

**The President's Task Force on 21st Century Policing:
Independent Oversight and Police Peer Intervention Training
Programs that Build Trust and Bring Positive Change**

Please append to the written testimony submitted on 1/9/2015 by (NACOLE)
NATIONAL ASSOCIATION FOR CIVILIAN OVERSIGHT OF LAW ENFORCEMENT
Submitted by Barbara Attard, NACOLE Past-President

I. Introduction: The Violent Times We Face

The current national focus on police killings of unarmed African American men brought about by “Black Lives Matter” is a powerful development that has brought long-overdue scrutiny of policing and use of force in the United States. This “special period” provides an opportunity for growth and positive development in police-community relations.

The tragic killing of Officers Wenjian Liu and Rafael Ramos in New York City should not be seen as an action connected to the Black Lives Matter demonstrations and the national focus on policing issues. It was the work of a mentally ill person. We cannot, as a nation, allow the deaths of these officers to divert the much needed focus on repairing police/community relations.

The reactionary response from police unions after the shooting of Officers Liu and Ramos was disappointing and serves to wedge a greater divide between police and the community. There needs to be a way to bridge this divide.

Police officials who turn a deaf ear to the important message being broadcast undermine police legitimacy and effectiveness, particularly at this time when communities nationwide are becoming more and more alienated from law enforcement.

What rings true is that there is an urgent need to find a way to integrate policing into the community—to find a way for police officers to connect in real ways with the communities they serve—to open their hearts and minds to the plight of those in minority and poor communities. The COPS program has strived for many years to this end, and I applaud and support COPS projects, yet it is clear that we have much more work to do in this area.

There is currently a troublesome juxtaposition in policing in the United States. While there is a nationwide call for police departments to become more in touch and integrated into the community, there is simultaneously a trend toward militarization in policing, both in tactics, as well as weaponry. At this time we are facing a world in which terrorism is a very real and apparent threat. Our police departments are purchasing weapons and conducting training to prepare to combat violent incidents of great magnitude. Much of this “militarization” is done behind closed doors—communities learn that their police departments have purchased drones or tanks after the fact. They are then in a position of having to fight to evaluate or undo a purchase or new tactics after they have been obtained, when there should have been an opportunity for members of the public to weigh in before a decision was made.

Police officers must balance threats on many levels—guns are ubiquitous on the streets of our cities. Terror is becoming a real threat. Yet policing must be constitutional and meted out in a fair and just manner. As officers approach members of the public, they must do so with respect. Our communities want their police departments to be there to protect them. And they want their officers armed at a level to ensure that they can handle threats that come their way. But, at the same time, communities must experience that officers conduct themselves in a respectful

manner, and should be able to weigh in to ensure that their police agency's standards for policing are in line with their own.

II. Options for Bridging the Gap—Independent Oversight and Police Peer Intervention Training

A. Independent Community Oversight

Community oversight provides positive options for connecting police departments and the communities they serve. As explained in depth in the NACOLE submission, independent, community based oversight brings legitimacy and provides invaluable insight and guidance to police agencies in many ways:

- through independent investigations (or review of internal investigations) of police misconduct complaints
- through policy review and recommendations
- through pattern and practice review and findings
- by providing a vehicle for communities to weigh in on policing through community meetings of commissions or boards

While oversight has been established in many cities and counties throughout the United States, there remain many communities that have no independent review. And, while many jurisdictions have oversight, oversight is not regulated or standardized and can vary widely from agency to agency. Most oversight agencies in the U.S. today are multifaceted “hybrids” that incorporate a combination of functions, and can include a community board or commission, investigation of police misconduct complaints, monitoring/auditing of a police department's internal investigations, or review of broader policy and training systems.

Regardless of the oversight structure set up in a particular jurisdiction, there are a number of factors that contribute to whether an approach will be successful. The components outlined below should be considered in adopting or strengthening oversight:

- **Independence**
In order to succeed, the oversight body must be independent from special interest groups, police, and elected and other government officials. Oversight agencies should have the authority and funding to hire outside consultants, including independent counsel, as needed.
- **Support of Government Officials**
Without the political will to support independent oversight, the agency will flounder and fight a constant uphill battle to address problems in the law enforcement agency it oversees.
- **Access to the Law Enforcement Agency and Government Officials**
It is important for the integration of the oversight agency into the government structure that oversight practitioners have access to municipal or county government officials, along with the law enforcement agency involved.
- **Ample Authority**
It is imperative that oversight organizations have ample authority to make a difference to positively impact the law enforcement agency under its jurisdiction and provide a credible service to the communities they serve.
- **Reviewing Police Policies, Training and Other Systemic Issues**

Policy review is widely seen as one of the most important aspects of an oversight program in that it can effect broad organizational change in the law enforcement agency. Systemic problems may surface through the investigation process, during an audit, or through testimony taken during community meetings.

- Adequate Funding

Oversight programs must have adequate funding and spending authority to complete the work outlined in the enabling legislation and to be effective in their efforts. Oversight agencies that investigate, audit, or monitor complaints must have funding to purchase and utilize databases to track all aspects of the process.

- Core Qualifications for Effective Oversight

In order to be effective and seen as legitimate in conducting police oversight, it is vital that practitioners have adequate training and experience to perform the work. In support of its training program for oversight professionals, the National Association for Civilian Oversight of Law Enforcement (NACOLE) has developed a set of core competencies that are central to effective oversight. The NACOLE website (www.nacole.org) provides a wealth of information about training recommendations for oversight practitioners.

- Community/Stakeholder Support and Outreach

It is important oversight agencies communicate about their work through community outreach, websites, reporting and other methods of communication, to keep the community (and all stakeholders) informed of how the process works and what the agency is doing to improve policing. Educational outreach should also clarify the limitations to the oversight agency's authority.

- Transparency

A major benefit of oversight is shining a light on otherwise closed institutions. Systematic reporting provides transparency and accountability to the community, and typically includes complaint analysis and other observations about the law enforcement organization and its practices.

- Ethical Standards

NACOLE has adopted a Code of Ethics to guide the practice of civilian oversight in promoting public trust, integrity, and transparency.

B. Police Peer Intervention (PPIT)—Ethics Training that Compels Officers to Practice “Critical Loyalty” and Connect to the Communities They Serve¹

Police Peer Intervention is a training program that teaches, in a practical and positive way, the powerful influence that police officers have on the conduct and behavior of their fellow officers. The training equips, encourages, and supports officers to intervene and prevent their colleagues from committing acts of serious misconduct and criminal behavior, particularly those directed against citizens. The basic premise is that police officers themselves, properly trained in ethical decision making and tactics of peer intervention, are an essential and too often overlooked

¹ The concept of Police Peer Intervention Training, based in part on the work of Dr. Ervin Staub, was developed by a national working group made up of: Barbara Attard, M.A.; Everett Doolittle Ph.D.; Joel A. Dvoskin, Ph.D., Mary E. Howell, Esq.; Erin Nelson, Psy.D.; Mike Quinn, Minneapolis P.D. Ret.; and Ted Quant, Loyola University.

resource in the effort to prevent misconduct by fellow officers. By teaching “critical loyalty,” how to recognize situations which require ethical decision making, and how to successfully intervene, officers are taught to be prepared psychologically and tactically for peer intervention as an essential part of their professional duties and for their own survival.

The vast majority of police officers are not themselves perpetrators of wrongdoing - perpetrators are a relatively small number of any force. While it is likely that only a small percentage of police officers are perpetrators of serious misconduct and criminal behavior, their influence is often significantly more pervasive than their mere numbers. Many, if not most officers, will, at some point in their career, find themselves caught between two very unsatisfactory choices. While they do not perpetrate serious misconduct or crimes themselves, they are often passive bystanders and observers of misconduct by fellow officers. In a functioning, well-adjusted organization with sound moral and ethical values, these officers would stay within appropriate boundaries themselves and perhaps even intervene on their own when confronted with incidents of especially egregious misconduct. However, in departments that tolerate or condone misconduct, the silence and passivity of bystanders helps to destroy the integrity of the department as a whole, and its reputation among the people they are supposed to serve and protect.

Ten Concepts for Teaching PPIT:

1. Integrate ethical decision-making and tactics of intervention in every police training course, both academy and in-service, and include tactical scenarios—similar in format to shoot/don't shoot types of training—and role-playing with peer intervention in all subjects.
2. Narrow the divide between what officers know they are supposed to do and what the reality is on the street by using real life scenarios. (“Walking with the Devil” by Mike Quinn is filled with examples.)
3. Language is key and must be developed—both effective language for teaching peer intervention techniques as well as developing language for officers to use tactically.
4. Psychological as well as physical intervention techniques must be taught. Officers clearly know how to break up a fight—they must be taught when and how to intervene when the aggressor is another police officer.
5. To succeed, peer intervention by police officers to prevent misconduct by fellow officers must be fully supported by police leadership. Police chiefs, deputy chiefs, and supervisors at all levels exert tremendous influence and must clearly and consistently demand high ethical standards and conduct of officers under their command. Officers must be taught to recognize when reporting misconduct is mandatory, and if the officer fails, he/she is also guilty of misconduct and subject to discipline or criminal prosecution.
6. Lectures on ethics are not enough; officers must engage in role playing, which can have an enormous impact in self-awareness by putting officers outside of their comfort zone.
7. Training in “bystandership” itself can help to promote active intervention by helping individuals overcome the feeling of personal helplessness through learning the lessons of history. Curriculum includes: the Milgram study, “Ordinary Men” by Christopher Browning, lessons of the Holocaust, the Underground Railroad, My Lai, and Iraq (Abu Ghraib).
8. It is important to teach group dynamics and the role of the individual within the group. Officers must be aware of the strengths and value of group cohesiveness, but learning to evaluate

is essential for “critical loyalty”—to develop the ability to oppose group policies and practices that are destructive.


9. Peer intervention training has to involve not only officers, but their families and those outside the department who are significant in their lives. Officers need to be reminded about the consequences to their families and loved ones of failing to intervene to prevent wrongdoing by fellow officers.

10. Training must be tailored to integrate officers into their community. In order to begin to penetrate and overcome the deep distrust that unfortunately exists between many U.S. communities and their police departments, it is essential that training and discussions about ethical decision making and peer intervention also includes members of the community so police officers are not just talking to one another. It is important that officers fully understand the isolation and distrust that maintaining the police code of silence creates and how it does not enhance, but undermines their ability to safely and effectively perform their duties.

III. Recommendations for the Task Force on 21st Century Policing

1. Develop police training that teaches officers constitutional policing to balance the demands of policing in times of gun violence and terrorism. Respect and community values must stressed during this period of increased militarization of policing.
2. That “Independent Oversight” be considered as a cornerstone in bridging the gap between police departments/officers and the communities they serve. Oversight enhances constitutional policing and provides transparency and legitimacy when relationships between law enforcement and the community have been damaged. In jurisdictions in which the Department of Justice is negotiating consent decrees, the establishment of effective oversight should be included.
3. That police ethics be taught through Police Peer Intervention Training (PPIT), a powerful and compelling training that teaches officers “critical loyalty”, to intervene to stop their partners before they use excessive force or take action that could put their lives and careers in jeopardy. PPIT connects officers with the communities they serve and empowers them to perform their duties in a respectful and lawful manner. In jurisdictions in which the Department of Justice is negotiating consent decrees, Police Peer Intervention Training should be mandated.

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² Barbara Attard is an oversight practitioner and consultant with 30 years experience, having worked in three oversight agencies in the San Francisco Bay Area.