



# NATIONAL FRATERNAL ORDER OF POLICE

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## ANALYSIS:

### Interim Report of the President's Task Force on 21<sup>st</sup> Century Policing

Full text of the Interim Report available here: [http://www.cops.usdoj.gov/pdf/taskforce/Interim\\_TF\\_Report.pdf](http://www.cops.usdoj.gov/pdf/taskforce/Interim_TF_Report.pdf)

#### **OVERARCHING RECOMMENDATION 0.1:**

##### **Establish a National Crime and Justice Task Force**

The FOP led the charge against the deeply flawed "Webb bill" in 2009 during the 111<sup>th</sup> Congress. Through the efforts of the FOP and other stakeholder groups, we successfully amended that legislation to earn broad support from a diverse group of stakeholders. With the changes adopted and the bill reported favorably by the Senate Committee on the Judiciary, the FOP emerged as a strong supporter of the "National Criminal Justice Commission Act" in the 111<sup>th</sup> and 112<sup>th</sup> Congresses.

**Potential Legislation:** Revival of the "National Criminal Justice Commission Act"

**Analysis:** The FOP should support this legislation if reintroduced.

#### **OVERARCHING RECOMMENDATION 0.2:**

##### **Promote programs which take a comprehensive and inclusive look at community-based initiatives that address core issues of poverty, education, health and safety**

This recommendation acknowledges that many of the issues which have caused the erosion of trust between law enforcement and the communities they serve are broader issues within American society.

**Potential Legislation:** None

**Analysis:** This recommendation validates the testimony of National President Chuck Canterbury at the Task Force's inaugural Listening Session.

#### **PILLAR ONE: Building Trust and Legitimacy**

##### **Recommendation 1.1: Embrace a guardian mindset to build public trust and legitimacy**

This recommendation touches on organization culture and the "proper exercise of officer discretion."<sup>1</sup>

**Potential Legislation/Executive Action:** None

**Analysis:** The FOP has previously embraced the "guardian mindset" and testified to the importance of officer discretion.

##### **Recommendation 1.2: Acknowledge the role of policing in past and present injustice and discrimination and how this history is an obstacle to building community trust**

Apart from quoting testimony from Baltimore Police Commissioner Anthony Batts regarding that agency's decision to create a Professional Standards and Accountability Bureau, there was no supporting research on this item.

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<sup>1</sup> Interim Report of the President's Task Force on 21<sup>st</sup> Century Policing, 2015, p. 10

**Potential Legislation/Executive Action:** Creation of a commission or other body to compile and release reports on alleged misconduct of law enforcement agencies through history.

**Analysis:** History is history. The FOP should be forward looking and continue its proud history of improving the profession of law enforcement.

**Recommendation 1.3: Establish a culture of transparency and accountability in order to build public trust and legitimacy**

Apart from a survey by the Pew Research Center showing lower confidence in police by blacks and Hispanics, there was little research to support this recommendation.

**Potential Legislation/Executive Action:** Require State and local law enforcement agencies to provide information on stops, summonses, arrests, reported crime, and other law enforcement data aggregated by demographics online.

**Analysis:** The FOP supports transparency and accountability. However, this information must be viewed in light of factors which may skew the percentages, such as an influx of people into a jurisdiction which increases the per capita data that is usually measured strictly on U.S. Census data.

**Recommendation 1.4: Law enforcement agencies should promote legitimacy internally within the organization by applying the principles of procedural justice**

The concept of “procedural justice” was frequently referenced by members of the Task Force and those that testified before them, but it lacks a singular definition. The concept, however, does stress the importance of including the rank-and-file in the development of policing strategies and departmental policies. The Task Force writes: “Union leadership should be partners in this process.”<sup>2</sup>

**Potential Legislation/Executive Action:** Could be used to support collective bargaining and due process legislation because of the emphasis on involving the rank-and-file officers in the decision-making process.

**Analysis:** The FOP has been the leading advocate for collective bargaining and for a greater voice for the rank-and-file in the decision-making process.

**Recommendation 1.5: Proactively promote public trust by initiating positive non-enforcement activities**

This item focused on positive interactions between the community and law enforcement officers apart from calls for service and enforcement action. The work of Police Athletic Leagues, Coffee with a Cop, Cops and Clergy, Students Talking It Over with Police (STOP) and other community-based programs were referenced and demonstrated a very positive impact. This item also recommends Resident Officer programs to provide incentives for officers who live in the neighborhoods they patrol. The Recommendation also calls for a review of policies on the use of physical control equipment against vulnerable populations: children, elderly persons, pregnant women, persons with physical or mental disabilities, and persons with limited English proficiency.

**Potential Legislation/Executive Action:** Incentives built into Federal grants for agencies which establish and maintain community outreach programs, have residency requirements or policies restricting the deployment of equipment in situations involving “vulnerable populations;” revival of the “Officer Next Door” program

**Analysis:** The FOP is a strong advocate and a leader in establishing and maintaining community outreach programs. One of the criticisms of this Recommendation is that it does not specifically cite the unions and representative organizations which carry out these programs independent of agency leaders. Residency requirements may be problematic for some officers in some jurisdictions and are best addressed at the local, not Federal level. That said, the FOP was a strong supporter of the “Officer Next Door” program, which was considerably weakened when it expanded to include emergency medical technicians, firefighters and teachers.

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<sup>2</sup> Ibid., p. 13

### **Recommendation 1.6: Consider the potential damage to public trust when implementing crime fighting strategies**

The Task Force states that “Crime reduction is not self-justifying.”<sup>3</sup> This suggests that policing strategies should contemplate toleration of certain crimes or crime levels in the community to preserve public trust and cooperation.

#### **Potential Legislation/Executive Action: None**

**Analysis:** While the purview of setting policing strategies is with law enforcement executives, the Task Force has emphasized a more inclusive role for unions and the rank-and-file in setting policy. This Recommendation also seems to challenge the “Broken Windows” or zero tolerance policies embraced by the majority of law enforcement agencies. The perspective of rank-and-file officers is vital as they are the boots on the ground and in a much better position to identify areas of concern.

### **Recommendation 1.7: Track the level of trust in police by their communities just as changes in crime are measured**

This item suggests that law enforcement agencies partner with local universities to track “trust in police” just as information on crime rates are collected and tracked. It also recommends that the Federal government should develop survey tools and model policies to “prevent local departments from incurring expense and to allow for consistency across jurisdictions.”<sup>4</sup>

**Potential Legislation/Executive Action:** Establishment of “trust tracking” in local police by the U.S. Department of Justice or requirements that “trust tracking” be established at the local level as a condition or incentive for Federal grant programs

**Analysis:** While tracking community confidence in police might be conceivable in certain jurisdictions with the robust assistance of a local university, this Recommendation seems unrealistic. It is acknowledged that the Uniform Crime Report and other databases tracking crime, deaths in custody and law enforcement officers assaulted, injured or killed in the line of duty cannot be relied upon because these disclosures are voluntary and subjective. Requiring additional collection of non-public safety data that is also very subjective seems unnecessary for most jurisdictions.

### **Recommendation 1.8: Strive to create a workforce that contains a broad range of diversity**

The FOP testified at length in several different Listening Sessions on the issue of diversity within a law enforcement agency. Specifically:

*Obviously, police managers are responsible for recruiting, training and retaining good police officers. It is surprising to me, however, that so few are held accountable for these decisions.*

*Hiring policies should begin by identifying the needs of the agency and the community. The process must begin by building a profile—as comprehensive as is practicable—of the officer they want to serve in their ranks.*

*The representative organization or bargaining unit can provide invaluable help in developing this profile. The rank-and-file officers on the beat know what it takes to get the job done in terms of functional skills and temperament.*

*In addition, the community can assist in developing that program. Community organizations and others can and should have real input into developing the profile. “What do you look for in a police officer?” is a legitimate question and the input of the community can be very helpful. While the community would obviously not control the hiring process, it would help build the bonds of trust between the community and the agency because it gives them a stake in the outcome. Community input can also help agencies identify their diversity needs.*

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<sup>3</sup>Ibid., p. 15

<sup>4</sup> Ibid., p. 16

*With respect to ensuring diversity, agencies must be careful that their recruitment efforts do not engage in “diversity for diversity’s sake.” Compromising good qualities that officers need to be effective in the field in exchange for gender or racial identity is a mistake. That being said, a diverse agency whose composition reflects and is representative of the community it serves will make that agency more effective. To build trust and cooperation, officers should feel as though they are a part of the community and the community should feel that their agency and the officers in its ranks are responsive to their needs because they are also part of the community.*

This item calls on the Federal government to establish a “Law Enforcement Diversity Initiative” to oversee hiring practices based on local demographics and establish model policies and guidelines for hiring. It does recommend that local and national police organizations should be formally included in efforts to create a more diverse department, but also specifically states that Federal funding for law enforcement should be “influenced” by efforts to “improve diversity and cultural and linguistic responsiveness.”

**Potential Legislation/Executive Action:** Establishing within the U.S. Department of Justice a “Law Enforcement Diversity” component to track diversity in local and State law enforcement agencies; conditioning Federal grants on diversity requirements

**Analysis:** Law enforcement executives are solely responsible for the recruitment and hiring of new officers. We have supported a greater role of the union or representative organization in recruitment and assimilation, as well as argued for greater involvement from the community on identifying a “police officer profile” for new hires. The FOP should resist, however, any “one-size fits all” national diversity standards imposed by the Federal government or conditioning the receipt of Federal funds on adherence to such standards. Diversity should be determined by the locality and not Washington, D.C.

#### **Recommendation 1.9: Build relationships based on trust with immigrant communities**

The Task Force describes trust between law enforcement and immigrant communities as “central to overall public safety.”<sup>5</sup> This item recommends that Federal immigration enforcement should be “decoupled”<sup>6</sup> from local policing for civil enforcement and “non-serious crime.” As with Recommendation 1.6, the Task Force suggests that certain levels of crime and law-breaking be tolerated in exchange for better relations with the community. It also suggests that the U.S. Department of Homeland Security terminate any use of the State and local criminal justice system to enforce civil immigration laws against “civil and nonserious offenders.”<sup>7</sup> Further, the Task Force also recommends that the Federal Bureau of Investigation remove all civil immigration information from the National Crime Information Center (NCIC) database.

**Potential Legislation/Executive Action:** Amending Federal law to strip local and State law enforcement of the authority to enforce civil immigration laws; conditioning Federal grants on a commitment or assertion not to enforce civil immigration laws; statutory or administrative changes to the information maintained on the NCIC; amending Federal law to end the 287(g) program; amending Federal law to shield “sanctuary cities”

**Analysis:** This Recommendation continues to track with Federal efforts to prevent or hinder the enforcement of immigration laws by local and State law enforcement agencies. Ultimately, these issues will be resolved or left unresolved as the debate on the nation’s immigration policies moves forward. The FOP has maintained that the enforcement of civil immigration law should be determined by the local agency’s leadership and that local and State law enforcement agencies do have the authority to enforce civil immigration laws. The FOP should oppose any attempt to remove this authority and discretion as well as any attempt to end or reduce the effectiveness of the 287(g) program. Similarly, removal of the civil immigration data from the NCIC may compromise officer safety as well as public safety. The information available to local and State law enforcement should be as complete and comprehensive as possible and not be “cherry-picked” to exclude certain information.

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<sup>5</sup> Ibid., p. 17

<sup>6</sup> Ibid., p. 17

<sup>7</sup> Ibid., p. 17

## **PILLAR TWO: Policy and Oversight**

### **Recommendation 2.1: Collaborate to develop policies and strategies in communities disproportionately affected by crime**

The Task Force calls on the Federal government to develop a “service model process”<sup>8</sup> to focus on the root causes of crime within the community. The Task Force cited the Community Safety Partnership run by the Los Angeles Police Department as a model. That program assigns officers to housing projects for five years to build trust with the community, not necessarily to make arrests, but to develop ongoing relationships.

**Potential Legislation/Executive Action:** Conditioning Federal grant programs on the establishment of community collaboration programs

**Analysis:** This Recommendation continues the Task Force’s emphasis on greater community involvement with local police departments and, like other Recommendations, puts establishing working relationships ahead of enforcement. The FOP has been a leader in calling for better relationships with the community.

### **Recommendation 2.2: Develop comprehensive policies on the use of force that include training, investigations, prosecutions, data collection, and information sharing**

The Task Force calls for clear and transparent policies on use of force, training, prosecutions, data collection and information sharing. The Recommendation states that use of force policies should emphasize de-escalation and alternatives to arrest as well as mandate external and independent criminal investigations into a use of force incident, officer-involved shootings which result in injury or death or in-custody deaths. The Task Force also recommends the use of external and independent prosecutors in these cases. The Task Force also calls for policies to collect, maintain and report to the Federal government on all officer-involved shootings and in custody. The Task Force also recommends that every agency adopt a policy of how and when to release information to the public about use of force incidents and to establish a Serious Incident Review Board, which is to be made up of sworn officers and members of the community to review serious use of force incidents and officer-involved shootings. The purpose of the board is to identify and recommend corrections for any administrative, supervisory, training, tactical or policy issue which is proved deficient in a use of force incident.

**Potential Legislation/Executive Action:** Conditioning Federal grants on one or all of the recommendations listed above; amending Federal law to mandate the use of external investigators and prosecutors for officer-involved shootings; requiring collection of the data described above; **H.R. 429**, the “Grand Jury Reform Act”

**Analysis:** The FOP has previously expressed support for transparency in the wake of use of force incidents but the safety and due process rights of the officer(s) involved must not be compromised. The FOP should add that, in developing such policies, departments should also have clear and concise policies protecting the due process rights of their employees when their official actions are reviewed for misconduct, criminal or otherwise. The FOP has also expressed support for additional training, including de-escalation approaches but the safety of the public at-large and the officer(s) involved must be assured.

In practice, departmental investigations usually do involve other agencies to assure that there is no appearance of impropriety.

The FOP should oppose any requirements that every use of force incident or officer-involved shooting be investigated and prosecuted by an external, independent agency. This would impose considerable costs on the department and is needlessly bureaucratic. It seems to be a solution in search of a problem as there is no credible evidence presented that local prosecutors are incapable of filing charges and successfully convicting law enforcement officers who have committed illegal acts.

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<sup>8</sup> Ibid., p. 20

The FOP has endorsed the collection of data on use of force incidents, officer-involved shootings, and in-custody deaths. In addition, we recommended to the Task Force that data also be collected on assaults, injuries and line of duty deaths of law enforcement officers as the current database is not comprehensive. All of this data would help to improve community-police relations as well as officer safety.

Historically, the FOP does not support civilian review boards but we have supported community advisory board to assist departments in their localities.

### **Recommendation 2.3: Implement non-punitive peer reviews of critical incidents separate from criminal and administrative investigations**

The Task Forces notes that other professions like medicine and aviation use extensive peer reviews to improve safety as well as practices and policies. It calls for the establishment of a similar review process for law enforcement of “sentinel events.”<sup>9</sup>

**Potential Legislation/Executive Action:** Condition Federal grants on the establishment of peer review programs

**Analysis:** The use of peer review panels, provided they are established with the full support of the collective bargaining unit and assurances that the results of such reviews will be non-punitive and not used against the officer in the future, could be of great benefit in terms of improving officer safety and police procedures and policies. There would also need to be a mechanism to prevent police managers from using information shared or collected in these sessions from influencing officer evaluations, assignments, special duties or promotions. This would also apply to officers who choose not to participate in such programs.

### **Recommendation 2.4: Adopt identification procedures that eliminate or minimize presenter bias or influence**

In its Listening Sessions, the Task Force often heard about the unreliability of eyewitnesses. In response they call for the implementation of “scientifically supported practices that eliminate or minimize presenter bias or influence.”<sup>10</sup>

**Potential Legislation/Executive Action:** Conditioning Federal grants on the establishment of such practices

**Analysis:** Human eyesight and memory is fallible and is known to be influenced by emotions and other factors. The limitations of eyewitness evidence are known and this suggestion seems more appropriate for prosecutors, not law enforcement.

### **Recommendation 2.5: Make the agencies’ demographic data available to the public**

The Task Force recommends that ALL law enforcement agencies at the local, State and Federal level make available to the public demographic data—including race, gender, age and other relevant data. This item suggests that the Bureau of Justice Statistics (BJS) add demographic questions to the Law Enforcement Management and Administrative Survey (LEMAS).

**Potential Legislation/Executive Action:** Conditioning Federal grants on the public availability of this demographic data; amend Federal law to require BJS to collect this data

**Analysis:** It is concerning that law enforcement agencies and not other governmental departments are singled out for this disclosure. However, provided that the data collection does not infringe on anyone’s privacy rights or officer safety, this recommendation does not seem to be burdensome and may provide beneficial information to the public as well as to law enforcement.

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<sup>9</sup> Ibid., p. 22

<sup>10</sup> Ibid., p. 23

## **Recommendation 2.6: Collect demographic data on all stops and arrests**

The Task Force recommends that law enforcement agencies should be encouraged to collect demographic data on all detentions, including traffic stops, frisks, searches, summons and arrests. The Task Force suggests that the Federal government incentivize universities and other organizations to partner with law enforcement agencies to collect and analyze this data.

**Potential Legislation/Executive Action:** Conditioning Federal grants on the collection and reporting of this data; revival of the “End Racial Profiling Act”; *H.R. 46*, the “No More Tulias: Drug Law Enforcement Evidentiary Standards Improvement Act”; *H.R. 51*, the “Traffic Stops Along the Border Statistics Study Act”

**Analysis:** The FOP has consistently opposed the collection of racial and other data for a variety of reasons. When you add to the list of things that police officers have to do, you are necessarily subtracting from the law enforcement mission. Secondly, the FOP has repeatedly expressed that an officer should not have to inquire or be forced to subjectively guess as to the race of a citizen with whom he is interacting. In addition, the FOP has argued that forcing officers to collect this data would *emphasize* racial differences and make police officers much more aware of race when our objective should be to de-emphasize the race of the suspect. Officers who know this information is to be collected and analyzed may see a need to diversify the racial and gender identity of those they stop, yielding a result that is the exact opposite of the intent of this recommendation.

## **Recommendation 2.7: Implement response protocols to mass demonstrations that prioritize de-escalation**

The Task Force recommends that all law enforcement agencies create policies and procedures for policing mass demonstrations, with an emphasis on de-escalation strategies and the guardian mindset. They call for a continuum of managed tactical resources, minimization of military appearance of both the officers and the operation and avoidance of tactics and equipment that undermine civilian trust. Among the recommendations are “soft look” uniforms, avoidance of using military formations when staging, removal of riot gear as soon as practicable and “maintaining open postures.” The Task Force calls for the Federal government to create a mechanism to investigate complaints and issue sanctions regarding the inappropriate use of equipment and tactics during mass demonstrations.<sup>11</sup>

**Potential Legislation/Executive Action:** Conditioning Federal grants on the adoption of the policies described above; amending Federal law to end or otherwise modify equipment programs like the 1033 program; creation of an entity to investigate complaints about police misconduct during mass demonstrations

**Analysis:** It seems unnecessary to require or recommend that all law enforcement agencies have a mass demonstration policy in place as many agencies, especially those in rural areas or those with just a handful of officers, would not handle or be expected to handle a large-scale event. Outside resources and expertise would need to be called in. That said, the FOP has supported improving command decision making when policing large scale events or mass demonstrations. With respect to “soft look” uniforms and avoiding a military appearance, the safety of the public and the officers should be prioritized over cosmetic appearance. Finally, the FOP is confident that there are sufficient procedures in place to address the misuse of equipment obtained through Federal government programs—a conclusion also reached by the review of these programs ordered by the President. Similarly, we believe that the U.S. Department of Justice has sufficient resources and authorities to investigate civil and criminal complaints arising from police conduct in response to a large-scale event. The Task Force’s use of the phrase “inappropriate use”<sup>12</sup> is troubling, as investigations should be reserved for allegations of administrative or criminal misconduct.

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<sup>11</sup> Ibid., p. 25

<sup>12</sup> Ibid., p. 25

### **Recommendation 2.8: Implement civilian oversight of law enforcement**

The Task Force claims that many State and local law enforcement agencies have civilian review boards and that such entities are critical to establishing and maintaining the trust of the community. The Task Force calls on the National Institute of Justice to expand its research agenda to include civilian oversight issues. In addition, the Task Force suggests that the Office of Community Oriented Policing Services (COPS) provide technical assistance and best practices for existing civilian review boards and provide funding or matching grants to local governments who seek to establish such boards.

**Potential Legislation/Executive Action:** Condition Federal grants on the establishment of civilian review boards

**Analysis:** The FOP has consistently opposed the creation of civilian oversight or review boards. Our conclusion with the efficacies of such entities is entirely the opposite of the Task Force—we argue that they create distrust and strain between the department and the community. Further, the COPS mission is to serve law enforcement, not local governments. Given the continued reduction in State and local law enforcement funding administered by the COPS Office, the FOP should object very strongly to using those limited funds to assist local governments to stand up civilian review boards. The COPS Office was founded to be a partner to law enforcement and to assist law enforcement, not to oversee law enforcement. To put the COPS Office in that position would be detrimental to the working relationship law enforcement has with COPS.

### **Recommendation 2.9: Refrain from quotas for arrests, tickets or summonses to generate revenue**

The Task Force recommends that no agency should use quotas as a means to raise revenue or evaluate or encourage performance.

**Potential Legislation/Executive Action:** Conditioning Federal grants on an assertion that the agency does not use quotas

**Analysis:** The FOP is on the record in opposition to the use of quotas to generate revenue and as a performance measure tool.

### **Recommendation 2.10: Seek consent before a search and explain that a person has the right to refuse consent when there is no warrant or probable cause**

The Task Force recommends that officers be required to inform a citizen that they can refuse consent to be searched and “ideally” get affirmative consent to a search in writing.<sup>13</sup>

**Potential Legislation/Executive Action:** Conditioning Federal grants on the establishment of such guidelines; amending Federal law to expand the existing *Miranda* warnings

**Analysis:** Officers must rely on their judgement and discretion when seeking to execute a search. Requiring officers to educate suspects as to their legal rights for a simple search seems excessive. Further, the FOP testified in support of the decision in *United States v. Dickerson*, which upholds a Congressional attempt to address legislatively the issues of pretrial interrogations and self-incrimination. In cases of arrest and loss of liberty, the suspect is mirandized but there should be no such requirement for a simple search.

### **Recommendation 2.11: Establish search and seizure procedures related to those who are transgender or do not identify as heterosexual**

The Interim Report contains no references, action items or other support text for this recommendation. The item suggests that law enforcement agencies adopt as policy the recommendations of the President’s HIV/AIDS Task Force to end the practice of using possession of a condom as the “sole evidence of vice.”

**Potential Legislation/Executive Action:** Conditioning Federal grants on the establishment of new search and seizure policies and/or the adoption of the recommendations of the HIV/AIDS Task Force.

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<sup>13</sup> Ibid., p. 27



**Analysis:** The Task Force does not provide any supporting information on why it would be necessary to have two different search and seizure policies based on sexual orientation or gender identity. Without evidence, this recommendation makes little sense.

### **Recommendation 2.12: Adopt and enforce policies prohibiting profiling and discrimination**

The Task Force recommends that the Bureau of Justice Statistics (BJS) add questions to the Police Public Contact Survey concerning “sexual harassment and misconduct” toward persons who do not identify as heterosexual or are otherwise “gender-nonconforming.” The Centers for Disease Control should also collect this data using the National Intimate Partner and Sexual Violence Survey. In addition, the Task Force calls on the U.S. Department of Justice to promote and disseminate guidance on documenting, preventing and addressing sexual harassment and misconduct by “local law enforcement agents” consistent with the recommendations of the International Association of Chiefs of Police’s publication *Addressing Sexual Offenses and Misconduct by Law Enforcement: Executive Guide*. The Task Force further recommends that invasive searches should never be employed for the sole purpose of establishing gender identity.

**Potential Legislation/Executive Action:** Conditioning Federal grants on the establishment of such guidelines, revival of the “End Racial Profiling Act;” legislation prohibiting profiling based on race, ethnicity, national origin, age, gender, gender identity/expression, sexual orientation, immigration status, disability, housing status, occupation, language fluency or other status

**Analysis:** The lengthy list of persons who need protection from discretion provided in the Interim Report includes discrimination based on “occupation.”<sup>14</sup> Despite assurances from U.S. Attorney Loretta E. Lynch in response to written questions during her nomination hearings, the Task Force makes no mention of the FOP’s repeated recommendation that Federal hate crime laws be expanded to protect police officers. It does, however, recommend that law enforcement agencies adopt and enforce policies that prohibit discrimination against others based on occupation.

Discrimination is wrong and is unlawful under many local, State and Federal laws. The majority of law enforcement agencies (and most public and private employers) have formal non-discrimination policies. Similarly, racial profiling, i.e., the sole use of race to trigger an enforcement action, is also illegal under the U.S. Constitution.

### **Recommendation 2.13: Federal agencies should provide technical assistance and incentive funding to jurisdictions with small police agencies and encourage small departments to consolidate**

The Task Force, noting that half of all law enforcement agencies in the United States have fewer than ten officers and that, as a consequence, these departments often lack resources, training and equipment. The Task Force also asserts that, in some jurisdictions, municipal boundaries and local custom prevent these smaller departments from “combining forces” with neighboring agencies. The Task Force suggests that the Office of Community Oriented Policing Services (COPS) provide technical assistance and incentive funding to small agencies that wish to consolidate with other agencies, share services and regionalize training programs.

**Potential Legislation/Executive Action:** Conditioning or repurposing existing Federal grants to encourage consolidation and regionalization of services

**Analysis:** The FOP has previously weighed in strong opposition on the issue of consolidation of fire services and law enforcement agencies into hybrid “public safety departments.” We strongly criticized the COPS office for funding studies of such consolidation and apart from a single meeting, have been left out of the study’s parameters. Regionalized training programs and regionally-staged equipment is sound public safety planning and consolidation amongst some agencies may make sense on a case-by-case basis. Consolidation, however, should not be explored as an option if the objective is to eliminate the collective bargaining unit or representative organization. It should be undertaken only with the full support of the consolidating agencies, the bargaining unit or representative organization and the community as a whole.

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<sup>14</sup> Ibid., p.28

## **Recommendation 2.14: Create a National Register of Decertified Officers**

The Task Force recommends that the Office of Community Oriented Policing Services (COPS) partner with the International Association of Directors of Law Enforcement Standards and Training (IADLEST) to expand the latter's National Decertification Index and create a National Register of Decertified Officers.

**Potential Legislation/Executive Action:** COPS could begin such a project; amending Federal law to direct the Attorney General to create such an index

**Analysis:** In his first appearance before the Task Force, National President Canterbury clearly stated:

*The FOP has opposed this effort in the past and must continue to do so unless and until due process laws for all police officers are uniform throughout the nation. Perhaps this effort will bolster our latter efforts to improve due process for officers.*

Applicants for police work should conform to the very highest standards of personal and professional conduct and, prior to hiring, be subject to--or should be subject to--rigorous background investigations. Too often, the so-called "bad apples" turn out to have been hired because police management did not conduct a thorough background check.

The ostensible purpose of this "registry" would be to ensure that these so-called "bad apples" do not roam from jurisdiction to jurisdiction, repeatedly hired by wide-eyed police executives unaware of their past misdeeds. Sound police management includes screening and recruiting good officers and decertifying bad ones.

The officers in this "registry" have no choice, control, or access to its contents and no means by which to comment upon the records--extensive or otherwise--now made part of their permanent record. A permanent record, mind you, not in a file within their own agency or department but one compiled and maintained by the Federal government to be made available exclusively to prospective employers. If this is beginning to sound more like a blacklist than a "registry" or "national clearinghouse," we're getting closer to the truth. In addition, the Federal government does not maintain a national database on any other state or local government employees.

Regrettably, sound hiring practices cannot be legislated from Capitol Hill or the U.S. Department of Justice. Law enforcement executives must thoroughly vet new recruits and new hires and not rely on a registry compiled in Washington, D.C. Police executives should also commit themselves to ensuring that bad officers are decertified and fired for cause. If this is done, then any background check done by another law enforcement agency will reveal this information.

## **PILLAR THREE: Technology & Social Media**

### **Recommendation 3.1: Establish national standards for the research and development of new technology, for instance, body-worn cameras and social media**

The Task Force calls on the U.S. Department of Justice, along with the National Institute of Justice to establish national standards for the research and development of new technology. Interoperability of the technology and standardization of policies across multiple jurisdictions should also be addressed. The Federal government should support the development and delivery of training to deploy new technologies and bear in mind its impact on officer safety, privacy and civil rights.

**Potential Legislation/Executive Action:** NIJ could begin such a project; amending Federal law to direct NIJ to carry out this recommendation

**Analysis:** Implementations of new technology without sound policies can often cause agencies to suffer from unintended consequences or the technology may be misused out of a lack of understanding as to its purpose and role in assisting law enforcement. The FOP could agree with this recommendation.

**Recommendation 3.2: Technology deployment should have national standards but be designed to meet local needs**

The Task Force recommends that, while standards for technology development and training should be addressed at the national level, the implementation of such technologies and adoption of such policies should be done at the local level. The Task Force suggests that agencies should encourage public involvement, ongoing assessment about the utility of the new technology and focus on technologies which help them respond to members of the community with disabilities or special needs.

**Potential Legislation/Executive Action:** NIJ or any component of the U.S. Departments of Justice or Homeland Security could begin to develop standards and training

**Analysis:** The Task Force also suggests that line officers and union representatives need to play a role in determining the local needs. This is a Recommendation with which the FOP could agree.

**Recommendation 3.3: Development of best practices that can be adopted by State legislative bodies to govern the acquisition, use, retention, and dissemination of auditory, visual, and biometric data by law enforcement**

The Task Force calls on the U.S. Department of Justice (DOJ) to consult with law enforcement organizations and civil rights groups to develop best practices for collection, use, storage and dissemination of this data. The Task Force suggests the creation of “toolkits” and “one stop shops” or clearing houses of information.

**Potential Legislation/Executive Action:** DOJ could undertake this effort immediately, as it did in the development of the Body Worn Camera Toolkit; amending Federal law to direct the DOJ to carry out this recommendation

**Analysis:** The collection, use, storage and dissemination of this data represents a considerable challenge to law enforcement at all levels. The FOP could support this recommendation.

**Recommendation 3.4: Update public records laws**

The Task Force urges local, State and Federal governments to update their public records laws with respect to public access to audio, video or other data collected by law enforcement. Privacy protections for the public and the officer, as well as protection of the integrity of ongoing investigations must be considered.

**Potential Legislation/Executive Action:** Amendments to statutes at the Federal, State and local level would be necessary

**Analysis:** The FOP agrees that public records laws need to be updated to contemplate new technology and collected information. This will require legislative change and the FOP should work to ensure that any changes also protect the personal information of law enforcement officers and the integrity of ongoing investigations.

**Recommendation 3.5: Adoption of model policies and best practices for technology-based community engagement**

The Task Force calls on local and State law enforcement to develop model policies and best practices as to how their agencies use social media such as the department’s website, Facebook page, Twitter or YouTube to conduct community outreach and engagement. They cite the Boston Police Department’s adroit use of social media to keep the public informed and enlist their help during the manhunt following the bombing at the Boston Marathon in 2013.

**Potential Legislation/Executive Action:** Conditioning Federal grants on the establishment of such policies

**Analysis:** The FOP could support this Recommendation and, in fact, seeks to expand it to include how unions and representative organizations interact with their members and the community at large.

A related issue that the FOP has raised on several occasions is how local law enforcement can more effectively monitor social media to prevent, deter or respond to those who use these tools to assemble a large group of young people to raid a store or place of business. Using a large number of people, there have been repeated incidents nationwide where stores, malls, county fairs and others have been targeted by a mass of young people intent on stealing, destroying personal property and assaulting people. The nature of the crimes and the number of individuals involved make it difficult to investigate, but experience has shown these crime events are planned and the information spread on social media. Law enforcement has not yet developed an appropriate or effective response.

### **Recommendation 3.6: Federal government should support the development of new “less than lethal” technology**

The Task Force notes that ongoing development on “less lethal” technologies such as conductive energy devices (CEDs) have helped to reduce lethal outcomes when suspects become combative. They recommend that the Federal government, through the U.S. Departments of Defense and Justice, work to develop new “less lethal” technologies to further reduce lethal outcomes.

**Potential Legislation/Executive Action:** Secretaries of the referenced Departments have the authority to carry out this Recommendation; amending Federal law to authorize and appropriate funds for the effort

**Analysis:** The FOP has long been involved in expanding the use of “less lethal” technology and developing policies with respect to their place on the use of force continuum. In fact, the FOP served as a founding member of the Less Lethal Working Group established by the U.S. Department of Justice. The Group, which was active in the late 1990s, produced a great deal of information, including a common lexicon, all published on their website, [www.less-lethal.org](http://www.less-lethal.org), but it seems that website is no longer active. The FOP could support this Recommendation.

### **Recommendation 3.7: Make FirstNet a top priority of the Federal government**

The Task Force calls on the Federal government to make the deployment of a national public safety broadband network which creates bandwidth for the exclusive use of law enforcement a public safety priority. This effort is overseen by the First Responder Network Authority (FirstNet), a component of the National Telecommunications and Information Administration (NTIA) with the U.S. Department of Commerce.

**Potential Legislation/Executive Action:** None needed; additional appropriations may be considered

**Analysis:** The FOP were early and enthusiastic supporters of the network and were members of FirstNet’s predecessor. The FOP has a seat on the Public Safety Advisory Board to FirstNet and agree with the Task Force that the development of this network should be a priority.

## **PILLAR FOUR: Community Policing & Crime Reduction**

### **Recommendation 4.1: Agencies should adopt community policing strategies which reinforce community engagement**

The Task Force notes that an important component of community policing is strengthening the bond between the law enforcement agency and the community as well as the community’s capacity to prevent and deter crime. For this reason, they recommend a “least harm” approach, such as diversion programs or warnings/citations in lieu of arrest for minor infractions.

**Potential Legislation/Executive Action:** Conditioning Federal grants on the adoption of such strategies

**Analysis:** This is another instance in which the Task Force rejects the “Broken Windows” theory of policing and calls for the tolerance of small amounts of non-serious crimes in order to establish and maintain positive relations with the community they patrol. That said, the Recommendation to reinforce community-oriented policing’s engagement approach is a positive suggestion. Regrettably, as the FOP has noted in its testimony, community policing is a labor-intensive approach and, with declining resources and manpower, it is often a very difficult challenge to meet.

#### **Recommendation 4.2: Community policing should become part of the agency's culture and organizational structure**

The Task Force strongly endorses the community policing approach and recommends that officers be evaluated in part by their efforts to engage with the community members on their beats or assignments as well as recommend that law enforcement executives allow sufficient time for community interaction be allotted on each officer's shift or patrol. In addition, the Task Force calls for the U.S. Department of Justice and other public and private entities to continue to research effective, non-discriminatory crime-fighting that could be replicated in other jurisdictions.

**Potential Legislation/Executive Action:** Conditioning Federal grants on evaluations or commitment to community policing

**Analysis:** Several witnesses before the Task Force attacked the concept of community-oriented policing, so it is a positive development that the Task Force endorses this approach so strongly. The FOP could agree that infusing the community policing philosophy into the culture and structure of the agency would be a positive. Further research into effective crime reduction strategies is equally welcome. In terms of officer evaluations, we would be cautious that there needs to be rank-and-file "buy-in" and expectation of conduct should be clearly articulated by law enforcement executives. Emergency response must not be compromised by reducing staff levels in order to conduct community-oriented policing. This is a safety concern and, with the increase of the number of assaults on officers, it is vital to provide adequate manpower.

#### **Recommendation 4.3: Law enforcement should adopt multidisciplinary, community team approaches in responding to certain crisis situations**

The Task Force suggests that the U.S. Department of Justice lead an effort to develop and disseminate baseline models from crisis intervention teams that can be easily adopted at the local level. Communities should also look to peer support and other counseling services to assist law enforcement and other public safety officers.

**Potential Legislation/Executive Action:** Conditioning Federal grants on the establishment of such teams

**Analysis:** While resources are certainly the biggest obstacle in following this recommendation, it is a sound policy recommendation particularly when dealing with law enforcement's ability to respond and appropriately handle persons who are mentally ill, persistently homeless, substance abusers, and domestic violence or child abuse victims.

#### **Recommendation 4.4: Support a culture and practice of policing that protects and promotes the dignity of all**

The Task Force recommends that officers eliminate offensive and harsh language from their daily patrols and speak to all individuals with respect, as such language and perceived disrespect can escalate situations to violence. In addition, agencies should develop programs and opportunities to interact with different segments of the community.

**Potential Legislation/Executive Action:** None

**Analysis:** This Recommendations reflects a lot of the testimony of academically inclined witnesses who used terms like "impartial policing," "rightful policing," "Constitutional policing," "procedural justice," and "implicit bias training." It also reflects a suggestion that law enforcement should observe the Hippocratic Oath: First, Do No Harm. It is unfortunate there is no officer safety consideration in this Recommendation, nor does it reflect reality in that true community-oriented policing is made more difficult with fewer officers in the streets. That said, the FOP has endorsed the community policing approach.<sup>15</sup>

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<sup>15</sup> Ibid., p. 45

**Recommendation 4.5: Community policing strategy should collaborate with neighborhood residents to produce meaningful results in public safety**

Like many of the other Recommendations made in this Pillar, the Task Force suggests greater cooperation and collaboration with the community through regular forums and programs, youth and community engagement such as Police Explorers, ride alongs and citizen academies. Agencies should establish community/citizen advisory boards to assist in developing crime prevention strategies.

**Potential Legislation/Executive Action:** None

**Analysis:** This suggests that agencies would benefit from establishing formal working relationship with the community through regular forums or townhalls, advisory boards and youth activities. Resources and manpower are, again, an issue and may be beyond the ability of some small departments. The reasoning is sound and these efforts fit within the community policing model embraced by the FOP.

**Recommendation 4.6: Communities should focus on developing programs for at-risk youth and reduce aggressive enforcement tactics on these youths**

The Task Force uses this Recommendation to criticize “zero tolerance” policies and raise concerns about the “school-to-prison pipeline.”<sup>16</sup> The Task Force notes that officers are not trained in child and adolescent development and school district policies which use law enforcement in lieu of administrative discipline will do great harm. For these reasons, the Task Force recommends education and criminal justice agencies at all levels of government reform policies and procedures relating to schools and the juvenile justice system. Use of law enforcement, expulsion and suspension punishments should be replaced with alternatives that reflect restorative justice, diversion, counseling and family interventions. The Federal government should provide incentives for schools to adopt these policies.

**Potential Legislation/Executive Action:** Condition school grants and other educational assistance on the adoption of the practices described above; changes to Federal, State or local laws and policies on “zero tolerance”

**Analysis:** This Recommendation clearly is more focused on the need for educational reform than law enforcement. The Task Force provides no criticism of the School Resource Officer program, though many witnesses suggested that law enforcement officers create a hostile environment for some children and have no place in schools. This view seems to be rejected as the Recommendation urges law enforcement agencies to work with their local school systems.

**Recommendation 4.7: Communities and law enforcement agencies need to recognize the voice and value of youths in the community**

The Task Force recommends that the community and law enforcement collaborate on programs that restore trust between youth and police by establishing programs and opportunities for positive actions. Communities should reject or mitigate punitive and “authoritarian”<sup>17</sup> solutions to teen problems.

**Potential Legislation/Executive Action:** Changes to law or policy at the local or State level

**Analysis:** This is very similar to **Recommendation 4.6** with respect to youth-police interactions, save this is more community- than school-focused. The Task Force missed another opportunity to note that this outreach and engagement, while a net positive if operated by the agency, can also be achieved by the union or representative organization.

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<sup>16</sup> Ibid., p. 47

<sup>17</sup> Ibid., p. 50

## **PILLAR FIVE: Training & Education**

### **Recommendation 5.1: The Federal government should support the development of training standards and establish training innovation hubs**

With the aim of changing police culture, the Task Force recommends first changing the culture of training academies and calls on the U.S. Department of Justice (DOJ) to establish training innovation hubs to develop “replicable model programs”<sup>18</sup> and which could establish partnerships with universities and other academic institutions to influence curricula and instructional methodology. The Task Force also recommends that the DOJ establish a closer relationship with the International Association of Directors of Law Enforcement Standards and Training (IADLEST) to leverage their network with State and local Police Officer Standards and Training (POST) boards.

**Potential Legislation/Executive Action:** Amending Federal law to establish and create law enforcement “training innovation hubs”<sup>19</sup>

**Analysis:** Depending on the scope of these “hubs,” this could be a considerable investment of Federal dollars. The FOP will have to weigh carefully as to whether these “hubs” are a better investment than direct support of local and State agencies.

### **Recommendation 5.2: Engage community members in the training process**

The Task Force recommends that local and State agencies involve community members in the training process—from its development to instruction and use in the field. This may result in a better informed public and officer. Further, the Task Force calls on the U.S. Department of Justice (DOJ) to develop and disseminate a toolkit for integrating the community into the training programs.

**Potential Legislation/Executive Action:** DOJ could develop these toolkits under current authorities; amending Federal law to authorize and fund this development

**Analysis:** Numerous witnesses testified in favor of greater community involvement with their local law enforcement agency and the FOP endorses this general concept as well. The FOP, in many jurisdictions, supports citizen academies and other engagement efforts. Provided that the programs and forums engaging the community do not overshadow the input of the collective bargaining unit or representative organization, the FOP could support this recommendation.

### **Recommendation 5.3: Leadership training**

The Task Force calls on the U.S. Department of Justice (DOJ) to develop learning goals and model training for each “level of leadership” and encourage partnerships between law enforcement agencies and academic institutions to better integrate current research. The Task Force also calls on the DOJ to support “cross-discipline leadership training” and cited the National Alliance for Drug Endangered Children as a model.<sup>20</sup>

**Potential Legislation/Executive Action:** None

**Analysis:** Many witnesses, the FOP in particular, called upon improved and extended training for law enforcement leadership. This Recommendation of the Task Force reflects that input. Additionally, the Task Force again missed an opportunity to highlight or recommend the involvement of the union and rank-and-file representatives and the role they play in developing current and future law enforcement leaders.

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<sup>18</sup> Ibid., p. 53

<sup>19</sup> Ibid., p. 53

<sup>20</sup> Ibid., p. 55

#### **Recommendation 5.4: Develop a postgraduate program for senior law enforcement executives**

The Task Force recommends that the U.S. Department of Justice partner with universities and other institutions of higher learning to develop a national, postgraduate institute for policing for senior law enforcement executives with a standardized curriculum.

**Potential Legislation/Executive Action:** Amending Federal law to authorize and fund the development of the postgraduate program

**Analysis:** As has been the case with many of the Task Force's recommendations, the FOP must consider that, with limited Federal resources being provided for law enforcement assistance, the if and where these funds will be found and how this might impact Federal assistance to State and local agencies is a concern. The Task Force also should acknowledge that unions and representative organizations should play a part in developing the program and the curriculum.

#### **Recommendation 5.5: Modify the curriculum of the FBI's National Academy to include "prominent coverage" of this Interim Report**

The Task Force recommends that the U.S. Department of Justice direct the Federal Bureau of Investigation to modify the National Academy curriculum to reflect the topical areas addressed in this report. Additionally, the Office of Community Oriented Policing Services and the Office of Justice Programs should work with law enforcement organizations to modify their own curricula.

**Potential Legislation/Executive Action:** Directive to FBI to change the curriculum; conditioning Federal grants at the local or State level to modification of their own curricula

**Analysis:** Considering that this is an "interim" report and that it has not been in the hands of the public or the law enforcement community for very long, it seems premature to support any dramatic change to an established training program without additional review and discussion.

#### **Recommendation 5.6: Make Crisis Intervention Training (CIT) available for basic and in-service officer training**

Several witnesses addressed the need to better prepare officers to recognize the symptoms of a mental health crisis and, for these reasons, the Task Force recommends Congress appropriate funds to be used by State and local agencies to develop and maintain CIT programs.

**Potential Legislation/Executive Action:** Amend Federal law to authorize and fund the creation of CIT programs

**Analysis:** This Recommendation calls for specific authorization and funding from Congress, so the FOP must consider how they would be funded in light of the reductions to State and local assistance programs over the last few Fiscal Years.

#### **Recommendation 5.7: Basic and in-service training should focus on improved social interaction skills**

The Task Force calls on State and local Police Officer Standards and Training (POST) boards to add critical thinking, social intelligence, implicit bias, fair and impartial policing, historical trauma and other topics to improve the ability of officers to interact with the community. Tactical and operational training, including lethal and less lethal use of force, as well as de-escalation and tactical retreat skills should also be included.

**Potential Legislation/Executive Action:** None

**Analysis:** While the final decisions on basic training may be made by the State or local POST, after consultation with rank-and-file officers and their representative organizations, consideration should be given to the additional cost and time this would add to basic training as well as its utility to a rookie officer.



**Recommendation 5.8: Basic and in-service training should include information on addiction**

The Task Force recommends State and local Police Officer Standards and Training (POST) boards to ensure officers can recognize the signs of addiction and respond accordingly to suspects who may be impaired as a result of that addiction. The Task Force cites many departments who have deployed naloxone to prevent deaths from overdoses as an example.

**Potential Legislation/Executive Action:** Revival of *H.R. 4169*, the “Stop Overdose Stat (SOS) Act” or other legislation that authorizes and funds the dissemination of naloxone and shields from liability those who attempt in good faith to save a person suffering from a drug overdose

**Analysis:** The local POST, after consultation with rank-and-file officers and their representative organizations, should consider the issues raised above before implementing such training. That said, the FOP did endorse *H.R. 4169* in the 113<sup>th</sup> Congress.

**Recommendation 5.9: Basic and in-service training should include recognizing and confronting implicit bias and cultural responsiveness**

The Task Force calls on State and local Police Officer Standards and Training (POST) boards to train their officers, from the top down, in cultural diversity as well as to recognize and reduce their implicit bias. Training should also be included and policies developed to interact with transgender people and persons who do not identify as heterosexual as well as communities of Muslims, Arabs, South Asians, immigrants and other non-English speakers.

**Potential Legislation/Executive Action:** None

**Analysis:** This seems to be highly specific training and may have little utility in some jurisdictions and be valuable in others. Local and State POSTs should make the determination and should do so with feedback from the rank-and-file officers and their representative organizations.

**Recommendation 5.10: Basic and in-service training should require training on policing in a democratic society**

The Task Force calls on State and local Police Officer Standards and Training (POST) boards to require training on “the Constitutional basis of and proper use of [that] power and authority”<sup>21</sup> with emphasis on Terry stops.

**Potential Legislation/Executive Action:** None

**Analysis:** This seems to suggest that current officers are not sufficiently trained in the lawful exercise of their authorities. That noted, like the other specific training items above, State and local POSTs will make the final determination and should do so with feedback from the rank-and-file officers and their representative organizations.

**Recommendation 5.11: Encourage and incentivize higher education for law enforcement officers**

The Task Force recommends that the Federal government, as well as State and local agencies, provide incentives to encourage higher education for law enforcement officers. This could include recruits without college degrees who would earn one during their career, student loan forgiveness after 120 months of service.

**Potential Legislation/Executive Action:** Amend Federal, State or local law to authorize and create such programs

**Analysis:** This Recommendation may have the benefit of recent high school graduates or those recently discharged from the military to seek a career in law enforcement and take advantage of the opportunity to earn a degree. Without program or plan details, it is difficult to know for certain, but this is certainly an issue the FOP could explore.

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<sup>21</sup> Ibid., p. 58

### **Recommendation 5.12: Create a loan repayment and forgiveness program for police**

The Task Force recommends that the Federal government create a loan repayment and forgiveness program based on existing such programs and the Law Enforcement Education Program that existed in the 1960s and 1970s.

**Potential Legislation/Executive Action:** Amend Federal law to authorize and create such a program

**Analysis:** Such a program would be a great benefit to the rank-and-file officers as well as to recruiting and the FOP could certainly support such legislation.

### **Recommendation 5.13: Interactive distance learning programs for law enforcement**

The Task Force calls on the Federal government to support the research and development of technology to enhance scenario-based training and social interaction skills and enable this training to be delivered through platforms that do not require officers to leave their jurisdictions.

**Potential Legislation/Executive Action:** None

**Analysis:** Providing opportunities for training using distance learning methods would be of the greatest value to small and rural departments who would save time and cost. In addition, the technology and methodology for online classes and distance learning is well established in other professions and there is certainly some training that could be effectively delivered to law enforcement using these platforms.

### **Recommendation 5.14: Improve Field Training Officer (FTO) Programs**

The Task Force calls on the Federal government to support the development and improvement of FTO programs and suggests that the Police Training Officer program currently administered by the Office on Community Oriented Policing Services could serve as a model. The objective of the new FTO standards would be to address changes to police culture and address organizational procedural justice issues. The Task Force goes on to suggest that the U.S. Department of Justice should provide funding to incentivize agencies to improve their FTO programs along these lines.

**Potential Legislation/Executive Action:** Conditioning Federal grants on changes to existing FTO programs and training

**Analysis:** Improving FTO programs is desirable, but, like so many of the Task Force's recommendations, the issue of funding and resources must be considered.

## **PILLAR SIX: Officer Wellness & Safety**

### **Recommendation 6.1: Enhance and promote existing safety and wellness initiatives**

The Task Force entertained numerous witnesses to discuss the physical and mental stresses and strains of police work. The overall poor physical and mental health of officers, from bad nutrition, fitness and sleep deprivation, were found to increase the chances of injury to the officer as well as the officer's decision-making ability and swiftness to recover from stress or injury. The prevalence of suicide amongst the law enforcement profession was also noted. As such, the U.S. Departments of Justice (DOJ) and Health and Human Services (HHS) should establish a task force to study the mental health issues amongst police officers and recommend treatment and support programs. This effort should also support continuing research into efficacy of an annual mental health check as well as fitness, resilience and nutrition. The Task Force also recommends that pension plans should recognize fitness for duty examinations as definitive reasons of valid duty or non-duty disability.

The Task Force also calls upon Congress to pass legislation creating a National Blue Alert system. The Task Force also stated that the Public Safety Officers Benefits (PSOB) program should not withhold benefits from families of officers who were:

*killed while working, regardless of whether or not the officer used safety equipment (seatbelt or anti-ballistic vest) or if the officer death was the result of suicide attributed to a current diagnosis of duty-related mental illness, including but not limited to post-traumatic stress disorder (PTSD).<sup>22</sup>*

**Potential Legislation/Executive Action:** Amend Federal law to create and fund DOJ-HHS task forces on police wellness; amend Federal laws to establish a National Blue Alert Act; amend Federal law to include PSOB benefits for police suicides attributed to duty-related mental illness

**Analysis:** The FOP could support a DOJ-HHS task force on police health and wellness, though in these days of scarce resources, the source of the funding must be considered. The FOP has supported the establishment of a National Blue Alert system and have been the leader in this effort for several Congresses. The FOP strongly supported the national call for mandatory wear policies for seatbelts and soft body armor with the understanding that PSOB benefits or Workers' Compensation Benefits for survivor families would not be denied if this equipment was not used. Further, the FOP could certainly support the language of the Task Force to expand the PSOB program to include officers who are diagnosed with a duty-related mental illness like PTSD.

### **Recommendation 6.2: Promotion of health and wellness at all levels of the agency**

The Task Force recommends that officer safety and wellness be made emphasized at all ranks and levels of the agency but made a specific point that such efforts are only likely to succeed if police managers lead by example. The Task Force recognizes that these changes must be made at the local level because there is no "one size fits all" approach. However, in instances where the Federal government can support such efforts, it should do so.

**Potential Legislation/Executive Action:** None

**Analysis:** There are many successful safety and wellness programs in jurisdictions today and the Task Force is correct to encourage them. However, this was another missed opportunity to note that many of these programs emerged from the union or representative organization. Without "buy-in" or agreement from the union, it will be difficult to impose even the most beneficial of health and wellness programs.

### **Recommendation 6.3: Shift lengths**

The Task Force calls on the U.S. Department of Justice to fund additional research into the impact of shift length on performance and efficiency of officers over a 24-48 hour period, including maximum shift lengths during special deployments such as public demonstrations or critical incidents.

**Potential Legislation/Executive Action:** Amend Federal law to create or fund such research

**Analysis:** Much research has been done on the impact of shift work but there is not yet a broad consensus. Provided the resources to undertake such studies do not negatively impact funding for State and local assistance programs, this study could be worthwhile.

### **Recommendation 6.4: Every officer should be provided with tactical first aid kits and anti-ballistic vests**

The Task Force recommended the national adoption of the Hartford Consensus, which says that hemorrhage control should be a core law enforcement skill and that each officer should be equipped with a tactical first aid kit by the Federal government. In addition, the Task Force noted how the use of soft body armor has greatly increased officer survivability since the advent of the technology and recommends that every officer be provided with this equipment and endorses the reauthorization of the Bulletproof Vest Partnership (BVP) grant program.

**Potential Legislation/Executive Action:** Amend Federal law by reauthorizing the BVP program; establish and fund a program to distribute tactical first aid kits to all officers and/or agencies

**Analysis:** The FOP has been and continues to be the most vocal and visible proponent of the BVP program and its reauthorization. Like many of the Task Force recommendations, the FOP could certainly support the issuance of a tactical first aid kit to all officers but must consider how funding this initiative would impact other State and local law enforcement programs.

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<sup>22</sup> Ibid., p. 64

### **Recommendation 6.5: Data collection on officer deaths and “near misses”**

The Task Force calls on the U.S. Department of Justice to improve and expand efforts to collect data on officer deaths, injuries, assaults and other “near misses”—events that may have been fatal but resulted in the officer’s survival.

**Potential Legislation/Executive Action:** Amending Federal law with respect to the Uniform Crime report, Law Enforcement Officers Killed and Assaulted report and other databases

**Analysis:** The FOP was among the first organizations to advance this idea following the reauthorization of the Deaths in Custody Report Act in 2014.

### **Recommendation 6.6: Mandatory wear policies for seat belts and anti-ballistic vests**

The Task Force noted that crashes and firearms were consistent leaders in causing officer deaths every year. By increasing the number of officers who use their seat belts while on patrol and those who wear their soft body armor, deaths would decrease.

**Potential Legislation/Executive Action:** None

**Analysis:** The FOP recently joined a number of other national law enforcement organizations to endorse mandatory wear policies for seat belts and vests. The key to our endorsement for these policies was the assurance that no survivor family would be prevented from receiving Federal death benefits or Workers’ Compensation Benefits if the officer was not using a seat belt or vest during the fatal event.

### **Recommendation 6.7: Peer review error management**

The Task Force recommends that Congress enact legislation that would support the development of a “peer review error management system”<sup>23</sup> similar to that which exists in the field of medicine. Using the Healthcare Quality Improvement Act of 1986 as a model, the Task Force suggests that a non-punitive peer review program would allow officers to openly and frankly discuss errors or mistakes during enforcement or other incidents. By protecting these review boards from legal discovery, the aim is to improve tactics, policies and procedures as well as reduce officer injuries and deaths.

**Potential Legislation/Executive Action:** Amending Federal law to establish such programs and protect them from legal discovery

**Analysis:** This is similar to the Task Force’s **Recommendation 2.3**. The use of peer review panels, provided they were established with the full support of the collective bargaining unit with assurances that the results of such reviews were non-punitive and not used against the officer in the future, could be of great benefit in terms of improving officer safety and police procedures and policies. There would also need to be a mechanism to prevent police managers from using information shared or collected in these sessions from influencing officer evaluations, assignments, special duties or promotions. This would also apply to officers who choose not to participate in such programs.

### **Recommendation 6.8: Exploration of “smart car” technology**

The Task force calls on the U.S. Department of Transportation (DOT) to provide technical assistance to agencies to explore the use of vehicles equipped with vehicle collision prevention or other “smart car” technology to reduce the number of crashes experienced by law enforcement.

**Potential Legislation/Executive Action:** Create and fund DOT’s technical assistance programs

**Analysis:** While reducing the number of law enforcement injuries and deaths through car crashes, existing collision prevention systems and other “smart car” features may hinder a law enforcement officer in the course of performing their duties. Consider vehicle pursuit situations or situations where the vehicle is used to achieve compliance from another vehicle. The FOP could acknowledge that this is an area to be explored but must bear in mind the unique nature of law enforcement’s needs from a vehicle.

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<sup>23</sup> Ibid., p. 68

## **IMPLEMENTATION:**

The Task Force acknowledged that many of its 59 recommendations are aimed to bring long-term improvements to law enforcement for the 21<sup>st</sup> Century. However, it did outline three additional recommendations that the current Administration can implement right now through existing policies and practices.

### **Recommendation 7.1: Review and adoption of all Task Force recommendations by existing Federal law enforcement agencies**

As noted throughout the Interim Report and this analysis, many of the recommendations can be carried out by executive action. The Task Force recommends that, to the extent practicable, the Administration do so for all Federal law enforcement agencies.

**Analysis:** The Interim Report is less than a month old and many of the recommendations in this document need to be subject to further review and discussion. Considering the report itself is marked “Interim” and there has been no review, feedback or discussion amongst the various national law enforcement organizations, it would be extremely premature to implement any of the recommendations made by this Task Force.

### **Recommendation 7.2: Exploration of public-private partnerships with local, State and national foundations to support implementation of these Recommendations**

The Task Force calls on the U.S. Department of Justice (DOJ) to discuss the reform proposals offered in its Interim Report with local, State and Federal foundations in an effort to create public-private partnerships to fund and support implementing the recommendations.

**Analysis:** By suggesting that the DOJ seek support and funding from private foundations, the Task Force is tacitly acknowledging that many of its recommendations, many of which will require additional funding, are unlikely to advance because of fiscal constraints and the political climate on Capitol Hill. However, as noted above, there has not been sufficient time for review by the relevant stakeholders.

### **Recommendation 7.3: COPS should be charged to take actions including, but not limited to:**

- Create a National Policing Practices and Accountability Division within the COPS Office
- Establish national benchmarks and best practices for Federal, State, local and tribal police
- Provide technical assistance and funding to national, State, local and tribal accreditation bodies that evaluate policing practices
- Recommend additional benchmarks and best practices for State training and standards boards
- Provide technical assistance and funding to State training boards to help them meet national benchmarks and best practices in training methodologies and content
- Prioritize grant funding to departments meeting benchmarks
- Support departments through an expansion of the COPS Office Collaborative Reform Initiative
- Collaborate with universities, the Office of Justice Programs and its bureaus (Bureau of Justice Assistance (BJA), Bureau of Justice Statistics (BJS), National Institute of Justice (NIJ), and Office of Juvenile Justice and Delinquency Prevention (OJJDP)) and others to review research and literature in order to inform law enforcement agencies about evidence-based practices and to identify areas of police operations where additional research is needed
- Collaborate with the BJS to:
  - establish a central repository for data concerning police use of force resulting in death, as well as in-custody deaths, and disseminate this data for use by both community and police

- provide local agencies with technical assistance and a template to conduct local citizen satisfaction surveys
- compile annual citizen satisfaction surveys based on the submission of voluntary local surveys, develop a national level survey as well as surveys for use by local agencies and by small geographic units, and develop questions to be added to the National Crime Victimization Survey related to citizen satisfaction with police agencies and public trust
- Collaborate with the BJS and others to develop a template of broader indicators of performance for police departments beyond crime rates alone that could comprise a Uniform Justice Report
- Collaborate with the NIJ and BJS to publish an annual report on the “State of Policing” in the United States
- Provide support to national police leadership associations and national rank-and-file organizations to encourage them to implement Task Force recommendations
- Work with the U.S. Department of Homeland Security to ensure that community policing tactics in State, local and tribal law enforcement agencies are incorporated into their role in homeland security

**Analysis:** As explained above, the COPS Office should refrain from precipitous actions until such time as the law enforcement community has had time to review the Interim Report and provide feedback to the Administration and the U.S. Department of Justice. As noted in this document, some of the actions the Task Force recommends risk damaging the unique relationship between the law enforcement community and the COPS Office.

## **FINAL ANALYSIS AND CONCLUSIONS**

The aim and purpose of the President’s Task Force on 21<sup>st</sup> Century Police is to improve the profession of law enforcement in the United States and improve the confidence and trust of our citizens that our nation’s policing tactics and strategies are fair, just and constitutionally sound.

The FOP endorsed the concept of the Task Force, but were disappointed and keenly frustrated that it had no rank-and-file representative amongst its members. While the co-chairs of the Task Force, Philadelphia Police Commissioner Charles H. Ramsey and former Assistant Attorney General Laurie O. Robinson, did work with us to ensure that the FOP’s voice was clearly heard by affording us the opportunity to testify before each of the Listening Sessions, the Task Force suffered without any member who possessed the line officer’s experience and knowledge.

One of the issues throughout the Interim Report is that many of its recommendations would result in significant expenditures, both at the Federal and local levels. In many cases, the objectives are indeed laudable, but in reality most jurisdictions as well as the Federal government are facing reductions in funding for law enforcement. In fact, many facets of the Interim Report are very academic in their approach and urge closer working relationships with universities and other academic institutions. There is an “ivory tower” approach reflected in many of the suggestions proffered by the Task Force because they call on greater investment of Federal funds into State and local law enforcement at a time when such assistance has declined annually.

While the FOP acknowledges that there are benefits to increased partnerships with academic institutions, private foundations and other public-private partnership, the Task Force often ignored the potential role of the union or representative organization, especially with respect to issues related to community outreach. This is one of the most visible demonstrations of how the absence of a rank-and-file member of the Task Force affected its work.

Government at every level is forced to prioritize and make smart decisions with the funds available and the public safety mission must be given the foremost priority. The FOP would certainly support grant programs which incentivize changes at the local level by providing more grant funding opportunities. However, we would vigorously oppose the coercive or punitive use of existing grant programs which may penalize local agencies as in many cases it is local elected officials, not the police department, that has the final say in setting policies.

The FOP was also very disappointed that the Task Force did not acknowledge, much less take a position on, our call to expand Federal hate crimes law to protect police officers. In her written responses to the Senate Committee on the Judiciary, U.S. Attorney Loretta E. Lynch, who has been nominated to serve as the nation's next Attorney General, stated:

*[The Task Force] will consider the proposal by the Fraternal Order of Police to expand the existing federal hate crimes statute to include law enforcement officers who have been targeted for violence because of their official position and duties.*

The Task Force received significant input from the FOP on our hate crimes expansion proposal, but the Interim Report makes no mention of it despite the assurance—or perhaps assumption—that this issue would be addressed.

The Task Force also makes no mention of the sharp rise in assaults on law enforcement officers—particularly the increase in ambush attacks. The FOP is very disappointed that the Task Force did not address this critical officer safety issue.

The FOP takes strong exception to the suggestion made by the Task Force that local and State law enforcement agencies should never enforce civil immigration law and that Federal enforcement of civil immigration law should be “de-coupled” from local and State efforts. To begin with, this counteracts every other law enforcement model of cooperation between local, State and Federal governments. The multi-level task force approach is effective in combating a host of criminal activity which does not respect jurisdictional borders. It makes no sense to compartmentalize law enforcement operations on this issue. The decision as to whether or not civil immigration law should be enforced should be made at the local level.

The FOP also strongly objects to the recommendation that the Federal Bureau of Investigation (FBI) remove from the National Criminal Information Center (NCIC) database all civil immigration information. Such action may compromise officer safety as well as public safety. The NCIC information available to local and State law enforcement should be as complete and comprehensive as possible and not be “cherry-picked” to exclude certain information.

The FOP supports the full and complete investigation of use of force incidents but we reject as unrealistic and needlessly costly the Task Force's recommendation that every use of force incident be subject to review by an “external and independent” entity. In practice, departmental investigations usually do involve other agencies to assure that there is no appearance of impropriety. We likewise reject the Task Force's suggestion that officer-involved shootings require the appointment of a special prosecutor as there is no credible evidence presented that local prosecutors are incapable of filing charges and successfully convicting law enforcement officers who have committed illegal acts.

The FOP has endorsed the collection of data on use of force incidents, officer-involved shootings, and in-custody deaths. In addition, we recommended to the Task Force that data also be collected on assaults, injuries and line of duty deaths of law enforcement officers as the current database is not comprehensive. All of this data would help to improve community-police relations as well as officer safety.

The Task Force insufficiently addresses the issue of due process for law enforcement officers. The FOP has argued that one of the most important things we can do to strengthen the bonds of trust and mutual respect between government and our communities is to restore our public confidence in and commitment to due process. Law enforcement officers acknowledge that individual officers will have their actions scrutinized. Sadly, the media and public figures often engage in a rush to judgment and make statements about an event without all the relevant facts. This will sometimes inflame public passions and exacerbate the community situation, especially in cases where the initial opinions offered turn out to have been mistaken. This undermines trust and does damage to the concept of due process—which must be unaffected by negative media coverage, threats of criminal activity, mass violence or other retribution by the public.

Law enforcement officers, as public employees, have the right to due process just as anyone else in our nation. Until such time as greater uniformity in the recognition of the due process rights of law enforcement is achieved, the FOP will continue to oppose efforts to establish or expand existing “de-certification” indexes. Such databases are of dubious value in any case, as law enforcement executives

who perform rigorous background checks should learn this information prior to making any hiring decisions.

The FOP continues to oppose the establishment of “civilian review boards” at any level of government. Historically speaking, these entities have been used as weapons against individual law enforcement officers and/or departments and do little to contribute to the improvement or professionalization of local law enforcement agencies. The FOP particularly objects to the suggestion that the Office of Community Oriented Policing Services (COPS), which has a special relationship with the law enforcement community, administer a grant program to help local governments establish such entities. The role of the COPS Office is to promote and support law enforcement and setting an agenda at odds with that goal would jeopardize the partnership between the COPS Office and our nation’s police officers.

The FOP has, however, been supportive of civilian advisory boards and other community groups which work collaboratively with their local departments.

The majority of law enforcement agencies (and other public and private employers) have formal non-discrimination policies and the Task Forces calls on all agencies to adopt such policies and practices. The FOP condemns all forms of discrimination. This includes how officers treat the public they protect and how elected officials and law enforcement executives treat the rank-and-file officer. The FOP has specifically condemned racial profiling, which is unconstitutional and unlawful. It is also a completely inefficient policing approach. Racial profiling cannot exist in a well-managed department and, for this reason, the FOP has urged that law enforcement executives receive appropriate, recurring training in this important area. We further urge that such training be offered to elected officials with executive hiring authority.

The FOP does, however, reject the recommendation that officers collect racial and gender data from every interaction with a citizen. When you add to the list of things that police officers have to do, you are necessarily subtracting from the law enforcement mission. Secondly, the FOP has repeatedly expressed that an officer should not have to inquire or be forced to subjectively guess as to the race or gender of a citizen with whom he is interacting. In addition, the FOP has argued that forcing officers to collect this data would *emphasize* racial and gender differences and make police officers much more aware of race and gender when our objective should be to de-emphasize the race and gender of the suspect. Officers who know this information is to be collected and analyzed may see a need to diversify the racial and gender identity of those they stop, yielding a result that is the exact opposite of the intent of this recommendation.

The Task Force makes several recommendations with respect to searches and other citizen interactions. The first is that officers receive specific, written consent to execute a search after advising the citizen of their right to refuse such a request. This is needlessly burdensome. Officers must rely on their judgement and discretion when seeking to execute a search. In cases of arrest and loss of liberty, the suspect is mirandized, but there should be no such requirement for a simple search.

The Task Force recommends that all law enforcement agencies adopt policies and procedures to police mass demonstrations and other large-scale events. The FOP agrees that it is appropriate for many agencies to do so, but not all agencies—especially those in rural areas or those with just a handful of officers, that would not handle or be expected to handle a large-scale event. In those cases, outside resources and expertise would need to be called in. That said, the FOP has supported improving command decision making when policing large scale events or mass demonstrations.

The Task Force did not address specifically the issue of “militarization” but did recommend the Federal government create a mechanism to investigate complaints and issue sanctions regarding the inappropriate use of equipment and tactics during mass demonstrations. The FOP disagrees and is confident that there are sufficient procedures in place to address the misuse of equipment obtained through Federal government programs—a conclusion also reached by the review of these programs ordered by the President. Similarly, we believe that the U.S. Department of Justice has sufficient resources and authority to investigate civil and criminal complaints arising from police conduct in response to a large-scale event. The FOP is very concerned with the Task Force’s use of the phrase “inappropriate use” of equipment. Investigations should be reserved for allegations of administrative or criminal misconduct.



The Task Force recommended that Federal law enforcement agencies implement all of their recommendations immediately, while suggesting that the U.S. Department of Justice begin to form public-private partnerships with local, State and national foundations to explore how its recommendations might be implemented and funded. The FOP believes it is extremely premature to enact these changes and suggestions until the law enforcement community has an opportunity to consider in greater detail the recommendations and their potential impact. To implement widely now is decidedly unwise.

Finally, the Task Force identifies a list of action items which it recommends the COPS Office implement immediately. As above, many of the suggestions and action items identified by the Task Force should not be put into place until the law enforcement community has ample opportunity to review and consider them. This is especially true in the case of the COPS Office, which enjoys a special relationship with law enforcement. Some of the recommendations, if followed, would jeopardize that partnership.

In conclusion, the work of the Task Force and its 59 recommendations have been largely positive and represents a good first step in the national conversation with regard to improving our profession and restoring all citizens' trust in their local departments. However, this is the beginning of that dialogue. The Task Force has amassed an incredible amount of data and put considerable thought into its Interim Report and recommendations, but that is the work of only 90 days. There is more work to be done and the FOP urges that the law enforcement community have ample opportunity, before any changes are implemented at the Federal level, to provide feedback on the work of the Task Force.