

**Statement of Robert E. Worden<sup>a</sup> & Sarah J. McLean<sup>b</sup>**

**At the Public Hearing on  
Examining Police Safety and Public Protection in New York State**

**New York State Senate  
Senate Standing Committee on Crime Victims, Crime and Correction  
Senate Standing Committee on Codes  
Senate Standing Committee on Investigations and Government Operations  
Senate Standing Committee on Civil Service and Pensions**

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<sup>a</sup> Director, The John F. Finn Institute for Public Safety, Inc., and Associate Professor,  
School of Criminal Justice, University at Albany, SUNY

<sup>b</sup> Associate Director and Director of Research and Technical Assistance, The John F.  
Finn Institute for Public Safety, Inc.

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Thank you for the invitation to appear before you to address the critically important issues of police safety and public protection. We are social scientists, and our remarks today are based mainly on our understanding of the findings of scientific research, including our own original research but also the accumulated empirical evidence of the last 50 years. This research is informative but not conclusive, and so our remarks reflect both our interpretations of the findings and our judgments about their implications for police safety and public protection. We will concentrate on matters about which you may not receive much if any testimony from other presenters; we will not touch on topics about which you will surely hear from others, and our omission of those topics should not be construed to imply that we consider them unimportant.

You may already be familiar with the concepts of police legitimacy and procedural justice, but since these concepts are central to the suggestions that we will offer for improving police safety and public protection, we would first explain them and why they matter for these purposes. Legitimacy, as we use that term here, is a subjective judgment about the propriety with which an authority such as the police is organized and operates. A legitimate authority is one in whose decisions the public places its trust and confidence, and it is one whose directives the public is inclined to obey. For police, legitimacy turns on what has been called “rightful” policing, the standards for which lie in the public’s sense of how police services should be delivered, and not mainly on lawful policing, the narrower standards for which lie in law and administrative regulations.<sup>1</sup>

Rightful policing encompasses, among other things, procedural justice. Procedural justice refers not to whether but *how* authority is exercised: an authority that

acts with procedural justice: treats people with dignity and respect; exhibits neutrality and fairness by explaining the basis for decisions; demonstrates trustworthiness through expressions of concern about individuals' needs and well-being; and affords to people an opportunity to participate in decision-making by telling their side of the story. Procedural justice is not unique to police work; it is a criterion that people use to evaluate their experiences with any authority, such as a boss at work or a judge in a courtroom. Research shows that the procedural justice that citizens perceive during their encounters with police is as or more important than the outcome of the encounter in shaping their reactions to police authority and as influences on their sense of police legitimacy.<sup>2</sup>

Legitimacy is important – and relevant to your deliberations about police safety – insofar as it is associated with citizens' compliance: their compliance with the law, and their compliance with police in police-citizen encounters. Some research indicates that people who have greater trust and confidence in the police are, other things being equal, less likely to violate the law. Moreover, research also indicates that people who perceive the police as legitimate, and those who are treated with greater procedural justice by the police in police-citizen encounters, are less likely to resist the application of police authority, and thus to threaten officers' (and their own) safety.<sup>3</sup>

Much has been said about police legitimacy and procedural justice even before but especially since the events associated with Ferguson, Missouri, and the recent report of the President's Task Force on 21<sup>st</sup> Century Policing highlights, as its first "pillar," building trust and legitimacy.<sup>4</sup> In general, the police enjoy fairly high levels of public trust, compared with other social institutions. In recent polls, only the military and

small business enjoy higher levels of trust than the police. But trust and confidence – legitimacy – exhibits a persistent and substantial disparity across social groups, and is much lower in minority communities.<sup>5</sup>

It might seem reasonable to suppose that legitimacy could be enhanced one police-citizen contact at a time by having police perform with greater procedural justice. As intuitively plausible as that would seem to be, our reading of the research literature now makes us skeptical about such claims. The procedural justice that citizens experience in their encounters with the police is shaped not only by how officers behave but also by how citizens perceive and interpret officers' actions, and citizens' pre-existing attitudes toward the police have a strong influence on their perceptions, both for the better and for the worse. When we analyzed citizens' judgments about procedural justice in terms of independent measures of how police officers acted toward those citizens, we found weak relationships between officers' overt behavior citizens' perceptions.<sup>6</sup> In the context of individual police-citizen interactions, it appears that most of what police can do is avoid making matters worse through acts of procedural injustice – such as discourtesy or a refusal to listen – that detract from legitimacy.

Little is known about how police can enhance legitimacy, and we can point to no evidence-based practices. Moreover, much of what might be done to enhance police legitimacy and thereby improve officer (and citizen) safety would be done by local officials at the local level, begging the question about what the State can do to support such efforts. But piecing together some bits of empirical evidence, we can identify three measures that the State might take to promote police officers' safety either directly or indirectly through enhancing police legitimacy. One is support for community policing.

A second is a local option for State-supported police “auditors.” The third is support for safety-related training.

### *Community Policing*

First, insofar as community policing is implemented properly as an organizational strategy, there is reason to believe that it could improve police legitimacy. Community policing is a widely recognized term, but we would stress that community policing is not merely a program that can be readily adopted by a police agency; it is an innovation of strategic proportions that has implications for the mission and structure of police organizations. It requires establishment and on-going use of mechanisms for community engagement and input providing for genuine two-way communication between police and the publics that police serve. It requires an expansion of the police role to meaningfully address the range of public safety problems that are community priorities. It requires the practice of problem-oriented policing to address those problems, not incident by incident, but through identifying and altering the conditions that contribute to patterns or clusters of incidents. Thus it entails police performing new tasks or old tasks in new ways, and that requires changes in recruitment, training, deployment, supervision, performance appraisal, and more.

Community policing enhances police legitimacy both instrumentally and symbolically in connecting with communities, in focusing greater police attention on communities’ priorities, and in addressing communities’ problems using diverse means that span a continuum of prevention, intervention and suppression. Indeed, community policing is not primarily aimed at crime reduction; disorder and the fear that disorder breeds are typically higher community priorities. The process of partnering serves to

break down mistrust and build of a stock of trust and confidence – a stock for the community in the police and the police in the community. The best evidence on the effects of community policing come from Chicago, where the Chicago Alternative Policing Strategy was subject to an evaluation that stretched over more than a decade.<sup>7</sup> The evaluation found improvements in public trust and confidence across the period of the evaluation, improvements that were shared “among whites, African Americans, and Latinos alike.”<sup>8</sup>

Decisions about the adoption and implementation of community policing are local choices, but just as the federal government has encouraged and supported the adoption of community policing through hiring and other grants to states and localities, New York State could encourage and support the implementation of community policing through grants to localities, and also through technical assistance to ensure that community policing initiatives are properly conceived and implemented.

### *Police Auditors*

Second, New York State might promote and facilitate the adoption of police auditors, which represent a fairly new form of citizen oversight.<sup>9</sup> Like other forms of citizen oversight, police auditors could be expected to enhance police legitimacy through the greater perceived neutrality and transparency for which they provide by their nature.<sup>10</sup> Police auditors conduct inquiries into broader patterns of police operations and performance, review policies and procedures, produce publicly disseminated reports of their findings, and engage in community outreach.<sup>11</sup> Auditors make recommendations for changes in policy and practice, and they follow up to determine the extent to which adopted recommendations are implemented and

sustained. Several cities currently have police auditors, including San Jose, Denver, and Seattle. The Los Angeles Sherriff's Department had until last year two such auditors, one that was internal to the department and one that operated under a renewable contract with the county's board of supervisors. The structure and authority of police auditors vary in their details from place to place, but all of them can prompt and guide organizational learning and change, and they can also provide independent confirmation when police departments are following professional best practice.

Cities across New York State could choose to establish police auditors with similar authority, but so far as we know, none other than New York City has such an authority.<sup>12</sup> New York State could, however, encourage the voluntary establishment of auditor-like mechanisms through grants to police departments that come with the string of an auditor attached, which might make it sufficiently attractive to induce departments to voluntarily submit to such external oversight. Auditors' purpose would not be to detect individual cases of policy violations but rather to assess broader patterns of police performance and offer independent recommendations for improvements in policy, procedure, management, and community relations. Auditors would review agency policies, analyze department records to describe and assess practices, and perhaps survey communities to collect and analyze data on issues that police records do not capture. They could attend to how police treat the public *and* how the public treats the police.<sup>13</sup> They would be independent of the police departments and thus credible to the public. The existence and operation of such auditors would help to build trust and confidence in the departments that submit to such scrutiny, and might also serve to improve police practices through the recommendations that they make.

We offer only a general idea about a State initiative, and we would not purport to have formulated a detailed plan for a grant program of this nature. Countless questions would need to be addressed: for what purposes would the grants be made available; what types of departments would be eligible; how, by whom, and on the basis of what criteria would auditors be selected; how would the scope of auditors' authority be defined. We would be happy to work with legislative staff in addressing these and other questions and further developing such a program.

### *Police Training*

Third, training, especially (but not only) training in verbal de-escalation, fair and impartial policing, and procedurally just policing might offer the opportunity to enhance officer safety and improve the quality of policing. While it is only our impression, it appears to us that local resources for in-service training are not adequate, as agencies are reluctant to incur the opportunity costs of training, which often take the form of the overtime necessary to backfill trainees' positions for the duration of their training. The State could help, with funds earmarked for safety-related training. Police officers work in a job environment that requires a variety of skills ranging from firearm skills and defensive tactics to effective communication, decision-making, and creative thinking. It seems safe to assume that the benefits of training decay over time and that training thus needs to be reinforced if officers are to be properly prepared for the varied challenges that they confront.

We take as a premise that training is important for effective policing, yet very little rigorous research has assessed the impacts of different training curricula and modalities on officer performance and safety. We do not have scientifically credible evidence



about what kinds of training are effective in achieving various outcomes. In our judgment, the State and Federal government could better support the development of an appropriate evidence base on police training, and insofar as State and Federal governments defray the costs of training, the public and its representatives deserve better information on the benefits of training. We believe that the rapid expansion of technology such as in-car and body-worn cameras in police agencies provides a propitious opportunity to examine the impact of training on actual behavior; such evaluations could economically accumulate to form an evidence-base for best practices in police training.

#### *Closing Remark*

In closing, we would acknowledge that enhancing police legitimacy and through that the safety of police officers is a very tall order, particularly in the minority neighborhoods that currently have the lowest levels of trust and confidence in the police. Against the historical backdrop of racial discrimination in the U.S., and the contemporary backdrop of disparities of many kinds – in criminal justice, in private hiring and employment, in educational outcomes, in health care delivery, to name a few – an inference of procedural injustice is easy to draw. Scientists may disagree about the sources of the disparities and about the quality of the evidence on which inferences rest but the people on the wrong end of those disparities do not look to science for explanations. We probably cannot achieve dramatic gains in the face of these powerful historical and social forces. But try we must to make a positive difference.

## Endnotes

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<sup>1</sup> See National Research Council, *Fairness and Effectiveness in Policing: The Evidence*, edited by Wesley Skogan and Kathleen Frydl, Committee to Review Research on Police Policy and Practices, Committee on Law and Justice (Washington, DC: National Academies Press, 2004), chapter 8. Also see Tracey L. Meares, with Peter Neyroud, *Rightful Policing*, *New Perspectives in Policing Bulletin* (Washington, DC: National Institute of Justice, 2015).

<sup>2</sup> National Research Council, *Fairness and Effectiveness in Policing*; Tom R. Tyler, "Enhancing Police Legitimacy," *Annals of the American Academy of Political and Social Science* 593 (2004): 84-99; John D. McCluskey, Robert E. Worden, and Sarah J. McLean, "Police Legitimacy and Police Encounters," in Gerben Jan Nicolaas Bruinsma and David Lee Weisburd (eds.), *Encyclopedia of Criminology and Criminal Justice* (Heidelberg: Springer Verlag, 2014).

<sup>3</sup> Tyler, "Enhancing Police Legitimacy," *op cit*.

<sup>4</sup> President's Task Force on 21st Century Policing, *Interim Report of the President's Task Force on 21st Century Policing* (Washington, DC: Office of Community Oriented Policing Services, 2015).

<sup>5</sup> Robert E. Worden and Sarah J. McLean, *Assessing Police Performance in Citizen Encounters: Police Legitimacy and Management Accountability*, Report to the National Institute of Justice (Albany, NY: The John F. Finn Institute for Public Safety, Inc., 2014), chapter 4.

<sup>6</sup> Worden and McLean, *Assessing Police Performance in Citizen Encounters*, chapter 8.

<sup>7</sup> Wesley G. Skogan, *Police and Community in Chicago* (New York, NY: Oxford University Press, 2006). Also see Wesley G. Skogan and Susan M. Hartnett, *Community Policing, Chicago Style* (New York, NY: Oxford University Press, 1997); and Wesley G. Skogan, "Why Reforms Fail," *Policing & Society: An International Journal of Research and Policy* 18 (2008): 23-34.

<sup>8</sup> Skogan, *Police and Community in Chicago*, p. 277.

<sup>9</sup> See Samuel Walker and Carol A. Archbold, *The New World of Police Accountability* (2<sup>nd</sup> ed.; Los Angeles, CA: Sage, 2014), chapter 6.

<sup>10</sup> The police auditor model of oversight offers greater promise for police reform and for building public trust than even the strongest and most independent forms of civilian review boards. The reach of civilian review boards is limited by their tendency to concentrate on the disposition of complaints one-by-one, even when they have the authority to review and offer recommendations about police policy and procedure.

<sup>11</sup> In these respects the operation of police auditors resembles that of the monitors appointed by federal judges in consent decrees arising from "pattern or practice" investigations (under section 14141 of the Violent Crime Act), but the scope of auditors' authority is not limited to the subjects of the consent decrees, and their existence is not limited to the term of a decree. See Walker and Archbold, *The New World of Police Accountability*, *op cit*.

<sup>12</sup> The Office of the Inspector General for the NYPD, created by local legislation in 2013.

<sup>13</sup> Stephen D. Mastrofski, *Policing for People*, *Ideas in American Policing* (Washington, DC: Police Foundation, 1999).