New York State Task Force on Police-on-Police Shootings

Reducing Inherent Danger:

Report of the Task Force on Police-on-Police Shootings

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Executive Summary

Since 1981, some 26 police officers across the United States have been shot and killed by fellow police officers who have mistaken them for dangerous criminals. These fatal shootings are doubly tragic, first because both the shooters and victims in such situations are risking their lives to enforce the law and protect the public, and second because many of these deaths are preventable. The dangers that give rise to these deaths are inherent in policing, but those dangers can be reduced and more deaths prevented.

Over the last fifteen years, ten of the fourteen officers killed in these mistaken-identity, police-on-police shootings have been people of color. The two most recent of these fatal, police-on-police shootings took place in New York State, and in both cases the victims were off-duty, African-American police officers: Officer Christopher Ridley, killed in Westchester County in January 2008; and Officer Omar Edwards, killed in Harlem in May 2009.

These two most recent tragedies reverberated powerfully, not only within the ranks of law enforcement but with the broader public. In press accounts, public debate, and informal conversations among police officers, we heard widespread speculation about the role that race may have played in these shootings, not based on any specific evidence of bias in these two cases, but emanating instead from the widely shared suspicion that race plays a role in many police confrontations, as it does in American society generally.

In response, Governor David A. Paterson empanelled this Task Force, directing us to examine the issues and implications arising from police-on-police shootings and confrontations, especially between on-duty and off-duty officers, between uniformed and undercover officers, and between officers of different races, nationalities and ethnicities, seeking to prevent such incidents in the future. Our work offers many lessons, from methods to improve training and tactics to defuse police-on-police confrontations before they become fatal and improve the investigation of police-on-police shootings, to procedures that can improve the treatment of the officers and families involved. Equally important, our work offers a chance to better understand the role of race in policing decisions generally and to identify specific actions that police agencies and government at every level can take to reduce the effect of racial bias, even unconscious racial bias, in police decisions to shoot in fast-moving, dangerous situations.

In the six months since our Task Force convened, we have undertaken a nationwide, systematic investigation of mistaken-identity, police-on-police shootings—the first time to our knowledge that an independent panel has conducted such an inquiry. We identified and examined 26 fatal shootings of this kind in the period between 1981 and 2009, looking particularly closely at the two most recent cases in New York State. We invited current and retired law enforcement officers from across the country to share examples of mistaken-identity confrontations from their own experience, resulting in our collecting and analyzing over 300 stories of such confrontations. At three public hearings and through written submissions, we heard from police officers of all ranks, including several who survived near-fatal mistaken-identity confrontations, friends and relatives of officers killed,

concerned citizens, and social scientists. We also commissioned in-depth interviews with ten leading scholars who have studied policing for more than a decade each and we solicited advice from a score of experts and police veterans.

We found that fatal police-on-police shootings are merely the tip of an iceberg of confrontations between on-duty police officers (usually in uniform) and their off-duty, plainclothes, or undercover counterparts. These confrontations occur every day, and while most are defused without injury, each contains the seed of a tragedy. Where training has been poor or non-existent, where protocols are unclear, and especially where the officers are from different law enforcement agencies, these confrontations can and often do escalate quickly. Protecting the lives of law enforcement officers when they are out of uniform requires that training, protocols, and data collection all be improved.

Issues of race must also be addressed directly: both perceptions and reality. The perception that race matters in these confrontations is strong, including among many officers of color. Just as many people of color are aware that they are more likely than their white counterparts to be stopped and questioned by police, so, too, many officers of color believe that they are more likely than their white counterparts to be mistaken for a criminal when out of uniform, and that the danger is many times greater when they are taking police action with their gun displayed.

As for the reality, mistaken-identity, police-on-police shootings have tragically killed undercover and plainclothes officers—white, black, and Hispanic—without any obvious racial or ethnic pattern; but the reality is strikingly different for off-duty officers. As far as we can determine, 1982 was the last year in which an off-duty, white police officer was killed in a mistaken-identity, police-on-police shooting anywhere in the United States. Since then, nine off-duty officers of color have been killed in such shootings, including both Officer Ridley and Officer Edwards in New York State. Distinguishing the off-duty shootings from the mistaken-identity shootings of undercover or plainclothes officers is important because police departments, at least until now, have had more tools and training to keep plainclothes and undercover officers safe than they typically have had for off-duty officers.

There is broad consensus among police leaders across the country that departments must always be working, as one senior New York State Police executive put it to us, "to weed out the most virulent racists, instill cultural sensitivity and fairness, and finally strictly pursue a policy of zero tolerance when it comes to discriminatory bias of its officers…." We agree. But the cases that led to the creation of this task force raise a different issue: the need for police departments to go beyond the issue of overt bias to deal with the *unconscious* biases that influence all people, including police officers.

We find the scientific evidence persuasive that police officers share the same unconscious racial biases found among the general public in the United States. Specifically, we are persuaded by evidence that both police officers and members of the general public display unconscious biases that lead them to be quicker to "shoot" images of armed black people than of armed white people in computer-based simulations testing shoot/don't-shoot decision-making. Moreover, we are encouraged that preliminary evidence suggests that

police training may reduce this unconscious bias, and we commend those police departments—including the New York City Police Department—that have begun systematic research, testing their new recruits for this bias before and after their training, as well as in the early stages of their police careers. Reducing any kind of racial bias in shoot/don't-shoot decisions has the greatest potential to save the lives of police officers of color and of civilians alike.

Finally, we have found that these fatal police-on-police shootings can easily traumatize and sometimes polarize entire police departments. Not only are the individual officers present at the scene affected deeply, but the organizational routines that normally structure an agency's response to a shooting can be thrown into confusion as word of an officer killed spreads unevenly through a department, as other officers react with understandable emotion, and as the deepest of regrets grip everyone involved. Departments that had never imagined that such a tragedy would occur within their ranks find themselves unprepared to handle the inevitable emotion and trauma, sometimes leading to a loss of credibility and respect, not only with the public, but also among sworn members of their own law enforcement agencies. Yet, if recent patterns hold, it is likely that another police department somewhere in the United States will find itself facing just such a tragedy this year, another will face one in 2011, and so on into the future.

Prevention and preparation are straightforward and essential. New York State, with two such tragic recent experiences, has a special obligation to strengthen its prevention, preparation, and response statewide. We make nine specific recommendations, each with implications for police departments, municipalities, and state and federal government.

1. To reduce the frequency and danger in police-on-police confrontations, we recommend that *common protocols* be developed both statewide and nationwide regarding *when and how to take police action while off-duty or out of uniform,* and *how challenging and confronted officers should conduct themselves.*

2. To make those protocols effective and to prepare departments to respond appropriately when tragedy strikes, we recommend that *interactive, scenario-based training* on the protocols become mandatory in New York State and routine throughout the nation, both for new recruits and for veteran officers, and that training be developed for police leaders in how to respond effectively to police-on-police shootings.

3. To reduce the role that racial stereotypes play in police confrontations, we recommend that both federal and state governments accelerate the development of testing and training to *measurably reduce unconscious racial bias in shoot/don't-shoot decisions.*

4. To reduce the role that racial stereotypes play within police departments, we recommend that police training on issues of race and diversity be expanded to include a focus on *diversity within police agencies*, drawing on the experiences of officers of color who have been mistaken for offenders.

5. To improve the quality and credibility of police responses in the rare instances of police-on-police shootings in New York State, we recommend the

development of a *specialized support team* that would be quickly deployed to any location in the state where a police-on-police shooting occurs, and that could be available to assist departments in other states upon request.

6. To improve understanding as to how police-on-police confrontations occur, and how they can be resolved without injury, we recommend the establishment of a mandatory statewide *reporting system for all firearms discharges*, the distribution of a voluntary annual survey to individual officers, and enhanced record keeping measures by the New York Division of Criminal Justice Services and the Federal Bureau of Investigation.

7. To improve the transparency and understanding of prosecutorial decisions in police-on-police shootings, we recommend that prosecutors overseeing these investigations publicly disclose as many details as possible as early as possible, and that Governors give great weight to the need to encourage *public disclosure of the circumstances of these shootings* when weighing whether or not to appoint a special prosecutor in an individual case.

8. To share the benefits of the lessons drawn from police-on-police shootings, we recommend that the protocols developed to protect officers be adapted for use by those community organizations providing training to civilians on how to handle themselves during encounters with police, and that this training be made available to civilians of all races and ethnicities.

9. To attend to the concerns of the growing numbers of officers of color in our increasingly diverse society, we recommend that the federal government, together with local law enforcement agencies, launch a program of *dialogue and research on the experiences of officers of color*, especially when off duty, deepening the field's ability to support these officers as they strive to bring safety and justice to communities that need them so dearly.

While nothing can undo the tragedies that have taken the lives of Officers Omar Edwards, Christopher Ridley, and dozens of others before them, we must act on the lessons their deaths have taught us. Our recommendations urge precisely these actions, promising to reduce the chances that these tragedies will be repeated and increasing the safety of police officers and civilians across New York State and across the nation.

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1.   Rare Events that Reverberate Widely

A special fear haunts police officers of color across the United States. Beyond all the dangers that every law enforcement officer faces, these officers feel uniquely threatened by another. It is the danger that a day will come when they are out of uniform—off-duty, undercover, or in plainclothes—and the color of their skin and a gun in their hand will prompt fellow officers to mistake them for an armed criminal, and shoot. When an officer of color is not in uniform and sees a crime in progress or a life threatened, and considers taking police action, he or she must often think twice about how the next police officers on the scene will react to an unfamiliar black or Latino with a gun.

On January 25, 2008, Officer Christopher Ridley of the Mount Vernon Police Department was shot and killed by officers of the Westchester County Police Department in White Plains, New York.   Officer Ridley had been off-duty, had seen a physical altercation between two civilians and had taken police action to apprehend the suspect who initiated the assault. When other uniformed officers arrived, they saw Ridley, an African-American, with a gun in his hand.

On May 28, 2009, Officer Omar Edwards of the New York City Police Department had just gone off-duty when he saw someone breaking into his car. He took police action, chasing the thief down 125th Street in Harlem, with his gun in his hand. Other plainclothes officers in an unmarked car saw Officer Edwards, an African-American, with a weapon chasing the other man. The plainclothes officers got out of their car and one of them ordered Officer Edwards to drop his weapon. Reportedly, Officer Edwards instead turned toward the plainclothes officers, and one of them fired six rounds, killing him.

These two incidents, described more fully below, prompted Governor David A. Paterson to create this Task Force. These were not accidental shootings. These were cases of mistaken identity, in which police officers intentionally shot other police officers whom they mistakenly believed to be criminal offenders.[1]

Fatal police-on-police shootings are rare events. Each incident is unique; but in the two cases described above, both victims were off-duty African-American officers who took police action with their guns drawn, only to be shot and killed by other officers who did not know that they were police officers. Tragic deaths such as these reverberate powerfully among police officers of all colors, races, and ethnicities, as well as among members of the general public.

These tragedies resonate in at least three separate and distinct ways, each of which we address directly in this report.

First, these deaths stand at the apex of a mountain of non-fatal, police-on-police confrontations in which some officers do not recognize others as police. Minor confrontations of this kind occur every day in policing, and are usually defused—regardless

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[1] We refer to these incidents as "police-on-police" shootings, though some involve law enforcement officers from agencies other than traditional police departments.

of the race or ethnicity of the officers involved—without physical injury. Officers train for these confrontations, and law enforcement agencies promulgate policies designed to minimize their frequency and end them safely. Still, these confrontations continue to occur and can cause insult and harm to the officers involved, even when they stop short of fatality or physical injury. The most serious incidents can traumatize entire police departments and shake the communities those departments serve. *Our recommendations should make police-on-police confrontations less frequent and less dangerous for all police officers.*

Second, these deaths are especially vivid examples of a wider range of instances in which police officers shoot and sometimes kill people whom they mistake for offenders. Whether the victim is a civilian or an officer out of uniform, officers assessing danger with limited information in tense and rapidly moving confrontations can make mistakes. Such shootings invite controversy, especially when there is a possibility that conscious or unconscious racial bias may have played even a small role in the decision to shoot.   The inevitable debates over individual culpability often compete with broader efforts to prevent recurrence.   The ambiguities and the debates they provoke may be somewhat reduced when the victim is a police officer, especially if all agree that the victim officer was acting with the best of intentions. These mistaken-identity police-on-police shootings, therefore, provide an opportunity to assemble a broader consensus for the prevention of future tragedies. *Our recommendations should not only reduce mistaken-identity shootings of police officers, but should also help to protect civilians from such fatal encounters.*

Third, these deaths, even in a distant city or state, reverberate within the families of officers of color, where they surface questions about whether these officers should have joined law enforcement in the first place.   Around dinner tables and in gatherings of friends, many officers of color have faced skepticism about their decisions to join the police, especially from friends and relatives who have had bad experiences with any part of the criminal justice system. Each police-on-police shooting in which the victim officer is a person of color revives those questions in countless conversations, straining family ties and career commitments. In some cases, these reverberations are also felt by police recruiters seeking to hire new officers of color. *Our recommendations should reinforce the confidence and resolve of today's officers of color and tomorrow's as well by strengthening the ability and commitment of law enforcement agencies everywhere to protect and respect all of their members, as well as the communities from which they are drawn.*

In the remaining sections of this chapter, we examine each of these three issues in turn; but first we consider the issue of race in these shootings.

Although public attention is particularly attuned to incidents where officers of color are mistaken for criminals, white officers have also been victims of both fatal and non-fatal mistaken-identity shootings. In our public hearings and through our on-line questionnaire, many white officers described for us situations where they aimed their weapons at off-duty white officers whom they mistook for criminals, and many white officers described how they were challenged by others. Black and Hispanic officers have also been among the

confronting officers in fatal and non-fatal mistaken-identity shootings.[2] In short, there are many issues besides race present in these shootings and the role that race plays is not simple or straightforward.

While our report reaches many issues other than race that contribute to these tragedies, we recognize that issues of race are central to the broad public concern over the New York State police-on-police shootings. We were not asked to determine the precise role that race played in any particular incident, and we have not tried to determine if any of the officers involved in the specific incidents that triggered our review consciously held any particular biases or acted on stereotypes. Instead, we were asked to look at patterns across many incidents and to examine the scientific research bearing on these tragedies.

Our conclusion from that review is clear: inherent or unconscious racial bias plays a role in shoot/don't-shoot decisions made by officers of all races and ethnicities. The role may be small and subtle, measured during simulations only in milliseconds of action or hesitation, but the patterns (described more fully below) are clear and consistent. Equally important, training, supervision, and professional discipline may reduce the role that racial bias plays and can help officers respond to challenges in ways that defuse the confrontations before they turn deadly. That makes it all the more important that police agencies as well as state and federal governments deal directly with inherent or unconscious bias in shoot/don't-shoot decisions.

Racial bias can, in some instances, be overt rather than unconscious, and we agree with the many police officers and community leaders who emphasized during our review the importance of pressing ahead with efforts to eliminate overt bias from every police agency. Police departments must continue to develop mechanisms to identify and weed out recruits and veteran officers who clearly exhibit conscious racial animus. As the second-in-command of the New York State Police bluntly put the issue in our first public hearing:

> We unfortunately still live in a society that still has a considerable amount of racism. Many in our society will perceive a minority police officer in plain clothes with a gun as a criminal in the very first instances, and a non-minority officer as a police officer. Thus, given that the police are recruited from society at large, it stands to reason that these recruits will bring with them their own prejudices and opinions. The question is: What can police agencies do to weed out the most virulent racists, instill cultural sensitivity and fairness, and finally strictly pursue a police of zero tolerance when it

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[2] In 1968, two black off-duty New York City police officers (one a member of the Housing Police) tragically mistook each other for robbers and fired at each other. One officer, David Turman, died. The other officer was hospitalized. In 2006, an off-duty Hispanic officer in the New York Police Department (Eric Hernandez) was shot and killed by another Hispanic uniformed officer outside of a fast food restaurant. And in 1999, in a non-fatal shooting, Gavin Reece, a black NYPD uniformed police officer, shot at a now-retired 35-year-old white NYPD officer who was taking police action. The white retired officer had fired his weapon at two suspects who had just robbed him at gunpoint. When one of his shots struck the windshield of Officer Reece's vehicle, Officer Reece returned fire. Fortunately, none of his three shots hit a target and the two officers were able to identify each other and defuse the situation.

comes to discriminatory bias of its officers and the agency as a whole? How does it regain the trust of the communities, officers, and families most keenly impacted by the tragedy of "friendly fire" deaths?[3]

Quite simply, issues of race pervade police work in the United States. They are felt in relations among officers as well as between officers and civilians. Many of our findings draw out specific issues of race and many of our recommendations address them directly; but our individual recommendations will not be adequate without leadership from within police organizations and from community organizations on these matters. Police executives in particular must be able to identify these issues and discuss them comfortably, both within their agencies and with the public. *Among our recommendations, we urge that police leaders receive training to help with this crucial task.*

Fatal Police-on-Police Shootings as the Apex of Police-on-Police Confrontations

The shooting death of a police officer mistaken by other officers for a dangerous criminal is extremely rare, having occurred somewhere in the United States about once a year over the last three decades.[4] Yet, these deaths are the tip of a proverbial iceberg of thousands of confrontations each year that end without fatalities. Preventing even one death each year would be worth the effort required; but the benefits would be felt much more widely if they helped to avert or more safely defuse these thousands of non-fatal confrontations, as well.

Almost every law enforcement veteran with whom we spoke in this inquiry had personal stories to share about police-on-police confrontations. Indeed, these confrontations are widely understood as inevitable, leading law enforcement agencies across the United States to develop a wide array of creative tactics to defuse them. We discuss some of these tactics later in this report when we turn to training; but even the best tactics can lead to problems when they vary from agency to agency. One fundamental problem is that there is no single protocol in place to defuse police-on-police confrontations, not simply nationally, but even across a single state, county, or city.

Because the United States—uniquely in the world—has literally thousands of separate police departments with no government agency able to set standards for them all, the variety of policies and protocols is virtually endless, with enormous variation in how thoroughly departments train for such encounters, if they train at all. The multiplicity of

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[3] Testimony of Pedro Perez, November 16, 2009 (Albany public hearing). Charles Wilson, national chairman of the National Association of Black Law Enforcement Officers, made a suggestion in almost identical language when he urged police departments to do more to "weed out" those with "divisive attitudes and beliefs" during initial hiring. Viewpoints of Charles P. Wilson on behalf of the Westchester County Guardians Association, December 4, 2009.

[4] By comparison, police officers across the United States killed approximately 365 persons in custody or during the arrest process each year from 2003 to 2005, the only three years for which these data are available nationally. *See* Christopher J. Mumola, *Arrest-Related Deaths in the United States, 2003-2005*, U.S. Department of Justice, Bureau of Justice Statistics, October 2007, NCJ 219534, http://bjs.ojp.usdoj.gov/content/pub/pdf/ardus05.pdf

agencies is a source of many problems in policing, but it raises particular problems when officers from one agency confront an officer out of uniform from another agency, mistaking the confronted officer for a criminal. If each agency uses a different method for identifying such officers and the training is inconsistent, even good protocols and training are likely to fail and the confrontation could more easily go wrong.

Figure 1.1 Fatal Police-on-Police Shootings Are the Tip of the Iceberg
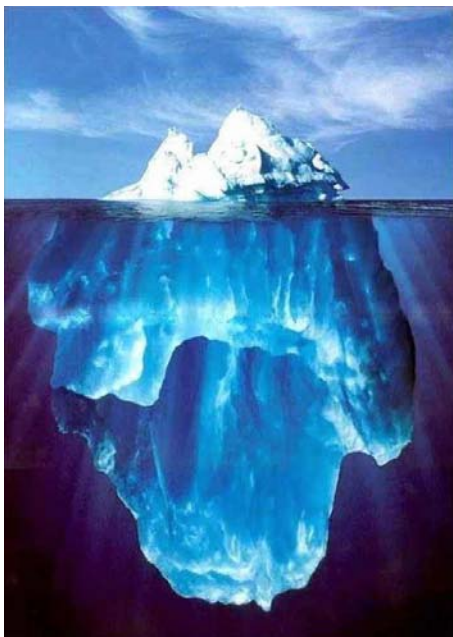
The handful of fatal police-on-police shootings we have seen over the years are only the visible tip of an "iceberg" of police-on-police confrontations.

Virtually invisible are the scores of *non-fatal* confrontations occurring every year, in most of which no weapon is fired. These confrontations arise when officers do not recognize out-of-uniform officers as police. They are rarely reported, even within the officers' own departments.

The danger is perhaps most obvious with police officers working undercover, who often deliberately pose as criminals. One veteran Latino officer with the New York State Police recounted a story of when, as an undercover narcotics investigator, he was assigned to arrest a small town drug dealer. Because the suspect had relatives on the local police force, the State Police had not notified local law enforcement of the operation. When he stopped the suspect's car, he approached the driver with his weapon drawn, identifying himself as a police officer, but, as he tells it, "I was dressed in plain clothes and my facial description was that of a local drug dealer, because that's what I had been doing, conducting undercover buys." Civilians observing from the roadside mistook this arrest operation for a robbery in progress and called the local police. The closest local officer happened to be performing community service in a grade school, dressed as Santa Claus. Without changing back into uniform, the local officer drove the few blocks to the scene and pulled up as the undercover State Police officer was placing his suspect on the ground. The officer dressed as Santa got out of his car with his gun drawn, shouting to the undercover officer to drop his weapon. The undercover shouted back that he was a police officer, but then realized that he must drop his weapon, even while other officers on his undercover team were shouting that he was indeed a cop. As the former undercover officer told us, "The officer came within a few feet of me with his gun pointed at my head. Luckily, he did not

intentionally or accidentally fire his weapon…. These [incidents] happen all the time, and there must be something done about it."[5]

Officers working in plainclothes assignments face similar dangers. For example, we were told of an incident in which a plainclothes officer was inside a building with his weapon drawn while searching for an armed suspect. Uniformed officers were mobilizing in front of the building when one officer saw through a window an individual with a gun. The uniformed officer fired and struck the plainclothes officer in the hand, mistaking him for the armed suspect.[6] Several of the policing scholars interviewed for this report also reported that these two categories of officers—those working undercover or in plainclothes—were the most likely to have weapons drawn on them or otherwise to be involved in "near-miss" confrontations.

Precisely because the dangers for undercover and plainclothes officers are so obvious, law enforcement agencies take many precautions to avoid and defuse the likely confrontations. An undercover team will often notify a law enforcement agency in the area that it is operating in its jurisdiction and might describe the officers involved.[7] Undercover or plainclothes officers may be accompanied by uniformed officers nearby, monitoring local police radios and ready to intervene if needed. The undercover or plainclothes officers themselves may be wearing the "color of the day," an armband or other article of clothing in a designated color, or "raid jackets" with "POLICE" or the name of the agency emblazoned on the back, allowing law enforcement officers to easily identify these officers on sight. And because some officers work these out-of-uniform assignments regularly, they can be trained to be confronted, to comply with the instructions of any officers who confront them, and to identify themselves verbally without making any inadvertent moves.

For off-duty officers who draw their weapons to take police action, these confrontations may be more dangerous. This is especially the case if they are off-duty in places where they do not normally work and are therefore unlikely to be recognized by local officers. In many agencies, officers are unlikely to have received training, except perhaps briefly when they first join the police or at the firing range, on how to take action off-duty and then how to respond when they are confronted by a uniformed officer. Off-duty officers are unlikely to be in radio communication with a dispatcher, and they are usually unable to alert other units that they are taking police action out of uniform. There is no "color of the day" for off-duty officers. Moreover, they may be more likely to draw their gun early in a confrontation, since they are not equipped with the other tools that plainclothes officers usually carry, such as handcuffs, pepper spray, and other less lethal alternatives to their firearms.

For all of these officers taking police action out of uniform, some basic protocols would seem necessary. Indeed, the general tactics urged on officers confronting a person with a gun are widely agreed upon, although the multiplicity of police departments across the

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[5] Testimony of Pedro Perez, November 16, 2009 (Albany public hearing).
[6] Testimony of Richard Bellucci, November 16, 2009 (Albany public hearing).
[7] There may be times when law enforcement agencies do not share information about their operations. For example, outside of joint task force operations, federal law enforcement agencies may not as a matter of course share information about their planned operations with local authorities.

United States and even within New York State means that specific instructions vary from one police department to another. When confronting a person with a gun, officers are typically trained to issue a strong, simple command, "Police! Don't move!" (not more colloquial phrases such as "Freeze," "Drop the gun" or "Get down," though these kinds of commands may follow shortly after the original "Don't move!"). This clear, initial verbal instruction not to move has now become commonplace among law enforcement agencies. Confronting officers are expected simultaneously to take cover (behind the door of a police car, a tree, or anything else available). Cover is so important because it provides a few extra seconds for confronting officers to assess the actual threat they face from the person with the gun.

At a general level, there is wide agreement about what should happen next when an armed, out-of-uniform officer hears the command, "Police! Don't move!" The confronted officer should obey the commands of the uniformed or on-duty officer. The confronted officer should not move in the slightest, even to reach for identification or to face the confronting officer, as that simple motion (which some call "reflexive spin") is likely to bring his or her weapon around as well. The confronted officer should remain motionless and verbally identify himself or herself as an officer. But how? In contrast to the consensus on the appropriate initial command from the confronting officer, "Police. Don't move!" there is surprisingly little consensus on the precise words the confronted officer should use.[8]

In practice, of course, things get more complicated. Many police officers, out of uniform, don't fully comprehend that the order, "Police! Don't move!" is directed at them. They know they're police officers, and they assume others do as well. Instead of freezing, they sometimes instinctively turn or get up off the ground, which only looks to the confronting officer like disobedience, escalating the confrontation. As former Mount Vernon Police Commissioner (and current White Plains Department of Public Safety Commissioner) David Chong described his own experience at a Task Force hearing:

> When I arrive on the scene and observe an individual with a drawn gun, not in uniform, with no identifying features as a fellow law enforcement officer, I would typically feel threatened first. As I clearly scream out commands and seek a tactical advantage, I consider myself on-duty and in charge. I expect to see compliance with my orders: "Police don't move, drop the gun, get down on the ground, etc." Non-compliance only exacerbates the situation, and my perception, at that instant moment, is that I am in real and imminent danger. I have, while in uniform, personally drawn my weapon and pointed it an off-duty officer armed with a gun. Luckily the officer complied with my directions. After the officer was properly identified, I can tell you that I was

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[8] One former NYPD undercover officer explained to us, "I didn't resemble the 'typical police officer' as I had long hair, earrings, and I was Asian…. I quickly developed a habit that was taught to us in undercover school…[to] quickly identify oneself with known police jargon and phrases such as 'I'm on the job,' 'I've got a collar,"…or as some of the veterans had taught me, yell out the code for dinner, 10-63, or the code for help, 10-13." Testimony of David Chong, December 4, 2009 (White Plains public hearing). We received similar testimony from several other veteran officers, suggesting that there is no standard response. We return to this point in our recommendations.

still not happy because I knew how dangerously close I had come to a tragedy.[9]

Other witnesses told us of off-duty officers with guns who, when commanded to freeze, instead reached for their badges in their pockets to identify themselves. The confronting officers think they're reaching for a gun. It is not hard to see how these confrontations can turn deadly, as the following story illustrates:

> On one occasion, I was flagged down by a teenager in Bushwick who told my partner and me that he saw someone who he described as a white male, chasing another person with a gun. He got in the car with us and before we could radio-in a description he pointed out the individual on the street, a short distance away. The witness then dove to the floor of the police vehicle. My partner and I confronted the suspect, from a position of cover utilizing our car doors and repeatedly issued the verbal command, "Police! Don't Move!" He ignored my commands and in fact, reached into his pocket. At that time I had every reason to believe that I was dealing with an armed criminal who was ignoring my commands and was reaching for a firearm. He proceeded to pull out of his pocket a police officer's shield. Thankfully, the lighting was good and I saw the shield before it was too late. But if it had been dark or if all I saw was the sun reflecting off of something metal, in this context it could have been a different story.[10]

For these reasons, some law enforcement agencies discourage officers not in uniform from taking police action that might require them to use their weapon except in the most extreme circumstances, instructing them to defer to uniformed officers whenever possible. The most recent training programs encourage off-duty officers to help by being good witnesses, while uniformed officers take action, unless a life is at stake. Similarly, plainclothes officers are encouraged to defer to uniformed officers, pulling out of an active operation once uniformed officers arrive on a crime scene.

Despite the general trend discouraging off-duty officers from taking police action, at least one recently enacted federal law risks pushing officers in the opposite direction. In 2004, Congress adopted and President Bush signed the Law Enforcement Officers Safety Act (LEOSA) authorizing off-duty officers and retired officers from any police agency in the nation to carry concealed weapons when traveling out of their home states.[11] Its sponsors hoped that traveling off-duty officers, if more frequently armed, would add to the law enforcement capacity of the places they visited. LEOSA has not yet raised in practice the problems that many police officials originally expected because county and city officials, perhaps worried about the liability that they might incur if their officers travel the nation armed, have only slowly put in place the training and identification procedures contemplated in the Act. Still, LEOSA raises the possibility of increasing numbers of armed off-duty and retired officers taking police action without knowing local protocols for

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[9] Testimony of David Chong, December 4, 2009 (White Plains public hearing).
[10] Testimony of John Bilich, December 4, 2009 (White Plains public hearing).
[11] The bill, also known as HR 218, is codified at 18 U.S.C. §§ 926B, 926C.

identifying themselves as police. By the same token, LEOSA gives the federal government an opportunity, and perhaps a responsibility, to take a more active role here, assuring that standard protocols and training are established nationwide to prevent mistaken-identity, police-on-police confrontations.

Police-on-Police Shootings as the Exemplars of a Wider Array of Mistaken Shootings

From the perspective of the challenging officer, mistaking a fellow police officer for a dangerous criminal is an extreme example of the wider danger of misperceiving a person who poses no threat as someone who does. Such misperceptions are inevitable in some number of situations as officers often have only a few seconds in which to choose whether to shoot or not. Failing to shoot when the threat is real could lead to the officer's own death or the deaths of innocent people. Yet if the threat is misperceived, the officer may take a life unnecessarily. Because the stakes on both sides are so high, the time available for decision so short, and the judgments inevitably imperfect, police organizations, prosecutors, and courts are reluctant to second-guess questionable decisions that might have been reasonable in the moment, at least when the issue is whether to blame and punish the confronting officer.

At the same time, the best police departments strive to learn from incidents where, in hindsight, it is clear that confronting officers misperceived a threat. That process of learning requires some re-examination of shoot/don't-shoot decisions in particular incidents. Departmental reviews walk a difficult path, trying to avoid casting blame by second-guessing reasonable decisions to shoot, yet encouraging careful analysis of each step in a shooting incident to identify specific things that might have been done differently. To manage that difficulty, the most sophisticated departments have created specialized "shooting teams" to investigate officer-involved shootings, with members drawn from a variety of specialties, including training divisions. These specialized teams make at least two *separate* determinations: first, whether a shooting was "in-policy" (meaning it was justified in the moment), and second, even if the shooting is justified in law and policy, whether the tactics used were flawed (meaning that various steps taken in the hours, minutes, or seconds before the shooting should have been different). Public controversy understandably often surrounds the decision to rule any mistaken-identity police shooting as being "in-policy", especially if the victim was unarmed. We address the importance of objective investigation of any police-on-police shooting later in this report, and our recommendations there should help to improve the public confidence in judgments that individual shootings were or were not "in policy." However, beyond the question of whether such shootings are in-policy, there are separate questions about the tactics that should be employed to prevent them.

It is not unusual today for police shootings of innocent civilians to be judged in-policy even though the officers involved are later referred for a "tactical debriefing" if they failed to make use of available cover or if they made other tactical errors. Such an apparently mild response to an avoidable death is often frustrating to community members and the families and friends of the victims, and the outrage in some circumstances can reach politically

volatile heights. Still, these "tactical debriefs" are part of the effort to manage the difficulty of not second-guessing what may have been a reasonable-though-mistaken decision to shoot while still learning from and preventing future tragedies.

Police-on-police shootings provide some of the most vivid examples of officer misperceptions. And because police departments feel keenly the need to prevent the repetitions of these tragedies, the impetus for learning is particularly strong, and the potential to avoid future mistaken shootings—of police officers and of civilians—is especially great. Therefore, creating clear protocols and tactical guidance for challenging officers as a result of the investigations of police-on-police shootings is one way to prevent mistaken shootings in general. In this way, careful study, critique and analysis of police-on-police shootings can help to increase officer safety and overall public safety.

It is also important to engage directly the issue of race in these mistaken shootings. There is growing evidence that police officers—like members of the general public—carry what psychologists call "implicit racial bias" which reveals itself in some shoot/don't-shoot decisions. We take up these issues when we address racial stereotypes in these shootings.

Police-on-Police Shootings as a Special Burden for Police Officers of Color

When an officer of color is shot and killed in a confrontation after being mistaken for an offender, the death strikes home with particular force for other officers of color – even those living and working hundreds of miles from the police departments involved. To understand the full impact of these deaths, one needs to appreciate the choices that people of color make when they join a police organization and the consequences of those choices for them in their families and communities. People of color who choose to make a career in law enforcement risk the disapproval and even the scorn of their friends and family in ways that most white people who join the police do not.

The disapproval that many officers of color face from family and friends, and indeed the questions they pose to themselves, reflect the special experience of people of color in the United States with the criminal justice system. Hispanic and African-American men, in particular, are far more likely than others to be stopped by the police, questioned, and frisked. As President Barack Obama has straightforwardly observed, "there is a long history in this country of African-Americans and Latinos being stopped by law enforcement disproportionately. And that's just a fact."[12] Beyond the stops, which affect millions of people each year nationally,[13] there are the arrests and incarcerations, leaving the United States with about one-in-ten African-American men between 20 and 40 years old incarcerated on any given day, and one-in-three African-American men likely to spend time

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[12] Helene Cooper, "Obama Criticizes Arrest of Harvard Professor," in New York Times, July 23, 2009, p A20. http://www.nytimes.com/2009/07/23/us/politics/23gates.html?_r=1&scp=1&sq=obama+news+conference+gates+arrest&st=nyt.

[13] For New York City data, see New York City Police Department, *Stop, Question and Frisk Database*, http://www.nyc.gov/html/nypd/html/analysis_and_planning/stop_question_and_frisk_report.shtml and Delores Jones-Brown, Jaspreet Gill & Jennifer Trone, *Stop, Question & Frisk Policing Practices in New York City: A Primer*, John Jay College of Criminal Justice, Center on Race, Crime and Justice, March 2010, http://www.jjay.cuny.edu/web_images/PRIMER_electronic_version.pdf.

incarcerated at some time in their lives.[14] With concentrations like these, most African-Americans have close relatives who have had bad experiences with the criminal justice system, and surveys repeatedly show that people of color, especially black Americans, hold the police and the criminal justice system in lower regard than do white Americans.[15]

At the same time, victims of violent crime in the United States are disproportionately people of color, as are the suspects in those crimes. According to the most recent data available from the National Crime Victimization Survey, blacks in the United States are victims of violent crime at an annual rate of 24.3 per thousand, while whites, including those of Hispanic ancestry, are victims of violent crime at a rate of 19.9 per thousand.[16] In cities with large percentages of people of color, the figures are often even more disproportionate. In New York City in 2009, for example, 72.8 percent of shooting victims were black, 23.0 percent were Hispanic, 3.1 percent were white, and 0.9 percent were Asian. The distribution of suspects whose race or ethnicity is known in these shooting incidents was broadly similar, with 79.8 percent black, 18.3 percent Hispanic, 1.4 percent white, and 0.4 percent Asian.[17]

For these reasons, many people of color believe strongly that their communities are especially in need of effective police protection and that they themselves can best contribute to their communities and simultaneously improve police institutions by working from the inside. Still, the choice sets officers of color apart and often puts them on

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[14] The most recent data on incarceration nationally combining data from federal and state prisons and jails comes from a census conducted in the summer of 2007. William J. Sabol and Heather Couture, *Prison Inmates at Midyear 2007*, U.S. Department of Justice, Bureau of Justice Statistics, June 2008, NCJ 221944, table 10, http://bjs.ojp.usdoj.gov/content/pub/pdf/pim07.pdf. More recent data are available only for the sentenced, prison population. In 2008, about one in twelve African-American men from ages 25-40 were incarcerated in state or federal prison, serving sentences of a year or more. *See* William J. Sabol, Heather C. West, and Matthew Cooper, *Prisoners in 2008*, U.S. Department of Justice, Bureau of Justice Statistics, December 2009, NCJ 228417, appendix table 14, http://bjs.ojp.usdoj.gov/content/pub/pdf/p08.pdf. For the impact of arrest and incarceration in the life of African-Americans, see generally, Becky Pettit and Bruce Western, "Mass Imprisonment and the Life Course: Race and Class Inequality in U.S. Incarceration," *American Sociological Review*, 2004, Vol. 69 (April: 151–169).

[15] In a June 2009 Gallup survey reported in the most recent U.S. Department of Justice, Bureau of Justice Statistics, *Sourcebook of Criminal Justice Statistics*, 31 percent of black Americans have "very little" or no confidence in the police, compared with 7 percent of whites. The corresponding number for all non-whites, including blacks, is 23 percent. http://www.albany.edu/sourcebook/pdf/t2122009.pdf.

[16] *See* U.S. Department of Justice, Bureau of Justice Statistics, *Criminal Victimization in the United States, 2007*, Table 5, available at http://bjs.ojp.usdoj.gov/index.cfm?ty=pbdetail&iid=1743.

[17] Data are from NYPD and cover the calendar year 2009. The total number of victims was 1,729, with the race/ethnicity known in 1,719. There were a total of 1,511 suspects, with race/ethnicity known of 988. Equivalent data for all violent crime suspects are reported quarterly to the New York City Council. National data on the race/ethnicity of suspects in violent crimes do not exist, but other data permit estimates of the rate of violent offending by race/ethnicity, showing disparities similar to disparities in victimization. See Sarah Becker, "Race and Violent Offender 'Propensity'" in Justice Research and Policy, 9:2, 53-86 (Fall 2007); *Youth Violence: A Report of the Surgeon General* (2000), Chapter 2 and Table 2.2, http://www.surgeongeneral.gov/library/youthviolence/chapter2/sec12.html; and Darnell F. Hawkins, John H. Laub, Janet L. Lauritsen, and Lynn Cothern, *Race, Ethnicity, and Serious and Violent Juvenile Offending,* U.S. Department of Justice, Office of Juvenile Justice and Delinquency Prevention, June 2000, NCJ 181202, http://www.ncjrs.gov/pdffiles1/ojjdp/181202.pdf.

the defensive in conversations in the very communities they seek to serve, sometimes in their own families.

Most days, the experience of people of color with the justice system sits under the surface of thought and conversation for black and Latino officers; but the shooting of an officer of color mistaken for an offender brings those issues back to the surface. Across the nation, in the wake of a shooting like that of Officers Edwards or Ridley, officers of color face skeptical questions from their families and friends at holiday parties, social gatherings, and just across the dinner table. Why, they are asked, are you putting your life on the line in a job where the risks that every officer faces are compounded by the risk you'll be killed by your own colleagues? To ignore this aspect of police-on-police shootings is to miss an essential part of the problem. These shootings call into question for countless officers of color their very identities as law enforcement officers.

One African-American police chief from outside New York State put the issue of identity in clear and helpful terms:

> When I first joined the police, I wanted to think that my race didn't matter on the job. I was a police officer who happened also to be a black man. But that's not right, because I was a black man before I was a police officer, and I'm going to be a black man after I'm a police officer. Actually, I'm a black man who happens to be a police officer. And we have to recognize that more and more of our officers of color are going to be thinking that way.[18]

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[18] Statement of Chief Ronald L. Davis, East Palo Alto Police Department, at Executive Session on Policing and Public Safety, Harvard Kennedy School, October 29-31, 2009 (quoted with permission of Chief Davis).

2. What We Know About Patterns and Trends in Police-on-Police Shootings and Confrontations

We must distinguish among three levels of seriousness of mistaken-identity, police-on-police encounters. The most serious, and least frequent, are the fatal police-on-police shootings. Next are non-fatal police-on-police shootings: those in which at least one shot is fired but no one is killed. Indeed, often the bullets strike no one. Third and most numerous are police-on-police confrontations that stop short of any shooting. The incidents in this last category are generally the least serious in terms of injury, though there are occasional mistaken-identity, police-on-police confrontations that escalate to severe beatings or other uses of force. We consider each of these categories in turn.

Fatal Police-on-Police Shootings

We start with the two fatal shootings that led to the creation of our Task Force – the shooting deaths of Officer Christopher Ridley and Officer Omar Edwards. The Task Force did not conduct its own investigation of these cases, but we have sought to understand what happened in both instances in sufficient detail to guide our recommendations about preventing such incidents in the future. These two cases alone cannot reveal patterns, but they can suggest questions that an examination of additional cases might begin to answer.

The Ridley Case

At approximately 4:43 p.m. on January 25, 2008, Christopher Ridley, an off-duty Mount Vernon police officer who was within one month of completing his probationary term, arrived at the intersection of Court Street and Martine Avenue in the city of White Plains, New York, in his personal vehicle. Police Officer Ridley parked on the southwest corner facing south toward the intersection and waited for his cousin, whom he had arranged to meet at that location. As was the case with many of the critical events that unfolded that afternoon, Officer Ridley's arrival at the scene was captured on videotape recorded by one of the numerous security cameras that were affixed to several government office buildings clustered along Court Street. Officer Ridley was dressed in a white sweatshirt and dark pants.

Approximately ten minutes after Officer Ridley parked, an individual named Robert Gadsden walked west along Martine Avenue towards the intersection, having just left a nearby Post Office. Gadsden was approached by an individual named Anthony Jacobs, a homeless man with a history of mental illness, who was a stranger to Gadsden. Jacobs first exchanged words with Gadsden and then walked away. Gadsden continued to proceed through the intersection. However, within seconds, and for no apparent reason, Jacobs knocked down Gadsden in the middle of the intersection. He then proceeded to beat Gadsden with his fists with a brief volley of blows that lasted only seconds, but left Gadsden's face bloody and both his wrists fractured from his efforts to shield himself. A civilian who observed the assault intervened in defense of Gadsden, kicking Jacobs away. Jacobs immediately broke off the assault. He can be seen on video walking away from the intersection without particular haste and making his way south along Court Street, then

diagonally across the street in the direction of the Department of Social Services building, approximately a half block away from the intersection, where a van operated by Volunteers of America was scheduled to pick up clients at 5:00 p.m.

At about the time the assault in the intersection commenced, Officer Ridley can be observed on video getting out of his car, facing in the direction of the confrontation between Gadsden and Jacobs. Officer Ridley can then be seen turning to open the back door of his vehicle, leaning into the back seat and re-emerging, closing the rear door behind him. Concealed beneath his sweatshirt, Officer Ridley carried a Glock 9mm automatic handgun in an off-duty, low-profile holster, which was tucked into his waistband. Officer Ridley then ran into the intersection, but by this time, the brief assault was over and Jacobs was walking south along Court Street toward the middle of the block. Crossing the intersection, Officer Ridley ran past the victim, Gadsden, without pausing, in apparent pursuit of Jacobs. As recorded on video, Officer Ridley briefly broke off his pursuit to duck into the entrance of the Westchester County Office Building on the corner of Court Street and Martine Avenue. As can be seen from a video camera inside the lobby and from the report of a uniformed civilian security guard there, Officer Ridley ran into the lobby, stated that he needed "police assistance," and ran back out of the building, remaining in the building for only about four seconds. According to the security guard, Officer Ridley did not identify himself as a police officer.

Another security camera shows Officer Ridley running from the lobby in the direction of the Department of Social Services Building, diagonally across the street and half-way down the block. A combination of video footage and witness accounts establish that Officer Ridley caught up with Jacobs in front of the Social Services Building as Jacobs approached the Volunteers of America van in front of the building. Officer Ridley was heard to say to Jacobs, "You're not going anywhere." At about the same time, at least according to one civilian witness in addition to Jacobs, Officer Ridley raised his sweatshirt and displayed his handgun.

By virtually all accounts, a fight between Officer Ridley and Jacobs immediately ensued after Officer Ridley's approach, with both men ultimately wrestling on the ground. At some point, Officer Ridley ended up on top of Jacobs on the ground. According to Jacobs and several eye witnesses, Jacobs grabbed the handgun from Officer Ridley's waistband. Jacobs acknowledges firing one shot and possibly two from Officer Ridley's weapon. Most civilian accounts and available forensic evidence indicate that it is most likely that one shot was fired from Officer Ridley's weapon. Video recorded from several different vantage points shows pedestrians running away from the scene of the confrontation simultaneously, as if responding to this first shot. No one was struck by the bullet.

After those one or two shots, the two men continued to struggle for control of the weapon. In the meantime, uniformed Westchester County Police Officers Frank Oliveri and Christian Gutierrez, who had been summoned by the security guard at the Westchester County Office Building, arrived at the front of the Social Services building on foot. Video recorded from a security camera in the county office building lobby shows the officers beginning to emerge less than thirty seconds after Officer Ridley exited the building lobby. And video recorded

from an exterior camera shows the two officers crossing the street on a diagonal path from the Westchester County Office Building toward the Social Services Building. At a point in time that seems to coincide with the instant a shot discharged from Officer Ridley's weapon, the approaching officers briefly hesitated, and then split up, with Officer Gutierrez approaching along the sidewalk and Officer Oliveri approaching from the street, ultimately taking cover behind a pickup truck near the entrance to the building. Both appeared to have their guns drawn. At about the same time, uniformed Westchester County Police Officer Jose Calero and uniformed Detective Robert Martin emerged from the Social Services Building, apparently having been alerted to the disturbance by an employee there. At that point, the two pairs of officers were in positions flanking Officer Ridley and Jacobs at a right angle. All of the officers had their weapons drawn.

Civilian witnesses, including passengers on the Volunteers of America van, those about to board the van, and employees leaving the Social Services Building, consistently reported that the four Westchester County Police Officers repeatedly shouted to both Officer Ridley and Jacobs variously, "don't move," "put up your hands," "get down," or "freeze." At least four witnesses reported hearing the officers say, "drop the gun." And a number of witnesses reported that Officer Ridley then stood up with the gun in his hand, leaving Jacobs lying on the ground. Some reported that, after Officer Ridley initially stood up, he bent over and stood up again. Witness accounts vary as to whether Officer Ridley held the gun at his side or had his arm outstretched. And those witnesses who reported that Officer Ridley's arm was outstretched vary as to whether Officer Ridley had his weapon pointed at any of the responding officers or at Jacobs lying on the ground. Only one of the numerous civilian witnesses to the initial encounter between Officer Ridley and Jacobs reported hearing Officer Ridley identify himself as a police officer.[19] One civilian witness reported that Officer Ridley behaved as if he were in a daze and did not respond to or obey the uniformed police officers' demands that he drop the weapon.

When Officer Ridley reportedly did not comply with the commands of the responding officers to drop his weapon, at least three of the four officers fired on him, striking him once in the head and five times in the torso. At least two witnesses reported that Officer Ridley was shot by one or multiple officers and started to go down, and was then shot in the head by another officer. However, the exact sequence of the shots could not be determined. Officer Ridley was pronounced dead at the scene.

As best as can be reconstructed from the various video cameras in the vicinity of the incident, approximately two minutes elapsed from the time of the initial assault by Jacobs

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[19] The only witness who claimed that Officer Ridley identified himself as a police officer was the cousin whom Officer Ridley was scheduled to meet at the intersection of Martine Avenue and Court Street. In his initial handwritten statement to police on the evening of the incident, the cousin reported that Officer Ridley screamed "I'm a cop" to the approaching Westchester County Police Officers. However, in a subsequent typewritten statement, he softened this assertion to state, "I'm not 100% sure but I think I heard my cousin say I'm a cop, I'm a cop". Moreover, video from a security camera clearly establishes that at the time of the shooting the cousin was standing at the entrance of the Westchester County Office Building near the corner of Martine Avenue and Court Street, diagonally across the street and one-half block away from the confrontation between Officer Ridley and Jacobs.

on Gadsden at the intersection of Martine Avenue and Court Street and the firing of the fatal shots that killed Officer Ridley in front of the Social Services Building.

Of the four Westchester County Police Officers who responded to the incident in front of the Social Services Building, Officer Oliveri is White, Officers Gutierrez and Calero are Hispanic, and Detective Martin is African-American. Each of the four officers was armed with a 9mm Smith and Wesson automatic handgun. Shell casings and bullets forensically linked to the weapons belonging to three of these four officers were recovered from the scene or at autopsy. It appears that each of these three officers fired at least two shots, but not more than four. There were no casings or bullets forensically matched to the weapon of Detective Martin. However, one eyewitness reported that a Westchester County Police Officer she knew as "Rob" shouted at Ridley to drop his gun, and when Ridley failed to respond, fired his weapon at Ridley. As was the case with each of the four Westchester County officers, there were magazines collected from Detective Martin following the shooting that were not loaded to full capacity. However, no steps were taken with any of the four officers after the shooting to identify which magazine clips were loaded into their weapons at the time of the incident. In the case of each of the four officers, it could not be determined forensically whether "missing" rounds represented shots fired or bullets not loaded into the magazine in the first place. Whether or not Detective Martin fired his weapon during the course of this incident cannot be forensically verified. The only statements made by the four Westchester County Officers concerning this incident were made during their appearances before the Westchester County grand jury in the course of its investigation. Those statements are unavailable to the Task Force or to the public by virtue of grand jury secrecy laws.

The Edwards Case

On May 28, 2009, at approximately 10:00 p.m., Officer Omar Edwards, a one-year-ten-month member of the NYPD assigned to the Housing Bureau's Impact Response Team, ended his shift early with the permission of his supervisor. Shortly after changing from his uniform into blue jeans and an off-white sweater, he left Police Service Area 5 command located at 221 East 123rd Street in East Harlem. He carried his service weapon with him, but it was not holstered. According to eye witness accounts, as Officer Edwards approached his vehicle parked on Second Avenue, between East 124th and East 125th Streets, he observed an individual leaning into his car through the broken driver's side window. A civilian eyewitness reported seeing the break-in and then seeing Officer Edwards, with his firearm in hand, attempt to apprehend and physically restrain the subject, later identified as Miguel Gortia. After a short struggle, Gortia managed to break free of Officer Edwards's grasp by wriggling out of a jersey he was wearing, and fled on foot. Officer Edwards gave chase, still holding his firearm in his hand.

Gortia initially ran toward the entrance ramp to the Robert F. Kennedy Bridge (formerly the Triborough Bridge), but then changed direction, running out onto East 125th Street towards First Avenue. Officer Edwards was in close pursuit. A civilian witness who was standing on the corner of East 125th Street and 2nd Avenue reported seeing Gortia being chased by a dark-skinned male black in a white shirt with a gun who was yelling "Police

don't move, get the f__k down." As Gortia and the pursuing Officer Edwards ran east on 125th Street on a diagonal from the north to the south side of the street, an anti-crime team consisting of three plainclothes officers in an unmarked vehicle happened to turn onto 125th Street, traveling westbound from First Avenue. At the point that the anti-crime team arrived, they were facing the onrushing Gortia, with Officer Edwards giving chase behind him with his gun in hand. Upon seeing the two individuals running toward them, Officer Andrew Dunton, sitting in the front passenger seat, told the other officers that one of the men involved in the pursuit had a gun. The driver of the anti-crime vehicle, Police Officer John Musante, stopped the vehicle. According to his account, Officer Musante began to get out of the vehicle, but immediately re-entered when he realized that the car had not been placed in park and was still rolling. Sergeant John Anzelino, who was sitting in the rear of the unmarked police car on the passenger side, reported that he started to get out of the car, but fell because it was still moving. Police Officer Andrew Dunton, who had been sitting in the front passenger seat, reported that he got out of the car, and managed to take cover behind the opened front passenger-side door of the still-moving vehicle.

All three officers report that Officer Dunton yelled "Police! Stop! Drop the gun. Drop the gun" as Gortia and Officer Edwards ran by. Dunton reported that he noticed that Officer Edwards slowed down upon hearing this command, but then turned around with a gun in his hand, with his elbow "locked." Neither of the other two plainclothes anti-crime officers reported seeing the shooting, apparently due to their being momentarily out of position, and neither of these officers fired weapons themselves. But at least one officer did report seeing Officer Edwards fall to the ground several feet away.

According to a civilian witness, as Gortia and Officer Edwards ran past the anti-crime vehicle, one of the anti-crime officers shouted "halt" and some other command that was not clearly discernible. This witness stated that three to six shots were fired as the black male with the firearm (Officer Edwards) turned toward the anti-crime vehicle. Another civilian witness believed that she heard the male wearing what she thought was a grey sweatshirt (Officer Edwards) say "I'm Police" as "the officers" fired. This same witness misidentified the unmarked anti-crime vehicle as a marked police car, and was approximately 200 feet away from the scene of the shooting. A number of other civilian witnesses heard gunshots, but did not see the shooting.

At approximately 10:30 p.m., an Emergency Services Unit arrived at the scene. During the course of rendering aid to Officer Edwards, the ESU officer discovered that Officer Edwards was wearing an NYPD Police Academy gym shirt (inscribed with his company number and last name) under his outer garment. Officer Edwards's shield was discovered clipped to the inside of his pants pocket. The clip was exposed, but the face of the badge was inside of the pocket such that it was not visible.

An autopsy revealed that Officer Edwards had three gunshot wounds. One bullet entered his left front forearm area and exited his left elbow area. One bullet entered his left lower flank, traveled through his abdomen, striking no major organs and lodging in the body wall of the right flank. And another bullet entered the left mid-back, entered the chest cavity through the rear chest wall and traveled through the lower lobe of the left lung and

perforated the heart. Ultimately, this bullet lodged in the left pectoral area. Although the precise sequence of shots fired was not clear, the Medical Examiner found the wounds consistent with shots fired in rapid succession at a subject who was spun around by a first shot that entered the left forearm and exited the left elbow. This conclusion is also supported by the civilian eyewitness account that described Officer Edwards turning as the shots were fired.

Fatal Police-on-Police Shootings Since 1981

To place the Ridley and Edwards deaths in national context, the Task Force obtained data from the Federal Bureau of Investigation (FBI) on all police officers killed in the line of duty nationwide going back to 1981, the earliest year for which case-level data were readily available. The FBI database and corresponding report, Law Enforcement Officers Killed and Assaulted (LEOKA), was first published in 1982 using 1981 data and has been published annually since that time. From within these data, our staff identified those few cases in which an officer's death resulted from a mistaken-identity, police-on-police shooting. The staff then verified and supplemented the details of those shootings through searches of on-line news stories and other open sources, as well as through reports obtained from several of the police departments. These searches also revealed additional cases that were not included in the FBI's data. We identified a total of 26 law enforcement officers who died in mistaken-identity, police-on-police shootings during the 29-year period spanning 1981 to 2009, or approximately one per year.[20]

While it is difficult to distinguish meaningful patterns from random variation in the circumstances of such a small number of fatal shootings, the 26 cases do reveal five specific trends over this period, and these in turn suggest some of the factors that may turn a simple case of mistaken identification into a fatal shooting.[21]

Trend One: Fatal, mistaken-identity, police-on-police shootings have occurred at a slow but steady pace over the past 30 years. While these are infrequent incidents by any measure, with some years passing without a single instance and never more than three in one year, the pace is steady across decades. There were nine fatal shootings between 2000 and 2009, seven between 1990 and 1999, and ten between 1981 and 1989. (See Figure 2.1). No comprehensive data are available for earlier decades.

Trend Two: For the current generation of police officers and residents of New York State, fatal, mistaken-identity, police-on-police shootings are a new phenomenon in the last few years. No fatal shootings of this kind occurred in New York State from 1981 through 2005, but there have been three since 2006.[22] This pattern explains why some residents and

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[20] A full list these incidents appears as Appendix A to this report in chronological order with the victim officer's rank, race, and duty assignment, also showing the law enforcement agencies involved.

[21] We note that statistical tests related to sampling are inapplicable to this collection of cases, as this is the entire universe of known cases during the relevant time period, not a sample from which we are trying to make inferences about a larger universe.

[22] The story is different if we go back further in time. According to data provided by the NYPD Deputy Commissioner Wilbur Chapman at our Harlem public hearing, there have been ten fatal, mistaken identity police-on-police shootings in New York City over the past 80 years, with seven of those occurring before

police officers in the greater New York City metropolitan area sense that fatal police-on-police shootings are occurring with greater frequency, though they remain extremely rare. The only other such fatal shootings in the Northeast since 1981 occurred in Rhode Island in 2000 and in Pennsylvania in 1997 and 2004.

Figure 2.1 Fatal, Mistaken-Identity, Police-on-Police Shootings by Year
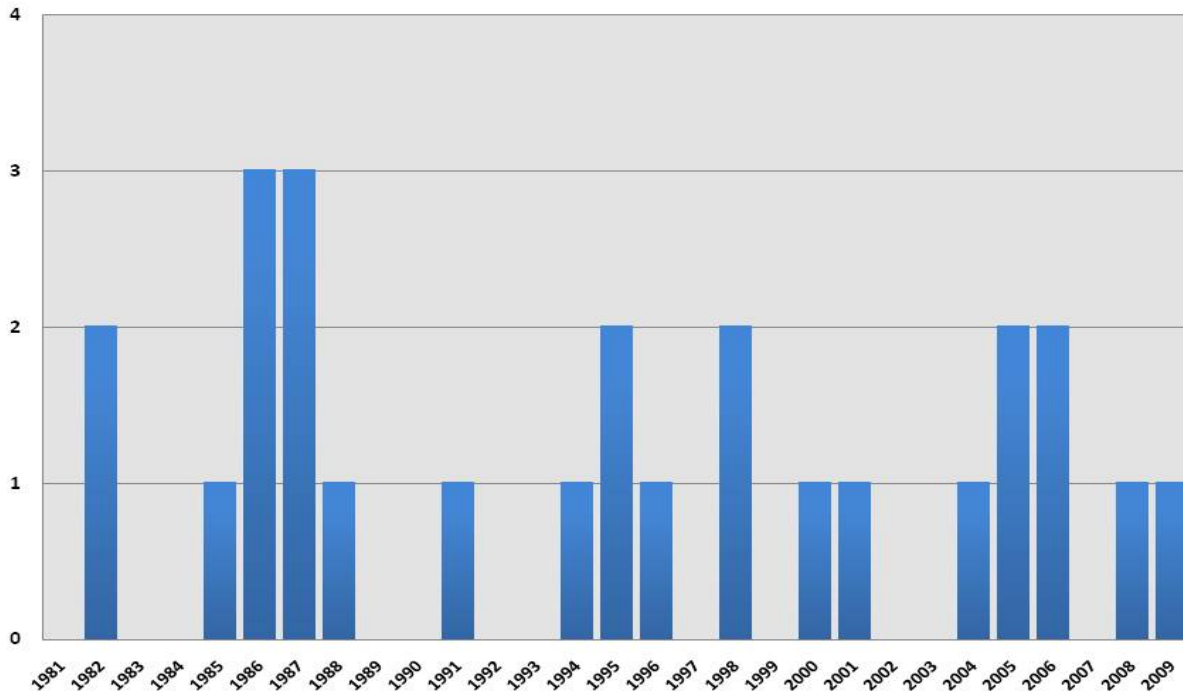
Trend Three: These shootings occur in all parts of the country and in police departments of all sizes. Of the 20 fatal incidents since 1981 outside the Northeast, thirteen occurred in the South, including Texas (four), Florida (two), District of Columbia (two), and one each in Maryland, Alabama, South Carolina, Tennessee and Virginia. Five of the fatal shootings occurred in the West: California (three), Arizona (one) and Utah (one). And one fatal shooting occurred in the Midwest (Michigan) and in a U.S. Territory (Virgin Islands). The table in Figure 2.2 shows the number of fatal shootings by state and region, and Figure 2.3 shows the regional trends over two roughly equal halves of our study period: 1981-1994 and 1995-2009.

1981. One fatal incident involved a male black Housing Police Department officer killing—and being shot by, another male black patrolman; one incident involved a male Hispanic officer killing another male Hispanic officer; four incidents involved male white officers killing male black officers; four incidents involved male white officers killing male white officers. We do not have this kind of historical data from before 1981 outside of New York City.

Figure 2.2 Fatal, Mistaken-Identity Police-on-Police Shootings by Region and State, 1981-2009[23]		
Region	**State**	**Fatalities**
South (13)	Texas	4
	Florida	2
	Washington, DC	2
	Alabama	1
	Maryland	1
	South Carolina	1
	Tennessee	1
	Virginia	1
Northeast (6)	New York	3
	Rhode Island	1
	Pennsylvania	2
West (5)	California	3
	Arizona	1
	Utah	1
Midwest (1)	Michigan	1
U.S. Territory (1)	Virgin Islands	1
Total	**16**	**26**

Figure 2.3 Fatal Mistaken-Identity Police-on-Police Shootings by Region and Time Period, 1981-2009			
Region	**1981-1994**	**1995-2009**	**Total**
South	8	5	13
Northeast	1	5	6
West	2	3	5
Midwest	1	0	1
US Territory	0	1	1
Total	**12**	**14**	**26**

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[23] The identification of regions adopted here comports with the categorization scheme used by the U.S. Department of Justice, Bureau of Justice Statistics, in its *Sourceboook of Criminal Justice Statistics*, available at http://www.albany.edu/sourcebook/app3.html.

Trend Four: Officers of color were more frequently the victims in fatal, mistaken-identity, police-on-police shootings in the second half of our 30-year study period than they were in the first. Of the 26 victim officers in fatal, mistaken-identity, police-on-police shootings from 1981 to 2009, 12 were black or Hispanic and 14 were white. In the first half of this period, 10 of the 12 victim officers were white, and only two were black. But in the second half of the period, 10 of the 14 victims were officers of color (8 black and 2 Hispanic) and only 4 victim officers were white. (See Figure 2.4) The gradual increase in the diversity of many U.S. law enforcement agencies cannot alone explain a swing of this magnitude.

Figure 2.4 Fatal, Mistaken-Identity, Police-on-Police Shootings by Race & Ethnicity of Victim Officers, 1981-2009				
Period	White	Black	Hispanic	Total
1981-1994	10	2	0	12
1995-2009	4	8	2	14
Total	14	10	2	26

Trend Five: Almost all of the officers of color killed in these incidents were taking police action while *off-duty* at the time they were killed (9 out of 12), whereas almost none of the white officers were off-duty at the time (1 of 13 with known duty assignments), as Figure 2.5 shows in greater detail.

Figure 2.5 Victim Officer Duty Assignment in Fatal, Mistaken Identity Shootings 1981-2009				
	White Officers		Officers of Color	
Duty assignment	1981-94	1995-09	1981-94	1995-09
Off-Duty	1	0	2	7
Undercover	3	2	0	1
Plainclothes	5	1	0	2
Uniform	0	1	0	0
Unknown	1	0	0	0
Total	10	4	2	10

To describe this trend another way: As far as we can determine, only one off-duty, white police officer has been killed in a mistaken-identity, police-on-police shooting in the United States over the past 29 years, whereas nine off-duty officers of color (8 black, 1 Hispanic) have been killed by other officers in those years, including both Officers Ridley and Edwards. For white police officers, the dangers—such as they are—virtually all lie in undercover and plainclothes assignments. For officers of color, the dangers are greatest when they draw their weapons while off-duty. These stark racial differences in duty assignment at the time the officers were killed are important, both for understanding differences in how the problem of police-on-police shootings are viewed across race and

ethnicity, and for the preventive steps that police departments have taken and should take to reduce their occurrence.

This difference may explain why there has been so little scholarly attention to the problems of mistaken-identity police-on-police shootings, for the scholarship on policing has largely been confined to the study of police officers while on duty. Of the ten police scholars we interviewed for this report, all conceived the issue as principally about plainclothes and undercover officers acting on duty. Among them, the scholars knew of only three incidents involving off-duty officers being briefly mistaken for criminals: two officers trying to break up bar fights, and a third who had drawn his gun to apprehend someone he caught breaking into his car. None of these three incidents resulted in any injury. In contrast, the "near miss" cases and the instances where confronted officers were roughed up by challenging officers before being correctly identified all occurred in plainclothes and undercover operations.

The blind spot in scholarly research may not be about these shootings, which are very rare by any measure, but may be the experiences of off-duty officers more generally. This off-duty experience may be quite different across racial and ethnic lines. As police departments become more diverse, with several large departments now admitting new classes of recruits in which the majority are people of color, this blind spot in our understanding of the experience of police officers should be addressed.

The Actions of Victim Officers and Confronting Officers in Fatal Encounters

As we explore the actions of officers in these encounters, we are mindful that the officers were responding to rapidly shifting events, often under great stress. Officers typically feel that they will face dire consequences if they do not act quickly in the face of a threat, and their actions need to be understood in that context.

Regardless of duty assignment, nearly all of the victim officers in the 26 fatal incidents were in possession of firearms and had those firearms displayed at the time they were shot. The two exceptions were Officer Robert Patterson (who was in possession of knives that he had confiscated from a suspect, Case A1) and Lieutenant Gerry Lane Ivie (who was driving his car at the time, Appendix A, Case D1). In addition, many of the victim officers with guns displayed reportedly failed to comply with the commands of challenging officers who ordered them to freeze or to drop their weapons. This failure to comply is often simply the rapid turning of the head and body to determine the source of a verbal command – a phenomenon known to some police officers and researchers who study these cases as "reflexive spin." This is reported to have happened in at least seven of the fatal mistaken-identity shootings, and three other incidents apparently involved victim officers who were approaching the challenging officers, perhaps oblivious to the danger they faced.

The apparent failure to comply with a challenging officer's demands can result from a number of factors. First, with the rush of adrenaline involved in a pursuit or effort to apprehend a suspect, even the best-trained officers may not respond as their training

would dictate. Task Force Advisor Dr. William J. Lewinski of the Force Science Institute explains the phenomenon as follows:

> In these incidents, the off duty officer allows his or her focus to funnel in on the individual(s) and scenario that may have served as a catalyst for their armed engagement while failing to take into consideration the observations and perceptions of the responding uniformed officers. Typically, the stress of the encounter causes the off duty officer to lose focus on—or completely ignore—the fact that he/she is not in uniform, is not immediately recognizable as a law enforcement officer, and is armed.[24]

Exacerbating this initial phenomenon, any firearm discharge prior to the confrontation with the challenging officer (e.g., while the victim officer is struggling with the suspect), may cause "auditory block." The high decibel level of the gunshot can effectively "block" the ability of a person nearby to recognize or process an apparently loud and clear verbal command. For example, the victim officer might hear a voice but not clearly make out the words, and might then turn toward the sound of the voice in an effort to make sense of it. Even in the absence of a gunshot, the same condition can arise from stress. Dr. Lewinski notes that "it is common for officers involved in high stress encounters to experience a phenomenon known as auditory exclusion, which is a failure to hear certain things ranging from verbal comments to gunshots. This is a normal process of human attention. Our brain assists us in focusing by ignoring or suppressing information that could distract us from our focus."[25]

While we decline to speculate on how these phenomena might apply in individual cases, we do know that there were prior gunshots in six of the instances in which victim officers reportedly did not comply with verbal commands.

Just as we seek to understand why the confronted officers in some of these cases apparently did not comply with commands, we have also sought to understand why some challenging officers did not take cover at the start of the confrontation or shout the command, "Police! Don't Move." We have no scientific answer to offer, merely the advice of virtually every law enforcement expert who testified or wrote to us: training needs to be improved to ingrain these responses, and that training needs to be interactive and scenario-based.

In some of these fatal cases, the victim officers are later discovered to have had police identification displayed on their person. Why did the challenging officers not see the police badge or shield around the victim officer's neck or clipped on his or her pocket or waistband? The answer appears to be that challenging officers under stress also exclude much from their field of vision and from their perception generally. Even under optimal conditions, some challenging officers are simply unable to see anything other than that which leads to the perception of a threat – the weapon in the hand of the victim officer.

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[24] Lewinski report pg. 4 (Appendix F).
[25] Lewinski report pg. 4 (Appendix F).

Police officers are generally trained to scan a scene for common "threat values," including guns and edged weapons such as knives. When officers see such a threat (or even faintly perceive it), they can experience "tunnel vision," focusing only on the threatening object. Dr. Lewinski writes,

> Research shows that in high stress, life threatening encounters humans, in an instinctive survival response, typically refine their focus specifically to an element of threat while filtering out seemingly superfluous elements. In a law enforcement context, this phenomenon, known as selective attention or more commonly as "tunnel vision", would be clearly illustrated by an officer "zooming in" on the barrel of a gun or the blade of a knife pointed in their direction or zeroing in on a suspect's hands, which they have been trained to watch closely while simultaneously filtering out extraneous visual elements, such as clothing color, facial features and even subject race or gender. This "tunnel" or "funnel" vision, although effective in allowing an officer to very closely monitor the location and/or movement of a weapon, can also pose difficulties. [26]

The difficulties here include what Dr. Lewinski terms "inattentional blindness," or the failure to see or hear important contextual facts besides the gun or other object of attention. As a result, Dr. Lewinski questions whether visual signs that an armed person in plain clothes is an officer, such as a badge or a "color of the day" armband used by undercover and plainclothes officers, would be sufficient to prevent a tragic mistake.

Other factors, such as dim lighting, smoke, fog or rain also impair a challenging officer's visual capacity. The 1996 fatal shooting of uniformed Police Officer James Rex Jensen of the Oxnard, California, Police Department by a member of his own team followed the detonation of a smoke grenade (see Appendix A, Case C9) . And in 1987, plainclothes Detective Lynn Russell Sutter of the Bethel Park, Pennsylvania, Police Department was shot by a member of his own team who was on a dimly lit stairway landing and fired after seeing a shadow of a man (Detective Sutter) holding a weapon (see Appendix A, Case C6).

A Closer Look at Mistaken Shootings of Off-Duty Officers

In the universe of the 26 fatal, mistaken-identity, police-on-police shootings since 1981, ten involved the death of an off-duty officer. In five of these, including the death of Officer Ridley, the off-duty officer came across a crime-in-progress and came to the assistance of other officers or an apparent civilian victim. In five others, including the death of Officer Edwards, the off-duty officer was himself the victim of a crime during which he took action to apprehend the perpetrator. We have already described the Ridley and Edwards cases, so we now turn our attention briefly to descriptions of the eight other off-duty cases. All of these summaries are based upon FBI reports, reports from the law enforcement agencies involved, public statements, and other open sources. The remaining 16 cases of plainclothes and undercover officers killed are described in Appendix A. Those other

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[26] Lewinski report pg. 5 (Appendix F).

incidents involved planned operations of law enforcement teams and on-duty responses to crimes in progress.

Group A: Off-Duty Officers Coming to the Aid of Others

Case A1: Robert Patterson (1982, White Male Officer with the Birmingham, Alabama, Police Department). The off-duty victim officer was visiting a night club where he sometimes worked as a security guard during his off hours. A fight broke out and the victim officer responded, taking two women into custody, one of whom was armed with two knives. As he escorted the women out of the club, he was observed by one of two uniformed officers who responded to a plea for assistance by one of the club patrons who ran outside. That uniformed officer then told the victim officer to "hold it," and grabbed the victim officer's arm in an attempt to take the knives, which the victim officer had confiscated. The uniformed officer then drew his weapon; a struggle ensued and the victim officer was shot. There are conflicting accounts as to whether the victim officer ever identified himself to the challenging officer.

Case A2: James McGee, Jr. (1995, Black Male Officer with the Washington, DC, Metropolitan Police Department): The off-duty victim officer intervened in a cab robbery that he witnessed. Pursuing one of the two suspects, he drew his weapon and was mistaken for a suspect by two uniformed officers responding to a call. Witnessing the victim officer holding one of the actual suspects at gunpoint, the confronting officers ordered him to drop his weapon. When the victim officer reportedly did not identify himself, and reportedly started to turn without lowering his gun, he was fired upon.

Case A3: Cornel Young, Jr. (2000, Black Male Officer with the Providence, Rhode Island, Police Department). The off-duty victim officer was at a late night diner when an argument between two patrons escalated. One of the patrons left the diner, apparently to retrieve a gun from his vehicle, and the manager called the police. Two uniformed officers responded to a radio call. After the officers arrived, the victim officer left the restaurant with his weapon drawn to provide assistance to the uniformed officers outside. The uniformed officers mistook the victim officer for an additional suspect and ordered him to drop his weapon. When he reportedly did not do so, they fired their weapons, killing him.

Case A4: Nehemiah Pickens (2005, Black Male Reserve Deputy Constable with the Harris County, Texas, Constable's Office). While working a second job as a security guard at an apartment complex, the off-duty victim officer saw a suspect crash a car into the complex and begin to flee on foot while being chased by officers from another agency. The victim officer drew his weapon and decided to pursue the suspect, as well. When one of the on-duty pursuing officers saw the victim officer, he broke off from the actual suspect and began to chase the victim officer, whom he apparently mistook for an additional suspect. That officer fired his weapon when the victim officer reportedly failed to stop and drop his weapon and instead turned toward the challenging officer with his gun drawn.

Group B: Off-Duty Officers who were Victims of Crimes or Engaged in Disputes

Case B1: James L. Gordon (1987, Black Male Officer with the Washington, DC, Metropolitan Police Department). On a winter evening, a neighbor of the victim officer called 911 to report a burglary in-progress at the victim officer's home. At about the same time, the victim officer arrived at his home and noticed that someone appeared to have tampered with a window. He then entered his home with his weapon drawn. A uniformed officer who responded minutes later circled the house with his weapon and flashlight drawn and saw an armed man (the victim officer) through the window of a lighted room. The uniformed officer fired once after the victim officer reportedly failed to drop his weapon in response to a command to do so and instead turned toward the challenging officer.

Case B2: Rufus Gates (1994, Black Male Major in the Memphis, Tennessee, Police Department). The off-duty victim officer became engaged in a dispute with another motorist after a minor car accident. When the victim officer noticed that the other motorist had a gun, he instructed his son and another boy (still in his car) to call 911; he also retrieved his own gun. When a uniformed officer responded to the 911 call, the motorist told the uniformed officer that the victim officer had a gun and then drove off. When the uniformed officer saw the victim officer walking towards him with a weapon in hand, he fired four shots, killing the victim officer.

Case B3: Thomas Hamlette, Jr. (1998, Black Male Officer with the Washington, DC, Metropolitan Police Department). Outside a night club co-owned by his father, the off-duty victim officer became engaged in a dispute with a patron over a parking space. The dispute escalated and the officer drew his service weapon. The two became involved in a struggle for the weapon and it discharged. Another off-duty officer who was standing near the club's entrance approached with his own weapon drawn, identified himself as a police officer, and ordered the victim officer to drop his weapon. As the victim officer and the club patron continued to struggle, the victim officer's weapon discharged a second time. The patron then fled. The victim officer then reportedly turned towards the second off-duty officer without lowering his weapon or identifying himself as an officer. The second off-duty officer reportedly ordered the victim officer to drop his weapon and, when the victim officer failed to do so, fired the fatal shot.

Case B4: Eric Hernandez (2006, Hispanic Male Officer with the New York City Police Department). The victim officer became engaged in an early morning argument at a fast food restaurant and was severely assaulted by several of the restaurant patrons. Immediately thereafter, the victim officer mistook an innocent bystander for one of his assailants, and held him at gunpoint. At about the same time, two uniformed officers responded to a 911 call regarding the incident. When they arrived at the scene, the responding officers saw the victim officer and ordered him to drop his weapon. When the victim officer reportedly failed to comply, one of the responding officers fired his weapon.

Each of these tragedies evolved from a unique combination of events, misjudgments, and reactions, yet the fact that nine of the ten off-duty victims were officers of color begs further examination. When officers of color return to their communities off-duty, do they find themselves in locations or in situations that place them in any greater risk of misidentification by other police officers? With only ten cases of off-duty officers shot and killed by other officers over the last 29 years, it is impossible to know, but our recommendations address the need for more research on questions like these.

Regardless of location, however, off-duty officers of color seem to face greater dangers than their white counterparts when they display their weapons. Simply put, it is more likely that they will be mistaken for a criminal. As one retired African-American police chief told us, he never carried a weapon when he was off-duty in his own neighborhood because in that predominantly white community he routinely aroused the suspicion of police officers who did not recognize him as a police executive from another jurisdiction.[27] He recounted several occasions on which he was stopped and questioned simply when out for a morning jog. He told us that he never carried his weapon because it would not be safe for him to do so. As he explained, he believed that, as a black man, his possession of a weapon could easily escalate an otherwise annoying encounter into a potentially lethal one.

All of the off-duty officers in the fatal police-on-police shootings were displaying a gun when they were killed. Our review of their agency procedures revealed that some of these law enforcement agencies required their officers to carry weapons with them while off-duty. While this requirement is not to blame for any of these tragedies, we note that many agencies have reconsidered such "off-duty carry" requirements. The trend today is to permit, but not require, officers to carry their service weapons while off-duty. Police departments in the cities of Providence, Washington, D.C., and Detroit have either eliminated or relaxed their off-duty carry requirements. Neither of the agencies that employed the victim officers in the three New York fatalities (NYPD and Mount Vernon PD) had off-duty carry requirements when their fatal shootings took place. Still, of 30 mid-sized to large departments recently surveyed in New York State, two still require their officers to carry their firearms while off duty, and three have no specific policy at all.

Aftermath of Fatal Shootings

The response by law enforcement agencies to a police-on-police shooting can help heal or exacerbate the tragedy that fellow officers, relatives, and friends of the victim officers experience. Because these are such rare events, police organizations are often unprepared to handle the complex currents of emotion at the same time that they must initiate a complex investigation into the circumstances of the shooting.

The immediate response of a law enforcement agency to the mistaken shooting death of one of its own officers starts with matters as basic as proper notification of family and fellow officers and the respectful handling of the body of the deceased officer. Chief Barbara Duncan of the Mount Vernon Police Department described for us how her agency's

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[27] Statement of Henry DeGeneste, January 29, 2010.

lack of a formal protocol for handling the notification of family in the event of the death of an officer in the line of duty exacerbated the already grievous loss of Officer Christopher Ridley. Chief Duncan, who held the rank of captain at the time, acknowledged that word spread so quickly in the department that many line officers were aware of Ridley's death before the command staff. [28] Other officers complained that Officer Ridley's body remained at the scene longer than necessary. Stanley Ridley, Officer Christopher Ridley's father, told us that he first learned of his son's death not from a senior official but from one of his son's colleagues who called to express his condolences. Some officers in that department quickly formed an impression that the department was not responding with sufficient sensitivity to Officer Ridley's death. This tense situation undermined morale and created divisions, some along racial lines, which have caused further damage to an already devastated police department.

The emotional scars left by these shootings can last for years. Police chiefs in other departments that have experienced these fatalities have told us stories of officers still suffering emotional trauma years after the incident, especially when it is not addressed in the first days and weeks. Under Chief Duncan's leadership, the Mount Vernon Police Department has created new line-of-duty-death policies including asking each officer to provide up-to-date preferences as to whom they wish to be contacted if they should be injured or killed. The department has also begun to provide peer counseling and forums for officers who continue to suffer grief and resentment about the loss of their friend and colleague.

A second set of challenges in the immediate aftermath of these shootings is to avoid releasing information that prematurely suggests where blame may or may not lie. Our review of these incidents suggests that they are often the result of an accumulation of mistakes and misjudgments. In the immediate aftermath of a shooting, however, suggestions that the victim officer may have contributed to his or her own death can seem unnecessarily insulting, insensitive, and defensive.

Similarly, where an officer of color is killed, suggestions about how the officer's race or ethnicity may or may not have been a factor, or drawing conclusions based on the race or ethnicity of the challenging officers, can also exacerbate rather than calm concerns. In time, these incidents must be studied and widely understood, but it is particularly important that any release of information be as complete, accurate, and respectful as possible.

The full investigation of a mistaken-identity, police-on-police shooting is a complicated task, serving four distinct purposes simultaneously. As in any officer-involved shooting, the investigation must:

- examine whether or not any the conduct of any person involved was criminal and should be charged as such;

- examine whether any officers should be subject to departmental discipline for inappropriate use of deadly force or violation of other department policies and,

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[28] Testimony of Barbara Duncan, December 4, 2009 (White Plains public hearing).

regardless of any discipline, whether any of the officers should receive additional instruction on appropriate tactics when confronting armed individuals;

- reveal gaps or weaknesses in department policies, procedures, or training that can be repaired; and

- provide a complete public account of the shooting that assures the public, the family and friends of the victim officers, former colleagues and concerned law enforcement officers everywhere that the investigation itself has been thorough and objective.

If the investigation is not planned and executed with care, these four purposes can conflict with one another. And even with the guidance of expert investigators, pursuing these goals in concert often proves difficult. A variety of legal rules can make evidence gathered for one purpose unavailable for others. For example, while many law enforcement agencies routinely interview any officer who has fired a weapon shortly after the shooting, statements made in a required interview cannot be used later in a criminal prosecution against the officer. In practice, prosecutors examining whether to bring criminal charges against an officer often request that these interviews be delayed for weeks or months because they may compromise the officer's rights at any subsequent trial.[29] Similarly, in New York and some other states, evidence gathered in an investigation and then presented to a grand jury can become subject to legal restrictions on its public release. These restrictions are designed to protect the secrecy of both active and completed grand jury proceedings.

Until recent years, it was common for investigations into officer-involved shootings to resolve the tensions between and among these different purposes by simply giving priority to the question of criminal liability. By resolving all tactical conflicts in ways that most benefit the inquiry into possible criminal charges, investigations like these often sacrificed the collection or availability of evidence that could otherwise have strengthened departmental discipline, improved policies and training, and provided a complete public account of a controversial shooting. Yet, because most of these investigations end with the decision not to charge any officers criminally, the result of prioritizing the issue of criminal culpability has often meant that the investigations lead to little of consequence: no criminal case, no departmental discipline, few changes in policy, and an incomplete public account.

More recently, some police departments and prosecutors have created specialized investigative "shooting teams" composed not only of detectives, but also of trainers, tactical specialists, integrity investigators, forensic experts, and more. Vigorously pursuing all four of the purposes mentioned above remains challenging, even for such expert teams; but in several cases these specialized investigative teams have made tactical reviews more substantive and public accounts more credible in the absence of criminal or formal disciplinary proceedings.

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[29] In *Garrity v. New Jersey*, 385 US 493 (1967), the U.S. Supreme Court held that while an employer such as a police department may compel an officer to make statements in administrative proceedings under threat of being fired or facing other disciplinary action, these statements may not be used in subsequent criminal prosecutions because doing so would violate the officer's Fifth Amendment right against self-incrimination.

Of the two most recent police-on-police shootings in New York State, one was investigated by the White Plains Police Department and the Westchester County District Attorney's Office, while the other was investigated by the New York City Police Department and the Manhattan District Attorney's Office. Neither investigation has resulted in criminal charges or formal discipline, but administrative and civil proceedings were still in progress at the time this report was finalized. In researching both of these investigations, our ability to review relevant material was limited by grand jury secrecy laws. Nevertheless, the investigating detectives from the relevant bureaus within both police departments spent considerable time briefing us on their work.[30]

In New York City, we were impressed by the NYPD's policy of investigating every police involved shooting—not only mistaken-identity police-on-police shootings—using a "shooting team" comprised of ranking officers from multiple units. Each officer-involved shooting is investigated by an NYPD shooting team led by a captain, under the direction of a Borough Commander who is an Assistant Chief. The shooting team has at its disposal all of the NYPD's investigative resources: precinct detectives, crime-scene analysts, forensic specialists, and officers trained in police tactics and use of firearms. And as the shooting team collets evidence and interviews witnesses and the officers involved, a specifically tasked group from the NYPD's Internal Affairs Bureau (IAB) conducts a parallel but independent investigation.

The shooting team's process is largely devoted to memorializing the event for incorporation into the NYPD's larger knowledge management systems and for assessing the tactics employed by each participant. Meanwhile, the IAB's parallel investigation is designed to support the NYPD's disciplinary integrity, assessing the procedural propriety of the officers' actions. Both the shooting team and the IAB gather and preserve evidence in support of the District Attorney's official inquiry, to be used in the event of any criminal proceeding that may ensue.[31]

In the case of Office Ridley in Westchester County, local and county authorities appointed the White Plains Police Department as the lead investigative agency. Where, as in this case, the victim officer and challenging officers are from different police departments, calling in a

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[30] These particular briefings were attended by the Task Force vice chair, executive director, and a staff member.

[31] Criminal proceedings, when they occur, are directed by the district attorney of the county in which the incident took place. In most cases—including nearly every instance in which a police discharge results in injury or death—the district attorney will initiate its own independent investigation, separate from the police investigation, and will present its evidence to a grand jury. If the grand jury declines to hand down an indictment, the district attorney's involvement generally ends. If an indictment results, the district attorney will assume control of the case while conducting a criminal prosecution. Police departments generally provide assistance as requested and generally suspend their investigations until the prosecution concludes. Some cases are also reviewed by federal authorities, particularly when there is potential for finding a civil rights violation.   Once all state and federal criminal processes have ended, the NYPD continues with both the shooting team's investigation and the IAB investigation and convenes a disciplinary body known as the Firearms Discharge Review Board. This entity collects information from all of the preceding investigations and considers whether the shooting was "in policy" according to NYPD guidelines. The board then refers the matter to the NYPD Commissioner for an ultimate determination and any administration of discipline.

third party agency to conduct the investigation can help to mitigate concerns of favoritism and may improve public confidence in the thoroughness and accuracy of the investigation.

In New York City, the multifaceted investigation has supported a multi-track response from the police department, even as the district attorney and a grand jury were considering whether or not to bring criminal charges. Before the grand jury finished its consideration, the NYPD had already revised a training video on police-on-police confrontations and shown it at all roll-calls. The department also increased the appearance of plainclothes officers from various divisions at precinct roll calls of uniformed officers working in the same neighborhoods, to make uniformed officers more familiar with out-of-uniform officers they might encounter. And, at the recommendation of its police fraternal organizations, the department has begun to develop a new high-visibility badge holder that will allow off-duty officers taking police action to display their badges more easily.[32]

While the investigation of Officer Ridley's death in White Plains was more traditional, without the benefit of the kind of multi-skilled shooting team deployed by the NYPD, a separate panel of experts was assembled to recommend improvements to training. In its report, the Panel to Review Use of Force Training at the Westchester County Police Academy did not provide any public account of the shooting of Officer Ridley, but it did make several recommendations that were implemented at the academy level, and also at the state level. As discussed in more detail in Chapter 3, the Westchester Department of Public Safety, which operates the same training academy that provided basic training for both Officer Ridley and the challenging officers involved in the incident, required formal changes to its own policies at the academy and also played a key role in crafting the requirement to add confrontation training to the mandated basic training of new police officers statewide.

Unfortunately, the robust response of these police departments is more the exception than the rule. We were able to find evidence of significant changes in policy, procedures and training by just a handful of the agencies involved in the 26 fatal incidents.

Non-Fatal Police-on-Police Shootings

Information on non-fatal police-on-police shootings proved nearly impossible to collect systematically. As a result, our understanding of non-fatal shootings relies on six individual accounts we received from the NYPD, the San Francisco Police Department, and individual officers. While anecdotal accounts rather than a representative sample, they nonetheless raise intriguing questions.

Three of the non-fatal mistaken-identity shootings we reviewed involved officers who were confronted *while in uniform*. In 1997, Corvet Curley, an African-American officer in the police department of the Port Authority of New York and New Jersey, was in uniform when he heard a radio call about New Jersey State troopers chasing a dangerous suspect towards his location at the George Washington Bridge. As Officer Curley prepared for the suspect to

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[32] The NYPD has also engaged in a number of other means to prevent future tragedies. See Appendix D, Letter from NYPD Commissioner Raymond Kelly to New York Governor David A. Paterson.

drive toward him, he drew his service weapon. Shortly thereafter, the suspect crashed his vehicle near the bridge toll plaza and Officer Curley repositioned himself to improve his tactical advantage. Meanwhile, a white New Jersey State trooper who had been engaged in the car chase got out of his vehicle with a shotgun, saw Officer Curley with his gun drawn, and shot him, causing a severe, permanently disabling injury. The trooper later described Officer Curley as fitting the suspect's description because Curley was a "tall, thin, black male."

The San Francisco Police Department shared details with the Task Force of a second mistaken-identity, police-on-police shooting involving a uniformed officer. In June of 1991, Officer Terry Gregory and three other uniformed officers were searching a hotel for an assailant. The officers split into two teams, one taking along civilian hotel employees to aid in the search. At some point, one of the civilians tried to open a stairwell door. Feeling resistance, he looked and noticed through the partially open door the hand of a man holding a gun. That person was Officer Gregory, but the civilian mistook him to be the actual suspect and informed the other officers. Those officers took up defensive positions and one of them shot Officer Gregory as he walked through the door with his gun in his leading hand.

Four non-fatal, mistaken-identity, police-on-police shootings occurred within the NYPD between 1995 and 2009, including the shooting of one officer in uniform. The victim officers in all four of these non-fatal shootings were white, as were all but one of the challenging officers. All of the victim officers had their weapons visible to the challenging officers. Of the three not in uniform, one was a retired officer in street clothes who himself had been the victim of a crime and was pursuing the perpetrators, and the other two were working plainclothes assignments.

We had hoped, when our task force was formed, to be able to collect data on non-fatal, police-on-police shootings from all police agencies across New York State and from a selection of major departments in cities nationally. Unfortunately, such data are not routinely collected inside law enforcement agencies. The data available for the New York City Police Department were collected by that agency in a painstaking process following the death of Officer Edwards. We return to the need for more systematic data on these non-fatal shootings in our recommendations.

Other Police-on-Police Confrontations

Thankfully, the great majority of mistaken-identity police-on-police confrontations do not involve shots being fired. But it is precisely here, in the vast number of confrontations never formally reported even within the law enforcement agencies involved, that we find some of the most interesting patterns. This type of confrontation is most similar to the spectrum of interactions that civilians may experience with police on a daily basis: stop-and-frisks, temporary detention, physical altercations, and sometimes weapons drawn.

Because these incidents are rarely reported when they occur, what we know about non-fatal police-on-police shootings is mostly anecdotal, but there are lots of anecdotes. The

information considered by the Task Force came primarily from three sources: a pair of NYPD surveys of its undercover officers and plainclothes anti-crime officers, the Task Force's own online questionnaire for current and former law enforcement officers, and a pair of surveys of law enforcement agencies throughout New York State administered on our behalf by DCJS (the "DCJS survey" of departments participating in the State's IMPACT program) and the New York Association of Chiefs of Police (the "NYSACOP survey").[33] These various sources suggest that non-fatal police-on-police confrontations are common occurrences.

Most of the incidents we know about were described for us in an on-line questionnaire that the Task Force designed to elicit accounts of police-on-police confrontations from current and retired law enforcement officers nationwide. More than four hundred thirty current and former law enforcement officers completed the questionnaire; 392 of them were submitted in time for inclusion in the analysis here. And 250 of those questionnaire respondents indicated that they had been involved in a mistaken-identity, police-on-police confrontation at some point in their careers.[34] About a third of the officers who reported such incidents in our questionnaire estimated that they had been involved in three or more in their careers—for some as many as ten.

Several New York State law enforcement agencies we contacted were aware of non-fatal police-on-police confrontations among their officers. Sixteen of the 30 agencies polled in the DCJS survey indicated having experienced some sort of mistaken-identity police-on-police confrontations in the past fifteen years, and fifteen of the 54 municipal police departments that completed the NYSACOP survey indicated their officers had experienced confrontations. A more systematic NYPD survey of 200 undercover officers found that nearly 1-in-6 (18 percent) of them had experienced a gun-point confrontation with another officer and a similar survey of 228 NYPD plainclothes anti-crime officers indicated that 31 percent had experienced gun-point confrontations with fellow officers.

In order to learn more about what happens in these confrontations, we asked the questionnaire respondents to provide written narratives of up to three of their most serious mistaken-identity confrontations. This yielded detailed information about 344

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[33] The first survey reviewed was designed and administered by the Task Force staff with assistance from the Office of Public Safety at the NY Division of Criminal Justice Services. The eight-question survey was distributed to the 30 municipal police departments participating in New York State's Operation IMPACT, a crime-reduction program that encompasses those police jurisdictions from the 17 counties outside of New York City that experience the highest volume of serious crime in the state. (The State's Operation IMPACT is unrelated to the longer established NYPD program of the same name.) The second survey was conducted at the Task Force's request by the New York State Association of Chiefs of Police ("NYSACOP"), whose members include police executives from various agencies throughout the State. The 54 respondents were asked to identify whether they had encountered any police-on-police shootings or confrontations in recent years and to specify the duty assignment (undercover, plainclothes or off-duty) of officers who had been involved in any encounters, and whether lethal or non-lethal force had been used in any of these confrontations. A final question asked whether and at what point officers receive training in how to handle plainclothes and off-duty encounters.

[34] We received 149 questionnaires (38 percent of total) describing experiences as confronted officers, and 168 (43 percent of total) describing experiences as challenging officers. Sixty-seven questionnaires (17 percent) contained accounts of officers who experienced both types of incidents.

individual mistaken-identity incidents. Of the 344 confrontations described, we learned the race or ethnicity of both the challenging and the confronted officers in 277. Most of the stories involved white officers as challenging and confronted officers, though there were many stories involving officers of color in one role or the other. While these accounts do not constitute a representative sample of the universe of police-on-police confrontations, the individual stories reinforce what the scholars whom we interviewed also surmised: the low-level confrontations that occur frequently and that end without shots being fired begin for widely varying reasons, with racial or ethnic stereotypes and unconscious bias being only one among many possible factors in their inception and development.[35]

Perhaps the most hopeful finding from these questionnaires is that even when the confronted officers have their weapons drawn, the confrontation can nonetheless be defused without a shot being fired. In forty-two confrontation incidents described in the responses to our questionnaire, the confronted officer had drawn his weapon but the confrontation was nevertheless ended without injury. This requires care, awareness, and discipline on both sides of the confrontation. Challenging officers need to be looking and listening for clues that deepen their understanding of their situation, while confronted officers need to comply with the challenging officer's commands, remain motionless, and identify themselves as police officers.

In practice, however, as these stories illustrate, defusing these confrontations can require strict discipline and nerves of steel. One plainclothes African-American officer shared the following confrontation story that occurred as he and his White partner were pursuing a suspect:

> As I approached the steps to the train station running full speed with my partner somewhere behind me I could see a police officer from the other town pulling up. As I was running to the stairs the officer in uniform was running towards me. The stairs were to his left but he was running towards me. I could see that he is looking at me with fear and uncertainty in his eyes. I knew right there that he thought I was the suspect. He did not see my shield on my chest or my radio in my hand. He saw a male black in his 20s and an older white man who looks like a plainclothes officer (my partner) chasing the male black. As he pulled out his gun and began to raise it at me I immediately stopped running. By the time he pointed his firearm at me I was

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[35] The current and former officers who completed our on-line questionnaire were not a representative sample of officers or of officers who have experienced police-on-police confrontations. The Task Force promoted the questionnaire through organizations of police officers, including several organizations of officers of color, encouraging them to include links on their web sites, notices in their newsletters, and announcements at their conventions. Even among those who learned of the survey, some might have been more likely than others to complete it, or might have included some incidents and not others. Respondents may have been more likely to describe confrontations that left them angry or shaken, confrontations with officers outside their own unit or department, confrontations in which they did not receive an apology, and so on. For this reason, any patterns across the stories are not indicative of trends in the wider universe of police-on-police confrontations; but the accounts themselves contain valuable insights into the ways in which confrontations occur, the ways that officers respond to each other in confrontations, and the feelings that these confrontations can evoke in officers.

screaming, Police, I am a police officer. I put my badge up near my eyes so that he could see it. He immediately holstered his weapon. He said nothing prior to me shouting "Police, I am a police officer." No shots were fired. I told him the suspect was running on the tracks and we joined the foot pursuit.[36]

In this case, the confronted officer realized early that the challenging officer from another jurisdiction had mistaken him for the suspect, even though the challenging officer had not yet issued any commands. In hindsight it is easy to appreciate how his deft response turned what could have been a tragedy into just another day on the job. As he explained:

I took the initiative to use my voice and tell him that I am a police officer. I said it loud and I said it clear. I used my hand which was empty to show him my badge by placing it up near my face because I could see that is where the officer was staring. I knew my partner who is older and white was behind me and I figured the challenging officer felt I was being pursued by my partner. I knew that we were chasing a male black in his 20s and I was in my 20s at the time. I knew there was a mistake in suspect identity made by the challenging officer and I did not want it to turn bad. I didn't yell at the officer to drop his weapon, or bait him into an argument or challenge him. I just shouted that I was a police officer and I showed him my badge.[37]

Some of the stories illustrate how little choice an off-duty officer has about taking police action when offenders, sometimes literally, just run right into them. As one off-duty officer describes such an encounter:

[I] was walking into a convenience store "off duty" when a robber ran through the door right into me. He was knocked to the ground by our sudden impact. [The] clerk yelled he just robbed her and I drew down on the suspect and held him at gunpoint until arrival of officers. [The] clerk had already called for police. *When officers arrived I immediately began yelling that "I AM A COP*." I was instructed to drop my gun. I stepped back away from the suspect and placed my gun on the ground. [I] advised [that] my badge and ID [were] in my back pocket and was instructed to remove and display it. After doing that, I was told that I could pick up my gun. All went well.[38]

Training to obey commands, and avoid turning toward the officers issuing those commands, can be very difficult to follow in the field, especially when stress or other situational or environmental factors prevent confronted officers from hearing those commands clearly. As one plainclothes officer describes his own story:

Uniformed officers came running out of the building from a position behind me as I approached the proned-out suspect to place handcuffs on him. I was focused on him when I heard yelling coming from behind me. I stopped and

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[36] Questionnaire response # 54746033.
[37] *Id.*
[38] Questionnaire response # 59082179 (emphasis added.).

turned my head to see several uniformed officers coming at me with guns drawn yelling, "Drop the gun!" As I started putting the gun down, [one] of the officers recognized me and ordered the other officers away from me and to take the proned-out suspect into custody. I believe if that officer had not recognized me, I would have been shot.[39]

Sometimes details as simple as *how* and *when* confronted officers identify themselves and announce that they are armed may make a difference in how the situation plays out.   We see this in a confrontation described to us by an undercover officer working a controlled drug buy in Texas.   Wearing a beard and looking disheveled, he was with his partner in an unmarked vehicle turning down a dead-end street when they were confronted by a team of uniformed officers:

> [Two] marked units initiated vehicle stop of my U/C [undercover] vehicle, [the] officer (rookie) from city agency (I work for State) very nervous during approach, maintained hand on weapon during entire initial contact. I maintained both hands on steering wheel, responded to identification of reason for stop and stated that I had a gun in the small of my back. As I then began to state that I was a police officer, the officer screamed, "GUN" and drew his weapon. The other U/C officer in my passenger seat and the senior [uniformed] officer that had arrived on the passenger side of the car had both recognized each other from their agency and were already talking casually. The other U/C put his hands onto the front dashboard area and shouted for the senior officer to stop the actions of the rookie officer. I write this off to rookie nervousness, but *immediately recognized and changed the way I would respond to the identification of myself first before the identification that I was armed.* [40]

More than half of the stories that officers described in response to our questionnaire concerned challenging officers from different agencies than the officers they confronted. There is no question that such confrontations do happen frequently and pose special dangers against which protocols and training within a single agency cannot fully protect. Still, they may appear in these stories because they are also easier for police officers to tell, and this has implications for any system of reporting that police agencies or governments put in place. The policing scholars interviewed for this report predicted that the confrontations that were most likely to be reported in any manner would be those between officers in different departments. Next most likely would be confrontations between officers in different units. The least likely to be reported, even informally within the department itself, would be those between officers in the same unit.

Moreover, there is a reluctance to report through the chain of command even the stories we received. Of the confrontations described in our questionnaires in which officers indicated whether or not they had reported them, only about three percent were formally

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[39] Questionnaire response # 59585405.
[40] Questionnaire response # 59753835 (emphasis added.).

reported, and only a third were informally reported, mostly in conversations with direct supervisors.

The Task Force staff interviewed officials at twelve police agencies within New York State that reported police-on-police confrontations through the DCJS or NYSACOP surveys. Most of the law enforcement executives we interviewed indicated that the incidents they recounted to us had never been officially recorded or reported. As a result, they had no reliable data on confrontations. One police chief recalled hearing from an older officer who admitted he had once pulled a gun on an undercover officer; yet, the chief could find no written record of the incident, which happened prior to his tenure. As a sergeant at another department explained, the vast majority of these incidents are simply resolved "on the street."

Most police departments do not require their officers to report confrontation experiences. While 25 of the 30 departments surveyed by DCJS indicated that a report would be required for a police-on-police shooting or a confrontation involving a physical altercation, only 18 of the departments require officers to report confrontations in which *weapons are pointed* and only 11 require reports for confrontations involving purely *verbal confrontations* with no weapons pointed. We return to the difficulty of constructing any plausible reporting system in our recommendations.

Despite the very low rate of formal reporting of police-on-police confrontations, the stories we received included nine incidents that resulted in disciplinary action against one or more of the officers involved. The most common forms of discipline in these incidents were official reprimands in the officers' files, followed by discipline-related transfers to other units. It is not clear whether any of these disciplinary actions also resulted in additional training for the reprimanded or transferred officers. In seven of these nine reports, the disciplinary action was taken against the *confronted* officers, most commonly for their failure to obey the commands of the challenging officers or for taking police action in the first place, such as executing warrants or responding to calls without notifying command or dispatch. The two challenging officers who faced reprimands were disciplined for racial harassment and "unsatisfactory job performance."

The Role of Stereotypes in Police Confrontations with People of Color

There is no question that many officers of color feel that they are at heightened risk of being mistaken for criminals when they are out of uniform and taking police action. A telling anecdote along these lines comes from one of the scholars interviewed for this report. That scholar described how a gang unit commander in one urban police department purchased special jackets with "Gang Unit" emblazoned on the back so plainclothes officers could quickly put the jackets on when chasing a suspect. The commander purchased the jackets after black officers confided in the commander that they slowed down their pursuit while in alleys to avoid being mistaken for the criminal being pursued.

Similarly, one retired African-American law enforcement executive told us that he had had difficulty recruiting black officers for undercover assignments, widely considered a path toward career advancement, because they feared being mistaken for criminals by fellow officers.

Many current and former officers of color shared this perspective through our online questionnaire and in our public hearings. Some implied that they feel a heightened danger from white police officers, as in this submission:

> I was an active street cop my entire career, ascended through the ranks to the rank of Lieutenant and ended my career as a Detective Squad commander, and there is one fear I carried my entire career – the fear of being shot by a white police officer.[41]

For others, the higher risks of undercover work for officers of color were generally understood and widely accepted. As one officer described the understanding:

> I was an NYPD "undercover" in the late 80's/early 90's and was fortunate enough to work with and learn from the absolute best that the NYPD had to offer at the time. An "each one, teach one" attitude was adapted and we (as undercovers) took a few hours each week to get together to teach each other necessary survival tactics. Being in New York and part of the NYPD, it was understood that ANY African American or Hispanic undercover was at risk whenever we stepped on "the set."[42]

While some police officers and executives described these dangers as inevitable in light of crime patterns and the uncertainties of police work, we also heard from the leaders of some police fraternal organizations who insist that these risks are grounded in a culture they want to see changed. As Lt. Charles Wilson, National Chairman of the National Association of Black Law Enforcement Officers, explained in his submission to the Task Force:

> The overall mindset that a black man out of uniform can only be a suspected criminal has become embedded in the culture of law enforcement. . . . [T]he culture of our profession must be indisputably changed. No longer can it be acceptable for men and women of color to be considered first as a possible criminal, and only as an afterthought a valued member of the community.[43]

White officers as well as Black officers described for us how these stereotypes contribute to police-on-police confrontations. The following story, for example, was provided by a White plainclothes officer whose partner at the time was African-American. They were working an auto theft detail, securing an automobile "chop shop" that had been raided during the

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[41] Submission from Lieutenant Willie Shaw, New York City Police Department (ret.)
[42] Questionnaire Response # 5123056.
[43] Testimony of Lt. Charles P. Wilson, November 16, 2009 (Albany public hearing).

day. That evening, the two plainclothes officers were sitting in their unmarked car when confronted by officers from the local police precinct:

> [The challenging] officers snuck up on [the] car we were sitting in at night. [They] pointed weapons at us and [we] were told don't move. I put my hands out and stated I was a cop, [and] I was instructed to get out of the car. [The] challenging officer had [his] gun cocked and pointed at me. I told him where my ID was and he took it from my pocket and confirmed my identity stating "this one's on the job." [My] partner (African American) was still being held at gunpoint with gun cocked in his face and they refused to believe he was my partner until he could produce ID.[44]

These stories, together with common sense, suggest that race is likely one factor slowing a confronting officer's recognition of an out-of-uniform officer as a cop. As John Bilich, Deputy Commissioner for the Office of Public Safety at the New York State Division of Criminal Justice Services, told us: "It would be naïve to think that race never plays a role.... The difficulty, however…is: Who truly knows to what extent it plays a role in the critical adrenalin-driven and emotionally charged few moments that precede such an incident?"[45]

Some police executives and scholars told us that, in their experience and opinion, race does not play a significant role in police-on-police confrontations. At first this seems at odds both with the testimony we heard from many officers of color and with the research we have already discussed. Within these opinions, however, we can trace two separate propositions.

First, we understand the scholars to be saying that the confrontations themselves often *begin* for reasons other than racial bias. No scholars have studied the rare instances of police-on-police shootings. Instead these scholars, at our request, plumbed their own experience to reflect on the confrontations they had observed or heard described in which no shots were fired. Indeed, there is ample evidence that mistaken-identity confrontations do indeed begin for multiple reasons, usually grounded in behavior. It is a different question—and one the scholars could not address—as to why some confrontations escalate while others are defused, and what role race plays in that complex process.

Second, a few of the researchers and police officers we consulted were stressing a point about the focus of challenging officers, especially when the confronted officer is displaying a weapon. We understand this point to be that challenging officers may focus almost exclusively on the threat—the gun itself—ignoring not only the signs that the person holding the gun may be a police officer but perhaps also the person's race and ethnicity.

We accept both of these points, yet note that they are consistent with our belief that race can, and often does, play a significant role in these confrontations—at least in the escalation of these confrontations into fatal tragedies.

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[44] Questionnaire response # 58259430 (emphasis added.).
[45] Testimony of John Bilich, December 4, 2009 (White Plains public hearing).

The most persuasive evidence we have found on this point comes from new research in social psychology. Task Force advisors Dr. Philip Atiba Goff and Dr. John Dovidio explain that "blatant expressions of racial bias have consistently declined…[yet] because of a range of *normal* psychological processes, such as historical cultural associations, ingroup affinities, and self- and group-interest, the majority of White Americans still harbor negative feelings and beliefs about Blacks, which are *implicit* – frequently unconscious and typically automatically activated."[46] Moreover, psychological researchers find these same implicit or unconscious biases present in people of all races and ethnicities within American culture. As another scholar describes in a 2002 article, "the tendency to see an African American's behavior as more mean and threatening than a white person's did not depend on the observer's ethnicity."[47]

There is growing evidence that police officers—like members of the general public— display what these psychologists call "implicit racial bias," which reveals itself in simulated shoot/don't-shoot decisions. One study by Dr. Jennifer Eberhardt, Dr. Goff and others found that "merely thinking about Blacks can lead people to evaluate ambiguous behavior as aggressive, to miscategorize harmless objects as weapons, or to shoot quickly, and at times, inappropriately."[48] Other research shows when civilians and police officers are forced to make decisions under time pressure, they show a range of "weapons biases" against blacks, making them more likely to falsely perceive a gun after being primed with a photograph of a black than a white man.[49]

Joshua Correll, a psychologist at the University of Chicago and consultant to the NYPD, has demonstrated through video game simulations that civilians and police officers often evidence similar forms of bias in the speed with which they "shoot" black armed suspects compared with white armed suspects.[50] In one such simulation, research subjects were shown a variety of images of black and white individuals: some holding a gun of some kind, others holding innocuous objects such as a cell phone, wallet, or a soda can.[51] Asked to make a decision whether to "shoot" or "not shoot," both police officers and civilians in these games took *longer* to act on the images of black people with innocuous objects and of white people with guns, and they were *faster* to respond to black people with guns and to white people holding innocuous objects. In other words, they *"shot" an armed target* more

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[46] Goff & Dovidio report pg. 1 (Appendix F) (emphasis in original).
[47] See Joshua Correll, et al., "The Police Officer's Dilemma: Using Ethnicity to Disambiguate Potentially Threatening Individuals" *Journal of Personality and Social Psychology*, 2002, Vol. 83, No. 6, 1314-1329, 1315.
[48] See: Jennifer Eberhardt, et al., "Seeing Black: Race, Crime and Visual Processing," in *Journal of Personality and Social Psychology*, 2004, Vol. 87, No. 6, 876-893, 876.
[49] Goff & Dovidio report pg. 3 (Appendix F).
[50] See: Joshua Correll, et al., "Across the Thin Blue Line: Police Officers and Racial Bias in the Decision to Shoot" in *Journal of Personality and Social Psychology*, 2007, Vol. 92, No. 6, 1006–1023.
[51] Drs. Goff and Dovidio explain that "[r]esearch in this field tends to have participants play a computer simulation game wherein they have to decide whether or not to shoot armed or unarmed targets—they are supposed to shoot the armed targets, but not the unarmed targets. Participants are placed under strenuous time constraints to make their decisions in an effort to mimic real-world critical incidents. Researchers then vary the race of the armed and unarmed targets so that each individual makes decisions about whether or not to shoot armed and unarmed Black and White targets." Goff & Dovidio report pg. 1 (Appendix F).

quickly if he was African-American than if he was white; and they *declined to shoot an unarmed target* more quickly if he was white than if he was African-American.

On the important issue of accuracy of distinguishing lethal from innocent objects, police officers do better than civilians in these tests. Veteran police officers tested in this research "do not show the typical bias of shooting unarmed Black suspects *more often* than unarmed White suspects." Despite showing bias in *reaction times*, the police officers made their decisions *more accurately* than civilians. These results suggest that police training and experience might reduce the effects of racial stereotypes and that police officers could be trained to further counteract racial stereotypes.

In partial response to the tragic death of Officer Omar Edwards, the New York City Police Department has retained Dr. Correll to take this research further. Dr. Correll is now overseeing an experimental program using computer simulations to test all NYPD recruits who entered the police academy in July 2009 for implicit racial bias in shoot/don't-shoot decisions, particularly under "high stress" conditions. The recruits are tested at admission, again at the end of their training, and again once they are in the field. Dr. Correll and the NYPD hope to determine whether and to what extent basic police training has affected the recruits' decision-making processes in shoot/don't shoot situations. If the research can determine what amount and intensity of training reduces racial bias in officers, the Department should be able to use the results to improve instruction for all officers.

Until now, research on implicit bias has been confined to laboratory settings, but we hope the field testing now underway in New York City encourages other departments to experiment with similar programs of testing and training.

Information Gaps on Police-on-Police Shootings and Confrontations

We know little about so many of these shootings and confrontations because so little information is released locally or collected nationally. Most small and mid-sized police departments have never experienced a fatal shooting of this kind and do not regard the non-fatal confrontations as a high priority for attention. Yet the collection of even basic information on the most serious incidents could contribute significantly to officer safety and public safety more generally, as well as to helping police organizations deal with the growing diversity in their ranks.

The FBI's database of Law Enforcement Officers Killed and Assaulted (LEOKA) is the closest thing to a national repository, but its information is incomplete and it does not focus on mistaken-identity shootings. Part of the FBI's Uniform Crime Reporting (UCR) Program, LEOKA collects detailed information on in-the-line-of-duty deaths of law enforcement officers, both felonious and accidental, as well as gun and knife assaults that cause injury to law enforcement officers.

Yet LEOKA has several limitations as a source of information about mistaken-identity, police-on-police shootings. First, LEOKA does not specifically identify mistaken-identity police-on-police shooting deaths within the broader category of "accidental deaths"

resulting from "cross-fires, mistaken for offender incidents, [and] mishaps."[52] Second, as with participation in the UCR program in general, submission of LEOKA reports is purely voluntary.[53] Our own search of media reports and conversations with police practitioners surfaced at least three fatal incidents between 1981 and 2007 that were not captured in LEOKA reports, either because information was not submitted or because the incidents did not meet LEOKA's criteria for inclusion in the database.[54] There may be others. Third, the LEOKA database does not include *non-fatal* police-on-police shootings because these incidents by definition involve neither deaths nor felonious assaults on police officers. And non-fatal shootings generally draw less media attention, making them more difficult to find in general searches of on-line news.

Even within New York State, no agency or office collects statewide information on fatal (or non-fatal) police-on-police shootings. The New York State Division of Criminal Justice Services (DCJS) does collect UCR data; but the UCR program (including LEOKA), does not require a level of reporting that allows one to identify police-on-police shootings. When we began our inquiry, DCJS simply did not know how many shootings of this kind, fatal or non-fatal, had occurred in New York State over the last decade.

We do not mean to criticize DCJS or the FBI's UCR or LEOKA programs. These agencies and the programs that they operate are simply doing what they have the authority and mandate to do. With the proper authority and resources to collect expanded types of information, they could provide very useful analysis and understanding of both fatal and non-fatal police-on-police shootings and confrontations.

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[52] LEOKA classifies all reported "accidental deaths" of police officers according to the circumstance that describes the fatality, including: shooting, automobile, motorcycle, struck by vehicle, aircraft, and other (fall, fire, drowning, etc). Accidental *shooting* deaths are captured in three distinct categories: (1) "training mishaps"; (2) "self-inflicted, weapon-cleaning mishap or not apparent or confirmed suicide"; and (3) "crossfires, mistaken for offender, mishap." The third category is somewhat of a catch-all category; it combines incidents in which deaths resulted from a crossfire situation and those in which the victim officer was mistaken for a suspect by another police officer. Within this category, the mistaken-identity shooting deaths can only be identified by reviewing the individual narratives accompanying each individual report filed by local police departments, and in some cases there is little information in those narratives.

[53] The reporting process used by the UCR Program to gather LEOKA information involves two steps. First, participating law enforcement agencies submit a monthly tally to the State UCR program listing the number and type of officer deaths and/or non-fatal assaults with injury, if any. In turn, the State UCR program notifies the FBI's LEOKA program, which issues an eight-page questionnaire (FBI form 1-701) to the victim officer's agency for completion. In practice, however, it is more common that an FBI Field Office prompts the issuance of the LEOKA questionnaire by directly notifying the FBI UCR program of an officer death or assault in any state or local agency within its geographic area. We were unable to obtain information about the response rate to these questionnaires, but LEOKA did report that at least one questionnaire regarding a fairly recent incident that may have been a fatal, mistaken-identity, possible police-on-police shooting has not been returned by the police department involved.

[54] The strict criteria for inclusion of cases in the LEOKA database sometimes exclude cases that would normally be considered mistaken-identity, police-on-police shootings. For example, the shootings of Officers James L. Gordon and Eric Hernandez were excluded because it was not clear at the time whether the officers had died "in the line of duty." And Nehemiah Pickens' status as a reserve deputy constable without arrest powers automatically excluded him from inclusion in the LEOKA database.

3.   The Role of Training

Considering the myriad federal, state, county, and local law enforcement officers working in civilian clothes or carrying a firearm off-duty, the potential for mistaken identity confrontations is enormous. In New York State alone, there are 571 individual police departments, ranging in size from fewer than five sworn officers to over 35,000 in the NYPD. Collectively, these law enforcement agencies employ over 69,000 sworn personnel.[55]

Figure 3.1 Law Enforcement Agencies and Police Officers, by Type of Agency			
Type of Agency	**Agencies**	**Police Officers**	
	#	**#**	**%**
Municipal	450	19,674	28.4%
NYPD	1	35,844	51.7%
County Sheriffs' Offices	57	4093	5.9%
NY State Police	1	4851	7.0%
Other State Law Enforcement	4	1448	2.1%
Other Law Enforcement	58	3449	5.0%
Total Agencies and Officers	571	69,359	100%

If even a small fraction of the confrontations among these officers could be captured and understood, the knowledge could prove a treasure-trove of lessons about how to prevent more of these confrontations in the first place and how to de-escalate those that do occur. Moreover, some of the same information might help police departments develop training to de-escalate police encounters with civilians as well.

Training holds particular promise in reducing police-on-police shootings precisely because it is possible to train both parties in the confrontation. Police recruits and veteran police officers alike can be trained to anticipate such confrontations and learn the appropriate responses for both the challenging and the confronted officers. Unfortunately, such training has only been instituted statewide in New York State in recent years, and is only required for officers at the start of their careers.

In an effort to identify existing training programs that address confrontation situations, and to collect other relevant data and information, the Task Force:

- reviewed training mandates currently in place in New York State through the Municipal Police Training Council and the State Accreditation Program;

- examined current training offered by the New York City Police Department and the New York State Police;

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[55] Totals based on sworn police officers listed on the NY State Police Officer Registry as of March 17, 2010.

- collected training offered in selected jurisdictions nationally; and

- elicited opinions on the best practices and recommendations from police officers experts in police training.

Training in New York State on Police-on-Police Confrontations

Through the Municipal Police Training Council ("MPTC"), New York State regulates law enforcement agencies and ensures minimum proper training of their officers. Created by a 1959 state law, the MPTC's authority is limited to most municipal law enforcement agencies. The NYPD, New York State Police, District Attorney Office investigators, and officers from the railroad police and other state agencies are not governed by MPTC regulations, although some comply voluntarily as part of the state's law enforcement agency accreditation program. Thus, the MPTC's guidelines do not reach the majority of sworn law enforcement officers in the State.

The MPTC is obligated to recommend to the Governor minimum requirements for basic and supervisory training. It is also responsible for making recommendations regarding police training schools, instructor qualifications, and categories of in-service training.[56] Once implemented, these rules and regulations carry the force of law.

The MPTC mandates two courses for police officers in New York State: the Basic Course for Police Officers and the Course in Police Supervision. These courses are designed for police recruits and first time Police Supervisors and each is generally taken only once. The Basic Course for Police Officers currently consists of 639 hours of instruction, which includes both classroom and field training components. The Course in Police Supervision consists of at least 105 hours of instruction including the role of a supervisor, legal issues, incident management, community relations, and more.

New York was the first state in the country to establish basic training for newly appointed police officers.[57] The police academies and their directors are required by regulation to meet or exceed the minimum standards established by the MPTC. However, the MPTC encourages schools to exceed the minimum standards by adding time and objectives for existing units and adding new topics. Many police departments require more than the

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[56] See New York Executive Law §§ 839-40. The MPTC has eight members: three are appointed by the Governor; two are nominated by the New York State Sheriffs' Association and must have specialized experience in police training; two are nominated by the New York State Association of Chiefs of Police and must also have specialized experience in police training; and one is the Commissioner of the NYPD, or his delegate. Currently, the Council is comprised of: the Public Safety Commissioner of Westchester County; the Superintendent of the New York State Police; the NYPD Deputy Commissioner for Training; the FBI Assistant Director in Charge of the New York Office; the Monroe and Yates County Sheriffs and the Police Chiefs of the City of Mechanicville and the Village of Bath. The New York State Division of Criminal Justice (DCJS), Office of Public Safety, serves as the staffing arm of the MPTC, coordinating its research and development of curriculum, and assembling working groups of subject matter experts to construct and revise courses. DCJS is also responsible for assisting the MPTC in the planning and evaluation of basic and in-service training courses and to ensure that practitioners meet the minimum standards.
[57]See DCJS, *Basic Police Training, History*, http://criminaljustice.state.ny.us/ops/training/bcpo/index.htm.

minimum and, on average, departments in New York State require 800 hours to graduate from a police academy. The MPTC regularly examines the courses to determine whether additional topics should be added or whether existing courses should be revised. Since the early 1980s, the Basic Course for Police Officers has grown by over 200 hours.

In the aftermath of the death of Officer Christopher Ridley, the Westchester County Department of Public Safety convened a diverse panel of law enforcement practitioners, academicians, and community leaders to conduct a comprehensive review of all use-of-force training conducted at the Westchester police academy. Among its 64 recommendations, the panel urged that New York State, through the MPTC, develop and distribute a single protocol to be used by all police departments in the state for the proper handling of "off-duty confrontations," and that this protocol be incorporated into the basic entry level recruit training curriculum. In September 2008, MPTC members reviewed a two-hour course titled "Off-Duty and Plain Clothes Police Encounters" prepared for them by the Division of Criminal Justice Services. The MPTC approved this training as a minimum standard of training for all recruits, and approved it for use during optional in-service training.   On November 5th, 2008, Governor Paterson accepted the MPTC's recommendation and a two-hour training block on off-duty and plainclothes confrontations was added to the entry level training curriculum statewide.

Not all of the Westchester panel's recommendations have been so promptly implemented. For example, the panel recommended that confrontation training should be "interactive, hands-on, and entail the use of live actors, role playing, well-scripted scenarios and simulations or some other technology to place the student-officer in as realistic a setting as possible," and further that "[a]ll officers who undergo this training must be compelled to participate as both the confronting and the confronted officer." Although some training academies are striving for this live scenario-based training, the recommendation has not been adopted statewide.[58]

Several officers who contacted us indicated that they felt that their initial academy training was sufficient, but felt that, once in the field, officers did not always act as they were trained. In the words of one officer, the training did not always "stick." One way to address this problem would be underscore important tactical considerations periodically through in-service or refresher training. However, the MPTC does not have statutory authority to require in-service training. Its mandate is currently limited to recommending requirements for basic training, initial supervisor training and voluntary standards for accreditation.[59]

Even without a statewide requirement, most of the state's larger police departments do ensure that their officers attend some form of in-service training, and for those that

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[58] Currently, separate panels are developing curriculum for the basic course in the areas of Domestic Violence, Hate Crimes and Cultural Diversity. At a recent meeting, the MPTC directed the formation of a panel to evaluate and update the Course for Police Supervision. Additionally, a curriculum was developed in 2009 for an in-service training on "Street Encounters," Conductive Energy Devices (commonly referred to as tasers), Property Evidence Room Management and a Crime Analyst Certification program.
[59] See New York Executive Law § 840.

participate in the state accreditation program, a minimum of 21 hours of in-service training is required for each officer annually, including use of firearms, legal updates, a review of the law regarding use of force and the use of deadly force.[60] Still, the topics of instruction and amount of time dedicated to in-service training vary widely in both accredited and non-accredited agencies. Larger police departments such as the NYPD typically rely on an in-house training unit, while smaller departments employ a designated training officer or rely on a regional academy. As a result, the training lacks centralized themes and there is no mechanism to identify priorities for statewide attention.

The variation in training was illustrated among the officers who completed our questionnaire. Approximately forty percent of them reported that they had received some type of training on police-on-police confrontations during basic police training, and a similar percentage said they had received advanced or in-service training. The most common forms of instruction were lectures, classroom discussion, and role-playing exercises. The least common were scenario-based instruction and use of case studies. In terms of actual content, the admonitions they recalled best were for officers to comply with the challenging officer's commands and the importance of identifying oneself as an officer. The least commonly reported instructions were (a) to be a good witness rather than intervening, (b) contact dispatch before entering a crime scene, (c) use specialized language that other law enforcement officers would recognize, (d) keep hands visible, and (e) never turn towards the challenging officers. The answers from the New York State officers who filled out the questionnaire were not noticeably different from the others in these respects.

Many police executives from New York State believe it is time to strengthen in-service training with greater rigor and standardization. Demosthenes Long, the former First Deputy Police Commissioner and Undersheriff of the Westchester Department of Public Safety and the former Commanding Officer of the New York City Police Academy, explained persuasively at our final public hearing:

> I believe the area of in-service training is ripe for state review. I believe there are core training areas that lend themselves to a centralized training model. Centralized training ensures uniformity and consistency in the material delivered. I would ask the MPTC, with the assistance of the Training Directors Association and other stakeholders, to identify core subject areas, such as firearms and tactical training, legal updates, domestic violence protocols, CPR and first aid refresher courses, to develop lesson plans and associated teaching aids and provide them to regional training and other academies, and require that these courses be completed at the regional

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[60] The recently created State Accreditation Council oversees the accreditation process, which requires participating agencies to meet a series of 132 professional standards in the areas of operations, administration and training. Accreditation standard 33.1 requires that all sworn personnel receive at least 21 hours of in-service training annually for each officer. While the accreditation program now boasts the participation of 130 agencies around the state, this program is purely voluntary. Because many agencies find it difficult to satisfy all of the program's mandates, agencies are frequently dropped from the list of those accredited. As of this writing, fewer than half of the sworn officers working in departments outside of New York City work in accredited agencies.

training facility. . . . What I am suggesting is that should your inquiry identify training deficiencies, there must be a means to insure the requisite remedial training is developed and all law enforcement agencies under the auspices of MPTC are required to complete this training.

All of our witnesses from within law enforcement shared this consensus view favoring uniform training and an expansion of the current two-hour mandate for confrontation training with police recruits only. William Kilfoil, President of the New York State Association of Chiefs of Police, said he is "sure that recruit and in-service training programs . . . will serve to help prevent deadly police on police confrontations. All police agencies throughout New York State should be conducting them as part of their on-going training." Charles Wilson, national chairman of NABEO, similarly said, "Training regimens must be changed. Not only must officers be taught proper methods for recognition and response, it must be continuously reinforced." Larry Brown, representing the Westchester-Rockland Guardians Association, explained, "Providing a mere 2-hour block of instruction during their recruit training, regardless of its configuration, does not, nor can it ever properly prepare Black or White officers for these interactions." John Bilich, Deputy Commissioner of DCJS, emphasized that "it is critical that officers be trained repetitively in scenario-based, lifelike settings regarding shoot and don't shoot scenarios so that they are cognizant that there may always be the possibility that any street encounter with an armed individual may involve a plain clothes, undercover or off duty officer regardless of race. Mistakes happen - these mistakes need to happen in training." Perhaps most important, Michael Hagan, president of the Westchester PBA, focused on the importance of uniform training throughout a region:

> [W]e must insist on standardized training throughout the state. Westchester County alone has over 40 jurisdictions, if each of these jurisdictions has even minor differences in training and tactics involving off-duty or plain clothes confrontations it renders all of the training ineffective. The training needs to be consistent. . . . There has already been much work done on improving training, the bigger challenge is to have the Police Community adopt one consistent policy that is universally accepted and promoted.

At a state level, there is no required training on any subject for middle managers (e.g., lieutenants and captains) or newly promoted police chiefs or executives. The MPTC-mandated supervisory training program is only for newly promoted first line supervisors, such as sergeants. Yet it is precisely the lieutenants, captains, assistant and deputy chiefs, as well as police chiefs and commissioners who must guide a department and its community through the traumas that any use of force entails, especially when the use of force is mixed with issues of race. These are the same police managers who must lead their units and organizations as they and their communities become even more diverse and stretch to reduce the influence of racial and ethnic stereotypes in all aspects of policing. This requires training, yet only the NYPD in New York State provides a comprehensive and

rigorous program of training for officers as they rise through these middle and senior ranks of increasing managerial responsibility and leadership demands.

Understanding the challenge and potential of police training on this or any issue in New York State requires separate consideration of the NYPD. The NYPD (using its own police training academy) provides far more training at every level than the state requires and it employs more than half of the sworn officers in the state. In addition, the NYPD's approach illustrates how training can be integrated into the career of every police officer and into the culture of an organization.

- The NYPD's basic training for new recruits exceeds the MPTC's minimum hours requirements by nearly 250 hours. NYPD recruits received 97 hours of firearms training, including off-duty incidents and confrontation scenarios. The department's recently adopted Advanced Tactical Firearms Training Course places recruits in "high stress" scenarios designed to simulate situations that they may encounter while on patrol.

- The NYPD requires all uniformed officers to undergo firearms requalification twice annually, consisting of eight hours of classroom training on confrontation situations and the appropriate use of firearms. In addition, the NYPD requires officers and detectives annually to complete its in-service, scenario-based In-Tac course.

- Changes of assignment often entail training. Officers moving into plainclothes assignments receive a four-day training course including instruction on personal weapons, arrest mechanics, team tactics, grappling, weapon retention/disarming, escape techniques, tactical handcuffing, and legal issues. Newly promoted sergeants and lieutenants receive the NYPD's Basic Leadership Course and Advanced Leadership Course, respectively, each of which includes instruction on the use of force, less-lethal alternatives, and tactical supervision.

- An array of further training is available for captains as they rise into more responsible leadership positions in the department.

The design of training in any police organization should always be a work in progress and an assessment of the strengths and weaknesses of the NYPD training program is well beyond the scope of our review. We are encouraged that the NYPD has already made improvements to its training specifically in response to the shooting death of Officer Omar Edwards, and we trust that this commitment to continuous improvement of training on police-on-police confrontations and unconscious racial bias in shoot/don't-shoot decisions will continue. The NYPD's new police academy should soon permit the department to further increase its use of scenario-based, simulation training on confrontation situations.

The Content and Method of Confrontation Training

Training for Out-of-Uniform Officers and Confronted Officers

Before a police-on-police confrontation begins, typically an out-of-uniform officer makes a decision to take police action, and often also decides to display a weapon. Training on the decision when and how to take police action out of uniform is the first step in avoiding

police-on-police shootings, yet training on this subject is impossible with any rigor if it is not consistent with standard policies and practices. It turns out, however, that these vary across police agencies and several major police agencies in New York State have no policy at all. Of the 30 mid-sized to large police agencies participating in the DCJS survey, 11 indicated having no specific policies or procedures that regulate when and how off-duty officers should intervene in ongoing criminal activity, and five of the NYSACOP agencies indicated in follow-up interviews that they also had no policies in place.

Training within the framework of consistent policies is imperative, and it should be repeated regularly for officers who choose to carry a weapon off-duty. We have already noted the inconsistency across jurisdictions—even across substantial police agencies within New York State—on whether off-duty officers are required or merely permitted to carry their weapons off-duty. Those departments that are following the current trend to permit rather than require off-duty carrying, also have an opportunity to require annual training on off-duty use of the weapon.

Police executives, trainers, and tactical experts are remarkably consistent in their views on the appropriate content of training for officers who could be tempted to take police action out of uniform, whether off-duty or working plainclothes or undercover. The broad consensus can be summarized in four rules when considering intervention, and four rules when actually challenged by another officer.[61]

The four rules when considering intervention are:

1. Do not take enforcement action out of uniform if there is any alternative. Call 911 or use a radio to summon uniformed officers. Serve as a good witness rather than intervening unless someone's life or personal safety is at stake.

2. If you must intervene or take police action, call 911 or use a police radio to alert other police units to your presence, including your physical description, that you are armed, and that you are in plain clothes.

3. Display your badge prominently when engaged in enforcement action, especially when your weapon is drawn and visible, and keep the badge close to the firearm.

4. Communicate frequently your identity as a police officer in a loud and clear voice.

The four rules when confronted are:

1. When you hear the command, "Police! Don't move!" assume the command is addressed to YOU, not just the suspect you are pursuing. Lock yourself in position. Don't move.

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[61] We derived this particular version of the appropriate content from the testimony of Deputy Chief William G. Brooks III of the Wellesley, Massachusetts Police Department, who appeared at our public hearing in Harlem on December 3, 2009. In addition to Chief Brooks' other duties, he has been a police academy instructor for over twenty years. His views and recommendations were echoed by many of the expert witnesses and advisors we consulted, and contradicted by none.

2. Resist "reflexive spin," the natural tendency to turn towards the voice that is confronting you, as even the turn of your head may begin to bring your weapon around causing the confronting officer to feel threatened.

3. Use your voice to identify yourself loudly and clearly as a police officer.

4. Obey the commands of the challenging officer, including a command to drop your weapon, and do not make any movement without the permission of the challenging officer; regardless of your rank or position, the uniformed officer is in command.

These rules themselves are neither complicated nor controversial; the difficulty is that they instruct police officers to act in ways contrary to their most familiar patterns. For example, while it was once common for police officers to be considered "always on duty," today's police leaders often discourage off-duty officers from getting involved in incidents unless they deem it necessary to protect life.[62] Policies vary widely about the protection of property. Yet, many police officers told us that part of their personalities and their identities as police officers is the tendency to intervene when any crime is being committed in front of them. Police officers, as a general rule, get involved. So the training to serve as a witness rather than a hero when off-duty or in plainclothes is difficult to follow in practice. Similarly, when an officer is confronted and ordered to drop his or her weapon, one's inclination is to hold onto the weapon and to persuade the confronting officer of your identity. It is one thing to train a confronted officer to obey the commands of the challenging officer, but it is another thing altogether for the confronted officer to follow that training in the heat of the moment. This is why so many of the recommendations about training on this subject concern the *method* of training rather than just the content. In response to our questionnaire, many current and former law enforcement officers in New York State indicated that they had undergone confrontation training in basic police training or in in-service training. But most of them were trained only through lectures, printed materials, and videos. While these methods may satisfy some training requirements, they are far less effective than simulations, role playing, and interactive, scenario-based exercises. There is simply no substitute for these scenario-based exercises, both during basic and in-service training, which simulate high-pressure situations.

Training for Challenging Officers

Training for challenging officers is equally important. While most police department protocols place the onus for defusing confrontations on the confronted officer, the best training we encountered emphasized equally the lessons for challenging officers. An NYPD training video, for example, revised after the shooting death of Officer Edwards and now being revised further, provides an excellent example of the approach to training that could benefit all officers and save lives, particularly when combined with scenario-based training.[63] Its messages for challenging officers are direct and well explained by frontline officers:

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[62] The consensus on this point is impressive. For example, the International Association of Chiefs of Police (IACP) recommends that off-duty officers who witness a crime call for assistance rather than pulling a weapon.

[63] NYPD Police Academy, Video Production Unit, "Preventing Friendly Fire," version of June 1, 2009.

1. Recognize that a person who appears to you to "look like" a criminal suspect may well be a police officer. As one of the plainclothes officers in the video explains: "You shouldn't go out and right away say, 'That person's a perp, that person's a perp,' cause *there's no such thing as a person looking like a perp.* Just because you work in an urban area, that doesn't mean that every black person you see is a perp."

2. Take cover. Once you get cover, you can take a little time to establish who the person is you're confronting. If they say they're a police officer, you can order them to show their shield slow, to put their gun down, and so on. "Cover buys you time… it gives you those extra couple of seconds for an identification process to occur."

3. Shout, "Police! Don't Move!"

4. Broaden your focus from the gun. Focusing only on the gun is a natural first response, but training teaches officers to listen, look, and analyze a wide array of clues to understand the situation quickly. That includes knowing "the color of the day."

These basic rules are an excellent starting point, but they can be supplemented with additional training for challenging officers. For example, Task Force advisor William Geller argues that police officers should collect as much accurate information as possible both in anticipation of, and during, a confrontation situation. In the moment, this includes engaging in dialogue and exchange, sizing up the situation through clear verbal communication and commands. Dr. Geller encourages police departments to enhance their systems for communicating full and accurate information to officers, such as checklists for 911 operators and dispatchers to collect and convey the best physical descriptions possible of off-duty, plainclothes, and undercover officers who may be on the scene, as well as similarly accurate descriptions of criminal suspects.

Scenario training is just as important for confronting officers as it is for those who are confronted, and yet it remains the exception in training. Most officers nationwide undergo mandatory firearms requalification to demonstrate proficiency with firearms safety and to practice *how* to shoot, but not enough training is geared toward making the shoot/don't shoot decision and to handling the difficult and dangerous situations that many officers inevitably encounter. As Task Force advisor Dr. William Lewinski describes it:

> Most of our firearms training begins with classroom instruction on the application of law and policy to force and deadly force situation. The next level of training is on the manipulation of the tools – whether that be a handgun or another instrument of force. Few departments then go on to spend considerable time on the recognition of patterns of behavior and the strategy and tactics of force and deadly force encounters.[64]

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[64] Lewinski report pg. 6 (Appendix F).

We appreciate the difficulty of training in the difficult zone where the use of deadly force would be justified but mistaken. Consider the following real example, described for us by retired police executive Henry DeGeneste:

> In the late '60s/early 70s, we got a call of someone breaking into cars in a garage. I saw a shadow and ducked immediately behind a car to take cover. Then I saw a flash that looked like a gun; it turned out to be a "Saturday Night Special". I told the kid. "I'm a cop, drop the gun. If you don't drop the gun you're gonna get shot." He dropped the gun. Some cops working for me would have taken the shot and it would have technically been "justified."[65]

To most people, this is a story of policing at its best: experience, confidence, and judgment coming together in the mind of a veteran officer, sparing the life of a boy whom a less courageous officer might have killed. Yet much police training is focused on scenarios where hesitation can cost officers their lives. Some trainers would worry that any training that encourages hesitation compromises officer safety. Only experience can build the kind of confidence and courage that the story above conveys, but the latest simulators and interactive training technology are the closest thing to that experience that a training program can provide. For example, after reviewing its history of firearms discharges, the NYPD designed and implemented its Advanced Tactical Firearms Training Course – a two-day, reality-based firearms training program that places officers in "high stress" scenarios similar to those that have led to tragic mistakes. This type of proving ground can greatly enhance an officer's tactical skills.

Training for Civilians on Confrontations with Police

This Task Force is charged to consider the implications of police-on-police shootings not only for improving officer safety, but also for improving the safety of the public. Since we conclude that these incidents contain lessons that can improve training of police officers to de-escalate a confrontation with other officers, we now ask if the lessons here could also be shared with civilians, increasing the chance that they too can learn to de-escalate confrontations with police?

Many police and community-led organizations already provide this type of training, often geared specifically toward young people in urban areas. A simple search of the internet for information about "police encounters" yields literally dozens of guides, videos, and other advice about how civilians can handle encounters with the police. A wide array of organizations from the National Black Police Association to the American Civil Liberties Union offer advice to civilians regarding what to do when stopped by the police.[66] Several witnesses who spoke at our public hearings endorsed the training that already takes place on a voluntary basis in high schools and community centers in some heavily policed urban

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[65] Statement of Henry DeGeneste, January 29, 2010.
[66] See American Civil Liberties Union, *Know Your Rights: What to Do If You're Stopped by the Police* (July 30, 2004), http://www.aclu.org/drug-law-reform_immigrants-rights_prisoners-rights_racial-justice/know-your-rights-what-do-if-youre- and National Black Police Association, *When Stopped By the Police: a Community/Citizen Guide*, http://www.blackpolice.org/Stopped.html.

communities. For example, the Westchester-Rockland Guardians Association, an organization of black police officers, conducts a training program for young people in Westchester County titled, "What To Do When Stopped by the Police." The program provides basic instruction to youth on how to handle potential conflict with police officers, urging them not to make any sudden moves, to behave courteously, to keep their hands visible, to avoid arguing even with a disrespectful police officer, and to address disrespectful behavior at a later point by filing a formal complaint. At our White Plains Public hearing, former Westchester-Rockland Guardians President Larry Brown noted that programs such as these "have been found to be highly instrumental in explaining not only citizen rights but the overall law enforcement process, and have served as an effective tool in community/police relationships."[67]

Many people of color, including many police officers of color, told us that they raise their children with the same lessons. Yet it seems wrong to us that instruction for young people on staying safe during encounters with police should be concentrated in communities of color. If such training is valuable—and we are convinced that it is—then it should be universal. We do not think that young people of color, particularly those growing up in low-income, urban neighborhoods, should get the impression that they need special instruction on how to handle police encounters that are not applicable to their white or wealthy counterparts. Indeed, we note that across the United States, the most common involuntary encounters civilians experience with police occur in the context of traffic stops, and these occur roughly proportionately across race and ethnicity, although black and Hispanic drivers are significantly more likely to be searched during those traffic stops than are white drivers.[68] We return to the possibilities here in our recommendations.

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[67] Testimony of Larry Brown, December 4, 2009 (White Plains public hearing). Also appears in Viewpoints of Charles P. Wilson on behalf of the Westchester County Guardians Association, December 4, 2009.
[68] See Matthew R. Durose, Erica L. Smith & Patrick A. Langan, *Contacts Between the Police and the Public, 2005*, U.S. Department of Justice, Bureau of Justice Statistics, April 2007, NCJ 215243, http://bjs.ojp.usdoj.gov/content/pub/pdf/cpp05.pdf.

4.   Recommendations

We make nine recommendations, each designed to make a real difference both individually and as part of a comprehensive set of proposals, each with specific implications for multiple agencies and levels of government. We believe that if promptly adopted and faithfully implemented, these recommendations can save lives.

We have deliberately avoided making recommendations that are so numerous or detailed that they would stand little chance of being implemented. We are also mindful of the danger of that new training and reporting requirements may be viewed as "unfunded mandates." For that reason, we have confined our recommendations to cost-effective, high-impact steps that we believe can save the lives of police officers and of civilians.

In making our recommendations, we acknowledge the creative and diligent work that the NYPD, the Mount Vernon PD, the Westchester County Department of Public Safety, and other police agencies across the nation have already undertaken in response to mistaken-identity, police-on-police shootings that have struck members of their own departments. We have tried to spotlight the best of that work in earlier sections of this report and we hope that their efforts succeed. For our part, we concentrate on actions that others can and should take to eliminate or reduce the numbers of these tragic police-on-police shootings and other mistaken shootings as well. Our recommendations are therefore directed, first, at police agencies that have not recently experienced a fatal shooting of this kind; second, at the government of the State of New York; and third, at the United States government generally, and at the U.S. Department of Justice in particular.

1. Develop State and National Protocols for Police-on-Police Confrontations

Protocols for defusing police-on-police confrontations must be established above the level of individual law enforcement agencies. With many of the fatal shootings involving officers from more than one police agency, preventing further tragedies requires that protocols be standardized at least at the state level, if not nationwide.

In New York State, this task could be taken up by the Municipal Police Training Council (MPTC), which has representation from the NYPD, the FBI, and from small and mid-sized police agencies across the state. The MPTC needs to go further than it has gone so far, specifying a simple, consistent protocol that does not leave crucial elements to be invented by officers in the midst of these critical incidents.

We recommend that this protocol have three components, each consisting of a set of rules: the first addressed to officers out of uniform who are considering taking police action, the second addressed to those out-of-uniform officers who are challenged by another officer, and the third addressed to all officers confronting an armed individual who may or may not be a police officer out of uniform. Our recommended protocol appears in Figure 4.1.

Most of what appears in this protocol is already widely recognized as best practice. We add one element, suggested to us by retired NYPD Detective-Captain Frank A. Bolz, Jr., to address the fact that confronted officers are not currently instructed how to identify themselves verbally as genuine police officers. Leaving it to each individual in the heat of the moment to come up with words that would only be known to police officers is too vague an approach. On the other hand, specifying too simple a response to the command, "Police! Don't Move!" would invite offenders who are not police officers to pretend they are. We therefore recommend that coded language already used by SWAT officers as an instruction not to fire—codes that are not generally known outside of policing—be applied in these situations as well.

Figure 4.1 Proposed Protocol for Police-on-Police Confrontations

For Officers Taking Action Out-of-Uniform

1. Only Intervene to Protect Personal Safety or Another's Safety; otherwise, be a good witness
2. Inform the Police Dispatcher or call 911 if You are Taking Action, Armed, and in Plainclothes
3. Display Your Shield Prominently Prior to Taking Action
4. Identify Yourself Frequently and Loudly as a Police Officer

For Confronted Officers

1. Don't Move
2. Avoid Reflexive Spin
3. Identify Yourself Loudly as a Police Officer, Using Specific Coded Language
4. Obey the Commands of the Confronting Officer

For Officers Challenging an Armed Individual

1. Don't Stereotype
2. Take Cover
3. Shout clearly and repeat: "Police! Don't Move!"
4. Broaden Your Focus from the Gun to Assess the Situation

At a national level, we urge the U.S. Department of Justice to endorse this same protocol, encouraging consistency across the country. The U.S. Congress has already begun the process of encouraging off-duty officers traveling across state lines to take police action when necessary through LEOSA. As a result, the federal government cannot escape responsibility to assure that out-of-uniform officers are quickly and reliably identified wherever they are in the nation.

2. Require Continuing, Interactive Training on Confrontations

This is the first of three recommendations on police training, and—like the next two—requires action at the level of police departments, state government, and the federal government. Training on confrontations is essential to avoid more deaths and serious

injury, and that training must be interactive and must continue throughout an officer's career and across all ranks.

In New York State, the current two-hour block of confrontation training required by the MPTC for all new recruits should be expanded and made interactive, making use of simulations and role plays, with every recruit playing the roles of both the challenging and the confronted officer to experience confrontations from "both sides of the gun". Westchester County's Zone 3 Police Training Academy has already incorporated this recommendation into its entry level training program and it may serve as the model for state-wide implementation. In addition, training on the interactive training on the protocols should be reinforced throughout the curriculum, particularly during annual firearms re-qualification.

It is past time to require in-service training for police officers in New York State. The State Legislature should amend New York Executive Law § 840 to expand the authority of the MPTC to recommend to the governor rules and regulations with respect to requirements for mandatory in-service training with the ability to customize annual training cycles. The MPTC should then recommend to the Governor a minimum requirement of 21 hours of annual in-service training for all state and local law enforcement officers, to include firearms requalification, scenario-based training with integrated police-on-police confrontation situations, review of standards for appropriate use of force, legal updates, and contemporary issues as identified by the Council for that cycle. We further recommend that the MPTC disseminate its recommendation to the heads of all law enforcement agencies operating in New York State and that it encourage those not specifically governed by its recommendations, such as the NYPD, the State Police, and other state and federal agencies, to adopt the same minimum standard. Such a 21-hour annual in-service training requirement would bring all law enforcement agencies in New York State in line with the current requirement for accredited agencies. It is our hope that DCJS, the MPTC, the New York State Sheriffs' Association and the New York State Association of Chiefs of Police can then work collectively to develop this required annual in-service program for all police agencies within the state.

Similarly, it is time to require some basic training in management and leadership for lieutenants, captains, assistant and deputy chiefs, and other mid-level police managers, as well as chiefs and commissioners. It is unacceptable that state-required training does not extend into a police career beyond an officer's promotion to sergeant. We recommend, therefore, that the New York State Legislature amend New York Executive Law § 840, empowering the MPTC to recommend to the governor required training programs in management and leadership for middle managers and police executives at every rank. The MPTC should then recommend to the Governor training requirements that include governing the use of force, strengthening community relations, interacting with the news media, and leading on diversity.

The federal government has a double role here. Most directly, federal law enforcement agencies must prevent police-on-police shootings among their own officers and the state and local police with whom they conduct joint operations. Equally important, however, the

U.S. Department of Justice can lead improvements at the state and local level through the Office of Justice Programs, the Office of Community Oriented Policing Services (the "COPS Office"), the Community Relations Service, the Civil Rights Division, and training provided by the FBI.[69] We therefore recommend that the U.S. Department of Justice and the U.S. Department of Homeland Security introduce interactive, confrontation training as part of the establishment of every joint task force with state and local police, and that such training continue to be provided as new officers are added to any such task force. This will help with the federal government's direct role, while simultaneously exposing police agencies across the country to high-quality training on this subject, setting a benchmark for the development of state and local training.

We further recommend that the U.S. Department of Justice develop and make available, at local level and federal expense, interactive, confrontation training for any off-duty or retired officer traveling with a concealed weapon across state lines pursuant to LEOSA. This training should be provided by existing state and local police training institutions, but the training should be developed and funded by the U.S. Department of Justice so that it is standard across the nation and does not further burden state and local training budgets for what is a national responsibility.

Finally, we urge the U.S. Department of Justice to work with one or more of the national associations of police executives and with the Westchester and White Plains Police Departments, the NYPD, and other agencies that have endured these tragedies, to create a leadership training module on the response to mistaken-identity police-on-police shootings. The training module should be based on a hypothetical case of a mid-sized police agency and should be constructed as a composite, drawing on elements of the shootings of Officers Ridley and Edwards, and perhaps others. The focus would not be on the frontline officers involved, but on the response of leadership at the levels of captain and above. Issues to be covered would include a line-of-duty death policy, notification of family members, management of the crime scene, communication within the department, communication with the media, management of the investigation, identification of issues of race, management of racial tensions through both internal and external communications, treatment of the challenging and shooting officers, and actions to prevent recurrence, among others. The module could be offered in state training programs as well as at national conferences and conventions of the associations of police executives. Such a training module would contain valuable lessons applicable to a wide range of management and leadership challenges, well beyond these police-on-police shootings themselves. It would draw on the dramatic and emotional power of these tragedies to teach skills essential to police leadership today—doing a service to the field while marking the legacy of these officers.

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[69] The Office of Justice Programs includes several relevant agencies, in particular the National Institute of Justice, the Bureau of Justice Statistics, and the Bureau of Justice Assistance.

3. Develop Testing and Training to Reduce Unconscious Racial Bias in Shoot/Don't Shoot Decisions

Among the most promising developments we have encountered is the development of testing that can identify the existence of unconscious racial bias in shoot/don't-shoot decisions, along with the suggestion in early research that police training and experience may reduce this bias. This line of testing and training might save not only the lives of police officers of color in police-on-police confrontations, but of many civilians as well.

The scientific basis for this testing and training remains uncertain, and much more research is needed. The New York Police Department has taken the lead in this field by beginning its own experiments with this testing, in collaboration with the researchers who have pioneered this work, and we urge other large police organizations to follow the NYPD's example here.

The development of this tool might proceed along a path similar to that taken by crime-mapping technology fifteen years ago: with many individual police agencies experimenting on their own, with a growing number of university-based researchers making use of the tools, and with the National Institute of Justice creating a national center to convene interested departments and researchers annually and to bring federal resources to bear on the early application of the tools. The development of these methods for testing levels of unconscious racial bias in shoot/don't-shoot decisions is certainly as significant for the proper control of the use of force as geo-coding and computer mapping have proven to be for the response to crime.

We therefore recommend that the National Institute of Justice issue a special solicitation to researchers working in partnership with law enforcement agencies to develop and apply the potential of this testing. We further recommend, following the example of crime mapping, that the National Institute of Justice create a center for inherent bias reduction that would both develop applications and convene those active in the field over the next five years, and highlight police training programs and other efforts that are shown to reduce unconscious racial bias as measured in these tests.

At the same time, we urge large police agencies not only to examine the early research and to follow the results of the experiments in the NYPD, but also to begin their own experimentation with this testing technology. Breakthroughs in this area have the potential to contribute both to officer safety and greater public safety simultaneously without diverting attention from the importance of training officers on how to handle themselves when confronted.

4. Expand Diversity Training to Include Issues of Diversity within Police Agencies

While most police training curricula today include units on the importance of treating all persons equally, regardless of gender, race, ethnicity, national origin, religion, language, sexual orientation, and other features of identity, there is little focus on diversity within

police organizations. Yet police organizations are becoming substantially more diverse along all of these lines. For example, the NYPD reports that it has seen a significant demographic shift over the past decade, with officers of color comprising just over 35 percent of the force in 2001, but now comprising nearly 47 percent of uniformed personnel and over 53 percent of those holding the rank of police officer.[70]

We recommend that police training on diversity address these internal issues of diversity, even while departments continue to make their existing training on police-community relationships more effective. Police-on-police confrontations provide a powerful lens through which these issues might be understood and discussed in a training context, especially when the officers involved believe that issues of appearance and racial and ethnic identity may have influenced the conduct of officers in the encounter. Those developing such training might begin by surveying their own officers about off-duty and plainclothes police-on-police confrontations, and asking about issues of appearance or identity that might have contributed to any aspect of the confrontation. These survey responses can provide compelling stories about the challenges of diversity within policing. More generally, those developing this training might collect a wide variety of off-duty experiences from the officers of color or other minorities represented within their agencies, using these to introduce discussions of the diversity in the wider communities these agencies serve.

Many current and retired officers of color, including members of our Task Force, believe that among the contributions they can make to improved policing is to help their fellow officers avoid stereotyping by dress or other features of personal appearance, especially among young people of color. We encourage police training departments to take advantage of this desire to help and to make use of the growing diversity within law enforcement to ground training in the experience of the officers within each agency.

5. Designate and Train a Specialized Team to Support Departments that Experience a Police-on-Police Shooting

We hope that New York State never sees another fatal, police-on-police shooting. Still, it would be irresponsible to be unprepared to respond to such a tragedy should one occur again somewhere in the state.

The response of any organization to a rare event is always difficult because the skills learned and instincts honed through experience are less developed, and mistakes therefore occur more easily. Police-on-police shootings are precisely such rare events, and the difficulties inherent in any rare event are compounded here by the emotions that these shootings inevitably stir in all police officers. Indeed fatal, mistaken-identity, police-on-police shootings are probably the most difficult shootings that a police investigator or commander ever confronts, in part because the investigators and commanders dealing with any individual case and the emotions it stirs up have never done so before.

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[70] See Appendix D, Letter from NYPD Commissioner Raymond W. Kelly to Governor David A. Paterson, Nov. 25, 2009 at 6.

What kind of support would a department want and need in the face of such a shooting? Chiefs who have faced these situations tell us they were unprepared to deal with notification of family, psychological support to officers on the scene and to those who worked with the officer who was shot, communication with the public, and more. Investigations can also prove unusual, with officers from across the department involving themselves, offering information, and trying to help bring witnesses forward. A support team should be prepared to offer advice and assistance in all of these areas.

The questions of credibility in these investigations are also complex. If the shooting is controversial, the controversy is likely one dividing the police agency itself or pitting one agency against another, with some police officers and their families questioning the credibility of other police officers. If, in addition, the shooting raises issues of race, a wider debate may be swirling around the investigation. The support team should therefore include investigative expertise, including detectives trained in previous police-on-police shootings and able to bring the lessons from earlier cases to the investigation of a new one.

The cost of such a support team must be modest, for governments will be reluctant to invest substantial sums in preparation for an event that may never occur, and it will be especially difficult to sustain any investment as these recent shootings become more distant. But because no specialized capacity today exists to respond to these shootings anywhere, the creation of some capacity in New York State could be of service elsewhere, and might also recover some of its cost, if its help is requested by another state or by the federal government.

For these reasons, we recommend that a committee of law enforcement executives from the three or four largest local agencies in New York State be convened to design a specialized support team to assist any department in the State with any future police-on-police shootings. This committee should determine what number and type of personnel should be included and how it should be led and managed.

To keep the costs low, we recommend that this not be the principal assignment for any member of the team. Rather, we recommend that membership on the team be an assignment in addition to regular duties, and that it carry merely an expectation of participation in joint training at inception and then on a regular basis. We do not believe, however, that the team should be housed either within the State Police or DCJS. This would need to be an operational, locally credible and diplomatic team that could realistically operate in New York City or any other jurisdiction within the state.

We recommend that the Governor convene this planning committee to establish the precise operational requirements for such a team, to specify the various relationships that such a team might have to any specific case and to identify key resources to support its operations.

Inevitably, there will be delicate issues of comity and respect with the deployment of any support team including officers from outside the location of a police-on-police shooting. These sensitivities would probably make the deployment of such a team on any regular

basis impossible; but police-on-police shootings very rare. If the support team we recommend is assembled with care and sensitivity to these issues, we believe that it would be welcomed by police leadership in a jurisdiction that experiences one of these shootings.

Such a team would have at least four benefits for the State of New York. First, it would bring to bear the highest quality response possible to these rare, high-profile, tragic cases. Second, it would add a level of credibility to the response because of the participation of experts from multiple agencies. The team members might even include forensic experts from a federal law enforcement agency or a civilian legal advisor. We leave the precise composition of the team to the planning committee, but the team should be composed with an eye to the credibility that it is designed to bring to these cases. Third, it would gradually spread expertise in these sensitive cases throughout the state, as officers from several agencies rotated through the team, each gaining rigorous training in the response to complex cases. Fourth, it would establish New York State as a leader in the response to these police-on-police shooting cases. We can easily imagine that this team, once established, would be called upon to assist departments in other states with fatal police-on-police shootings, much as other emergency response teams are called upon. Funding for any deployments out-of-state should come from the requesting jurisdiction or from the federal government, but we recommend that this team be open to such requests, as each will add to its experience and expertise.

6. Establish a Mandatory Statewide Reporting System for Police Firearms Discharges and a Voluntary, Anonymous System for Reporting Police-on-Police Confrontations

Most police-on-police shootings are preventable, but only if supervisors, trainers, and officers themselves understand how they have happened in the past. In the wake of the death of Officer Omar Edwards, the NYPD was able to collect information on previous police-on-police shootings within the department—fatal or not—because it had earlier begun to maintain a record of all police firearms discharges. As a result, the NYPD is able to learn from its experience. The same is not true at the state level because many departments do not keep a record of all shots fired, and none of them are required to report this information to the state. That should change.

All law enforcement agencies within New York State should be required to record and report to DCJS a record of *all* police firearms discharges, including those in which civilians are targets.[71] Timely, accurate and comprehensive information about police shootings will also help to better inform the public about both problems and progress, particularly within communities of color.

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[71] See, for example, New York City Police Department, *Annual Firearms Discharge Report, 2008*. The value of this kind of reporting was described by Donna Lieberman and Christopher Dunn of the New York Civil Liberties Union, in their written submission of December 2, 2009, to the Task Force: "If complete factual information about shootings is freely available to the public – advocates, elected officials, academics, the media, and other law-enforcement agencies – it will greatly enhance the likelihood that the role of race in shootings will get a thorough review."

We considered and rejected the idea that police agencies be required only to record and report police-on-police shootings. Law enforcement experts advised us that a department would only be able to accurately report police-on-police shootings if it were routinely recording and reporting all firearm discharges. We recognize that in order for a data reporting requirement to be faithfully implemented, it must complement existing reporting obligations, formats and methods. A special process for reporting only police-on-police shootings would be unreliable. Furthermore, we also believe that the results of this reporting will only be valuable when viewed in the wider context of all firearms discharges.

We therefore recommend that the Governor submit and that the New York State Legislature adopt legislation requiring all law enforcement agencies in the state to report to DCJS annually all firearms discharges by its sworn officers. The legislation should specify that these reports should appropriately identify demographic information (including, but not limited to the age, rank, gender, race/ethnicity, duty assignment, etc.) of all parties involved, along with summary information about the circumstances, injuries to any party, and other relevant information. And it should also require DCJS to publish annual reports on this firearm discharge data.

We considered and rejected the idea that all police-on-police confrontations be reported to the state. We are persuaded that the vast majority of these confrontations, even those involving the display of a weapon, are not reported through any formal channel, and most are not reported even informally. With some notable exceptions, the officers involved on both sides are usually embarrassed and apologetic, resolving the misunderstanding among themselves. Any effort to require reporting of these confrontations would fail.

At the same time, we recognize the value for training and preventive purposes of as much information as can be gathered about confrontations that do not involve shots being fired. We therefore recommend as a complement to the mandatory reporting of police-on-police firearms discharges that the Legislature also require all law enforcement agencies to offer the chance to all officers during annual firearms requalification to voluntarily complete an anonymous questionnaire reporting the details of any police-on-police confrontations in the last year. Full copies of these completed questionnaires should be forwarded to DCJS for analysis and inclusion in an annual report on police-on-police shootings and other confrontations. We further recommend that DCJS cooperate with the International Association of the Chiefs of Police in their efforts to establish a national data repository that would include police-on-police shootings.[72]

With any phenomenon this rare, there is no substitute for national data. The FBI's LEOKA program already collects information about fatal police-on-police shootings and felonious

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[72] As a result of the significant limitations on the availability of national data regarding duty related deaths and injuries of police officers, the International Association of Chiefs of Police is planning to establish a Center for the Prevention of Violence Against the Police. The proposed Center would serve as a repository of national data and an incubator for research and the development of best practices for the prevention of violence against law enforcement officers. The Task Force enthusiastically supports the establishment of this Center and applauds the IACP for taking the initiative in this area. Careful and comprehensive data collection and analysis can be powerful tools in preventing the tragedy of mistaken identity police-on-police shootings.

assaults of police officers. At present, however, fatal police-on-police shootings are subsumed in a larger "accidental shooting" category and non-fatal police-on-police shootings are not captured in LEOKA data at all. We encourage the U.S. Department of Justice and the FBI to enhance the LEOKA program's data collection efforts to include and clearly delineate mistaken-identity police-on-police shootings in its standard data categories.   We further recommend that LEOKA conduct follow-up interviews with the law enforcement agencies involved in any reported fatal or non-fatal police-on-police shootings or confrontations. Currently, its follow-up interviews are limited to incidents involving felonious assaults on officers.

7. Promote Transparency in Prosecutorial Decisions Regarding Police-on-Police Shootings

Any individual police-on-police shooting may or may not result in prosecution of one or more of the officers on criminal charges, though this seems not to have occurred anywhere in the last 30 years. Some police-on-police shootings lead to civil litigation. Nevertheless, the possibility of prosecution and litigation in these cases should not be an excuse for withholding information from the public. We believe that transparency must be among the primary goals of all investigators and prosecutors dealing with these cases. The need for transparency could, in certain circumstances, be grounds for the appointment of a special prosecutor under existing statutory authority, but we believe that elected district attorneys can handle these cases as credibly as any special prosecutor if they maintain a commitment to public transparency within the limits of existing law.

We recognize that some advocates have called for the appointment of a standing, full-time special prosecutor to handle one or all police-on-police shooting cases in New York State. More common have been calls for an independent investigative body. For example, in his presentation to the Task Force, Damon Jones, President of the Northeast Region of the National Black Police Association (NBPA), explained his view that "an independent investigative unit could review incidents from the start, when evidence collection and interviewing witnesses is most important."[73] Similarly, Detective Anthony Mitchell, President of the Westchester Chapter of the NBPA, testified:

> Implementing a Statewide Independent Investigative Unit will eliminate the perception of injustice within the law enforcement ranks and ensure that both the officers and the alleged victims receive a fair and impartial thorough investigation. It will uncover the truth based on the evidence, which may resolve so many unanswered questions while continuously building trust between law enforcement and the community. There have been too many incidents involving law enforcement with too many questions and not enough answers. We are calling for more transparency within the system to protect both our law enforcement officers and the citizens in the community in which they serve.[74]

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[73] Testimony of Damon Jones, December 4, 2009 (White Plains public hearing).
[74] Testimony of Anthony Mitchell, December 4, 2009 (White Plains public hearing).

Charles Wilson of the National Association of Black Law Enforcement Officers echoed these sentiments at our Albany hearing:

> The investigative process for these incidents must . . . become more transparent, as it has become increasingly clear that the community, and many of the officers themselves, have little or no faith in the methodology by which the police "police themselves." Independent investigative bodies should be put in place, whether by legislative act or executive fiat that will have the ability and authority to consider the actions of all parties involved in these incidents, as well as the power to bring to bear the force of the justice system upon those who transgress.[75]

Nevertheless, we believe that the creation of the statewide support team recommended above, combined with a commitment to transparency in prosecutorial decision-making, will achieve the goals many of these advocates seek. Investigations by police and prosecutors should be pursued with a commitment to eventual full disclosure of what happened and how the investigation was conducted.

We do not find compelling reasons to prioritize confidentiality over the need for public confidence. While the need for some confidentiality is understandable, it must be balanced with the public's need to know that their police departments can be trusted to police themselves. And given their role in amassing information for grand jury proceedings, District Attorneys are in the best position to ensure transparency. Experienced, skillful prosecutors know how to honor grand jury secrecy while still permitting ample and timely public disclosure. In short, prosecutors considering criminal liability in these cases should err on the side of public disclosure, using the grand jury to investigate but not to shroud the case in secrecy. The Governor and the Attorney General should use their powers to appoint special prosecutors or assume the prosecution themselves only to the extent that doing so represents the most effective way to maintain transparency and credibility for the public.

8. Apply the Lessons of Police-on-Police Shootings to Reduce Mistaken Police-Civilian Shootings

Our charge from the Governor was to examine the implications of police-on-police shootings to enhance officer safety and public safety, and this must include applying the lessons we have learned to save civilian lives whenever possible. We have concluded that protocols and training for confronted officers can help them avoid and defuse armed confrontations with other police, and we believe similar benefits would come from protocols and training for civilians who find themselves in confrontations with police. Advice to remain absolutely motionless, to obey the commands of the officer in charge, and to avoid turning towards the officer might all be applicable to civilians. For those with a limited understanding of English, it might even be useful to identify oneself loudly and

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[75] Testimony of Charles Wilson, November 16, 2009 (Albany public hearing).

clearly as someone who is fluent only in a certain language, or as someone who does not understand English.

Indeed, many police organizations already participate in voluntary training programs that help civilians navigate high-stress encounters with police officers during traffic stops and pedestrian stops. Yet, the existing, voluntary programs are largely aimed at youth of color in urban communities. We are concerned that this focus may inadvertently communicate that these young people need instruction to comply with police commands in ways that their white or wealthy counterparts do not. If advice and training is useful for civilians who find themselves in confrontations with police officers, it is important it be offered on a universal basis, not only to certain people.

We recommend that DCJS convene a committee of nonprofit organizations that currently offer programs of training for civilians on how to handle themselves during confrontations with police. That committee should review the lessons drawn from the police-on-police shootings and consider developing common advice for civilians that can be disseminated by any interested organizations on de-escalating confrontations. That advice might be usefully divided between advice for traffic stops and advice for pedestrian stops. In both cases, the advice might emphasize the importance of remaining still, keeping hands visible, and obeying the instructions of the officer stopping you. The guidelines should be developed to be broadly applicable to various contexts so that a simple set of guidelines can serve civilians well in as many situations as possible and can become common knowledge.

In order to underscore the universal nature of this advice, we recommend that the advice for handling oneself in a traffic stop be included among the questions asked as part of the written portion of the examination for a driver's license in New York State. Requiring this knowledge as universally as possible will help to spread the knowledge widely and remove any unintended stigma that might be associated with the need for this guidance. The most recent national survey data suggest that the largest category of police-civilian encounters occur in traffic stops, and these occur roughly equally across racial and ethnic lines. [76]

9. Expand Understanding of the Life Experiences of Officers of Color

We return, in our final recommendation, to the most striking fact revealed by our examination of almost 30 years of police-on-police shootings: officers mistaken for offenders and killed while off-duty have almost all been officers of color, whereas officers killed while working plainclothes or undercover have been of all races and ethnicities. Why are officers of color at such special risk when taking action off duty?

The answer to that question is unknown, but certainly complicated. Yet the scholarship on policing in the United States has virtually ignored the off-duty experiences of officers of color. Although research on policing has penetrated almost every aspect of this dangerous work, it has rarely if ever followed officers of color back home at the end of their shifts.

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[76] Durose, et al., http://bjs.ojp.usdoj.gov/content/pub/pdf/cpp05.pdf.

Three of the nine members of this Task Force are current or retired officers of color, as are many of those who offered testimony or written submissions to us. Together, they and others have alerted us to the special strains and tensions that officers of color face when they take off their uniforms. One African-American former police chief described being stopped by police officers who did not recognize her when she was trying to enter her own home; another former chief told us of warning his son, also a police officer, to be on his guard because his black skin makes him different from other officers.

As police agencies across the nation become more diverse, the leaders of these agencies need to understand more about the life experiences of their officers of color, especially the experiences while out of uniform. We urge police executives across the nation to engage their officers of color in structured conversations about these experiences on a regular basis. Equally important, we urge the National Institute of Justice and the Office of Community Oriented Policing Services (the "COPS Office") to support research into this largely ignored area of contemporary policing and to engage a broad spectrum of officers of color and the various police fraternal organizations that represent them in dialogue with police executives and researchers about these issues. It should not take a police-on-police shooting to shake the field into awareness about the need to respect, support, and embrace officers of color as they strive to do their duty, serve their country, and bring safety and justice to communities that need them so dearly.

Figure 4.2 Summary of Recommendations

1. **Develop State and National Protocols for Police-on-Police Confrontations**
    a. In New York State, the MPTC should develop state-wide protocols for taking police action out of uniform, protocols for confronted officers, and protocols for challenging officers.
    b. The U.S. Department of Justice should endorse the same protocols encouraging consistency across the country.
2. **Require Continuing, Interactive Training on Confrontations**
    a. In New York State, the MPTC should double the current 2-hour mandate and should require that the training use interactive simulations and role-playing.
    b. Police agencies should include confrontation training as a part of annual firearms requalification.
    c. The New York State Legislature should amend NY Exec. Law Sec. 840 to give the MPTC the same authority over in-service training that it currently exercises over recruit training.
    d. The New York State Legislature should amend NY Exec. Law Sec. 840 to give the MPTC the same authority over police management and leadership training that it currently exercises over recruit training.
    e. The MPTC should establish a 21-hour in-service training requirement, to include confrontation training.
    f. Federal law enforcement agencies should require interactive confrontation training of all members of all joint task forces
    g. The U.S. Department of Justice should develop and sponsor annual training opportunities on confrontations available to those retired and off-duty officers who seek to carry weapons across state lines pursuant to LEOSA.
    h. The U.S. Department of Justice should collaborate with one or more large municipal police agencies to develop a leadership training module on responding to cross-racial, mistaken-identity, police-on-police shootings drawing on the experience of the police agencies that have faced these tragedies.
3. **Develop Testing and Training to Reduce Unconscious Racial Bias in Shoot/Don't Shoot Decisions**
4. **Expand Diversity Training to Include Issues of Diversity within Police Agencies**
5. **Designate and Train a Specialized Team to Support Departments that Experience a Police-on-Police Shooting**
6. **Establish a Mandatory Statewide Reporting System for Police Firearms Discharges and Voluntary, Anonymous System for Reporting Police-on-Police Confrontations**
    a. The NY Legislature should adopt and the Governor should approve legislation requiring annual reports of all firearms discharges.
    b. The NY Legislature should require the Division for Criminal Justice Services to conduct a continuing, voluntary, anonymous survey of all law enforcement officers undergoing firearms requalification regarding police-on-police confrontations.
    c. The U.S. Department of Justice and the FBI should refine the LEOKA reporting system to collect information on all fatal and non-fatal police-on-police shootings, pursuing these to the same level of detail that is currently applied to felonious, fatal shootings of police officers.
7. **Promote Transparency in Prosecutorial Decisions Regarding Police-on-Police Shootings**
8. **Apply the Lessons of Police-on-Police Shootings to Reduce Mistaken Police-Civilian Shootings**
9. **Expand Understanding of the Life Experiences of Officers of Color**

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NEW YORK STATE GOVERNMENT

Executive Chamber
Charlotte Hitchcock,
   Chief of Staff to the Governor
Clemmie Harris
Terri Brennan
Seny Taveras
Latia Curry
Lauren Passalacqua
Richard Thomas
Joseph Simenic
Brandon Kelley
Marco Carrión
Sandra Hawkins
Thomas Aiello
James Hanson
Thomas Irvin
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Jeanette Cepeda
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   Deputy Commissioner
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   Deputy Commr. & Counsel
Patrizia Greco
Mark Bonacquist
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Richard Bellucci
Julie Pasquini
Hilary McGrath
Lucy Verrigini
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Terry Salo
Todd Nelson
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Lori Wheelock
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Amityville Village Police Department
Auburn Police Department
Avon Police Department
Bath Village Police Department
Beacon Police Department
Binghamton Police Department
Buffalo Police Department
Camillus Police Department
Canajoharie Police Department
Chatham Village Police Department
Chester Town Police Department
Clarkstown Town Police Department
Coeymans Town Police Department
Colonie Town Police Department
Eastchester Town Police Department
Ellenville Police Department
Elmira Heights Village Police Department
Elmira Police Department
Endicott Police Department
Evans Town Police Department
Fallsburg Town Police Department
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Fulton City Police Department
Garden City Police Department
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Hamburg Village Police Department
Palmyra Police Department
Pelham Manor Police Department
Port Chester Village Police Department
Port Washington Police Department
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Poughkeepsie Town Police Department
Quogue Village Police Department
Rensselaer Police Department
Rochester Police Department
Schenectady Police Department
Skaneateles Police Department
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Spring Valley Village Police Department
Stony Point Town Police Department

Hempstead Village Police Department
Highland Falls Police Department
Hudson Police Department
Jamestown Police Department
Johnson City Police Department
Kenmore Police Department
Kingston Police Department
Kirkland Town Police Department
Little Falls Police Department
Lloyd Town Police Department
Lowville Police Department
Lyons Village Police Department
Macedon Town Police Department
Malverne Police Department
Middletown Police Department
Mount Kisco Police Department
Mount Pleasant Town Police Department
Nassau County Police Department
New Hartford Town Police Department
New Rochelle Police Department
New Windsor Town Police Department
New York Mills Police Department
Newburgh City Police Department
Newburgh Town Police Department
Niagara Falls Police Department
North Tonawanda Police Department
Old Westbury Village Police Department
Oneida Indian Nation Police Department
Suffolk County Police Department
SUNY-Cortland Police Department
SUNY-Oneonta Police Department
Syracuse Police Department
Tonawanda Town Police Department
Troy Police Department
Tuxedo Town Police Department
Ulster Town Police Department
Utica Police Department
Waterford Police Department
Watertown Police Department
Webster Police Department
Yonkers Police Department
NYS Dept. of Env. Conservation Police
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Abdul Qadaar, *Christopher Ridley Rucker Show*
Ernie Davis, *Conversations with Ernie Davis*

Appendix A: List of Fatal Police-on-Police Shootings 1981-2009

DATE OF INCIDENT	VICTIM OFFICER NAME & RANK	DUTY ASSGIGNMENT	RACE	LOCATION OF INCIDENT	VICTIM OFFICER AGENCY	CONFRONTING OFFICER(S) AGENCY
8/18/82	KATHLEEN C. SCHAEFER *Police Officer*	Undercover	W	Houston, TX	Houston PD	Houston PD
10/31/82	ROBERT PATTERSON *Police Officer*	Off-Duty	W	Birmingham, AL	Birmingham PD	Birmingham PD
10/4/85	ROBIN L. AHRENS *Special Agent*	Plainclothes	W	West Phoenix, AZ	FBI	FBI
2/5/86	GIACOMO "JACK" BUFFA *Police Officer*	Plainclothes	W	Detroit, MI	Detroit PD	Detroit PD
5/26/86	WAYMON DEE ALLEN *Special Agent*	Undercover	W	Polk County, FL	Polk County Sheriff's Office	Winter Haven PD
12/12/86	RONNIE DONALD COX *Police Officer*	Plainclothes	W	Dallas, TX	Addison PD	Dallas PD
3/7/87	LYNN RUSSELL SUTTER *Detective*	Plainclothes	W	Mt. Lebanon, PA	Bethel Park PD (PA)	Mt. Lebanon PD (PA)
7/2/87	GERRY LANE IVIE *Lieutenant*	Plainclothes	W	Duchense, UT	Duchense County Sheriff's Office	Duchense County Sheriff's Office
12/14/87	JAMES L. GORDON *Police Officer*	Off-Duty	B	Largo, MD	Metropolitan PD	Prince George's County PD
2/16/88	JESSIE WILLIAM LUNDY *Police Chief*	*Unknown*	W	Leesville, SC	Leesville PD	Lexington County Sheriff's Department
12/11/91	LAWRENCE D. BROMLEY *Senior Corporal*	Undercover	W	Dallas, TX	Dallas PD	Dallas PD
11/4/94	RUFUS GATES *Major*	Off-Duty	B	Memphis, TN	Memphis PD	Memphis PD
2/7/95	JAMES MCGEE JR. *Police Officer*	Off-Duty	B	Washington, DC	Metropolitan PD	Metropolitan PD
2/10/95	MARK ANDREW WHITE *Police Officer*	Plainclothes	W	Roseville, CA	Roseville PD	Roseville PD
3/13/96	JAMES REX JENSEN, JR. *Police Officer*	Uniformed	W	Oxnard, CA	Oxnard PD	Oxnard PD
2/16/98	RANDY A. STEPHENS *Deputy Marshal III*	Plainclothes	B	St. Thomas, VI	U.S. Marshal Service	*Unknown*

DATE OF INCIDENT	VICTIM OFFICER NAME & RANK	DUTY ASSGIGNMENT	RACE	LOCATION OF INCIDENT	VICTIM OFFICER AGENCY	CONFRONTING OFFICER(S) AGENCY
7/18/98	**THOMAS HAMLETTE JR.** *Police Officer*	Off-Duty	B	Washington, DC	Metropolitan PD	Metropolitan PD
1/28/00	**CORNEL YOUNG JR.** *Police Officer*	Off-Duty	B	Providence, RI	Providence PD	Providence PD
1/11/01	**WILLIAM A. WILKINS** *Police Officer*	Undercover	H	Oakland, CA	Oakland PD	Oakland PD
6/4/04	**MICHAEL HARRY WISE II** *Police Officer*	Undercover	W	Reading, PA	Reading PD	Reading PD
7/6/05	**NEHEMIAH PICKENS** *Reserve Deputy Constable*	Off-Duty	B	Houston, TX	Harris County Constable's Office	Harris County Sheriff's Office
9/24/05	**MARIO ROBERTO JENKINS** *Police Officer*	Undercover	W	Orlando, FL	University of Central Florida PD	Orlando PD
1/28/06	**ERIC HERNANDEZ** *Police Officer*	Off-Duty	H	New York, NY	NYPD	NYPD
5/21/06	**SENECA BAILEY DARDEN** *Police Officer*	Plainclothes	B	Norfolk, VA	Norfolk PD	Norfolk PD
1/25/08	**CHRISTOPHER RIDLEY** *Police Officer*	Off-Duty	B	White Plains, NY	Mount Vernon PD	Westchester Co. Department of Public Safety
5/28/09	**OMAR EDWARDS** *Police Officer*	Off-Duty	B	New York, NY	NYPD	NYPD

The facts of the cases of the off-duty officers are described in the body of our report (Groups A and B). Here we briefly describe the circumstances, such as we were able to discover them, in the on-duty deaths. We divide these into two categories: planned team operations and on-duty responses to street crimes.

Group C: Planned Team Operations

Twelve of the fatal incidents began as planned operations that involved a law enforcement team organized to achieve a tactical objective. The operations were primarily drug enforcement-related and frequently involved multiple officers in various roles – uniformed, plainclothes and undercover. These team operations consisted of four drug raids, two buy-and-busts, one underage drinking operation, and three fugitive apprehension operations. In some instances more than one team was involved in the planned operation and some were multijurisdictional teams.

Case C1: Kathleen C. Schaefer (1982, White Female Officer with the Houston, Texas, Police Department).   In a buy-and-bust operation involving both uniformed and undercover officers, the victim officer exited her unmarked vehicle with her gun drawn in order to assist with a suspect's arrest. She was then mistaken for an accomplice by uniformed officers and fired upon.

Case C2: Robin L. Ahrens (1985, White Female Special Agent with the FBI).   The victim agent and several other FBI agents in plainclothes converged on apartment complex to arrest a fugitive subject wanted for violent crimes in two other states. The suspect was cornered by one of the agents and a struggle ensued for the agent's weapon, causing it to discharge. Hearing the shots, the victim agent ran with her gun drawn towards the sound of the gunfire, through a poorly lit hallway. She was mistaken for an accomplice by two other agents on her own team and was shot dead. It is unclear whether there was any communication between the confronting and victim officers.

Case C3: Giacomo Buffa (1986, White Male Police Officer with the Detroit, Michigan, Police Department). In a drug raid, the plainclothes victim officer entered a suspected drug house armed with a shotgun along with three other plainclothes officers. Unrelated to this operation, four uniformed officers had already responded to the same location after receiving a call regarding possible shots fired. One of the uniformed officers opened fire after seeing the victim officer holding the shotgun and approaching him.

Case C4: Waymon Dee Allen (1986, White Male Special Agent with the Polk County, Florida, Sheriff's Office). This incident began as a joint drug operation with both plainclothes and uniformed officers from different agencies. The officers converged on a rooming house. The undercover victim officer fired his weapon through a door to defend himself after being attacked by one of the residents. An officer involved in the operation (but from another agency) saw the muzzle flashes from the victim officer's weapon and fired upon the victim officer, mistaking him for a suspect firing upon the challenging officer's partner.

Case C5: Ronnie Donald Cox (1986, White Male Officer with the Addison, Texas, Police Department). In a joint drug raid with a SWAT team from the police department in whose jurisdiction the operation was talking place, the plainclothes victim officer assisted an undercover officer whose arm had been slammed in the door of a residence by a suspect. After assisting the undercover officer, the victim officer entered the premises and held the suspect's female accomplice at gunpoint. A SWAT team member later entered the premises and mistook the victim officer for the suspect. The SWAT member then opened fire with a sub-machine gun after reportedly ordering the victim officer to drop his weapon several times.

Case C6: Lynn Russell Sutter (1987, White Male Detective with the Bethel Park, Pennsylvania, Police Department). The plainclothes victim officer was part of a joint buy-and-bust operation involving undercover and plainclothes officers from different jurisdictions. The victim officer and his partner were assigned to survey the rear of the suspect's home while the "search team" entered from another location. Nevertheless, the

victim officer and his partner entered the basement after noticing a male subject through a window. The officers secured the basement and then followed the subject up the stairs to the first floor of the building. As they approached the top of the dimly lit stairs, the "search team" officers opened the door and a uniformed officer observed a figure in shadows holding a weapon – the victim officer. The uniformed officer fired and struck the victim officer in the head.

Case C7: Jessie William Lundy (1988, White Male Chief of the Leesville, South Carolina, Police Department). The victim police chief was assisting colleagues from a different agency in a joint drug raid at a mobile home. The challenging officer was being attacked by a female and a dog. The victim officer shot the dog to assist the challenging officer, and then lost his footing. The challenging officer was startled by the gunshot and fired at the victim police chief, mistakenly believing him to be an additional suspect.

Case C8: Lawrence D. Bromley (1991, White Male Senior Corporal with the Dallas, Texas, Police Department). In an undercover role on a buy-and-bust, the victim officer and his partner entered a vehicle containing two subjects to conduct a drug transaction. At some point the subject in the driver's seat attempted to rob the victim officer and his partner. The victim officer, who was in the back seat of the vehicle, fired on one of the subjects as backup officers converged on the car. Mistakenly believing the victim officer to be in the front seat of the vehicle, the backup team shot both the victim officer and one of the subjects.

Case C9: James Rex Jensen, Jr. (1996, White Male Officer with the Oxnard, California, Police Department). The victim officer, a member of his police department's SWAT team, was conducting a drug raid on a residence as the uniformed "entry man", leading several other heavily armed SWAT team members.   After the victim officer entered the premises, he rushed upstairs and detonated a smoke grenade. Seconds later he was mistaken for a suspect and shot by a supervisor from his own police department.

Case C10: Randy A. Stephens (1998, Black Male Deputy Marshal III with the United States Marshal's Service). While dressed in disguise, the undercover victim officer and three other U.S. Marshals were engaged in a stakeout to apprehend a fugitive wanted in New Jersey. In the course of pursuing the actual suspect, who began to flee on foot, the officers fired an unknown number of warning shots.   As the victim officer was chasing the suspect, he was observed by an off-duty officer who mistook him for a suspect and fired several shots.

Case C 11: Mario Roberto Jenkins (2005, White Male Officer with the University of Central Florida Police Department). On a joint operation targeting underage drinking at college football tailgate parties, the undercover victim officer fired a warning shot after becoming engaged in altercation with a belligerent group of intoxicated students. He was then attacked by one of the group and the victim officer shot and wounded this attacker. Upon hearing the shots, two officers from another department rushed toward the scene from separate locations. One of these uniformed officers mistook the victim officer for a suspect after seeing him holding a suspect at gunpoint.

Group D: On-Duty Responses to Crimes in Progress

This category of mistaken-identity shootings concerns victim officers who were on duty and responded to a crime-in-progress. In each of these incidents, the challenging officers mistook the victim officer for an actual suspect who was still on the scene. The sights and sounds of other gunfire added to the confusion in four cases, while in two of those cases and two others in which other gunfire was not present, the victim officers reportedly failed to comply with orders from the challenging officers.

Case D1: Gerry Lane Ivie (1987, White Male Lieutenant with the Duchense County, Utah, Sheriff's Department). Officers had set up a roadblock to stop a suspect who was fleeing a neighboring town in a vehicle after reportedly threatening to kill his wife and child. The suspect's car was eventually stopped by officers shooting out one of his tires. After the car was stopped, the victim officer drove between the suspect's vehicle and a challenging officer positioned some distance away. In the dim light, the challenging officer apparently mistook the victim officer's vehicle for the suspect's vehicle and fired, killing the victim officer.

Case D2: Mark Andrew White (1995, White Male Officer with the Roseville, California, Police Department). The plainclothes victim officer was mistaken for a suspect by a uniformed officer after the actual suspect (a mentally disturbed person) opened fire in the lobby of a police station. After several rounds had been fired by the suspect and at least one of the six responding officers, two uniformed officers mistook the victim officer for the suspect and fired one round each.

Case D3: William A. Wilkins (2001, Hispanic Male Officer with the Oakland, California, Police Department). While on an undercover narcotics assignment in conjunction with community police officers and driving an unmarked vehicle, the victim officer spotted a suspect driving a stolen vehicle. He apprehended the suspect after a foot pursuit and held him at gunpoint. Even though the victim officer had communicated his actions on the main police radio channel, he was mistaken for the actual suspect and shot multiple times by two uniformed officers responding to his radio call regarding the pursuit.

Case D4: Michael Harry Wise II (2004, White Male Officer with Reading, Pennsylvania, Police Department). While in an undercover role, the victim officer and his two partners located and reported a suspect wanted for homicide. After exiting their vehicle and exchanging gunfire with the actual suspect, the victim officer and his partners were observed by a uniformed patrol officer who was unaware of the ongoing undercover operation. Confusing the suspect with the undercover officers, the uniformed officer fired several rounds at them, one of which may have ricocheted before striking the victim officer in the head as he attempted to reenter his car for cover. The challenging officer may have issued a verbal commend to one of the victim officer's partners.

Case D4: Seneca Bailey Darden (2006, Black Male Officer with the Norfolk, Virginia, Police Department). The victim officer and his partner were working a plainclothes burglary detail when they responded to a call regarding a double shooting at a nearby apartment complex. Leaving their assignment, they assisted uniformed officers in apprehending a suspect at gunpoint. At that point a uniformed officer from the canine unit approached, unaware that plainclothes officers were at the scene. After mistaking the victim officer for an actual suspect, the uniformed confronting officer ordered the victim officer to drop his weapon. After the victim officer did not comply, the confronting officer released his canine, which mistakenly attacked another person in the crowd. Responding to this, the victim officer reportedly began to turn with his weapon drawn and was shot by the uniformed officer.

An incident of mistaken identity is one in which a New York City police officer fires on another New York City Police officer or other law-enforcement agent in the mistaken belief that the subject officer is a criminal and poses an imminent physical threat. Mistaken-identity incidents are distinguished from crossfire incidents in that the shooting officer is purposefully and intentionally choosing to fire on the targeted officer. Unintentional crossfire incidents and accidental discharges resulting in injury or death to fellow officers are not included. Unauthorized discharges, in which an officer injures or kills another officer in a criminal manner (e.g., domestic incidents), are also excluded.

TEN KNOWN MISTAKEN IDENTITY INCIDENTS THAT RESULTED IN THE DEATH OF AN OFFICER:

1) Ptl Edward Keenan	02/23/1930	M/W, off duty, shot by off-duty M/W probationary Ptl
2) Ptl John A. Holt	02/12/1940	M/B, off duty, shot by uniformed M/W officers
3) Ptl Jacob J. Szwedowski	04/29/1945	M/W, on duty in plainclothes, shot by uniformed M/W officer
4) Ptl Donald Rainey	09/29/1965	M/W, off duty, shot by off-duty M/W Ptl (also shot)
5) Ptl David Turman	10/13/1968	M/B, NYPD, off duty, shot by off duty M/B HPD Ptl (also shot)
6) Det William R. Capers	04/03/1972	M/B, on-duty plainclothes, shot by uniformed M/W officer
7) PO John Skagen	06/28/1972	M/W Transit officer, off duty, shot by NYPD M/W officers
8) PO Irving E. Wright	03/05/1973	M/B, off duty, shot by uniform M/W officers
9) PO Eric Hernandez	01/28/2006	M/H, off duty, shot by uniform M/H officer
10) PO Omar Edwards	05/28/2009	M/B, off duty, shot by plainclothes M/W officer

INCIDENT NARRATIVES:

Patrolman Edward P. Keenan, 02/23/1930

On February 23, 1930, at approximately 0100 hours at Sixth Street and First Avenue in Manhattan, probationary Patrolman Edward P. Keenan was in an incident of mistaken identity. Probationary Patrolman Keenan was shot by probationary Patrolman Joseph Dugan. Both officers were off duty and in civilian clothes at the time; both were male whites. Patrolman Dugan, observing an altercation in which Patrolman Keenan was involved, confronted Patrolman Keenan. Mistaking Patrolman Keenan for a perpetrator about to draw a weapon, Patrolman Dugan shot him. Patrolman Keenan was transported to Bellevue Hospital, where he died. In 1931, Patrolman Keenan was posthumously awarded the Department's Medal of Honor.

Patrolman John A. Holt, 02/12/1940

On February 12, 1940, at approximately 2030 hours at Bradhurst and 155th Street in Manhattan, Patrolman John A. Holt was killed during an incident of mistaken identity. Patrolman Holt, a male black, was off duty and in civilian clothes. He was armed and searching for a burglar who had run from Patrolman Holt's apartment building and entered a neighboring building. During the pursuit, Patrolman Holt had fired several rounds. When a uniformed sergeant and patrolman responded they observed

Patrolman Holt, with gun in hand, preparing to climb up to the roof. Upon being instructed to drop the weapon, Patrolman Holt instead turned towards the officers and was shot. He died at the scene. Patrolman Holt was posthumously awarded the Department's Medal of Honor.

Patrolman Jacob J. Szwedowski, 04/29/1945

On April 29, 1945, at approximately 1940 hours in front of 13 East 113th Street in Manhattan, Patrolman Jacob J. Szwedowski was killed in an incident of mistaken identity. Patrolman Szwedowski and his partner, both on duty and in plainclothes, had arrested a female for prostitution. The female resisted arrest, screaming that she was being kidnapped and causing a crowd to gather. Patrolman Szwedowski fired a warning shot in an attempt to disperse the crowd. Patrolman Phillip J. Ryan, on duty and in uniform, was drawn by the crowd and the shot. He fired at Patrolman Szwedowski, causing a fatal wound. Patrolman Szwedowski was posthumously awarded the Department's Medal of Honor.

Patrolman Donald J. Rainey, 09/29/1965

On September 29, 1965, at approximately 2300 hours in the 20 Precinct, Patrolman Donald J. Rainey was killed in an incident of mistaken identity. Patrolman Rainey, a white-shield detective, was off duty and in plainclothes in a bar and grill on 73rd Street when he was shot by off-duty Patrolman Richard Selkowitz, who was also wounded in the exchange. Both officers were male whites. A citizen had informed Patrolman Selkowitz that there was a man with a gun in a nearby restaurant, and when Patrolman Selkowitz entered the establishment with his gun drawn, Patrolman Rainey, a patron of the café, mistook Patrolman Selkowitz for a perpetrator and fired on him, striking Patrolman Selkowitz twice in the hand. Patrolman Selkowitz returned fire, killing Patrolman Rainey.

Patrolman David Turman, 10/13/1968

On October 13, 1968, at approximately 0400 hours in front of 2495 7th Avenue in Harlem, probationary Patrolman David Turman, a male Black, was killed during an exchange of gunfire resulting from a mistaken-identity incident. Patrolman Turman was off duty and in plainclothes at the time. He was shot by Housing Police Department Patrolman Taylor Johnson, a male black, who was also off duty and in civilian clothes. Patrolman Turman was attempting to effect an off-duty, gunpoint arrest of an individual who had impersonated an officer. When Patrolman Johnson observed the incident, he mistook Patrolman Turman for a perpetrator committing a robbery and drew his own weapon. Patrolman Turman, similarly mistaking Patrolman Johnson, turned his weapon on Patrolman Johnson. Both officers fired; Patrolman Johnson was struck in the chest and wounded while Patrolman Turman was struck and killed. Patrolman Johnson was taken to Harlem Hospital in serious condition.

Patrolman William R. Capers, 04/03/1972
On April 3, 1972, at approximately 1600 hours in the 103 Precinct, second-grade Detective William R. Capers was shot and killed in an incident of mistaken identity. Detective Capers, a male black, was on duty in plainclothes, conducting investigations of a purse-snatching robbery pattern. Detective Capers was chasing a suspect who was in possession of a firearm and had fired a warning shot before stopping the suspect. Officer Robert Kenny, a male white, on duty and in uniform, responded to the scene and, mistaking Detective Capers for a perpetrator, shot and killed him. On May 26, 1972, a Grand Jury refused to indict Officer Kenny. The use of "color-of-the-day" headbands was widely expanded owing to this incident.

Police Officer John Skagen, 06/28/1972
On June 28, 1972, at approximately 1700 hours in the Hunts Point Avenue IRT subway station, Transit Police Department Police Officer John Skagen was shot and killed by NYPD officers in an incident of mistaken identity. Officer Skagen, a male white, off duty and in plainclothes, was returning home from court via the 6 Train subway when he observed a male black suspect in possession of a firearm. Officer Skagen attempted to effect an arrest but the perpetrator fled. The two exchanged gunfire, and both were wounded. Police Officers John Jacobson and George Wieber, on-duty, M/W uniformed officers of the NYPD's 41 Precinct, heard the gunfire and witnessed the perpetrator fleeing the transit system at the Hunts Point/Bruckner Boulevard station. The perpetrator, who had hidden his own weapon, told the patrolmen "There's a crazy man shooting," and the officers confronted Officer Skagen. Officer Wieber fired six rounds, striking Officer Skagen. Officer Skagen was removed to Lincoln Hospital where he succumbed to his injuries. The perpetrator was apprehended; he was later convicted of reckless manslaughter and sentenced to 15 years in prison.

Police Officer Irving E. Wright, 03/05/1973
On March 5, 1973, at approximately 0245 hours in the 28 Precinct, Police Officer Irving E. Wright was killed in an incident of mistaken identity. Officer Wright, a male black, was off duty and in plainclothes at the time. He was working in a grocery store when a perpetrator entered and robbed the store at gunpoint. After the robber fled, Officer Wright gave chase. He and the robber exchanged gunfire, and two on-duty, uniformed officers responded. The robber hid beneath a parked car, and Officer Wright was confronted by uniformed Police Officers Michael J. McShane and John H. Sether, both male whites. As Officer Wright turned towards the officers, his weapon accidentally discharged. The uniformed officers opened fire, striking Officer Wright and killing him.

Police Officer Eric Hernandez, 01/28/2006

On January 28, 2006, at approximately 0500 hours in the 46 Precinct, Police Officer Eric Hernandez was shot in an incident of mistaken identity. He succumbed to his injuries on February 8. Officer Hernandez, a male Hispanic, off duty and in plainclothes, was the victim of a gang assault in a Bronx restaurant. His attackers fled, and Officer Hernandez attempted to give chase. He stopped an uninvolved man outside the restaurant, mistakenly believing the man to be one of his attackers, and held the man at gunpoint. Two uniformed officers from the 46 Precinct arrived in a marked patrol car, responding to a radio call of a man assaulted. Upon exiting the vehicle, Police Officer Alfredo Toro, a male Hispanic, observed a man holding another man at gunpoint. Officer Toro gave several verbal commands to Officer Hernandez, ordering him to drop the gun. Officer Hernandez did not respond. Noticing that Officer Hernandez was holding a weapon commonly used by the NYPD, Officer Toro asked Officer Hernandez in sum and substance "Are you a cop?" but again received no response. At this point, Officer Toro discharged his weapon, firing three rounds and striking Officer Hernandez three times. Officer Hernandez was removed to Saint Barnabas and died ten days later. The perpetrators who had assaulted him were subsequently arrested and, with one exception, convicted of felonious assault and sentenced to prison.

Police Officer Omar Edwards, 05/28/2009

On May 28, 2009, at approximately 2230 hours in the 25 Precinct, Police Officer Omar Edwards was shot and killed in an incident of mistaken identity. Officer Edwards, a male black, was off duty and in plainclothes at the time. He had just left PSA 5, his assigned command. Walking towards his private vehicle, he observed a male rifling through the car via a broken window. An altercation ensued during which Officer Edwards attempted to effect an arrest. At some point, Officer Edwards drew his firearm, which he carried in his waistband. The suspect escaped from Officer Edwards and fled eastbound on 125th Street away from 2nd Avenue; Officer Edwards gave chase. At the same time, the 25 Precinct Anti-Crime team, in an unmarked patrol car, turned westbound on 125th Street heading towards 2nd Avenue. Observing a man fleeing from an armed pursuer, the Anti-Crime team exited their vehicle and confronted Officer Edwards who was running towards them with gun in hand. Police Officer Andrew P. Dunton, a male white in plainclothes, identified himself and ordered Officer Edwards to drop the firearm. When Officer Edwards turned towards Officer Dunton and his team, Officer Dunton discharged his weapon six times, striking Officer Edwards and causing his demise. The fleeing perpetrator was apprehended by Officer Dunton's supervisor. In August, a Grand Jury refused to indict Officer Dunton.

Appendix C: New York City Mistaken Identity Incidents, 1995-2009

A mistaken identity incident is one in which a New York City police officer ("shooting officer") fires on another officer or law enforcement agent ("targeted officer") in the mistaken belief that the subject officer is a criminal and poses an imminent physical threat. Mistaken identity incidents are distinguished from crossfire incidents in that the shooting officer is purposefully and intentionally choosing to fire on the targeted officer, albeit under the stress of combat and without the benefit of perfect information. Unintentional crossfire incidents and accidental discharges resulting in injury or death to fellow officers are not included. Unauthorized discharges, in which an officer injures or kills another officer in a criminal manner (e.g., domestic incidents), are also excluded.

SIX KNOWN MISTAKEN IDENTITY INCIDENTS BETWEEN 1995 AND 2009

1) PO Dennis Labarbera	01/31/1996	Uniformed M/W officer shot by Uniformed M/W sergeant
2) PO Richard Padin	10/24/1996	Plainclothes M/H officer shot by uniformed M/W officer
3) Dt. James Conneely	12/17/1998	Plainclothes M/W Det. Shot by plainclothes M/W Det.
4) (Ret.)	09/27/1999	Retired officer M/W shot at by uniformed M/B officer
5) PO Eric Hernandez	01/28/2006	Plainclothes M/H shot by uniformed M/H officer
6) PO Omar Edwards	05/28/2009	Plainclothes M/B shot by plainclothes M/W officer

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INCIDENT NARRATIVES:

Police Officer Dennis Labarbera, 01/31/1996

On January 31, 1996, 0240 hrs, PO Dennis Labarbera (M/W/26) was shot by Sergeant Marcus Renna (M/W/37) in the 32 Precinct when officers responded to a burglary in progress. Officer Labarbera and his partner, in uniform, climbed a fire escape to the location's roof while the uniformed Patrol Supervisor and his operator ascended the stairs. On opening the door to the roof, the sergeant observed Officer Labarbera, whose gun was holstered. Nevertheless, the sergeant mistook him for a perpetrator and fired once, striking Officer Labarbera in the shoulder, seriously injuring him. Sergeant Renna received charges and specifications.

Police Officer Richard Padin, 10/24/1996

On October 24, 1996, 0405 hrs, PO Richard Padin (M/H/29) was shot by PO Richard Kuhnapfel (M/W/33) in the basement of a bodega in the 83 Precinct. Officer Padin and a sergeant had executed a search warrant at the bodega hours earlier and had returned, in plainclothes, to look for narcotics described by an arrestee. An employee of the bodega heard unknown persons in the basement and called in a possible burglary at the location. Uniformed officers responded and descended to the darkened basement where they encountered Officer Padin with his gun drawn. Officer Kuhnapfel fired one round from about five feet away then retreated out of the basement and yelled down to identify himself and order the occupants out. Officer Padin was struck once in the chest, suffering blunt-force injury, but was saved further harm by his bullet-resistant vest.

Detective James Conneely,   12/17/1998

On December 17, 1998, 1310 hrs, Detective James Conneely (M/W/36) was shot by fellow detective Robert Altieri (M/W/36) during a search for a shooting suspect in the 47 precinct. Detective Altieri heard a noise and saw a firearm come around the corner of a doorway; he shouted "drop the gun" and fired two rounds, one of which passed through a wall and struck Detective Conneely in the chest. Detective Conneely suffered blunt-force injury, but was saved further harm by his bullet-resistant vest. All officers were in plainclothes.

Retired Member of the Service,   09/27/1999

On September 27, 1999, 0920 hrs, an on-duty, uniformed officer was involved in an exchange of gunfire with a retired member of the service in the 75 Precinct. The retired member (M/W/35) had been the victim of a gunpoint robbery and was chasing the suspects. Hearing a shot, the retired member fired on the suspects once. When the perpetrators turned and pointed a firearm at him, he fired again (two shots, zero hits). Sometime between the two shots, a sector car operated by PO Gavin Reece (M/B/37) arrived. PO Reece heard the retired member shout "Stop them!" and, despite observing the retired member to be armed, attempted to apprehend the fleeing perpetrators. At that moment, however, the retired member fired his second round, which struck and shattered the RMP's windshield. Feeling himself under fire, and no longer certain that the retired member was not in fact a perpetrator, PO Reece returned one round, zero hits. The retired member identified himself and the perpetrators were arrested.

Police Officer Eric Hernandez,   01/28/2006

On January 28, 2006, 0500 hrs, PO Eric Hernandez (M/H/24), while taking off-duty police action, was shot and killed by a responding uniformed officer in the 46 Precinct. Officer Hernandez had been assaulted and was attempting to arrest a civilian he mistakenly believed to have been involved in the attack. While holding the civilian at gunpoint he was confronted by uniformed officers and, after refusing to answer several challenges or release the civilian, he was shot by PO Alfredo Toro (M/H/39). PO Hernandez died several days later.

Police Officer Omar Edwards,   05/28/2009

On May 28, 2009, 2230 hrs, PO Omar Edwards (M/B/25), while taking off-duty police action, was shot and killed by responding plainclothes officer Andrew Dunton (M/W/30). Officer Edwards had his weapon drawn and was chasing a suspect at the time of the incident. Officer Edwards died at Harlem Hospital.

OMAP SPECIAL PROJECTS
9-23-09

Appendix D: Letter from NYPD Commissioner Raymond W. Kelly to Governor David A. Paterson, November 25, 2009

THE POLICE COMMISSIONER
CITY OF NEW YORK

November 25, 2009

Honorable David A. Paterson
Governor
Executive Chamber
Albany, New York 12224

Dear Governor Paterson:

I am writing to you to provide an account thus far of the New York City Police Department's response to the tragic shooting death of Detective Omar Edwards. While taking off-duty police action and pursuing a fleeing perpetrator with gun in hand, Detective Edwards was shot and killed by a fellow officer who mistook Detective Edwards for a criminal. Our efforts in the wake of this terrible event have affected the entire Department and have proceeded along several fronts—investigation, categorization, historical analysis, and the solicitation of expert opinions both from outside and from within the Department in order to achieve technological and training improvements. These efforts are abbreviated immediately below, and discussed at greater length in the following pages. Although they are ongoing, I believe these efforts have been thorough and exemplary. At every stage we have provided updates and information to the Governor's Task Force on Police on Police Shootings, and even as the Task Force continues its valuable work, we also are attempting to find solutions to this pressing issue.

1. The Department initiated an immediate and comprehensive investigation into the incident, including forensic evidence collection, dozens of interviews with officers and witnesses, and crime-scene recreation.

2. The Department performed a historical analysis that revealed that, since 1930, ten New York City police officers have lost their lives in incidents of mistaken identity. No patterns were discerned from this small statistical sample.

3. The Department commissioned an independent study of how training reduces the influence of racial bias on behavior. Dr. Joshua Correll of the University of Chicago, who has conducted research on racial bias in police shoot/don't shoot decisions across the country, has undertaken a comprehensive tracking study of New York City police recruits and will ultimately develop new training methodologies accordingly.

4. The Department consulted its fraternal organizations to create a list of thirty-six suggestions regarding avoiding mistaken-identity incidents.

5. The Department launched an internal survey of its undercover officers. More than two hundred officers assigned to undercover duties were surveyed to gauge their experiences

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Website: http://nyc.gov/nypd

with being confronted by uniformed and/or plainclothes officers and to determine how negative outcomes were avoided.

6. The Department launched a second internal survey of its plainclothes Anti-Crime officers. More than two hundred thirty officers assigned to plainclothes Anti-Crime teams are currently being surveyed to determine how these officers, who are most likely to be confronting other officers owing to the proactive nature of Anti-Crime duties, avoid mistaken-identity incidents.

7. The Department has initiated new equipment implementations, such as a high-visibility shield carrier that was recommended by the fraternal organizations.

8. The Department conferred with the International Association of Chiefs of Police (IACP) and asked that IACP review mistaken-identity incidents nationally.

9. The Department, after a highly selective requirement application process, is collaborating with the federal interagency research-and-development entity Technical Support Working Group (TSWG) to explore emerging technologies that might prove useful in reducing police-on-police shootings.

10. The Department, immediately following Detective Edwards' death, re-trained all its officers on the dangers surrounding mistaken-identity incidents after editing an already existing video on the subject.

11. The Department re-instructed all officers on the importance of carrying their firearms in holsters, after learning Detective Edwards had not been wearing a holster.

12. The Department is producing a new instructional video, slated for release in early 2010, designed for undercover officers and based on observations gleaned from the undercover survey.

13. The Department is producing a second instructional video intended for all officers and incorporating lessons learned from the Anti-Crime survey.

14. The new Police Academy design was re-visited to facilitate expanded scenario-based training, which the RAND Corporation emphasizes is the best instructional method available.

The Department's first response to the tragic shooting of Detective Edwards was an immediate investigation of the shooting incident, which is standard for every instance in which a uniformed member of the service discharges a firearm. And while each firearms discharge is of the utmost importance to the Department and receives the same comprehensive attention, it is fair to say that the implications of the Detective Edwards incident carried particular consequence.

Firearms discharge investigations are involved, coordinated processes, incorporating resources and personnel from numerous units. A shooting-team leader in the rank of captain immediately responds to each incident and begins an investigation that utilizes detective squads, crime-scene specialists, emergency service units, and any other Department assets that are

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deemed necessary. Additionally, detectives and supervisors from the Internal Affairs Bureau conduct a parallel and independent investigation. The shooting team's operations are guided by "The Firearm Discharge Investigation Manual," which provides a template for producing accurate, data-rich investigations. Officer-involved-shooting investigations demand complete transparency, and the Detective Edwards incident was no exception. In this case, the Department's work provided a foundation for the Manhattan District Attorney's independent Grand Jury investigation. Ultimately, the Grand Jury declined to indict the shooting officer.

The Department's second response was determining how to categorize and contextualize the incident. Strictly speaking, the Detective Edwards incident was a mistaken-identity incident. An incident of mistaken identity is one in which a police officer fires on another police officer or other law-enforcement agent in the mistaken belief that the subject officer is a criminal and poses an imminent physical threat. The shooting officer in a mistaken-identity incident is purposefully and intentionally choosing to fire on the subject officer. This is distinguished from a crossfire incident, in which officers strike one another owing to the rapid development of a combat situation and imperfect target choice. Mistaken-identity incidents that do not result in gunfire are "confrontation situations," in which one officer—the "challenging officer"—identifies himself as an officer (optimally using the phrase "police, don't move") and confronts an unidentified officer—the "confronted officer"—who is usually attired in civilian clothes. Notably, the NYPD has had procedures that specifically address confrontation situations since 1973.

The Department's third response was a historical analysis of mistaken-identity incidents. Having determined the category of the Detective Edwards incident, we next sought to determine whether it represented a pattern. Although the Department has had a centralized mechanism for recording and collating all firearms discharge incidents since 1970, information prior to that point was distributed across a range of repositories, from precinct log books to personnel records. (I understand that the national lack of a single, one-point source for data on these events is a deficiency that the Task Force has noted, as well.) Nevertheless, we were able to cull a myriad of records reaching back to 1930 in order to make a definitive list of New York City Police Department officers who have lost their lives in mistaken identity-incidents.

Since 1930, ten police officers have been killed in incidents of mistaken identity.[*] Ten incidents in seventy-nine years evinces no historical pattern. Incidents sometimes skip decades and sometimes appear in clusters. Prior to the mistaken-identity incident involving Police Officer

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[*] **TEN KNOWN MISTAKEN IDENTITY INCIDENTS THAT RESULTED IN THE DEATH OF AN OFFICER:**

1) Ptl Edward Keenan	02/23/1930	M/W, off duty, shot by off-duty M/W probationary Ptl
2) Ptl John A. Holt	02/12/1940	M/B, off duty, shot by uniformed M/W officers
3) Ptl Jacob J. Szwedowski	04/29/1945	M/W, on duty in plainclothes, shot by uniformed M/W officer
4) Ptl Donald Rainey	09/29/1965	M/W, off duty, shot by off-duty M/W Ptl (also shot)
5) Ptl David Turman	10/13/1968	M/B NYPD Ptl, off duty, shot by off-duty M/B HPD Ptl (also shot)
6) Det William R. Capers	04/03/1972	M/B, on duty in plainclothes, shot by uniformed M/W officer
7) PO John Skagen	06/28/1972	M/W Transit PD officer, off duty, shot by M/W NYPD officers
8) PO Irving E. Wright	03/05/1973	M/B, off duty, shot by uniformed M/W officers
9) PO Eric Hernandez	01/28/2006	M/H, off duty, shot by uniformed M/H officer
10) PO Omar Edwards	05/28/2009	M/B, off duty, shot by plainclothes M/W officer

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Eric Hernandez, the Department had gone thirty-three years without a fatality resulting from such an incident. Similarly, there is no pattern to be found in the pedigrees of the officers involved. One incident involved a male black Housing Police Department officer killing—and being shot by, as well—a male black patrolman; one incident involved a male Hispanic officer killing another male Hispanic officer; four incidents involved male white officers killing male black officers; four incidents involved male white officers killing male white officers. The most salient detail to be discerned from such a small sample is the fact that 80% of the officers killed were off duty at the time. But in most other respects our research has indicated that, owing to the rarity of these events, few conclusions can be drawn.

The Department's fourth response—the pursuit of prevention—has been elaborate. In the half year since the Detective Edwards incident, the Department has explored a host of methods by which to ensure that mistaken-identity incidents are avoided, or, at the least, resolved without injury. We have solicited input from outside experts, met with representatives from many of the Department's fraternal groups, and surveyed our undercover and plainclothes personnel. We have devised new training tools and explored new instructional methods. We have also sought out potential improvements in technology and equipment that might reduce the likelihood of police-on-police confrontations, and are gathering data from internal and independent sources in order to learn how to prevent negative outcomes when confrontations do occur.

Among the first outside experts we contacted was Dr. Joshua Correll, of the University of Chicago. Dr. Correll has conducted studies with police officers and departments across the country, measuring the possible presence of racial bias in police decisions to shoot, and we therefore contracted him to carry out an independent review of our training. Using computer simulations of shoot/don't shoot decisions, Dr. Correll made baseline measurements of all recruits who entered our Academy in July 2009. These baselines were created before the recruits had experienced any police instruction. The next set of measurements, planned for December 18, 2009, will determine whether and to what extent academy training has had an effect on the recruits' decision-making processes during shoot/don't shoot situations. A second phase of Dr. Correll's work will involve the development of a methodology to assess racial bias in decision making under "high stress" conditions, and the degree to which training affects such bias. By determining what level, amount, and intensity of training best reduces racial bias in officers, the Department will be able to adopt new instructional methods. Scenario-based training and video-simulator training will be tailored to incorporate the results of Dr. Correll's study, maximizing the ability of New York City police officers to restrain behavior—and bias—and act according to objective observations.

The Department also requested the assistance of the International Association of Chiefs of Police (IACP). The IACP made preliminary reviews of mistaken-identity incidents but encountered the same informational gap that was mentioned above, i.e., the lack of a central, national data repository with regard to this subject. Consequently, the IACP is exploring the creation of a "research center," to assess all violence against police nationally. Identifying best

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practices for preventing such violence—including during mistaken-identity incidents—would be part of such an endeavor.

Owing to its size and diversity, the Department is associated with a large number of fraternal organizations. Accordingly, we solicited the input of representatives from the National Organization of Black Law Enforcement Executives (NOBLE), the Guardians Society, the Hispanic Society, the Latino Officers Association, and the Asian Jade Society. These organizations produced a list of thirty-six suggestions, many of which the Department is seeking to implement. In particular, the fraternal organizations suggested a change to the manner in which officers carry their shields (an equipment improvement discussed in more detail below).

Within the Department, we have taken advantage of the amassed experience and knowledge of our personnel. Noting that nearly every mistaken-identity incident involves at least one officer who is attired in civilian clothes, the Department honed in on those of our officers working in undercover assignments. More than two-hundred of the Department's undercover officers, the group most likely to be involved in confrontation situations, participated in a confrontation-situation survey. The results of this survey have provided us with valuable insight into the frequency, nature, and elements of confrontation situations. Of the two hundred undercover officers, thirty-six reported having been involved in gunpoint confrontations at some time during their careers. Preliminary observations have identified some meaningful details of these confrontations, including how the situations were successfully resolved by the officers involved. In over 80% of the confrontation situations reported, the decision made by the undercover officer to remain motionless was seen as the key action to defusing the incident. Among the issues cited, a significant number of undercover officers felt that more training is necessary to resolve gunpoint confrontation situations positively, with a particular emphasis on tactics and adherence to existing Department procedures. These observations are being integrated into a new training video for undercover officers that will be released early in 2010 and will represent a more up-to-date, informational instructional tool than previous versions. (A pre-existing video that included instruction on confrontation situations was shown to all Department members at all commands in the immediate aftermath of the Detective Edwards incident. Although it was re-edited and updated prior to this Department-wide training, the need for a newer, contemporary version was apparent.)

Plainclothes officers represent the other side of the equation. If, as the surveys and our historical research indicates, undercover officers and off-duty officers are most likely to be challenged, it is plainclothes officers who most often do the challenging. This derives from the proactive nature of plainclothes assignments. But the potential also exists for plainclothes officers to be challenged themselves. We have therefore instituted an ongoing procedure that will ensure that uniformed patrol personnel, particularly newly assigned precinct officers, become familiar with plainclothes officers who perform duty in the same neighborhoods. The procedure calls for plainclothes officers from Patrol, Housing, and Transit commands to visit roll calls for uniformed officers assigned to nearby commands and introduce themselves.

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Additionally, a second officer survey is being conducted, this time with plainclothes Anti-Crime team members from across the city, in order to leverage their experience into policy and craft better training practices. More than two hundred thirty officers have participated in this survey, which will be completed during the first week of December. It has been designed to elicit more information about how challenging officers react when confronting officers whom they mistakenly believe to be perpetrators.

Under current Department policy and procedure, the lion's share of the responsibility for properly resolving confrontation situations rests with the challenged officer. This is purposeful, as the identified, challenging officer must have ultimate control over the situation—after all, far more often than not, the challenged subject will not be an officer, but a perpetrator. Nevertheless, the Department desires to make every effort to ensure that challenging officers are as circumspect as possible as they engage in high-stress, high-stakes confrontations. To this end, the Department will produce a second new video, designed for all officers, that focuses on making officers aware of mistaken-identity incidents and minimizing their occurrence. It will also focus on off-the-clock conduct and responsibilities and remind officers that, in many ways, they have chosen a profession for which they are never truly off duty. This new video will benefit from insights gleaned from the Anti-Crime survey, and will represent a more up-to-date, informational instructional tool than previous versions. It will also be relevant to the current makeup of the Department, which has seen a significant demographic shift over the past decade, from 2001, when minorities represented 35.3% of the Department, to 2009, when minorities represent 46.7% of uniformed personnel, and 52.5% of members in the rank of police officer.

We have also sought to identify potential improvements in the equipment currently made available to our personnel. As mentioned above, we are developing a new shield case on the recommendation of the fraternal organizations. This new case will be made with reflective material that will facilitate the identification of a plainclothes officer in low light conditions; it will also have an integral lanyard, allowing it to be displayed more prominently around the neck. In addition, several vendors have approached us with other types of equipment solutions that are intended to reduce police-on-police shootings. The viability of these prototypes is still being evaluated. As an example, one vendor has manufactured a pouch, meant to be worn on a regular belt, that contains a sash with the word "POLICE" written in reflective material that can quickly be put in place. We have also distributed larger, more conspicuous adhesive reminders that reinforce the tactical concept of "POLICE, DON'T MOVE." The new reminders are affixed to every officer's locker, where they regularly remind officers of this important concept.

Additionally, the Department has continued to work with the federal interagency Technical Support Working Group (TSWG), a research-and-development entity. Representatives from the Department submitted a requirement outlining our needs for emerging technologies that might prove useful in reducing police-on-police shootings in the future. After a highly selective process, TSWG chose the Department's requirement as an avenue of development. We are now engaged in preliminary explorations of equipment that may prove capable of mutually

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identifying police officers in order to prevent mistaken-identity incidents, possibly via devices in each officer's weapon, or by devices carried or worn on the body.
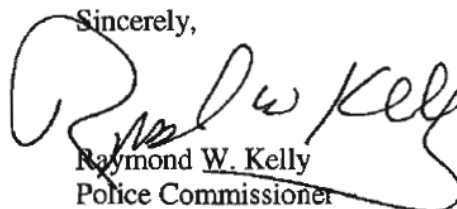
In some instances, it is not new equipment that is needed, but adherence to existing equipment rules. During the investigation into the Detective Edwards incident, it was discovered that Detective Edwards was carrying his firearm without a holster. In the absence of a holster an officer in pursuit of a subject is more likely to hold his firearm in his hand. Accordingly, a training message was disseminated to all commands and all personnel, reminding officers to utilize off-duty holsters at all times.

Our response to the tragedy involving Detective Edwards has influenced training in other ways, as well. Department executives have also met with a number of vendors of live-fire and simulated-fire training systems. We are hopeful that one of these systems, which are more technologically advanced than the system we currently have in place, will offer improvements in the training we currently provide to our personnel. More significantly, on November 17, 2009, the New York City Council approved the Department's plan to construct a new Police Academy in College Point, Queens. This state-of-the-art training facility has been specifically designed to accommodate expanded scenario-based training. With regard to properly teaching officers how to handle the wide range of policing encounters that require split-second decisions based on sound judgment, scenario-based training is one of the most effective instruction methods available. The RAND Corporation, in its review of our firearms-training protocols, repeatedly emphasized the value of scenario-based training.

Finally, I would like to note that the Department, recognizing the public interest in and importance of shooting incidents in general, now promulgates an Annual Firearms Discharge Report. This document records, tabulates, and analyzes every officer-involved firearms discharge, and I believe it to be the most complete and transparent public release of information on this subject in the country. (A copy of the 2008 report is enclosed.) The 2009 report, slated for release next year, will contain a new chapter dealing with mistaken-identity incidents, including the Detective Edwards incident and its historical precedents.

We continue to support the Governor's Task Force on Police on Police Shootings, and we look forward to receiving the group's recommendations as they complete the task of studying this very important public safety issue. As always, I appreciate your continued support of the New York City Police Department.

Sincerely,

Raymond W. Kelly
Police Commissioner

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Appendix E: List of Recommendations by Governmental Unit

1. **New York State**
   a. **Should Develop State Protocols for Police-on-Police Confrontations**
      The MPTC should develop state-wide protocols for taking police action out of uniform, protocols for confronted officers, and protocols for challenging officers, consulting during the process with the US Department of Justice.
   b. **Should Require Continuing, Interactive Training on Confrontation**
      The MPTC should double the current 2-hour mandate for initial training, specifying the use of interactive simulations and role-playing and establish a 21-hour in-service training requirement to include confrontation training.
   c. **Should amend NY Exec. Law Sec. 840**
      i.   to give the MPTC the same authority over in-service training that it currently exercises over recruit training
      ii. to give the MPTC the same authority over police management and leadership training that it currently exercises over recruit training
   d. **Should Designate and Train a Specialized Team to Support Departments that Experience a Police-on-Police Shooting**
      DCJS should empanel a committee of law enforcement executives from the three or four of the largest local agencies in New York State to design a specialized support team to assist any department in the State with any future police-on-police shootings.
   e. **Should Establish a Mandatory Statewide Reporting System for Police Firearms Discharges and a Voluntary, Anonymous System for Reporting Police-on-Police Confrontations**
      The State should adopt legislation requiring all law enforcement agencies in the state
      i.   to report to DCJS annually all firearms discharges by its sworn officers
      ii.   to offer the chance to all officers during annual firearms requalification to voluntarily complete an anonymous questionnaire reporting the details of any police-on-police confrontations in the last year.
   f. **Should Promote Transparency in Prosecutorial Decisions Regarding Police-on-Police Shootings**
      The Governor and the Attorney General should use their powers to appoint special prosecutors or assume the prosecution themselves only to the extent that doing so represents the most effective way to maintain transparency and credibility for the public
   g. **Should Apply the Lessons of Police-on-Police Shootings to Reduce Mistaken Police-Civilian Shootings**
      DCJS should convene a committee of nonprofit organizations that currently offer programs of training for civilians on how to handle themselves during confrontations with police.

2. **The U.S. Department of Justice**
   a. **Should Develop National Protocols for Police-on-Police Confrontations**
      The Department should consider the standards to be developed in New York State and promulgate them nationally to encouraging consistency across the country.
   b. **Should Require Continuing, Interactive Training on Confrontation**
      The Department should
      i.   require interactive confrontation training of all members of all joint task forces that combine federal with state and local law enforcement personnel
      ii. develop and pay for local, annual training opportunities on confrontations available to those retired and off-duty officers who seek to carry weapons across state lines pursuant to LEOSA
      iii. collaborate with one or more large municipal police agencies to develop a leadership training module on responding to cross-racial, mistaken-identity, police-

on-police shootings drawing on the experience of the police agencies that have faced these tragedies.

c. **Should Develop Testing and Training to Reduce Unconscious Racial Bias in Shoot/Don't Shoot Decisions**
   The National Institute of Justice should
   i. issue a special solicitation to researchers working in partnership with law enforcement agencies to develop and apply the potential of this testing
   ii. create a center for inherent bias reduction that would develop applications and convene those active in the field over the next five years, highlighting police training programs and other efforts that are shown to reduce unconscious racial bias as measured in these tests.

d. **Should Support Departments that Experience a Police-on-Police Shooting**
   The Department should provide financial support for the deployment from one state to another of a specialized support team when a department experiencing a police-on-police shootings requests assistance

e. **Should Strengthen National Reporting of Police-on-Police Confrontations**
   U.S. Department of Justice and the FBI should enhance the LEOKA program's data collection efforts to include and clearly delineate mistaken-identity police-on-police shootings in its standard data categories, and LEOKA should conduct follow-up interviews with the law enforcement agencies involved in any reported fatal or non-fatal police-on-police shootings or confrontations.

f. **Should Expand Understanding of the Life Experiences of Officers of Color**
   The National Institute of Justice and the Office of Community Oriented Policing Services should support research into the experiences of officers of color, especially off-duty, and engage a broad spectrum of officers of color and the various police fraternal organizations that represent them in dialogue with police executives and researchers about the special strains and tensions that officers of color face when they take off their uniforms.

3. **Individual Police Organizations and Local Officials**

   a. **Should Require Continuing, Interactive Training on Confrontation.**
      Each police agency should include confrontation training as a part of annual firearms requalification.

   b. **Should Develop Testing and Training to Reduce Unconscious Racial Bias in Shoot/Don't Shoot Decisions**
      Large police agencies not only to examine the early research and follow the results of the experiments in the NYPD, but also to begin their own experimentation with this testing technology.

   c. **Should Expand Diversity Training to Include Issues of Diversity within Police Agencies**
      All departments should expand their training on diversity to address internal issues of diversity, even while they continue to make their existing training on police-community relationships more effective

   d. **Should Promote Transparency in Prosecutorial Decisions Regarding Police-on-Police Shootings**
      Prosecutors considering criminal liability in these cases should maximize public disclosure within the law, using the grand jury to investigate but not to shroud the case in secrecy.

   e. **Should Expand Understanding of the Life Experiences of Officers of Color**
      Police executives across the nation should engage their officers of color in structured conversations about their life experiences, especially their experiences as police officers out of uniform, on a regular basis.

Appendix F: Reports from Selected Task Force Advisors

Contemporary Racial Bias and Law Enforcement

A Report Prepared for the New York State Task Force on Police on Police Shooting

As Prepared By

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&

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The following report is intended as a summary of three literatures important to the field of racial bias in police officers: Implicit Bias, Aversive Racism, and Racism without Racists. Each area is roughly summarized with an emphasis on its relevance to law enforcement and the limitations regarding translating science from the laboratory to the broader world. Finally, a brief synopsis on ongoing and future research is provided for the Task Force's consideration.

Implicit Bias: An Introduction to Contemporary Racial Bias

Over time blatant expressions of racial bias have consistently declined; the vast majority of White Americans now report that they support equal opportunity for Blacks (Bobo, 2001). However, because of a range of *normal* psychological processes, such as historical cultural associations, ingroup affinities, and self- and group-interest, the majority of White Americans still harbor negative feelings and beliefs about Blacks, which are *implicit* – frequently unconscious and typically automatically activated (Nosek, Banaji, & Greenwald, 2002). Implicit biases are commonly measured using a variety of response latency measures, such as the Implicit Associations Test (Greenwald, McGhee, & Schwartz, 1998), that assess responses that are less susceptible to strategic control.

These implicit biases have gained significant attention in the field of law enforcement over the past decade, particularly with regard to officer's decisions to shoot (Correll, et al., 2007; Correll, Park, Judd, & Wittenbrink, in press; 2002; Greenwald, Hoakes, & Hoffman, 2003; Payne, 2001; 2006; Payne, Lambert, & Jacoby, 2002). Research in this field tends to have participants play a computer simulation game wherein they have to decide whether or not to shoot armed or unarmed targets—they are supposed to shoot the armed targets, but not the unarmed targets. Participants are placed under strenuous time constraints to make their decisions in an effort to mimic real-world critical incidents. Researchers then vary the race of the armed and unarmed targets so that each individual makes decisions about whether or not to shoot armed and unarmed Black and White targets.

Researchers have demonstrated that officers often evidence similar forms of bias in their willingness to shoot Black armed suspects more quickly than White armed suspects (Correll, et al., 2007). However, officers in this research do *not* show the typical bias of shooting *unarmed* Black suspects more *often* than unarmed White suspects. This suggests that, despite officers' tendencies to mirror the greater population with regard to uncontrollable racial prejudice (i.e. decisions that are timed to the millisecond), training can be used to reduce the effect of racial bias on *erroneous* shootings. However, it should be noted that research on implicit biases has, to date, been constrained to laboratory settings, and is only now being used to document real-world consequences.

The implicit association between Blacks and criminality has also led officers to incorrectly identify darker-skinned Blacks as criminal suspects (Eberhardt, Goff, Purdie, & Davies, 2004) and, ostensibly, can lead to greater endorsement of the death penalty for Blacks who are seen as more phenotypically stereotypical—i.e. those who appear "most Black" (Eberhardt, Davies, Purdie-Vaughns, & Johnson, 2006). Similarly, the emerging field of racial dehumanization has used implicit bias paradigms to demonstrate that the implicit association between Blacks and apes leads both to citizens' increased endorsement of anti-Black violence by police and to an increased use of the death penalty for convicted

Black felons (Goff, Eberhardt, Williams, & Jackson, 2008). Taken together, this research suggests that implicit bias may be a subtle, uncontrolled, and unintentional mechanism through which individual officer attitudes may result in racially disparate outcomes. However, with the exception of previous work on the death penalty (Eberhardt, et al., 2006; Goff, et al., 2008), this work has been confined to the laboratory thus far.

Aversive Racism: A Theory of Conflicting Attitudes

The theory of aversive racism (Dovidio & Gaertner, 2004; Gaertner & Dovidio, 1996) proposes that because most White Americans now consciously want not only to appear but also to be nonprejudiced yet also possess implicit biases (the defining characteristic of an aversive racist), contemporary racism is expressed in more subtle ways than old-fashioned racism. Whereas old-fashioned racists exhibit a direct and overt pattern of discrimination, aversive racists' actions may appear more variable and inconsistent. Because aversive racists consciously recognize and endorse egalitarian values and because they truly aspire to be nonprejudiced, they will *not* act inappropriately in situations with strong social norms when discrimination would be obvious to others and to themselves. Specifically, when they are presented with a situation in which the normatively appropriate response is clear, in which right and wrong is clearly defined, aversive racists will not discriminate against Blacks. However, the implicit negative feelings and beliefs that aversive racists posses will be expressed but in subtle, indirect, and rationalizable ways. For instance, discrimination will occur in situations in which normative structure is weak, when the guidelines for appropriate behavior are vague, or when the basis for social judgment is ambiguous. In addition, discrimination will occur when an aversive racist can justify or rationalize a negative response on the basis of some factor other than race. Under these circumstances, aversive racists may engage in behaviors that ultimately harm Blacks but in ways that allow Whites to maintain their self-image as nonprejudiced and that insulate them from recognizing that their behavior is not colorblind.

Evidence in support of the aversive racism framework comes from a range of paradigms (see Dovidio & Gartner, 2004; Pearson, Dovidio, & Gaertner, 2009). For instance, in personnel or college admission selection decisions, Whites do not discriminate on the basis of race when candidates have very strong or weak qualifications. Nevertheless, they do discriminate against Blacks when the candidates have mixed qualifications (Dovidio & Gaertner, 2000; Son Hing, Chung-Yan, Hamilton, & Zanna, 2008). In these circumstances, aversive racists weigh the positive qualities of White applicants and the negative qualities of Black applicants more heavily in their evaluations, which provide justification for their decisions (Hodson, Dovidio, & Gaertner, 2002). Analogously, aversive racists have more difficulty discounting incriminating evidence that is declared inadmissible when evaluating the guilt or innocence of Black relative to White defendants in studies of juridic decisions (Johnson, Whitestone, Jackson, & Gatto, 1995; Hodson, Hooper, Dovidio, & Gaertner, 2005).

Additional empirical evidence demonstrates that, despite their positive conscious motivations, the negative implicit component of aversive racists' attitudes predicts subtle expressions of bias against Blacks that occur in deliberative but justifiable ways or are manifested spontaneously. For example, although implicit attitudes do not predict bias against job candidates who have impeccable qualifications, they do

predict less support for minority candidates for whom they can justify not hiring on the basis of some weakness in their credentials (Son Hing et al., 2008; see also Greenwald, Poehlman, Uhlmann, & Banaji, 2009, for a review of the predictive validity of the IAT). In general, more spontaneous expressions of racial bias are predicted better by implicit than explicit attitudes (Dovidio, Kawakami, Smoak, & Gaertner, 2009). For instance, in interracial interactions, Whites' overt behaviors (e.g., verbal behavior) primarily reflect their expressed, explicit racial attitudes, whereas their more spontaneous and less controllable behaviors (e.g., their nonverbal behaviors) are related to their implicit, generally unconscious attitudes. In general, when people are forced to make decisions under time pressure, they show a range of "weapons biases" against Blacks. They are more likely to falsely perceive a gun after being primed with a photograph of a Black than a White man (Payne, 2001), and Blacks as well as Whites are more likely to erroneously shoot an unarmed Black man in a simulated computer task (Correll, Park, Judd, & Wittenbrink, 2002; see also Greenwald, Oakes, & Hoffman, 2002). In addition, people with more negative implicit attitudes toward Blacks demonstrate this bias more strongly (Payne, 2005; see also Payne, 2006, for a review).

Research on aversive racism also demonstrates that bias is not necessarily expressed in terms of direct harm to Blacks, which may readily be perceived as racist behavior. Theoretically, because aversive racists are hypothesized to be particularly effective at censoring negative behavior toward Blacks, the biases associated with aversive racism may often manifest as differential *prosocial* responses toward Blacks and Whites in need. For instance, White bystanders who are the only witness to an emergency (and thus are fully responsible for helping) are just as likely to help a Black victim as a White victim. However, when White bystanders believe that others also witness the emergency (distributing the responsibility for helping), they are less likely to help a Black victim than a White victim (Gaertner & Dovidio, 1977). From a practical perspective, the Kerner Commission (Report of the National Advisory Commission on Civil Disorders, 1968), charged with investigating the causes of the 1967 race riots in the US, cited White America's failure to assist Blacks in need, rather than actively trying to harm Blacks, as a primary cause of racial disparities and, ultimately, civil unrest. The results of a meta-analysis of 31 experiments on Whites' interracial helping behavior conducted over the past 40 years evidence a stable pattern of discrimination reflective of aversive racism that has not subsided over time (Saucier, Miller, & Doucet, 2005). Based on these findings, the authors concluded that racism and discrimination against Blacks "can and will exist as long as individuals harbor negativity toward Blacks at the implicit level" (p. 14). Thus, people do not have to be overtly racist to perpetuate racism at a societal level.

Racism Without Racists: Beyond Attitudes and Towards Behavior

Despite the tremendous energy devoted to the study of racial attitudes and excellent work conducted on the topic, psychologists are aware that attitudes predict less than 10% of behaviors—at best (Dovidio, 2001; La Pierre, 1934; Wicker, 1969). What, then, is responsible for the remainder of racially disparate treatment? In some sense, the answer must be that situations are an under-appreciated factor in producing racially disparate outcomes. That is, there may be situations that produce racial inequality even absent racial bias. This is the theory of racism without racists (Bonilla-Silva, 2003; Goff, Steele, & Davies, 2008)—that racial discrimination can occur absent malicious intent. The importance of this theoretical approach is highlighted by recent advances using the theory of *stereotype threat*. Stereotype threat is the anxiety we sometimes experiences when we fear that our

behavior may be interpreted in terms of a negative stereotype that applies to us (Steele, Spencer, & Aronson, 2002). This anxiety, in turn, often causes performance decrements.

For example, a woman who performs poorly on a math or science test may fear that her performance will be attributed to her gender—that she did poorly *because* she is a woman. Research by Steele and colleagues demonstrates that this anxiety can lead to women underperforming on math and science tests (Steele, Spencer, & Aronson, 2002). A large and growing body of research demonstrates that this research generalizes to a variety of negatively stereotyped groups and requires merely that an individual is highly identified with the domain (i.e. care about being good at math and science), is taking a difficult test, and is made aware of the negative stereotype (Steele, Spencer, & Aronson, 2002). This innovative theory foregrounds intersubjective concerns (i.e. *my* perception of what *you* think about me and my group) as a cause of performance differences between groups. Consequently, stereotype threat introduced a new concept to the debate about racial gaps in achievement which had previously been dominated by arguments about genetic differences and structural deficiencies.

Recently, scholars have extended Stereotype Threat theory beyond academic domains to the domain of interracial relationships. For instance, many Whites meet the necessary and sufficient conditions of stereotype threat in interracial interactions: they are negatively stereotyped as racist, often strongly identified with being non-racist, find interracial interactions challenging, and are aware of the negative stereotype about their group (Goff, Steele, & Davies, 2008; Shelton & Richeson, 2006; Vorauer, Main, & O'Connell, 1998). Similarly, stigmatized racial groups often meet these same conditions when interacting with Whites: being negatively stereotyped as prejudiced towards Whites, highly identified with egalitarianism, finding interracial interactions challenging, and aware of the negative stereotype about their group (Goff, Jackson, Nichols, & Di Leone, in prep; Shelton & Richeson, 2006). This realization has led to new research that expands stereotype threat theory to the domain of interracial interactions.

A growing literature suggests that Whites are aware that they may be negatively stereotyped as racially prejudiced (Goff, Steele, & Davies, 2008; Shelton & Richeson, 2006; Vorauer, Main, & O'Connell, 1998). For example, Vorauer and her colleagues have demonstrated that White Canadians spontaneously frame interracial interactions in terms of how they may be stereotyped (Vorauer, Main, & O'Connell, 1998). In a series of experiments examining the relationship between White Canadians and indigenous Canadians, Vorauer and her colleagues demonstrated that White Canadians' impressions of an interracial interaction and of their out-group partner were influenced by the degree to which they felt they had been stereotyped as prejudiced (Vorauer, Main, & O'Connell, 1998).

Goff and colleagues found that White participants experienced stereotype threat simply from anticipating a conversation with Blacks on a sensitive topic such as racial profiling (Goff, Steele, & Davies, 2008). In Goff's research, participants anticipating a conversation about racial profiling with a Black partner reported experiencing more stereotype threat than those who expected to discuss a less racially explosive topic: love and relationships. This experience of stereotype threat led participants to sit further away from Black, but not White, conversation partners. Here, the experience of stereotype threat—and neither explicit nor implicit prejudice—produced aversive behavior that could be

interpreted as discriminatory. As with stereotype threat in academic domains, , stereotype threat in intergroup contexts is ironic, in that the desire to be perceived as non-racist can produce seemingly racist behavior (Frantz, et al., 2004; Goff, Steele, & Davies, 2008), and is cognitively taxing to those who care most about it the most regardless of color (Shelton & Richeson, 2006). In this way, well-intentioned Blacks and Whites respond to the threat of appearing racially prejudiced in undesirable ways—sometimes even before the interaction takes place.

Preliminary research suggests that stereotype threat may also prove counterproductive in law enforcement agencies. As part of ongoing research with the Consortium for Police Leadership in Equity (CPLE; http://www.policingequity.org), Goff and colleagues have begun looking at the effects of implicit bias, aversive racism, stereotype threat, and other forms of racism without racists on police officer use of force. The preliminary results are surprising in that officers' concern with being stereotyped as prejudiced are most likely to engage in disparate use of force towards Black as opposed to White suspects. Nearly as importantly, implicit bias seems to be less predictive of racially disparate use of force than is the fear of seeming prejudiced. Though these data are still in the early stages of analysis and peer review, they suggest that there is tremendous value to conducting field experiments of this type if we are to understand the problem of racial bias in officer use of force—and, consequently, construct solutions to it. This is the kind of work that the CPLE is dedicated to producing. In partnership with several of the largest law enforcement agencies in the U.S. and Canada, as well as several international partners, the CPLE seeks to match leading social scientists with law enforcement executives to conduct original empirical research on equity-related issues. The goal is to know much more about the nature of racial inequality in law enforcement—particularly with regard to the use of force—as these research collaborations extend into the future.

References

Bobo, L. (2001). Racial attitudes and relations at the close of the twentieth century. In N. J. Smelser, W. J. Wilson, & F. Mitchell, F. (Eds.), *Racial trends and their consequences* (Vol. 1, pp. 264-301). Washington, DC: National Academy Press.

Bonilla-Silva, E. (2003). *Racism without racists: Color-blind racism and the persistence of racial inequality in the United States*. New York: Roman & Littlefield Publishers, Inc.

Correll, J., Park, B., Judd, C. M., & Wittenbrink, B. (in press). The influence of stereotypes on decisions to shoot. *European Journal of Social Psychology*.

Correll, J., Park, B., Judd, C. M., & Wittenbrink, B. (2002). The police officer's dilemma: Using ethnicity to disambiguate potentially threatening individuals. *Journal of Personality and Social Psychology, 86*, 1314-1329.

Correll, J., Park, B., Judd, C.M., Wittenbrink, B., Sadler, M. S., & Keesee, T. (2007). Across the thin blue line: Police officers and racial bias in the decision to shoot. *Journal of Personality & Social Psychology, 92,* 1006-1023.

Dovidio, J.F. (2001). On the nature of contemporary prejudice: The third wave. *Journal of Social Issues, 57*, 829-849.

Dovidio, J. F., & Gaertner, S. L. (2000). Aversive racism and selection decisions: 1989 and 1999. *Psychological Science, 11*, 319-323.

Dovidio, J. F., & Gaertner, S. L. (2004). Aversive racism. In M. P. Zanna (Ed.), *Advances in experimental social psychology* (vol. 36, pp. 1-51). San Diego, CA: Academic Press.

Dovidio, J. F., Kawakami, K., & Gaertner, S. L. (2002). Implicit and explicit prejudice and interracial interaction. *Journal of Personality and Social Psychology, 82*, 62-68.

Dovidio, J. F., Kawakami, K., Smoak, N., & Gaertner, S. L. (2009). The nature of contemporary racial prejudice: Insights from implicit and explicit measures of attitudes. In R. E. Petty, R. H. Fazio, & P. Brinol (Eds.), *Attitudes: Insights from the new implicit measures* (pp. 165-192). New York: Psychology Press.

Dovidio, J. F., Smith, J. K., Donnella, A. G. & Gaertner, S. L. (1997). Racial attitudes and the death penalty. *Journal of Applied Social Psychology, 27,* 1468-1487.

Dovidio, J., Kawakami, K., Johnson, C., Johnson, B., & Howard, A. (1997). The nature of prejudice: Automatic and controlled processes. *Journal of Experimental Social Psychology, 33,* 510-540.

Eberhardt, J. L., Davies, P. G., Purdie-Vaughns, V. J., & Johnson, S. L. (2006). Looking deathworthy: Perceived stereotypicality of Black defendants predicts capital-sentencing outcomes. *Psychological Science, 17*, 383-386.

Eberhardt, J. L., Goff, P. A., Purdie, V. J., & Davies, P. G. (2004). Seeing black: Race, crime, and visual processing. *Journal of Personality and Social Psychology, 87*, 876-893.

Gaertner, S. L., & Dovidio, J. F. (1977). The subtlety of White racism, arousal, and helping behavior. *Journal of Personality and Social Psychology*, *35*, 691-707.

Gaertner, S. L., & Dovidio, J. F. (1986). The aversive form of racism. In J. F. Dovidio & S. L. Gaertner (Eds.), *Prejudice, discrimination, and racism* (pp. 61-89). Orlando, FL: Academic Press.

Goff, P. A., Eberhardt, J. L., Williams, M. J., & Jackson, M. C. (2008). Not yet human: Implicit knowledge, historical dehumanization, and contemporary consequences. Journal of Personality and Social Psychology, 94, 292-306.

Greenwald, A. G, McGhee, D., & Schwartz, J. (1998). Measuring individual differences in implicit cognition: The implicit association test. *Journal of Personality and Social Psychology, 74*, 1464-1480.

Greenwald, A. G., Oakes, M. A., & Hoffman, H. G. (2003). Targets of discrimination: Effects of race on responses to weapon holders. *Journal of Experimental Social Psychology, 39,* 399-405.

Greenwald, A. G., Poehlman, T. A., Uhlmann, E. L., & Banaji, M. R. (2009). Understanding and using the Implicit Association Test: III. Meta-analysis of predictive validity. *Journal of Personality and Social Psychology, 9*7, 17-41.

Hodson, G, Hooper, H., Dovidio, J. F., & Gaertner, S. L. (2005). Aversive racism in Britain: Legal decisions and the use of inadmissible evidence. *European Journal of Social Psychology*, *35*, 437-448.

Hodson, G., Dovidio, J. F., & Gaertner, S. L. (2002). Processes in racial discrimination: Differential weighting of conflicting information. *Personality and Social Psychology Bulletin, 28*, 460-471.

Johnson, J. D., Whitestone, E., Jackson, L. A., & Gatto, L. (1995). Justice is still not colorblind: Differential racial effects of exposure to inadmissible evidence. *Personality and Social Psychology Bulletin, 21*, 893-898.

LaPierre, R. (1934). Attitude vs. action. *Social Forces, 13*, 230-237.

Nosek, B. A., Banaji, M. R., & Greenwald, A. G. (2002). Harvesting implicit group attitudes and beliefs from a demonstration web site. *Group Dynamics: Theory, Research, and Practice, 6*, 101-115.

Payne, B. K. (2001). Prejudice and perception: The role of automatic and controlled processes in misperceiving a weapon. *Journal of Personality and Social Psychology, 81,* 181-192.

Payne, B. K. (2005). Conceptualizing control in social cognition: How executive functioning modulates the expression of automatic stereotyping. *Journal of Personality and Social Psychology, 89,* 488-503.

Payne, B. K. (2006). Weapon bias: Split-second decisions and unintended stereotyping. *Current Directions in Psychological Science, 15*, 287-291.

Payne, B. K., Lambert, A. J., & Jacoby, L. L. (2002). Best laid plans: Effects of goals on accessibility bias and cognitive control in race-based misperceptions of weapons. *Journal of Experimental Social Psychology, 38*, 384-396.

Pearson, A. R., Dovidio, J. F., & Gaertner, S. L. (2009). The nature of contemporary prejudice: Insights from aversive racism. *Social and Personality Psychology Compass*, *3*, 10-.1111/1-25.

Report of the National Advisory Commission on Civil Disorders (1968). New York: Bantam Books.

Saucier, D. A., Miller, C. T., & Doucet, N. (2005). Differences in helping Whites and Blacks: A meta-analysis. *Personality and Social Psychology Review, 9*, 2-16.

Shelton, J.N., & Richeson, J.A. (2006). Interracial interactions: A relational approach. *Advances in Experimental Social Psychology, 38*, 121-181.

Son Hing, L. S., Chung-Yan, G., Hamilton, L., & Zanna, M. (2008). A two-dimensional model that employs explicit and implicit attitudes to characterize prejudice. *Journal of Personality and Social Psychology, 94,* 971-987.

Steele, C. M., Spencer, S., & Aronson, J. (2002). Contending with group image: The psychology of stereotype and social identity threat. In M. Zanna (Ed.), *Advances in Experimental Social Psychology Vol. 37.* Academic Press.

Vorauer, J. D., Main, K. J., & O'Connell, G. B. (1998). How do individuals expect to be viewed by members of lower status groups? Content and implications of meta-stereotypes. *Journal of Personality and Social Psychology*, 75, 917-937.

Wicker, A. W. (1969). Attitudes vs. actions: The relationship of verbal and overt behavioral responses to attitude objects. *Journal of Social Issues*, *25(4)*, 41-78.

February 28, 2010

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Dear Mr. Gilmer:

Thank you for the kind invitation to consult with the Police-on-Police Shootings Task Force.

The following is a brief report from Force Science and myself. It expresses my opinion about some of the behavioral science elements that I think contribute to the phenomenon of police-on-police shootings. My opinion arises from my training, experience and research.

1. The Force Science Research Center and the Force Science Institute, Ltd. since their inception have focused on understanding the behavioral science aspects of officer involved use of force, particularly officer involved shootings. This focus started with our early research into the use of deadly force by officers in 1975 which then resulted in our research into the physical dynamics of the actions of both officers and subjects and continues with our research into the elements of perception (selective attention/inattentional blindness, the role of schematics and the effect of training patterns of behavior into both detection and response), cognition (all aspects of judgment from ideomotor reflexive models through recognition primed or naturalistic models to rational models) and memory (including the most effective fashion to "mine" the officer's memory). Although the focus on human performance in high stress situations is not unique to Force Science, the comprehensiveness of our research focus and particularly the application of this broad based behavioral science approach to officer involved use of force in high stress situations is unique to us.

2. Our ultimate goal is to, through this understanding, bring a strong influence of science to the investigation of and training for – officer-involved use of force. For instance, one of our current research projects is to have the force training programs from three countries evaluated by force trainers and kinesiologists to assess the

Conducting the leading research into human performance in high-stress law enforcement encounters.

current instructional programs and methodologies from the perspective of modern principles of training for human performance in these types of encounters. A focus of this project is to determine if we are providing enough training in the use of the "force tools" such that the officers are able to unconsciously use their tool (gun) then allowing the officer's attentional resources and decision processes to be free to conform their behavior to the law, policies and values of their department.

3. The vast majority of officer-involved shootings share some common elements. They are seldom static and frequently involve elements of time compression and urgency. Simply stated, the officer's perception is that if they don't respond extremely quickly something very serious will occur. Performance of psychomotor skills under conditions such as this produce some very predictable and characteristic errors, including "stimulus confusion" where the officer misidentifies the behavior or action of the subject. An analogy might be the behavior of a rookie batter in a baseball game. The rookie batter has to use some of their attentional resources on their use of the tool and consciously reading the behavior of the pitcher. This commitment of scarce and valuable attentional and cognitive resources to these tasks can significantly impair the performance of the batter and also lead to some very predictable and characteristic errors.

4. Not all officer-involved shootings involve these characteristics of time compression and urgency, but the officer on officer shootings that I have investigated have. Many of the over 1200 officer involved shootings that I have investigated also involved these characteristics. Therefore, I believe the behavioral science elements of these shootings need to be examined.

5. In this report I will explain some of the behavioral science dynamics of these types of encounters, explore how training and other modalities of instruction and influence have an affect and suggest some tentative solutions that might arise from this understanding.

MOTOR PROCESSING AND SCHEMAS (PATTERNS):

6. Human beings from birth begin to organize experiences into patterns. These patterns cover all areas of human experience from social interaction to driving and athletic competition. Understanding patterns allows us to organize incoming information into recognizable and categorical chunks that then allow us to read the context of the information and predict an outcome. This means that we do not have to see each new incident to its completion before deciding what to do. The better we get at reading patterns and the more unconsciously we can activate skills, the more we can effectively engage in strategy and planning. This is true for activities as diverse as football and chess, our interaction with a spouse or child, hostage negotiation and crisis intervention.

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7. Understanding and applying the pattern recognition or schema theory of motor learning can play a significant role in the accurate analysis of the reasons officer-on-officer shootings may occur. Dr. Richard Schmidt, a renowned professor of psychology at UCLA who identified the theory, defines motor learning as "a set of [internal] processes associated with practice or experience leading to relatively permanent changes in the capacity for responding." [Schmidt, R.A. (1988). *Motor Control and Learning: A Behavioral Emphasis.* 2nd ed.]. In essence, Schmidt's widely accepted theory is based on the idea that humans function within a certain universe of learned schemas; a collection of "plans" or "scenarios" that involve a compilation of certain elements—such as movements, behaviors, comments, etc. – that result in quick recognition of a pending event and a resulting pre-conditioned response.

8. In a law enforcement context, the premise of the theory can be synthesized to this: *In order for police officers to be effective and safe, they must learn to recognize certain movements, behaviors, objects and scenario characteristics as being potentially or immediately threatening. Through training and experience, they must develop a list of criteria that when met, call for prompt, definitive action. Depending on the circumstances of the encounter that response can range from seeking cover to create more options, the issuance of additional verbal commands or in the most extreme situations, the delivery of deadly force.*

9. Envision a police officer responding to a man-with-a-gun call one evening. On approach the officer spots a male dressed in civilian clothing holding a handgun that he is pointing at another individual. The officer immediately orders the gunman, who is facing away from him, to drop the weapon and raise his hands. Repeated commands yield no response. Moments later the gunman, still holding the weapon, begins to turn towards the officer. The officer, believing the man is presenting a deadly threat, fires at him.

10. In this scenario, a schema with which the trained officer functions, has come into focus and a motor process has played out. Elements of the schema may include the following:

    1. The officer has been dispatched to a man-with-a-gun call ("*I know, through professional training and study, that a man with a gun call can be a very dangerous, potentially deadly situation. I could be shot. I need to be tactically alert and ready to quickly respond as necessary to protect my life and the lives of others.*")

    2. The gunman is wearing civilian clothing with no law enforcement identification readily observed. ("*There are no visible or auditory factors that would lead me to believe that this individual is a police officer. To my understanding, he is a civilian pointing a gun at another civilian.*")

    3. Verbal commands are issued and ignored. ("*The man is refusing to drop his weapon. Through training and experience, a refusal to obey commands–particularly commands to drop a weapon-can be indicative of an individual who is determined to*

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follow through on a mission of violence regardless of police presence and the results. His level of defiant non-compliance may also be indicative of a willingness to engage in a gun battle.")

4. The gunman begins to turn towards the officer. (*"A person holding a gun and in direct non-compliance with my orders to drop the weapon is a threat to me. I know, through training and study, that an individual is able to spin around, point a gun in my direction and fire accurately in an extremely short period of time. I have less than a second to respond appropriately to end this threat."*)

11. In the scenario just presented, which represents one type of officer-on-officer shootings, the responding officer is positioned without cover and with significantly limited options because of this.

INADVERTANT PRESENTATION OF A THREAT:

12. In off duty, armed encounters, the off duty or undercover officer may fall prey to the phenomenon of inadvertently presenting what responding uniformed officers perceive as a deadly threat. This then results in their being shot as an act of self defense by the uniformed officers. In these incidents, the off duty officer allows his or her focus to funnel in on the individual(s) and scenario that may have served as a catalyst for their armed engagement while failing to take into consideration the observations and perceptions of the responding uniformed officers. Typically, the stress of the encounter causes the off duty officer to lose focus on—or completely ignore—the fact that he/she is not in uniform, is not immediately recognizable as a law enforcement officer, and is armed. To further compound the tragic recipe, some off duty officers ignore responding officers' commands to disarm themselves (for a variety of reasons that will be discussed later) and, in a fatal move, turn towards the officers while still holding the gun – even if the gun doesn't directly point at the responding officer. Perceiving the off duty officer's refusal to drop the weapon as intentional non-compliance and recognizing the firearm beginning to point toward them as a deadly threat, responding uniformed officers may deliver deadly force in an effort to stop the perceived threat.

SELECTIVE ATTENTION (Auditory exclusion)

13. Research shows that it is common for officers involved in high stress encounters to experience a phenomenon known as auditory exclusion, which is a failure to hear certain things ranging from verbal comments to gunshots. This is a normal process of human attention. Our brain assists us in focusing by ignoring or suppressing information that could distract us from our focus. An example of this would be all of the research that has gone into the use of cell phones when driving and the inattentional visual blindness that results from being focused on a conversation on our cell phone. In an off duty versus on duty encounter, this phenomenon may impact both the uniformed officer and the off duty officer and have potentially tragic

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results. In FS News #24: where Force Science referenced a number of studies in this area Lewinski is quoted as saying: *"This explains why officers defending themselves in a shooting may not hear things accurately–or at all...Their intense focus on a powerful visual stimulus–a threat to their life–causes their brain's hearing receptors to shut down."*

14. Several scenarios can serve as examples of this phenomenon. Consider the following two illustrations of the phenomenon in action:

- An armed, off duty officer in civilian clothing comes upon a violent crime in progress. The officer is compelled to draw his weapon and engage the criminal who poses a significant threat. As a result of the stress of the encounter and the attentional visual focus required to cope with the threat, the off duty officer's hearing is dramatically diminished, resulting in their inability to clearly hear and comprehend responding uniformed officers behind them commanding them to drop their weapon. The off duty officer begins to turn around, gun in hand, and is shot.

- An on duty officer responds to a man-with-a-gun call and comes upon an armed individual facing away from him and pointing a firearm at another individual. The officer, recognizing the severity of the situation and experiencing a high level of situational stress, is unable to hear the "gunman" loudly identifying himself as a police officer. The off duty officer begins to glance behind him and the responding officer shoots him. Later, witnesses recall the off duty officer clearly identifying his office. The officer who shot him claims to have heard nothing.

INATTENTIONAL BLINDNESS AND SELECTIVE ATTENTION:

15. Some suggest that the presentation of a badge or other visual identifier by an off duty, plain clothes officer would be sufficient to avoid a tragic misidentification in an officer-on-officer armed encounter. Science may suggest otherwise.

16. Research shows that in high stress, life threatening encounters humans, in an instinctive survival response, typically refine their focus specifically to an element of threat while filtering out seemingly superfluous elements. In a law enforcement context, this phenomenon, known as selective attention or more commonly as "tunnel vision", would be clearly illustrated by an officer "zooming in" on the barrel of a gun or the blade of a knife pointed in their direction or zeroing in on a suspect's hands, which they have been trained to watch closely while simultaneously filtering out extraneous visual elements, such as clothing color, facial features and even subject race or gender. This "tunnel" or "funnel" vision, although effective in allowing an officer to very closely monitor the location and/or movement of a weapon, can also pose difficulties.

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17. Additionally, during interviews with officers who have been involved in high stress encounters, it's very common for them to have ultra-detailed, and sometimes skewed recollections of what they saw ("The barrel of the gun looked as big as a cannon," "I felt I actually saw the bullet coming out of the barrel") while experiencing a complete inability to recall other specific details of things on which they were not focused; a phenomenon called inattentional blindness.

18. This scientific reality is important to keep in mind when deciding whether a visual sign of office, such as a badge or a colored armband, will be sufficient protection against a tragic mistake in identity. It's quite possible, if not probable, that an officer who finds themselves faced with an armed individual in plain clothes and who experiences a high level of stress may not even be able to notice such things.

TIME TO START:

19. Force Science has just completed a study on the threat value of prone subjects who are lying on a weapon, which is positioned at their waistband and also at their chest. The subjects then spun and fired from the ground, at the direction from which officers would typically approach or from which the officer would typically control the situation. The data is currently being analyzed at the ergonomics lab at Indiana University. This and our other studies on the 14 different actions that subject use when assaulting a police officer plus our studies on 20 different reactions that officers use when they respond to these threats – informs us that the officer (reactor) is always behind the action of the assailant. Officers find this information very disconcerting. Our research informs us that an average subject from any position (once the weapon is untethered) can fire toward an officer (in any direction) in a quarter of a second, with a high degree of accuracy out to over fifteen feet. Officers in their training discover this rather rapidly – action beats reaction. This information when the officer is confronts a non-compliant or defiantly non-compliant subject (read – one who doesn't hear or understand why they are being treated this way) creates a high threat value for the officer. The current police officer training provides little or no training in how to handle these situations, thus leaving the officer dependant upon their own resources in these types of situation. This in turn makes the officer vulnerable and places the subject they are confronting in a precarious situation – whether that subject is an officer or not.

SUGGESTIONS:

20. Most of our firearms training begin with classroom instruction on the application of law and policy to force and deadly force situation. The next level of training is on the manipulation of the tools – whether that be a handgun or another instrument of force. Few departments then go on to spend considerable time on the recognition of patterns of behavior and the strategy and tactics of force and deadly force encounters.

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21. I do not want to get caught in arguing for a solution without considerable research into that proposed solution – However, I find it fascinating that in any athletic activity – and the use of a firearm in a deadly force encounter is very analogous to a high stakes athletic activity ~ instructions about the rules of the game and the development of skills with the tools of the game are only the beginning of the instruction into the game. A tennis or soccer player with this level of instruction would not do very well in competition. The strategy and tactics of the game – the recognition of patterns of play, the anticipation of outcomes, the play patterns that defeat an opponents attack before it develops all need to be developed in the athlete if they are to perform well. In law enforcement, for the most part, we stop or move very little past the rules of the game and the development of fundamental skills with the tools. This is precisely the type of circumstances that lead to a high level of both predictable and preventable errors in judgment during the game. It may also be the reason for both predictable and preventable errors in officer-on-officer shootings.

22. The behavioral science elements discussed in the beginning of this paper illustrate that there is a considerable body of research that explains how human factors in crisis situations can impede successful performance or inversely lead to predictable and preventable errors. With good training these same factors can also facilitate great decision making and performance.

23. My suggestion for this committee is that we examine the whole process of skill development and decision-making in the use of force training in law enforcement. I suspect that the roots of officer-on-officer shootings start with the limitations of the skill training and then proceed from there. This makes the success or failure of deadly force situations highly dependent upon the skills and abilities or lack of and the attitudes of the individual involved officer.

24. This brief paper presents some of my thoughts on this issue. I would be happy to expand this paper or provide it in a different format. Please advise.

We believe that given the speed, intensity and complexity of the situations you are exploring, the onus for a safe outcome in an armed officer-on-officer encounter must include the off duty, plain clothed officer. That off duty officer, unless personally known to the responding uniformed officer and immediately recognized, should remain acutely cognizant of the perceptual and tactical challenges that responding officer is facing and should make every effort to help that officer avoid mistaking him or her for an armed criminal who may have malice intent. One of the most effective ways to do this is to immediately and thoroughly comply with a uniformed officer's commands and to make every effort to assure that officer, through your actions, that you have no intent to harm them.

If I can provide any further information, please contact me.

Sincerely,

William J. Lewinski, Ph.D.

MEMORANDUM

To: Christopher Stone, Chair, New York State Governor's Task Force on
        Police-on-Police Shootings
From: Bill Geller, Director, Geller & Associates Consulting
Date: February 16, 2010
Re: comments you invited on the work of the Task Force

I'm writing in response to your recent invitation that I address two specific questions and offer any other comments that might assist the Task Force in carrying out its mandate.

The two questions you asked are:

1. The Congress in 2004 authorized off-duty officers across the U.S. to carry their weapons with them in any state of the country. We worry that this may have an unintended consequence of increasing the numbers of armed, off-duty officers taking police action without knowing local protocols for responding to officers who challenge them. Does it make sense for there to be a national protocol (most big cities use a somewhat similar protocol) with training funded by the feds in order to reduce the risks inherent in the new legislation?

2. If it makes sense to train police officers how to respond to a challenging officer when they are stopped in plainclothes, doesn't it make sense to train civilians too? Rather than only train poor kids or African-Americans (as voluntary efforts essentially do today) does it make sense to add guidance about how to respond to a police officer effecting a stop as part of driver education and the "written" or electronic test administered for drivers licenses? This would make the training nearly universal.

I will address these questions following some more general comments.

A typology of shootings by police

It is important to be clear about terminology. Police-on-police shootings (and shootings of others by police) fall into several general categories:

- **accidental** (the officer handling the weapon—the shooting officer— did not intend for it to discharge, but it did)

- **stray bullet** (the shooting officer fired intentionally but was not aiming at the police employee who was shot; this is also called an off-target shot)

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There have been problems in many cities with officers' tactical positioning during building raids, where personnel have found themselves in the line of fire from colleagues. In a widely discussed stray bullet incident of a different variety, officers took positions on all sides of a parked, locked car with a seemingly unconscious driver slumped behind the wheel and a gun beside her on the car seat. When an officer shattered a window to enter the vehicle and check on the driver's condition, the noise awoke the driver, who in a daze reached for her gun. One or more officers fired at the driver, risking also striking colleagues on the opposite side of the vehicle.

- **mistaken identity (**the shooting officer fired intentionally at the person who was struck but was unaware at the time that the target was a police employee)

- **intentional** (an unjustified or justified shooting, in which the shooting officer purposely shot the person who was struck by the bullet, believing the target to be a police employee) An example of a justified shooting might be in a personal domestic dispute or in some other disturbance in which the target police employee placed the shooting officer in imminent danger of death or great bodily harm.

My understanding is that the type of incident of greatest concern to this Governor's task force is the *mistaken identity shooting*: an intentional shooting in which the shooting officer thought the target was not a police employee and that criminal conduct justified the use of deadly force.

<u>Officers' options often depend on acquiring key information at different phases of potentially dangerous encounters</u>

Analysts, among them the late NYPD veteran Jim Fyfe, have been seeking and recommending strategies to avert these so-called "friendly fire" shootings in New York City and elsewhere since at least the mid-1970s. The accumulating wisdom is that it becomes easier to devise and implement methods to prevent unwarranted shootings if potentially violent encounters are conceptualized as having several typical phases, each containing "decision points." These phases may play out over many minutes or be collapsed into an instant.

As decision-point analyses with police practitioners often reveal, sometimes officers' decisions can alter the time frame of an evolving incident for better or worse. The notion that virtually all shootings by police are—and must be—split-second decisions is a myth that has contributed to many regrettable shootings of police and members of the public and has ruined police careers and lives.

Drawing on work by several analysts, Mike Scott and I summarized five phases of potentially violent encounters in our 1992 book, *Deadly Force: What We Know*:

1. "***Anticipation***, defined as the period from the officer's first awareness of the need for intervention to his or her arrival on the scene where the encounter occurs (or at least begins) with the opponent. A critical element of this phase is the substance, amount, and accuracy of information that the officer receives and may use in forming expectations of and preparations for the upcoming encounter.

2. ***Entry and initial confrontation***. This is the period in which the officer physically enters the scene or first approaches the citizen. It is theorized that tactical decisions made in this phase can significantly influence the officer's later options. These decisions would

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include whether to seek cover (behind an object, protective ballistic shield, or the like) or concealment (which may be achieved through the use of physical barriers or deceit as to identity…) and whether to enlist the aid of individuals whom the suspect may trust.

3. *Dialogue and information exchange.* This is a 'definitional' phase in which, through oral or other communication, the officer(s) and civilian(s) 'size up' the situation and each other. Included in this phase are orders to 'halt,' 'drop the gun,' and so on issued by the police, threats or signs of contempt by the civilian toward the officer, and brief attempts to reason with the opponent or extended negotiations, as in hostage-barricade situations.

4. *Nonlethal (or less-than-lethal) physical control tactics.* The possible armed and unarmed tactics that might be employed are numerous and varied. They could include weaponless controls without debilitating potential, weapon-assisted leverage techniques, weapon-assisted pain compliance, chemical irritants, electrical devices, impact weapons, weaponless controls with debilitating potential, non-firearm weapon techniques with debilitating potential, and so forth….

5. *Final frame decision* to shoot or not shoot. The officer's actual determination about firing the weapon."

Techniques used by many agencies to avert mistaken identity shootings by officers of their undercover colleagues are applied during several of these phases. For instance, during the anticipation period, a dispatcher may be able to alert officers responding to a possible crime scene that there are plainclothes officers at or near the location. It may be worthwhile for police agencies to be sure they are using the best available technology (such as geographic tracking of personnel) and procedures (such as plainclothes officers keeping dispatch personnel informed of their field locations to the extent feasible).

Enhance officers' and the public's skills in observing and communicating descriptions of other people

Besides providing the name of any plainclothes personnel at the location, the dispatcher or a supervisor may be able to provide early responding officers with a physical description of any non-uniformed officers on site.

With the widespread availability of computers in cars and cell phones with graphics capability, it may be technically and financially possible to devise a system by which dispatch could efficiently send officers responding to a call for service facial photos of plainclothes members of the force who are likely to be at the scene. In small police agencies, where officers know all their colleagues, such protocols and technical systems may not be needed. But of course even small towns may experience situations where personnel from another agency (on duty or off duty) take police action in exigent circumstances; those personnel may not be known to members of the local police force. If out-of-town, out-of-uniform officers had simple, reliable methods to notify the local 9-1-1 system that they are taking police action and to provide a quick but sufficient description of their own appearance and the appearance of the involved crime suspect, tragic outcomes due to mistaken identity might be reduced.

Another way to avoid mistaken shootings of plainclothes officers (and of crime victims and other innocent members of the public) is for responding officers to get the best possible physical descriptions of any *crime suspects* who are the subjects of the police response. Although a

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variety of circumstances may make such descriptions difficult or impossible to provide rapidly as incidents transpire, advances may come from improved protocols for 9-1-1 system call takers to elicit the best possible descriptions from callers who may be in a state of high anxiety and/or may need help providing the details. Better protocols could help ensure more faithful adherence to conventional best practices. One possibility might be an enhanced check list that guides call-takers in eliciting the best possible physical descriptions and other vital details that the callers can provide at the moment. Another possibility could be better terminology that helps improve the precision and reliability of information from callers.

It might also be valuable to experiment with methods to elevate the quality of descriptions provided to police. Might it be valuable to use images that call-takers could send instantly to the caller's cell phone to help clarify visually a description being provided? What if off-duty police officers outside their own jurisdiction had on their cell phones their official photograph and an image of their employee ID, both of which could be instantly forwarded to the local 9-1-1 dispatch center as the plainclothes officer became aware of the need to take police action? It wouldn't surprise me if, as Apple might say, "There's an app for that."

Progress may come from further examination of studies in human communication for their implications for the current topic of concern. One study that comes to mind explored whether IQ tests were culturally biased by constraining choices of descriptive language. Two subjects were seated, back to back, each with a table in front of them. On the tables were an identical set of wood blocks of different shapes and colors. The blocks were in random piles. One of the subjects arrayed the blocks in front of him and then had to describe orally what the arrangement was so the other subject, not seeing the first display, could similarly position his set of blocks. While it's an oversimplification of the findings, one observed pattern that serves for present purposes was that pairs of subjects with a great deal of schooling and with very little schooling all were effective in describing how to arrange the blocks, but their language choices were quite different. For instance, the college-educated would say something like, "Take the 6-inch long, yellow rectangular piece with the hump on one side and place it about 3 inches from the edge of the table closest to you. Angle it in a northeast to southwest direction with the hump facing away from you." Those with little formal schooling also got the job done, saying things like, "You see the piece that looks like a yellow Cadillac? Put it by your belt buckle."

Technology may provide valuable assistance for police efforts to elicit good descriptions from people who offer descriptions *by analogy* ("the suspect looks like Mike Tyson only shorter"). One could imagine an expanded conception the role of the conventional police sketch artist to include helping out in real time through the electronic transmission to the caller's cell phone of a depiction of the person based on the caller's description. The call-taker could use the image to secure clarifying information.

There may also be some value in educating the general public how to provide good descriptions of people—especially facial features of persons of different races and ethnicities. One could imagine a variety of methods—perhaps including a video game or a television game show—that would help increase the general public's interest in and skill at accurately describing other people whom they have seen only briefly. In *Deadly Force: What We Know*, we wrote that several policing experts over the years have noted the pervasive problem of police employees

> "accepting and disseminating overly general descriptions of [people]who are wanted by the police: 'Be on the look-out for a black male, about six feet tall, between the ages of 25 and 40, wearing a red jacket and high-top sneakers. Suspected of armed robbery and pistol whipping the victim.' In many cities, such a description, in the

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absence of details (if possible) about the suspect's complexion, facial features, obvious scars, hair style and length, style of walking, and other distinctions…could fit a fair number of the men police would see when cruising through a black neighborhood. Use of such vague descriptions often results in field personnel making unwarranted stops and needlessly engendering resentment among those stopped and questioned…."

Perhaps as important as elevating descriptive capacity and establishing common terminology, such education might heighten awareness of how *difficult* it can be to provide accurate descriptions. A better, broader understanding of these challenges could introduce a healthy dose of honest uncertainty when people provide descriptions of suspects to authorities.

During the "entry and initial confrontation" phase of potentially violent encounters, responding personnel may be able to take a position of cover so they can safely ascertain who's who on scene. This is where protocols such as "color of the day" information and apparel, as well as the plainclothes officer standing ready to display a shield and employee identification card can be crucial confirmations of the person's identity as a law enforcement officer.

More than 20 years ago Jim Fyfe emphasized the tactical importance of cover and concealment for responding personnel so they can safely make initial assessments of the situation facing them:

> "The use of concealment not only minimizes the risk of officers, bystanders and suspects, but may also prevent tragic mistakes. I can recount several occasions in which officers responding to such calls [as robberies in progress] have neglected to seek concealment, have encountered armed individuals from positions of total exposure, have—with some justification—perceived imminent danger to themselves, and have shot persons later found to be plainclothes police officers or crime victims who had armed themselves to pursue the actual perpetrators. Many of these tragedies might have been avoided if the officers involved had instead confronted these individuals from positions of physical cover. From such positions, officers make themselves near impossible targets and are able to give their perceived adversaries opportunities to identify themselves or to drop their weapons without placing themselves in jeopardy."   (James Fyfe, 1989. "The Split-Second Syndrome and Other Determinants of Police Violence." In Roger G. Dunham and Geoffrey P. Alpert (eds.), *Critical Issues in Policing: Contemporary Readings*. Prospect Heights, IL: Waveland Press: pg. 477. Reprinted from Anne Campbell and John Gibbs (eds.), *Violent Transactions*. New York: Basil Blackwell (1986)

Develop and disseminate in the mass media persuasive stories and metaphors to help encourage police officers and the general public to take extra care to avert mistaken identity shootings by police

Many such stories could be developed from actual incidents which have cost lives of innocent people and ruined otherwise productive police careers. Here is one example from *Deadly Force: What We Know*:

> "Two officers responded to the scene of a flower shop burglary. From their squad car, they noticed a man standing near the shop and gesturing to them. One officer exited the vehicle and talked with the man, discovering that he was the shop owner, who had been called to the location by the burglar alarm company. Learning from the shop owner that a suspect in the burglary was nearby, the officer promptly bolted after the suspect. But the pursuing officer neglected to inform his partner, a rookie in his 17th week of field training, that the man whom the officers saw as they drove up

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to the scene was the shop owner—the victim of the crime. The rookie partner moments later saw this man draw a weapon and begin heading in the direction of the pursuing officer. Believing that the shop owner might be one of the burglary suspects, the rookie officer ordered the man to halt. When the man did halt and turned in the direction of the rookie with gun still in hand, the rookie officer fired once, inflicting a fatal chest wound. The victim of this mistaken identity shooting was a decorated war hero, and among the tributes paid to him at his funeral was attendance by a police honor guard."

The National Advertising Council and other organizations might be enlisted to develop dramatized television and radio spots. It might not be difficult to arrange for such spots to be presented or endorsed by "strange bedfellows," such as police unions and civil rights and civil liberties organizations, which could help attract public attention. Another method to elevate public and police awareness of the risks of mistaken identity shootings and how to reduce them could be responsible treatments of the subject in crime dramas on television, in feature films and in books.

The preceding scenario calls attention to the importance of officers' situational awareness during a rapidly changing encounter—knowing , for instance, how to establish cover and how otherwise to take a position of minimal exposure when demanding that a subject stop and yield to police authority. As in this scenario, the individual, startled by the demand, not infrequently instinctively turns suddenly (with weapon still in hand) to see who has issued the order.

Tactical communications methods are a significant matter that in many jurisdictions could use more attention, without waiting for the prompt of a high-profile tragedy. More work should be done, for instance, in categorizing the various types of situations and people who fail to comply with a police officer's demands. When noncompliance occurs, *why* don't people obey the police? One typology of explanations might include the following three categories of people whom police attempt unsuccessfully to control and direct:

1. **people** *who can't hear* the officer (literally, either because there is too much competing sound or because they are deaf)
2. **people** *who can't understand* (because of language barriers, mental deficiencies, or instructions that, while audible, are not decipherable due to excessive background noise or officer errors)
3. **people** *who just won't listen* to the officer's demands

Such a typology in the hands of gifted tactical trainers could help save lives and careers. In my own work on conflict resolution, some time ago I began a conversation with actress Marlee Matlin, who is deaf, about being a spokesperson for a series of televised public service announcements about this range of police-related communications challenges. She is married to a police officer and expressed interest in such a project.

The 2 specific questions you asked

1. **The Congress in 2004 authorized off-duty officers across the U.S. to carry their weapons with them in any state of the country. We worry that this may have an unintended consequence of increasing the numbers of armed, off-duty officers taking police action without knowing local protocols for responding to officers who challenge them. Does it make sense for there to be a national protocol (most big cities use a**

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somewhat similar protocol) with training funded by the feds in order to reduce the risks inherent in the new legislation?

As the task force's research may have revealed (and as I have learned through my own inquires in response to your question), there was enormous concern about this topic in the Major Cities Chiefs Association when this law was passed. It was a topic of conversation at every meeting for about a year. As of today, however, national police leaders say that the law has not had the impact the big-city police chiefs were concerned about. One said: "I don't know of any incidents that have occurred because of the law." That perception, of course, does not mean that systematic inquiry would lead to the same conclusion.

My understanding is that basically the law requires that officers have an identification that shows they have met the training requirements issued by a police department. The assumption was that the ID would be issued by the police department that employed them. Most departments, reportedly, never set up the process. In one agency which *did*, their chief doubts that "anyone ever went through the qualification process."

While the law is federal, implementation was left to the states and locals, and as there seemed to be no consequences if state and local police agencies ignored it, many apparently did—thinking they didn't want to take on the liability of issuing the certification and then having someone sue them for a mistake made by an off-duty or retired officer.

One respected police leader I talked with doubted there would be much value in having a national protocol, saying: "I am not sure anyone knows how many officers have the certification required to carry a firearm across state lines and, if they are not being issued there is no need to do any training." He acknowledged that most large departments have some type of procedures along the lines you are thinking about, but he said "I'm not sure how good they are. Fortunately we have very few of these situations, as tragic as they are when they do occur."

Others see greater value in a nationally provided protocol and training. For instance, a police supervisor told me, "I'm all for a national protocol. I worry about a good old boy off-duty cop from Baton Rouge coming to my city and taking police action without knowing the right protocol."

A few of the topics that would need to be addressed by such a protocol are:

- the level of imminent harm that justifies an off-duty officer taking police action

- whether a different threshold should apply when the officer is off *duty out of town* versus *in the jurisdiction* where he or she works

- some clear, unambiguous prohibitions (e.g., an officer who expects to be consuming intoxicants should not carry a firearm; other than the need to protect someone from imminent physical harm, an officer should not take police action in an incident, such as a fender bender on a busy street, in which the officer is personally involved)

- a requirement than any officer who carries a firearm while off duty must also carry his or her shield and law enforcement officer ID card. As one police officer said to me, "If you can carry a gun anywhere in the country, then you should have to carry your shield and ID card as a police officer." Earlier, I suggested that it may be worth exploring whether there could be "an app for that."

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If such a protocol and training are developed, they need to focus clearly on the proper scope and terminology for information exchanges in such confrontations. For example, a standard script fo an on-duty officer and another person who claims to be a police officer might go something like this:

> "Where is your shield and ID card?"
> " It's in my front pocket, left, non-shooting side."
> " OK, put your gun down and show me your shield and ID card."

A protocol and supportive training need to focus clearly on the roles that both the on-duty and off-duty officers are responsible for playing. One important emphasis should be that, in encounters between an off-duty officer and on-duty police, *the on-duty officer is in charge*. The job of the challenged off-duty officer is to comply with the directives of the on-duty officer.

Trainers in some major cities concede that it can be challenging to persuade their officers that "when you are off-duty, the cop challenging you is in charge and you're not. It can take a while for them to accept that when the police say, 'Police, don't move' you should stand still."

There are many reasons why it may be hard for this message to sink in and for people to heed it in the heat of an apparent crime in progress. Some of the reasons may be understandable and may reflect a positive work ethic and dedication to duty to serve and protect the public. One such view was adverted to by a veteran police middle manager whom I interviewed, but she offered a dismal appraisal of what on-duty cops in her organization usually do when summoned to take police action. She said her experience in recent years suggests that first-responding officers may not be prepared to decisively address whatever crime problem is at hand. If that's the case, the off-duty officer could believe that failure to personally take charge then and there could mean greater harm to a victim and the perpetrator's escape. She elaborated on her view that many young police officers today, by dint of personality, training and supervision, are reticent to "handle" the calls to which they respond:

> "Today's young cops are from a generation who feels justified showing up to a call but then waiting for others to arrive and take charge. Gen X won't do anything because 'whatever I do will be considered wrong, so I'll just wait for the boss to show up and take charge.' Cops from earlier generations show up and take care of business. That was the culture. With the advent of so much information technology, with everyone on a cell phone now, every cop can flip open a phone and call the boss. Or call SWAT. Sometimes our SWAT wonders, 'Doesn't anybody do police work anymore? The way things are,' they ask, 'What's the difference between the first responding cop and the old lady leaning out her window and calling the police?' SWAT or supervisors are called for *everything* now.

> The overreach of micromanagement has paralyzed the cop to the point where the approach to a call is *isolate, contain, and do nothing until the boss shows up.* Instead, the cop's ethos *should be* to isolate, contain, and engage. Cops need to be trained and guided in how to use the color of authority to engage. But we have the opposite. The sergeants' training tells them to wait for the lieutenant. And the lieutenants are waiting for the captain. Cops are more justified in doing nothing than in doing something. The culture is that you'll do something wrong if you do anything. That paralyzes the cops.

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And that kind of reduction of police services has horrible consequences. The impact on neighborhood safety would be that fewer people are being served. This diminution in service leads to a diminution in trust. People look at cops with disdain. The public understandably wants to know what happened to the cop as protector, as mediator. What will happen to people telling their children, 'When you need help, get a cop'? Any police officer who doubts that cops understand the lack of service that most departments are providing in this age of malaise, of indifference and complacency, should ask himself a simple question: When you were off duty, especially with your family, did you ever identify yourself as a police officer to another cop in order to get proper service? Cops are so embarrassed at the idea of getting blown off, you preemptively ID yourself as a cop to another cop so you will get proper service.

The department's culture now is all about focusing on corruption and getting statistics. The real corruption on this job is complacency. Cops mean well, they care, but there's this overriding opinion somewhere in the system—there's a dread—don't stand out, wait for someone to tell you what the next step is. Hold the line until we get there. That's night and day from when I was a young cop.

What's in the middle between the Rambo cop and the cop with the wrap-around sunglasses, with his hands in his pocket, chewing gum and saying to the citizen asking for help, 'I don't know what to tell you buddy'? Where's the great gray area where good cops give good service to the community? How do you change a culture of neglect of duty? "

If this bleak description of one agency's patterns of responding—or failing to respond—to calls for service is generally accurate for that agency and for many others, then the Task Force would probably be well served to consider its recommendations in light of this possible challenging state of play. The salient question about any given recommendation would be, How will it actually *work* in such a police organizational culture? Officers who, by dint of such a stultifying work environment, have diminished skills and experience in safely, expeditiously and legitimately resolving conflict and responding to incidents may resort too readily to their firearms at the first ambiguous sign of challenge by a suspect to their police authority.

2. **If it makes sense to train police officers how to respond to a challenging officer when they are stopped in plainclothes, doesn't it make sense to train civilians too? Rather than only train poor kids or African-Americans (as voluntary efforts essentially do today) does it make sense to add guidance about how to respond to a police officer effecting a stop as part of driver education and the "written" or electronic test administered for drivers licenses? This would make the training nearly universal.**

I think there is value in some type of educational process, and the drivers training and licensing systems make sense as one way to approach it. There are a lot of police departments that offer material—brochures, videos or sessions in classrooms—on what to do if you are stopped by the police. Some of these are culturally competent materials and others are not. To be culturally competent communication, the instructions need to take account of the kind of perceptions of legitimacy and honesty of police and of other government authorities that people bring with them to an encounter based on their own and others' prior experiences and stories of how police treat people in American cities and other nations.

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Good materials on how to behave when stopped by the police could be mined for the clearest and most memorable explanations. Keep in mind that different people learn best in different ways—visual learners, aural learners, readers, hands-on learners, etc. Just as nobody gets a license to drive a vehicle without taking both a written test and a road test, I wonder if it is too ambitious to conceive of some simple role-play scenario that would test how the person behaves when stopped by a police officer. This would be based on a relatively standard curriculum for drivers' training in which role plays were also used. Perhaps there could be both questions on the written driver's test and a two-minute portion of the road test in which a person in uniform approaches, requesting the driver's license and perhaps other documents and alleging some motor vehicle infraction. As with any initiative, the costs of doing something useful might be significant (especially in light of current fiscal problems), but the costs of doing nothing might be higher.

It is worth reiterating that any such testing or training needs to be culturally appropriate and sensitive. People of any racial or ethnic group who believe (correctly or incorrectly) that police stop people who look like them frequently—and that those encounters are often problematic through no fault of the driver—will have heightened sensitivity that should not be ignored in designing and implementing teaching and testing methods.

I spoke with a police leader who offered some frank observations about a key objective in training police officers about conducting car stops in a manner designed to minimize antagonism and escalation from dialogue to physical force. What he says may bring a perspective that is useful in framing the content of *public* education about what to do when stopped by the police. "If we were serious about training cops to handle car stops well," my interviewee said,

> "the two things I'd love to remove from the lexicon of cops would be 'asshole'—you will never use that word again from this moment forward—and 'Give me your license, registration and insurance.' Instead tell people *why* you're stopping them. Who could possibly produce their registration and insurance right now without risking an ambiguous gesture? The registration is in the glove box. The insurance might be in the back seat with the guy's wife. As a police officer, using those phrases creates a tactical nightmare. Instead, tell the person why you're making the stop, then ask for the license—*only* the license.

> Get into the other guy's zone before he gets into yours. Tell people what they want to know (why are you stopping me?) before they ask for it. The problem many cops have with the African-American community is the claim, 'You're stopping me because I'm black.' Let's get the conversation back on the right color—red. I'm stopping you because you ran that red light. How do you teach cops to manage conflict when they are personally being challenged? The whole business of democracy is that people have a right to challenge you. Cops need to get that."

A reality that needs to be addressed frankly in devising training—whether for police officers or for members of the public—is that among the groups of people who tend to challenge governmental authority figures, teenagers are high-rate challengers. As another police officer put it to me,

> "You're targeting a group that's all about challenging authority. That's the right of being a kid. They're biologically at an age where pushing back is normative. The driving experience is their means of expressing their independence. The only thing that gets them out of their bedroom is their car. The police are the most conspicuous form of government in our culture. There's 'law and order.' It isn't some *idea*. That's

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why it's called 'the man.' The teenager demands to know from the cop, 'Who's complaining about my stereo, etc.?' That's the typical youthful challenge.

Driver education should deal with the fact that the teenager's self-image is one of invulnerability. We have to tell young people, 'It's not if, but when. You're going to be stopped, so let's start training about the terms of your insurance policy, where you put your hands, etc.' People know more about their insurance policies than they know about how to deal with authority.

The implementation challenges of going to scale and having widely different trainers do the training well are huge. This effort is probably crying out for a really well-made film so you have consistency of messages. There could be many faces, many voices saying the same thing. Use popular characters, celebrities—people the audience for the training will listen to. So we need to find out who the kids listen to."

It may be wise for any training of the general public to acknowledge both what is expected from professional police officers in car stops and also how the individual being stopped can help ensure a nonviolent resolution of the car stop, even if the officer is belligerent or otherwise rude. Better to be cussed than killed, as a parent might tell a child driving home from college. There is a time and place for complaining about and trying to rectify inconsiderate police conduct, but for members of the general public, that will rarely being during an encounter with the officer. It may be important for any drivers education and testing program to both tell people how to behave when stopped and questioned by police and how to complain to responsible authorities about police rudeness or other possible misconduct. As with most police agency brochures on how to complain about police misconduct, there could also be instructions on how to file a compliment, with the explanation that identifying exemplary police officers is one way that departments help refine police training and standards for all employees.

In work on the causes and prevention of police-involved shootings, on implementation of police crime control strategies, and on the potential for police departments to become more adept "learning organizations," I have found there is often power in studying not only the causes of failure but also the causes of success. Very few police agencies or police oversight authorities give rigorous, analytic success studies proper attention or resources. In that regard, the police world is undesirably different from the military and business and industry, which take after action reports and debriefings more seriously. Too often, when such debriefings are done in the police world (say by SWAT) the questions asked are limited to the tactical: Did we do this correctly? Those questions are vital, but both highly trained intervention teams and routine patrol units need more often to also ask themselves the *strategic* question: Even if we did it correctly, was it the right thing to do, in light of the police mission and our impact on the community?

Thank you for the opportunity to provide some thoughts to your important Task Force, Chris.

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Appendix G: List of Witnesses and Written Submissions Made to the Task Force

Public Hearing 1 **Monday, November 16th** **10:30 a.m. – 1:00 p.m.**

NY State Capitol, Blue Room   Albany, NY

Richard Bellucci	NY State Division of Criminal Justice Services
William Kilfoil	Chief, Port Washington Police Dept. & President, New York State Association of Chiefs of Police
Pedro Perez	First Deputy Superintendent, NY State Police
Rich Wells	President, Police Conference of New York
Charles Wilson	Chair, National Association of Black Law Enforcement Officers, Inc.

Public Hearing 2 **Thursday, December 3rd** **3:30 p.m. – 7:30 p.m.**

Adam Clayton Powell Jr. State Office Building – Harlem, NY

Hon. Laura D. Blackburne	Interim General Counsel, N.A.A.C.P.
William Brooks III	Deputy Chief, Wellesley (MA) Police Department
Wilbur Chapman	Deputy Commissioner for Training, New York City Police Dept.
Khary Lazarre-White	Co-founder & Executive Director, The Brotherhood/Sister Sol
Vincent Warren	Executive Director, Center for Constitutional Rights
Rev. Al Sharpton	President, National Action Network

Written Testimony:

Chris Dunn	New York Civil Liberties Union
Donna Lieberman	New York Civil Liberties Union
Willie Shaw	Lieutenant (ret.), New York City Police Department
John Sutton	Special Agent in Charge, Drug Enforcement Administration (ret.)

Public Hearing 3 **Friday, December 4th 10:00 a.m. – 2:00 p.m.**

Westchester County Center - White Plains, NY

John Bilich	Deputy Commissioner, NY Division of Criminal Justice Services
Frank A. Bolz, Jr.	NYPD Detective-Captain (ret.) & Law Enforcement Consultant
Larry Brown	Past President, Westchester-Rockland Guardians
David Chong	Commissioner, White Plains Department of Public Safety
Barbara Duncan	Chief, Mount Vernon Police Department
Terrence Dwyer	Assistant Professor, Western Connecticut State University
Michael Hagan	President, Westchester Police PBA
Patrick Jean-Jerome	President, Mount Vernon Police Department PBA
Damon Jones	President, Northeast Region, National Black Police Association
Daniel Langford	Commanding Officer (Firearms and Tactics), Zone 3 Training Acad.
Demosthenes Long	former Deputy Commr., Westchester Co. Dept. of Public Safety
Anthony Mitchell	President, Westchester County NBPA Chapter
Stanley Ridley	Father of Mt. Vernon Police Officer Christopher Ridley

Appendix H: Executive Order Creating Police-on-Police Shootings Task Force

EXECUTIVE ORDER
NO 23: ESTABLISHING A TASK FORCE ON POLICE-ON-POLICE SHOOTINGS

WHEREAS, law enforcement officers heroically put their lives at risk every day to protect the citizens of New York State; and

WHEREAS, everything possible must be done to protect these brave officers and reduce the risk of death or injury that they face; and

WHEREAS, there have been tragic incidents in which officers have mistakenly wounded or killed other officers who are not in uniform when they are off-duty or undercover; and

WHEREAS, in one such recent incident, on May 28, 2009, off-duty New York City Police Department Officer Omar Edwards was mistakenly shot dead by another officer as Edwards chased a suspect who had broken into Edwards' car; and

WHEREAS, in another such incident, on January 25, 2008, off-duty Mount Vernon Police Department Officer Christopher Ridley was mistakenly shot dead by officers from another department as Ridley was holding a suspect; and

WHEREAS, we must do everything we can to prevent another such tragedy in the future; and

WHEREAS, we must provide our law enforcement officers with the training, tools, and technology to keep them, and other officers, safe.

NOW, THEREFORE, I, David A. Paterson, Governor of the State of New York, by virtue of the authority vested in me by the Constitution and Laws of the State of New York do hereby order as follows:

A. Creation, Mandate and Reporting Duties of the Task Force

    1.   There is hereby created the Task Force on Police-on-Police Shootings ("Task Force") to examine the issues and implications arising from police-on-police shootings and confrontations, especially between on-duty and off-duty officers, between uniformed and undercover officers, and between officers of different races, nationalities and ethnicities, and how to prevent such incidents in the future.

    2.   The Task Force shall examine all matters that it deems relevant to these issues with particular emphasis upon examining how training, tactics, policies and procedures, technology and equipment, and sociological and psychological factors may contribute to such

shootings and confrontations and/or help prevent such incidents and improve both officer safety and public safety.

3.   The Task Force shall examine and, where it deems appropriate, inquire into and make recommendations as to matters including but not limited to:

a.   Statistics, data and descriptions concerning police-on-police shootings in New York and other states and jurisdictions. This review will include an examination of the frequency, circumstances, and causes of shootings between on-duty and off-duty officers and uniformed and undercover officers and between officers of different races, nationalities and ethnicities.

b.   Good practices, tactics, training, policies, and procedures that may safely prevent or resolve confrontations between on-duty and off-duty officers and uniformed and undercover officers and between officers of different races, nationalities and ethnicities, that are used, recommended, or under consideration by law enforcement agencies, relevant professional organizations, and experts.

c.   Training for officers, including possible state-wide curriculum for new and experienced officers, arrangements for providing all officers across the state with such training, and development and provision of facilities for interactive tactical training.

d.   Available technologies that might be used to prevent police-on-police shootings, and the possible development or adaptation of technologies for this purpose.

e.   The sociological and psychological factors and other conditions that may lead to, or result from, police-on-police shootings, especially such shootings involving off-duty and undercover officers and officers of different races, nationalities and ethnicities.

f.   The experiences, insights, and recommendations of current and former police officers across New York State who have been at risk or felt themselves at risk from police-on-police shootings while off-duty or working undercover, especially but not limited to officers of any racial, ethnic, or national minority.

g.   The organizational and managerial structures and processes that may help to implement the matters described above to prevent or reduce police-on-police shootings, especially involving off-duty and undercover officers and officers of different races, nationalities and ethnicities.

4.   The Task Force shall strive to make its recommendations by consensus wherever possible and shall engage, and solicit the input of, a broad and diverse range of groups, organizations and individuals, including, but not limited to:

   a.   Law enforcement officers, organizations and experts.

   b.   Community representatives and leaders, and interested citizens.

   c.   Criminologists, sociologists, psychologists and other relevant academics and experts.

   d.   Experts on issues relevant to law enforcement interaction with minorities and minority communities.

   e.   Whatever other groups, organizations, or individuals the Task Force considers relevant.

5.   The Task Force shall issue a report with such recommendations and findings as it deems proper within six months of the date that it begins its substantive review process as determined by the Chair. The Task Force's report may include proposals for legislation, regulations and policies that it believes would advance the goals of the Task Force.

6.   Upon the filing of the report, the Task Force's mandate will expire and the Task Force will cease to exist.

B.   Composition and Structure of Task Force

1.   The Task Force shall be led by a Chair and consist of no more than 9 members, including the Chair, all appointed by the Governor. The Chair may appoint an Executive Director to assist the work of the Task Force.

2.   A majority of the total members of the Task Force who have been nominated and appointed shall constitute a quorum, and all recommendations of the Task Force shall require approval of a majority of the total members of the Task Force who have been nominated and appointed.

3.   The Task Force may meet in person or by telephone or by using other communication technologies, and may hold meetings to discuss issues even in the absence of a quorum. As noted above, the Task Force shall attempt to engage, and solicit the input of, a broad and diverse range of groups, organizations, and individuals. In doing so the Task Force may use whatever networking and communication technologies will most effectively further its mission and facilitate this outreach.

4.	Members of the Task Force shall serve without compensation but shall be reimbursed for all actual and necessary expenses incurred in the performance of their duties.

## C.	Cooperation with Task Force

1.	Staff support for the Task Force shall be provided by the Division of Criminal Justice Services, the Division of Budget, the Department of Health, the Office for Technology, and the Executive Chamber.

2.	Additionally, the Task Force may draw upon the human resources and expertise of private institutions, including those institutions associated with individuals appointed to the Task Force, as those private institutions deem appropriate. Such assistance shall be provided without financial remuneration and shall not be provided with any intent to influence the deliberations of the Task Force to the advantage of the participating private entity.

GIVEN under my hand and the Privy Seal of the State in the City of Albany this twenty fourth day of June in the year two thousand nine.

David A. Paterson
Governor

Lawrence Schwartz
Secretary to the Governor

Appendix I: Glossary of Terms Used in Report

CHALLENGING OFFICER/CONFRONT*ING* OFFICER: A Law Enforcement Officer who confronts or challenges another officer whom (s)he mistakes for a criminal suspect in a police-on-police shooting or confrontation. The encounter may involve a verbal or physical confrontation, or a weapon being drawn and/or fired.

CONFRONT*ED* OFFICER: A Law Enforcement Officer who is mistaken for a criminal suspect and confronted by another officer in a police-on-police shooting or confrontation. The encounter may involve a verbal or physical confrontation, or a weapon being drawn and/or fired. Confronted officers may be on-duty or off-duty and are often dressed in plainclothes, but are sometimes in uniform.

DIVISION OF CRIMINAL JUSTICE SERVICES (DCJS): The New York State The Division of Criminal Justice Services is a multi-function criminal justice support agency with a variety of responsibilities, including collection and analysis of statewide crime data; operation of the DNA databank and criminal fingerprint files; administration of federal and state criminal justice funds; support of criminal justice-related agencies across the state; and administration of the state's Sex Offender Registry that allows anyone to research the status of an offender. DCJS' Office of Public Safety serves as the Staffing arm of the Municipal Police Training Council (MPTC).

FIREARMS TRAINING: Formalized and documented training sessions that can verify that each officer has demonstrated specific firearms proficiency as established by the chief executive officer. This will include actual time spent on a firing range, in addition to any other classroom training.

IN-SERVICE TRAINING: Any course of training for police officers received after completion of basic police recruit training.

LAW ENFORCEMENT OFFICERS KILLED OR ASSAULTED (LEOKA): LEOKA is acronym for **a**n FBI database and annual report containing information on officers killed in any fashion in the line of duty, as well as information on officers who are victims of felonious assaults.

POLICE-ON-POLICE CONFRONTATION: An incident of mistaken identity is one in which a police officer confronts or challenges another law enforcement officer (verbally, physically or at gunpoint) in the mistaken belief that the subject officer is a criminal and poses an imminent physical threat. Police-on-police confrontations are distinguished from Police-on-police shootings in that the confrontations do not necessarily result in gunfire. Confrontations do not typically result in fatalities, although serious injuries may occur.

POLICE-ON-POLICE SHOOTING: An incident of mistaken identity is one in which a police officer or fires upon another law enforcement officer in the mistaken belief that the subject officer is a

criminal and poses an imminent physical threat. This type of incident is distinguished from simple accidents or cross-fire incidents in which an officer is shot by another officer utilizing an imperfect target choice during a combat situation. In a police-on-police shooting incident, the challenging/confronting officer in a mistaken-identity incident purposefully and intentionally chooses to fire on the confronted officer. Some police-on-police shootings result in fatalities.

MUNICIPAL POLICE TRAINING COUNCIL: A committee, created by New York State law, comprised of eight members that makes recommendations to the Governor regarding statewide police training standards for municipal police agencies.

OFF-DUTY: The time when an officer is not working either a regularly scheduled shift or any other time designated or approved by command. For purposes of this study and report, off-duty officers are presumed to be in their own daily attire.

ON-DUTY: The time when an officer is assigned to work either as part of a normal work schedule, or any other time so designated by command. On-duty assignments may include offices in uniform, in plainclothes, or in an undercover operation.

UNIFORM CRIME REPORTING PROGRAM (UCR):
The Uniform Crime Reporting (UCR) Program was conceived in 1929 by the International Association of Chiefs of Police to meet a need for reliable, uniform crime statistics for the nation. In 1930, the FBI was tasked with collecting, publishing, and archiving those statistics. Today, several annual statistical publications, such as the comprehensive Crime in the United States, are produced from data provided by nearly 17,000 law enforcement agencies across the United States.

Other annual publications, such as Hate Crime Statistics and Law Enforcement Officers Killed and Assaulted, address specialized facets of crime such as hate crime or the murder and assaults of law enforcement officers respectively.

VICTIM OFFICER: A Law Enforcement Officer who is killed by another officer in a mistaken-identity police-on-police confrontation or shooting.