performance of their duties thus providing the public with a sense of trust in their police department (Human Rights Watch, 1998). "Civilian review boards attempt to generate higher standards of thoroughness and objectivity than those that are presumably present in internal affairs organizations" (Perez and Moore, 2002: 137). Those in the field of law enforcement have a biased view of civilian review boards. Law enforcement officers do not trust civilian review boards and assume that they automatically side with the general public (Perez and

Moore, 2002). Law enforcement officers also assert that members of civilian review boards know nothing about how law enforcement agencies operate, how officers react in certain situations, and often harbor anti-police motivations (Human Rights Watch, 1998). As a result of these views by law enforcement officers civilian review boards are inhibited by both law enforcement unions and law enforcement officers who refuse to cooperate with them (Human Rights Watch, 1998). A civilian review board can be organized to operate in a variety of ways.

The Indianapolis Police Department has an established civilian review board which consists of nine members which include three Indianapolis police officers and six civilians (Human Rights Watch, 1998). They meet four times per year and have no independent investigators. They accept civilian complaints by phone or in person and only investigate non-criminal matters. Any allegation of criminal behavior against an Indianapolis Police Officer is automatically forwarded to law enforcement officials. According to the Human Rights Watch (1998) any complaint alleging criminal behavior received by a civilian review board should automatically be forwarded to the local and/or federal prosecutor's office for review.

The New York City Police Department has the largest established civilian review board in the Nation. Established in 1953 as a means to investigate allegations of police misconduct against Hispanics and African Americans (The City of New York, 2009). The board initially consisted of both civilians and police officers however the board was transitioned to an all civilian board in 1993. The board also has subpoena power and the authority to recommend disciplinary action against officers. The board was consistently underfunded until the Abner Louima incident in 1997 which led to a substantial increase in the budget and the subsequent hiring of dozens of investigators to assist with the review of complaints.

According to the American Civil Liberties Union (ACLU) of Florida an effective civilian review board investigates complaints and reports its findings within 60 days of the complaint being filed (American Civil Liberties Union of Florida, 2009). A hearing is held within 160 days of the complaint being filed with a decision being rendered on the status of the complaint (i.e. whether the complaint is sustained or dismissed) and disciplinary sanctions rendered. Both the complainant and respondent are advised of the outcome of the complaint. Civilian review boards should focus on use of force complaints more than any other form of misconduct. Additionally all civilian review boards should have investigators whom are selected by the members of the board. All meetings and hearings should also be open to the public with ample notice given as to the time and location of all meetings and hearings. Civilian review boards should regularly release public reports regarding their activity and the investigations they have conducted (Human Rights Watch, 1998).

B. Internal Monitoring Programs

Early Warning Systems

One internal program available for law enforcement agencies to utilize as a method to reduce incidents of excessive force against minorities is an early warning or early intervention system. One of the greatest sources of tension and/or mistrust between law enforcement officers and minorities is the perceived failure of law enforcement agencies to adequately accept and review citizen complaints regarding police misconduct including the excessive use of force (Walker, Spohn, and DeLone, 2004). Of all ethnic groups African Americans file the most complaints against law enforcement officers (Walker, Spohn, and DeLone, 2004).

In a 2001 report titled *Principles for Promoting Police Integrity* published by the United States Department of Justice early warning systems were listed as one of the best things a law enforcement agency could do to minimize citizen complaints of police misconduct (Walker and Alpert, 2004). An early warning system is a data-based law enforcement management tool specifically designed to identify those officers whose behavior is problematic and to provide a proactive form of intervention to correct that behavior (National Institute of Justice, 2001). According to the International Association of Chiefs of Police (IACP) an early warning system is “a proactive management tool useful for identifying a wide range of problems, not just a system to focus on problem officers” (Walker, Alpert, and Kenney, 2001: 21-2). “In 1981 the United States Commission on Civil Rights recommended that all law enforcement agencies create an early warning system in an attempt to identify problem officers” (National Institute of Justice, 2001: 1).

The United States Commission of Civil Rights (as cited by the National Institute of Justice, 2001), defines a “problem officer” as one “who is frequently the subject of complaints or who demonstrates identifiable patterns of inappropriate behavior”. According to Goldstein (as cited by the National Institute of Justice, 2001) the phenomenon of the “problem officer” was established in the 1970’s and these officers are well known to their fellow officers, supervisors, and citizens who live in the communities they are sworn to protect and serve however little is done to alter their misconduct.

Additionally law enforcement agencies must establish and utilize an effective early warning system as a means to identify abusive officers and provide assistance to them to prevent further abuse (Human Rights Watch, 1998). The Commission on Accreditation for Law

Enforcement Agencies (CALEA) requires that all large agencies establish an early warning system in order to receive accreditation (Walker and Alpert, 2004).

According to Walker and Alpert (2004) early warning systems should be established and integrated into an agency's supervision program so that supervisors are mandated to use it on a regular basis. There are three components which Hickman, Piquero, and Greene (2004) state are part of an early warning system. The first is to identify officers in need of formal intervention by analyzing certain performance indicators (i.e. number of use of force reports filed, frequency of citizen complaints, use of sick leave, frequency of resisting arrest charges, etc.). The second involves formal intervention during which supervisors confidentially counsel those officers selected during the first phase and refer them to counseling or suggest additional training. According to Walker and Alpert (2004) employee assistance programs are essential to those officers coping with stressors outside of their profession. The third component of an early warning system involves post intervention follow-up during which the officer's performance is observed and evaluated by his/her supervisor.

The first early warning/early intervention system in the United States was developed by the Miami-Dade Police Department in 1981 (National Institute of Justice, 2001). "The concept of an early warning system received a major boost in 1991 when the Christopher Commission, created after the Rodney King incident involving the Los Angeles Police Department (LAPD) identified 44 problem officers in the LAPD who had particularly serious performance records and thus recommended an early warning system be implemented by the LAPD" (Walker and Alpert, 2004). "By 1999, 39 percent of all municipal and county law enforcement agencies that serve populations greater than 50,000 people either had an early warning system in place or were

planning on implementing one” (National Institute of Justice, 2001). There are some studies which prove early warning systems are effective.

At one point both the Minneapolis and New Orleans Police Departments had a reputation of using excessive force against minorities and corruption (National Institute of Justice, 2001). Both departments implemented early warning systems as a way to minimize such incidents. In Minneapolis the number of citizen complaints filed against those officers who were subject to early intervention dropped nearly 67 percent in the year following intervention (National Institute of Justice, 2001). In New Orleans that number dropped nearly 62 percent in one year and in Miami-Dade that number dropped an estimated 50 percent after they implemented an early warning system in 1981 (National Institute of Justice, 2001). Studies have also found that early warning systems significantly improve morale within a law enforcement agency (Walker and Alpert, 2004). Among those police managers with experience in the use of early warning systems 12 percent reported a positive impact on morale within their agency while an estimated six percent reported a negative impact (Walker and Alpert, 2004). Additionally 52 percent reported a mixed impact on morale within their agencies and 30 percent reported no impact on morale (Walker and Alpert, 2004). Early warning systems improve the morale within a law enforcement agency due to the fact that good officers see their department taking appropriate measures against those officers who exhibit poor performance and/or conduct (Walker and Alpert, 2004).

There is one additional internal monitoring procedure that law enforcement agencies can utilize to reduce the frequency of excessive force incidents against minorities.

Civilian Complaint Procedures

As a general rule law enforcement agencies and civilian review boards will not initiate an investigation into allegations of misconduct, to include the excessive use of force, without a formal complaint on file (Human Rights Watch, 1998). “Nearly 78 percent of complaints filed against the New York City Police Department (NYPD) were filed by African Americans and Hispanics” (Human Rights Watch, 1998: 275). According to Wagner and Decker (1997), citizen complaints filed against law enforcement officers should be viewed as a “weather gauge” of performance within the agency itself (as cited in United States Department of Justice, 1999). The field of law enforcement as a whole relies on the public for cooperation and the public, in turn, must trust law enforcement officers for that cooperation to be fostered (Terrill and McCluskey, 2004). “Citizen complaints of police misconduct represent a weakening of that foundation” (Terrill and McCluskey, 2004). Most complaints filed against law enforcement officers by civilians concern the use of inappropriate or excessive use of force (Flynn, 1996).

According to Terrill and McCluskey (2004) the most serious complaints that can be filed against a law enforcement officer concerns the use of excessive force. “These complaints are also the most difficult to substantiate” (Terrill and McCluskey, 2004: 146). According to the National Advisory Commission on Criminal Justice Standards and Goals (1973) there are many obstacles civilians face when filing complaints against law enforcement officers (as cited in United States Department of Justice, 1999). They include fear of retribution, the overall difficulties of filing the complaint, and the possibility of having criminal charges filed against them for filing a false report. Furthermore individuals who have been arrested and are still going

through the legal system to clear up their problems may be hesitant in filing a complaint against the officer who arrested them due to the fear of retribution (Human Rights Watch, 1998).

In fact, according to the Human Rights Watch (1998) complainants attempting to file complaints against law enforcement officers are often met with hostility and may even be accused of lying. Despite the fact that law enforcement agencies prohibit attempts to hinder complainants from filing complaints, law enforcement officers receiving the complaint may even make attempts to sway the complainant into changing his/her mind about filing the complaint altogether (Human Rights Watch, 1998). Furthermore the filing of an abuse complaint against a law enforcement officer is not only intimidating, the nature of the secrecy within the law enforcement agency usually results in the complaint not being reviewed and the complainant learning nothing about the status of their complaint (Human Rights Watch, 1998).

In those cities examined by the Human Rights Watch (1998) serious flaws were discovered in the ways in which civilian complaints against law enforcement officers were filed, received, and/or forwarded for reviewed which has led to recommendations for the improvement of civilian complaint procedures.

C. Use of Force Training

Annual Practical Training

Fyre, (1996:176) states: “All reasonable police administrators recognize that unnecessary force can be directly affected by training.” According to Flynn (1996) training in the field of law enforcement is a continuous process that continues throughout an officer’s career. This training

commences in the police academy, is followed by field training with an experienced officer, and complemented through annual in-service training (Flynn, 1996). Law enforcement officers receive their initial training on the use of force while attending the police academy. In the Commonwealth of Pennsylvania municipal police academies are governed by the Municipal Police Officers' Education Training Commission (MPOETC) which mandates that academy recruits receive 758 hours of instruction in various topics (Municipal Police Officers Education and Training Commission, 2008). Recruits receive only eight hours of instruction on the use of force. This instruction is in addition to 32 hours of practical self-defense training. All law enforcement training academies conduct use of force training however there are variations in how it is conducted.

According to a published report by the Bureau of Justice Statistics (2005) 90 percent of the Nation's law enforcement training academies provided training on pressure point techniques and 85 percent provided training on ground fighting techniques. Furthermore, only nine percent of the Nation's law enforcement training academies utilized a mock use of force review board in conjunction with use of force training (Bureau of Justice Statistics, 2005). Although all law enforcement officers in the Commonwealth must attend annual mandatory training updates there is no retraining on the use of force other than applicable case law (Municipal Police Officers Education and Training Commission, 2008).

According to a 2000 published report the U.S. Commission on Civil Rights calls for increased and improved officer training and disciplinary action in an effort to reduce incidents of the use of excessive force by police. According to Flynn (2002: 127), "the potentially negative consequences of the use of force, especially when force is used inappropriately, require that

police departments ensure that officers are properly trained”. According to May and Headley (2008), regular training in the proper use of force should be conducted by every law enforcement agency. “Training is essential to the safe, effective, and legal conclusion of police-citizen encounters” (Flynn, 1996: 127). Some law enforcement officers use force inappropriately due to the fact that they do not have enough or adequate training on how to accomplish their job related tasks without utilizing force (Perez and Moore, 2002). Furthermore some law enforcement officers utilize force when no force is needed due to their misunderstanding or misinterpretation of the law when it comes to when they can utilize force (Perez and Moore, 2002).

This training can include both hands on training as well as video simulated scenarios. Role-playing scenarios are very effective however they are also very time consuming (May and Headley, 2008). Training must be both continuous and realistic. “Training for any endeavor should simulate as closely as possible the actual working conditions for which trainees are being prepared (Fyfe, 1996: 169). According to Fyfe (1996) some of the most important violence reduction skills are used so rarely that they degenerate over time and remain dormant unless officers receive refresher training. Impact weapons such as batons as well as chemical agents such as pepper spray require both classroom instruction and hands-on practice in order for law enforcement officers to develop the necessary skills to be utilized in order to achieve a safe resolution to a violent encounter (Flynn, 1996).

Additionally the Human Rights Watch (1998) has declared that enhanced training for potentially abusive situations should be provided to law enforcement officers by their respective agencies. Examples of this enhanced training include but are not limited to the proper use of pepper spray, how to deal with mentally ill individuals without resorting to violence, and how to

effectively handle post-chase apprehensions (Human Rights Watch, 1998). In order to effectively reduce the frequency of incidents involved excessive force being used against minorities law enforcement agencies must take a proactive stance on the use of force.

In order to control excessive force incidents law enforcement managers must not only monitor the use of force within their agencies, but they must also evaluate the skill with which force is used and educate their officers in its skilled use (Delattre, 2002).

V. Recommendations for an Effective Policy to Eliminate Excessive Force

As has already been discussed in this paper excessive force is frequently used against minorities for a variety of reasons. Those officers who use force on minorities reported feeling threatened by the suspect for one reason or another. “Some suggest that the disproportionately high levels of police abuse against Black and Latinos can be explained by their high rates of offending” (Russell, 2000: 138). Statistics also show that minorities commit more assaults against law enforcement officers than whites (United States Department of Justice, 2006). Some criminal justice professionals explain the use of excessive force against minorities through Authority Maintenance Theory. Through personal research Alpert and Dunham (2004) developed their Authority Maintenance Theory in an attempt to explain officer-citizen interactions from an interpersonal perspective rather than a psychological one. The main tenant of the theory is the officer’s incessant need to maintain their authoritative presence when interacting with citizens (Alpert and Dunham, 2004). Law enforcement officers are very sensitive to anyone or anything that undermines their authority (Reisig, McCluskey, Mastrofski, and Terrill, 2004).

This need to maintain authority can be explained by Regoli and Poole (1979) which argue that an officer’s feeling of cynicism which intensifies their need to maintain their respect and increase their desire to exercise their authority over others (as cited in McNamara, 2002). According to Paoline, Myers, and Worden (2004), law enforcement officers cope with the danger and uncertainty associated with their profession by maintaining an authoritative, take-charge attitude which may involve them creating, displaying and maintaining their authority over citizens. In other words officers who feel they are not maintaining enough of an authoritative

presence will do whatever they have to do to regain it, even if it means using force. There are several programs which law enforcement agencies can utilize to minimize the frequency of excessive force incidents against minorities.

Several programs which could be utilized by law enforcement agencies have also been discussed and reviewed. This section will review suggested recommendations for improvements in various law enforcement training programs which law enforcement agencies can utilize to prevent incidents of excessive force against minorities.

According to the Human Rights Watch (1998) there are several contributing factors to excessive force incidents. As previously discussed, they include weak and/or powerless civilian review boards, leadership failure within the law enforcement agency, and the inability for civilians to file complaints against “problem” officers.

There are several programs and training methods which law enforcement agencies can utilize to minimize the frequency of incidents involving the use of excessive force against minorities. They include improving civilian review boards to make them more effective, improving early warning/early intervention systems in an attempt to make them more effective as well, and to improve the civilian complaint process so citizens have the confidence they need when filing complaints against law enforcement officers.

Improve Civilian Review Boards

As previously mentioned one external method of review that law enforcement agencies can utilize to minimize excessive use of force claims is the use of civilian review boards. Initially developed by government officials during the 1950’s and 1960’s, civilian review boards were designed as a method of external control of law enforcement agencies with the sole purpose

of reviewing allegations of police misconduct, including claims of excessive force (Alpert and Dunham, 2004). The main tenant of civilian review boards is to provide an external, non-law enforcement view to the task of investigating police misconduct to include the use of excessive force (Perez and Moore, 2002).

The premise behind civilian review boards is that law enforcement officers cannot be trusted to “police” themselves due to the code of secrecy and loyalty for officers to protect each other (Perez and Moore, 2002). Perez and Moore (2002:137) suggest that “Civilian review boards attempt to generate higher standards of thoroughness and objectivity than those that are presumably present in internal affairs organizations.” According to Cheh (1996) the federal government should mandate that all law enforcement agencies design and utilize some sort of civilian review oversight in order to adequately review all complaints concerning the excessive use of force. Involving citizens in the process of investigating complaints against the police not only ensures a more thorough investigation but should result in fewer incidents of excessive force as well (Smith and Holmes, 2003). Civilian review boards are not as effective as they should be and, according to Weitzer (2004), there is virtually no research on the effectiveness of civilian review boards and there are several problems with them. According to Walker (2001) there has been no research into whether or not civilian review boards help to improve public evaluations of law enforcement agencies and their officers (as cited in Weitzer, 2004).

Civilian review boards are seriously inhibited by both law enforcement unions and law enforcement officers who refuse to cooperate with them (Human Rights Watch, 1998). Civilian review boards are hotly debated wherever they are attempted (Perez and Moore, 2002). Law enforcement officers do not trust civilian review boards and assume that they automatically side

with the general public (Perez and Moore, 2002). Law enforcement officers also assert that members of civilian review boards know nothing about how law enforcement agencies operate, how officers react in certain situations, and often harbor anti-police motivations (Human Rights Watch, 1998). There are recommendations for improvement in terms of the functionality of civilian review boards.

According to Perez and Moore (2002) civilian review boards are often not given the power they need to fully investigate incidents of police misconduct. This fact alone leads one to argue that civilian review boards should be provided with full investigative power in order for them to thoroughly investigate all incidents of police misconduct. Civilian review boards must also be provided with a workable budget that corresponds with their workload as well as competent, well trained investigators who have both the ability and authority to complete their investigations (Skolnick and Fyfe, 1993). Secondly, not all civilian review boards are given subpoena power however, according to the Human Rights Watch (1998), civilian review boards must have the power to compel police cooperation in order to be effective. This cooperation can best be secured through the issuance of subpoenas which can be issued to mandate the appearance of witnesses and affords the civilian review board the ability to obtain necessary reports and other paperwork (Skolnick and Fyfe, 1993). In addition, the decisions made by civilian review boards should be binding unless the law enforcement agency with which they are affiliated can find and describe in detail gross negligence or determinative factual errors on part of the review board (Human Rights Watch, 1998).

Additionally all activity surrounding their activity and the subsequent findings of the civilian review board should be made public (Human Rights Watch, 1998). “A fully functioning civilian review agency needs to investigate complaints, conduct hearings, subpoena witnesses,

and report its findings to the police chief and to the public” (Skolnick and Fyfe, 1993: 227). By releasing information to the public, civilian review boards can convey a sense of trust in the community and also reflect the fact that the police are being held accountable for their actions and not protected by their subculture (Perez and Moore, 2002). According to Walker, Spohn, and DeLone (2004) civilian review boards enhance the public’s confidence in the overall process of filing complaints against law enforcement officers. These recommendations are reinforced by the American Civil Liberties Union of Florida which has established what it believes is the blueprint for an effective civilian review board.

According to the American Civil Liberties Union (ACLU) of Florida an effective civilian review board investigates complaints and reports its findings within 60 days of the complaint being filed (American Civil Liberties Union of Florida, 2009). A hearing is held within 160 days of the complaint being filed with a decision being rendered on the status of the complaint (i.e. whether the complaint is sustained or dismissed) and disciplinary sanctions rendered. Both the complainant and respondent are advised of the outcome of the complaint. Civilian review boards should focus on use of force complaints more than any other form of misconduct. Additionally all civilian review boards should have investigators whom are selected by the members of the board. All meetings and hearings should also be open to the public with ample notice given as to the time and location of all meetings and hearings. Civilian review boards should regularly release public reports regarding their activity and the investigations they have conducted (Human Rights Watch, 1998). A civilian review board can be established in a variety of ways.

The Indianapolis Police Department has an established civilian review board which consists of nine members which include three Indianapolis police officers and six civilians (Human Rights Watch, 1998). They meet four times per year and have no independent

investigators. They accept civilian complaints by phone or in person and only investigate non-criminal matters. Any allegation of criminal behavior against an Indianapolis Police Officer is automatically forwarded to law enforcement officials. According to the Human Rights Watch (1998) any complaint alleging criminal behavior received by a civilian review board should automatically be forwarded to the local and/or federal prosecutor's office for review.

The New York City Police Department has the largest established civilian review board in the Nation. Established in 1953 as a means to investigate allegations of police misconduct against Hispanics and African Americans (The City of New York, 2009), the board initially consisted of both civilians and police officers however the board was transitioned to an all civilian board in 1993. The board also has subpoena power and the authority to recommend disciplinary action against officers. The board was consistently underfunded until the Abner Louima incident in 1997 which led to a substantial increase in the budget and the subsequent hiring of dozens of investigators to assist with the review of complaints.

Improve Early Warning/Early Intervention Systems

As previously mentioned, one internal program available for law enforcement agencies to utilize as a method to reduce incidents of excessive force against minorities is an early warning system is also referred to as an early intervention system. The first early warning/early intervention system in the United States was developed by the Miami-Dade Police Department in 1981 (National Institute of Justice, 2001). "The concept of an early warning system received a major boost in 1991 when the Christopher Commission, created after the Rodney King incident involving the Los Angeles Police Department (LAPD) identified 44 problem officers in the LAPD who had particularly serious performance records and thus recommended an early

warning system be implemented by the LAPD” (Walker and Alpert, 2004). “By 1999, 39 percent of all municipal and county law enforcement agencies that serve populations greater than 50,000 people either had an early warning system in place or were planning on implementing one” (National Institute of Justice, 2001). There are some studies which prove early warning systems are effective.

At one point both the Minneapolis and New Orleans Police Departments had a reputation of using excessive force against minorities and corruption (National Institute of Justice, 2001). Both departments implemented early warning systems as a way to minimize such incidents. In Minneapolis the number of citizen complaints filed against those officers who were subject to early intervention dropped nearly 67 percent in the year following intervention (National Institute of Justice, 2001). In New Orleans that number dropped nearly 62 percent in one year and in Miami-Dade that number dropped an estimated 50 percent after they implemented an early warning system in 1981 (National Institute of Justice, 2001). Early warning systems also have an impact on the morale of a law enforcement agency.

Studies have also found that early warning systems significantly improve morale within a law enforcement agency (Walker and Alpert, 2004). Among those police managers with experience in the use of early warning systems 12 percent reported a positive impact on morale within their agency while an estimated six percent reported a negative impact (Walker and Alpert, 2004). Additionally 52 percent reported a mixed impact on morale within their agencies and 30 percent reported no impact on morale (Walker and Alpert, 2004). Early warning systems improve the morale within a law enforcement agency due to the fact that good officers see their

department taking appropriate measures against those officers who exhibit poor performance and/or conduct (Walker and Alpert, 2004).

In a 2001 report titled *Principles for Promoting Police Integrity* published by the United States Department of Justice early warning systems were listed as one of the best things a law enforcement agency could do to minimize citizen complaints of police misconduct (Walker and Alpert, 2004). An early warning system is a data-based law enforcement management tool specifically designed to identify those officers whose behavior is problematic and to provide a proactive form of intervention to correct that behavior (National Institute of Justice, 2001).

According to the International Association of Chiefs of Police (IACP) an early warning system is “a proactive management tool useful for identifying a wide range of problems, not just a system to focus on problem officers” (Walker, Alpert, and Kenney, 2001: 21-2). “In 1981 the United States Commission on Civil Rights recommended that all law enforcement agencies create an early warning system in an attempt to identify problem officers” (National Institute of Justice, 2001: 1).

The United States Commission of Civil Rights (as cited by the National Institute of Justice, 2001), defines a “problem officer” as one “who is frequently the subject of complaints or who demonstrates identifiable patterns of inappropriate behavior”. Additionally law enforcement agencies must establish and utilize an effective early warning system as a means to identify abusive officers and provide assistance to them to prevent further abuse (Human Rights Watch, 1998). The Commission on Accreditation for Law Enforcement Agencies (CALEA) requires that all large agencies establish an early warning system in order to receive accreditation (Walker and Alpert, 2004).

There are three components which Hickman, Piquero, and Greene (2004) state are part of an early warning system. The first is to identify officers in need of formal intervention by analyzing certain performance indicators (i.e. number of use of force reports filed, frequency of citizen complaints, use of sick leave, frequency of resisting arrest charges, etc.). The second involves formal intervention during which supervisors confidentially counsel those officers selected during the first phase and refer them to counseling or suggest additional training. According to Walker and Alpert (2004) employee assistance programs are essential to those officers coping with stressors outside of their profession. The third component of an early warning system involves post intervention follow-up during which the officer's performance is observed and evaluated by his/her supervisor. There are problems with early warning systems.

According to Walker and Alpert (2004) the main problem with early warning systems is the failure of law enforcement agencies to fully utilize it once it is created. Other problems include the lack of consistency by supervisors when applying interventions, supervisors failing to utilize the system as it was designed, and the lack of established criteria for identifying problem officers (Walker and Alpert, 2004). According to Walker and Alpert (2004) early warning systems should be established and integrated into an agency's supervision program so that supervisors are mandated to use it on a regular basis. There are recommendations on the improvement of early warning systems.

According to Meese and Ortmeier (2004) the use of early warning systems by law enforcement agencies can result in timely interventions with those officers who are prone to abusing their authority and using excessive force. In order for early warning systems to be effective they must be utilized in a consistent manner and in accordance to their design. There must also be an established threshold with regard to analyzing performance data (i.e. number of

citizen complaints against one officers, number of use of force reports filed by an officer, etc.) (Walker and Alpert, 2004). Law enforcement supervisors should pay close attention to the charges their subordinates are filing and pay close attention to those officers who regularly file resisting arrest and aggravated assault of a police officer charges as the officer could be filing those charges to cover up their own human rights violations (Human Rights Watch, 1998). According to the Human Rights Watch (1998) most early warning systems commence an intervention only after several complaints are filed against an officer in a short period of time. Law enforcement managers must also advise their personnel of the implementation and purpose of such a system and also seek their input during its design (Walker and Alpert, 2004). According to Walker and Alpert (2004) law enforcement managers must also follow through with their responsibilities once they establish an early warning system since one of the major obstacles to such a system is the failure to utilize them as they are designed (Walker and Alpert, 2004).

There is one additional internal monitoring procedure that is recommended for utilization by law enforcement agencies to reduce the frequency of excessive force incidents against minorities.

Improve Civilian Complaint Procedures

According to Terrill and McCluskey (2004) the most serious complaints that can be filed against a law enforcement officer concerns the use of excessive force. “These complaints are also the most difficult to substantiate” (Terrill and McCluskey, 2004: 146). As a general rule law enforcement agencies and civilian review boards will not initiate an investigation into allegations of misconduct, to include the excessive use of force, without a formal complaint on file (Human Rights Watch, 1998). According to Wagner and Decker (1997), citizen complaints filed against

law enforcement officers should be viewed as a “weather gauge” of performance within the agency itself (as cited in United States Department of Justice, 1999). Most complaints filed against law enforcement officers by civilians concern the use of inappropriate or excessive use of force (Flynn, 1996). The complaint procedure has its own share of problems.

According to the National Advisory Commission on Criminal Justice Standards and Goals (1973) there are many obstacles civilians face when filing complaints against law enforcement officers (as cited in United States Department of Justice, 1999). They include fear of retribution, the overall difficulties of filing the complaint, and the possibility of having criminal charges filed against them for filing a false report. Furthermore individuals who have been arrested and are still going through the legal system to clear up their problems may be hesitant in filing a complaint against the officer who arrested them due to the fear of retribution (Human Rights Watch, 1998).

In fact, according to the Human Rights Watch (1998) complainants attempting to file complaints against law enforcement officers are often met with hostility and may even be accused of lying. Despite the fact that law enforcement agencies prohibit attempts to hinder complainants from filing complaints, law enforcement officers receiving the complaint may even make attempts to sway the complainant into changing his/her mind about filing the complaint altogether (Human Rights Watch, 1998). Furthermore the filing of an abuse complaint against a law enforcement officer is not only intimidating, the nature of the secrecy within the law enforcement agency usually results in the complaint not being reviewed and the complainant learning nothing about the status of their complaint (Human Rights Watch, 1998). There are ways to improve the complaint process.

According to the Human Rights Watch (1998) all barriers citizens face when attempting to file a complaint against a law enforcement officer should be removed. Law enforcement administrators need to improve the way in which their agency accepts citizen complaints so that those citizens who feel they were mistreated by an officer can come forward with their complaint (Adams, 1996). The complaint process in and of itself needs to be streamlined. “The federal government should mandate (or encourage through conditional grants) a uniform system of complaints and a system for national reporting of complaints about excessive force incidents” (Cheh, 1996: 269). Those citizens who wish to file a complaint alleging misconduct by a law enforcement officer, whether that complaint is filed with a civilian review board or through the law enforcement agency itself, should be provided with clear instructions, provided with simple forms, and be provided with contact information so that they can check on the status of their complaint (Human Rights Watch, 1998). All citizens should receive regular, written updates regarding the status of their complaints as well as the progress of the investigation into their complaint/allegation (Human Rights Watch, 1998). Additionally law enforcement officers should in no way, shape, or form do anything to intimidate a citizen who is attempting to file a complaint.

Any law enforcement officer who attempts in any way to dissuade a citizen from filing a misconduct complaint should be punished accordingly and, if necessary, he/she should receive training on how to appropriately receive citizen complaints (Human Right Watch, 1998). All anonymous complaints of law enforcement misconduct should be accepted for the “sole purpose of triggering further investigations but should not, on their own, be used for disciplinary purposes without verification of the person’s (complainant’s) identity” (Human Rights Watch, 1998: 13). According to Walker, Spohn, and DeLone (2004) one of the greatest causes of strife

between law enforcement officers and the citizens they are sworn to protect and serve is the perceived failure of law enforcement agencies to adequately accept and investigate citizen complaints about police misconduct. With the proper supervision and utilization of some of the programs mentioned in this paper, law enforcement agencies can make great strides in improving their relationship with the members of the general public, especially minorities.

VI. Summary and Conclusions

A law enforcement officer is permitted to use the minimum amount of force necessary to stop a perceived threat and/or affect an arrest and he/she can escalate or de-escalate the amount of force used as the situation dictates. Sometimes that force can be excessive and often times that excessive force is used against minorities. Past research suggests that minorities are often subjected to the excessive use of force by law enforcement officers with the typical victim of such incidents being a young man who is African American or Latino (Russell, 2000). But what is excessive force? While there is no universal definition of excessive force, the International Association of Chiefs of Police (IACP) excessive force can be defined as “the application of an amount and/or frequency of force greater than that required to compel compliance from a willing or unwilling subject” (International Association of Chiefs of Police, 2001).

Those officers who use force on minorities reported feeling threatened by the suspect for one reason or another. “Some suggest that the disproportionately high levels of police abuse against Black and Latinos can be explained by their high rates of offending” (Russell, 2000: 138). Statistics also show that minorities commit more assaults against law enforcement officers than whites (United States Department of Justice, 2006). Some criminal justice professionals explain the use of excessive force against minorities through Authority Maintenance Theory. Through personal research Alpert and Dunham (2004) developed their Authority Maintenance Theory in an attempt to explain officer-citizen interactions from an interpersonal perspective rather than a psychological one.

The main tenant of the theory is the officer's incessant need to maintain their authoritative presence when interacting with citizens (Alpert and Dunham, 2004). Law enforcement officers are very sensitive to anyone or anything that undermines their authority (Reisig, McCluskey, Mastrofski, and Terrill, 2004). This need to maintain authority can be explained by Regoli and Poole (1979) which argue that an officer's feeling of cynicism which intensifies their need to maintain their respect and increase their desire to exercise their authority over others (as cited in McNamara, 2002). In other words officers who feel they are not maintaining enough of an authoritative presence will do whatever they have to do to regain it, even if it means using force. According to Burns and Crawford (2002) a suspect's behavior may be the strongest predictor of police violence especially when the suspect is acting aggressively, being disrespectful, or is resisting arrest. Additionally it was found that African American suspects from low-income, high-crime, disadvantaged neighborhoods behaved more disrespectfully towards law enforcement officers who in turn suppressed their disrespect by using force (Reisig, M., McCluskey, J., Mastrofsky, S., and Terrill, W., 2004). There are ways in which law enforcement agencies can minimize the frequency of excessive use of force incidents.

As previously mentioned one external method of review that law enforcement agencies can utilize to minimize excessive use of force claims is the use of civilian review boards. Initially developed by government officials during the 1950's and 1960's, civilian review boards were designed as a method of external control of law enforcement agencies with the sole purpose of reviewing allegations of police misconduct, including claims of excessive force (Alpert and Dunham, 2004). According to Perez and Moore (2002) the idea behind civilian review boards is to provide an external, non-law enforcement view to the task of investigating police misconduct

to include the use of excessive force. The premise behind civilian review boards is that law enforcement officers cannot be trusted to “police” themselves due to the code of secrecy and loyalty for officers to protect each other (Perez and Moore, 2002). Civilian review boards themselves are wholly accepted by the public which, in turn, believes that civilian review boards will be fair and objective in the performance of their duties thus providing the public with a sense of trust in their police department (Human Rights Watch, 1998). There are internal programs which law enforcement agencies can utilize to minimize the frequency of excessive force incidents.

In a 2001 report titled *Principles for Promoting Police Integrity* published by the United States Department of Justice early warning systems were listed as one of the best things a law enforcement agency could do to minimize citizen complaints of police misconduct (Walker and Alpert, 2004). An early warning system is a data-based law enforcement management tool specifically designed to identify those officers whose behavior is problematic and to provide a proactive form of intervention to correct that behavior (National Institute of Justice, 2001). According to the International Association of Chiefs of Police (IACP) an early warning system is “a proactive management tool useful for identifying a wide range of problems, not just a system to focus on problem officers” (Walker, Alpert, and Kenney, 2001: 21-2). “In 1981 the United States Commission on Civil Rights recommended that all law enforcement agencies create an early warning system in an attempt to identify problem officers” (National Institute of Justice, 2001: 1).

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Through the implementation and effective use of civilian review boards and early warning systems law enforcement agencies can minimize the frequency of excessive force incidents. Additionally, through regular use of force training which includes the hands on application of force, as well as a standard civilian complaint procedure, law enforcement agencies can reduce the frequency of excessive use of force incidents.

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