CHAPTER 07

POLICING METHODS AND CHALLENGES

Issues of Force, Liability, and Technologies
LEARNING OBJECTIVES

As a result of reading this chapter, you will be able to

1. Describe the current state of police-community relations resulting from a number of widely publicized, fatal police shootings beginning in 2014 in the United States.

2. Define constitutional policing, legitimacy, and procedural justice as they apply to police efforts to bring harmony to their whole approach—and to achieve a “guardian” mindset.

3. Explain why, as a result of contemporary police-community relations, the proportion and advantages of women and minorities in policing have become more of an issue.

4. Review what is meant by the term police brutality, and why it has led to widespread calls for use of body-worn cameras.

5. Explain the types of police actions that are vulnerable to lawsuits and how police officers—and their supervisors—might be held criminally liable for their misconduct.

6. Delineate several types of technologies that are assisting police in their duties, but that also raise privacy and use concerns.

ASSESS YOUR AWARENESS

Check your current knowledge of police methods and challenges by responding to the following eight true-false items; check your answers after reading this chapter.

1. Recent deaths involving police and minority citizens in the United States, and the ensuing unrest, demonstrate that the public wants less police militarization and more body-worn cameras to be employed.

2. Police behavior can be described as “brutal” in only one way: when they use physical violence toward a citizen.

3. Constitutional policing, legitimacy, and procedural justice should form the foundation of policing, rather than police having a “soldier” mindset.

4. Although the police can be sued, the fear of civil liability is of minor concern to those who administer or perform police work.

5. Currently, the only legal means of being compensated when police violate someone’s rights is to take the matter to a criminal trial.

6. The decision by a police officer to pursue a citizen in a motor vehicle is among the most critical that can be made.

7. Because of their widespread, long-standing use by police, technologies such as drones and license plate readers may be used without concern for legal or privacy issues.

8. The Fourth Amendment does not protect citizens’ electronically stored information, as there is no legal “reasonable expectation of privacy” in an online context.

The police are the public, and the public are the police.

—Sir Robert Peel, 1829

Answers can be found on page 443.
According to one observer, the sequence of events has become all too familiar: In the aftermath of a fatal police shooting, there come angry calls by the family and sympathetic groups for a criminal investigation and conviction of the responsible officer. The local prosecutor or grand jury typically decides not to bring charges against the officer—or if tried, the officer is acquitted. Then the community protests ensue (if not already occurring). Next, the Department of Justice is called upon to conduct a federal civil rights probe, which may or may not occur (but also tends to produce no criminal charges). Finally, the family of the victim files a wrongful death lawsuit against the city or police department behind the incident.¹

To understand how such a series of events might occur, we must first understand a few fundamental tenets of policing as an occupation. First, in 1966 Jerome Skolnick described what he termed the working personality of the police as consisting of two important variables: danger and authority.² Eight years later, Egon Bittner argued that the ability to use force against fellow citizens is the defining characteristic of the police officer.³

Witness the following cases, each of which involved the shooting death of an African American man, a debate concerning whether or not the police used excessive force, the police responding that they acted appropriately in the circumstances, and a large financial settlement sought by (and often awarded) the surviving family members:

- In New Jersey, a grand jury considered bringing charges against two officers after a struggle with a 32-year-old man in their custody who was acting in a “bizarre” fashion; a police dog was unleashed on him, resulting in the man’s death. Lawyers for police say they acted appropriately and were physically threatened. The grand jury voted not to bring criminal charges against the officers, and the family brought a $10 million lawsuit.⁴

- A police officer in South Carolina was charged with a felony firearms offense after discharging his firearm into a vehicle, killing its 68-year-old occupant in his driveway. The officer had tried to pull him over on suspicion of driving under the influence and claimed the man had grabbed for his gun, while his family argued that a video showed he never tried to do so. The officer pleaded guilty to a misdemeanor “misconduct in office” charge in a plea arrangement and received 3 years’ probation. In an ensuing civil suit, the family settled for $1.2 million.⁵

- A 25-year-old Florida man who family members say had paranoid schizophrenia died after police shot him. The family’s lawyer said video of the shooting made clear that police used excessive lethal force. A video showed the man running toward a police car with a broomstick in his hand. Prosecutors declined to bring charges against the officers; the family filed a $20 million civil lawsuit against the city, its former police chief, and two officers.⁶

- A Cleveland patrol officer joined more than a hundred other officers in 62 patrol vehicles in a chase of a vehicle with a male and female occupant that covered 22 miles and exceeded speeds of 100 miles per hour. After the chase ended, 13 officers fired 137 bullets into the car, killing both occupants. One officer, who fired 49 of the rounds, was found not guilty of two charges of voluntary manslaughter. Later, a judge approved a $3 million out-of-court wrongful death settlement to the victims’ families and their lawyers.⁷

This chapter discusses two topics that are involved in each of these cases: police use of force and civil liability.

As you read this chapter, consider whether a proper balance has been struck in our criminal justice system. On the one hand, because charges against police officers for...
improper use of force are rarely brought and acquittals of officers who are charged are fairly common, does this allow officers to perform a difficult job without having to worry about being sued? On the other hand, does the system properly allow victims (or their families) to seek legal redress, obtain damages, and thus achieve some measure of justice when police use improper force?

INTRODUCTION

How is the use of force by police related to their current relationship with the communities in which they work? What is police liability, and how is it found to be present? How have technologies affected policing? This chapter addresses such questions, as well as others that often arise today.

Few chapters in this textbook discuss justice-related matters as grave as those found herein. It concerns concepts that all police practitioners must understand and behaviors they must attempt to demonstrate: possessing a culture of ethical behavior and integrity, and minimizing or eliminating serious police transgressions and other violations of public trust—as well as the results of failing to do so. Police leaders, being responsible for the manner in which their subordinates wield their power and authority, are heavily implicated in these areas. The responsibility for ensuring that subordinates act correctly relative to their position in a lawful and effective manner lies squarely with their leaders.

This chapter begins by looking at how and why many members of society feel betrayed by recent events in which police have used (at times lethal) force, the chasm that exists as a result, and how changes in the police mindset and adoption of different police methods and philosophies (e.g., constitutional policing, procedural justice) are needed to bridge that gap. Also included is a look at measures that already exist to do so, including new databases and the use of consent decrees and body-worn cameras, as well as a discussion of the kinds of inappropriate police behaviors that can lead to civil liability. The chapter concludes with a brief examination of selected police technologies in terms of concerns about their legal, moral, and practical uses.

USE OF FORCE: A SACRED TRUST

American society vests a tremendous amount of authority in its police officers. Indeed, the police are the only element of our society (except for military units, under certain circumstances) that is permitted to use force—up to and including that which is lethal in nature—against its citizens. Balancing the scales, however, is the understanding that the police will use this tool judiciously, only when necessary, and as a last resort.

The U.S. Supreme Court ruled that the use of force must be "objectively reasonable in view of all the facts and circumstances of each particular case, including the severity of the crime at issue, whether the suspect poses an immediate threat to the safety of the officers or others, and whether he is actively resisting arrest or attempting to evade arrest by flight."

However, determining what constitutes “objectively reasonable” is not always an easy task. Perhaps a good “test” (as provided by the Supreme Court in Graham v. Connor, 1989) is whether or not an officer’s actions were reasonable in light of the facts and circumstances confronting him, without regard to his underlying intent or motivation.

Given the unusually high number of police shootings—often involving unarmed minorities—that came to light in the United States beginning in 2014, an unusual
measure was taken in late 2014 to examine the potential use-of-force problem: the creation of the President’s Task Force on 21st Century Policing. The task force noted that “recent events . . . have exposed rifts in the relationships between local police and the communities they protect and serve.” Its mission was to determine “how to foster strong, collaborative relationships between local law enforcement and the communities they protect and to make recommendations to the President on how policing practices can promote effective crime reduction while building public trust.”

The sections that follow discuss some of the problems that exist between the police and citizens they serve, as well as some ideas for bridging the rifts in police-community relations.

From Harlem to Ferguson

Britain’s Benjamin Disraeli observed more than a century ago, “No man will treat with indifference the principle of race. It is the key of history.” That is an excellent viewpoint from which to begin considering police-minority relations in the United States since the country’s establishment—and especially since the 1950s.

Even before the race riots and civil unrest of the civil rights movement and Vietnam War began in earnest, James Baldwin, the African American sociologist, was moved to write in 1960 about police in Harlem:

None of the Police Commissioner’s men, even with the best will in the world, have any way of understanding the lives led by the people they swagger about in twos and threes controlling. Their very presence is an insult, and it would be, even if they spent their entire day feeding gumdrops to children.  

Indeed, for many minorities, the four words inscribed over the entrance to the U.S. Supreme Court building in Washington, D.C.—Equal Justice Under Law—have long been hollow; for them, justice is perceived as neither equal nor blind. In the aftermath of the 2014 police shooting death of Michael Brown in the city of Ferguson, Missouri, angry protesters raged for a week as gas and rubber bullets were used, the National Guard was deployed, a police officer was shot, and the U.S. Department of Justice was compelled to issue a scathing report about the widespread racially biased abuses by police, who routinely targeted African Americans for arrests and ticketing. Much controversy also ensued concerning the use of the state’s National Guard and military equipment and tactics.

Subsequent police shootings of minorities in other cities (such as Charlotte, Tulsa, Oklahoma City, and Baton Rouge) fostered many more thousands of demonstrations and “die-ins” across the country (as well as federal lawsuits against some officers’ employing agencies). “Black lives matter” became their rallying cry, and even a new university course by that name was launched at Dartmouth College in Hanover, New Hampshire.

Incidents that involve minority group members will often heighten the tension and lead to charges of racism against the entire police agency. One columnist offered that “it is the police culture, more than race, that is at the crux of the problem . . . a mentality of
In response to excessive use of force by police, Human Rights Watch stated in a report that

[p]olice abuse remains one of the most serious and divisive human rights violations in the United States. The excessive use of force by police officers, including unjustified shootings, severe beatings, fatal chokings, and rough treatment, persists because overwhelming barriers to accountability make it possible for officers who commit human rights violations to escape due punishment and often to repeat their offenses.

Human Rights Watch also noted in the report that officers who repeatedly commit human rights violations tend to be a small minority, but that they are protected, routinely, by the silence of their fellow officers and by flawed systems of reporting, oversight, and accountability; by the scarcity of meaningful information about trends in abuse; by the lack of data regarding police departments’ responses to those incidents; and by the lack of departmental plans or actions to prevent brutality.

A Threshold Question: “Guardians” or “Soldiers”?

The contemporary chasm between police and minorities, and many people in society-at-large, often revolves around how the police are now too often being seen as “soldiers” or “warriors.” Certainly the recent killings by police of young African American men and others have caused many people to ask whether or not there exists within the police culture a “warrior mindset.” As a result, it is perhaps an opportune time for police leaders to consider the sort of image they project to the public and to minority communities in particular. The President’s Task Force on 21st Century Policing stated that

[law enforcement culture should embrace a guardian mindset to build public trust and legitimacy. Toward that end, police and sheriffs’ departments should adopt procedural justice [discussed below] as the guiding principle for internal and external policies and practices to guide their interactions with the citizens they serve.

A significant distinction exists between the two roles. Former Shoreline, Washington, police chief Susan Rahr questioned this distinction:

Why are we training police officers like soldiers? Although police officers wear uniforms and carry weapons, the similarity ends there. The missions and rules of engagement are completely different. The soldier’s mission is that of a warrior: to conquer. The rules of engagement are decided before the battle. The police officer’s mission is that of a guardian: to protect. The rules of engagement evolve as the incident unfolds. Soldiers must follow orders. Police officers must make independent decisions. Soldiers come into communities as an outside, occupying force. Guardians are members of the community, protecting from within.
Added Boston police commissioner William Evans, “In Boston, we don’t train our recruits to be a military force. I want my officers to come out as problem-solvers, not an occupying force.” And, as Kansas City, Missouri, chief Terry Zeigler put it, “For a long time, the police academy has been based on a military boot camp type of philosophy. That is missing the point. Policing is mostly about manners and courtesy.”

Assuming a warrior’s mentality is good only with incidents like active shooter situations, where officer survival is paramount. According to Camden County, New Jersey, police chief Scott Thomson, “It’s a question of the ‘crime-fighter’ versus the ‘community-builder’ mentality. We need to have a cultural shift in policing to the latter to regain the trust and legitimacy that has been recently lost.”

**Constitutional Policing and Legitimacy**

Several of the aforementioned race-related incidents beginning in 2014 have led to a careful review of police practices and calls for reform. At the heart of this review is that many police leaders are looking at their agency’s culture in a new light—particularly questions of disparate treatment with respect to the use of deadly force.

Police chief executives are now becoming much more heavily involved in what is termed constitutional policing—a cornerstone of community policing and problem-solving efforts. When a police agency develops policies and practices that advance the constitutional goals of protecting citizens’ rights and provides equal protection under the law, then, as New Haven, Connecticut, police chief Dean Esserman put it, “The Constitution is our boss. We are not warriors, we are guardians. The [police] oath is to the Constitution.”

Constitutional policing, then, forms the foundation of community policing. Police agencies cannot form positive and productive relationships with the citizens they serve if those communities do not trust the police or believe that the police see their mission as protecting civil rights as well as public safety. Too often, concerns with constitutional aspects of policing occur only after the fact—when police officials, community members, and the courts look at an officer’s actions to determine whether or not laws, ordinances, or agency policies were violated. Now there is a growing recognition among police leaders that constitutional policing should be on the minds of all agency members on an everyday basis.

A related concept is that of police legitimacy: the extent to which the community believes that police actions are appropriate, proper, and just, and its willingness to recognize police authority. If the police have a high level of perceived legitimacy, community members tend to be more willing to cooperate with the police and to accept the outcome of their interactions with the police. Public confidence involves the belief that the police are honest, are trying to do their jobs well, and are striving to protect the community against crime and violence. Moreover, legitimacy reflects the willingness of residents to defer to the law and to police authority, that is, their sense of obligation and responsibility to accept police authority. Finally, legitimacy involves the belief that police actions are morally justified and appropriate to the circumstances.

Clearly this relationship with the citizenry is what Sir Robert Peel had in mind when he said, “The police are the public, and the public are the police.”

**Procedural Justice**

Procedural justice and police legitimacy both relate to the creation of a culture of integrity. Adopting procedural justice as the guiding principle for policies and practices can
be the underpinning of a change in culture, and should also contribute to building trust and confidence in the community. Succinctly put, procedural justice revolves around four central principles or pillars:

- The first pillar of procedural justice is the perception of fairness to all. This is not just about outcomes. In determining whether or not their treatment by police was fair, citizens will consider the process by which the officer’s decision was made as much as the outcome of a decision. Often, the outcome of an interaction is less important than the interaction itself—whether the involved parties experienced respectful treatment. If, say, a person deems he or she was treated fairly and with respect in receiving a traffic ticket, he or she is much less likely to lodge a complaint against the officer.

- The second pillar concerns voice. All people want to be heard and feel as though they have a measure of control over their fate; this helps them feel that their opinions matter and that someone is listening to their side of the story and giving some consideration to their concerns.

- The third pillar, transparency and openness of process, means that the processes by which decisions are made do not rely on secrecy or deception. Here, key decisions are made out in the open as much as possible, as opposed to behind closed doors or on a whim. When officers are as transparent as possible, community members are more likely to accept the outcome, even if unfavorable.

- The fourth pillar, impartiality and unbiased decision making, means decisions are made based on relevant evidence or data rather than on personal opinion, speculation, or guesswork. Americans have a strong sense of fairness (certainly more so in our social media–connected world); people want the facts. When people take the extra few minutes to make apparent to others the data used to make decisions, understanding and acceptance are generally the outcome.²⁰

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Procedural justice: a philosophy meaning that the manner in which an individual regards the criminal justice system is tied closely to the perceived fairness of the process and how he or she was treated rather than to the perceived fairness of the outcome.

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You Be the . . .

POLICE OFFICER

FAIR, PROCEDURAL POLICING—OR NOT?

As you read the following scenario, consider the “guardian vs. warrior” distinction as well as the concept of constitutional policing:

A police officer gave a woman a ticket for making an illegal turn. When the woman protested that there was no sign prohibiting the turn, the officer pointed to one that was bent out of shape, leaning over, and barely visible from the road. Furious and feeling the officer hadn’t listened to her, the woman decided to appeal the ticket by going to court. On the day of her hearing, she was anxious to tell her side of the story. However, when she began to speak, the judge (being familiar with the location and the stop sign issue) interrupted her and summarily ruled in her favor, dismissing the case.

How do you believe the woman felt? Vindicated? Victorious? Satisfied? How would the officer feel? Was justice served in this case?
How to Develop Harmony, Justice, and Policy

What is the solution for cities that recently witnessed fatal police shootings and severe racial unrest in their aftermath—cities that are vastly different in their demographics but quite similar in attitudes and emotions? If someone had the perfect answer to that question, he or she would probably become very wealthy. Although it takes years if not decades for the many underlying social problems in such communities to reach a boiling point, a priority is to seriously examine these cities’ relationships with and understanding of their minority communities. In a community such as Ferguson—where 67 percent of the population but only 5 percent of police officers were African American—and in a nation where many people see discrimination and prejudice when blacks are arrested at nearly three times the rate of people of other races, a good starting point is to diversify the agency, thus giving people a greater sense of representation and voice. As one witness told the President’s Task Force on 21st Century Policing concerning youth in poor communities:

By the time you are 17 you have been stopped and frisked a dozen times. That does not make that 17-year-old want to become a police officer. The challenge is to transform the idea of policing in communities among young people into something they see as honorable. They have to see people at local events, as the person who lives across the street, not someone who comes in and knows nothing about my community.21

Ray Kelly, former New York police commissioner, believes that in such cases the state must step in as an outside force, and a new police chief (preferably one of color) must be hired. Others (such as former Philadelphia mayor Ed Rendell, and mayors of Baltimore and Gary, Indiana) suggested that city officials and police must reach out to community leaders, meet with civic associations, add African Americans to the administration, and add an advisory committee on community relations that is composed of people of all colors.

Other reform ideas include stopping the militarization of the police; mandating the use of body-worn cameras (discussed later in this chapter); having the U.S. Department of Justice investigate such shootings to determine whether any civil rights violations occurred; and implementing training on racial profiling, dehumanization, and stereotyping.

Some Police Responses: Greater Transparency Using Websites and Databases

Coming to light in the wake of the aforementioned police shooting deaths of the mid-2010s was the near total lack of data concerning such shootings. Measures were put in place to initiate a national database tracking such shootings in the United...
States. The President’s Task Force on 21st Century Policing recommended that all police agencies be required to “collect, maintain, and report data to the Federal Government on all officer-involved shootings, whether fatal or nonfatal, as well as any in-custody death.”22 The U.S. Senate passed the Death in Custody Reporting Act in December 2014, mandating that all states do so, or risk losing millions of dollars in federal grants.23

For their part, some police agencies now demonstrate complete openness regarding officer-involved shootings. An example is provided in the “Investigating Further” box, which shows facts and outcomes of one such shooting as provided by the Dallas, Texas, Police Department’s “Officer Involved Shootings Data” website.

**Wielding a “Big Stick”: Use of the Consent Decree**

How does a police agency having serious problems involving improper use of force and other inappropriate behaviors alter its entire culture and foster an environment of constitutional policing and legitimacy? One of the ways to foster such meaningful change was made possible by the 1994 Violent Crime Control and Law Enforcement Act, which gave the U.S. Department of Justice’s (DOJ) Civil Rights Division authority to investigate state and local law enforcement agencies that it believes have unconstitutional policies or engage in unconstitutional patterns or practices of conduct.24 This law also allows the DOJ to sue any police agency if it has exhibited a “pattern and practice” of using excessive force and/or violating people’s civil rights. Furthermore, such agencies can be compelled to change those practices through what is known as a consent decree (also known as a memorandum of agreement).25

Dozens of cities have found themselves placed under consent decree by a court and compelled to change in such areas as policies and training, collecting and analyzing

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**INVESTIGATING FURTHER**

**DALLAS POLICE DEPARTMENT’S POSTINGS OF INFORMATION CONCERNING OFFICER-INVOLVED SHOOTINGS**

The Dallas, Texas, Police Department (DPD) provides information concerning all officer-involved shootings on its website, including details surrounding the incident, case number, officers’ names, address and geographic coordinates of the incident. Following is an example:

On Monday, February 12, 2007, at approximately 4:20 p.m., narcotics officers executed a search warrant at 3847 Timberglen Road, #3116. Upon announcing “police” several times, officers entered the drug house and encountered several armed subjects. One B/M/22 subject was observed crawling toward the entry team with a handgun in his arm. An officer ordered the subject to drop the gun. The subject refused and began to rise and point his weapon at the officer. The officer fired his subcompact rifle, striking the subject.

The subject was pronounced deceased at Baylor hospital.

The subject’s weapon was a 7.63 Czecho automatic pistol, 6 live rounds. Additional weapons removed from the location were: .38 caliber revolver and a 12 gauge shotgun.

One officer fired 13 rounds. Involved Officer: W/M/17 years service.

data, obtaining the necessary technology to effectively officer behaviors, and even developing community-policing strategies. If unwilling to comply, the agency can be sued by the DOJ, and possibly even be placed under a receiver who has total control over its operations.26

In short, consent decrees can provide an essential blueprint for policing constitutionally, providing detailed goals to be met. This is typically accomplished under the watchful eye of an outside federal monitor (usually a team) and a federal judge, for measuring whether the purposes of the agreement are being achieved.27

**Another Item of Business: More Women and Minorities in Uniform**

Certainly a desirable goal for today’s police agencies, as mentioned earlier, is to be represented by more women and minorities. Only 12 percent of local (city and county) police officers are female, or about 58,000 total; the proportion of women in policing has not increased in recent years, but it has increased since 1987, when fewer than 8 percent of local police officers were women. Obviously, unless recruiting and retention efforts are improved and the field is generally made to appear more attractive to women (including having more women in police executive positions to serve as role models), what has long been the status quo is unlikely to change. Members of racial and ethnic groups are more visible in police ranks, however; they represent more than a quarter (27 percent) of full-time local police officers—about 130,000 officers—or an increase of about 150 percent since 1987.28

The need to bring in more racial and ethnic group members is evident, given the already discussed need to bridge the police-minority chasm. Why are women also highly desirable in police ranks? According to research by the National Center for Women and Policing, female officers

- Are as competent as their male counterparts (several studies concluded that men and women are equally capable of successful performance as patrol officers)
- Are less likely than male officers to use excessive force
- Use a less authoritarian style that relies less on physical force—and communication skills that allow them to defuse situations
- Implement community-oriented policing and problem solving, which emphasizes communication and cooperation
- Are more effective in responding to crimes against women than are male officers
- Can help reduce problems of sex discrimination and harassment within their agencies29

**Police Brutality**

Throughout U.S. history, police agencies have faced allegations of brutality and corruption. In the late 19th century, New York police sergeant Alexander “Clubber” Williams epitomized police brutality, speaking openly of using his nightstick to knock people unconscious, batter them to pieces, or even kill them. Williams openly sought opportunities for graft in an area in downtown New York that was the heart of vice and nightlife, often termed Satan’s Circus. This was Williams’s beat, where his reputation for using force and brutality became legendary.

Many people contend that there are actually three means by which the police can be “brutal.” There is the literal sense of the term, which involves the physical abuse of
others. There is the verbal abuse of citizens, exemplified by slurs or epithets. Finally, for many people who feel downtrodden, the police symbolize brutality because the officers represent the majority group’s law, which serves to keep the minority groups in their place. It is perhaps this last form of police brutality that is of the greatest concern for anyone who is interested in improving community relations; why? Because it is a philosophy or frame of mind. And it is probably the most difficult to overcome.

Citizen use of the term police brutality encompasses a wide range of practices, from the use of profane and abusive language to the actual use of physical force or violence. Although no one can deny that some police officers use brutal practices, it is impossible to know with any degree of accuracy how often and to what extent these incidents occur. They are low-visibility acts, and many victims decline to report them. It is doubtful that police brutality will ever disappear forever. There are always going to be, in the words of A. C. Germann, Frank Day, and Robert Gallati, “Neanderthals” who enjoy their absolute control over others and become tyrannical in their arbitrary application of power.

Calls for Police Use of Body-Worn Cameras

Another outgrowth of the aforementioned police shootings and the emphasis on greater police transparency is the call for officers to wear body-worn cameras. With cell phones recording what appear to be a number of questionable if not criminal cases of police use of force—and what also appears for many people to be misrepresentation or cover-up of facts by police in the aftermath—many politicians and activists argue that all officers should be compelled to do so. But having such a policy would raise at least two important questions: (1) When, specifically, should the cameras be used; and (2) who should be allowed to view which kinds of footage?

Regarding the first issue, cameras cannot be activated all of the time; officers have a reasonable right to privacy (e.g., during bathroom breaks or in private conversations), just as citizens do. Also, many people—such as confidential informants, crime victims, or witnesses—would understandably not come forward if they knew they would be recorded. There are similar problems concerning the second question, of who should view the videos: Publicly embarrassing videos of people who are being arrested or are intoxicated raise privacy concerns, and the public would also deem the recording of innocent bystanders, witnesses, victims, children, and people in their homes to be an egregious invasion of privacy.

Finally, as one expert put it, there is an “800-pound gorilla in the room” that needs to be discussed: Body-worn cameras can carry tremendous costs—not from the equipment itself (ranging from a few hundred to a few thousand dollars per camera), but from the time required to store and edit the videos, as well as from the impact of public disclosure or open-records requests under the Freedom of Information Act (FOIA). Unless state laws are changed, it would be extremely challenging, if not impossible, for police to dedicate personnel and equipment to store, redact, and provide videos for all open-records requests (to include those by defense attorneys). A related issue is that such FOIA requests are often
PRACTITIONER’S PERSPECTIVE

POLICE CHIEF

Name: Michael A. Davis  
Current Position: Former Chief of Police  
City, state: Brooklyn Park, Minnesota  
College attended/academic major: Bachelor of arts in criminal justice and master of arts in organizational management from Concordia University, St. Paul, Minnesota

How long have you been a practitioner in this criminal justice position? 5 years as a police chief, 21 years in law enforcement.

What are the primary duties and responsibilities of a practitioner in this position? To create and then lead the police department toward a cogent vision of outcomes in the community related to public safety and service. As a police chief, I also have a vital role in the community as a leader, facilitator, and expert on issues related to community livability, social fabric, and crime control. With a community of just under 80,000 residents, I also work quite closely with other department heads to ensure that the whole organization is moving in lock-step in service to our community members.

What qualities and characteristics are most helpful in this position? Based on what my earlier career as a major in the United States Army taught me: the most important trait of an effective leader was vision. At that time, I didn’t perceive “vision,” as being all that important because, as a supervisor, my job (so I thought) was to execute my duties in accordance with the paradigm set by others of much higher rank. As police chief, however, vision has everything to do with my success. In this context, vision is the ability not only to project measurable outcomes for an organization but also having the knowledge and intuition to lead people toward that vision. As a police chief, I also must possess the ability to distill problems down to their root cause and coalesce the talents of those around me to come up with the best possible solution. My success depends on me effectively leveraging the strengths, capacities, passions, and skills of all stakeholders to achieve the vision. Finally, a person in my position must have an unwavering moral compass, both personally and professionally, along with an intense passion for bettering the community you serve.

In general, what does a typical day look like for a practitioner in this position? First, far from being an eight-hour day or a set schedule, spending considerable time engaged in personal development activities. These activities include reading, research, and communicating with my professional network of fellow chiefs, scholars, and experts in various fields related to community building. A typical day for me consists of first reviewing all the significant activity from the night before. This task is typically done from home early in the morning. Here I’m looking for not only what events occurred but more importantly how we as an organization responded to those events. My expectation is that not only do we consistently demonstrate competence and compassion in our work but also the ability to challenge those conditions that led to the event in the first place. I encourage each member of our department to take ownership of not just their tasks but of the outcomes that we are collectively seeking in the community. Upon my arrival at work I spend much time in communication with police staff, community members, and other stakeholders. While there are a number of formal meetings on my calendar, perhaps my most productive time is spent in the hallways, doorways, and common spaces talking to people. Much of my work is the confluence of effective task management and relationship building. Both are critical to my success as a police chief.

What advice would you give to someone either wishing to study, or now studying, criminal justice and wanting to become a practitioner in this position? Anyone seeking a career in criminal justice must first have an understanding of what their “telos” (or purpose/goal) is for seeking a career of this type. The question one should ask is: How do my passions, capacities, and strengths fit into the work I seek to do? Oftentimes a person’s perception of the work they seek and the real outcomes of that work are incongruous. People often forget that the criminal justice system is just that—a “system” designed to produce the exact results that it produces. My satisfaction is derived from the way in which I do my work within the construct of the criminal justice system. It is the autonomy that I exercise in how my work is done that creates a sense of purpose for me. I understand that my work is slow and incremental and often stalled with unexpected challenges, but it is the process of creating a future for both the department and the community that is distinct from the past that drives me in this work. If a person is not driven for outcomes they control within the criminal justice system, then I suggest they find other work, as there are some practitioners in the field that have not found their “telos” and thus satisfaction in their careers. The work of the criminal justice system is to protect our democracy and requires that all who work within it to have an intense passion for this work.
WHEN FAILING THE PUBLIC TRUST: CIVIL LIABILITY

As shown in the cases at the beginning of this chapter, the specter of civil liability looms large every workday for people engaged in police work. With the possible exception of professionals working in the medical field (and possibly in prisons), no group of workers is arguably more susceptible to litigation and liability than police employees. Frequently cast into confrontational situations, and given the complex nature of their work and its requisite training needs, they will from time to time act in a manner that evokes public scrutiny, complaints, and calls for financial remuneration to persons who have suffered as a result (see next section). As we will see, the price of failure among public servants can be quite high, in both human and financial terms.

American citizens (and legal counsel) have long known how to seek redress from the courts. As examples, in Baltimore the family of Freddie Gray (whose death led to murder and/or assault charges against six police officers in 2015) received $6.4 million, and in Cleveland the estate of 12-year-old Tamir Rice was awarded $6 million. The City of New York now spends an average $710 million per year on such cases, while Chicago paid $521 million over a recent 10-year period.

Torts and Negligence

A tort is the infliction of some injury on one person by another. Three categories of torts generally cover most of the lawsuits filed against criminal justice practitioners: negligence, intentional torts, and constitutional torts.

Negligence can arise when a criminal justice employee’s conduct creates a danger to others. In other words, the employee did not conduct his or her affairs in a manner so as to avoid subjecting others to a risk of harm and may be held liable for the injuries caused to others. Intentional torts occur when an employee engages in a voluntary act that has a substantial likelihood of resulting in injury to another; examples are assault and battery, false arrest and imprisonment, malicious prosecution, and abuse of process. Constitutional torts involve employees’ duty to recognize and uphold the constitutional rights, privileges, and immunities of others; violations of these guarantees may subject the employee to a civil suit, most frequently brought in federal court under 42 U.S. Code Section 1983, discussed in the next section.

Assault, battery, false imprisonment, false arrest, invasion of privacy, negligence, defamation, and malicious prosecution are examples of torts that are commonly brought against police officers. False arrest is the arrest of a person without probable cause. False imprisonment is the intentional illegal detention of a person; this can occur not only in jail but also whenever someone is confined to a specified area. For example, the police may fail to release an arrested person after a proper bail or bond has been posted, they can delay the arraignment of an arrested person unreasonably, or authorities can fail to release a prisoner after they no longer have authority to hold him or her.

Civil liability: in tort law, the basis for which a cause of action (e.g., fine) is made to recover damages; in criminal justice, where a police or corrections officer, for example, violates someone’s civil rights.

Tort: a civil wrong or infraction; the remedy will be damages awarded in civil trial.

Negligence: failure to perform a duty owed.

False arrest: unlawful physical restraint by a police officer, for no valid reason.
A single act may be a crime as well as a tort. For example, if Officer Smith, in an unprovoked attack, injures Jones, the state will attempt to punish Smith in a criminal action by sending him to jail or prison, fining him, or both. The state would have the burden of proof at criminal trial, having to prove Smith guilty “beyond a reasonable doubt.” Furthermore, Jones may sue Smith for money damages in a civil action for the personal injury he suffered. In this civil suit, Jones would have the burden of proving Smith’s acts were tortious by a “preponderance of the evidence”—a lower standard than that in a criminal court and thus easier to satisfy.

**Section 1983 Legislation**

The primary civil instrument that can be used against the police is **Section 1983**. Following the Civil War and in reaction to the activities of the Ku Klux Klan, Congress enacted the Ku Klux Klan Act of 1871, later codified as U.S. Code, Title 42, Section 1983. It states that

> [e]very person who, under color of any statute, ordinance, regulation, custom, or usage of any State or Territory, subjects, or causes to be subjected, any citizen of the United States or any other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress.

A trend is for such litigants to cast a wide net in their lawsuits, suing not only the principal actors in the incident, but agency administrators and supervisors as well. This breadth of suing represents the notion of **vicarious liability**, or the doctrine of **respondeat superior**, an old legal maxim meaning, “let the master answer.” In sum, an employer can be found liable in certain instances for wrongful acts of the employee.

An example is the 1991 case of Rodney King, who, following a vehicle pursuit, was kicked, stomped, and beaten with batons (totaling 56 blows, all of which was caught on an 81-second videotape) by three Los Angeles police officers.38 King sued the officers and the city under Section 1983 and was awarded $3.8 million for his injuries.39 Police supervisors have also been found liable for injuries arising out of an official policy or custom of their department. Injuries resulting from a chief’s verbal or written support of heavy-handed behavior resulting in the use of excessive force by officers have resulted in such liability.40

**General Areas of Liability**

To help readers to conceptualize what is meant by police civil liability, following are some general areas in which police liability may be found.

**Proximate Cause**

**Proximate cause** is basically something that causes an event, particularly an injury due to negligence or an intentional wrongful act. In other words, the injury caused would not have occurred but for the cause. As an example, it is established by asking, “But for the officer’s conduct, would someone have been injured or killed?” If the answer to this question is no, then proximate cause is established, and the officer can be held liable for the damage or injury. An example is where an officer is inappropriately and negligently involved in a high-speed chase and the fleeing driver strikes an innocent third party.41 Proximate cause also may be found when an officer who leaves the scene of an accident is aware of dangerous conditions (e.g., spilled oil, smoke, vehicle debris, stray animals) and does not give proper warning to motorists.42
Persons in Custody and Safe Facilities

Courts generally rule that police officers have a **duty of care** to persons in their custody, including a legal responsibility to take reasonable precautions to keep detainees free from harm, to render medical assistance when necessary, and to treat detainees humanely. This duty, however, typically does not include self-inflicted injury or suicide, because these acts are generally considered to result from the detainee’s own intentional conduct. However, if a prisoner’s suicide is “reasonably foreseeable” from his or her actions or statements, then the jailer has a duty of care to help prevent that suicide.

Police also need to provide safe facilities. For example, the construction of a Detroit jail’s holding cell did not allow officers to observe detainees’ movements; there were no electronic monitoring devices for observing detainees, and there was an absence of detoxification cells required under state department of corrections rules. Therefore, following a suicide in this facility, the court held that these building defects contributed to the detainee’s death.

Failure to Protect

This form of negligence may occur if a police officer fails to protect a person from a known and foreseeable danger. Claims of **failure to protect** most often involve battered women. However, police informants, witnesses, and other people dependent on the police can be a source of police liability if an officer fails to take reasonable action to prevent them from being victimized. (See the accompanying “You Be the Judge” box.)

Vehicle Pursuits

Vehicle pursuits are of great concern because they involve tremendous potential for injury, property damage, and liability. As one police manual describes it, “The decision by a police officer to pursue a citizen in a motor vehicle is among the most critical that can be made,” putting innocent third parties—other drivers and bystanders—at risk. Police policy and procedure manuals are very thorough where pursuits are concerned, and they typically order the supervisor to shut down the pursuit unless there is probable cause to believe the suspect presents a clear and immediate threat to the safety of others, or has committed or is attempting to commit a violent felony.

Two cases explain the law of high-speed pursuits. The first involves two Sacramento County, California, deputies who pursued a motorcyclist for a traffic violation at speeds greater than 100 miles per hour; the motorcycle crashed, and the deputies’ vehicle could not stop in time, striking and killing the motorcycle’s passenger. The passenger’s family claimed in a civil suit that the pursuit violated the crash victim’s due process rights under the Fourteenth Amendment. The U.S. Supreme Court, in *County of Sacramento v. Lewis* (1998), held that the proper standard in such cases is whether the officer’s conduct “shocks the conscience.” That is, was the conduct offensive to a reasonable person’s sense of moral goodness? The Court felt that, in this case, deputies had no intent to harm the suspects and thus their behavior did not “shock the conscience.” In 2007, the Supreme Court heard another case involving the level of force used by police in such pursuits. A deputy’s pursuit of a 19-year-old Georgia youth, driving at speeds up to 90 miles per hour for 9 miles, ended in a violent crash that left the youth a quadriplegic. His lawyers...
argued that the Fourth Amendment protects against the use of excessive force—and that when high-speed drivers have their cars stopped in pursuits, a “seizure” occurs for Fourth Amendment purposes. The Supreme Court held that an officer’s attempt to terminate a dangerous high-speed car chase that threatens the lives of innocent bystanders “does not violate the Fourth Amendment, even when it places the fleeing motorist at risk of serious injury or death.” Still, it is important to remember that a police pursuit is justified only when the necessity of apprehension outweighs the degree of danger created by the pursuit.

SELECTED TECHNOLOGIES: USES AND CONCERNS

In addition to the aforementioned emphasis on police use of body-worn cameras, there are other concerns and pressures for reform in the area of police technologies. Historically, technologies have had a tremendous impact on policing, greatly expanding and changing the work of patrol officers, criminal investigators, forensics, and other specialized assignments (e.g., bomb disposal). With those technologies—now including the use of video cameras on light poles, satellites and drones to observe from the skies, smartphones that relay all sorts of information to sentinel towers, and license plate readers tracking people’s movements—come a number of concerns, however. For example, in January 2015, the U.S. Senate Judiciary Committee indicated “privacy concerns of the highest order” with at least 50 federal and local law enforcement agencies using radar devices to effectively see inside suspects’ homes. Like sophisticated motion detectors, the devices can detect movement as slight as someone breathing. Civil rights organizations and even several federal judges have expressed strong concerns about using the devices without a search warrant.

You Be the . . . JUDGE

What, if any, legal obligation is held by the police to protect someone from his or her estranged spouse who has been served with a legal restraining order? That question was at the crux of a lawsuit from Castle Rock, Colorado, which was ultimately heard by the U.S. Supreme Court. Jessica Gonzales’s restraining order required her husband to remain at least 100 yards from her and their three daughters except during specified visitation times. One evening the husband took possession of the three children in violation of the order; Mrs. Gonzales repeatedly urged the police to search for and arrest her husband, but they took no immediate action (due to Jessica’s allowing her husband to take the children at various hours). At approximately 3:20 a.m., the husband appeared at the city police station and instigated a shoot-out with the police (he died). A search of his vehicle revealed the corpses of the three daughters, whom the husband had killed prior to his arrival. U.S. cities are generally immune from lawsuits, so in this case the Supreme Court was asked to decide whether Jessica Gonzales could sue the city because of inaction by its police officers.

1. Were the police morally responsible for the deaths of the three girls?
2. Were the police legally responsible for their deaths?
3. If you believe Jessica should be allowed to sue the city, and the police were liable, how much financial compensation should Jessica receive?

See the Notes section at the end of the book for the outcome and whether or not the city was deemed as liable for its police department’s actions.
This section provides a sampling of other new police technologies being used to address old crime and security problems. What is becoming clear is that the greater the sophistication of a piece of technology, the greater the likelihood it will be challenged on Fourth Amendment grounds (this topic is discussed more fully in Chapter 8).

**Smartphones: Bane or Boon?**

Unquestionably, the use of smartphones has greatly affected police efficiency. For example, officers may receive 911 calls directly; apps allow officers to comb through databases of names, criminal records, license plates, warrants, and other details; bulletin boards provide wanted fliers, missing persons and safety alerts; an app is now capable of making facial composites from witness descriptions; messages can be sent to specific assignments and locations; detectives can make case follow-ups; officers can fill out report forms and view training videos; officers responding to calls for service can determine beforehand if incidents or convicted criminals have been associated with a particular address; and when officers are looking for a missing child, an icon appears on their device if any sex offenders are living nearby.51

As is often the case, however, “the fleas come with the dog,” and this nearly indispensable technology is associated with some serious concerns and drawbacks. First, agency policies should address officers’ use of their smartphones to post, blog, or tweet messages, as such communication can be used as evidence in criminal or civil proceedings and to attack the officers’ credibility.52 Furthermore, in the course of their work, officers may lose their phones; the devices may be destroyed through high impact, immersion in water, or high temperatures; and connectivity may be lost during natural disasters. There is also the issue of officers’ use of their phones for personal calls while on the job—and the possibility that they will commingle police information with personal.

Smartphone use raises the entire spectrum of privacy concerns. In short, anything that comes to a cellular device had to originate from a web-based network, so police leaders must ensure that phones are secure. Encryption, although expensive, should be built in to the cellular system in case an officer’s phone is lost or stolen, with a system of authentication that can (and should) include both a thumbprint and a four-digit access code. Police must deal with all manner of databases, victims, criminal investigations, and undercover operations; therefore, cost should be no bar to privatizing phones for police work.53

For privacy and other reasons, many agencies strongly urge their officers to simply use their police radio rather than their smartphones when possible; the radio can disseminate information more widely, keep supervisors in better control during responses to crime problems, and provide an electronic record of communication during developing crimes.54

**Legal, Moral, Practical Considerations**

If students of criminal justice are looking to the courts for clear-cut guidance on the use of new technologies, particularly in the area of privacy rights, they will likely come away wanting: The law seems to be “all over the place” regarding this subject.
For instance, a U.S. district judge in Wisconsin ruled that it was reasonable for Drug Enforcement Administration agents to enter rural property without permission or a warrant to install multiple “covert digital surveillance cameras” in hopes of uncovering evidence that 30 to 40 marijuana plants were being grown (reasoning that the drug was being grown in “open fields” and thus the property could be searched without warrants because it was not covered by the Fourth Amendment). However, the United States held in 2012 that police attaching a global positioning system (GPS) device to a suspect’s vehicle without a search warrant violates the Fourth Amendment.

Police use of new technologies raises a wide range of unresolved issues in terms of legality. First, many information technology tools are so new that the courts have not had time to rule on their constitutionality. Furthermore, in some jurisdictions different state and federal courts have handed down conflicting rulings. This means that police are often experimenting with little or no guidance from the courts about the constitutionality of their actions. In the near future, many of these constitutional questions (many of which will involve citizens’ right to privacy) will be taken up by lower courts and eventually reach the U.S. Supreme Court. Meanwhile, police leadership is free to test different technologies that appear to be the most useful and cost effective.

Another touchy issue related to technology concerns the matter of legitimacy in the eyes of local communities concerning the right to privacy. Even within a given city or state and federal courts have handed down conflicting rulings. This means that police are often experimenting with little or no guidance from the courts about the constitutionality of their actions. In the near future, many of these constitutional questions (many of which will involve citizens’ right to privacy) will be taken up by lower courts and eventually reach the U.S. Supreme Court. Meanwhile, police leadership is free to test different technologies that appear to be the most useful and cost effective.

Another touchy issue related to technology concerns the matter of legitimacy in the eyes of local communities concerning the right to privacy. Even within a given city or
Policing Methods and Challenges: Issues of Force, Liability, and Technologies

county, people in different neighborhoods or regions may differ in their opinions about how to balance privacy concerns and crime fighting.

A number of legislative issues must be decided as well; oftentimes, the laws governing the use of these technologies were written decades ago and do not reflect current realities. For example, most wiretap laws were written in the era of landline telephones, and many FOIA laws were intended to govern the release of written documents, not video footage from police cameras.59

The accompanying “Investigating Further” box describes a legal conundrum that exists with regard to the use of license plate readers.

Rules and Restriction on Drones

Drones, or unmanned aerial vehicles, are proliferating; indeed, nearly 300,000 drone owners registered their small aircraft during the initial 30 days after the Federal Aviation Administration (FAA) introduced an online registration system in December 2015, for a mere $5 fee. For the first time in U.S. history, in order for children to play with the new drone received as a Christmas or birthday gift, the “toy” must first be registered with an agency of the federal government.

Drones are rapidly beginning to cause a number of problems—such as the (apparently intoxicated) operator whose drone crashed onto the White House lawn in early 2015—as well as legal challenges. Some attorneys are even becoming specialized in cases related to drones.

State-legislated rules for, and restrictions on, drones have become necessary; accordingly, in February 2015 President Barack Obama issued an executive memorandum concerning how federal agencies will use drones of all sizes. During that same month, the FAA promulgated rules allowing small commercial drones weighing up to 55 pounds and flown within sight of their remote pilots during daylight hours. The aircraft must stay below 500 feet in the air and fly less than 100 mph. People flying drones would need to be at least 17 years old, pass an aeronautics test, and be vetted by the Transportation Security Administration.

Finally, as a possible harbinger of things to come, in early 2016 a bill was introduced in the California legislature that would require drone hobbyists to obtain a physical or electronic license plate for identification purposes; pay a small insurance fee at the time of purchase for any future damage or injury associated with the drone; and have some drones be equipped with GPS and emergency shutoff capabilities. The goal is to make drones identifiable and owners financially responsible in the event of injuries, improper handling, or property damage.

These actions represent major progress in integrating drones into U.S. airspace—which is especially needed because the Association for Unmanned Vehicle Systems International projects the industry will create 70,000 jobs with $13.6 billion in economic activity immediately after drones fully share the skies with other aircraft.

The FAA has been granting certificates for drone flight to police departments for years. In addition to patrolling the borders, drones would seem to be tailor-made for seeking out and surveilling persons who are planning or involved in terrorist activities. However, this use of drones has become controversial, as evidenced by the debate over whether the Central Intelligence Agency should be able to target American citizens whose behavior conforms to a particular profile and are working with al-Qaeda. Congressional hearings in early 2013 on this question would indicate that politicians and Americans are very suspicious of such uses of drones in this country, as we have used them in Pakistan and other countries.

Drone (also known as unmanned aerial vehicle): an unmanned aircraft that can fly autonomously, without human control.
THE CONTROVERSY WITH AUTOMATED LICENSE PLATE RECOGNITION SYSTEMS

License plate readers (also known as automated license plate recognition, or ALPR, systems) are a surveillance technology that can be mounted on patrol cars to capture license plate numbers during an entire patrol shift. When a suspect license plate number is read, audible and visual alarms alert the officer. To demonstrate its power, in two months’ time the Denver Police Department processed 835,000 license plate images, which led to 17,000 hits for warrants, stolen vehicles, and other violations.

For obvious reasons, this technology is rapidly becoming popular as a law enforcement tool. However, many people think that ALPR is poorly regulated against invasion of privacy. For example, the American Civil Liberties Union (ACLU) argues that ALPRs collect a lot of data that are sometimes pooled into regional sharing systems; as a result, enormous databases of innocent motorists’ location information are growing rapidly. This information is often retained for years, or even indefinitely, with few or no restrictions to protect privacy rights. While not calling for a complete ban, the ACLU believes that as ALPR technology spreads, legislation and law enforcement agency policies should be adopted that will respect personal privacy and prevent the government from tracking our movements on a massive scale.

Conversely, two ALPR manufacturing firms have challenged a Utah law prohibiting the use of such automated high-speed cameras to photograph license plates in a lawsuit filed in federal court. According to the lawsuit, the Utah Automatic License Plate Reader System Act infringes on constitutionally protected rights to free speech (i.e., which includes the right to take photographs) under the First Amendment. The suit also argues that license plates are public by nature and contain no sensitive or private information. Five states have already enacted legislation that is identical or similar to the Utah act. (Although this case has yet to be decided, in a similar recent lawsuit in Arkansas, the manufacturing firm lost its argument.)

In what appeared to be the first legal challenge by a private individual, in May 2015 a Virginia man sued the Fairfax County, Virginia, Police Department for collecting images of his license plate and storing them in its massive database. After learning that his license plate had been scanned by an ALPR twice in the previous year and stored in a police database, he opted to sue.

What do you think? Are vehicle license plates “public” and thus the use of ALPR is perfectly permissible? Or does the collection of such data require safeguards, with privacy concerns needing to be addressed? Explain your answer.

INVESTIGATING FURTHER

TO USE OR NOT TO USE DRONES (AND IF SO, HOW?)

More local law enforcement agencies are using drones and fewer than half the states have passed privacy legislation regulating how such agencies can use drones. Some observers describe the relatively lawless time in which drone technology is emerging as a “Wild West” for law enforcement. Consider the following questions, and defend your answers:

- Do you support police use of drones for surveillance purposes involving serious offenses? If so, for what crime-related purposes?
- Should police be allowed to use drones for Fourth Amendment (searches and seizures) types of operations, if legal conditions have been met?
- Do you endorse using drones for lower-level functions, such as catching traffic speeders?
- Would you be in favor of arming the drones with bullets or tear gas?
- Should drones be used, without prior consent from U.S. courts or another oversight body, to kill persons whose “profile” indicates they pose a dangerous threat to national security?

- The exceptionally high—and well-publicized—number of police shootings involving unarmed minorities in recent years resulted in a national task force study, demands for better record-keeping of such shootings and the use of body-worn cameras by police, and greater demands for transparency and less militarization of police.
- The current state of police-minority relations is dire, but several approaches—including constitutional policing, procedural justice, and greater transparency—if adopted, can serve to change the mindset of police and bridge the gap with the community.
- Although women and minority representation in policing has grown over the past two decades, these groups are still underrepresented overall; for reasons relating to representation, community relations, effectiveness and diversity, greater numbers of both women and minorities are needed.
- Historically, three forms of police brutality have been recognized: the physical abuse of others, the verbal abuse of citizens, and officers representing the majority group’s law.
- The specter of civil liability looms large over police work. Often being in confrontational situations, police officers may from time to time act in a manner that evokes public scrutiny and complaints. They and their superiors may be sued for a variety of reasons if a citizen believes his or her rights were violated; the primary civil instrument that can be used against the police is Section 1983.
- High-speed vehicle pursuits by police are legally permissible but are to be used only when certain conditions are met.
- Technology has improved the capabilities of nearly every aspect of police patrol and investigations—bringing with it some concerns about citizens’ right to privacy.

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1. How would you describe the “sacred trust” that is given the police in terms of the use of force?

2. What kinds of problems have arisen in recent years regarding police use of force, and what approaches and philosophies might police adopt in order to bridge the chasm that now exists in many communities as a result of that use of force?

3. To what purposes might consent decrees, greater numbers of minorities and women, and body-worn cameras be applied to improve policing today?

4. Why is it desirable to bring more women and minorities into the field of policing?

5. What are the types of police brutality? Which one is most problematic for the police?

6. How would you define U.S. Code, Title 42, Section 1983? How is it applied?

7. What is meant by duty of care and failure to protect, and what are some examples as these concepts apply to police supervisors and officers?

8. How might the police be deemed liable if they are involved in vehicle pursuits?

9. How have technologies assisted police functions, and what are some privacy concerns that accompany their use?

In the past six months, there has been a spike in the number of citizen complaints in your community alleging inappropriate use of force by police against minorities. Local interest groups and churches are demanding data concerning police use of force as well as a review of policies regarding same. As your police department’s community liaison, you are asked to respond to these demands. What approaches will you take?

Your police chief assigns you the task of developing a new method for recruiting both women and minority police officers. Money is no object, because the mayor has made agency diversity a top priority for the coming year. What will you recommend in terms of how to reach individuals in markets from which officers are not typically recruited?

Your criminal justice professor assigns your class a group project wherein you are to argue which technologies are the most useful in crime fighting. How will you respond, and why?
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- Career Video 7.1 Chief of Police
- SAGE News Clip 7.1 Rikers: Use of Force
- SAGE News Clip 7.2 Body Cameras
- Journal Article 7.1 Organizational-Level Police Discretion
- Journal Article 7.2 Air Power as Police Power