

# NEW ERA OF PUBLIC SAFETY

AN ADVOCACY TOOLKIT FOR FAIR, SAFE,  
AND EFFECTIVE COMMUNITY POLICING



## **IV. STRUCTURE OF POLICE**

# **DEPARTMENTS, PRESSURE POINTS, AND OPPORTUNITIES FOR ACTION**

Over the past 50 years, several federal, state, and local investigations have looked into individual cases of police misconduct and systemic patterns of discrimination and the use of force by police officers.

In addition to federal, state, and local investigations, the U.S. Department of Justice (DOJ) has investigated police departments across the country for patterns or practices of civil rights violations and has entered into court-ordered agreements (consent decrees) outlining the changes departments must make to comply with the U.S. Constitution and best practices. Implementation of reforms can be overseen by independent monitors, who (1) ensure that departments are changing their practices and (2) report to the courts on the departments' progress. Some DOJ settlements are out-of-court agreements intended to reform unconstitutional practices.

In 2014, responding to the police killings of Michael Brown and Eric Garner, and subsequent widespread protests, President Barack Obama convened the President's Task Force on 21st Century Policing, which issued a report containing over 100 recommendations for police reform.<sup>62</sup> In response to recommendations that police departments collect and publicize data, the Obama administration launched the Police Data Initiative to promote the use of data to increase transparency and build community trust. Since then, dozens of departments have made available information about stops, searches, and uses of force through the initiative.<sup>63</sup>

Legislators and policymakers have responded with several measures to reduce discriminatory policing practices, limit the use of force, and increase police department accountability, including:

- Collecting data on stops, searches, and uses of force
- Banning profiling and discriminatory policing
- Creating laws and policies that regulate searches and uses of force
- Creating laws that prevent officers charged with sexually assaulting someone in their custody from asserting a defense of consent

Conversely, state and federal legislators have also passed several measures that limit police officers' accountability. More than a dozen states have passed a Law Enforcement Officers' Bill of Rights, which limits and sets conditions for investigations into police officers' misconduct and discipline, including limiting the public release of information. More recently, several states and the federal government have considered or passed "Blue Lives Matter" bills that increase penalties for individuals accused of assaulting or threatening police officers.<sup>64</sup>

It is important to understand the structures of police departments in order to identify pressure points and opportunities for reform action.

# The Federal Government

The three branches of the federal government are responsible for ensuring that policing meets constitutional standards:



## Judicial Branch (courts):

- District courts handle civil and criminal trials within the federal court system.
- Circuit courts take appeals from the federal district courts.
- The U.S. Supreme Court is the highest court in the American judicial system. It interprets how the U.S. Constitution applies to law enforcement.



## The Legislative Branch (Congress):

- Members of the U.S. Congress (the Senate and House of Representatives) introduce and pass legislation regulating law enforcement agencies.
- Members of the U.S. Congress place conditions and priorities on federal funding for state and local law enforcement agencies.



## The Executive Branch (President):

- The president serves as the chief executive and is responsible for executing and enforcing laws set by Congress.
- The U.S. Department of Justice (DOJ):
  - Investigates and sues police departments in court for systemic constitutional violations and to reform policies and practices.
  - Prosecutes government actors, including police officers, for criminal conduct.<sup>65</sup>
  - Issues regulations and policies for federal law enforcement agencies, such as the Federal Bureau of Investigation (FBI), the Drug Enforcement Agency (DEA), U.S. Immigration and Customs Enforcement (ICE), and U.S. Customs and Border Protection (Border Patrol).
- Places conditions and priorities on federal funding for state and local law enforcement agencies.

### Accountable to:

- Voters and members of the public
- The U.S. Constitution
- Party leadership

### Target(s):

- The president
- U.S. attorney general
- Members of the U.S. Congress
- The U.S. Department of Justice Civil Rights Division
- The U.S. Department of Justice Bureau of Justice Assistance

## State Governments

- Have primary responsibility for policing and safety.
- Are responsible for protecting the rights guaranteed by state constitutions.
- Pass laws setting general standards for law enforcement agencies, including certification of police officers; stops, searches, and uses of force; and investigations of officer misconduct.
- Can mandate or incentivize policy change through conditions on state funding.
- Can require that police departments collect data and establish task forces to oversee compliance with legislative standards.
- Pass criminal laws, including laws criminalizing officer misconduct.
- Fund and oversee state police departments.
- Through state attorney generals, can independently investigate officer misconduct and intervene in local law enforcement issues that violate state constitutions.

### Accountable to:

- Voters and members of the public
- State and federal constitutions
- Party leadership

### Target(s):

- Governors
- State attorneys general
- State legislators
- State budget offices
- State law enforcement oversight and licensing agencies

# Local Governments

- In most cities and towns, mayors appoint and oversee the heads of police departments, (i.e., chiefs of police).
- At the county level, and particularly in rural and unincorporated areas, police departments are typically run by elected law enforcement officials (i.e., sheriffs).

## Chief of police

- Appointed by the mayor
- Serves as the chief administrative officer
- Jurisdiction over a municipal (city or town) police department

## Sheriff

- Elected by community members
- Appoints deputies
- Oversees the county jail
- Jurisdiction over county (unincorporated areas outside of municipal jurisdiction) police department

- City, town, or county legislatures have authorities including:
  - Regulate policing in ways that do not conflict with state laws and do not infringe on the mayor's or police chief's powers.
  - Control the budget and other resources allocated to the police department, including approving purchases of large items and equipment.
  - Mandate data collection and reporting and conduct oversight hearings regarding a law enforcement agency's activity.
  - Create and fund police department oversight mechanisms, such as short-term commissions and task forces, or permanent offices, such as an inspector general, independent monitor, or community/civilian oversight board.
  - Empower existing city officials, like an ombudsperson or public advocate, to monitor the police department's activities and receive complaints.

### Accountable to:

- Voters and members of the public
- City and county charters and ordinances
- The mayor or city manager (if applicable)
- The leader of the local legislature (council president or speaker)
- Party leadership

### Target(s):

- The mayor
- City managers (if applicable)
- County executives
- Agency heads
- The sheriff
- Local legislators
  - City council
  - Board of supervisors
- Independent oversight bodies

# Law Enforcement Agencies

- The sheriff or police chief (sometimes called the commissioner or superintendent of police):
  - Creates and enforces departmental policies.
  - Typically determines disciplinary action and accountability for violations of policies.
  - Sets operational and enforcement priorities.
- Commanders are law enforcement officials who are responsible for a particular geographical area or department and set priorities for that area or department.
- Supervisors, such as sergeants, oversee individual officers in their day-to-day activities.

## Accountable to:

- The mayor
- Local legislators
- State and federal constitutions
- City and county charters and ordinances
- Departmental policies
- Independent oversight bodies
- Members of the public

## Target(s):

- The police chief
- Sheriff

# District Attorney's Office

The District Attorney (DA) is responsible for prosecuting state and local criminal offenses.

The DA can:

- Prosecute or decline to prosecute criminal conduct by officers.

## Accountable to:

- Voters and members of the public
- State and federal constitutions
- City and county charters and ordinances

## Target(s):

- District attorney

# Independent Oversight Bodies

Oversight bodies include:

- Commissions and task forces: These are established by the mayor or local legislature, typically for a limited period of time, and have a narrow mandate to investigate a particular issue (such as profiling or use of force) or department practices more broadly. These bodies can recommend changes to policing but have no power to ensure implementation.
- Independent oversight offices and agencies: These may be established by mayors or local legislatures as a permanent office that can:
  - Independently investigate individual complaints and recommend discipline.
  - Review the results of internal police department investigations of individual complaints and recommend discipline.
  - Review department policies and practices and recommend changes.
  - Review investigation procedures, analyze patterns of complaints and discipline, and investigate.<sup>66</sup>

## Accountable to:

- Appointing body (mayor or local legislature)
- Local legislature (for funds expended)
- Complainants
- Police department
- Members of the public

## Target(s):

- Head of the agency
- Board members (if applicable)
- Head of investigations
- Director of policy (if applicable)

# Police Unions

Police unions advocate for and represent their members in:

- Negotiating union contracts, including provisions on discipline and accountability.
- Protecting officer rights.
- Offering services and benefits to member officers (i.e., life insurance, disability benefits, counseling services, legal representation).

## Accountable to:

- Union members

## Target(s):

- Union president and officers



## **IX. ENDNOTES**

### **IV. Structure of**

### **Police Departments**

### **Pressure Points, &**

### **Opportunities for Action**

<sup>62</sup> See “The Final Report of the President’s Task Force on 21st Century Policing.” US Department of Justice. May 2015. Retrieved from [https://cops.usdoj.gov/pdf/taskforce/taskforce\\_finalreport.pdf](https://cops.usdoj.gov/pdf/taskforce/taskforce_finalreport.pdf).

<sup>63</sup> See “Resources.” Police Data Initiative. Retrieved from <https://www.policedatainitiative.org/resources/>.

<sup>64</sup> Craven, Julia. (2017). 32 Blue Lives Matter Bills Have Been Introduced Across 14 States This Year. The Huffington Post. Retrieved from [https://www.huffingtonpost.com/entry/blue-black-lives-matter-police-bills-states\\_us\\_58b61488e4b0780bac2e31b8](https://www.huffingtonpost.com/entry/blue-black-lives-matter-police-bills-states_us_58b61488e4b0780bac2e31b8).

<sup>65</sup> See “Criminal Section.” The United States Department of Justice. Retrieved from <https://www.justice.gov/crt/criminal-section>.

<sup>66</sup> See “What are the benefits of police oversight?” National Association for Civilian Oversight of Law Enforcement. Retrieved from <https://www.nacole.org/benefits>.





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