ADVANCING DIVERSITY IN LAW ENFORCEMENT

U.S. Department of Justice
Equal Employment Opportunity Commission

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Dear Colleagues:

Today, our country is in the midst of an unprecedented national conversation on community-police relations. All across our nation – from small suburban hamlets to large, urban centers – tragic events have brought to the forefront underlying issues about the ways in which law enforcement agencies engage with the communities that they are sworn to protect and serve. Two years ago, President Obama established a Task Force on 21st Century Policing for the purpose of identifying "the best means to provide an effective partnership between law enforcement and local communities that reduces crime and increases trust." Among its recommendations, the Task Force identified increasing the diversity of the nation's law enforcement agencies as an important aspect in developing that trust. Building on this effort, in December 2015 our agencies – the U.S. Department of Justice's Civil Rights Division and the U.S. Equal Employment Opportunity Commission (EEOC) – joined together to launch "Advancing Diversity in Law Enforcement," an interagency research initiative designed to help our nation's law enforcement agencies recruit, hire, retain, and promote officers that reflect the diversity of the communities they serve. While we fully recognize that increasing diversity in law enforcement agencies alone cannot solve the myriad challenges in policing or address every concern about public trust in law enforcement, enhancing diversity must be part of the conversation about improving relations between law enforcement and communities.

Both the Civil Rights Division and the EEOC are tasked with enforcing federal civil rights, but we are also well aware that enforcement efforts – which are critical tools in combating barriers, ensuring compliance, and advancing reforms – are most effective when paired with robust outreach, stakeholder engagement, and practical tools and resources. It is with this understanding that we launched the Advancing Diversity in Law Enforcement initiative and that we issue the enclosed report today. This report aims not only to frame the issue of diversity within the larger, national conversation but also to document common barriers and highlight promising efforts already underway in law enforcement agencies. This report does not mark the end of our work on these important issues. Rather, it provides a framework that we hope will spur further dialogue and reform around the country as we continue to engage with law enforcement and local communities.

We want to acknowledge the work of the Center for Policing Equity (CPE), which served as our partner throughout this initiative. CPE's research, analysis, and expertise were critical throughout the process. We also want to thank the hundreds of individuals from across the nation who agreed to participate in this effort. Over the course of the last year, we conducted extensive outreach with law enforcement leaders, officers, and command staff; national policing organizations; federal law enforcement agencies; community stakeholders; and others in order to hear directly from you about the challenges you face, the changes you are working to implement, and the resources and tools you need to accelerate the pace of progress.

Law enforcement is a rewarding, demanding, rigorous, and – as recent events painfully remind us – dangerous profession. We have the utmost respect for the men and women who wear the badge and serve our communities, the vast majority of whom perform their jobs with professionalism, honor, and integrity. As we reflect on the challenges in our communities today, we know that you are asking the hard questions and refusing to settle for easy answers. We hope you find this report to be a useful resource as you continue to engage in the tough, vital work of bringing our law enforcement agencies and communities closer.

Sincerely,

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ACKNOWLEDGMENTS

The Advancing Diversity in Law Enforcement initiative was undertaken as a joint effort between the Department of Justice's Civil Rights Division and the EEOC. We thank the staff and leadership teams from both agencies who contributed significant time, resources, and expertise in producing the final report. In particular, we want to acknowledge the Civil Rights Division's Employment Litigation Section, Policy Section, and Office of Special Counsel for Immigration-Related Unfair Employment Practices as well as the EEOC's Office of the Chair; Office of Commissioner Charlotte Burrows; Office of Legal Counsel; Office of Field Programs; Office of Research, Information, and Planning; and Office of General Counsel for their stewardship of this effort. We also thank CPE – including R. Nicole Johnson-Ahorlu, Ph.D.; Kat Kiyoko Amano; Chris Burbank; Laura Cervantes, Ph.D.; Kimberly Burke, M.A.; Kristen Powell; Summer Joi Robins; and Phillip Atiba Goff, Ph.D. – for their research assistance and support throughout. We also want to acknowledge our colleagues throughout the Federal government, including the Department of Justice's Office of Community Oriented Policing Services and Office of Justice Programs as well as the Department of Labor for their assistance throughout this effort.

We want to thank the many law enforcement associations, civil rights organizations, academics, and others we met with or spoke to as part of this initiative – including the International Association of Chiefs of Police, Major Cities Chiefs Association, Women in Federal Law Enforcement, National Association of Women Law Enforcement Executives, Hispanic American Police Command Officers Association, National Asian Peace Officers Association, National Latino Peace Officers Association, National Organization of Black Law Enforcement Executives, Fraternal Order of Police, and National Association of Police Organizations – for their important contributions to the issues discussed in our report. As part of this initiative, we also met with our colleagues in federal law enforcement at the Federal Bureau of Investigation; the U.S. Marshals Service; the Bureau of Alcohol, Tobacco, Firearms and Explosives; and the Drug Enforcement Administration. We thank them for their engagement, constructive feedback, and candid dialogue about the critical issues around diversity in law enforcement.

Above all, this report is designed to serve as a resource for all law enforcement agencies, particularly small and medium-size agencies grappling with the challenges around increasing diversity and working hard to implement effective, impactful, and promising practices for change. Several local law enforcement leaders around the country took the time to meet and speak with us – sharing their unique perspectives about the challenges they have encountered and the promising practices they are either already using or considering using to recruit, hire, and retain a diverse officer corps. Many of the law enforcement leaders we spoke with directly acknowledged that despite innovative and dedicated efforts, barriers still exist, and they fully recognize the challenges that remain. We thank these leaders for their engagement, candid assessment of these challenges, and clear desire to lead substantive discussions and reforms.

EXECUTIVE SUMMARY

Tragic events over the past several years – including officer-involved shootings and attacks on law enforcement officers, and the demonstrations and protests these incidents have spawned – have captured the public's attention and driven a host of policing issues from the periphery to the center of our public dialogue, including a renewed focus on increasing diversity in the nation's law enforcement agencies. In December 2014, President Obama announced his Task Force on 21st Century Policing (Task Force). The Task Force brought together a diverse range of stakeholders – including law enforcement leaders, advocates, academics, policymakers, and community members – to explore strategies for strengthening community-police relations, reducing crime, and advancing public safety. In one of its key recommendations for "building trust and legitimacy" in community-police relations, the Task Force focused on the need to ensure law enforcement agencies better reflect the diversity of the communities they serve.

Although the spotlight on these issues may seem new to some, for many – including law enforcement personnel, government officials, and community leaders – this is only one part of a decades-long conversation about how law enforcement and the communities they serve can best work together. Many law enforcement agencies, as well as organizations that work with law enforcement, have devoted considerable time, energy, and attention in their efforts to recruit and retain workforces that reflect the diversity within their jurisdictions. For many years, the Federal government has also worked to address challenges and barriers to diversity in law enforcement.

Advancing Diversity in Law Enforcement Initiative

The U.S. Department of Justice and the U.S. Equal Employment Opportunity Commission continue to lead robust enforcement, data analysis, and technical assistance efforts to address diversity in law enforcement. Yet these efforts, by themselves, cannot reach all of the more than 18,000 law enforcement agencies in the country. Indeed, voluntary efforts by law enforcement employers are an equally, if not more, important way to advance diversity and further equal employment opportunity. Toward that end, in December 2015, the Department's Civil Rights Division and the EEOC launched a new research initiative, "Advancing Diversity in Law Enforcement," both to identify barriers that undermine diversity in law enforcement and to highlight promising practices that help agencies better reflect the diversity of the communities they serve. The initiative has focused on barriers and promising practices across three key areas: recruitment, hiring, and retention. In so doing, this initiative has taken a broad examination of various barriers to diversity, while also placing particular emphasis on practices that advance greater racial and gender diversity and that foster the inclusion of the perspectives and experiences of persons of diverse backgrounds in the culture and leadership of law enforcement agencies. This initiative was created to assist law enforcement agencies throughout the country as they strive to build workforces that better reflect the diversity of the communities they serve. It is the hope that this effort will especially aid those small and medium-size police departments that recognize the importance of diversity, but may lack the resources to fully explore solutions.

Why Diversity in Law Enforcement Matters

The challenge of recruiting, hiring, and retaining a diverse workforce is certainly not limited to law enforcement. Throughout the country, in nearly every sector of society, people and

organizations are grappling with this issue. Employers in a variety of industries have engaged in proactive efforts to bolster diversity. Yet this challenge remains particularly urgent in the field of law enforcement. Law enforcement agencies fulfill a fundamental role in our society, and in many communities, individual police officers are often the public face of local government. It therefore is critical that our nation's law enforcement agencies broadly reflect the diversity of the communities they serve.

As the Task Force recognized, increased diversity within law enforcement agencies – defined not only in terms of race and gender, but also other characteristics including religion, sexual orientation, gender identity, language ability, background, and experience – serves as a critically important tool to build trust with communities. This finding is bolstered by decades of research confirming that when members of the public believe their law enforcement organizations represent them, understand them, and respond to them – and when communities perceive authorities as fair, legitimate, and accountable – it deepens trust in law enforcement, instills public confidence in government, and supports the integrity of democracy. This trust is essential to defusing tension, to solving crimes, and to creating a system in which residents view law enforcement as fair and just. Victims and witnesses of crime may not approach or engage with law enforcement if they do not perceive such authorities to be responsive to their experiences and concerns. This trust – and the cooperation it facilitates – also enables officers to more effectively and safely perform their jobs.

Research further suggests that increased diversity can make law enforcement agencies more open to reform, more willing to initiate cultural and systemic changes, and more responsive to the residents they serve. Some have pointed to increased diversity as a catalyst for reform, enabling officers and law enforcement leaders alike to become more introspective and reflective about problems in their departments. A more reflective and open-minded culture in an agency can help drive reform across a range of areas, including civilian oversight, community policing, and racial bias. In addition, while greater workforce diversity alone cannot ensure fair and effective policing, a significant – and growing – body of evidence suggests that diversity can have a positive influence on specific activities and practices of law enforcement agencies.

Barriers to Diversity

Despite their efforts, law enforcement agencies of all sizes have not always been successful in recruiting and attracting individuals that reflects the communities they serve. This is likely attributable to a number of factors that are present in the recruiting, hiring, and retention phases.

Recruitment:

- Strained relations and a lack of trust of law enforcement may deter individuals from underrepresented communities from applying to be officers.

- The reputation or operational practices of law enforcement agencies may dissuade applicants from underrepresented communities from pursuing a career in law enforcement.

- Individuals from underrepresented communities may not be sufficiently aware of career opportunities within law enforcement agencies.

Hiring:

- Law enforcement agencies' reliance on inadequately tailored examinations as part of the screening process may have the unintended consequence of excluding qualified individuals in underrepresented communities from the applicant pool.

- Reliance on certain additional selection criteria and screening processes that disproportionately impact individuals from underrepresented communities can also inhibit agencies' efforts to increase the diversity of their workforces.

- Requirements, such as residency restrictions, may limit certain underrepresented communities' representation in law enforcement agencies.

- Length, complexity, and cost of application processes can serve as a deterrent for applicants.

- Law enforcement agencies may be limited in their ability to modify or adjust hiring and selection criteria.

Retention:

- Individuals may face difficulties adjusting to a law enforcement agency's organizational culture.

- Individuals from underrepresented communities may face difficulties in the promotion process due to a lack of transparency about the process, as well as a scarcity of role models, mentoring relationships, and professional development opportunities.

In identifying policies and practices that have served as barriers to recruiting, hiring, and retaining a workforce that reflects the diversity of the community, this report is not suggesting that law enforcement agencies should necessarily abandon those policies or practices. In fact, some of these policies and practices result from requirements of federal, state, and/or local laws. However, to the extent agencies are trying to increase the diversity of their workforces, they need to recognize that these barriers may impede their ability to do so, and develop strategies to compensate for the barriers' undesired impact.

Promising Practices for Increasing Diversity

By adopting proactive and intentional recruitment, hiring, and retention strategies, law enforcement agencies can address barriers, drive reform, and make progress in ensuring that their workforces better reflect the diversity of the communities they serve. The report highlights promising practices – identified through existing online materials, independent research, and interviews – that various law enforcement agencies have found to be particularly effective at increasing their diversity. Given the sheer number of law enforcement agencies in this country, this report does not provide a comprehensive examination of promising practices that have been developed and are being used, but it does provide a number of salient examples focused on the key areas of: (i) recruitment, (ii) hiring, and (iii) retention. Although the practices adopted by law

enforcement agencies vary considerably, this report demonstrates that successful diversity-building efforts by law enforcement agencies share several common themes, including:

- Ensuring that the agency's **organizational culture** is guided by community policing (a strategy of policing that focuses on police building ties and working closely with community members); procedural justice (the idea of fairness in the processes that resolve disputes) and cultural inclusivity (welcoming and including all people).

- **Engaging stakeholders** – both from within and outside the law enforcement agency – to help create a workforce that reflects the diversity of the community.

- **Being willing to re-evaluate employment criteria, standards, and benchmarks** to ensure that they are tailored to the skills needed to perform job functions, and consequently attract, select, and retain the most qualified and desirable sworn officers.

Recruitment:

- Proactive and targeted community outreach efforts can help encourage people from diverse populations and walks of life to consider careers in law enforcement.

- Building partnerships with educational institutions and providing young people with internship programs creates a robust pipeline of potential applicants while also helping to address historically-negative perceptions or experiences diverse communities have had with law enforcement.

- The effective, innovative use of technology and social media is critical to communicate and connect with all members of the community.

Hiring:

- Agencies are increasingly adopting a holistic view of what skills and strengths an applicant brings to a law enforcement agency, in part by being willing to reevaluate information revealed during background checks, including previous drug use.

- Law enforcement agencies have expressed a willingness to reconsider selection criteria and written or physical examinations that do not correspond to job-related duties and that disproportionately screen out individuals from underrepresented populations.

- In their efforts to diversify their workforces, law enforcement agencies have streamlined and made more transparent their hiring and selection procedures. Some agencies have offered assistance and preparation materials to help applicants prepare for examinations.

- Law enforcement agencies have involved community members in the hiring process as a way to develop workforces that reflects the diversity of their communities.

Retention:

- Mentorship programs and leadership training are critical to providing new officers – particularly those from underrepresented populations – with the support, guidance, and resources they need to succeed on the job, enjoy their careers, and earn promotions.

- Community partnerships and stakeholder engagement can help retain officers of color and women by better understanding the unique challenges they face in the profession.

- Incentives – including providing temporary housing, allowing officers to work towards college credit while on the job, and providing financial bonuses for language skills – can help retain officers with diverse experiences and backgrounds.

Key Conclusions

Law enforcement agencies that are committed to increasing the diversity of their workforces and ensuring that the demographic makeup of their sworn officers reflect the diversity of the communities they serve face a plethora of challenges. These challenges, which manifest themselves at every stage of the recruitment, selection, and retention processes, are daunting, but – as the experiences of the law enforcement agencies highlighted in this report make clear – they are far from insurmountable. In fact, agencies that have undertaken this effort have found that increased diversity brings a range of benefits that can be seen both within their workforces as well as in their relations with the communities they serve. It is the hope that this report's discussion of barriers that inhibit diversity and the promising practices that have been adopted and are being used in jurisdictions all across the country provide a useful resource for law enforcement agencies, particularly those that may not have the internal resources to undertake this type of review themselves.

At the same time, the work done for the Advancing Diversity in Law Enforcement initiative has revealed a number of unanswered questions and areas for future research and review. Specifically:

- More work needs to be done to **understand the impact of increased workforce diversity on the enforcement activities** of law enforcement agencies.

- **Additional empirical research is needed** to better understand the long-term impacts of the promising practices highlighted in this report.

- Further research could **analyze how to further institutionalize these promising practices** within departments so that they can withstand changes in leadership and personnel.

- When government stakeholders and policymakers consider laws and regulations that impact selection procedures and criteria for law enforcement agencies, **the impacts on the agencies' ability to hire officers that reflect the diversity of their communities** should be taken into account.

- Further research is needed to better understand how law enforcement agencies can **successfully retain and foster career advancement of officers** from underrepresented populations.

This report does not represent the end of the U.S. Department of Justice's Civil Rights Division and the EEOC's work around these important issues. The Federal government remains committed to partnering with law enforcement agencies from all across the country to assist them in their efforts to better reflect the diversity of the communities they serve.

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I. Introduction

A. Background

During the summer of 2014, the nation's attention turned to the small city of Ferguson, Missouri, which was embroiled in protests and civil unrest following the tragic shooting of Michael Brown, an 18-year-old African-American resident, by a white officer from the Ferguson Police Department. While much of the attention focused on the range of systemic problems and significant challenges in the relationship between law enforcement and the community in Ferguson, discussion also turned to the demographics of the Ferguson Police Department. Several news organizations reported that there was a severe imbalance between the racial composition of the police department and the demographics of the community, they observed that although African Americans comprised a majority of Ferguson's population, only three of the city's 53 commissioned police officers were African American.[1] Similarly, when the Department of Justice (Department) published its investigative findings from its systematic review of the Ferguson Police Department in March 2015, the review found that while African Americans comprise roughly 67 percent of the city's population, they accounted for less than 8 percent of its police force. The report concluded that the police department's lack of racial diversity, when combined with other factors, undermined and damaged community trust in the police.[2]

But Ferguson is far from an anomaly in this regard. A disconnect between the composition of law enforcement agencies and the demographics of the communities they serve can be found throughout our country.[3] A *New York Times* analysis of data collected by the Federal government found that "[i]n hundreds of police departments across the country, the proportion of whites on the force is more than 30 percentage points higher than in the communities they serve."[4] Another publication, *Governing*, conducted a similar analysis with the same dataset and reached nearly identical conclusions: "[r]acial and ethnic minorities are underrepresented by a combined 24 percentage points on average when each police department's sworn officer demographics are compared with Census estimates for the general public."[5]

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[1] *See* Bathya Ungar-Sargon, *Lessons for Ferguson in Creating a Diverse Police Department*, FIVETHIRTYEIGHT POLITICS, Jan. 5, 2015, http://fivethirtyeight.com/features/lessons-for-ferguson-in-creating-a percent1fdiverse-police-department/; *see also* Emily Badger, *When Police Departments Don't Look Like the Cities They're Meant to Protect*, WASH. POST, Aug. 12, 2014, https://www.washingtonpost.com/news/wonk/wp/2014/08/12/when-police-departments-dont-look-like-the-cities-theyre-meant-to-protect; Jeremy Ashkenas and Haeyoun Park, *The Race Gap in America's Police Departments,* N.Y. TIMES, Sept. 4, 2014, http://www.nytimes.com/interactive/2014/09/03/us/the-race-gap-in-americas-police-departments.html?_r=0; Emily Badger, Dan Keating, and Kennedy Elliott, *Where Minority Communities Still Have Overwhelmingly White Police*, WASH. POST, Aug. 14, 2014, https://www.washingtonpost.com/news/wonk/wp/2014/08/14/where-minority-communities-still-have-overwhelmingly-white-police/.

[2] U.S. DEP'T OF JUSTICE, INVESTIGATION OF THE FERGUSON POLICE DEPARTMENT 88 (2015), https://www.justice.gov/opa/pr/justice-department-announces-findings-two-civil-rights-investigations-ferguson-missouri.

[3] *See, e.g.*, Shaila Dewan, *Mostly White Forces in Mostly Black Towns: Police Struggle for Racial Diversity*, N.Y. TIMES, Sept. 9, 2014, http://www.nytimes.com/2014/09/10/us/for-small-police-departments-increasing-diversity-is-a-struggle.html (discussing the trend regarding small and mid-size departments that have a far less diverse workforce than the communities they serve, and commentary on the public discussion of this issue after the death of Michael Brown in Ferguson, Missouri).

[4] Ashkenas and Park, *supra* note 1.

[5] Mike Maciag, *Where Police Don't Mirror Communities and Why It Matters*, GOVERNING, Aug. 28, 2015, http://www.governing.com/topics/public-justice-safety/gov-police-department-diversity.html; *see also* Yamiche

Tragic events over the past several years – including officer-involved shootings and attacks on law enforcement officers, and the demonstrations and protests these incidents have spawned – have captured the public's attention and driven a host of policing issues from the periphery to the center of our public dialogue, including a renewed focus on increasing diversity in the nation's law enforcement agencies.[6] For example, following the recent fatal attack on police officers in Dallas, Texas, the Dallas police chief specifically encouraged young African-American men who had been protesting the actions of his law enforcement agency to apply to work there.[7] Other law enforcement leaders have issued similar public appeals in response to demonstrations and social unrest in their jurisdictions.[8]

In December 2014, President Obama announced his Task Force on 21st Century Policing. The Task Force brought together a diverse range of stakeholders – including law enforcement leaders, advocates, academics, policymakers, and community members – to explore strategies for strengthening community-police relations, reducing crime, and advancing public safety. The 59 recommendations detailed in the Task Force's May 2015 final report provide law enforcement and communities with a roadmap to rebuild trust and to advance effective, constitutional, and community-oriented policing.

In one of its key recommendations for "building trust and legitimacy" in community-police relations, the Task Force focused on the need to ensure law enforcement agencies better reflect the diversity of the communities they serve.[9]

> **"Law enforcement agencies should strive to create a workforce that contains a broad range of diversity including race, gender, language, life experience, and cultural background to improve understanding and effectiveness in dealing with all communities."**
>
> ***– Final Report of the President's Task Force on 21st Century Policing***

Alcindor and Nick Penzenstadler, *Police Redouble Efforts to Recruit Diverse Officers*, USA TODAY, Jan. 21, 2015, http://www.usatoday.com/story/news/2015/01/21/police-redoubling-efforts-to-recruit-diverse-officers/21574081/ (finding that while the country's population is about 63 percent white, nearly 75 percent of all police officers are white).

[6] When discussing diversity in law enforcement, this report focuses almost exclusively on sworn officers. While definitions may vary slightly, sworn officers can be identified and defined by having "the authority to make arrests and carry firearms" and have taken an oath to support federal law, including the U.S. Constitution, as well as applicable state or local laws in their jurisdictions. *E.g.*, *What's It Like?* Discoverpolicing.org, http://discoverpolicing.org/whats_like/?fa=types_jobs (last visited Sept. 21, 2016).

[7] Jen Fifield, *Can Diverse Police Departments Ease Community Tension?* STATELINE, Aug. 22, 2016, http://www.pbs.org/newshour/rundown/can-diverse-police-departments-ease-community-tension/.

[8] *Id.*

[9] *See* OFFICE OF COMMUNITY ORIENTED POLICING SERVICES, FINAL REPORT OF THE PRESIDENT'S TASK FORCE ON 21ST CENTURY POLICING (2015), at 16, http://www.cops.usdoj.gov/pdf/taskforce/taskforce_finalreport.pdf. The U.S. Department of Justice's Civil Rights Division and Office of Justice Programs as well as the U.S. Equal Employment Opportunity Commission authored a "Diversity in Law Enforcement Literature Review," which identified research and academic scholarship addressing diversity in law enforcement so that this cross-section of relevant research could inform the work of the Task Force. An updated version of that literature review is attached as Appendix B.

Although greater diversity in law enforcement agencies is not a cure-all solution to improving police-community relations, the Task Force did identify diversity as a key element, a necessary piece of the conversation around reform, and an important factor in evaluating the multiple causes of fragmented trust.

Although the spotlight on these issues is more prominent than it has been in the past, for many – including law enforcement personnel, government officials, and community leaders – this is only one piece of a decades-long conversation about how law enforcement and the communities they serve can best work together. Efforts to advance diversity within the law enforcement profession have been particularly challenging. In fact, this is one of the issues that led Congress, in 1972, to provide the Federal government with greater authority to enforce the employment discrimination provisions of Title VII of the landmark Civil Rights Act of 1964 (Title VII) against state and local public employers, including law enforcement agencies.[10] And as one scholar has observed, "virtually every national report on the police over the past twenty years has recommended increased employment of minorities and women."[11] Many law enforcement agencies, as well as organizations that work with law enforcement, have devoted considerable time, energy, and attention in their efforts to recruit and retain workforces that reflect the diversity within their jurisdictions.[12]

For many years, the Federal government has also worked to address challenges and barriers to diversity in law enforcement. The Equal Employment Opportunity Commission, the agency tasked with primary responsibility for enforcing Federal employment discrimination laws, enforces Title VII as well as the other protections that forbid employers from discriminating against job applicants or employees. Additionally, the EEOC collects and analyzes workforce demographic data from large employers, including law enforcement agencies, and upon request has provided technical assistance to these agencies. The U.S. Department of Justice has also been engaged in a variety of efforts to address the diversity of the nation's law enforcement agencies. The Department's Civil Rights Division works jointly with the EEOC in enforcing Title VII,[13] and has successfully brought numerous civil actions against police departments, state correctional organizations, and first responder agencies challenging unlawful, discriminatory employment, hiring, and promotion practices.[14] The Division also enforces the anti-discrimination provision of the Immigration and

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[10] George P. Sape & Thomas J. Hart, *Title VII Reconsidered: The Equal Employment Opportunity Act of 1972*, 40 GEO. WASH. L. REV. 824, 847 (1972).

[11] Samuel Walker, *Racial Minority and Female Employment in Policing: The Implications of Glacial Change*, 31 CRIME & DELINQ. 555, 555-72 (1985).

[12] For example, in September 2016 a coalition of associations and organizations devoted to representing the interests of women and racial minorities in law enforcement joined together to recommend a national "call to action" related to increasing diversity in law enforcement. WOMEN IN FEDERAL LAW ENFORCEMENT ET AL., TRANSFORMING LAW ENFORCEMENT BY CHANGING THE FACE OF LAW ENFORCEMENT – 21ST CENTURY POLICING: GUIDE TO RECRUITING, HIRING, RETAINING, AND PROMOTING WOMEN AND MINORITIES 9 (2016).

[13] Specifically, the Civil Rights Division enforces Title VII, which prohibits employment practices that discriminate on the basis of race, sex, religion, and national origin, against state and local employers, including law enforcement agencies. Individuals who believe they have been discriminated against in employment by a state or local employer first file a charge with the EEOC. The EEOC investigates the charge, and, if the EEOC finds it meritorious, attempts to conciliate it. If conciliation fails, the EEOC refers the charge to the Civil Rights Division for review and possible litigation. The Civil Rights Division also has its own self-starting authority to initiate investigations regarding employment discrimination by state and local governments.

[14] *See, e.g.*, *United States v. City of New York,* No. 07-cv-2067 (E.D.N.Y.) (challenging the fire department's entry level examination); *United States v. City of Corpus Christi,* No. 12-cv-00271 (S.D. Tex.) (challenging the police department's entry-level examination); *United States v. Commonwealth of Massachusetts*, No. 09-cv-11623-WGY 9 (D. Mass.) (challenging

Nationality Act (INA), which prohibits employers, including law enforcement agencies, from discriminating against job applicants because of their national origin; it also prohibits citizenship or immigration status discrimination where such distinctions are not otherwise authorized by law. In addition, through the Division's enforcement of the Violent Crime Control and Law Enforcement Act of 1994, the Division has entered into court-enforceable consent decrees that, among other measures, have focused on the need for jurisdictions to increase the diversity within their law enforcement agencies.[15] The Department's Office of Community Oriented Policing Services (COPS) and Office of Justice Programs also have been engaged in efforts around this issue.[16] Through this work – as well as the efforts of other Federal agencies[17] – the Federal government has been actively working to promote greater diversity in the nation's law enforcement agencies.

B. Advancing Diversity in Law Enforcement Initiative

While the Department of Justice and EEOC continue to lead robust enforcement, data analysis, and technical assistance efforts to address diversity in law enforcement, we also recognize that these efforts, by themselves, cannot reach all of the more than 18,000 law enforcement agencies in this country. Indeed, voluntary efforts by law enforcement employers are essential to advance diversity and further equal employment opportunity. Toward that end, in December 2015, the Department's Civil Rights Division and the EEOC launched a new research initiative, "Advancing Diversity in Law Enforcement," to identify barriers that undermine diversity in law enforcement and

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corrections department's entry-level examination). U.S. DEP'T OF JUSTICE, https://www.justice.gov/crt/employment-litigation-section-cases (last visited Oct. 1, 2016).

[15] As part of this work, several consent decrees negotiated by the Justice Department – including in Ferguson and Albuquerque, among other cities – have focused on the need for jurisdictions to recruit, hire, and retain a diverse police force. In Ferguson, the consent decree called for a "written Recruitment Plan that includes clear goals, objectives, and action steps for attracting and retaining a high-quality and diverse work force." Consent Decree at 64, *United States v. City of Ferguson,* No. 4:16-cv-00180-CDP (E.D. Mo. Mar. 17, 2016), https://www.justice.gov/opa/file/833431/download. In Albuquerque, the relevant provisions of the consent decree entered required that the police department "shall develop a strategic recruitment plan that includes clear goals, objectives, and action steps for attracting qualified applicants from a broad cross section of the community." Consent Decree at 74, *United States v. City of Albuquerque*, No.1:14-cs-01025-RB-SMV (D.N.M. Nov. 14, 2014), https://www.justice.gov/sites/default/files/crt/legacy/2014/12/19/apd_settlement_11-14-14.pdf.

[16] In 2009, COPS authored a report that focused on police recruitment, recruiting for diversity, agency collaboration in police officer recruitment and selection, and community partnerships in police recruitment. U.S. DEP'T OF JUSTICE, LAW ENFORCEMENT RECRUITMENT TOOLKIT (2009), http://www.cops.usdoj.gov/pdf/vets-to-cops/e080921223-RecruitmentToolkit.pdf. And in 2004, COPS published a report that explores methods and practices, in five sites across the nation, for hiring police candidates who could develop dynamic and working partnerships with community and work collaboratively to solve community problems. Ellen Scrivner, Ph.D., U.S. DEP'T OF JUSTICE, INNOVATIONS IN POLICE RECRUITMENT AND HIRING, HIRING IN THE SPIRIT OF SERVICE (2004), http://www.cops.usdoj.gov/pdf/vets-to-cops/innovationpolicerecruitmenthiring.pdf. In 2014, the Office for Civil Rights (OCR), Office of Justice Programs, U.S. Department of Justice launched the Women in Law Enforcement Initiative based on publicly available data, including information from the Bureau of Justice Statistics and the FBI, which show that state law enforcement agencies lag behind their local counterparts in employing women as sworn officers. The Initiative examines, through compliance reviews, how state law enforcement agencies recruit, select, and retain female sworn law enforcement officers. In January 2016, OCR issued its first compliance review report under the Initiative.

[17] The Department of Labor is conducting a First Responder Workforce Diversity Study, focused on firefighters, police, emergency medical technicians (EMTs), and paramedics. The purpose of the study is to identify and document promising practices and strategies that promote racial, ethnic, and gender diversity in the recruitment, training, hiring, and retention of individuals in first responder occupations. U.S. DEP'T OF LABOR, CHIEF EVALUATION OFFICE, FIRST RESPONDER WORKFORCE DIVERSITY STUDY, https://www.dol.gov/asp/evaluation/currentstudies/First_Responder_Workforce_Diversity_Study.htm, (last visited Sept. 20, 2016).

highlight promising practices that help agencies better reflect the diversity of the communities they serve. The initiative has focused on barriers and promising practices across three key areas: recruitment, hiring, and retention. In so doing, this initiative has taken a broad look at a number of barriers to diversity, while placing particular emphasis on practices that advance greater racial and gender diversity and that foster the inclusion of the perspectives and experiences of persons of diverse backgrounds in the culture and leadership of law enforcement agencies.[18] This initiative was created to assist law enforcement agencies throughout the country as they strive to build workforces that better reflect the diversity of the communities they serve and to especially aid those small and medium-size police departments that recognize the importance of diversity, but may lack the resources to fully explore solutions.[19]

This report lays out the results of that effort. Of particular salience is the collection of promising practices that are being developed and implemented by law enforcement agencies across the country. To be sure, none of these practices can guarantee increased diversity within an agency; as discussed in greater detail below, strategies for successfully recruiting, hiring, and retaining officers are inherently localized practices that depend upon a variety of factors and contexts that are not easily summarized. Moreover, adoption of any of these practices by themselves will not necessarily ensure compliance with all legal obligations related to equal employment opportunity.[20] Nevertheless, the experiences of law enforcement agencies taking steps to increase the diversity of their workforces provides useful information for others who are, or wish to be, engaged in similar efforts.

Underlying this effort is the recognition that the Federal government should improve its own diversity as well. In 2011 President Obama issued an executive order establishing a coordinated government-wide initiative to promote diversity and inclusion within the Federal workforce.[21] And after data revealed a decline in the number of racial minorities serving as special agents within the Federal Bureau of Investigation, Director James Comey described the issue as a "crisis" and affirmed the agency's commitment to reversing that trend.[22]

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[18] Throughout this effort, the Department of Justice and the EEOC have explored barriers and promising practices related to other factors beyond race and gender, however, given limits in data and population size, the majority of this initiative and this report focuses on those two broad categories.

[19] For purposes of this report, small law enforcement agencies are those with 75 or fewer sworn officers, medium or mid-size agencies are those with 76-125 sworn officers, and large departments are those with more than 125 sworn officers.

[20] A discussion of how the requirements of Federal civil rights laws have shaped diversity and equal employment opportunity within law enforcement can be found in Appendix A.

[21] *See, e.g.*, Exec. Order No. 13583 3 C.F.R. 13563, (2011), https://www.whitehouse.gov/the-press-office/2011/08/18/executive-order-13583-establishing-coordinated-government-wide-initiativ.

[22] James B. Comey, Director, Fed. Bureau of Investigation, FBI/BCRI Annual Conference on Civil Rights: Law Enforcement and the Communities We Serve: Tied Together in a Single Garment of Destiny (May 25, 2016), https://www.fbi.gov/news/speeches/law-enforcement-and-the-communities-we-serve-tied-together-in-a-single-garment-of-destiny ("The FBI special agent cadre has been growing slowly and steadily more white for the last decade. Eighty-three percent of our special agents are white, while the United States continues to get more diverse . . . . Becoming a more diverse FBI is of course the right thing to do, but it's also about being more effective in carrying out our responsibilities and our mission in this wonderful country of ours. We are more credible and we make better decisions when we bring different perspectives to bear. We know more, we see more, we are better. So we need to be more diverse in race and religion, in ethnicity and background. We have to work hard to overcome the cynicism that some young people feel about law enforcement and whether to choose that to be their life. And we need to especially push hard in communities that are underrepresented in our ranks. That's going to take a whole lot of energy and

Throughout this initiative, the Department's Civil Rights Division and the EEOC worked with law enforcement leaders, civil rights advocates, academic experts, municipal officials, and other stakeholders to take advantage of the considerable existing research and successful models that are being used by agencies all across the country to address barriers to diversity. CPE spearheaded much of these outreach and engagement efforts. Overall, it is the hope that this Advancing Diversity in Law Enforcement initiative will advance ongoing conversations around this challenging and important issue and serve as a resource for law enforcement agencies and others across the country.

C. Roadmap of this Report

This report proceeds as follows:

- **Section II** discusses why diversity matters, including the benefits that result when law enforcement agencies reflect the diversity of the communities they serve;
- **Section III** provides an overview of the nation's law enforcement agencies and describes current demographics;
- **Section IV** discusses the methodology that the Department of Justice, the EEOC, and CPE used in conducting outreach and research for this effort;
- **Section V** examines the barriers to greater diversity in law enforcement within the areas of recruitment, hiring, and retention;
- **Section VI** highlights promising practices that law enforcement agencies have been using to advance diversity nationwide;[23]
- **Section VII** showcases in greater detail the efforts that a handful of law enforcement agencies have taken to promote greater diversity in their workforces;
- **Section VIII** summarizes the report's key conclusions and notes places where additional research and study may be useful going forward; and finally
- **Section IX** provides a set of appendices that document the impact of enforcement activities, summarize existing literature on the topic, and list organizations that were consulted during the project.

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innovation."); *see also* Devlin Barrett, *FBI Director Comey Calls Agency's Lack of Diversity a 'Crisis'*, WALL STREET J., July 13, 2016, http://www.wsj.com/articles/fbi-director-comey-calls-agencys-lack-of-diversity-a-crisis-1468426138.

[23] Nothing in this report is designed to serve as legal advice; rather the report, including its discussion of promising practices, is aimed to serve as a resource for law enforcement agencies. The practices discussed in the report are based on both publicly available information and research conducted during this initiative. The mention or recognition of a particular practice, however, does not represent the Federal government's endorsement or blanket approval of the organization's employment practices or the legality of such practices. The Federal government mentioning a practice in this report also does not prevent or interfere with any Federal agency's existing authority to pursue current or future litigation against a specific entity or agency using that practice.

II. Why Diversity in Law Enforcement Matters

The challenge of recruiting, hiring, and retaining a diverse workforce is certainly not limited to law enforcement. Throughout the country, in nearly every sector of society, people and organizations are grappling with this issue. Employers in a variety of industries have engaged in proactive efforts to expand opportunity and strengthen diversity.[24] Yet this challenge remains particularly urgent in the field of law enforcement. Law enforcement agencies fulfill a fundamental role in our society, and in many communities, individual police are often the public face of local government. It therefore is critical that our nation's law enforcement agencies broadly reflect the diversity of the communities they serve.

As the Task Force recognized, increased diversity within law enforcement agencies – defined not only in terms of race and gender, but also other characteristics including religion, sexual orientation, gender identity, language ability, background, and experience – serves as a critically important tool to build trust with communities.[25] This finding is bolstered by decades of research confirming that when members of the public believe their law enforcement organizations represent them, understand them, and respond to them, and when communities perceive authorities as fair, legitimate, and accountable, it enhances trust in law enforcement, instills public confidence in government, and supports the integrity of democracy.[26] This trust is essential to defusing tension, to solving crimes, and to creating a system in which residents view law enforcement as fair and just. Members of the public, including victims and witnesses of crime, may not approach or engage with law enforcement if they do not perceive such authorities to be responsive to their experiences and concerns. This trust – and the cooperation it facilitates – also enables officers to more effectively and safely perform their jobs.

Research further suggests that increased diversity also can make law enforcement agencies more open to reform, more willing to initiate cultural and systemic changes, and more responsive to the residents they serve. Some have pointed to increased diversity as a catalyst for reform, enabling officers and law enforcement leaders alike to become more introspective and reflective about problems with their departments. A more reflective and open-minded culture in an agency can help drive reform across a range of areas, including civilian oversight, community policing, and racial bias.[27]

Additionally, a commitment to diversity by law enforcement agencies ensures that crucial public sector jobs are available to all eligible qualified candidates and therefore helps ensure equal employment opportunity for all. Positions within law enforcement agencies often serve as the backbone of many communities, offering rewarding, long-term careers. Jobs in law enforcement

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[24] Society for Human Resource Management, *Diversity and Inclusion*, https://www.shrm.org/hr-today/trends-and-forecasting/research-and-surveys/pages/diversity-inclusion.aspx (last visited Sept. 21, 2016).
[25] Joshua C. Cochran & Patricia Y. Warren, *Racial, Ethnic, and Gender Differences in Perceptions of the Police: The Salience of Officer Race Within the Context of Racial Profiling*, 28 J. OF CONTEMP. CRIM. JUST. (2012), 209-11, http://ccj.sagepub.com/content/28/2/206.full.pdf.
[26] *See, e.g.*, COMMUNITY ORIENTED POLICING SERVICES AND NATIONAL INITIATIVE FOR BUILDING COMMUNITY TRUST & JUSTICE, PROCEDURAL JUSTICE (2015), https://uploads.trustandjustice.org/misc/PJBrief.pdf.
[27] *See e.g.*, David Alan Sklansky, *Not Your Father's Police Department: Making Sense of the New Demographics of Law Enforcement*, 96 J. CRIM. L. & CRIMINOLOGY 1209, 1239-40 (2006), scholarlycommons.law.northwestern.edu/cgi/viewcontent.cgi?article=7244&context=jclc.

create new pathways of economic opportunity for men and women motivated to serve their community and work hard to provide for their families and lift themselves into the middle class.

In addition, while greater workforce diversity alone cannot ensure fair and effective policing, a significant – and growing – body of evidence suggests that diversity can have a positive influence on specific activities and practices of law enforcement agencies.

Decades of research has identified the considerable tangible benefits resulting from an increased numbers of female officers within law enforcement agencies. For example, this research has shown not only that female officers are just as competent and effective as their male counterparts in carrying out law enforcement functions, but also that female officers are more likely to use a style of policing that relies less on physical force. Consequently, female officers generally are less likely than their male counterparts to unnecessarily use either deadly or excessive force.[28] Female officers have been shown to be more likely to implement community-oriented policing approaches which place greater focus on communication and cooperation with the public.[29] Female officers also have been found to be more responsive to situations involving violence against women, which comprise the majority of violent crime service calls made to law enforcement agencies.[30]

Similarly, law enforcement agencies that have multi-lingual officers are able to provide improved services to individuals with limited English proficiency (LEP). Thus, for example, the Department of Justice, in its efforts to implement the terms of a consent decree with the New Orleans Police Department, worked with that law enforcement agency to strengthen its relationship with LEP communities by increasing the number of officers who speak languages other than English.[31]

The record regarding the impact of increased racial diversity has been more mixed. While there have been some exceptions, the research has historically suggested that, standing alone, increasing the number of racial minorities does not have a meaningful impact on a law enforcement agency's conduct.[32] Yet a growing body of research is challenging some of these conclusions. For

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[28] DR. KIM LONSWAY, ET AL., NAT'L CTR. FOR WOMEN & POLICING, *Hiring and Retaining More Women: Their Advantages to Law Enforcement Agencies*, 2-5 (2003), http://womenandpolicing.com/pdf/newadvantagesreport.pdf; Katherine Spillar, *How More Female Police Officers Would Help Stop Police Brutality*, WASH. POST, July 2, 2015, https://www.washingtonpost.com/posteverything/wp/2015/07/02/how-more-female-police-officers-would-help-stop-police-brutality/?utm_term=.8dbe352c9113.

[29] DR. KIM LONSWAY, ET AL., *supra* note 28; *see also* Christina Asquith, *Why Aren't U.S. Police Departments Recruiting More Women?,* THE ATLANTIC, Aug. 30, 2016, http://www.theatlantic.com/politics/archive/2016/08/police-departments-women-officers/497963/.

[30] Peter Horne, Ph.D., *Policewomen: The First Century and the New Era*, THE POLICE CHIEF MAGAZINE, Sept. 2016, https://www.ncjrs.gov/App/publications/abstract.aspx?ID=237481.

[31] Consent Decree, *United States v. City of New Orleans*, No. 2:12-cv-01924 (E.D. La. Jan. 11, 2013), https://www.justice.gov/sites/default/files/crt/legacy/2013/01/11/nopd_agreement_1-11-13.pdf; *see also* City of New Orleans, *NOPD Building Team of Bilingual Officers to Improve Communication with Limited English Speaking Communities*, (last visited October 3, 2016), www.nola.gov/nopd/press-releases/2016/20160222-nopd-building-team-of-bilingual-officers/.

[32] *See, e.g.*, Fifield *supra* note 7 (referencing a 2004 National Research Council report that found "there is no credible evidence that officers of different racial or ethnic backgrounds perform differently during interactions with citizens simply because of race or ethnicity); NAT'L RESEARCH COUNCIL, FAIRNESS AND EFFECTIVENESS IN POLICING THE EVIDENCE, at 147-48 (2004); Sklansky, *supra* note 27 at 1224-28, (highlighting studies concluding that African-American officers were just as likely as their white counterparts to use their firearms, arrest civilians, spur citizen complaints, and be subjected to disciplinary proceedings while also pointing to other studies showing that African-American officers

example, a recent study analyzing the use of deadly force and officer-involved killings of African Americans found that greater demographic diversity within a law enforcement agency could play a role in lowering the occurrence of such incidents.[33] The authors explain:

> [Previously] there was no reliable evidence that a diverse police force was either more effective in responding to crime, or able to bridge the racial breach in trust in the police. Our results provide evidence that a diverse police force that proportionally represents the population it serves might not necessarily reduce the number of officer-involved killings directly, but mitigates the role of various factors associated with group threat and thereby eases the tensions between the police and African-American communities.[34]

After reviewing prior social science research, the authors of the study observed that there are likely four relevant factors at play contributing to this outcome: (i) increased representation of racial minorities increases the legitimacy of the law enforcement agency among minority residents; (ii) a greater presence of officers who are racial minorities not only is likely to change the public's perception of the agency, but these officers are also likely to be more knowledgeable and empathetic about the concerns and culture of minority communities; (iii) a higher number of minority officers within an agency provides opportunities for greater contact and interactions between white and minority officers, which can shape attitudes and reduce negative opinions or stereotypes about minority communities; and (iv) the presence of minority officers is likely to introduce different perspectives into an agency, and those perspectives can undermine an unnecessarily rigid response to certain events or perceived threats.[35]

This research, which provides additional support for the conclusion that increased diversity can have a positive impact on the activities and practices of law enforcement agencies, highlights that this area of study warrants further effort and attention.

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were less prejudiced towards other African Americans than white officers, knew more about the African-American community, and got more cooperation from African-American citizens); John J. Donohue III & Steven D. Levitt, *The Impact of Race on Policing and Arrests*, J. OF L. AND ECON. (2001) (finding that the race of an officer had an impact on the officer's arrest rates of whites and nonwhites).

[33] JOSCHA LEGEWIE & JEFFREY FAGAN, GROUP THREAT, POLICE OFFICER DIVERSITY AND THE DEADLY USE OF POLICE FORCE, (2016), http://ssrn.com/abstract=2778692.

[34] *Id.* at 32-33.

[35] *Id.* at 7-10.

III. Current State of Diversity in American Law Enforcement

There are approximately 18,000 Federal, state, county, and local law enforcement agencies in the United States.[36] These agencies range from police departments employing just one sworn officer to departments with more than 30,000 officers.[37] In 2008, the Department of Justice's Bureau of Justice Statistics (BJS) conducted a census of state and local law enforcement agencies.[38] That census, which included 17,985 agencies, found that those agencies collectively employed more than 1.1 million people on a full-time basis, nearly 800,000 as sworn personnel. The census revealed that the vast majority of these agencies – more than 12,000 – are local police departments, a category that includes municipal, county, tribal, and regional police departments. BJS's research also found that there are more than 3,000 sheriffs' offices; approximately 2,000 special jurisdiction agencies, which are agencies that provide police services for entities or established areas within another jurisdiction (e.g., parks, schools, airports, housing authorities, and government facilities); 50 primary state law enforcement agencies; and nearly 700 other agencies, such as county constable offices.[39] BJS also conducted a census of Federal law enforcement agencies in 2008: that survey collected data from 73 agencies, which employed approximately 120,000 full-time sworn law enforcement officers.[40]

More recent data from BJS' 2013 Law Enforcement Management and Administrative Statistics data collection (LEMAS Survey) provide information about the demographics of these law enforcement agencies. Of the more than 12,000 local police departments, and their nearly 500,000 sworn officers, 48 percent of the departments employed fewer than 10 sworn officers. While the vast majority of these departments employ a relatively small number of sworn officers, 54 percent of the sworn officers in this country work for departments in jurisdictions with 100,000 or more residents.[41] About 58,000, or 12 percent, of the full-time sworn personnel in these departments were female; female officers also accounted for nearly 10 percent of first-line supervisors[42] in these departments.[43] The LEMAS Survey found that 27 percent of full-time sworn officers are racial or ethnic minorities;[44] African-American and Latino[45] officers each comprised around 12 percent, while

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[36] DUREN BANKS, ET AL., BUREAU OF JUSTICE STATISTICS, NATIONAL SOURCES OF LAW ENFORCEMENT EMPLOYMENT DATA, 1 (2016), http://www.bjs.gov/content/pub/pdf/nsleed.pdf.

[37] *Id.*

[38] BRIAN A. REAVES, BUREAU OF JUSTICE STATISTICS, CENSUS OF STATE AND LOCAL LAW ENFORCEMENT AGENCIES, 2008 (July 2011), http://www.bjs.gov/content/pub/pdf/csllea08.pdf. BJS started conducting another census of federal, state, and local law enforcement agencies in 2014; this census is still out in the field as of the date of this report. BANKS, *supra* note 36, at 8.

[39] REAVES, CENSUS OF STATE AND LOCAL LAW ENFORCEMENT AGENCIES 2008, *supra* note 38 at 2.

[40] BRIAN A. REAVES, BUREAU OF JUSTICE STATISTICS, FEDERAL LAW ENFORCEMENT OFFICERS, 2008, 1 (2012), http://www.bjs.gov/content/pub/pdf/fleo08.pdf.

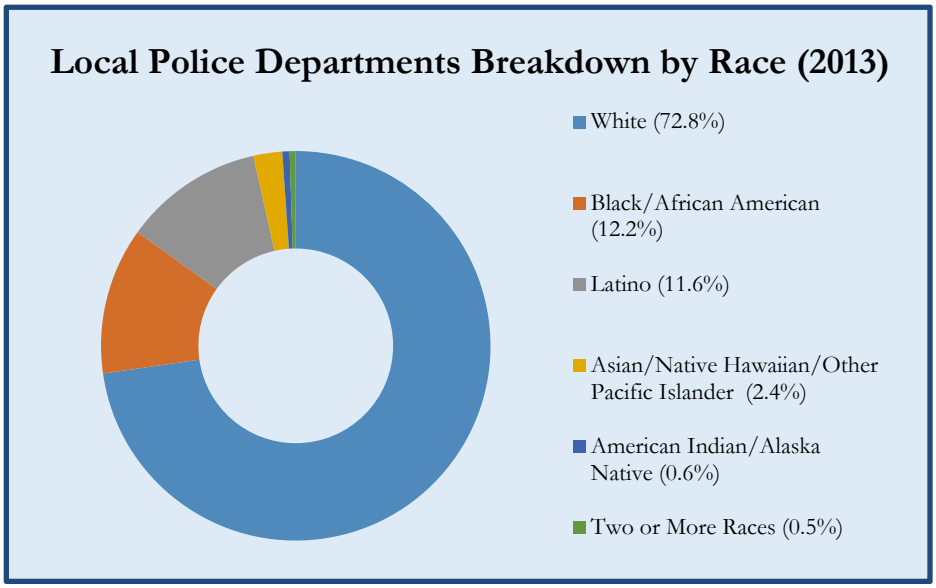
[41] BRIAN A. REAVES, BUREAU OF JUSTICE STATISTICS, LOCAL POLICE DEPARTMENTS, 2013: PERSONNEL, POLICIES, AND PRACTICES, 1 (2015), http://www.bjs.gov/content/pub/pdf/lpd13ppp.pdf.

[42] "First-line supervisors" in law enforcement agencies – typically personnel with the rank of sergeant – directly oversee the work of patrol officers.

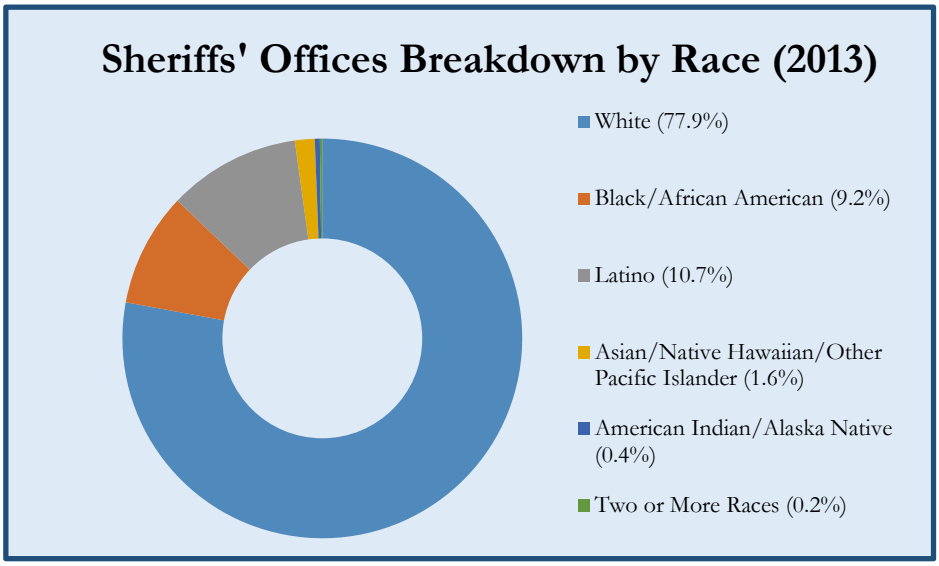
[43] REAVES, LOCAL POLICE DEPARTMENTS, 2013, *supra* note 41, at 4-5. A recent analysis conducted by the U.S. Dep't of Labor's Chief Evaluation Office based on data from the Current Population Survey of the U.S. Census Bureau and U.S. Bureau of Labor Statistics found similar results. KRISTINA SCHAFTER ET AL., DEP'T OF LABOR, CHARACTERISTICS OF INDIVIDUALS AND EMPLOYMENT AMONG FIRST RESPONDERS (2015).

[44] REAVES, LOCAL POLICE DEPARTMENTS, 2013, *supra* note 41, at 1, 5 (Figure 5)(includes Black/African American; Hispanic/Latino; Asian, Native Hawaiian, Pacific Islander; American Indian, Alaskan Native; and "persons identifying two or more races").

other minority groups, including Asian American, Native Hawaiian, or other Pacific Islander; and American Indian or Alaska Native, collectively comprised 3 percent. The LEMAS survey found similar demographics in the nation's sheriffs' offices: 14 percent of their full-time sworn officers were female (and 12 percent of the first-line supervisors were female); racial minorities comprised 22 percent of those officers, with Latino officers making up the largest share (11 percent), closely followed by African-American officers (9 percent).[46]



Source: Bureau of Justice Statistics, "Local Police Departments, 2013: Personnel, Policies, and Practices," (2015).



Source: Bureau of Justice Statistics, "Sheriffs' Office Personnel, 1993–2013," (2016).

Data collected from BJS shows that over the last several decades the nation's law enforcement agencies have become more diverse, at least by race/ethnicity and gender. BJS first

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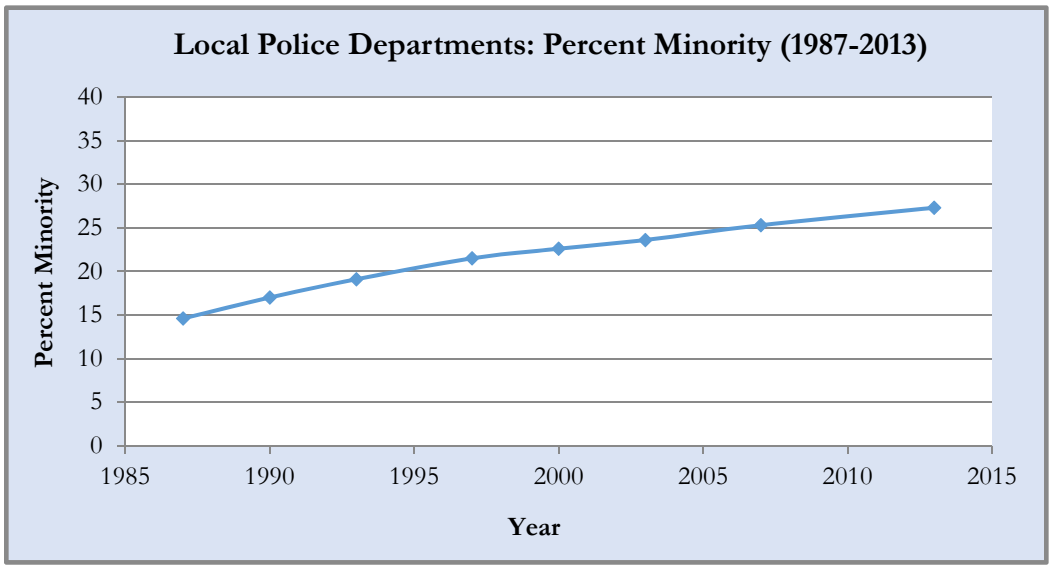
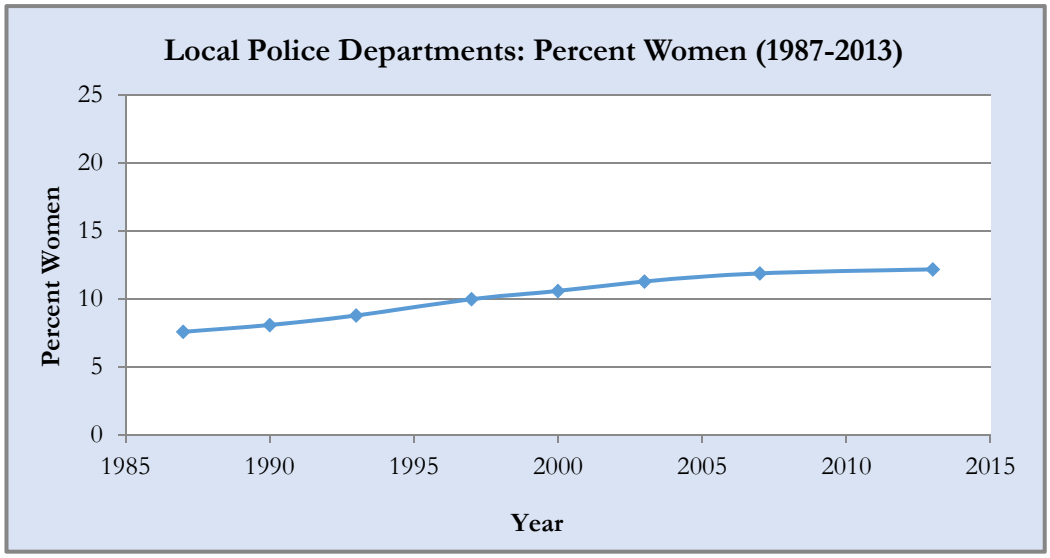
[45] Because this report relies on a large number of studies that do not use the terms Latino, Latina, and Hispanic in a uniform manner, this report uses the term Latino to encompass all three terms and does not attempt to distinguish among them.

[46] ANDREA M. BURCH, BUREAU OF JUSTICE STATISTICS, SHERIFFS' OFFICE PERSONNEL, 1993–2013, 1-6 (2016), http://www.bjs.gov/content/pub/pdf/sop9313.pdf.

began gathering data through the LEMAS Survey in 1987. In 1987, BJS recorded 27,000 women working as local police officers (8 percent); as noted above, that number has risen to 58,000 (12 percent) by 2013. In 1987, racial minorities made up 14.6 percent of all officers; they are now 27 percent. The rates of increase vary by group. Women were 8 percent of officers in 1987; 12 percent in 2007; and 12 percent in 2013.[47] African Americans were 9 percent of officers in 1987; 12 percent in 2007; and 12 percent in 2013.[48] Latinos were 4.5 percent of officers in 1987; 10.3 percent in 2007; and 11.6 percent in 2013.[49] Asian Americans, Native Hawaiians, other Pacific Islanders, American Indians, and Alaska Natives were 0.8 percent of officers in 2987; 2.7 percent in 2007; and 3 percent in 2013.[50]



Source: Bureau of Justice Statistics, "Local Police Departments, 2013: Personnel, Policies, and Practices," (2015).



Source: Bureau of Justice Statistics, "Women in Law Enforcement, 1987-2008," (2010); Bureau of Justice Statistics, "Local Police Departments, 2013: Personnel, Policies, and Practices," (2015).

[47] REAVES, LOCAL POLICE DEPARTMENTS, 2013, *supra* note 41, at 4.
[48] *Id.* at 5.
[49] *Id.*at 6.
[50] *Id.*

While the LEMAS Survey data show that law enforcement agencies overall have become more diverse since 1987, it found that departments serving larger jurisdictions have become even more diverse. Specifically, in 2013, BJS found that more than two in five officers in jurisdictions with 500,000 or more residents were racial minorities, compared to fewer than one in five officers in jurisdictions where the population was less than 50,000. This pattern is also seen among women officers: women made up 17 percent of full-time sworn officers in local police departments serving jurisdictions with 250,000 or more residents, whereas women were only 7 percent of full-time sworn officers in jurisdictions with fewer than 25,000 residents.[51]

While the number and proportion of law enforcement officers who are racial minorities have increased, there are still substantial gaps between the representation of racial minorities within law enforcement agencies and their demographic representation in the community. A recent study focused on nearly 300 local police departments in jurisdictions with more than 100,000 residents and compared their results from the 2013 LEMAS Survey data with data from the U.S. Census Bureau's 2010-2013 American Community Survey (ACS).[52] That study found that racial and ethnic minorities were underrepresented within these departments by a combined total of 24 percentage points across all racial and ethnic groups compared to the population estimates from the ACS. In other words, if racial minorities made up 30 percent of the service population, they made up on average 6 percent of the police department. The study found the greatest disparity for any individual group was Latinos: the average percentage point difference between their representation within the departments and their population estimates was nearly 11 points. The study also found that in 35 of the 85 jurisdictions surveyed where African Americans, Latinos, or Asian Americans made up the single largest racial group in the population served, their representation within the police department was less than half of their share of the population. Additionally, the study concluded that representation of racial and ethnic minorities in police departments has not kept pace with the country's changing demographics; it found that the agencies that least resembled their communities in terms of racial composition generally serve jurisdictions that have experienced significant demographic shifts in recent years.

Data collected by the EEOC confirm these trends. As part of its mandate under Title VII, the EEOC collects labor force data from state and local governments with 100 or more full-time employees; this data collection is commonly referred to as EEO-4 data.[53] Recently, researchers conducted an analysis of the EEO-4 data,[54] looking at a sample of 1,061 police departments with 50 or more officers in order to compare the racial makeup of their "protective service workers"[55] to the

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[51] *Id.* at 4-5. A similar pattern is seen in the sheriffs' office personnel data.
[52] S*ee* Maciag, *supra* note 5.
[53] Specifically, every other year, reporting agencies provide this EEO-4 data, which includes information on their employment totals, employees' job category, and salary band, by gender and race and ethnicity. For example, in 2013, 1,140 State and local police departments filed EEO-4 survey reports, covering a workforce of 591,734 full-time employees and 41,415 part-time employees.
[54] The EEOC publishes aggregate statistics derived from the EEO-4 data; responses from individual cities and counties are not publicly available. However, the EEOC does permit researchers to access this non-public EEO-4 data pursuant to an Intergovernmental Personnel Act (IPA) Agreement, which requires that the data not be shared and that no identification of individual local government respondents be reported. Philip Cohen and Moriah Willow, researchers from the University of Maryland's Sociology Department, obtained EEO-4 data pursuant to an IPA Agreement.
[55] The EEO-4 report does not collect data on whether employees of law enforcement agencies are designated as "sworn officers" or "civilians." Instead, it includes the job category "Protective Service Workers," which includes sworn officers.

racial makeup of the relevant local population as reported by the U.S. Census Bureau's American Community Survey.[56]

Their research found that African-American, Latino, and Asian-American police officers were underrepresented relative to the local area population in a significant number of the departments analyzed. Using a statistical test of underrepresentation,[57] the researchers found that within their sample, African Americans were underrepresented in 60 percent of the departments, Latinos were underrepresented in 41 percent, and Asian Americans were underrepresented in 31 percent. Consistent with the BJS data referenced above, the researchers found that racial underrepresentation was less common in larger departments. Their results also revealed that simply because a department is located in a racially diverse service area does not guarantee that the workforce will reflect this diversity. In fact, the researchers found African-American underrepresentation to be greater in departments where African Americans make up a larger proportion of the population.

[56] The racial composition of the population service area was determined using the Census Bureau's American Community Survey, for the 5-year period from 2007-2011. Both EEO-4 and Census files were centered on the year 2009.

[57] The researchers used a binomial statistical test comparing within-department racial representation to the local area population composition. The test statistic is the discrepancy between the number of police officers who are of a given race (i.e., African American, Latino, or Asian American) and the expected number of officers of that race given random selection from the population, divided by the standard deviation of the expected number.

IV. Project Methodology

The Advancing Diversity in Law Enforcement initiative was premised on engagement with those who have firsthand experience confronting the challenges related to advancing diversity in law enforcement. To that end, the teams undertaking this effort – at the Department of Justice, the EEOC, and CPE – engaged law enforcement agencies along with other stakeholders through a variety of efforts. Those efforts are broadly discussed in this section.

Over the course of the initiative, the Department of Justice and EEOC research team sought input from a number of law enforcement organizations and leaders. The research team conducted two day-long listening sessions with civil rights advocates and employment litigators, one focused on policy solutions and another focused on lessons learned from litigation. A list of the law enforcement organizations and leaders, as well as the participants in the listening sessions, can be found in Appendix C.

Additionally, CPE, in collaboration with the Justice Department and the EEOC, identified 12 "subject matter experts" with backgrounds ranging from academia, labor and employment law, and leaders of police affinity organizations with significant experience advancing demographic diversity within police organizations. Academics were chosen based on the strength of their publication record in the field of employment and diversity as well as focused work on police departments or other public institutions. Labor and employment lawyers were selected based on their knowledge of employment diversity in law enforcement and their practical experience in human resource consulting or employment litigation. Affinity organization leaders were selected because of their commitment to and work toward diversity in law enforcement. These 12 subject matter experts offered a macro-level understanding of what they have found to be barriers and promising practices related to recruiting, hiring, and retaining talented officers that reflect the community they serve. A list of these subject matter experts is found in Appendix C.

In order to explore promising practices that enhance diversity in law enforcement agencies, CPE also reached out to several police departments that have achieved relative success in becoming more diverse. CPE began by identifying small (i.e., 75 or fewer sworn officers), medium (i.e., 76-125 sworn officers), and large (i.e., 126 or more sworn officers) departments utilizing the 2013 Law Enforcement Management and Administrative Statistics (LEMAS) dataset. LEMAS data revealed national department demographics of personnel including the number of reported female, African-American, Latino, Asian-American and white full-time sworn officers. These data were paired with 2010 U.S. Census data for the city or county a particular department serves in order to determine the level of parity between department and community diversity. This method provided a range of six departments that represented states in the Western, Eastern, Northern, and Southern regions of the United States, that are small, medium, and large in size, and that have had success employing sworn personnel more closely reflecting the demographics of the communities they serve along gender and racial lines. Departments selected did not always precisely mirror the demographics for each category of gender and racial groups, but the diversity of their ranks of officers did approach parity with at least one or more underrepresented groups in their jurisdiction. The promising practices described in Section VII of this report are from the following six departments:

- Richmond Police Department (Richmond, California)
- Daly City Police Department (Daly City, California)

- Beaufort Police Department (Beaufort, South Carolina)
- Evanston Police Department (Evanston, Illinois)
- Artesia Police Department (Artesia, New Mexico)
- Bowie Police Department (Bowie, Maryland)

The primary methods of data collection were individual interviews and focus groups, which were audio recorded and transcribed with the permission of all participants. Each participating department agreed to be identified in the reporting of the data. And each department engaged in the inquiry project through the voluntary participation of its chief, sworn officer(s) involved in the recruitment and hiring process, and full-time sworn patrol officers.

CPE conducted individual interviews of chiefs and officers involved in the recruitment and hiring process in order to glean specific details about the practices they utilized to attract and employ exceptional and diverse talent. CPE asked them to describe the recruitment and hiring practices, including eligibility requirements and assessments. They were also asked to reflect on what aspects of these practices enhanced diversity. Full-time sworn officers participated in focus groups CPE facilitated in order to collect their personal experiences and perspectives on the recruitment, hiring, and retention practices utilized in their department, including whether they perceived these practices as being effective and fair. They were asked to consider their own personal recruitment, hiring, and retention experiences, and department policies and practices that led to their successful joining and continued engagement in the department. Each department selected a group of officers to participate in the focus groups. Each individual interview and focus group was coded for emergent themes. The report presents the barriers and promising practices related to diversity identified by the subject matter experts, law enforcement agencies, and other stakeholders. It was beyond the scope of this report to empirically test these claims.

All the law enforcement agencies and other stakeholders who participated in the Advancing Diversity in Law Enforcement initiative were informed that this effort is completely distinct and separate from the enforcement work conducted by the Department of Justice and the EEOC.

V. Barriers to Diversity

As previously noted, law enforcement agencies across the country have long struggled to recruit, hire, and retain officers who are racial minorities, women, and members of other underrepresented populations. To be sure, law enforcement agencies, like all employers, face challenges in recruiting, hiring, and retaining high-quality employees, regardless of their demographic background.[58] But these challenges are particularly acute for those agencies that have sought, or are seeking, to build and maintain workforces that reflect the diversity of the communities they serve.

In the section that follows, this report examines barriers law enforcement agencies face in three broad categories: (i) recruitment, (ii) hiring, and (iii) retention. Many individuals and organizations, including law enforcement leaders, academics, and civil rights practitioners, have researched and documented policies and practices that inhibit diversity in the nation's law enforcement agencies. This section seeks to build upon that work and further supplement it with additional information, details, and experiences gleaned from the various engagements undertaken as part of the Advancing Diversity in Law Enforcement initiative.

In identifying policies and practices that have served as barriers to recruiting, hiring, and retaining a workforce that reflects the diversity of the community, this report is not suggesting that law enforcement agencies should necessarily abandon those policies or practices. In fact, some of these policies and practices are mandated by Federal, state, and/or local laws; for others, there may be substantial public policy reasons why they are in place and used by law enforcement. However, to the extent agencies are striving to increase the diversity of their workforces, they need to recognize that these barriers may be impeding their ability to do so and develop strategies to compensate for the barriers' undesired impact.

A. Recruitment

The vast majority of law enforcement agencies in this country actively recruit individuals to join their workforce. According to data collected by BJS, agencies utilize a number of different recruiting methods designed to reach a broad range of potential applicants, such as advertising vacancies on agency websites (78 percent), in newspapers (71 percent), at job fairs (70 percent), on employment websites (62 percent), or via special events (56 percent).[59] Seventy-four percent of law enforcement agencies indicate that they rely on "personal contacts" as a recruitment tool – generally, publicizing job opportunities through internal or informal processes that rely on word-of-mouth or knowing someone in the agency. BJS data also suggests that the size of the agency plays a role in the types of recruitment methods used: agencies with 500 or more sworn officers were nearly three times as likely (96 percent) to use internet advertising than agencies with fewer than 10 officers (36 percent).[60] Larger agencies – *i.e.*, those with 126 or more sworn officers – devoted more resources

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[58] *See generally* JEREMY M. WILSON ET AL., POLICE RECRUITMENT AND RETENTION FOR THE NEW MILLENNIUM: THE STATE OF KNOWLEDGE (2010), http://www.rand.org/pubs/monographs/MG959.html.
[59] *See* BRIAN A. REAVES, BUREAU OF JUSTICE STATISTICS, HIRING AND RETENTION OF STATE AND LOCAL LAW ENFORCEMENT OFFICERS, 2008 – STATISTICAL TABLES, 10 (2012), http://www.bjs.gov/content/pub/pdf/hrslleo08st.pdf.
[60] *Id.*

to recruiting, and were more likely than their smaller counterparts to have a dedicated recruiting budget and a full-time recruiting manager.[61]

Despite these efforts, law enforcement agencies of all sizes have not always been successful in recruiting and attracting a pool of applicants that reflects the communities they serve. This is likely attributable to a number of factors. Individuals from underrepresented communities may lack trust in law enforcement, may be dissuaded by a law enforcement agency's reputation or operational practices, or may have limited awareness about employment opportunities in law enforcement.

- **Strained relations and a lack of trust of law enforcement may deter individuals from underrepresented communities from applying to be officers.** In communities where there are strained relations with law enforcement, those tensions can manifest in a level of distrust, or even resentment, that discourages individuals from considering careers in law enforcement. A number of the subject matter experts specifically highlighted the current climate of distrust between law enforcement and at least some segments of the communities they serve as a significant impediment to the recruitment of a diverse array of applicants for careers in law enforcement. For example, many African-American communities report high levels of distrust with law enforcement, which can impede law enforcement agencies' efforts to bolster their ranks of African-American officers.[62] Similarly, individuals from immigrant communities may also be less likely to consider careers in law enforcement if they or their families have previously been treated unfairly by law enforcement.[63] Women and LGBT individuals who have encountered bias in their interactions with police may also have reservations about joining law enforcement.[64]

- **The reputation or operational practices of law enforcement agencies may dissuade applicants from underrepresented communities from pursuing a career in law enforcement.** Beyond an individual's perceptions of, and previous negative interactions with, law enforcement, an agency's reputation and certain operational practices may cause some individuals from underrepresented communities to self-select out of even considering careers with those agencies. The President's Task Force on 21st Century Policing recognized the emphasis that some law enforcement agencies have placed on the violent, dangerous nature of the profession – as opposed to their role as "guardians" of the

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[61] *Id.*; *see also*, JEREMY M. WILSON & CLIFFORD A. GRAMMICH, RAND CENTER ON QUALITY POLICING, OFFICE OF COMMUNITY ORIENTED POLICING SERVICE, AND THE NAT'L INST. OF JUSTICE, POLICE RECRUITMENT AND RETENTION IN THE CONTEMPORARY URBAN ENVIRONMENT: A NATIONAL DISCUSSION OF PERSONNEL EXPERIENCES AND PROMISING PRACTICES FROM THE FRONT LINES 17 (2009), http://www.rand.org/content/dam/rand/pubs/conf_proceedings/2009/RAND_CF261.pdf.

[62] Fifield, *supra* note 7. Some departments, however, report that increased tension between police departments and their communities create a short-lived decrease in applications. Tom Dunkel, *The D.C. Police Department Tries to Solve a Difficult Case: How to Recruit New Cops,* WASH. POST, Sept. 29, 2016, https://www.washingtonpost.com/lifestyle/magazine/the-dc-police-department-tries-to-solve-a-difficult-case-how-to-recruit-new-cops/2016/09/28/e62cbe56-75e8-11e6-8149-b8d05321db62_story.html.

[63] U.S. DEP'T OF JUSTICE RECRUITMENT TOOLKIT, *supra* note 16, at 33.

[64] *Id.*; *see generally* CHRISTY MALLORY ET AL., THE WILLIAMS INST., DISCRIMINATION AND HARASSMENT BY LAW ENFORCEMENT OFFICERS IN THE LGBT COMMUNITY (2015), http://williamsinstitute.law.ucla.edu/wp-content/uploads/LGBT-Discrimination-and-Harassment-in-Law-Enforcement-March-2015.pdf.

community – can serve as an obstacle to attracting individuals from underrepresented communities, including female recruits.[65]

The organizational culture of law enforcement agencies can also serve as a recruitment barrier. Research indicates that women are more likely to believe that they will encounter sexist attitudes and harassment in law enforcement jobs, that promotions will be denied or be more difficult to obtain, and that jobs with higher prestige (such as SWAT team assignments and detective services) will be out of reach.[66] Research also indicates concern on the part of some women with balancing law enforcement careers with the demands of raising families.[67] Similarly, individuals from LGBT communities have identified issues such as anti-LGBT discrimination and harassment and insensitivity towards the needs of officers undergoing a gender transition as obstacles to considering careers in certain law enforcement agencies.[68]

- **Individuals from underrepresented communities may not be sufficiently aware of career opportunities within law enforcement agencies.** As noted above, many law enforcement agencies often advertise vacancies and publicize job opportunities through internal or informal processes that rely on word-of-mouth or a connection with someone who is already employed by the agency. Indeed, one of the common refrains heard throughout this initiative is that many agencies rely heavily on their existing workforce in their recruitment efforts. These types of practices – which are likely to be even more prevalent in smaller agencies that typically have fewer resources to devote to recruitment – may result in perpetuating and exacerbating underrepresentation within the agency.

  This is not to say that only female officers can recruit other women, African-American officers other African Americans, and so forth, but it does recognize that officers who are from communities that are underrepresented within an agency may have access through familial ties, civic involvement, and cultural and/or religious affiliations that may allow them to reach different segments of the population. As one report explained, "the underrepresentation of minorities and women police officers in some departments creates a shortage of role models for recruitment of these populations."[69] If qualified candidates from

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[65] *See* William T. Jordan, et al., *Attracting Females and Racial/Ethnic Minorities to Law Enforcement*, J. OF CRIM. JUST. 331 (2009). OFFICE OF COMMUNITY ORIENTED POLICING SERVICES, FINAL REPORT OF THE PRESIDENT'S TASK FORCE ON 21ST CENTURY POLICING, *supra* note 9, at 11-23; WOMEN IN FEDERAL LAW ENFORCEMENT ET AL., *supra* note 12, at 8-9.

[66] *See* CARL F. MATTHIES, KIRSTEN M. KELLER & NELSON LIM, RAND CENTER ON QUALITY POLICING, IDENTIFYING BARRIERS TO DIVERSITY IN LAW ENFORCEMENT 3 (2012), http://www.rand.org/content/dam/rand/pubs/occasional_papers/2012/RAND_OP370.pdf ("women who resigned from law enforcement agencies indicated that gender discrimination was a factor in their decision") (internal citation omitted); Roseann M. Richard, *The Perceptions of Women Leaders in Law Enforcement on Promotions, Barriers and Effective Leadership,* San Francisco, California: The University of San Francisco, 24-29 (2001) (citing weighted testing processes, sex discrimination and sexual harassment as common barriers that women in law enforcement face); *see also* U.S. DEP'T OF JUSTICE RECRUITMENT TOOLKIT, *supra* note 16, at 6.

[67] MATTHIES, KELLER & LIM, *supra* note 66, at 3 (explaining one reason female officers did not apply for promotions is because they were concerned "the difference in compensation would be insufficient to cover additional childcare expenses incurred on the evening or night shift")(internal citation omitted).

[68] *See* Rick Rojas, *Transgender on the Force*, N.Y. TIMES, Aug. 5. 2016, http://www.nytimes.com/2016/08/07/nyregion/transgender-on-the-force.html.

[69] U.S. DEP'T OF JUSTICE RECRUITMENT TOOLKIT, *supra* note 16, at 5.

underrepresented communities are unaware of job opportunities in a law enforcement agency, then they are unable to apply. As one of the subject matter experts observed, "having somebody in the organization that [individuals from underrepresented populations] can talk to and relate to that may have encountered the same trials and tribulations is helpful."

B. Hiring

While the precise process used to select, screen, and hire individuals varies considerably across law enforcement agencies, there are significant similarities in the processes used. According to data BJS collected in 2007, more than 90 percent of law enforcement agencies relied on medical and psychological exams, background investigations, and criminal and driver records checks as part of the hiring process; more than 80 percent of agencies used physical agility or fitness tests, written aptitude tests, and credit history checks.[70] Law enforcement agencies may exercise discretion in setting aspects of their hiring criteria, while otherwise satisfying the minimum requirements established by their jurisdiction's Peace Officer Standards and Training Posts (POST) or similar entity, in addition to any local or municipal requirements.[71] Generally, many officers complete the following steps before being formally hired: (i) an initial pre-screening application to verify certain background information, including minimum age, driving record, and education or military service; (ii) a series of examinations and screens, which further narrow the applicant field; and (iii) the basic law enforcement training academy.[72]

Research and experience have revealed that at every stage of the hiring process, barriers exist that impede the selection of officers reflecting the diversity of the community they seek to serve. Many of the selection devices used to screen applicants, including physical ability and cognitive tests examinations and background checks, have been shown to have an unwarranted disproportionate impact on underrepresented populations. The length, complexity, and costs associated with the hiring process can also serve as a deterrent.

- **Law enforcement agencies' reliance on inadequately tailored examinations as part of the screening process may have the unintended consequence of excluding qualified individuals from underrepresented communities from the applicant pool.** As noted above, the vast majority of law enforcement agencies use written tests, physical agility or fitness tests, and similar devices as a part of the screening process. While the reliance on these tests are not necessarily in and of themselves a barrier to the hiring of individuals from underrepresented communities, the design and administration of those examinations can serve to exclude certain underrepresented populations.

  For example, research has shown that physical tests may have a significant and unnecessary impact on female applicants when they lack a corresponding benefit or job-related need. If these tests are administered in a manner that overemphasizes physical strength, fail to account for improvements that will result from training, or fail to account for inherent

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[70] REAVES, HIRING AND RETENTION OF STATE AND LOCAL LAW ENFORCEMENT OFFICERS, 2008, *supra* note 38, at 14.
[71] *Basic Requirements*, discoverpolicing.org, http://discoverpolicing.org/what_does_take/?fa=requirements (last visited Sept. 21, 2016).
[72] *The Hiring Process*, discoverpolicing.org, http://discoverpolicing.org/what_does_take/?fa=hiring_process (last visited Sept. 21, 2016); *see also* BRIAN A. REAVES, BUREAU OF JUSTICE STATISTICS, STATE AND LOCAL LAW ENFORCEMENT TRAINING ACADEMIES, 2013, (2016), http://www.bjs.gov/content/pub/pdf/slleta13.pdf.

physiological differences between men and women, they may not be selecting for what is actually necessary on the job or is similarly required for the effective absorption of necessary law enforcement training, and consequently may screen out otherwise qualified women.[73] Similarly, reliance on certain written tests – specifically those tests that may not sufficiently or accurately screen for the skills that are actually needed for a position in law enforcement – has been shown to have an adverse impact on racial minority candidates although those tests may not sufficiently or accurately screen for the skills that are actually needed for a position in law enforcement.[74]

- **Reliance on certain additional selection criteria and screening processes that disproportionately impact individuals from underrepresented communities can also inhibit agencies' efforts to increase the diversity of their workforce.** Even beyond testing, there are a variety of other screening devices and selection criteria used by law enforcement agencies that hamper the ability of those agencies to hire individuals from underrepresented communities. For example, the use of educational requirements that are not shown to correlate with job-related duties may disproportionately impact racial minorities.[75] The provision of a veterans' preference by many state and local law enforcement agencies, while laudable, may disproportionately benefit men to the disadvantage of women in hiring, since approximately only 15 percent of active-duty personnel are women (and historically, that percentage has been even lower).[76]

  Researchers and practitioners have also highlighted that the use of criminal background checks, which are a regular part of the screening process for many agencies, is likely to disproportionately impact racial minority applicants since, for a variety of reasons, individuals from those communities are more likely to have contact with the criminal justice system.[77] While law enforcement agencies are undeniably justified in carefully vetting and investigating potential hires, excluding applicants regardless of the nature of the underlying offense, or how much time has passed since an offense occurred, or without any consideration of whether the candidate has changed in the intervening period, can be a significant – and unwarranted – barrier.[78] Additionally, applicants who do not have criminal records but acknowledge using illegal drugs earlier in their lives (regardless of the frequency or amount of time passed since they last did so), will be automatically disqualified from a career in law enforcement by some agencies. Credit checks are another screening device that may result in excluding many potential officers from underrepresented communities, because on average, individuals residing in low-income or predominantly minority census tracts are more likely to have lower credit scores.[79] Often times, law enforcement agencies

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[73] WOMEN IN FEDERAL LAW ENFORCEMENT ET AL. *supra* note 12, at 47 (discussing common physical fitness tests that have an adverse impact on women and are not necessarily tied to job relevancy); *see also* U.S. DEP'T OF JUSTICE RECRUITMENT TOOLKIT, *supra* note 16, at 43.
[74] *See id.*
[75] MATTHIES, KELLER & LIM, *supra* note 66, at 3.
[76] Richard, *supra* note 66, at 14.
[77] MATTHIES, KELLER & LIM, *supra* note 66, at 3.
[78] *See id.*
[79] BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM, REPORT TO THE CONGRESS ON CREDIT SCORING AND ITS EFFECTS ON THE AVAILABILITY AND AFFORDABILITY OF CREDIT (2007); GEOFF SMITH AND SARAH DUDA, THE WOODSTOCK INSTITUTE, BRIDGING THE GAP: CREDIT SCORES AND ECONOMIC OPPORTUNITY IN ILLINOIS COMMUNITIES OF COLOR, (2010), http://www.woodstockinst.org/sites/default/files/attachments/bridgingthegapcreditscores_sept2010_smithduda.pdf;

will disqualify a candidate based on poor credit history without considering reasonable explanations for the lower credit score, such as student loan debt or a medical emergency, or whether any delinquent accounts have been remedied.[80]

- **Residency and citizenship requirements may limit certain underrepresented communities' representation in law enforcement agencies.** A large number of law enforcement agencies impose residency restrictions on their applicants and employees.[81] Some offer additional credits to residents (points or a preference), others require applicants to be residents, and still others require officers to move into the jurisdiction if they are hired.[82] While certain residency policies can enhance the diversity of the workforce – for example, if a law enforcement agency is located in a jurisdiction with significant racial diversity, a residency requirement could increase opportunities for members of those communities to join the agency – in certain circumstances, particularly in jurisdictions that have a prohibitively high cost of living, it can have the opposite effect.[83]

  Many law enforcement agencies also require candidates to be U.S. citizens.[84] In fact, more than 40 states have statutes, regulations, or administrative rules in place that restrict the ability of law enforcement agencies to employ non-citizens.[85] While Federal law allows law enforcement agencies to impose a citizenship requirement where it is authorized by state or local law,[86] this requirement may prevent a considerable number of racial and ethnic minorities – many of whom have valuable foreign language skills – from being hired by law enforcement agencies.

- **Length, complexity, and the cost of the application processes can serve as a deterrent for applicants.** The length and complexity of the application process has frequently been noted as an impediment to the hiring of diverse candidates.[87] In some police departments,

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FEDERAL TRADE COMMISSION, CREDIT-BASED INSURANCE SCORES: IMPACTS ON CONSUMERS OF AUTOMOBILE INSURANCE, (2007), https://www.ftc.gov/reports/credit-based-insurance-scores-impacts-consumers-automobile-insurance-report-congress-federal.

[80] MATTHIES, KELLER & LIM, *supra* note 66, at 3.

[81] BRIAN A. REAVES, BUREAU OF JUSTICE STATISTICS, FEDERAL LAW ENFORCEMENT OFFICERS, 2008 *supra* note 40, at 14.

[82] MATTHIES, KELLER & LIM, *supra* note 66, at 2-3.

[83] John Eligon & Kay Nolan, *When Police Don't Live in the City They Serve*, N.Y. TIMES, Aug. 18, 2016, http://www.nytimes.com/2016/08/19/us/when-police-dont-live-in-the-city-they-serve.html.

[84] MATTHIES, KELLER & LIM, *supra* note 66, at 2-3.

[85] Only five states do not have statewide statutory or regulatory U.S. citizenship requirements for officers of law enforcement agencies: Colorado, Louisiana, Maine, Vermont, and West Virginia. However, even law enforcement agencies in states that do not have statewide citizenship restrictions may be subject to county, city, or other local laws or regulations that impose citizenship requirements.

[86] Among other things, the anti-discrimination provision of the Immigration and Nationality Act prohibits employers with four or more workers from intentionally discriminating in hiring, firing, recruiting, or referring based on a worker's citizenship or immigration status. This means that, in general, an employer cannot limit its hiring to U.S. citizens. However, the statute provides an exception that permits employers to discriminate on the basis of citizenship in hiring when such discrimination is required by law, regulation, executive order, or government contract. Even when lawful, however, imposing U.S. citizenship requirements on law enforcement hiring may impact the racial, ethnic, and linguistic diversity of the pool of applicants, making it harder to promote diversity. Moreover, a law enforcement agency that is not authorized by law, regulation, executive order, or government contract to hire only U.S. citizens violates the statute by imposing such a restriction.

[87] U.S. DEP'T OF JUSTICE RECRUITMENT TOOLKIT, *supra* note 16, at 9-10.

the hiring process takes over a year, causing many qualified applicants to abandon the process as other career opportunities materialize sooner.[88] While this issue can be a challenge for all applicants to law enforcement agencies, it can be especially problematic for individuals from underrepresented communities, who may be less likely to have personal connections and contacts within the agency and therefore less knowledgeable about the details of the hiring process. Cost can also serve as a deterrent, as many law enforcement agencies require candidates to cover their own cost to take required civil service examinations and to attend the police academy.

- **Law enforcement agencies may be limited in their ability to modify or adjust hiring and selection criteria.** A number of factors, external to law enforcement agencies themselves, play a role in their ability to screen and select applicants, including their ability to make changes that might be helpful in hiring individuals from underrepresented populations. In some states, the POST or similar entity establishes some basic qualification and suitability requirements, including citizenship status, age threshold, educational requirement, and valid driver's license, as well as explicit disqualifiers, which may include felony convictions, certain misdemeanors, illegal drug use, and poor credit history.[89] The POST or similar entity also may set minimum selection standards, which may include written, fitness, drug, psychological, and polygraph testing, as well as background investigations.[90] Relatedly, many states require candidates to complete police academy training and pass a certification examination to serve as a police officer.[91] Many agencies, especially smaller ones, only hire officers who have already completed these processes and are certified; this practice may significantly narrow the pool of potentially qualified candidates from underrepresented communities because only officers who have been hired in other places or who can afford to pay for their own training can meet this standard.[92]

  Even in places where law enforcement agencies may want to change and improve their recruitment, hiring, selection, or retention processes, agencies may be hesitant to make changes out of fear that doing so may increase their risk of litigation. Changes that are made for the purpose of increasing the number of qualified applicants from underrepresented groups may be perceived as unfair or discriminatory to some. These concerns may cause

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[88] Rachel L. Swarns, *Black Police Applicant Frustrated by Opaque Hiring Process*, N.Y. TIMES, July 19, 2015, http://www.nytimes.com/2015/07/20/nyregion/black-police-applicant-frustrated-by-hiring-process.html (describing the experience of one African-American candidate who applied to be an officer with the New York Police Department in 2011 and, as of the summer 2015, still did not know if he had been accepted onto the police force).

[89] *Basic Requirements*, discoverpolicing.org, http://discoverpolicing.org/what_does_take/?fa=requirements (last visited Oct. 3, 2016).

[90] *The Hiring Process*, discoverpolicing.org, http://discoverpolicing.org/what_does_take/?fa=hiring_process (last visited Oct. 3, 2016).

[91] *Training/Academy Life*, discoverpolicing.org, http://discoverpolicing.org/what_does_take/?fa=training_academy_life (last visited Oct. 3, 2016).

[92] Gary Cordner & AnnMarie Cordner, *Research in Brief: Human Resource Issues Faced by Small and Large Agencies*, THE POLICE CHIEF MAGAZINE, Sept. 2016. ("Two-thirds of small agencies would prefer to hire officers who are already trained versus only 13 percent of the largest agencies. This starkly different hiring preference reflects a rather dramatic change that has been underway in U.S. police training in recent years, one that probably gained even more momentum during the Great Recession—more and more reliance on preemployment police academy training.")

agencies to resist reform, even if they recognize that their current practices are not producing the type of workforce they are seeking.[93]

C. Retention

Law enforcement agencies, like all employers, do not simply want to attract and hire qualified individuals, they also want to ensure those individuals stay with the agency for a considerable period of time. The challenge of retaining individuals from underrepresented communities can be especially difficult. Experience has shown that these individuals may face difficulties adjusting to the organizational culture within law enforcement agencies; additionally, they may face challenges in their promotion process.

- **Individuals may face difficulties adjusting to a law enforcement agency's organizational culture.** Individuals from underrepresented groups may have difficulty adjusting to the culture of the law enforcement agency. For example, in some law enforcement agencies, women and minority officers may be expected to adapt wholly to the existing culture of the agency rather than allowing the differences that women and minorities bring to enhance the culture of the department.[94] This may cause these officers to feel like "token" officers, and undermines efforts to make them feel valued and included in the organization.

- **Individuals from underrepresented communities may face difficulties in the promotion process due to a lack of transparency about the promotion process, as well as a lack of mentoring relationships and professional development opportunities.** As with hiring processes, many law enforcement agencies rely on promotion criteria that disproportionately and unnecessarily exclude racial minorities, women, and other individuals from underrepresented communities.[95] The processes for obtaining promotions are not always transparent or readily advertised within all agencies. Additionally, officers from underrepresented communities may experience difficulty finding senior staff within agencies who are willing to provide support to them as they attempt to navigate their careers.[96] The lack of transparency and mentoring relationships can inhibit individuals from underrepresented groups from advancing within agencies since they may not know to seek out opportunities that would make them more competitive for a promotion in the future or such individuals may not be chosen for a promotion because they are not part of existing networks.[97]

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[93] Melissa Hart, *From* Wards Cove *to* Ricci: *Struggling Against the "Build-in Headwinds" of a Skeptical Court*, 46 WAKE FOREST L. REV. 261 (2011), http://wakeforestlawreview.com/wp-content/uploads/2014/10/Hart_LawReview_1.12.pdf, (explaining how certain recent court decisions may "make voluntary diversity efforts less appealing to employers by casting a shadow of potential litigation over th[o]se efforts").
[94] WOMEN IN FEDERAL LAW ENFORCEMENT ET AL. *supra* note 12, at 28.
[95] MATTHIES, KELLER & LIM, *supra* note 66, at 3.
[96] LARRY VALENCIA, REGIS UNIVERSITY, A GUIDE FOR MENTORING PROGRAMS IN POLICE DEPARTMENTS 3 (2009), http://epublications.regis.edu/cgi/viewcontent.cgi?article=1120&context=theses.
[97] *See id.*

VI. Promising Practices for Increasing Diversity

By adopting proactive recruitment, hiring, and retention strategies, law enforcement agencies can address barriers, drive reform, and make progress in ensuring that they more closely reflect the diversity of the communities they serve. In the section that follows, the report highlights promising practices – identified through existing online materials, independent research, and interviews – that various law enforcement agencies around the country have found to be particularly effective at increasing the diversity of their sworn officers. Given the sheer number of law enforcement agencies in this country, this section does not provide a comprehensive examination of promising practices that have been developed and are being used, but it does provide a number of salient examples focused on the key areas of: (i) recruitment, (ii) hiring, and (iii) retention.

While the practices adopted by law enforcement agencies vary considerably, successful diversity-building efforts by law enforcement agencies share several common themes, including:

- **Ensuring that the agency's organizational culture is guided by community policing, procedural justice, and cultural inclusivity.** Especially in communities that historically have had negative interactions with law enforcement, facilitating a culture that prioritizes community policing strategies – along with policies, programs, and practices that support diversity – can encourage individuals from these communities not only to consider, but also to apply for jobs as officers. Such a culture invites individuals who may not have previously considered law enforcement as a viable career option to view the profession as an impactful and meaningful way to serve their community.

- **Engaging stakeholders – both from within and outside the law enforcement agency – to play a role in creating a workforce that reflects the diversity of the community.** While chiefs, senior management, and human resource personnel may play pivotal roles in the hiring process in most law enforcement agencies, there are many others who can be called upon to assist in the process of attracting, selecting, and retaining a cadre of officers that reflects the diversity of the community. Officers and other personnel are often the best spokespeople and advocates for their agencies. They can be deployed to connect and engage with a diverse array of individuals to increase their awareness about law enforcement careers, address barriers encountered during the application process, and provide support and mentorship once officers are on the job.[98] There are also a plethora of community organizations that stand willing and ready to partner with law enforcement agencies.

- **Being willing to re-evaluate employment criteria, standards, and benchmarks to ensure that they are tailored to the skills needed to perform job functions, and consequently attract, select, and retain the most qualified and desirable sworn**

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[98] CAL. COMMISSION ON PEACE OFFICER STANDARDS AND TRAINING, RECRUITMENT AND RETENTION BEST PRACTICES UPDATE 62-3 (2006), http://lib.post.ca.gov/Publications/RecruitmentBestPrac.pdf. Using officers as community liaisons to reach diverse populations can be effective in both recruitment and in improving perceptions by the community. They can be deployed to connect and engage with a diverse array of individuals to increase their awareness about law enforcement careers, address barriers encountered during the application process, and provide support and mentorship once officers are on the job. When officers serve in these roles, formally or informally, law enforcement agencies should take care to ensure that these officers' contributions help to further, not interfere with, their overall career advancement.

officers. Law enforcement agencies that have seen success in attracting a diverse workforce have generally paid particular attention to specific trends within their agencies that disproportionately affect applicants who are racial minorities, women, or from other underrepresented populations during the hiring process. Once cognizant of these barriers, these agencies have taken steps to proactively address the problem and ensure that criteria, standards, and benchmarks are job related and consistent with law enforcement needs. This has helped these agencies attract, select, and retain qualified officers with the values and skill sets necessary for the job.

As previously noted, the practices discussed in this section should not be viewed as cure-all solutions for advancing diversity within law enforcement agencies. The effectiveness of any strategy to address diversity will depend on a number of localized factors specific to a law enforcement agency and the jurisdiction in which it operates. Moreover, the vast majority of the agencies consulted during this effort – including those discussed below – highlighted that there is more work they need to do in order to ensure that they better reflect the diversity of their communities. Nonetheless, the practices discussed below highlight promising efforts that have been adopted or are underway in communities across the country to advance diversity.

A. Recruitment

Proactive and targeted community outreach efforts can help encourage people from diverse populations and walks of life to consider careers in law enforcement.

Many law enforcement agencies have succeeded at recruiting racial minorities, women, and other individuals from underrepresented populations by partnering with community or civic organizations. For these agencies, community outreach – which can include "meet and greet" events, programming at religious and educational institutions, and community fairs – is not an optional engagement, but rather a critical part of their recruitment efforts. A number of agencies have worked to formalize these types of community engagement efforts. A central underpinning of this approach is the recognition that a law enforcement agency's existing workforce, particularly its cadre of sworn officers, is one of their most valuable recruitment tools. Yet these agencies recognize that effective recruitment means deploying these officers in a manner that will yield an applicant pool that is not only qualified for the job but also reflective of the broader community. To that end, agencies have thoughtfully considered how they can best use their existing workforce and their interactions with community and civic organizations to accomplish this objective.

- The **Worcester (Massachusetts) Police Department** organizes application process workshops and conducts outreach to religious and faith-based organizations, local colleges, veterans, and minority-owned businesses, and community-based social service agencies including those serving Southeast-Asian (primarily Vietnamese), African-American and Latino communities. In addition to engaging potential applicants from these communities that are underrepresented within the police department, these workshops are targeted to particular members of historically-underrepresented communities, including, for example, highly esteemed Vietnamese community elders who share information with their grandchildren and other family members or social workers who share their knowledge of the application process with their clients. These outreach efforts reflect the police chief's specific focus on

increasing diversity among the department's ranks. With the added benefit of an intact consent decree in place for the Worcester Police Department, these efforts have paid dividends: in 2015, the department reported that, out of the all men who took the civil service exam, 37 percent were men of color; out of all women who took the exam, 56 percent were women of color.

- The **Sacramento (California) Police Department** uses a variety of strategies to engage directly with community members and recruit officers. These efforts include hosting free hiring workshops throughout the year – including workshops done in partnership with community-based organizations and tailored specifically for African-American, Asian-American, and Latino communities – that inform applicants and their families about the process; a "Run with a Recruiter" program that allows potential applicants to ask questions in an informal setting and also measure their physical fitness; and patrol ride-along and dispatch sit-along programs that introduce recruits to the unique challenges and demands of the job in an interactive, engaging manner.[99]

- The **Miami-Dade (Florida) Police Department** has engaged in a number of community-oriented programs that it attributes to bolstering its share of officers who are women and racial minorities. In addition to "meet and greet" events that take place at churches and community fairs, the police department places a significant emphasis on having a designated officer to recruit fellow officers within the department to go out and speak to the community. It also employs and promotes a ride-along observer program to attract a diverse pool of applicants and introduce them to the duties and responsibilities of the job.[100]

- The **Madison (Wisconsin) Police Department** empowers and expects its officers to engage in recruitment efforts. To that end, it has established recruiting cadres for specific areas of interests, geographies, or backgrounds, including a focus on candidates of color, veterans, and women. Each recruiting cadre is tasked with continually updating its strategies in order to ensure that the recruitment message is focusing on specific demographics. The cadres also include civilian employees, who are encouraged to assist in recruiting efforts. The department has found that these employees are especially helpful in dispelling myths and fighting stereotypes about the department.

- The **Wichita (Kansas) Police Department** is especially cognizant of the need to build trust with its growing immigrant communities from Latin America and other parts of the world. Many of these residents grew up in cultures where the traditional attitude towards law enforcement was one of fear, not trust. A member of the department's leadership team explained that addressing that level of deeply-rooted, systemic, and long-standing mistrust is critical to encouraging young Latino men and women to consider careers in law enforcement, and to view the police as partners in the community's collective effort to build vibrant, healthy, and safe neighborhoods. Establishing meaningful connections with institutions that support these immigrant populations has enabled the department to strengthen its diversity. Additionally, as part of its efforts to recruit additional Spanish-

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[99] City of Sacramento, *Recruiting Programs*, http://www.cityofsacramento.org/Police/Join-SPD/Recruiting-Programs (last visited Sept. 29, 2016).
[100] Miami-Dade Police Department, *Careers Frequently Asked Questions*, http://www.miamidade.gov/police/careers-faq.asp (last visited Sept. 29, 2016).

speaking officers, the department has engaged in outreach, including creating a daily media briefing in Spanish and visiting job fairs, career fairs, colleges, and other community events.[101]

- The **Austin (Texas) Police Department**, in an effort to encourage more women to apply, organizes recruitment and information sessions specifically designed to explain the hiring process and career opportunities for women at the agency. The department also recently replaced the pushup requirement on its physical fitness test, which deterred some women from applying, with a rowing machine exercise to measure upper body strength. This change "was met with smiles and claps" at a women recruiting session last year, according to a local media story.[102] Additionally, the department publishes YouTube videos, such as "Women of APD," that feature women talking about their experience serving as officers in the police department.

Building partnerships with educational institutions and providing young people with internship programs creates a robust pipeline of potential applicants while also helping to address historically-negative perceptions or experiences diverse communities have had with law enforcement.

A number of law enforcement agencies have partnered with educational institutions within their communities, including K-12 schools, colleges, and universities, in an effort to encourage youth to consider careers in law enforcement. This approach allows students to build relationships with their local agencies as well as gain an understanding about the unique challenges and rewards that come with a career in law enforcement. This outreach also provides students an opportunity to interact with police outside of the enforcement context. Additionally, these partnerships afford agencies an opportunity to counsel youth early enough to facilitate later success in the application process, by, for example, counseling youth about the need to be truthful during polygraph exams, raising awareness about how the agency weighs previous drug usage, and emphasizing the importance of maintaining good credit.

- The **Detroit (Michigan) Police Department** engages in a range of outreach efforts with high school students, specifically focusing on outreach to African-American youth to build relationships with them in the classroom and outside of an enforcement context. Through elective classes and mentoring programs in high school, the department is working to address negative perceptions about the police in urban neighborhoods and encouraging students to consider career in law enforcement. The department's student engagement work includes inviting students to write essays about the changes they want to see in their city.

- The **Metropolitan (District of Columbia) Police Department** runs a Police Cadet Training Program to encourage local 17-25 year-old residents to consider a career as an officer in their community. The program helps youth prepare to enter the police department's recruit program. Cadets can earn college credit at a local community college

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[101] Stan Finger, *Wanted: More Hispanic, Minority Police Officers*, WICHITA EAGLE, Aug. 29, 2016, http://www.kansas.com/news/local/article98696237.html.
[102] Lilly Rockwell, *What the Austin Police Department is Doing to Recruit More Women*, AUSTIN AMERICAN-STATESMAN, Oct. 30, 2015, http://www.mystatesman.com/news/news/local/what-the-austin-police-department-is-doing-to-recr/npCpF/.

and strengthen their leadership and analytical thinking skills. As the department's website explains: "The underlying focus of cadet training is on self-discipline and instilling core values, such as service to the community."[103]

- The **Chattanooga (Tennessee) Police Department**, in partnership with other local first responder agencies, runs a paid internship program that has targeted individuals from populations underrepresented in the department who may be interested in public safety careers. The internship aims to enhance recruiting and employment opportunities by providing youth with mentoring customized to the specific areas where they may benefit from assistance in the hiring process, such as physical fitness or written tests.[104]

- The **Oakland (California) Police Department** launched a partnership with nearby Merritt College in the fall of 2015, where a 13-week course taught by the department's former chief works to prepare students for careers in law enforcement. The course, which is not limited to students at Merritt but is open to all members of the community, was launched, in part, to encourage more people of color to apply to the police academy. It is designed to give students a firsthand experience in the field through visits to local jails and a four-hour driving course that teaches them how to safely operate a police vehicle. A core objective of the course is to address the barriers that applicants of color and women face by providing them with the tools, skills, and resources they need to prepare for civil service or police academy exams.[105]

The effective, innovative use of technology and social media is critical to communicate and connect with all members of the community.

Many agencies have realized that in their efforts to effectively allocate limited resources, online communication can be a valuable asset in their recruitment strategies. This can be particularly useful for smaller agencies that do not always have the budget or personnel to travel or run comprehensive recruitment programs. Moreover, given that many individuals, and particularly younger people, predominantly rely on the internet to seek out and research career opportunities, the innovative use of technology and social media can ensure that law enforcement agencies are reaching a diverse array of potential applicants.

- The **Metropolitan (District of Columbia) Police Department** prioritizes innovative technology strategies to recruit officers. Ninety percent of applicants initially get in touch with the department, which maintains a robust Facebook and Twitter presence, from either their smartphone or tablet, according to a September 2016 *Washington Post* story.[106] The agency also uses live online chat rooms to interact directly with potential applicants, has revamped and streamlined its online advertising, and is in the process of building a new

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[103] Metropolitan Police Department, *Become a Cadet*, http://mpdc.dc.gov/page/become-cadet (last visited Sept. 29, 2016).
[104] Shelly Bradbury, *Chattanooga-area Emergency Service Agencies Look to Boost Minority Hiring*, TIMES FREE PRESS, June 10, 2015, http://www.timesfreepress.com/news/local/story/2015/jun/10/local-emergency-service-agencies-look-boost-m/308822/.
[105] *Drummond: A New Role for Former Oakland Police Chief Howard Jordan*, EAST BAY TIMES, Aug. 22, 2015, http://www.eastbaytimes.com/2015/08/22/drummond-a-new-role-for-former-oakland-police-chief-howard-jordan-2/.
[106] Dunkel, *supra* note 62.

website focused solely on recruiting, with a customer service focus centered around instant answers to questions from applicants.

B. Hiring

Agencies are increasingly adopting a holistic view of what skills and strengths an applicant brings to a law enforcement agency, in part by being willing to reevaluate information revealed during background checks, including previous drug use.

Law enforcement is a profession that, for good reason, requires extensive vetting, research, and investigation before choosing to hire an officer. Standards undoubtedly have an important role to play in the process. But certain barriers – including background investigations that treat all arrests and criminal convictions alike regardless of type of offense or how recent the occurrence, or even screen out those voluntarily admitting to drug use alone (without any conviction) – can prevent the agency from hiring the diverse officers it needs to connect with and serve the entire community. Cognizant of this challenge, many agencies have begun to re-evaluate such barriers and more holistically evaluate what an applicant can contribute to the agency and the community by also considering facts about one's experience, skills, or record in a broader, comprehensive context.

- The **Wichita (Kansas) Police Department** has restructured its hiring practices so that the process provides a more comprehensive evaluation and review of an applicant's life experience and skill set. The department made this change after determining that too many candidates – and particularly those from underrepresented populations – were being denied positions and turned away without a fair and nuanced analysis of their prior conduct. As the department's chief recently explained to a local news outlet last month: "I want people who have had adversity in their life and maybe had a bumpy road. They have more life experience. They can relate to someone better than maybe people that have never struggled with how they're going to pay for their next meal or their next rent payment."[107]

- **Colorado's Peace Officer Standards and Training (POST) Board** currently allows officers previously arrested for criminal convictions to apply for exemptions to attend the Colorado Basic Academy, so that they can pursue a career in law enforcement. It addresses this challenge by doing an individualized review of each case. A January 2016 Denver Post report highlighted this practice. To date, since 2010, of the 56 exemptions requested for criminal convictions, the has agency denied only eight. As one of the applicants said, "Colorado is one of those few states that will make that exemption on a case-by-case basis and give you that shot. Is what amounts to a stupid youth prank something that should haunt a man for the rest of his life?"[108]

As agencies look to increase their diversity, depending on relevant state law, some agencies have worked to hire non-U.S. citizens, as long as they are either lawful permanent residents or have lawful work authorization.

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[107] Stan Finger, *Wichita Police Chief Hopes to Open Door Wider for Recruits*, WICHITA EAGLE, Sept. 17, 2016, http://www.kansas.com/news/local/article102460697.html.

[108] Christopher N. Osher, *Colorado Grants Waivers to Police Applicants with Criminal Backgrounds*, DENVER POST, Jan. 22, 2016, http://www.denverpost.com/2016/01/22/colorado-grants-waivers-to-police-applicants-with-criminal-backgrounds/.

Allowing work-authorized non-U.S. citizens to work in state and local law enforcement, particularly in jurisdictions with large immigrant populations, can enable agencies to more closely represent the diversity of their community. Especially as agencies work to serve communities with a large percentage of limited English proficient (LEP) residents, excluding officers who are not U.S. citizens may significantly limit the number of applicants who speak languages other than English. For further discussion about citizenship requirements and background on Federal law in this area, please see Appendix A.

- **Tennessee**, which in recent years has seen a significant rise in its immigrant population, enacted a statewide measure that allows noncitizen military veterans who were honorably discharged to apply for officer positions in state and local law enforcement. Prior to this law, only U.S. citizens could serve in law enforcement agencies in Tennessee. The legislation is designed to help increase the diversity of law enforcement agencies throughout the state.[109]

- The **Colorado State Patrol** does not require sworn officers to be U.S. citizens, so long as they have documentation (as required by the U.S. Department of Homeland Security) to live and work in the United States.[110] The state police have traditionally struggled to find troopers to work in more remote areas, such as the mountains. But in recent years, the state police have found immigrants from Canada, the Bahamas, the United Kingdom, Mexico, and Central America willing to live and work there, helping them to effectively police and serve the entire state.[111]

- The **Burlington (Vermont) Police Department** requires applicants to be legal permanent residents or hold legal work authorization, but they do not need to be U.S. citizens in order to become an officer. The agency's qualifications document begins by stating that it is "seeking service and community oriented individuals with excellent communication and problem solving skills."[112]

Law enforcement agencies have expressed a willingness to reconsider selection criteria and written or physical examinations that do not correspond to job-related duties and that disproportionately screen out individuals from underrepresented populations.

Aspects of selection procedures, including some physical ability tests and written examinations, can disproportionately screen out certain groups, including women and racial or ethnic minorities, based on factors that have little or no relationship to the requirements of the job. Many agencies are working to re-evaluate their screening practices to ensure they are focusing on selection criteria that are more holistic and accurate measures of candidates' skills and abilities. The U.S. Department of Justice's Civil Rights Division regularly brings enforcement actions opposing

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[109] Macaela Bennett, *Noncitizen Vets Now Eligible to Become Police Officers*, TENNESSEAN, May 29, 2015, http://www.tennessean.com/story/news/2015/05/29/noncitizen-vets-now-eligible-become-police-officers/28119863/.
[110] Colorado State Patrol, State Patrol Cadet/Trooper Minimum Requirements, https://www.colorado.gov/pacific/csp/state-patrol-cadettrooper-minimum-requirements (last visited Sept. 30, 2016).
[111] Alan Gomez, *Police Departments Hiring Immigrants as Officers*, USA TODAY, Mar. 21, 2015, www.usatoday.com/story/news/nation/2015/03/21/immigrant-police-officers/70236828/.
[112] *Id.*; STATE OF VERMONT, http://vcjtc.vermont.gov/sites/vcjtc/files/files/resources/Qualifications.pdf (last visited Oct. 3, 2016).

the use of written and physical ability tests that have been shown to create unnecessary barriers to employment. Through the resolution of these cases, law enforcement agencies have adopted new selections procedures that effectively select qualified individuals and have a less adverse impact on racial minorities and women. Additional information about these efforts can be found in Appendix A.

- The **Madison (Wisconsin) Police Department** has made significant progress in increasing the number of women it hires to be officers. The agency's physical agility test used to require a bench press component, which deterred some candidates from applying and led others to fail – in part because they were not familiar with the specific weight lifting equipment or exercise. Recognizing these challenges, the agency began to give candidates the option to do push-ups, instead of the bench press, to test their upper body strength. Department leadership believes this change resulted in more women competing and passing the physical agility test. Overtime, the bench press was completely removed from the exam.

- The **St. Paul (Minnesota) Police Department** determined – after analyzing the breakdown of pass rates for African-American, Latino, and Asian-American applicants – that its testing process was having a disproportionately harmful impact on candidates of color without a commensurate job-related benefit. The department found that candidates of color performed worse on the situational and written tests but significantly better than white candidates during the in-person interview. The department re-evaluated its hiring criteria to ensure that its testing criteria accurately aligned with the qualities that were most important on the job. It changed its written tests to focus more on the candidate's personal history and community engagement and removed the entire situational component. The department reported that it was able to hire more diverse, but equally qualified applicants using this new approach. The agency believes that one of the most important criteria to evaluate when reviewing a prospective officer's application is his or her genuine desire to be out in public to engage in community-policing with *all* members of the community.

In their efforts to diversify their workforces, agencies have streamlined and made more transparent their hiring and selection procedures. Some agencies have offered assistance and preparation materials to help applicants prepare for examinations.

To help address some of the misperceptions, confusion, and lack of awareness about hiring procedures, law enforcement agencies have streamlined their hiring processes and also made these processes more transparent. Agencies have found these efforts, which benefit all applicants, especially helpful for applicants from underrepresented populations who, as noted above, may be more likely to be less familiar with the long, complex processes that have traditionally defined the law enforcement hiring process.

- The **South Portland (Maine) Police Department** is working to address the barriers that result from various civil service ordinances that create a cumbersome, overly drawn-out process for applicants. Given that the civil service exam is only offered once a year, the agency has begun experimenting with moving away from the once-a-year test to one that is administered more frequently and combining the required oral boards into one. The changes being explored allow for more frequent opportunities to access the hiring process.

An ongoing evaluation of the streamlined process is resulting in a marked increase of additional candidates.

- The **Yonkers (New York) Police Department** found that providing free training to city residents before its civil service exam in 2013 led to 60 percent of test takers who were minorities and a 25 percent increase in the number of African-American officers. In a 2015 news article, the police commissioner explained, "We hope to reap the benefits of hiring additional minority officers from this exam over the next few years."[113]

Law enforcement agencies have involved community members in the hiring process as a way to develop a workforce that is reflective of the diversity of their communities.

A number of law enforcement agencies have found that engaging community members in the hiring process can have a positive impact on developing a more diverse workforce. Agencies have worked with community advisory groups and committees to not only develop and revise hiring criteria, but to also identify community members who can serve on agency interview panels. These kinds of practices ensure that community members get a voice and a vote in who their police department ends up hiring.

- The **St. Paul (Minnesota) Police Department** created a panel interview process that includes community members. Specifically, members of the department's Community Advisory Group provide recommendations about community members who can serve as interview panelists. The department has found that this change has had a positive impact on selecting individuals from underrepresented populations because during the interview process, these community members ask different questions and explore qualities that might otherwise go unnoticed, but which reveal diversity in experience and background.

- The **Sarasota (Florida) Police Department** consulted the department's Independent Police Advisory Panel, which includes a diverse array of community leaders, and sought input on how to revise the recruitment and hiring processes to more easily identify high-quality officers. The department has also worked with community leaders to encourage applicants from underrepresented populations to apply to work for the department.

C. Retention

Mentorship programs and leadership training are critical to providing new officers – particularly those from underrepresented populations – with the support, guidance, and resources they need to succeed on the job, enjoy their careers, and earn promotions.

Law enforcement agencies that foster strong mentoring relationships between junior and senior officers often experience greater success with employee retention. Mentoring is a crucial mechanism for conveying critical and often unwritten information about how to succeed and advance within the agency. As in all professions, employees in law enforcement agencies often seek mentors and mentees to whom they relate or who remind them of themselves. Some agencies,

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[113] Richard Liebson and Steve Lieberman, *Diversity a Challenge for Some N.Y. Police Departments*, USA TODAY, Mar. 21, 2015, http://www.usatoday.com/story/news/nation/2015/03/21/diversity-challenge-ny-police-departments/25166717/.

recognizing that racial minority and female officers have sometimes struggled to identify mentors, have developed innovative programs that successfully bring mentors and mentees together in ways that enhance the overall diversity of the workforce. Additionally, recognizing that promotion is critical to retaining a diverse officer corps, several departments have begun to place a particular emphasis on providing officers – especially women and racial or ethnic minorities, who are significantly underrepresented in leadership roles – with the support they need from the outset.

- The **Madison (Wisconsin) Police Department**, pairs each new officer with a one-on-one mentor. The mentorship program is intended to provide these officers with someone intentionally selected to meet their needs. Through the mentorship program, the department also holds family-friendly events to create an inclusive environment.

- The **Lansing (Michigan) Police Department** launched a mentoring program in the 1990s that matches new officers with mentors based on common areas of interest. The agency saw an increase in its retention rate following the implementation of the program. The mentoring program provides new officers with guidance, support, and resources to help them be successful on the job, including professional development. The program was designed under the idea that "people relate more readily and positively to peer assistance, than to supervisory direction," and continues to be a core part of the agency's retention strategy today.[114]

Community partnerships and stakeholder engagement can help retain officers of color and women by better understanding the unique challenges they face in the profession.

By partnering with stakeholders outside of the agency just as they do in recruitment, law enforcement agencies can diagnose the barriers in their practices, policies, or systems that too often prevent or discourage officers from staying on the job. Such partnerships allow the agency to take a holistic and comprehensive approach to diversity, often drawing connections and replicating outreach efforts in retention that they use in recruitment. By demonstrating that the law enforcement agency is invested in, and connected with the community, it can help improve public trust and allow officers to view their jobs as a meaningful and honorable long-term career.

- The **Chattanooga (Tennessee) Police Department** uses its Recruiting, Engagement, Selection, Transfer, Assignment, and Retention Team (RESTART) to bring together community members, academics, officers, command staff, union officials, and human resource professionals to "ensure equity and aggressively support diversity" in a range of practices, including those related to retention, assignment, and transfer practices. Through this effort, the department is currently in the process of reforming its promotion standards.

- The **Lexington (Kentucky) Police Department** works with business leaders, educational institutions, athletic associations, and community organizations to facilitate leadership and partnership opportunities. In addition to its robust partnerships with these stakeholders for recruitment, the department also views their respective insights and perspectives as important in understanding how to retain officers. It refers to internal diversity committees as "think tanks" that are constantly evaluating and analyzing how to more effectively recruit

[114] Valencia, *supra* note 96, at 29.

and retain officers. By building relationships with community partners, the department prioritizes enhancing transparency around its recruiting and promotional processes in an effort to support diversity within the organization.

Incentives – including providing temporary housing, allowing officers to work towards college credit while on the job, and providing financial bonuses for language skills – can help officers with diverse experiences and backgrounds stay on the job.

Depending on the unique challenges that applicants in the police department's jurisdiction face or the specific needs of the police department, police departments may need to offer specialized incentives to attract desired candidates.

- One of the main barriers that the **Mountain View (California) Police Department** faces in attracting and retaining officers from diverse backgrounds is the high cost of living, with few affordable housing options available in the department's jurisdiction. Many officers live an hour or more from the police station. Recognizing this, the department made sleeping quarters available for officers who live far away to stay in as needed during the work week. This allows officers to work for the department while reducing their daily commute.

- The **Atlanta (Georgia) Police Department** has worked to increase the number of Spanish-speaking officers on its staff to better serve the community's growing Latino population. To help attract and retain Spanish-speaking officers, the police department provides a 2 percent salary bonus for bilingual officers. As one bilingual officer told a local media outlet last year about the benefits of increasing the number of Spanish-speaking officers to connect with residents who don't speak English, "As soon as I tell them I speak Spanish, that instantly makes them feel comfortable, and it's easier for them to communicate with me."[115] The agency also now offers a $3,000 "retention incentive payment" for eligible sworn officers (not only bilingual officers) who have at least five years of service.[116]

[115] Jim Burress, *Atlanta Police Look to Miami for Bilingual Recruits*, 90.1 FM WABE, (Aug. 11, 2015), http://news.wabe.org/post/atlanta-police-look-miami-bilingual-recruits.
[116] (2007) Code of Ordinances City of Atlanta, Division 3: Pay Plan – §§ 114-139, 140140, https://www.municode.com/library/ga/atlanta/codes/code_of_ordinances?nodeId=COORATGEVOII_CH114PE_ARTIVCISE_DIV3PAPL_S114-130COUPRE.

VII. Case Studies

CPE – as part of its work in this effort – engaged with six law enforcement agencies to explore in greater detail their efforts related to the recruitment, hiring, and retention of racial minorities, women, and other underrepresented populations. This section highlights each of those agencies and provides a description of the promising practices they follow that are likely responsible for their success in attracting and maintaining a diverse and representative police force. Each agency was invited to discuss practices related to recruitment, hiring, and retention; this report highlights their most compelling endeavors across one or more of these areas. The case studies and examples referenced below highlight successful practices, but every agency interviewed also recognized the need for further progress to more closely reflect the diversity of the communities they serve.

The promising practices described below are from the following six agencies:

- Richmond Police Department (Richmond, California)
- Daly City Police Department (Daly City, California)
- Beaufort Police Department (Beaufort, South Carolina)
- Evanston Police Department (Evanston, Illinois)
- Artesia Police Department (Artesia, New Mexico)
- Bowie Police Department (Bowie, Maryland)

Across these six agencies, a remarkably consistent picture emerged with regards to how contemporary policing can succeed in recruiting, hiring, and retaining a demographically representative workforce. Though common issues like budgetary constraints and difficulty engaging and attracting so-called "millenials" remain challenges without clear or easy remedies, these agencies managed to address a number of the barriers identified in Section V. Specifically, agencies used local partnerships, community members on hiring boards, social media outreach, mentorship programs, and organizational commitments to work/life balance to address concerns that recruits and officers need to be able to see people "like them" succeed in the organization. Similarly, some agencies reevaluated their selection processes and removed barriers they found to be unnecessary. Finally, agencies that have achieved some measure of success in increasing diversity have generally tasked individuals and/or teams with making both formal and informal outreach, prepared candidates for success on department evaluations, and enlisted the help of individuals with deep cultural fluencies in order to demonstrate their affirmative commitment to the values of diversity, equity, and inclusion.

Richmond, California

Richmond is a diverse city in the San Francisco Bay Area, with a total population of 103,701 residents. Richmond is over one quarter African American, nearly one-sixth Asian American, less than one percent Native American, and another half-percent Native Hawaiian or Pacific Islander. Approximately 40 percent of its residents identify as Latino.

Established in 1909, the Richmond Police Department (Richmond PD) employs 185 full-time sworn officers, 13 percent of whom are women. According to the 2013 LEMAS Survey data, the department's officers are 49 percent white, 21 percent African American, 15 percent Latino, 6 percent Asian American, and 3 percent Hawaiian or Pacific Islander, with no reported Native American officers. An additional 6 percent of officers are reported as multiracial. Although there is still room to expand its representation to better reflect the demographic makeup of Richmond, the department reflects the African-American and Asian-American populations in its community better than many similarly-sized law enforcement agencies across the country. Individual interviews were conducted with the chief and the supervisor in charge of personnel and training; three different officers participated in each of two focus groups.

Diversity Assessment. Approximately three years ago, the Richmond PD's head of recruitment initiated an organizational assessment to determine how well the department's staff of sworn officers mirrored the racial and ethnic communities of the city. The assessment revealed that there was room for significant growth in enhancing diversity, as the department had a disproportionately high representation of white males in its ranks. Accordingly, the leadership staff embarked on new ways to attract a diverse applicant pool.

Building a Career Pipeline with Youth. One strategy for building a pipeline of qualified and diverse recruits is to make connections with youth in local middle and high schools, as well as postsecondary institutions. Accordingly, since the 1970s, the Richmond PD has relied on the Police Explorer Program. The goal of the Police Explorer Program is to make youth aware of local law enforcement as a potential career option; this introduction to local law enforcement is a first step to preparing future recruits. The program functions much like a preparatory training institute, and accepted applicants are assigned to appropriate internship level work with the Patrol Unit of Richmond PD. Recruits in the program must commit to perform at least 20 hours of service per month. The program is open to all within the area who are 14-20 years old, and it has attracted a diverse group of individuals. Richmond PD believes that the Police Explorer Program will be a useful tool in ensuring that the demographics of the agency continue to reflect the makeup of the broader community.

Community Policing. Another recruitment strategy employed by Richmond PD is to continually engage in community policing. Community policing for Richmond PD includes engaging with local residents in non-enforcement interactions. The leadership of Richmond PD understands that the diversity of its applicant pool is being undermined by the current climate of mistrust between law enforcement and communities of color, but the department utilizes community policing as a means to strengthen that trust and also to promote law enforcement as an honorable and rewarding career. During focus group interviews, many of the officers explained the importance of community policing to their roles as law enforcement officials and how it helps the community to see them as invested members instead of outsiders. One officer explained, "[I] grew up here [in Richmond].

This is my community. I go to church here, I [work out] here, people see more than the uniform I'm wearing."

Contextualizing Background Check Information. The leadership of Richmond PD is very aware of the complexities of conducting background checks on prospective applicants. For the most part, these checks identify applicants that do not have the character or disposition to become successful and honorable police officers. However, some aspects of the background check require more context in order for this determination to be made properly. For example, many applicants admit to some level of past drug use on their applications. The department recognizes that many young people today have experimented with drugs at some point in their lives, but wants to ensure that its recruits were never habitual users and do not presently use drugs. At times, the background check needs to be paired with additional context from the applicant to make this determination, as opposed to automatically eliminating them from the hiring process. When drug use questions arise, the officers charged with recruitment and hiring go directly to an applicant for additional information before making a determination. An officer in one of the focus groups recalled his personal experience with this during his own hiring phase with the department. The department allowed him to explain an issue raised during the investigation that revealed the association of one of his family members with the use of marijuana. With this further context and clarification, the department moved beyond those barriers and hired him.

Transparent Promotion Process. Richmond PD understands that their efforts to recruit and hire people of color and women are only significant if these individuals stay, and continue to advance, within the department. They further understand that officers are likely to leave if they do not feel their organization provides equal opportunity to progress in rank. Accordingly, Richmond PD utilizes a transparent promotion policy that allows for all officers to apply for sergeant or lieutenant positions if they meet the minimum requirements of service and education level. The process for evaluating the applications is clearly communicated to prospective sergeants and lieutenants. Focus group participants communicated that they viewed the promotion process to be fair and they all felt that they had the opportunity to move up the ranks if they applied themselves and worked hard. Officers identified this as one of many reasons that they continue to stay with the Richmond PD. They feel valued and see a clear, equitable path to further success.

Daly City, California

Daly City is a municipality in northern California and is located in San Mateo County. Daly City's population of 101,123 is 24 percent white, 4 percent African American, 56 percent Asian American, less than 1 percent Native Hawaiian or Pacific Islander, and less than 1 percent Native American. Nearly 24 percent of residents identify as Latino.

According to the 2013 LEMAS Survey data, the Daly City Police Department (Daly City PD) employs 109 full-time sworn officers. Ten percent of officers in the department are women, 63 percent are white, 6 percent are African American, 13 are percent Latino, 3 percent are Native Hawaiian or Pacific Islander, and none are Native American. The department has been successful in employing African Americans to proportionally represent the community, and the police force moderately represents the Latino population in the city as well. Compared to other departments across the nation, Daly City is progressive in its diverse composition of officers, although there is still more room for the organization to grow its representation of Asian Americans (who comprise the majority of the city's population). The leadership at Daly City PD is committed to enhancing diversity in their employment practices; they are very candid about their areas of strength and where they need to improve, especially with respect to recruiting more officers from the Asian-American community. CPE interviewed the chief, two captains in senior leadership, three sergeants charged with department hiring and training, and one focus group comprised of 10 officers.

Community Engagement and Interpersonal Relationships. The leadership of the Daly City PD reported that going directly into the community and having its officers meaningfully engage with residents enhances their recruitment efforts. This includes assigning officers to staff local college recruitment fairs and attend local town hall meetings to promote careers in the department. The Daly City PD also encourages individual officers to promote the department to community residents in their one-on-one interactions with them. In the interviews, a captain recalled a time where he discovered that an individual who worked in maintenance for the department expressed an interest in law enforcement. Through his relationship with this individual, who was Chinese-American, the captain spoke more with him about a career in policing, encouraged him to apply, and the individual is now an officer on the force. Interpersonal interactions like this, and the department's participation in community events, enable Daly City PD to attract a diverse applicant pool.

Contextualizing Background Check Information. Daly City is comprised, in part, of low-income communities that face challenges such as gang activity, violence, and drug trafficking. The command staff understands that recruiting and hiring many city residents means being open to individuals with complicated pasts. A number of officers in the focus groups lauded Daly City for not overlooking them in the hiring process because of bad decisions made in their youth. They were grateful to the department for investing in their future and for having the ability to see them for the people they are today. From the chief's perspective, these non-traditional hires have strong connections to the communities in Daly City and are able to move through them in a way that outsiders would find difficult, enhancing the department's ability to do its work effectively.

Beaufort, South Carolina

The Atlantic coastal community of Beaufort is the second oldest city in South Carolina, residing within a larger metropolitan area that includes Hilton Head Island. More than 17,000 active duty military members and families live or work in Beaufort, as the city is in close proximity to a number of nearby military installations, including a Marine Corps recruiting depot at Parris Island, a Marine Corps Air Station, and a U.S. naval hospital. The local population of roughly 13,000 is approximately 67 percent white, 26 percent African American, and 1 percent Asian American. Less than 1 percent of the population is Native Hawaiian, Pacific Islander, or Native American, and nearly 6 percent are reported as multiracial. Approximately 7 percent of residents identify as Latino.

According to the 2013 LEMAS Survey data, the Beaufort Police Department's (Beaufort PD) full-time sworn staff of 43 is 58 percent white, 12 percent African American, 23 percent Asian American, 4 percent Native Hawaiian or Pacific Islander, and 2 percent Latino. No officers were reported as Native American or multiracial. Sixteen percent of full-time sworn officers are women. Separate interviews were conducted with the chief of police, the lieutenant charged with hiring and training, and a focus group of five officers selected by the command staff.

Beaufort PD strives to maintain broad community support and overall healthy relationships with the residents they serve. The department prides itself on its comprehensive approach to community policing. Each officer is assigned to a segment of the community by the chief, and is charged with the responsibility of establishing relationships with the people there.

Community Outreach at Events for Youth. Officers are encouraged to engage directly in recruitment and outreach at community events specifically targeted for youth. For example, the department and the nearby Lady's Island Cinema have co-sponsored the "Police Movie Club" each summer since 1974. This 10-week program is free of charge and open to all children ages 5 to 12. The department reports that over 200 children enroll each year, many of them from military families stationed in the area. Each movie includes an intermission featuring a child-friendly discussion of topics such as fire prevention, bicycle safety, and resisting drugs and alcohol in the face of peer pressure. This type of community engagement allows families to interact with the police department in a non-enforcement setting, and helps to further bolster awareness of – and positive perceptions about – the culture of Beaufort PD. It is also a means to expose young people to local law enforcement and indirectly build a pipeline of diverse future recruits.

Partnerships with Local Military and Academic Institutions. Beaufort PD seeks to recruit members of the military in part because, from the chief's perspective, these individuals have already been exposed to a diverse work environment, and as a result, are likely to work well with diverse groups of people. The department has forged good relationships with the local military establishments, where the recruitment office is consistently able to find diverse and high-quality candidates. The agency also maintains close ties to the local technical college, which the lieutenant personally visits every semester to speak with students in the criminal justice program. Potential applicants from both the local college and nearby military installations are invited to come tour the department, learn about hiring requirements, meet agency personnel, and see the culture firsthand.

Multiple officers discussed the importance of the "human touch" throughout their hiring process and into their careers with the

department. Although the department's practice of valuing individuals may not always be explicitly articulated as a strategy aimed at fostering diversity, the respondents from the department believed such practices were a promising approach to achieving diversity in the ranks.

Increasing Transparency of the Application Process. The lieutenant responsible for the hiring process changed his approach to the pre-employment questionnaire when he realized that many younger applicants were omitting information about high school drug use, and then later being disqualified when the polygraph test brought their omission to light. To combat these disqualifications, he began personally working with candidates to explain that the hiring board may overlook youthful indiscretions, but simply will not forgive dishonesty in the application questionnaire. This practice of reviewing and clarifying the role of the questionnaire with each applicant has minimized the number of candidates disqualified in the polygraph phase.

Incentivizing Diversity. Another way that Beaufort PD demonstrates its commitment to diversity was revealed by an officer from the focus group who was born and raised in the Dominican Republic. In our conversation, he admitted to struggling with his English at the time that he applied to the department. To his surprise, the department not only hired him, but also paid for English classes to help him improve his language skills. It is worth noting that this was in addition to the financial incentive he received for being a bilingual officer, the incentive being a one-time stipend offered by the department to improve its capacity to communicate with the city's growing Latino population. Both of these practices made this officer feel personally valued, welcomed, and supported by the department.

Evanston, Illinois

Evanston is a city situated on Lake Michigan, just 12 miles north of Chicago, and is the home of Northwestern University. According to the last U.S. Census in 2010, approximately 66 percent of its 74,486 residents are white; 18 percent are African American, nearly 9 percent are Asian American, and 7 percent are multiracial. The Native Hawaiian and Native American representation in Evanston is at or near 0 percent. Nine percent of residents identify as Latino.

According to 2013 LEMAS Survey data, of the 163 full-time sworn officers at the Evanston Police Department (Evanston PD), roughly 60 percent are white, 24 percent are African American, 2 percent are Asian American, and 7 percent identify as Latino. The force is less than 1 percent Native American and Native Hawaiian or Pacific Islander, and 6 percent are reported as multiracial. Thus, while Asian Americans are underrepresented on the force, the combined non-white and multiracial representation at Evanston PD (40 percent) is actually greater than that of the local population (35 percent). Approximately 18 percent of the full-time sworn officers are women.

Interviews were conducted with a variety of command staff and new officers to learn more about the practices employed by this agency that are likely tied to their departmental diversity, including interviews with the chief, command staff of recruitment, and a focus group with officers selected by the department.

Leveraging Diversity to Beget Diversity. Multiple officers at Evanston PD expressed a belief that the existing diversity of the department was an important factor in their decision to pursue a career at the agency. In a focus group, one African-American male officer shared, "I applied to many departments, but when I applied to this one, I got to see a breakdown of their personnel [when I visited one of the precincts] . . . . I saw different races, different creeds, all in one room. . . . It was very diverse." He felt that this was a deciding factor in accepting a position at Evanston.

It is worth noting that this officer applied to other departments in the region, which he described as being either predominantly white or predominantly African-American, but was attracted to the department that he saw as particularly diverse, not simply the department with the most officers who shared his own racial identity. And indeed, the diversity of Evanston PD appears to be noticed, and celebrated, very intentionally as an integral part of the agency's recruitment strategy.

Community Policing. Evanston PD's emphasis on diversity is tied to its embrace of community policing. One officer, a white man, noted that he applied to Evanston PD after being referred by a friend who already worked for the department. "He had nothing but the best things to say – how diverse of a department this is, how good of a relationship this department has with its community," recalled this officer. "I definitely think that having a diverse department plays a pretty big role in your relationship with the community. I've seen it firsthand with how good of a relationship we have with all the citizens of Evanston."

In a focus group, one African-American officer shared, "I think a lot of younger [African-American] males don't have interest in law enforcement because of the things they've heard about law enforcement or the experiences people close to them have had." He noted that the department's diversity was a major driver in his own decision to apply to Evanston PD. He went on to say, "The perception of law enforcement isn't the best today. But that's one of the things that we work on, to try to restore that trust and build that relationship, which I think will help break

that barrier for young people of color to want to be in law enforcement."

From these officers' perspectives, effective community policing drives diversity in the department, and diversity in the department drives more effective community policing.

Leveraging Diversity to Retain Diversity. The chief of the department directly acknowledged the long-term benefits of a continued organizational commitment to diversity. This manifests in his diverse leadership team, which includes female, Asian-American, Latino, and African-American command staff. "I am the beneficiary of the diligent hiring practices of the three chiefs that preceded me," he said. "This long-term commitment to diversity brought in the talented people that now I can promote to deputy chief, commander and sergeant. So those intake decisions that were made over 20 years ago are reaping benefits now."

Evanston PD's existing workforce diversity seems to have implications for retention from officers' perspectives, as well. One Latina officer explained her desire to stay and grow her career at this department as being rooted in the same thought process that led her to apply there in the first place. "There are women present at every rank here," she said. "I don't think that [being a Latina woman will] hinder my progress here, as far as advancing. That was the reason I chose to work in Evanston, because I knew it wouldn't be an issue here."

She was also quick to mention that she felt the hiring and promotion processes were very fair, noting that she did not think the department showed any preferential treatment to her or any particular group. This was echoed throughout the conversations with officers and command staff, reinforcing the strong sense of procedural justice in the department's internal practices.

A Native-American male officer stated that other police departments in Illinois would benefit from sharing Evanston PD's "open-mindedness" to officers of diverse backgrounds, and their fair treatment of all officers who can thrive in a culture that expects excellence across the board. In his mind, success at Evanston PD feels attainable to anyone willing to work for it. "I honestly don't think that my racial background has had any influence on my ability to interact with the Evanston Police Department," he said. "I feel that the culture here is one that is based on merit and accomplishment."

Artesia, New Mexico

Artesia is a small city in the southeastern corner of New Mexico, roughly 230 miles southeast of Albuquerque, and 170 miles northeast of El Paso, Texas. The city is home to a 1,340-acre Federal Law Enforcement Training Center, primarily for the U.S. Border Patrol, U.S. Air Marshals, and the Bureau of Indian Affairs Police.

According to the 2010 Census, the local population of 11,301 is just over 25 percent non-white, most of these residents being reported as multiracial or an "other" race. Approximately 1 percent of the population is African American, 2 percent Native American, less than 1 percent Asian American, and close to 0 percent Native Hawaiian or Pacific Islander. Fifty-two percent of residents identify as Latino.

The Artesia Police Department (Artesia PD) is a small agency with 32 full-time sworn officers, 50 percent of whom are Latino and 44 percent of whom are white, with an additional 6 percent identifying as multiracial, as identified in the 2013 LEMAS Survey Data. According to the 2013 LEMAS Survey Data, there are no officers reported in other racial or ethnic categories and 13 percent of full-time sworn officers are women.

Interviews were conducted with the department's chief, the commander charged with recruitment and hiring, and a focus group of five officers. They all expressed a very clear dedication to their department, which they say suffered recently due to financial woes. For example, the department's chief reported that salaries were cut by 10 percent across the entire department, and they had to discontinue the recruiting incentive program that provided $500 to recruits who successfully completed their first year of probation and certification. In his decade of tenure as the leader of the department, however, the chief along with his command staff have worked steadily to grow and stabilize the department.

When the current chief first arrived in Artesia, 40 percent of the authorized sworn positions in the department were vacant. "The organization was starving itself," he said. "There was high turnover. But over the last five years in particular, we've had very little turnover." The chief and the officers we spoke with all agreed that except in the case of retirement, people rarely leave the department now – typically only two to five officers per year.

Still, the footprint of the recession continues to be apparent in conversations with the department staff. Officers noted that some benefits, such as financial assistance with educational costs, have been discontinued. These financial challenges present an obstacle for a chief working hard to retain talent; the command staff countered this problem by developing a long-term plan of investing in each individual hired, which they largely credit with their recent success at retention.

Mentorship and Supporting Long-Term Goals of Officers. Artesia PD, despite being a small agency, has a wide array of divisions and specializations that its officers can join. Importantly, they are encouraged early on to identify and pursue any specialty that interests them. This approach of personal investment has already led to a reasonably diverse command staff. Of the eight sergeants currently at the department, one is a woman and four are non-white men.

"They're asked to fill out career goals forms and tell us what they want to be when they grow up, in essence," the department's chief explained. When officers document, for example, that they want to move from patrol to narcotics, they are mentored in that direction with specialized training before the official

transition even takes place. "We [start the training] ahead of time so that number one, they're not going into that program with no experience, and number two, they don't get bored or lose interest while they're holding down the patrol slot."

The commander admits that their mentorship program is not documented anywhere as formal policy, but the commander, who has an educational background focused on human resources, takes seriously the responsibility to nurture his staff's professional development. From his perspective, this strategy reaps enormous benefits for the department as a whole. When choosing which training staff members will mentor younger officers, he says it is important to select people that can serve as a go-to resource on everything from training issues and equipment needs to general policing knowledge and employee benefits information. Easy access to answers, in the commander's view, allows the officers to "focus on the mission statement" and become the best law enforcement officer they can be.

The chief underlined the importance of reinforcing his staff's long-term goals in particular, as the officers sometimes need to be patient for an opening to become available. However, once the chief is aware of his officers' long-term goals, he works to link them to the appropriate mentors, and to support their skill development appropriately. The commander further explained that this attention to individual officers' career ambitions has been at the crux of the department's retention strategy, which has been an intentional project for the last 10 years.

Bowie, Maryland

Bowie is a municipality in Prince George's County, Maryland. It is the fifth most populous city in the state of Maryland and located within the Washington, D.C. metropolitan region. The Bowie Police Department (Bowie PD) was established in 2006. The department currently has 56 sworn officers, growing exponentially since its inception and serving a community of 54,727, which is 41 percent white, 49 percent African American, and 4 percent Asian American, less than 1 percent Native American, and less than 1 percent Native Hawaiian or Pacific Islander. Six percent of the population is reported as an "other" race or multiracial. Six percent of residents identify as Latino.

The police department staff of full-time sworn officers is 39 percent white, 46 percent African American, 5 percent Latino, and 4 percent Asian American according to 2013 LEMAS Survey data. There was no reported Native American, Native Hawaiian, Pacific Islander, or multiracial officers in the LEMAS data, but 5 percent of the full-time sworn staff is categorized as having an "unknown" race. Seven percent of officers are women. The Washington metropolitan region does have a rich law enforcement applicant pool from which Bowie seeks to recruit candidates. Given the diversity in the region, Bowie is able to focus on local recruitment and still have a diverse pool of candidates to choose from without undertaking significant recruiting expenses.

Community Outreach at Events for Youth. Bowie PD creates a pipeline of diverse, future recruits by investing in youth programs – notably a Police Explorer Program – as a way for young community members to explore careers in law enforcement. According to the department, this program lays a strong foundation for nurturing local youths' interest in law enforcement careers, thereby helping to cultivate a diverse pool of potential future recruits. In Bowie, the Explorers are part of a broader outreach strategy that is tied to the department's commitment to community policing. These programs also serve as a way for officers to interact with the community in a non-enforcement capacity and on a more personal, intimate level.

Prioritizing the Hiring of "Community-Oriented" Officers. The Bowie PD command staff attributes much of its departmental diversity to the fact that they intentionally seek officers from the local (and diverse) community who demonstrate a commitment to community policing. These are officers who understand the importance of community engagement and building strong relationships with members of the community through their law enforcement duties; the department's leadership team believes that prioritizing this quality in applicants will naturally yield a diverse staff. All applicants are screened for this quality in interviews with a hiring board comprised of command staff, who typically describe law enforcement scenarios to candidates and ask them to relay what decisions they would make if they found themselves in a similar situation as an officer. The goal is to identify applicants capable of reaching solutions that prioritize public safety and community trust. There is never one correct answer, but the hiring board looks for thoughtful responses that reveal integrity and character.

Equal Promotional Opportunities. The officers described their department as one that has promoted a diverse command staff, and that continues to provide its staff with equal opportunities for advancement regardless of race or gender. They further noted that the department's first chief was Latina, setting an early precedent of diversity in the department's leadership. According to the deputy chief's perspective, that is now a cultural norm within the department that has continued to this day. According to command staff, promotional

criteria emphasize the same values that are championed in the hiring process: strong work ethic, integrity, and consistency. The officers noted that this character- and performance-focused approach to promotion plays a large role in their decision to continue their long-term investment in the department.

VIII. Conclusion and Areas for Future Study

Law enforcement agencies face a number of challenges when seeking to foster a robust talent pipeline that widens the diversity of their workforces and reflects the diversity of the communities they serve. These challenges, which manifest themselves in the recruitment, selection, and retention processes, are far from insurmountable. And in fact, agencies that have undertaken efforts to broaden their talent pool have found that increased diversity brings a range of benefits that can be seen both within their workforces as well as in their relations with the communities they serve.

It is the hope that this report's discussion of barriers to diversity, and the promising practices that some jurisdictions have adopted to address them, provide a useful resource for law enforcement agencies, particularly those that may not have the internal resources to undertake this type of review themselves. At the same time, the Advancing Diversity in Law Enforcement initiative has revealed a number of unanswered questions and areas for future research and review. Specifically:

- **More work needs to be done to understand the impact of increased workforce diversity on the enforcement activities of law enforcement agencies.** As discussed in Section II, there is a substantial – and uncontested – body of research about the benefits that result from an increased number of female officers. While there is now a growing body of additional research about the impact of increased racial diversity, additional research could provide greater understanding about this important issue.

- **Additional empirical research is needed to better understand the long-term impacts of the promising practices highlighted in this report.** A number of the promising practices discussed in Sections VI and VII of this report are relatively new; even for those that have been in existence for several years, there is very little empirical research demonstrating the impacts of these efforts on the overall demographic makeup of the agencies or their relations with the community. While research in this area poses a number of challenges, having a better understanding of which promising practices are most effective will be a useful addition to the work that has already taken place in this area.

- **Further research could analyze how to institutionalize these promising practices within departments so that they can withstand changes in leadership and personnel.** For a number of the law enforcement agencies that participated in this effort, the promising practices they are employing to increase diversity were not always codified in the agency's official policies or even officially designated as diversity-related initiatives. Rather, it was more common for either dedicated individuals to be tasked with carrying them out and/or for the benefits associated with increasing diversity to be the fortunate collateral effects of a practice developed for another primary objective. Agencies often reported that the leadership of individuals tasked with addressing diversity was critical to the success of their efforts, meaning that even the most promising practices may be a mere personnel-change away from disappearing. Further research and study could reveal how to institutionalize these promising practices so that they can withstand changes in senior leadership over time.

- **When government stakeholders and policymakers consider laws and regulations that impact selection procedures and criteria for law enforcement agencies, the impacts the agencies' ability to hire officers that reflect the diversity of their communities should be taken into account.** One of the frequent refrains heard throughout this effort was that law enforcement agencies do not always have the discretion to change or adjust selection procedures or other criteria that are used as part of the hiring process. Those matters are often mandated by local, state, or Federal laws, or controlled by entities or individuals who are external to the law enforcement agencies. It is clear that any comprehensive solution to advancing diversity in law enforcement does not rest solely with the agencies themselves; other stakeholders who play a role in the process should also be included as a part of this discussion. In addition, there is probably much that agencies with restrictive externally-imposed selection procedures can learn from agencies that do not have such procedures in place. This type of cross-agency information sharing about barriers to increasing diversity that may be particularly challenging to address (e.g., testing procedures, background checks, residency and citizenship requirements) could serve as a useful resource as agencies continue their work, often in conjunction with other stakeholders and policymakers, in ensuring they are recruiting, hiring, and retaining a qualified and effective cadre of officers.

- **Further research is needed to better understand how law enforcement agencies can successfully retain and foster advancement of officers from underrepresented populations.** A considerable amount of research and attention has been paid to how law enforcement agencies can better recruit and hire officers who are racial minorities, women, or from other underrepresented populations. More attention should be given to how agencies can make sure they retain these individuals for long-term careers in law enforcement. As the President's Task Force on 21st Century Policing explained: "Achieving diversity in entry level recruiting is important, but achieving systematic and comprehensive diversification throughout each segment of the department is the ultimate goal."[117]

As noted at the outset of this document, this report does not represent the end of the U.S. Department of Justice's Civil Rights Division and the EEOC's work around these important issues. The Federal government remains committed to partnering with law enforcement agencies from all across the country to ensure that their workforces better reflect the diversity of the communities they serve.

[117] *See* OFFICE OF COMMUNITY ORIENTED POLICING SERVICES, FINAL REPORT OF THE PRESIDENT'S TASK FORCE ON 21ST CENTURY POLICING, *supra* note 9, at 16-17, http://www.cops.usdoj.gov/pdf/taskforce/taskforce_finalreport.pdf.

IX. Appendices

Appendix A: Lessons Learned from Enforcement of Federal Civil Rights Laws

Federal civil rights laws – mostly notably Title VII of the Civil Rights Act of 1964 (Title VII) – provide a number of protections that prohibit public employers, including law enforcement agencies, from engaging in employment discrimination.[118] This appendix provides an overview of trends identified and lessons learned through the enforcement of these laws, including as a result of the Federal government's litigation experience and enforcement work combating discrimination and advancing diversity in state and local law enforcement agencies.[119] A review of this case law also provides helpful insights into practices that interfere with the recruitment, selection, and retention of qualified women and minorities in state and local law enforcement agencies. Agencies can use these examples as part of their efforts to evaluate their own processes and review whether they are legally compliant and whether they can be improved.[120]

Many of the cases in this appendix involve challenges to policies and practices that did not explicitly reference race, sex, or any other legally protected category but nevertheless had an unjustified adverse impact on those groups; these types of barriers are often overlooked or simply accepted as "business as usual." Yet these cases are critically important and can often be a catalyst for systemic change. Of course, complying with the law and advancing diversity also requires ensuring that law enforcement agencies do not intentionally discriminate, and the appendix discusses

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[118] Although more limited in scope than Title VII, the anti-discrimination provision of the Immigration and Nationality Act (INA) is also an important tool for addressing diversity and preventing discrimination in law enforcement agencies. 8 U.S.C. § 1324b. Passed in 1986 as part of the Immigration Reform and Control Act, the anti-discrimination provision of the INA was intended, in part, to prevent employers from discriminating against immigrants when hiring work-authorized individuals (e.g., lawful permanent residents, asylees, and refugees). The anti-discrimination provision prohibits employers not covered by Title VII from engaging in intentional discrimination based on an individual's national origin. It also prohibits employers with four or more workers from intentionally discriminating in hiring, firing, recruiting, or referral for a fee based on a worker's citizenship or immigration status. This means that, in general, an employer cannot limit its hiring to U.S. citizens. However, the statute provides an exception that permits employers to discriminate on the basis of citizenship in hiring when such discrimination is required by law, regulation, executive order, or government contract. As discussed in Section V, most states have laws that limit eligibility for law enforcement positions to U.S. citizens. As a result, many work-authorized immigrants, including lawful permanent residents with indefinite work authorization, are frequently barred from holding these positions. In the states with laws that impose citizenship requirements statewide, it is typically an administrative body established by each state's legislature that has promulgated the citizenship requirement. Again, while recognizing that Federal law allows law enforcement agencies to impose a U.S. citizenship requirement where it is authorized by state or local law, imposing such U.S. citizenship requirements on law enforcement hiring may impact the racial, ethnic, and linguistic diversity of the pool of applicants, making it harder to promote diversity. Moreover, a law enforcement agency that is not authorized by law, regulation, executive order, or government contract to hire only U.S. citizens violates the INA by imposing such a restriction. For instance, in 2013, the U.S. Department of Justice entered into a settlement with the Arapahoe County Sheriff's Office resolving allegations that it excluded non U.S.-citizens from hiring because of their citizenship status. The alleged violation occurred because there was no law authorizing the Arapahoe County Sheriff's Office to hire only U.S. citizens.

[119] Because of the complex legal issues involved, this appendix does not address race-conscious hiring or promotion practices that can be ordered by a court in response to discrimination by an employer or can be instituted by an employer under appropriate circumstances. *United States v. Paradise*, 480 U.S. 149 (1987); *Johnson v. Transp. Agency*, 480 U.S. 616 (1987).

[120] This section discusses cases against law enforcement agencies and cases against other entities that use selection and promotion processes similar to those used by law enforcement agencies such as fire departments.

some of those cases as well. Importantly, Title VII sets a minimum standard for law enforcement agencies in terms of non-discriminatory practices. The law defines what agencies should not do. Mere compliance with the law, however, is not a substitute for the voluntary, affirmative steps that law enforcement agencies can take to ensure they build and sustain a diverse workforce that is reflective of the communities they serve.

Federal Enforcement of Title VII of the Civil Rights Act of 1964

Title VII is a powerful tool for combating discrimination and increasing diversity in law enforcement agencies. Title VII prohibits employers, including public sector employers, from discriminating against individuals on the basis of race, color, national origin, sex, or religion. Title VII prohibits discrimination in any aspect of employment, including hiring and firing, compensation, benefits, recruitment, assignments, promotion, discipline, and other terms and conditions of employment.

Title VII outlaws intentional discrimination, also known as disparate treatment. The law's reach extends beyond that and also prohibits neutral practices that create unnecessary barriers to the employment or advancement of protected groups. As the Supreme Court explained in its landmark 1971 decision *Griggs v. Duke Power Company*, Title VII "proscribes not only overt discrimination but also practices that are fair in form, but discriminatory in operation."[121] This type of discrimination, commonly referred to as "disparate impact" discrimination means that an employment practice that disproportionately excludes a group on a basis protected by Title VII violates the law if it is "not job-related and consistent with business necessity."[122] Even if such a practice is job-related and consistent with business necessity, an employer may still be liable for discrimination if there is an alternative employment practice available with a less severe impact that serves the employer's legitimate needs.[123]

Both the government and private plaintiffs bring Title VII cases against law enforcement agencies to challenge unnecessary neutral barriers that create systematic exclusion of protected classes from law enforcement positions and promotions and intentional employment discrimination against individuals from protected classes.[124] The practices challenged through these cases and the remedies created as a result of this litigation provide law enforcement agencies with important guidance about the steps they can take to comply with Federal anti-discrimination law and promote diverse workforces.

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[121] *Griggs v. Duke Power Co.*, 401 U.S. 424, 431 (1971).
[122] 42 U.S.C. § 2000e-2(k).
[123] *Id.*
[124] A suit brought by a private plaintiff starts with the filing of a charge with the EEOC. The EEOC investigates the charges and, if it finds reasonable cause to determine that discrimination has occurred, it attempts to conciliate the charge. If conciliation fails, the EEOC refers the charge to the Justice Department for possible litigation. At any time during the EEOC process, the individual charging party may ask for a right to sue notice and bring a legal action. The EEOC also has independent authority to open investigations of public employers through the Commissioner's charge process. The Justice Department has the authority to bring litigation against public employers that either come from EEOC charges or from its own independent authority to conduct investigations and pursue litigation.

Recruitment Practices that May Violate Title VII

Recruitment practices can unlawfully exclude qualified applicants from protected classes before they even have the opportunity to apply for careers in law enforcement. The failure to advertise officer openings in ways that are likely to reach a diverse pool of candidates in (or near) the jurisdiction where a law enforcement agency is located may violate Title VII if it results in the exclusion of potentially qualified applicants on the basis of race or national origin. For example, the Federal government brought a case against the City of Warren in Michigan after the city limited its advertising of police and fire positions, resulting in only one African-American applicant. The court found that the limitation of advertising violated Title VII, and after the city advertised in newspapers outside of the county, including ones with circulation in nearby Detroit, the number of African-American applicants grew to 50.[125] Law enforcement agencies may also run afoul of Title VII by relying solely on word-of-mouth recruitment practices, especially when the enforcement agency or the community is not diverse and word-of-mouth does not extend to minority applicants.[126] Such hiring practices can entrench prior discriminatory practices especially when a law enforcement agency's workforce and labor force are predominately white. In another case, a court found that the informal recruitment by friends and family was a reason that applicants were predominately white because the workforce itself was predominately white due to years of discriminatory tests.[127] To remedy discrimination in recruitment, courts have required the advertisement of law enforcement positions in the neighboring metropolitan areas with general circulation media as well as newspapers with media with primarily African-American readership.[128]

Once a violation is found, simply opening the doors to a diverse set of applicants may not suffice. Courts have recognized that women and racial minority applicants may also be deterred from applying to law enforcement agencies that have developed a reputation for discrimination.[129] This deterrent effect can make victims of discriminatory hiring practices reluctant to take advantage of remedial opportunities to join a law enforcement agency that has been previously found guilty of engaging in unlawful discrimination. These barriers are not insurmountable, and agencies can overcome this perception. For example, a court found that an agency's funded and active recruitment efforts directed at racial and ethnic minorities substantially increased the number of applicants from racial and ethnic minorities.[130]

Unlawful Selection Procedures that Screen Out Qualified Women and Minority Applicants for Law Enforcement Positions

As discussed in Section V of this report, hiring in law enforcement agencies usually follows a series of steps in a fixed order; agencies frequently rely on written tests, oral interviews, physical

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[125] *See, e.g.*, *United States v. City of Warren*, 138 F.3d 1083, 1094 (6th Cir. 1998) (finding Title VII violation for refusal to advertise outside of predominantly white county); *League of United Latin Am. Citizens v. Santa Ana*, 410 F. Supp. 873, 881 (C.D. Cal. 1976) (finding police department's low percentage of Mexican-American applicants was traceable to recruitment efforts outside the city); *United States v. Elmwood Park*, Nos. 85-cv-10491, 85-cv-10493, 1987 WL 8162 (N.D. Ill. Mar. 19, 1987) (pre-hire residency requirement for law enforcement applicants was patently discriminatory without any justification).

[126] *Cleveland Branch, NAACP v. City of Parma*, 263 F.3d 513, 527-28 (6th Cir. 2001) (quotations and citations omitted).

[127] *United States v. City of New York*, No. 07-cv-2067, 2011 WL 7661518, *16 (E.D.N.Y. Sept. 30, 2011).

[128] *See, e.g.*, *City of Warren*, 138 F.3d at 1089-90.

[129] *See, e.g.*, *United States v. Cent. Motor Lines, Inc.*, 338 F. Supp. 532, 559 (W.D.N.C. 1971); *EEOC v. Sheet Metal Workers*, 463 F. Supp. 388, 425 (D. Md. 1978).

[130] *See, e.g., City of New York*, 2011 WL at *13-*21.

tests, background checks, and other processes to screen applicants. These processes may violate the law if they disproportionately screen out applicants from protected classes and are not job-related and consistent with business necessity. This holds true even if the screens were not intended to discriminate.[131] Even if such practices are job-related and consistent with business necessity, an employer will still be liable under Title VII if it failed to use an alternative employment practice with a less severe impact that serves its legitimate employment needs.[132]

Written Tests

Extensive Title VII case law has revealed that certain written tests used as part of entry-level hiring in state and local law enforcement agencies are likely to create an unlawful disparate impact, and are not necessary for selecting the most qualified candidates. For example, while skills like reading comprehension and arithmetic may be important for these positions, tests that focus solely on these skills may not sufficiently or accurately represent the skills needed for the position and thus unnecessarily screen out qualified applicants. Reliance on these tests can create an unnecessary barrier to the hiring of qualified racial minority applicants who may have been selected if the test were a better reflection of what was actually needed on the job.[133] As one court explained:

> I recognize that it is natural to assume that the best performers on an employment test must be the best people for the job. But, the significance of these principles is undermined when an examination is not fair. As Congress recognized in enacting Title VII, when an employment test is not adequately related to the job for which it tests – and when the test adversely affects minority groups – we may not fall back on the notion that better test takers make better employees.[134]

To remedy such violations of Title VII (and protect against them in the future), several state and local law enforcement agencies have worked successfully to create more representative tests that capture both cognitive and non-cognitive skills and abilities required to succeed on the job and consistent with their business and organizational needs.[135] Because these tests reflect more of the qualities necessary for job performance, they help jurisdictions select qualified individuals. Equally importantly, such tests tend to have less unnecessarily adverse impacts on racial minorities.

Courts also have paid close attention to the ways law enforcement agencies use the results of those tests in the hiring process. Agencies have traditionally used the results of tests in a variety of ways: including pass/fail screens, rank ordering, and combining the score with other selection procedures. Title VII requires that an employer justify how it uses the selection procedure, and so agencies should consider if the way in which they are using the results of an exam is having an

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[131] 42 U.S.C. § 2000e-2(k).
[132] *Id.*
[133] *United States v. City of New York*, 637 F. Supp. 2d 77 (E.D.N.Y. 2009); *United States v. State of Delaware*, No. 01-cv-020, 2003 WL 21183641, at *1 (D. Del. May 20, 2003).
[134] *City of New York*, 637 F. Supp. 2d at 85.
[135] *See United States v. City of New York*, No. 07-cv-2067, 2012 WL 4503253, at *1-*5 (E.D.N.Y. Sept. 28, 2012); *see also* Consent Decree, *United States v. City of Dayton,* No. 08-cv-00348 (S.D. Ohio Apr. 14, 2009), https://www.justice.gov/sites/default/files/crt/legacy/2010/12/15/daytoncd.pdf; *see also* Consent Decree, *United States v. Virginia Beach Police Dep't*, No. 06-cv-189 (E.D. Va. Apr. 3, 2006), https://www.justice.gov/sites/default/files/crt/legacy/2010/12/15/vabeachcd.pdf; Consent Decree, *United States v. City of Chesapeake*, No. 06-cv-415 (E.D. Va. June 15, 2007), https://www.justice.gov/sites/default/files/crt/legacy/2010/12/15/chesapeakecd.pdf.

adverse impact. Courts have refused to accept cut-off scores that do not meaningfully distinguish between applicants.[136] And in determining that a jurisdiction should not have used its test results in rank order, one court stated:

> The frequency with which such one-point differentials are used for important decisions in our society, both in academic assessment and civil service employment, should not obscure their equally frequent lack of demonstrated significance. Rank-ordering satisfies a felt need for objectivity, but it does not necessarily select better job performers. In some circumstances the virtues of objectivity may justify the inherent artificiality of the substantively deficient distinctions being made. But when test scores have a disparate racial impact, an employer violates Title VII if he uses them in ways that lack significant relationship to job performance.[137]

And even when an agency can show that its written test relates to a law enforcement officer's job duties and responsibilities, the test may still violate Title VII if an alternative employment practice with a less severe impact that serves its legitimate interests exists.[138] As a result, state and local law enforcement agencies should review their testing practices to determine whether they have an adverse impact on minority applicants. If so, they should consider alternative measures that might reduce the disparate impact while at the same time serving their legitimate business needs. Such alternative measures may include new testing formats and content areas, assigning different weights to test components, and alternative scoring methods.[139]

Physical Tests

Physical tests, which have also been used to screen applicants for law enforcement officer positions, are held to the same legal standard as written tests: if there is an adverse impact, the test and its use must be job-related and consistent with business necessity. Some physical ability tests that purport to simulate the tasks undertaken by police officers have been found to have an unlawful disparate impact on women and where they are insufficiently related to actual job duties.[140] For example, a physical test that included a stair climb, a run, and an obstacle course was found to have a disparate impact on women and be insufficiently related to the police officer job. Similarly, tests that purport to measure overall physical fitness (such as push-ups, sit-ups, and running) but apply a unitary standard to men and women have been found to disproportionately exclude women from law enforcement positions and be insufficiently job related. For example, the requirement that men and women perform the same number of push-up and sit-up components of one physical fitness test was found to violate Title VII.[141]

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[136] *Lewis v. City of Chicago*, 2005 WL 693618, at *11 (N.D. Ill. 2005).
[137] *Guardians Ass'n of N.Y.C. Police Dep't, Inc. v. Civil Serv. Comm'n*, 630 F.2d 79, 100 (2d Cir. 1980).
[138] 42 U.S.C. § 2000e-2(k).
[139] *Bradley v. City of Lynn*, 443 F. Supp. 2d 145, 175 (D. Mass. 2006).
[140] *See, e.g., Thomas v. City of Evanston*, 610 F. Supp. 422, 428 (N.D. Ill. 1985) (concluding that physical agility tests for law enforcement officers had a disparate impact on women); *but see Lanning v. SEPTA*, 308 F.3d 286 (3d Cir. 2002) (finding a challenged test for minimum aerobic capacity to be Title VII-compliant after a demonstration of tailored job-related need).
[141] *United States v. City of Erie*, 411 F. Supp. 2d 524 (W.D. Pa. 2005); *United States v. City of Philadelphia*, Nos. 74-400, 74-339, 1979 WL 302, at *2 (E.D. Pa. Sept. 5, 1979).

Jurisdictions interested in assessing the physical fitness of applicants without disproportionately excluding qualified women from their ranks may consider using fitness tests with gender-normed standards. These tests actually require men and women to show similar levels of fitness while taking into account demonstrated physiological differences between men and women.[142] These tests tend not to have a disparate impact on women and result in the selection of qualified applicants. As one court, which recently affirmed the use of a gender-normed physical fitness test by a law enforcement agency, has explained:

> Men and women simply are not physiologically the same for the purposes of physical fitness programs. . . . [P]hysical fitness standards suitable for men may not always be suitable for women, and accommodations addressing physiological differences between the sexrs are not necessarily unlawful . . . . Put succinctly, an employer does not contravene Title VII when it utilizes physical fitness standards that distinguish between the sexes on the basis of their physiological differences but impose an equal burden of compliance on both men and women, requiring the same level of physical fitness of each.[143]

Absolute or Minimum Requirements

Many law enforcement agencies often employ absolute or minimum requirements in their entry-level hiring that may disproportionately screen out women and racial minorities in violation of Title VII. Such requirements include education, certification, residency, and other requirements for employment with the law enforcement agency. Durational residency requirements – policies requiring a term of residency in the jurisdiction served by the law enforcement agency prior to applying – in particular, have been found to violate Title VII when they have had a disparate impact on the basis of race.[144] However, courts have permitted employers to use policies that require a new employee to move into the jurisdiction and establish residency within a time period of being hired.[145] Similarly, courts have rejected the use of blanket height and weight requirements in the hiring of law enforcement officers as discriminatory on the basis of sex, race, and/or national origin.[146] These requirements – for example a requirement that all police officers be over 5 feet 10 inches – tend to screen out women from the job but are not necessary to successful job performance.

Background Checks

Law enforcement is a profession that, for valid reasons, requires extensive and thorough vetting of applicants. For that reason, law enforcement agencies, like many other employers, also often utilize extensive background checks as part of their selection processes, including information

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[142] *Bauer v. Lynch*, 812 F.3d 340 (4th Cir. 2016).
[143] *Id.* at 350-51.
[144] *See, e.g.*, *Newark Branch, NAACP v. Town of Harrison,* 940 F.2d 792, 805 (3d Cir. 1991) (affirming the district court's judgment that the town's residency requirements for town employment had discriminatory impact); *NAACP v. N. Hudson Reg'l Fire & Rescue*, 742 F. Supp. 2d 501 (D.N.J. 2010) (holding that the fire department's pre-hire residency requirements violated Title VII and was not necessary to the successful performance of job functions); *United States v. City of Warren*, 759 F. Supp. 355, 365 (E.D. Mich. 1991).
[145] *See, e.g., City of Warren*, 759 F. Supp. at 364 (accepting that legitimate employment goals, such as promotion of the tax base and improved ability to respond to emergencies, "can be served by *post-hire* move-in requirements without the overwhelmingly disparate impact of durational *pre-application* residency requirements").
[146] *Santa Ana*, 410 F. Supp. at 881; *Vanguard Justice Soc. v. Hughes*, 471 F. Supp. 670 (D. Md. 1979).

relating to criminal history. However, an employer's use of criminal background information can violate either the intentional or disparate impact provisions of Title VII, depending on how that information is used. When using criminal background checks, employers should consider the nature of the crime, the time elapsed, and the nature of the job. While some applicants have succeeded in challenging criminal background check policies as having unlawful disparate impacts on the basis of race or national origin, cases bringing these types of claims against law enforcement agencies have generally not been successful in court.[147]

A number of law enforcement agencies also use credit history checks and psychological evaluations as employment screens. Non-law enforcement agency employers' use of these evaluations has also been questioned as discriminatory employment barriers to women and racial minority applicants although these challenges have also generally been unsuccessful.[148]

Unlawful Employment Practices that Effect the Retention of Women and Minority Law Enforcement Officers

It also bears reminding that certain employment practices – which can range from problematic to unlawful – will hinder any institution, including but not limited to law enforcement agencies, from retaining women, racial minorities, and individuals from other underrepresented populations. These practices can include hostile work environments, harassment on the basis of protected characteristics, overly restrictive policies on grooming and appearance, failing to accommodate women who become pregnant, and retaliation against those who complain about discrimination or harassment. These issues are now discussed in greater detail below.

Even after decades of equal employment opportunity laws and enforcement female officers and officers who are racial minorities continue to face harassment on the basis of their sex, race, religion, and national origin. Harassment creates an unlawful hostile work environment under Title VII when the conduct is unwelcome and sufficiently severe or pervasive to alter the employee's working conditions. Courts have found situations where co-workers or supervisors use racial or sexist taunts, or physically threaten or attack co-workers who are women or racial minorities to be actionable hostile work environments. Of course, officers facing this type of treatment are less likely to remain with the department. Women and minority officers frequently face severe retaliation when they come forward to complain about discrimination or harassment. As a result, officers who speak up may end up jeopardizing their career in law enforcement.[149]

In addition, certain on-the-job policies relating to uniform and appearance can also prevent women and minorities from serving as law enforcement officers. For example, unnecessarily rigid

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[147] *See, e.g.*, *Foxworth v. Pa. State Police*, 228 F. App'x 151 (3d Cir. 2007); *McCraven v. City of Chicago,* 109 F. Supp. 2d 935 (N.D. Ill. 2000); *Davis v. City of Dallas*, 777 F. 2d 205 (5th Cir. 1985). Cases have been successful in other areas. *See, e.g.*, *Houser v. Pritzker*, 28 F. Supp. 3d 222 (S.D.N.Y. 2014).

[148] *See, e.g.*, *EEOC v. Kaplan Higher Educ. Corp.*, No. 10-cv-2882, 2011 WL 2115878 (N.D. Ohio May 27, 2011); *Bibbs v. Sheriff of Cook Cty.*, 618 F. App'x 847, 849 (7th Cir. 2015).

[149] *See, e.g., Zamora v. City of Houston*, 798 F.3d 326 (5th Cir. 2015) (concluding police department retaliated against police officer for discrimination lawsuit and finding compensable reputational harm); *Murphy-Taylor v. Hofmann*, 968 F. Supp. 2d 693, 723-24 (D. Md. 2013) (concluding that a former police officer properly brought Title VII claims of retaliatory termination and retaliatory constructive discharge when she was terminated and blacklisted from employment with law enforcement agencies after filing a sexual harassment claim).

grooming and uniform policies that prohibit beards or religious headwear may pose an illegal obstacle to retaining minorities and women, including religious minorities.[150]

The inability to attain promotions due to unlawful discriminatory practices can also affect the retention of women and minority law enforcement officers. Just like entry-level testing procedures, promotional testing processes can have an unlawful disparate impact under Title VII by disproportionately and unnecessarily screening out women and minority law enforcement applicants.[151] In addition to facing potentially discriminatory promotional testing, intentional discrimination can also be a factor preventing women and minorities from advancing in the ranks of law enforcement agencies.[152] Disparate enforcement of disciplinary policies and procedures on the basis of sex, race, religion, and/or national origin may also play a role in preventing the retention of minority and women law enforcement officers.[153]

Law enforcement agencies may also lose qualified women law enforcement officers by unlawfully failing to accommodate them when they become pregnant. Female law enforcement officers may be forced out of their jobs or miss out on opportunities for advancement because departments illegally force women to take leave when they become pregnant or deny them light duty when they need it for their pregnancies.[154]

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[150] *Johnson v. Memphis Police Dep't*, 713 F. Supp. 244, 247-48 (W.D. Tenn. 1989) (holding that a police department intentionally discriminated against a black officer by terminating him for refusing to shave even though he had a medical condition common to black males that required abstinence from shaving); *see also Riback v. Las Vegas Metro. Police Dep't*, No. 2:07-cv-1152, 2008 WL 3211279, at *1, 104 Fair Empl. Prac. Cas. (BNA) 34 (D. Nev. Aug. 6, 2008) (holding that an Orthodox Jewish police officer established a prima facie case of religious discrimination under Title VII as a result of the police department's policy prohibiting beards and head coverings); *Sadruddin v. City of Newark*, 34 F. Supp. 2d 923, 925-26 (D.N.J. 1999) (concluding that a Muslim firefighter plead a prima facie case of religious discrimination under Title VII when the fire department terminated his employment after he refused to adhere to a department policy prohibiting facial hair).

[151] *See*, *e.g., Waisome v. Port Auth. of N. Y. and N. J.*, 948 F.2d 1370, 1380 (2d Cir. 1991); *Isabel v. City of Memphis*, 404 F.3d 404 (6th Cir. 2005).

[152] *See, e.g., Chin v. Port Auth. of N. Y. and N. J.*, 685 F.3d 135, 152 (2d Cir. 2012) (holding that the evidence was sufficient to show that the agency's subjective promotional process intentionally discriminated against Asian American police officers when highly qualified and recommended Asian Americans were consistently not promoted); Consent Decree, *United States v. Waupaca Cty.,* No. 11-cv-00589 (E.D. Wis. Apr. 27, 2012), https://www.justice.gov/sites/default/files/crt/legacy/2012/05/18/waupacacountycd.pdf (settling a case in which the United States alleged that the police department intentionally failed to promote the one woman officer on the force for nine years despite her strong qualifications).

[153] *See*, *e.g., Moore v. City of Charlotte*, 754 F.2d 1100, 1005-06 (4th Cir. 1985) (considering a police officer's Title VII claim for disparate enforcement of disciplinary policies on the basis of race).

[154] *See, e.g.,* Consent Decree, *United States v. Town of Davie*, No. 15-cv-60395 (S.D. Fla. Sept. 13, 2012), https://www.justice.gov/sites/default/files/crt/legacy/2012/09/27/townofdaviecd.pdf; *Lehmuller v. Inc. Vill. of Sag Harbor*, 944 F. Supp. 1087, 1092 (E.D.N.Y. 1996) (holding that a police officer established a prima facie case of disparate impact discrimination under Title VII when the police department denied her request for light duty work while she was pregnant).

Appendix B: Updated Literature Review

In February 2015, The U.S. Department of Justice's Civil Rights Division and Office of Justice Programs as well as the Equal Employment Opportunity Commission authored a "Diversity in Law Enforcement Literature Review," which identified research and academic scholarship addressing diversity in law enforcement so that this cross-section of relevant research could inform the work of the Task Force. The literature review presented information in four categories: (i) why diversity matters, (ii) barriers to achieving diversity, (iii) best practices to achieving diversity, and (iv) characteristics of high quality law enforcement personnel.

A slightly modified and updated version of that literature review is included below.

Why Diversity Matters

1. Fridell, Lorie, Robert Lunney, Drew Diamond, and Bruce Kubu. 2008. *Racially Biased Policing: A Principled Response*. Washington, D.C.: Police Executive Research Forum.

Abstract: A police agency whose officers reflect the racial demographics of the community they serve fulfills several important purposes in reducing racial bias in policing. First, it conveys a sense of equity to the public, especially to minority communities. Second, it increases the probability that, as a whole, the agency will be able to understand the perspectives of its racial minorities and communicate effectively with them. Third, it increases the likelihood that officers will come to better understand and respect various racial and cultural perspectives through their daily interactions with one another.

2. Chappell, Allison T. and Alex R. Piquero. 2004. *Applying Social Learning Theory to Police Misconduct*. *Deviant Behavior* (25): 89-108.

Abstract: The authors use Aker's social learning theory to explain police misconduct. Social learning theory posits that learning takes place in a social context, occurring by either observation or direct instruction. As such, the same learning process can produce either acceptable or deviant behavior. In the context of police misconduct, this theory suggests that police are more likely to engage in misconduct when peers engage in such behavior and there are few consequences. Using data from a random sample of Philadelphia police officers, the relationship between officer attitudes and perceptions of peer behavior, and citizen complaints of misconduct are examined. Findings indicate that while officer attitudes about the use of excessive force are related to citizen complaints, officers anticipated greater punishment for theft than for using force.

3. Fryer, Roland. *An Empirical Analysis of Racial Differences in Police Use of Force* (July 2016). NBER Working Paper No. 22399.

Abstract: The current research examines police use of force as a function of race. The authors use four sources of data to determine the number and type of force used by officers from several cities and counties throughout the country: New York City's Stop-Question-and-Frisk Program; the Police-Public Contact Survey; researcher compiled officer-involved shootings data from several municipalities (Boston, Camden, Austin, Dallas, Houston, and six Florida counties; and Houston Police Department arrest data. Findings indicate that racial differences do exist for non-lethal uses

of force. African Americans are more than 50 percent more likely to experience some form of force in interactions with police. Interestingly, as the use of force becomes more severe (e.g., putting hands on a civilian versus striking with a baton) the overall likelihood of such occurrences decreases dramatically, but the racial differences basically remain the same. Contrary to expectations, however, no racial differences were observed for officer-involved shootings. The authors suggest bias may influence lower levels of force as opposed to more severe uses of force because the expected costs associated with such force are much lower.

4. Legewie, Joscha and Jeffrey Fagan. *Group Threat, Police Officer Diversity and the Deadly Use of Police Force* (May 15, 2016). Columbia Public Law Research Paper No. 14-512.

Abstract: This paper explores officer-involved killings as a function of race. Based on group threat theory, areas with large populations of African Americans and areas undergoing rapid population changes are expected to increase support for aggressive policing strategies resulting in increased use of police force and officer-involved killings of African-Americans. Using LEMAS data and information from FatalEncounters.org the authors examined the number of officer-involved killings for police departments in cities with more than 50,000 residents. Findings provide support for the theory. The proportion of African Americans in the population is directly related with the number of officer-involved killings of African-Americans, even after controlling for a number of covariates. While minority representation was not found to directly reduce the number of officer-involved killings directly, representation did mitigate various dimensions of threat.

5. Sklansky, David A. 2006. *Not Your Father's Police Department: Making Sense of the New Demographics of Law Enforcement*. *The Journal of Criminal Law & Criminology* 96 (3): 1209-1243.

Abstract: This article has three parts. The first part describes how the makeup of police workforces has changed over the past several decades. To summarize, the workforce has grown much more diverse with regard to race, gender, and more recently, sexual orientation—but the pace of change has varied greatly from department to department, and virtually all departments have considerable progress to make with respect to diversity. The second part of the article assesses the effects of the changes that have already occurred in law enforcement demographics. The author considers three different categories of effects: competency effects (ways in which minority officers, female officers, and openly gay and lesbian officers may have distinctive sets of abilities), community effects (ways in which the demographic diversity of a police department may affect its relations with the community it serves), and organizational effects (ways in which the workforce diversity may affect the internal dynamics of the department itself). The third part of the article concludes by exploring the ramifications of the changing demographics of law enforcement.

6. "Governing the States and Localities." 2015. *Diversity on the Force: Where Police Don't Mirror Communities*. A Governing Special Report.

Abstract: Despite efforts to become more diverse, minorities remain underrepresented to varying degrees in the vast majority of larger police departments throughout the country. Particularly in jurisdictions experiencing rapid demographic shifts, police largely do not reflect the racial and ethnic makeup of their communities. To assess the extent to which law enforcement demographics resemble their communities, Governing reviewed recently-released 2013 personnel data for 269 local departments serving more than 100,000 residents. Racial and ethnic minorities were

underrepresented by a combined 24 percentage points on average when shares of police officers were compared to Census population estimates for each of the 269 jurisdictions. The disparity was greatest for Latinos – nearly 11 percentage points below Census population estimates.

7. Wasserman, Robert. 2010. *Guidance for Building Communities of Trust*. Washington, D.C.: Office of Community Oriented Policing Services.

Abstract: The Guidance describes the challenges that must be addressed by fusion centers, local law enforcement agencies, and communities in developing relationships of trust. These challenges can only be met if privacy, civil rights, and civil liberties are protected. For fusion centers, this requires strong privacy policies and audits of center activities to ensure that the policies and related standards are being fully met. For law enforcement agencies, it means that meaningful dialogue and collaboration with communities needs to occur in a manner that increases the legitimacy of the agency in the eyes of that community. Law enforcement must establish legitimacy in the communities they serve if trusting relationships are to be established. For communities, their leaders and representatives must collaborate with law enforcement and share responsibility for addressing the problems of crime and terrorism prevention in their neighborhoods.

8. McCrary, Justin and Kaushik Krishnan. 2016. *Understanding Civilian Deaths at Police Hands: Evidence from Crowdsourced Data*, Presentation the 2016 EEODATANET Conference, "Building An Interdisciplinary Equal Employment Opportunity Research Network And Data Capacity."

Abstract: A combination of data from FatalEncounters.org and information from the Law Enforcement Management and Administrative Statistics (LEMAS data) is used to examine the impact that increasing the percentage of police officers from underrepresented groups has on the number of African-Americans killed by police. Their findings suggest that as the percentage of police officers from non-white groups increases the likelihood of officer-involved killings of African-Americans decreases.

Barriers to Diversity

1. Comeau, Michelle J. 2011. *Representation and Recruitment: A Three-Part Analysis of the Police Hiring Process Within New York State*. Rochester, New York: Rochester Institute of Technology.

Abstract: The article consists of three separate analyses, each of which examines the representation of women, African Americans, and Latinos in police organizations within New York State. The initial study compares department representation to that of the community in regard to race or ethnicity and gender. This is followed by the second study, which does a detailed look at the hiring process of one department within a mid-sized city (Rochester, NY), noting attrition by majority/minority status at each hurdle applicants face. The third study utilizes data from the second study to create a model of attrition for the Rochester Police Department. From the three studies, a series of recommendations for departments was developed, including: (1) identify department needs and allot resources appropriately; (2) track application submissions which can assist in identifying times that departments should increase their recruitment efforts; (3) tailor advertisements in a manner that would promote diverse representation; (4) increase engagement

through job fairs and reaching out to local professional organizations and community groups; and (5) hold informational sessions prior to, and during, recruitment efforts to provide interested parties with a realistic portrayal of the police officer position.

2. Dobbin, Frank and Alexandra Kalev. *Why Diversity Programs Fail and What Works Better*. (July-August 2016), *Harvard Business Review*, 52-60.

Abstract: After a series of high-profile lawsuits resulting in hefty settlements, businesses became more concerned about diversity. As a result, many have developed or expanded training and other diversity programs. Despite widespread implementation of such programs, very few gains in the proportion of minorities and women in management positions have been observed. Moreover, several studies suggest that diversity training can activate bias or spark a backlash. Other common strategies for improving diversity have been found to have limited effectiveness, including hiring tests, performance ratings and grievance procedures. However, several strategies that are less commonly employed by companies have gotten consistently positive results. Diversity task forces are most effective, resulting in increases of 9 percent to 30 percent in the representation of white women and minorities in management over a five-year period. Diversity managers are also effective, resulting in increases of 7 percent to 18 percent in all underrepresented groups in management, except Latino men. Targeted college recruitment and mentoring programs result in increases in the proportion of women and minorities in management by 8 percent to 24 percent. Self-managed teams and cross-training also had positive effects on diversity although the magnitude of their impact was less than that of the other strategies.

3. Dobbin, Frank, Daniel Schrage, and Alexandra Kalev. 2015. *Rage against the Iron Cage: The Varied Effects of Bureaucratic Personnel Reforms on Diversity*. *American Sociological Review*: 1-31.

Abstract: The current study examines the effects of four types of bureaucratic reforms on managerial diversity. Analyses rely on data from 816 U.S. workplaces over a 30 year period. While reforms such as job tests, performance ratings, and civil-rights grievance systems are common in organizations, they were found to be ineffective at increasing managerial diversity. In fact, diversity declined following the introduction of all three reforms. Targeted recruiting and special training programs, while less frequently employed by organizations, were found to promote diversity. Reforms that increase transparency with regard to job opportunities, including job posting, systems and job ladders, were found to promote equity. While about 80 percent of employers have job postings only about 20 percent have job ladders. Finally, diversity managers and regulatory monitoring were found to improve the efficacy of reforms. Specifically, diversity managers and federal regulators enhanced the effects of job postings and job ladders while mitigating some of the negative effects of tests, performance evaluations, and grievance systems.

4. Jordan, William T., Lorie Fridell, Donald Faggiani, and Bruce Kubu. 2009. *Attracting Females and Racial/Ethnic Minorities to Law Enforcement*. *Journal of Criminal Justice* 37 (4): 333-341.

Abstract: Using a national survey of law enforcement agencies, this study: (1) measured agencies' ability to fill sworn positions; (2) identified the strategies used to attract and hire females and minorities; (3) measured agencies' success in filling sworn positions with females and minorities; and (4) measured the impact of agency strategies and characteristics on levels of female and minority applications and hires. The results indicated great variation in agencies' ability to fill sworn positions with females and minorities, as well as considerable variation in the extent to which mechanisms are

used to attract females and minorities to policing. The multivariate analyses indicate that investing in a recruitment budget and targeting minorities and women positively affects hiring.

5. Kalev, Alexandra. 2014. *How You Downsize Is Who You Downsize: Biased Formalization, Accountability, and Managerial Diversity* *American Sociological Review* 79: 109-135.

Abstract: Research suggests that women and minorities are more likely to be laid off during reductions in force due to segregation or discrimination. The current research explores the role of formalization and legalization of downsizing in creating or exacerbating gender and racial imbalances. Using data from a national sample of 327 downsized establishments between 1971 and 2002, the effects of layoff formalization and antidiscrimination accountability on women and minority representation in management after downsizing are examined. Results indicate that downsizing significantly reduces managerial diversity. In addition, formalization intensifies these negative effects when downsizing rules depend on positions or tenure, however, not when downsizing rules require an individualized assessment. An interesting caveat is that tenure-based downsizing rules were not found to hurt Blacks. Moreover, formalization results in more equitable outcomes when the process is reviewed by internal legal counsel. Finally, discrimination charges, compliance reviews, and affirmative action plans mitigate downsizing inequality.

6. Kalev, Alexandra, Frank Dobbin, and Erin Kelly. 2006. *Best Practices or Best Guesses? Assessing the Efficacy of Corporate Affirmative Action and Diversity Policies*. *American Sociological Review* 71 (August): 598-617.

Abstract: Employers have attempted to promote diversity using three broad approaches: Establishing organizational responsibility for diversity, moderating managerial bias through training and feedback, and reducing the social isolation of women and minorities. The analyses rely on federal data describing the workforces of 708 private sector establishments from 1971 to 2002, coupled with survey data on their employment practices. Findings indicate that the three approaches vary in terms of effectiveness. Diversity training and diversity evaluations were found to be least effective at increasing the proportions of white women, black women, and black men in management. Networking and mentoring programs show modest effects with mentoring resulting in greater gains for black women than other groups. Efforts to establish accountability for diversity, including affirmative action plans, diversity committees and task forces, and diversity managers are the most effective at increasing the proportions of white women, black women and black men in management. Moreover, establishing accountability for diversity was found to make diversity training and evaluations, as well as networking and mentoring, more effective.

7. Matthies, Carl F., Kirsten M. Keller, and Nelson Lim. 2012. *Identifying Barriers to Diversity in Law Enforcement Agencies*. *RAND Center on Quality Policing*. Occasional Paper.

Abstract: This paper describes one method that law enforcement agencies can use to better understand and address the challenges of a diverse workforce in law enforcement agencies: a barrier analysis. Barrier analysis is a method of assessment aimed at identifying potential obstacles to obtaining resources or participating in a program. Using this tool, the article encourages law enforcement agencies to evaluate how women and racial/ethnic minorities face obstacles that might account for less-than-proportionate representation among applicants, hires, and senior leadership. In the context of employment opportunities, the authors focus on how barrier analyses can be used to understand diversity-related challenges at key points in the career lifecycle, such as recruitment,

hiring, promotion, and retention practices. They also present a complete barrier analysis that agency leaders can incorporate to identify key barriers and take proactive steps to build a more diverse workforce. Case studies are used to provide guidance for agencies to take proactive steps toward remedying the lack of representation in their workforces.

8. McCafferty, Francis L. 2003. *The Challenge of Selecting Tomorrow's Police Officers from Generation X and Y*. *Journal of the American Academy of Psychiatry and the Law* 31 (1): 78-88.

Abstract: Demands on police officers in the past thirty years have grown dramatically with the increasing threats to social order and personal security. Selection of police officers has been difficult, but with the increasing demand and complexity of police work, along with the candidates applying from Generation X and even Generation Y, the selection process has become more critical. The personal characteristics attributed to Generation X – and in the future, to Generation Y – should be factored into the selection process to ensure that those individuals selected as police officers will be able to cope with what has been described as the impossible mandate of police work in a free society. Background information on the X and Y generations is imperative for psychiatrists working with police departments and other law enforcement agencies. This article explores these areas and constructs a paradigm selection process.

9. Miller, Susan L., Kay B. Forest, and Nancy C. Jurik. 2003. *Diversity in Blue: Lesbian and Gay Police Officers in a Masculine Occupation*. *Men and Masculinities* 5 (4): 355-385.

Abstract: This study explores how lesbian and gay police officers fare within law enforcement agencies. Using qualitative survey responses from a sample of "out" and "closeted" gay and lesbian police officers in a Midwestern city, the authors examine: (1) how police organizations' cultures inform their experiences; (2) how officers navigate multiple aspects of their identities, including sexual orientation, gender, race, and ethnicity; and (3) the strategies lesbian and gay officers utilize to manage themselves in the workplace. The findings suggest that these officers support a more humane approach to policing and see themselves as particularly qualified to work within vulnerable communities.

10. Richard, Roseann M. 2001. *The Perceptions of Women Leaders in Law Enforcement on Promotions, Barriers and Effective Leadership*. San Francisco, California: The University of San Francisco.

Abstract: The purpose of this study is to identify factors that undermine successful career advancement for women in law enforcement. Through telephone interviews with women holding command positions of Captain or higher, the study described the perceptions of women law enforcement commanders on leadership effectiveness, challenges, and self-perception. The findings presented may be used as the basis for further assessment of effective law enforcement leadership and supervisory practices across various federal, state, local, and campus law enforcement agencies. In addition, the results from the study can be used to guide departmental development of existing management and supervisory programs; update or create harassment and discrimination training where none previously existed; and allocate departmental resources for promotional test training programs and the testing processes.

11. Stroshine, Meghan S., and Steven G. Brandl. 2011. *Race, Gender, and Tokenism in Policing: An Empirical Elaboration*. *Police Quarterly* 14 (4): 344-365.

Abstract: According to tokenism theory, "tokens" (those who comprise less than 15 percent of a group's total) are expected to experience a variety of hardships in the workplace, such as feelings of heightened visibility, isolation, and limited opportunities for advancement. In the policing literature, most previous studies have defined tokenism narrowly in terms of gender. The current research extends prior research by examining tokenism as a function of gender and race, with an examination of racial/ethnic subgroups. Particular attention is paid to Latino officers, as this study represents the first known study of tokenism and Latino police officers. Quantitative analyses reveal that, for the most part, token police officers do experience the effects of tokenism. Although all minorities experienced some level of tokenism, African-American men and African-American women experienced greater levels of tokenism than Latino officers, suggesting that race is a stronger predictor of tokenism than gender.

12. Wilson, Charles P., and Shirley A. Wilson. 2014. *Are We There Yet? Perceptive Roles of African American Police Officers in Small Agency Settings*. *The Western Journal of Black Studies* 38 (2): 123-136.

Abstract: One aspect of police behavior that has not been fully or consistently emphasized is the problem of perception, particularly how African-American police officers serving in smaller law enforcement agencies perceive themselves and their view of how their agencies and the communities they serve perceive them. For this article, African-American police officers were surveyed to determine their perceptions of the positive or negative effects of their presence in local police agencies. Key findings indicate that African-American police officers still find themselves victims of racial indifference and seemingly hostile work environments; believe that racial profiling is both practiced and condoned by their agencies; that agencies do little to improve diversity and provide little support for their efforts; and that they strongly perceive their presence in these smaller agencies to have a positive impact on police interactions in the minority community.

Best Practices for Achieving Diversity

1. Bureau of Justice Statistics. 2012. *Survey: Hiring and Retention of State and Local Law Enforcement Officers, 2008-Statistical Tables*. Washington, D.C.: Office of Justice Programs.

Abstract: A special survey was administered to a nationally representative sample of approximately 3,000 general purpose agencies as part of the 2008 BJS Census of State and Local Law Enforcement agencies. The study examined specific strategies and policies designed to help them meet the challenges of recruiting, hiring, and retaining qualified sworn personnel.

2. Equal Employment Opportunity Commission. 2003. Management Directive 715.

Abstract: The EEOC provides leadership and guidance to federal agencies on all aspects of the federal government's equal employment opportunity program. Management Directive 715 (MD-715) requires agencies to take appropriate steps to ensure that all employment decisions are free from discrimination and sets forth the standards by which the EEOC will review the sufficiency of agency Title VII and Rehabilitation Act programs. MD-715 sets forth and describes six essential elements for model programs. Pursuant to element four, Proactive Prevention of Unlawful Discrimination, agencies "have an ongoing obligation to prevent discrimination on the bases of race, color, national origin, religion, sex, age, reprisal and disability, and eliminate barriers that impede free and open competition in the workplace. As part of this ongoing obligation, agencies must conduct a

self-assessment on at least an annual basis to monitor progress, identify areas where barriers may operate to exclude certain groups and develop strategic plans to eliminate identified barriers." The background materials include MD-715, Section IIA of EEOC's Instruction to Federal Agencies for MD-715 (Barrier Identification and Elimination), which provides a detailed explanation of the self-assessment process, and "Tips for Small Agencies Conducting Barrier Analysis under MD-715."

3. Haddad, Abigail, Kate Giglio, Kirsten M. Keller, and Nelson Lim. 2012. *Increasing Organizational Diversity in 21st Century Policing*. *RAND Center on Quality Policing.*

Abstract: Both the military and police departments are concerned about recruiting and promoting a racially/ethnically diverse workforce. This paper discusses three broad lessons from the Military Leadership Diversity Commission that can be used to inform police department hiring and personnel management: (1) qualified minority candidates are available, (2) career paths impact diversity, and (3) departments should leverage organizational commitment to diversity. Additionally, specific suggestions are given as to how law enforcement agencies can incorporate each of these lessons.

4. Kasdan, Alexa. 2006. *Increasing Diversity in Police Departments: Strategies and Tools for Human Rights Commissions and Others*. Harvard School of Government.

Abstract: The goal of the article is to help human rights and human relations commissions work with police officials to increase race and gender diversity among law enforcement personnel. The article studies three jurisdictions: Rhode Island, Kentucky, and Atlanta. The article discusses how states should support local police departments and assist in assessing diversity. There needs to be a firm commitment to diversity from police chiefs and police administrators. In order to achieve diversity, there needs to be partnerships and collaboration, outreach, hiring reform, and long-term recruitment efforts.

5. Matthies, Carl F. 2011. *Evidence-Based Approaches to Law Enforcement Recruitment and Hiring*. Santa Monica, California: RAND Corporation.

Abstract: Recruiting diverse, qualified candidates is a continual challenge for law enforcement. Around the turn of the millennium, many metropolitan agencies reported a shortage of individuals interested in police work. With the downturn in the economy came a flood of applicants, but funding for recruitment and hiring eventually decreased. Law enforcement can benefit from evidence-based approaches to evaluating recruitment programs and streamlining the application process.

6. Taylor, Bruce, Bruce Kubu, Lorie Fridell, Carter Rees, Tom Jordan, and Jason Cheney. 2005. *Cop Crunch: Identifying Strategies for Dealing with the Recruiting and Hiring Crisis in Law Enforcement*. Police Executive Research Forum.

Abstract: The processes of recruitment and selection are key to developing agencies with high-quality personnel and to producing agencies that are representative of their communities in terms of race and gender. The challenge of recruiting and hiring quality personnel has emerged as a critical problem facing law enforcement nationwide. It threatens to undermine the ability of law enforcement to protect our nation's citizens and to reverse important gains in our efforts to increase

the representation on our police forces of racial/ethnic minorities and women. The Police Executive Research Forum conducted this project, with funding from the National Institute of Justice, to examine the nature and extent of the "cop crunch" and identify department-level policies/practices that facilitate the recruiting and hiring of quality personnel, including the recruiting and hiring of quality women and minorities.

7. White, Michael D., Jonathon A. Cooper, Jessica Saunders, and Anthony J. Raganella, 2010. *Motivations for Becoming a Police Officer: Re-assessing Officer Attitudes and Job Satisfaction After Six Years on the Stree*t. *Journal of Criminal Justice* 38 (4): 520-530.

Abstract: This article was a follow-up to prior research that examined motivations among academy recruits in the New York City Police Department (NYPD). Using the same survey and analysis, this study re-examined motivations among officers from the same NYPD recruit class after six years on the job, and explored both motivation stability and the relationships among motivations and job satisfaction. Results suggested that motivations have remained highly stable over time, regardless of officer race/ethnicity and gender. Findings also suggested that white male officers were most likely to report low job satisfaction, and that there is a link between low satisfaction and unfulfilled motivations. Moreover, dissatisfied officers were much less likely to have expressed strong commitment to the profession through their original motivations, suggesting that low commitment up front may lead to low satisfaction later on. The article concludes with a discussion of implications for police departments, particularly with regard to recruitment and retention practices and efforts to achieve diversity.

8. U.S. Commission on Civil Rights. 2000. *Revisiting Who is Guarding the Guardians?*

Abstract: Within law enforcement agencies, claims of sexual and racial harassment, disparity in pay, and low job satisfaction make police careers unattractive. Additionally, the selection process for police officers often contains biases that, in effect, eliminate candidates of color and noncitizen permanent residents from being hired. The Commission recommends, among other things, that law enforcement agencies: (1) develop creative strategies to increase diversity at all levels, (2) improve public perception of the police to attract more applicants, (3) encourage recruits to pursue higher education, (4) eliminate biases in the selection system, and (5) revise recruitment and selection methods.

Characteristics of High Quality Law Enforcement Personnel

1. Barrick, Murray R., and Michael K. Mount. 1991. *The Big Five Personality Dimensions and Job Performance: A Meta-Analysis*. *Personnel Psychology* 44 (1): 1-26.

Abstract: The study investigated the relation of the "Big Five" personality dimensions (extraversion, emotional stability, agreeableness, conscientiousness, and openness to experience) to three job performance criteria (job proficiency, training proficiency, and personnel data) for five occupational groups (professionals, police, managers, sales, and skilled/semi-skilled). Results indicated that one dimension of personality – conscientiousness – showed consistent relations with all job performance criteria for all occupational groups. For the remaining personality dimensions, the estimated true score correlations varied by occupational groups and criterion type. The findings have numerous implications for research and practice in personnel psychology, especially in the subfields of personnel selection, training and development, and performance appraisal.

2. Ben-Porath, Yossef S., James M. Fico, Neil S. Hibler, Robin Inwald, Joelle Kruml, and Michael R. Roberts. 2011. *Assessing the Psychological Suitability of Candidates for Law Enforcement Positions. The Police Chief Magazine.*

Abstract: This article describes and elaborates on the International Association of Chiefs of Police's Police Psychological Services Section's recommended procedures for conducting pre-employment evaluations of law enforcement candidates, with an emphasis on steps the hiring agency's administrators can take to ensure adherence to these practices.

3. Chappell, Allison T. 2008. "Police Academy Training: Comparing Across Curricula," *Policing: An International Journal of Police Strategies and Management* 31 (1): 36-56.

Abstract: This study compared the academy performance of police recruits trained in a traditional curriculum with that of recruits trained under a new curriculum tailored to community-policing tasks; it also compared the characteristics of recruits who performed better under the community-policing curriculum with those who performed better under the traditional curriculum. The study found that recruits in both curricula performed similarly in terms of their mastery of the material; however, the recruits who performed better in the community-policing curriculum were more highly educated and female. The study examined recruit characteristics and performance in Florida's Police Academy under a traditional curriculum that emphasized preparation for law enforcement tasks, such as firearms training, physical training, defensive tactics, and driving, in addition to knowledge areas such as law, arrest procedures, traffic enforcement, and officer safety. Little attention was given to communications, cultural and ethnic diversity, problem solving, and police-community relations. The Florida Police Academy subsequently modified its curriculum to reflect the police tasks emphasized under community policing, which focus on greater police communication, interaction, and cooperation with the community in forging community-based priorities and practices in crime prevention and crime control. The community-policing curriculum focused on the application of learning rather than memorization, the use of a problem-solving model throughout the academy, and the use of scenarios as the basis for learning.

4. Marion, Nancy. 1998. "Police Academy Training: Are We Teaching Recruits What They Need To Know?" *Policing: An International Journal of Police Strategies and Management* 21 (1): 54-79.

Abstract: The description of the basic police academy focuses on training duration, entrance requirements, class make-up, environment, instruction, and stress. A review of knowledge learning addresses civil liability, ethics, special needs groups, public relations/cultural diversity, and examinations. An overview of skill training considers firearms training, self-defense, physical training, and communication skills. An overview of hazardous-materials training also is provided, along with attitude training. The study concludes that overall this particular police academy is providing the information and skills training required to prepare recruits to be police officers. However, the study found the academy lacking in its ability to transmit the proper attitudes for new police officers. There remains an obvious element of sexism and an element of elitism on the part of some instructors, which was made obvious to the recruits. There are a few areas not included in the training, specifically ethics and helping the elderly or victims of crime. The addition of female

and minority instructors may help create change. Possible changes in future police academy training are discussed.

Appendix C: List of Organizations and Stakeholders Consulted

Law Enforcement Agencies Highlighted in Report

Artesia (New Mexico) Police Department
Atlanta (Georgia) Police Department
Austin (Texas) Police Department
Beaufort (South Carolina) Police Department
Bowie (Maryland) Police Department
Burlington (Vermont) Police Department
Chattanooga (Tennessee) Police Department
Colorado's Peace Officer Standards and Training (POST) Board
Colorado State Patrol
Daly City (California) Police Department
Detroit (Michigan) Police Department
Evanston (Illinois) Police Department
Lansing (Michigan) Police Department
Lexington (Kentucky) Police Department
Madison (Wisconsin) Police Department
Metropolitan (District of Columbia) Police Department
Miami-Dade (Florida) Police Department
Mountain View (California) Police Department
Oakland (California) Police Department
Richmond (California) Police Department
Sacramento (California) Police Department
Sarasota (Florida) Police Department
South Portland (Maine) Police Department
St. Paul (Minnesota) Police Department
Wichita (Kansas) Police Department
Worcester (Massachusetts) Police Department
Yonkers (New York) Police Department

Listening Session Participants

American Association for Access, Equity, and Diversity
American Civil Liberties Union
Center for Constitutional Rights
Cohen Milstein Sellers & Toll PLLC
Feminist Majority Foundation
Human Rights Campaign
Just Solutions
Levy Ratner, P.C.
Mexican American Legal Defense and Educational Fund
National Association for the Advancement of Colored People Legal Defense and Educational Fund
National Center for Transgender Equality
National Employment Law Project

National LGBTQ Task Force
National Women's Law Center
Professor Brenda Smith and Professor Richard Ugelow, American University Washington College of Law
Sikh Coalition
The Advancement Project
The Leadership Conference on Civil and Human Rights
United Sikhs

Subject Matter Experts

Dwayne Crawford, Executive Director, National Organization of Black Law Enforcement Executives
Frank Dobbin, Ph.D., Professor of Sociology, Harvard University
Harold Goldstein, Baruch College
Harold Lichten, Founding Partner, Lichten & Liss-Riordan, P.C.
John Torres, President, Hispanic American Police Command Association
Kyle Brink, Assistant Professor of Management, Western Michigan University
Margaret Shorter, President, International Association of Women Police
Michael Roberts, Ph.D., President, Law Enforcement Psychological Services
Phillip Cohen, Ph.D., Professor of Sociology, University of Maryland College Park
Stephen Mastrofski, Ph.D., Professor of Criminology, Law, & Society, George Mason University
Thomas Masters, President, National Asian Peace Officers Association