

**UNITED STATES DISTRICT COURT
EASTERN DIVISION OF WISCONSIN
MILWAUKEE DIVISION**

Charles Collins, *et al.*,

Plaintiff,

v.

The City of Milwaukee, *et al.*,

Defendants.

Case No. 17-CV-00234-JPS

Report of Samuel Walker, Ph.D.

February 20, 2018

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I. INTRODUCTION

1. I am Professor Emeritus of Criminal Justice at the University of Nebraska. My principal area of expertise is police accountability, with a secondary area of expertise on race and ethnicity in the criminal justice system. Although retired from teaching, I continue to maintain an active schedule of research, writing, and consulting. My academic and consulting vitae are attached.¹
2. I am the author of 14 books, which have appeared in 38 separate editions, on police accountability, policing, criminal justice policy, race and ethnicity in the criminal justice system, crime and justice, and civil liberties. Most relevant to this case is *The New World of Police Accountability*, 2nd ed. (2014) (with Carol Archbold; the 3rd edition is in preparation and will be published in 2019). I am also the author of *The Police in America*, 9th ed. (2018) (with Charles M. Katz), *The Color of Justice: Race, Crime, Ethnicity and Criminal Justice*, 6th ed. (2018), with Cassia Spohn and Miriam DeLone.
3. As a consultant, I have worked with a wide variety of law enforcement agencies, professional associations, local and state governments, and community groups. The law enforcement agencies and professional associations with which I have worked include: the Civil Rights Division of the U.S. Department of Justice, the International Association of Chiefs of Police (“IACP”), the Police Executive Research Forum (“PERF”), the Royal Canadian Mounted Police (the “Mounties”), the Nebraska State Patrol, the U.S. Commission of Civil Rights, and the New Jersey State Police. Local and state governments with which I have worked include the Albuquerque (NM) City Council, the Cleveland (OH) Office of Professional Standards, the Minneapolis (MN) Civilian Review Authority, and the Seattle (WA) City Auditor. Community groups that I have worked with include the Community Renewal Society of Chicago, the San Francisco Blue Ribbon Panel on Transparency, Accountability, and Fairness in Law Enforcement, the Rochester (NY) Coalition for Police Reform; and Omaha (NE) Together, One Community.
4. In 2013, I served as an expert witness for the plaintiffs in the case of *Floyd v. City of New York*, 08 Civ. 01034 (S.D.N.Y. 2013) (“*Floyd*”), involving a challenge to the stop and frisk practices of the New York City Police Department (“NYPD”). Specifically, I served as the remedies expert for the plaintiffs after the U.S. District Court for the Southern District of New York ruled that policies and practices concerning NYPD stops and frisks of individuals violated the Fourth and Fourteenth Amendments to the U.S. Constitution. The *Floyd* case involved issues related to stops and frisks of

¹ See Appendix A.

individuals and police department accountability measures that are also at issue in this litigation. The remedies ordered by the U.S. District Court in *Floyd* embodied, with one exception, the major points in my recommendations to the court in that case.²

II. ASSIGNMENT

5. I have been retained to serve as an expert witness by the Plaintiffs in the case of *Collins, et al., v. City of Milwaukee, et al.*, 17-cv-00234-JPS-DEJ. The Plaintiffs bring claims under the Fourth and Fourteenth Amendments to the U.S. Constitution and Title VI of the Civil Rights Act of 1964 against The City of Milwaukee (the “City”), the Milwaukee Fire and Police Commission (“FPC”), and Police Chief Edward Flynn for policies and practices relating to police stops and frisks of individuals.
6. The Plaintiffs have asked me to evaluate policies, guidelines, oversight and accountability measures applicable to the Milwaukee Police Department (“MPD” or “the Department”) officers’ conduct of stops and frisks, and on-the-ground practices relating to stops and frisks of individuals. I was asked to conduct this evaluation through review of MPD documents, deposition transcripts of MPD and FPC leaders, and reports relating to a recent assessment of MPD policies and practices, including those relating to stops and frisks of individuals, by the Collaborative Reform Program of the U.S. Department of Justice (“DOJ”) Office of Community Oriented Policing Services (“COPS Office”).

III. METHODOLOGY

7. In preparing this report, I reviewed the following case-specific documents:³
 - A. Milwaukee Police Department Standard Operating Procedures (“SOP”) relating to MPD stop and frisk practices, including:
 - i. SOP 085 (Citizen Contacts, Field Interviews, Search and Seizure)
 - ii. SOP 300 (Directed Patrol Mission / Saturation Patrols)
 - iii. SOP 450 (Personnel Investigations)
 - iv. SOP 001 (Fair and Impartial Policing)

² The exception was my recommendation for an early intervention system.

³ I abide by the terms of the Confidentiality Agreement and supplemental Confidentiality Agreement governing the production of MPD in-vehicle recordings and RMS data in this case. I reviewed and signed both agreements before reviewing any information produced in discovery in this matter designated “Confidential Information” that falls within the scope of either agreement.

- B. The Milwaukee Police Department *Code of Conduct*;
- C. Selected sections of the Draft *Collaborative Reform Initiative Assessment Report on the Milwaukee Police Department* by the Office of Community Oriented Policing Services of the U.S. Department of Justice (“Draft COPS Report”);
- D. Selected sections of the Revised *Draft Collaborative Reform Initiative Assessment Report* on the Milwaukee Police Department by the Office of Community Oriented Policing Services of the U.S. Department of Justice (“Revised COPS Report”);
- E. The response of the Milwaukee Police Department to the Draft COPS Report and the Revised COPS Report, which is set forth in the Department’s *Collaborative Reform, Planning and Implementation Guide, November 2015 – Present*, released on September 13, 2017 (“Planning and Implementation Guide” or “the Guide”);
- F. Transcript of the November 6, 2017 Deposition of Former Milwaukee Police Chief Edward Flynn;
- G. Transcript of the November 3, 2017 Deposition of MPD Inspector Jutiki Jackson;
- H. Transcript of the October 23, 2017 Deposition of MPD Inspector Michael Brunson;
- I. Transcript of the October 31, 2017 Deposition of Former Milwaukee Assistant Chief James Harpole;
- J. Transcript of the November 14, 2017 Deposition of FPC Executive Director, MaryNell Regan;
- K. Website of the Milwaukee Fire and Police Commission, including documents available on that site;
- L. Wisconsin Statute § 62.50(1m), governing the authority and responsibilities of the Milwaukee Fire and Police Commission;
- M. Police Assessment Resource Center Report, *Promoting Police Accountability in Milwaukee: Strengthening the Fire and Police Commission* (June 2006); and
- N. Milwaukee City Charter Ordinance Chapter 314 (“Board of Fire and Police Commissioners”).

IV. SUMMARY OF FINDINGS

8. Based on the materials I have reviewed and my experience assessing the policies and practices of police departments across the country, it is my opinion that the MPD maintains:
 - A. Unconstitutional stop practices;
 - B. Unconstitutional frisk and search practices;
 - C. Inadequate management procedures for properly guiding the conduct of police officers with respect to their interactions with members of the public, including in the conduct of traffic stops, pedestrian stops, and frisks;
 - D. Inadequate procedures for systematically reviewing patterns of officer conduct regarding stops and frisks, including primarily conduct in violation of the law or MPD policy , for the purpose of identifying either (1) individual officers with recurring performance problems (i.e., the conduct of unlawful stops and/or frisks), and/or (2) organizational problems related to policies, training, and/or supervision;
 - E. Inadequate procedures for investigating possible misconduct by officers, and for holding individual officers accountable;
 - F. Inadequate procedures for receiving and investigating citizen complaints; and
 - G. Inadequate procedures for the effective implementation of community policing.
9. In addition, it is my opinion that the FPC has failed to adequately fulfill its official responsibilities for overseeing the MPD, including with respect to the monitoring and supervision of the MPD's stop and frisk practices.

V. MILWAUKEE POLICE DEPARTMENT'S STANDARD OPERATING PROCEDURES

10. It is my opinion that several of the critical MPD SOPs are deficient in some important respects. In today's police departments, the SOP manual (or the equivalent) is the principal management tool for operating a department. The SOPs that govern officer interactions with members of the community are the principal tools for prescribing proper conduct, guiding the exercise of officers' discretion, and providing clear instructions on what actions are prohibited and what actions are required in different situations.

11. It is important to note, however, that there is often a significant difference between the language stated in the written policies of the police department, and the ways in which law enforcement activities are actually carried out by officers on the ground. The MPD is no exception. As such, it is imperative that any assessment of the MPD's policies and procedures include an evaluation of the ways in which those policies and procedures manifest themselves. The MPD SOPs discussed in this report are identified and described in the four paragraphs that follow.

12. SOP 085, Citizen Contacts, Field Interviews, Search and Seizure

A. SOP 085 describes the procedures to be used by MPD officers in conducting the three law enforcement activities named in the title of the SOP. "Citizen contacts" refers to consensual encounters between police officers and members of the public. "Field interviews" refers to pedestrian stops. The guidance set forth in SOP 085.20 addresses factors officers should consider when determining whether they have sufficient reasonable suspicion of criminal activity to support a pedestrian stop. But several factors identified by SOP 085.20 promote officers' conduct of unconstitutional pedestrian stops.

- i. The first bulleted point refers to "the appearance or demeanor of an individual [which] suggest[] that he or she is part of a criminal enterprise or is engaged in a criminal act." The bulleted point however, provides no guidance regarding what kind of appearance suggests criminal activity. It is my opinion that the lack of specificity opens the door for stereotypes, which may be conscious or unconscious, such as the officer's belief—erroneous and based solely on a stereotype—that certain clothing or headwear is, for example, gang-related.⁴ The term "demeanor" is similarly not guided by specifics. A demeanor that is non-responsive or even hostile to an officer is not, in and of itself, an indication of possible criminal activity. Research on public attitudes toward the police has consistently found that young African-American males are more likely than any other demographic group to have negative attitudes toward the police, and the President's Task Force on 21st Century Policing made the lack of trust in the police among communities of color the central theme of its *Final Report*

⁴ It is now widely recognized in American policing that unconscious bias on the part of police officers can, and does, affect discretionary decision making on such important issues as stops and uses of force, generally in an adverse way in terms of the racial or ethnic identity of members of the public. See, President's Task Force on 21st Century Policing, *Final Report* (2015), 10. See also the Fair and Impartial Policing project, a widely used training program designed to train officers to recognize the phenomenon of unconscious bias and to take steps to avoid acting on it in an inappropriate manner. The FAIP web site: <http://www.fairimpartialpolicing.com/>.

“Recent events . . . have exposed rifts in the relationships between local police and the communities they protect and serve”.⁵

- ii. The third and fourth bulleted points refer, respectively, to “the hour of day or night [that] is inappropriate for the subject’s presence” and “the subject’s presence in a neighborhood or location [that] is inappropriate.” SOP 085, however, provides no guidance as to what is “inappropriate” in these situations. Consequently, the policy leaves judgments entirely to individual officers, who may make such judgments based on racial or ethnic stereotypes or concerns about “race out of place,” *e.g.*, focus on the fact that a Black person is in a predominantly white neighborhood, rather than the *behavior* of such a person or any indicia of possible criminal activity. Stops based on African Americans allegedly being “out of place” in white neighborhoods have been recognized as one factor in racial profiling by the police.⁶
- iii. The eighth bulleted point refers to officers having “knowledge of the subject’s prior criminal record or involvement in criminal activity.” It is my opinion that, at the moment an officer observes an individual in the community, that person’s prior criminal record or prior involvement in criminal activity, without more, does not constitute reasonable suspicion. The effect of using prior criminal record is to criminalize a person for past conduct which is unrelated to a person’s immediate conduct. It is my opinion that SOP 085’s failure to make clear that knowledge of a person’s prior criminal record or involvement in criminal activity is insufficient standing alone to justify a pedestrian stop opens the door to stops that are not based on the required individualized, objective, and articulable reasonable suspicion of criminal activity.

13. SOP 300, Directed Patrol/Saturation Patrols

⁵ President’s Task Force on 21st Century Policing, *Final Report*, 1. See also *Commonwealth v. Warren*, 475457 Mass. 530, 539-540 (Sept. 20, 2016). This case discusses the impact of the historical relationship between Black men and law enforcement in Boston, and noting that, where Black men are the subject of a pedestrian stop, “flight is not necessarily probative of a suspect’s state of mind or consciousness of guilt. Rather, the finding that [B]lack males in Boston are disproportionately and repeatedly targeted for [pedestrian stops] suggests a reason for flight totally unrelated to consciousness of guilt. Such an individual, when approached by the police, might just as easily be motivated by the desire to avoid the recurring indignity of being racially profiled as by the desire to hide criminal activity.”

⁶ Angela Onwachi-Willig, “Policing the Boundaries of Whiteness: The Tragedy of Being ‘Out of Place’ From Emmett Till to Trayvon Martin,” *Iowa Law Review* 102. No. 3 (2017), 10.

- A. SOP 300 describes the procedures for two approaches for conducting intensive police patrol of selected geographic areas. As discussed below, SOP 300 provides no guidance to officers on how to effectively conduct stops and frisks in the context of directed or saturation patrols without violating constitutional standards.

14. SOP 450, Personnel Investigations

- A. SOP 450 describes the procedures for investigating MPD personnel for possible misconduct. The policy covers both sworn and non-sworn employees, and articulates the procedures for investigating MPD police officers who are the subjects of public complaints. As discussed below, in practice, the MPD public complaint process suffers from significant deficiencies, which discourage the submission of legitimate complaints about unlawful stops and frisks from the public and fails to ensure investigation into such misconduct and appropriate corrective and disciplinary measures.

15. SOP 001, Fair and Impartial Policing

- A. SOP 001 describes the MPD's official commitment to policing that is free of bias on the basis of race, color, ethnicity, and other protected classes. As discussed below, however, the MPD, in practice, engages in various kinds of conduct that violate the commitment stated in SOP 001.

VI. ROLE OF THE MILWAUKEE FIRE AND POLICE COMMISSION

- 16. Pursuant to Wisconsin State § 62.50(1m), the FPC is tasked with, among other things, overseeing the Department's practices and procedures, and engaging in at least an annual "policy review of all aspects of the operations" of the MPD.⁷ The FPC is obligated to "[u]se oversight authority to identify systemic problems within the police and fire departments, identify opportunities for improvement through organizational change, and delegate authority for follow-up to the respective chief."⁸ Moreover, under its mandate, the FPC has the authority and responsibility to undertake an independent investigation of controversies involving the MPD and the MPD's related policies and practices.⁹ Further, the FPC maintains the authority to hire and fire the Chief of Police.¹⁰

⁷ See also Milwaukee City Charter Ordinance, § 314-3(1) requiring FPC to "conduct[] a policy review of all aspects of the operations of the police and fire departments."

⁸ *Ibid.*, § 314-3(4).

⁹ *Ibid.*, § 314-3(2). This requires the FPC to "audit internal police . . . department investigations to ensure thorough, fair and credible results"); *Ibid.*, § 314-5(1). This requires the FPC executive

17. It is my opinion that the FPC is failing to provide proper oversight of the MPD with regard to the issues related to traffic stops, pedestrian stops, frisks, MPD procedures for holding officers accountable for misconduct, and MPD's relations with the community.
18. In her deposition, FPC Executive Director MaryNell Regan testified that when the issue of whether or not the MPD has a quota system arose, the FPC Board of Commissioners "chose to believe management that there is not a quota system."¹¹ The FPC Board of Commissioners then "held . . . open" the issue of a quota system, which Regan explained meant that it would be postponed for further discussion if necessary, and there is no indication such further discussion occurred.¹²
19. It is my opinion that the FPC Board of Commissioners' decision to defer to the MPD leadership, without any effort to investigate what was presented to it as a significant controversy in the community concerning MPD officers' interactions with members of the public, represents an abdication of its official mandate. On its website, the FPC describes its mission as "oversee[ing] all aspects of the Fire Department and the Police Department."¹³ No further language limits in any way the term "all aspects" in this statement. And as discussed above, Wisconsin statute and Milwaukee ordinance require the FPC to conduct a policy review of "all aspects" of police department operations.¹⁴
20. It is my opinion, based on over thirty years of research and consulting on the subject of public oversight of the police, that the central purpose of an agency, with a mission of overseeing a police department is to inquire into any and all controversies that should arise with respect to that department, and not automatically defer to the agency's management. "Inquiry" in this context should include the agency's ability to conduct its own independent investigation of the issue, hold public hearings, retain outside experts if that step is deemed necessary, and render a public decision on the matter. External oversight agencies have conducted audits of uses of force, uses of

director to "[r]eview a complaint investigation when a citizen is dissatisfied with the outcome of an investigation that has been completed by the police . . . department".

¹⁰ Wisc. State § 62.50 (2), (6), (17).

¹¹ Deposition of MaryNell Regan, 75:2-7.

¹² Ibid., 75:2-3, 10-16.

¹³ "About the Fire and Police Commission," Official Website of the City of Milwaukee, <http://city.milwaukee.gov/fpc/About#.WoY7tIPwZpg>.

¹⁴ Wis. Stat. § 62.50(1m); Milwaukee City Charter Ordinance, § 314-3(1).

chokeholds, civil litigation against agencies, and management practices related to holding officers accountable for their conduct.¹⁵

21. It is my opinion that the FPC's failure to provide proper oversight of and guidance to the MPD on its policies and practices related to stops and frisks, accountability for officer misconduct, and community relations is a problem that has existed for some years. A 2006 report by the Police Assessment Resource Center ("PARC") found that the FPC "underutilizes its policy review powers."¹⁶ The PARC report recommended a "fundamental overhaul" of the FPC.¹⁷ Yet, there is no evidence available to the author of this report that any such "overhaul" has occurred. It is also my opinion that PARC is one of the most highly respected independent consulting organizations in the field of law enforcement, with a wide range of experience, and that its judgment carries great credibility.
22. It is my opinion that the current Executive Director of the FPC is failing to provide the best professional leadership for the agency. It is the function of an executive director in this context to provide leadership on important issues, including providing the Board of Commissioners informed expert advice on important policy decisions. In her deposition, however, in direct response to this issue, FPC Executive Director Regan testified that "I try not to influence their [the FPC Board] views."¹⁸
23. It is my opinion that the definition of the role of the current Executive Director of the FPC, as stated in her deposition and cited in the above paragraph, is not consistent with the responsibilities of the Executive Director of the FPC to "[e]valuate police and fire department policies, practices, and patterns, including, but not limited to, deployment of staff . . . search, seizure, [and] citizen interaction and communication," as established by the Milwaukee City Charter Ordinance, § 314-5.
24. It is my opinion that the current Executive Director of the FPC has failed to become familiar with the details of day-to-day policing, and is thereby unable to provide informed advice on important matters, as required under Milwaukee City Charter Ordinance, § 314-5. In her deposition, on a question related to SOP 085 and whether an officer has reasonable suspicion of criminal activity when seeing a person at a location during "inappropriate hours of the day or night," Executive Director Regan testified that "I'm not a law enforcement officer, nor have I ever served as one."¹⁹ Yet,

¹⁵ Samuel Walker, *Police Accountability: The Role of Citizen Oversight* (Belmont: Wadsworth, 2001).

¹⁶ Promoting Police Accountability in Milwaukee: Strengthening the Fire and Police Commission (Los Angeles: Police Assessment Resource Center, 2006), 2.

¹⁷ *Ibid.*, 3.

¹⁸ Regan Deposition, 107:21-24.

¹⁹ *Ibid.*, 63:17-18. See discussion of SOP 085's treatment of this issue in Paragraph 37(b) *infra*.

she has by her own testimony not taken steps to become familiar with basic police operations (such as stops and frisks by MPD officers) despite the fact that, according to her own testimony, she plays a role in approving MPD SOPs.²⁰ It is my opinion that based on my own research on citizen oversight of the police, which has included regular attendance at the annual meeting of the National Association for Civilian Oversight of the Police (“NACOLE”), where I routinely converse with the directors of oversight agencies, that many, if not most, of the directors of oversight agencies such as the FPC are not police officers and have no prior experience as police officers.²¹ Yet, I have found that these individuals are generally well-informed about the details of day-to-day policing and are consequently able to provide informed opinions and directives about important policy matters.

25. It is my opinion that, given the controversies surrounding MPD practices and its obligations under Wisconsin law, the FPC has a responsibility to undertake an independent investigation of any and all such controversies involving the MPD, and of MPD’s related policies and practices. In my opinion, it is an abdication of the FPC’s basic mandate to provide independent oversight of the MPD for the FPC Board of Commissioners to conclude that it “believe[s] management” on the question of whether the MPD sustains an informal quota for the number of traffic and pedestrian stops conducted by officers, which may lead to unjustified stops of members of the public.

VII. COLLABORATIVE REFORM INITIATIVE ASSESSMENT OF THE MILWAUKEE POLICE DEPARTMENT

26. Draft COPS Report

- A. On November 10, 2015, the MPD invited investigators and consultants from the U.S. Department Justice Office of Community Oriented Policing Services (“the Collaborative Reform Team” or “COPS Team”) to engage in a collaborative assessment of the MPD’s policies and practices.
- B. It is my opinion that the Draft COPS Report—one of at least two draft reports produced as a result of the study—is one particularly valuable source of information on the day-to-day practices of the MPD related to traffic and pedestrian stops, as compared to the written policies set forth in the SOPs

²⁰ Regan Deposition, 66:10-67:15.

²¹ National Association for Civilian Oversight of Law Enforcement: Building Public Trust Through Police Accountability and Transparency, accessed February 19, 2018. <http://www.nacole.org/>. NACOLE is the only national association of professionals in the field of civilian oversight of the police.

discussed above, as well as the MPD's policies and procedures related to oversight and accountability.

- C. It is important to note that, consistent with the established practices behind the Collaborative Reform Program, the MPD invited the DOJ into the City to review the Department's operations and to make recommendations for improvements.²² Thus, the Collaborative Reform Team's assessment of the Department's practices was not forced upon the MPD against its wishes.

- D. It is my opinion that the MPD contacted the COPS Office because it was aware that the Department has some significant problems similar to those experienced by other police departments across the country in the wake of a series of police shootings of Black people caught on tape beginning in the summer of 2014. The Executive Summary of the Draft COPS Report takes note of the "[r]ecent tragic events in cities across the United States . . ." It further states that "Milwaukee, the Milwaukee Police Department, and the City's communities stand at the center of these issues as reflected in the number of high-profile cases associated with the use of force and constitutional conduct over the past several years."²³ The Draft COPS Report then cites four specific incidents involving MPD officers that generated controversy. The Planning and Implementation Guide also describes the local context that motivated the MPD leadership to request a review by the Collaborative Reform Program, in order "to 'set the table' for a robust community conversation about the balance between effective crime control and the maintenance of community trust."²⁴

- E. It is my opinion that the COPS Collaborative Reform Team utilized a multi-method system of research that meets the highest standard of research in the field of law enforcement assessment. The methods utilized involved: (a) review of official MPD documents; (b) "interviews, meetings, and focus group sessions" with both MPD officials and members of the community; (c) "direct observation, including ride-alongs with patrol personnel;" and (d) data analysis.²⁵

- F. It is my opinion that the research method utilized by the COPS Collaborative Reform Team is reliable and consistent with techniques that are regularly employed in the field of criminal justice research. This research identified a

²² Milwaukee Police Department, "Collaborative Reform, Planning and Implementation Guide, November 2015 – Present" (2017), 6.

²³ Collaborative Reform Initiative Milwaukee Police Department Assessment Report Draft (2017), 9.

²⁴ Planning and Implementation Guide, 6-7.

²⁵ Draft COPS Report, 23-25.

significant gulf between formal MPD policies and on-the-ground, daily practices of MPD officers—one of the most important problems related to police management and operations—including the use of the CompStat program to implement an informal quota system. It also identified significant deficiencies in the MPD’s accountability and oversight mechanisms, including its citizen complaint process and its Early Intervention Program (“EIP”), which impede the ability of the MPD to hold individual officers accountable for their conduct in interactions with community members and identification of problematic trends in officer conduct.

- G. It is well-established by nearly 60 years of research on policing that official police department policies do not necessarily represent the day-to-day *practices* of that department. Direct observation of particular law enforcement activities (e.g., patrols, including police-citizen interactions, uses of force, stops, frisks and searches), supplemented by interviews and focus group sessions, are necessary to obtain a true picture of the day-to-day operations of a police department.²⁶ As the Draft COPS Report explains, interviews and focus group sessions reveal “a deeper, qualitative understanding of policies and procedures” guiding a police department, and are also invaluable in “learn[ing] about previously unknown policies and procedures.”²⁷
- H. The COPS Team also undertook direct observations of MPD patrol operations through ride-alongs and accompanying officers on foot patrols. For the past 60 years, direct observation of patrol has been one of the most fruitful avenues of research on the police, generating new insights that have, in turn, identified new issues, which have stimulated further research on law enforcement practices. Given the focus of this litigation, direct observation of MPD patrol activities is critical in assessing Plaintiffs’ claims.
- I. Additionally, the COPS Team observed CompStat sessions. It is my opinion that these observations are particularly important because, as is explained below (Paragraph 30(b)), MPD CompStat sessions play a major role in implementing and reinforcing an informal quota system that is at the heart of the MPD practices challenged in this litigation.
- J. It is my opinion that MPD leadership mischaracterizes the nature and purpose of the Collaborative Reform Team’s multi-method methodology, in an apparent effort to discredit the Draft COPS Report’s findings and recommendations. Specifically,

²⁶ The first empirical research establishing the gap between formal police policies and day-to-day police practices was the American Bar Foundation Survey, field research in 1956 -1957. See Wayne R. LaFave, *Arrest: The Decision to Take a Suspect Into Custody* (Boston: Little, Brown, 1965).

²⁷ Draft COPS Report, 24.

MPD leadership claims that the Collaborative Reform Team based its findings on “anecdotes,” which the MPD evidently believes are not representative of its day-to-day operations.²⁸ MPD Police Chief Edward Flynn stated in his deposition that the authors of the Draft COPS Report were “committed to their anecdotes.”²⁹ The Draft COPS Report, however, describes in detail the researchers’ utilization of interviews, focus groups, and direct observations to draw informed conclusions.³⁰ It is an established practice in qualitative research that any report of findings includes only selected examples to illustrate various points. Including each and every statement or observation would constitute a transcript, not a research report. In his deposition, when asked whether he disputed the methodology used by the COPS Team, Chief Flynn stated: “What I dispute is what they decided to highlight and what they decided to ignore.”³¹ Notably, however, the chief does *not* suggest that the findings articulated in the Draft COPS Report are inaccurate or baseless.

27. Revised COPS Report

- A. The Revised COPS Report retains many of the findings and recommendations of the original Draft COPS Report. The Revised COPS Report also includes a number of changes reflecting input from the MPD. Most of the new material represents descriptions of actions allegedly being taken by the MPD to address the deficiencies identified by the researchers. It is particularly notable, however, that even after MPD leaders had an opportunity to review and criticize the original Draft COPS Report, and to provide input for the Revised COPS Report, important Findings and Recommendations (although in some cases with slightly different wording) from the original Draft COPS Report remain. Additionally, some new findings and recommendations appear in the Revised COPS Report that were not specifically articulated in the original draft, resulting in a revised draft that is even more critical of current MPD practices than the original. The most important Findings and Recommendations in the Revised COPS Report include:
- B. The statement in the Executive Summary of the Revised COPS Report that “it is imperative that any police department balances such location-based approaches [as the MPD traffic and pedestrian stop policies] against other important values for policing in a free and democratic society.”³² Though it does not appear in the

²⁸ Planning and Implementation Guide, 14.

²⁹ Deposition of Edward Flynn, 286:18-19.

³⁰ Draft COPS Report, 24.

³¹ Flynn Deposition, 286:8-10.

³² The principal theme of the President’s Task Force on 21st Century Policing is that “building trust and legitimacy on both sides of the police/citizen divide is not only the first pillar of this task force’s report but also the foundational principle underlying this inquiry . . .” President’s

original Draft COPS Report, this point addresses the “collateral impact” of the MPD’s practices regarding stops and their impact on racial and ethnic minority communities.³³ In this respect, the Revised COPS Report more forcefully calls on the MPD to take meaningful steps to improve police-community relations in the City of Milwaukee;

- C. While the Revised COPS Report notes that the MPD “has no formal quota for traffic stops,” it nonetheless reports evidence that an *informal* quota system does exist: “We heard consistently that MPD officers are asked to conduct more traffic stops,” and when officers asked for a “specific target number they are usually just told ‘more.’”³⁴ The crucial issue of the distinction between formal policies and actual police practices is discussed above (Paragraph 26(f)) and below (Paragraph 30) in this report;³⁵
- D. Finding 31, that “MPD’s traffic stop practices have a disproportionate impact on the African-American and Hispanic communities” includes reference to the Hispanic community, which is not mentioned in the original Draft COPS Report. This is an important addition, making the Revised COPS Report a more comprehensive review of the impact of MPD operations on the Milwaukee community than the original Draft COPS Report;³⁶
- E. Recommendations 32.1 through 32.5 of the Revised COPS Report, regarding oversight and accountability of pedestrian stops, are more specific than the recommendations in the original Draft COPS Report;³⁷

Task Force on 21st Century Policing, *Final Report* (Washington, DC: Department of Justice, 2015), 7.

³³ The President’s Task Force on 21st Century Policing recommended that law enforcement agencies consider potential “collateral damage” of crime fighting strategies “on community trust and legitimacy.” See *Final Report*, 15 (Recommendation 1.6 and Action Item 1.6.1: “Law enforcement agencies should consider the potential damage to public trust when implementing crime fighting strategies”; Action Item 1.9.1 (regarding “collateral damage” including unintended immigration consequences). (The issue of “collateral impact” is discussed below in this Report (Paragraphs 35(a) and 35(b))).

³⁴ Collaborative Reform Initiative Milwaukee Police Department Assessment Report Revised (2017), ch. 7, 8.

³⁵ President’s Task Force on 21st Century Policing, *Final Report*, 26-27 (Recommendation 2.9).

³⁶ Revised COPS Report, ch. 6, 95.

³⁷ *Ibid.*, 96-97.

- F. Finding 33 and Recommendation 33.1 of the Revised COPS Report, regarding the MPD practice of “curbing” repeat the recommendations in the original Draft COPS Report;³⁸
- G. Finding 34 of the Revised COPS Report that the “MPD’s traffic stop information system is cumbersome,” and the related recommendations, essentially repeat the finding and recommendation in the Draft COPS Report;³⁹
- H. Finding 42 of the Revised Cops Report, regarding the lack of a clear disciplinary process repeats the points raised in the Draft COPS Report;⁴⁰
- I. Findings 35 through 40 of the Revised COPS Report essentially repeat the findings and recommendations from the Draft COPS Report;⁴¹ and
- J. Finding 44 of the Revised COPS Report, regarding the need for an “overhaul” of the MPD’s EIP, and the accompanying recommendations (44.1 through 44.7) essentially repeat the findings and recommendations of the Draft COPS Report.⁴²
- K. It is my opinion that the 76-page Planning and Implementation Guide provides valuable insight into the thinking of the MPD leadership regarding the issues in this litigation. Given Chief Flynn’s impending retirement, it is important to note that, while Chief Flynn is the purported author, a document such as the Planning and Implementation Guide, with its lengthy and detailed analysis of the COPS reports, was most certainly the product of input from several members of the MPD’s top leadership and appears to reflect the Department’s general position with respect to the COPS assessments. In particular, it reflects the response of the MPD leadership to the Findings and Recommendations of the COPS Collaborative Reform review and reports (including both the original Draft COPS Report and the Revised COPS Report) on the MPD. It is my opinion, explained in detail at various points below, that the Planning and Implementation Guide fails to address adequately the issues raised in this litigation. In some instances, the Guide fails to address these issues altogether, while in others it provides an inadequate response.

³⁸ Ibid., 97.

³⁹ Ibid.

⁴⁰ Ibid., ch. 7, 27.

⁴¹ Ibid., 24-26.

⁴² Ibid., 28-29.

VIII. FINDINGS

28. Formal Policies versus Day-to-Day Practices

- A. It is my opinion that the MPD has in place a number of formal policies that are consistent with nationally-recognized “best practices” in the law enforcement field. It should be noted that there is no official list of “best practices” from any authoritative body. In this context, lists of best practices are constantly evolving, and various experts and professionals in the field inevitably have different ideas about current “best practices.”⁴³ Two problems exist, however, with some of the “best practices” adopted by the MPD. First, merely “having a policy,” in a nominal sense, is not sufficient to achieve the goals of a particular “best practice.” As is discussed below, for example, MPD SOP 085 is deficient on its face in several respects, and also creates the conditions by which unconstitutional policing can occur. Also as discussed below, the MPD’s implementation of its EIP is deficient in several important respects.⁴⁴ Second, and as will be discussed below in this report, the purposes of these official policies are undermined by administrative and supervisory practices that on the one hand encourage unconstitutional policing practices, and at the same time impede the effective operation of the department’s official policies. Thus, it is my opinion that the key to understanding the operations of the MPD and their impact on the community lies in the contradiction between formal policies and operational practices.
- B. The formal MPD policies that are consistent with nationally-recognized “best practices” include the following:
- i. A stated commitment to being a “data-driven” police department;⁴⁵

⁴³ The issue of best practices in policing is discussed in Samuel Walker and Carol A. Archbold, “The New World of Police Accountability,” 2nd ed. (Los Angeles: Sage, 2014), 265-267. “Sources of best practices include but are not limited to Commission on Accreditation for Law Enforcement Agencies, Standards for Law Enforcement Agencies,” 4th ed., (1999); various Justice Department consent decrees, as described in U.S. Department of Justice, Civil Rights Division, “The Civil Rights Division’s Pattern and Practice Police Reform Work: 1994-Present” (Washington, DC Department of Justice, 2017), 25-34 (“The Substance of the Division’s Police Reform Agreements”).

⁴⁴ Draft COPS Report.

⁴⁵ The MPD “Mission” Statement describes the department as “data-driven,” “Welcome to the Milwaukee Police Department,” Official Website of the City of Milwaukee, <http://city.milwaukee.gov/police#.WotX04PwZph..> The COPS Report cites the MPD’s commitment to “reducing the levels of crime, fear, and disorder through community-based, problem-oriented, and data driven policing.” Revised COPS Report, ch. 6, 84.

- ii. Placement of its (SOPs) on its website;
- iii. Utilization of an effective CompStat program;⁴⁶
- iv. Development of an EIP;⁴⁷
- v. Development of a Crisis Intervention Team (“CIT”) program;
- vi. Implementation of body-worn cameras (“BWC”) for officers on patrol duty;
- vii. Implementation of a Fair and Impartial Policing (“FIP”) program;⁴⁸ and
- viii. Prohibition on the use of race, ethnicity, and other demographic identifiers as the basis for a stop or other police actions (SOP 001.05, Fair and Impartial Policing).⁴⁹

C. It is my opinion that deficiencies in MPD supervision, monitoring, and SOPs relating to the conduct of traffic stops, pedestrian stops, and frisks undermine the intended benefits of the above-mentioned policies.⁵⁰ The resulting problems are well-documented in both the original Draft COPS Report and the Revised COPS Report. The following paragraphs explain the most important of those deficiencies.

29. It is my opinion that the FPC has failed in its responsibilities to oversee the policies and practices of the MPD, despite the expansive language articulated in the relevant statutes describing the FPC’s role. As discussed above, Wisconsin Statute § 62.50(1m), on Policy Review, mandates that the FPC “shall conduct” a policy review of all aspects of the operations of the MPD at least once each year. However, the 2006 evaluation of the FPC, conducted by the PARC, found that “[t]he FPC has made limited use of its policy review function.”⁵¹ In reaching this conclusion, the PARC

⁴⁶ Police Foundation, *Compstat and Organizational Change: A National Assessment* (Washington, DC: Police Foundation, 2004), <https://www.policefoundation.org/publication/the-growth-of-compstat-in-american-policing/>.

⁴⁷ Samuel Walker, *Early Intervention Systems for Law Enforcement Agencies: A Planning and Management Guide* (Washington, DC: Department of Justice, 2003). The deficiencies in the MPD’s EIP are discussed in this report in Paragraphs 56-63.

⁴⁸ Fair and Impartial Policing, <http://www.fairimpartialpolicing.com/>.

⁴⁹ Police Executive Research Forum, “Racially Biased Policing: A Principled Response” (Washington, DC: PERF, 2001).

⁵⁰ I note that this does not include SOP 085, which as discussed below embodies serious deficiencies that open the door for discriminatory stops.

⁵¹ Promoting Police Accountability, 73-74.

report found “no audits of FPC citizen complaints”; “no review and evaluation of any other training [related to] use of force, search and seizure, citizen interaction, and communication skills, etc.”; limited analysis of use of force information; “no evaluation of MPD risk management;” and “no review of civil actions or tort claims” against the MPD; along with other issues.⁵² The testimony of current FPC Executive Director Regan indicates that she has adopted a passive posture toward the FPC Board of Commissioners, for example by choosing to defer to it on the important issue of possible MPD quotas (see Paragraph 21, *supra* and Paragraph 73, *infra*), demonstrating that the MPD failings noted in the PARC Report have not been corrected.⁵³

A. The FPC’s failure to fulfill its statutory responsibility to oversee the MPD has contributed to the persistence of unlawful officer conduct and management failures related to constitutional policing. The failures of the FPC in this regard are discussed in detail below.

30. Informal Quota System

A. MPD patrol operations are driven by a law enforcement strategy that places the highest priority on traffic and pedestrian stops. This strategy is implemented through an informal quota system that pressures officers to increase the number of stops they are conducting in order to demonstrate their productivity.⁵⁴

B. The quota system is informal in that it is not stated in any formal SOP or policy statement; the Department denies that the MPD has a quota system.⁵⁵ But as discussed below, written policies of police departments do not necessarily reflect a department’s actual law enforcement practices. Moreover, if officers *perceive* there to be an informal quota based on feedback received during CompStat sessions, conversations with supervisors, or other experiences, the fact that no such policy appears in writing proves nothing.

C. The driving force behind the informal quota system is a clearly articulated law enforcement strategy that emphasizes a high volume of traffic and pedestrian stops.⁵⁶ The Draft COPS Report found that “the tone [of the MPD’s law

⁵² Ibid.

⁵³ Regan Deposition, 75:2-5.

⁵⁴ Draft COPS Report, 84, 88; Deposition of James Harpole, 73, 77:3-16, 82-83.

⁵⁵ Planning and Implementation Guide, 59; Harpole Deposition, 76; Deposition of Michael Brunson, 105:4-11; Deposition of Jutiki Jackson, 119:25-120:3.

⁵⁶ Draft COPS Report, 84, 88.

⁵⁶ Planning and Implementation Guide, 53-54.

enforcement strategy] is set at CompStat meetings,” which the report describes as having a near-exclusive focus on community crime trends and the “proactive activity” expected of patrol officers, which includes “traffic stops, targeted traffic stops, total traffic stops, bus checks, business checks,” and other crime detection activities.⁵⁷

- D. As documented in the Draft COPS Report, the quota system is communicated to command officers at CompStat meetings, and then to patrol officers by their immediate supervisors.⁵⁸ In this respect, the nominally beneficial aspects of CompStat as a police management tool are perverted. The continued use of CompStat meetings in this way can lead to unwarranted and/or unconstitutional conduct by police officers.
- E. In interviews with rank and file officers, the COPS investigators found instances of officers being told by their supervisors to increase their “numbers,” referring to the number of traffic and pedestrian stops they conduct.⁵⁹
- F. In his deposition, MPD Chief Flynn essentially conceded that the MPD had a quota system regarding the number of stops expected of patrol officers, and even placed a precise number on the quota. “Obviously the number two was just randomly selected as a small number in eight hours as a way to look at, you know, theoretically what might occur”⁶⁰ Chief Flynn further testified that the number “two” “was not an expected [quota or goal]. It was a theoretical construct There wasn’t an expectation.”⁶¹ But the evidence gathered by the COPS Reform Team, based on its multiple-method research agenda, clearly indicates that an “expectation” was clearly and repeatedly communicated to patrol officers and that the officers did not regard it as a theoretical construct (Paragraph 18(a)(b)(c)(d)). Chief Flynn testified that “the pressure on [patrol officers] was to have an impact on the crime in their districts that was consistent with our strategy of using traffic enforcement as a method of disrupting that crime.”⁶² When asked directly whether he “wanted more traffic stops,” Chief Flynn did not explicitly say “no,” but instead gave a long and discursive answer that was not responsive to the question.⁶³

⁵⁷ Draft COPS Report, 83-84.

⁵⁸ Ibid., 84, 87.

⁵⁹ Ibid., 88.

⁶⁰ Flynn Deposition, 278:13-16; and related testimony, 277-281.

⁶¹ Ibid., 279:12-14.

⁶² Ibid., 281:10-14.

⁶³ Ibid., 282:9-283:3.

- G. The Draft COPS Report identified the informal quota system as a problem, finding it directly linked to the disparate impact of the MPD's traffic stop practices on the African-American community, and the perception of a disparate impact among "many African-American community members."⁶⁴ It recommended that "MPD should communicate throughout the ranks that a traffic stop quota is prohibited."⁶⁵ It should be noted that the 2015 report of the President's Task Force on 21st Century Policing also recommended that "[l]aw enforcement agencies . . . should refrain from practices requiring officers to issue a predetermined number of tickets, citations, arrests, or summonses . . ." ⁶⁶
- H. Notably, the Revised COPS Report acknowledges that the MPD does not have a "formal" quota system, but then cites the COPS Team's evidence that officers feel that a quota system exists, and that, when officers ask their superiors for a target number of stops, they are simply told "more."⁶⁷
- I. It is my opinion that the FPC, which has a mandate to "oversee" the MPD has failed to fulfill this responsibility with regard to the issue of whether the MPD maintains a quota system for officers with regard to the number of traffic or pedestrian stops they are expected to make. As addressed above, in her deposition, FPC Executive Director Regan testified that when the issue of whether or not the MPD has a quota system arose, the FPC Board of Commissioners "chose to believe management that there is not a quota system." (See Paragraph 18, supra.) The FPC Board of Commissioners then "held . . . open" the issue of a quota system.⁶⁸ The decision of the FPC Executive Director to choose "to believe management" on such a critical issue as a possible MPD quota system represents an abdication of the FPC's mandate to provide independent oversight of the MPD. Independent oversight of the law enforcement agency under its jurisdiction is the central function of external citizen oversight of law enforcement in the U.S.⁶⁹

⁶⁴ Draft COPS Report, 94; *Ibid.*, 88.

⁶⁵ *Ibid.*, 95.

⁶⁶ President's Task Force on 21st Century Policing, *Final Report*, 26 (Recommendation 2.9).

⁶⁷ Draft COPS Report, 89.

⁶⁸ Regan Deposition, 75:2-5.

⁶⁹ Samuel Walker, "Police Accountability: The Role of Citizen Oversight" (Belmont, CA: Wadsworth, 2001).

IX. MANAGEMENT PRESSURE ON OFFICERS FOR A HIGH RATE OF STOPS

31. It is my opinion, as noted above in Paragraphs 30(b), (c), and (d), that the informal quota system is implemented through management practices that are not stated in formal policies. The Draft COPS Report noted that MPD personnel described a de facto quota system regarding stops by the MPD with an emphasis on “more” stops. COPS Team interviewers “heard consistently” from MPD officers that they were “asked to conduct more traffic stops.”⁷⁰ Further, when officers “asked for a specific target number [of stops], they are usually just told ‘more’.”⁷¹ Officers reported that during a “short time” when “their traffic stop numbers were reviewed,” they “received counseling for having the least amount of stops in their district.”⁷²
32. According to deposition testimony of key MPD command staff, until recently, the MPD used a “Jahari squares” system for performance evaluation, which explicitly considered traffic stops, field interviews, arrests, and reports written to evaluate the performance of individual officers.⁷³ These leaders confirmed that the MPD continues to evaluate “aggregate activities . . . by district” by looking at “four areas . . . traffic stops . . . subject stops, arrests made, and how many reports were written” as well as, “vacant house checks . . . bus checks . . . social contacts or the citizen contacts, . . . Business checks.”⁷⁴ Assistant Chief Harpole testified that the MPD is currently “developing a Tableau platform” that will allow the MPD to “look . . . at individual officers” and “provide first line supervisors with a tool that they don’t currently have to gauge those individual officers under their command” and “to get a good feeling for who they’re stopping, where they’re stopping, when they’re stopping, things of that nature.”⁷⁵ In my opinion, this testimony suggests that traffic stop were in the past, and continue to remain, a component in officer performance evaluations, which tends to encourage traffic stop numbers over traffic stops quality.
33. It is my opinion that the MPD reinforces its informal quota system in its review of patrol officer activities by failing to emphasize other activities in which patrol officers should be engaged, including actions related to community policing.⁷⁶ These could

⁷⁰ Draft COPS Report, 108.

⁷¹ Ibid.

⁷² Ibid.

⁷³ See, e.g. Wurth Deposition 277:11-278:4; Harpole Deposition, 264:9-23.

⁷⁴ Harpole Deposition, 269:9-70:25.

⁷⁵ Harpole Deposition, 267:7–22.

⁷⁶ Jack R. Greene, “Community Policing in America: Changing the Nature, Structure, and Function of the Police,” in *Criminal Justice 2000: Policies, Processes, and Decisions of the Criminal Justice System*, V. 3 (Washington, DC: Department of Justice, 2000), pp. 299-370; the impact on police officers’ work habits is discussed on pp. 333-335 (“Changing Police Work”),

include establishing informal contacts with community residents unrelated to law enforcement; gathering information about conditions in the neighborhood; participating in discussions with supervisors and other officers assigned to the neighborhood in order to share information, perceptions, and strategies, and engaging in community-based problem-solving efforts related to a host of different issues.⁷⁷ These “other activities” are nationally recognized as being basic elements of effective community policing. Although the MPD states that it engages in community policing, as discussed below (Paragraph 64), the Draft COPS Report found that the MPD “does not have a formal, Department-wide strategy that guides officers, supervisors, and commanders in its community policing efforts.”⁷⁸

34. Adverse Consequences of the Informal Quota System and a High Rate of Traffic and Pedestrian Stops

A. It is my opinion that the MPD’s informal quota system for traffic and pedestrian stops has several adverse consequences, including:

- i. Putting significant and consistent pressure on officers to make traffic and pedestrian stops, as a result of which officers run the substantial risk of conducting stops that do not meet the legal standard of reasonable suspicion to justify such stops;
- ii. Putting significant and frequent pressure on officers to make traffic and pedestrian stops, as a result of which those officers run the substantial risk of conducting stops that violate MPD policy and constitutional standards with respect to the use of race and/or ethnicity;
- iii. Leaving officers with little time for other activities, particularly those related to community policing, that would have a positive impact on the effectiveness of policing and on community relations; and
- iv. Leaving officers with little time for information sharing between officers and supervisors. For example, “[o]fficers described a lack of information sharing between shifts.” “Most supervisors and officers,” meanwhile, “indicated that it is very rare for them to have any routine meetings between themselves and their sergeant during their specific shift,” which has adverse consequences for

pp. 339-342 (“Impacts on Work Groups and Officers”), pp. 355-357 (“Resocializing and Training Officers” and “Tackling Police Culture”).

⁷⁷ Draft COPS Report, 40.

⁷⁸ *Ibid.*, 54, Finding 10.

effective and professional policing.⁷⁹ Because of the emphasis on stops, officers on duty do not have time to share information about possible crime-related activities they have observed. Such sharing could help develop more effective law enforcement responses. Additionally, officers do not have time for community policing activities, despite the fact that the MPD claims that community policing is one of its priorities. It should be noted that the President's Task Force on 21st Century Policing recommended that law enforcement agencies "should allow sufficient time for patrol officers to participate in problem solving and community engagement activities."⁸⁰

35. Collateral Impact of a High Rate of Stops

- A. It is my opinion that the MPD leadership ignores the "collateral impact" of its strategy emphasizing a high rate of traffic and pedestrian stops.⁸¹ The 2015 report of the President's Task Force on 21st Century Policing recommended that "[l]aw enforcement agencies should consider the potential damage to public trust when implementing crime-fighting strategies," and further advised that "[r]esearch conducted to evaluate the effectiveness of crime fighting strategies should specifically look at the potential for collateral damage of any given strategy on community trust and legitimacy."⁸² Concern about the potential harm to community relations resulting from some law enforcement strategies is not a new issue in American law enforcement. Fifty years ago, the National Advisory Commission on Civil Disorders (commonly referred to as the "Kerner Commission"), created to study the urban racial riots of the 1960s, found that some law enforcement strategies had damaged community relations, and quoted one expert who opined that some policies effectively "replaced harassment by individual patrolmen with harassment by entire departments."⁸³
- B. It is my opinion that the MPD leadership fails to act on its own knowledge and awareness of the "collateral impact" of its law enforcement strategy emphasizing a high volume of traffic and pedestrian stops. Most notably, the Planning and Implementation Guide identifies the issue of racial disparities arising from its operations.⁸⁴ But rather than addressing those disparities, MPD leadership

⁷⁹ Ibid.

⁸⁰ President's Task Force, 44 (Action Item 4.2.2).

⁸¹ Draft Cops Report, 83-84.

⁸² President's Task Force, 7 (Recommendation 1.6 and Action Item 1.6.1).

⁸³ *Report of the National Advisory Commission on Civil Disorders* (New York: Bantam Books, 1968), 304.

⁸⁴ President's Task Force, 53-62.

proceeds to describe and justify current MPD operations with regard to traffic and pedestrian stops, with the apparent intent of continuing such practices in the future.⁸⁵

- C. It should also be noted that the MPD leadership's response to the issues discussed above involve the argument that targeting crime through a program of traffic and pedestrian stops inevitably results in a focus on predominantly African-American and Hispanic communities. However, the Draft COPS Report and the Revised COPS Report found that the greatest racial and ethnic disparities in stops occurred in District 1, a predominantly white area of Milwaukee which is not a high crime neighborhood. Research on racial profiling by police departments has found that one pattern involves traffic and pedestrian stops of African Americans who are "out of place," defined as an African American being in a predominantly white neighborhood.⁸⁶
- D. The Planning and Implementation Guide, in fact, criticizes the professional literature for failing to adequately address the related issues of racial disparities and the resulting collateral damage to the community.⁸⁷ The MPD states that "a crucial issue remains unaddressed within the national dialogue," regarding the inevitability of racial disparities with crime fighting strategies that target high-crime areas.⁸⁸ The Planning and Implementation Guide indicates that the MPD's principal response is to call for continued "police-community discussion," but not to reassess its current policies and practices.⁸⁹
- E. It is my opinion that the MPD, on the issue discussed in the preceding paragraph, is simply wrong in its statement that a "crucial issue remains unaddressed within the national dialogue." The "crucial issue" referred to involves the alleged inevitability of racial disparities resulting from crime fighting strategies that target high crime areas in a community. To the contrary, the President's Task Force on 21st Century Policing directly addresses that issue and contains numerous recommendations for actions that police departments can take to alleviate unconstitutional police practices and individual officer misconduct without sacrificing effective crime control.⁹⁰ It should also be noted in this regard that the

⁸⁵ Harpole Deposition, 77:3-16.

⁸⁶ Onwachi-Willig, *Policing the Boundaries of Whiteness*.

⁸⁷ Planning and Implementation Guide, 54-55.

⁸⁸ *Ibid.*, 54.

⁸⁹ *Ibid.*

⁹⁰ President's Task Force on 21st Century Policing, *Final Report*, Recommendations, including but not limited to, 1.1, 1.3, 1.5, 1.6, 1.8, 2.2, 2.9, 2.12, 4.1, 4.4, 4.5, 4.6.

various reforms mandated by the Civil Rights Division of the DOJ in its consent decrees and memoranda of agreement involving about 40 local and state law enforcement agencies, also directly address issues of racial disparities and collateral damage without sacrificing effective crime control.⁹¹ Moreover, as noted above, MPD's claim that it is the targeting of high-crime areas that causes racial disparities is undermined by the substantial racial disparities in neighborhoods that are not high-crime areas and are predominantly white.

- F. It is my opinion that, contrary to the MPD's suggestion that the inherent tension between racial disparities and effective law enforcement strategies "remains unaddressed within the national dialogue," the tension is directly addressed in, and is the central theme of, the President's Task Force on 21st Century Policing. Pillar Four of the Task Force report is devoted to "Community Policing and Crime Reduction."⁹² (The Task Force report is organized around six "Pillars.") The opening sentence of Pillar Four states that "[c]ommunity policing is a philosophy that promotes organizational strategies that support the systematic use of partnerships and problem-solving techniques to proactively address the immediate conditions that give rise to public safety issues such as crime, social disorder, and fear of crime."⁹³ The third paragraph of the Pillar Four section explicitly states that "[p]olice interventions must be implemented with strong policies and training in place, rooted in an understanding of procedural justice."⁹⁴ Without such "strong policies and training," "police interventions can easily devolve into racial profiling, excessive use of force, and other practices which disregard civil rights, causing negative reactions from people living in already challenged communities." Pillar Four then goes on to make seven Recommendations and suggest 24 Action Items related to achieving the above-stated goals.⁹⁵ As such, it appears that the MPD was either unaware of, or has simply ignored, high-profile developments in the field that have squarely addressed this issue.

⁹¹ U.S. Department of Justice, Civil Rights Division, "The Substance of the Division's Police Reform Agreements," *The Civil Rights Division's Pattern and Practice Police Reform Work: 1994-Present*, 25-34. Samuel Walker and Morgan Macdonald, "An Alternative Remedy for Police Misconduct: A Model State 'Pattern or Practice' Statute," *George Mason Civil Rights Law Journal* 19 (Summer 2009). Samuel Walker, "Twenty Years of Justice Department DOJ 'Pattern or Practice Investigations of Local Police: Achievements, Collateral Impact, and Unanswered Questions,'" unpublished manuscript (2017). Available from the author.

⁹² President's Task Force, 41.

⁹³ *Ibid.*

⁹⁴ *Ibid.*

⁹⁵ *Ibid.*, 41-50.

G. It is my opinion, based on the discussions in Paragraphs 35(d), (e), and (f) above, that the recommendations in the Draft COPS Report parallel and are consistent with key recommendations by the President’s Task Force (as discussed in Paragraph 35 (e), above) and the Civil Rights Division’s consent decrees and memoranda of agreement with law enforcement agencies around the country. If the MPD were to adopt the COPS recommendations addressed in this report, it would take a major step toward ending unconstitutional police practices and individual officer misconduct concerning the stops and frisks of individuals, and also toward building more positive police-community relations. Unfortunately, as discussed below, the MPD has failed to take such steps. The recommendations of the President’s Task Force on 21st Century Policing that the MPD should consider adopting to address the issues raised in the Draft COPS Report include but are not limited to:

- i. Recommendation 1.1: “. . . police and sheriffs’ departments should adopt procedural justice as the guiding principle for internal and external policies and practices to guide their interactions with the citizens they serve.”
- ii. Recommendation 1.3 [in part]: “Law enforcement agencies should establish a culture of transparency and accountability in order to build public trust and legitimacy.”
- iii. Recommendation 1.4: “Law enforcement agencies should promote legitimacy internally within the organization by applying the principles of procedural justice.”
- iv. Recommendation 1.6: “Law enforcement agencies should consider the potential damage to public trust when implementing crime fighting strategies.”
- v. Recommendation 2.1: “Law enforcement agencies should collaborate with community members to develop policies and strategies in communities and neighborhoods disproportionately affected by crime”
- vi. Recommendation 4.1: “Law enforcement agencies should develop and adopt policies and strategies that reinforce the importance of community engagement in managing public safety.

36. Failure of MPD Leadership to Respond to the Adverse Consequences of its Stop Policy and Practices

A. It is my opinion that, despite the recognition by MPD management that aggressive anti-crime policies can have “potential collateral impacts,” including particularly “racial disparities derived from [MPD policing] tactics,” there is little evidence that the MPD has taken, or will take, appropriate steps to mitigate the potential problems concerning the stops and frisks of individuals arising from its practices.⁹⁶ Where the MPD discusses this issue in the Planning and Implementation Guide, it

⁹⁶ Planning and Implementation Guide, 15.

calls for “broader conversations” regarding racial disparities, without specifying what those conversations should involve, and also without indicating what actions, if any, the MPD plans to undertake to reduce the collateral effects that are harmful to community relations.⁹⁷ And, as noted above, MPD leadership continues to deny that the racial disparities that do exist are problematic.⁹⁸

- B. It is my opinion, based on official statements by the MPD, that the MPD has failed and continues to fail to address the problems related to its traffic and pedestrian stop and frisk practices, the resulting collateral damage, and the continuing problem around community relations. The Planning and Implementation Guide, in fact, clearly indicates that the Department identifies other issues as important areas for future reform in the MPD. The Guide describes MPD’s commitment to reforms in “*key areas like use of force, training, discipline and accountability, community perspectives, recruitment and hiring, and the handling of mass demonstrations and protests, among others.*”⁹⁹ This statement does not mention traffic or pedestrian stops, or the quotas that, in practice, pressure officers to perform more such stops. A similar statement, which mentions some of the same issues but also others, appears in Chief Flynn’s letter to the COPS Office and the Acting U.S. Attorney, dated November 10, 2015.¹⁰⁰ This statement also does not mention traffic or pedestrian stops, or the quotas that, in practice, pressure officers to perform more such stops.
- C. It is my opinion that police experts today recognize that a high rate of pedestrian stops do not, in and of themselves, effectively reduce non-traffic crime. After reviewing the social scientific evidence on the subject, the most authoritative work on the subject states as one of its six “Conclusion[s]” that Widespread SQF [Stop, Question, Frisk] Programs Do Not Produce Notable Crime-Control Benefits.”¹⁰¹ The authors immediately follow that Conclusion with the Conclusion that “Widespread SQF Programs Generate Collateral Consequences,” particularly with regard to the impact on racial minority communities.¹⁰² Thus, based on the evidence cited throughout this Report, it is my opinion that current MPD practices regarding pedestrian stops achieve little if anything in terms of effective crime control while at the same time damaging police-community relations.

⁹⁷ Ibid.

⁹⁸ Deposition of Jutiki Jackson, 196:7-25.

⁹⁹ Planning and Implementation Guide, 6.

¹⁰⁰ Ibid., 8-9.

¹⁰¹ Michael D. White and Henry F. Fradella, *Stop and Frisk: The Use and Abuse of a Controversial Policing Tactic* (New York: NYU Press, 2016), 182.

¹⁰² Ibid., 183.

- D. It is my opinion that the MPD fails to provide adequate direction for officers assigned to the MPD's Directed Patrol Missions / Saturation Patrols. SOP 300, which governs this program, is entirely procedural in nature, covering the way in which the program will be implemented, and the responsibilities of various supervisors and commanders. It contains not one word about what officers assigned to the program are expected to do in their interactions with the public. There is no discussion, for example, of enforcement priorities and criteria for decision-making by officers. Nor is there any discussion of any potential adverse consequences arising from various kinds of actions. As noted above (Paragraph 35(a)), 50 years ago, the Kerner Commission report on the riots of the 1960s concluded that such enforcement strategies as saturation patrols can have an adverse impact on police-community relations.¹⁰³
- E. It is my opinion that the MPD does not maintain a consistent position on the role of outside consultants with regard to reforms within the MPD. This inconsistency is an impediment to reforms that address the problems arising from the MPD's traffic and pedestrian stop policies, as well as the resulting damage to community relations. On the one hand, the MPD's November 2015 letter invites the U.S. Department of Justice's COPS Office to review MPD policies and procedures and to make recommendations for changes in those policies and procedures.¹⁰⁴ At that time, the COPS Office had been functioning for two years and Chief Flynn and other commanders were undoubtedly familiar with the nature of its reviews of police departments. They knew, or should have known, that for each Collaborative Reform Initiative, the COPS Office relied on a set of neutral, independent, expert consultants with experience in law enforcement, criminal justice policy and administration, research and evaluation, and community advocacy to conduct reviews of police departments and to make recommendations. The four "Subject Matter Expert[s]" and four "Research Scientist[s]" utilized in Milwaukee are listed by name on page six of the Draft COPS Report. Yet, the Planning and Implementation Guide bluntly states that "*recommendations should not be the opinions of technical assistance providers or their contracted subject-matter experts.*"¹⁰⁵ The statement dismisses the expertise and findings of all consultants involved in the Collaborative Reform review of the MPD, and for that matter of all other departments involved in the Collaborative Reform program. In his deposition, Chief Flynn criticizes the sources used by certain consultants, noting that "they never identified agencies or research that justified the recommendation

¹⁰³ *Report of the National Advisory Commission on Civil Disorders*, 304. Discusses "aggressive preventive patrol".

¹⁰⁴ Planning and Implementation Guide, 8-9.

¹⁰⁵ *Ibid.*, 15.

or from whom we could, you know, derive guidance in terms of policy development or whatnot.”¹⁰⁶ The chief goes on to argue that “*recommendations should be based on industry expertise and best practices.*”¹⁰⁷ Yet it was well-established within the law enforcement profession in November 2015 that the experts involved in the Collaborative Reform program were hired precisely because they brought “industry expertise” and familiarity with “best practices” to the review of MPD. Additionally, the MPD never identifies what it regards as either “industry expertise” or “best practices.”

- F. It is my opinion, based on the evidence in the above paragraph, that the MPD leadership is willing to accept only those recommendations that they want to hear, and that they dismiss evidence, insights and recommendations that are critical of current policies and practices.
- G. In light of the MPD’s apparent unwillingness to adhere to recommendations it does not agree with, it is my opinion that to effectively end the policies and practices discussed in this report, which involve unconstitutional patterns of vehicle and pedestrian stops, in addition to practices that have a disparate and adverse impact on the African-American and Hispanic communities, there must be an independent monitor in place to ensure compliance with constitutional requirements. In particular, the monitor would be responsible for overseeing the implementation of any necessary reforms and reporting to the responsible officials.
- H. It is my opinion that the need for a Monitor is evident in the experience of 40 U.S. Department of Justice Civil Rights Division settlements (consent decrees or memoranda of agreement) with law enforcement agencies in cases involving unconstitutional policing and racial and ethnic discrimination.¹⁰⁸ Evaluations of these settlements have found them to be effective in reducing unconstitutional policing, improving race and ethnic relations with the police departments in question, without adverse impact on police departments’ capacity to address problems of crime and disorder.¹⁰⁹ The most persuasive evidence on this point involves Civil Rights Division actions related to the Cleveland, Ohio, and Miami, Florida, police departments. The Civil Rights Division resolved an investigation of

¹⁰⁶ Flynn Deposition, 308:5-9. Neither the questions nor the answers on pages 307-308 of the Flynn Deposition transcript make it clear who the “consultants” referred to are or what project the testimony refers to.

¹⁰⁷ Planning and Implementation Guide, 15.

¹⁰⁸ U.S. Department of Justice, Civil Rights Division, *The Civil Rights Division’s Pattern or Practice Police Reform Work: 1994-Present* (2017), 3, 17-21, <https://www.justice.gov/crt/file/922421/download>.

¹⁰⁹ Walker, *Twenty Years of Justice*.

the Cleveland police department in 2004 with a Technical Assistance Letter, a process that recommended reforms in the police department but without either court oversight or a Monitor to assess progress.¹¹⁰ Problems in the Cleveland Police Departments persisted, however, and the Civil Rights Division reinvestigated the Cleveland Police Department in 2014 and reached a consent decree in 2015.¹¹¹ A similar process occurred with regard to the Miami Florida Police Department, where a 2003 Technical Assistance Letter without a monitor failed to result in the recommended reforms and led to a new Civil Rights Investigation in 2013 and a consent decree and Monitor in 2016.¹¹² In short, the evidence clearly indicates that a Monitor, who reports to a responsible official, is necessary to ensure the reform of unconstitutional police practices.

- I. It is my opinion that the MPD contradicts itself again throughout the Planning and Implementation Guide, where, in response to particular issues, they state an explicit willingness to accept outside consultants, depending on available resources, despite roundly criticizing the findings of the Collaborative Reform Team. For example:
 - i. “A best practice review [regarding recommended reforms to “critical incident” investigations] . . . would be helpful . . . as the department would require technical assistance for this review”;¹¹³
 - ii. “MPD would require funding and technical assistance with [the] recommendation [to increase the quantity and quality of data collected around use of force reports]”;¹¹⁴
 - iii. “MPD would require technical assistance and a funding source in order to have an independent evaluator measure the community impact of our traffic enforcement strategy”;¹¹⁵

¹¹⁰ U.S. Department of Justice, Civil Rights Division, *Agreement to Conclude DOJ’S Investigation of the Cleveland Division’s Police Use of Deadly Force* (2004), https://www.justice.gov/sites/default/files/crt/legacy/2010/12/15/cleveland_uof_final.pdf.

¹¹¹ Settlement Agreement between the United States and the City of Cleveland (2015), https://www.justice.gov/sites/default/files/crt/legacy/2015/05/27/cleveland_agreement_5-26-15.pdf.https://www.justice.gov/sites/default/files/crt/legacy/2015/05/27/cleveland_agreement_5-26-15.pdf.

¹¹² U.S. Department of Justice, Civil Rights Division, *Agreement between the United States Department of Justice and the City of Miami Regarding the City of Miami Police Department* (2016), <https://www.justice.gov/crt/file/833286/download>.

¹¹³ Planning and Implementation Guide, 44.

¹¹⁴ *Ibid.*, 51.

- iv. “MPD would require technical assistance and a funding source in order to train supervisors to identify potential trends in regards to traffic stop data”;¹¹⁶
 - v. “MPD would welcome technical assistance to determine a practical opportunity to achieve [the] recommendation [to establish a policy requiring supervisors to accept all community member complaints]”;¹¹⁷
 - vi. “MPD requests technical assistance with [the] recommendation[to implement an alert notification trigger for any employee receiving three incidents in 90 days and over a rolling one-year period]”;¹¹⁸
 - vii. “[The recommendation to livestream CompStat meetings] could be done with financial and technical assistance as the department does not currently possess the technical capabilities to live stream the meetings.”¹¹⁹
- J. It is my opinion that the FPC has failed in its responsibilities to oversee the operations of the MPD, as mandated by state statute, in a manner that would address the issues in Paragraph 36 above. The 2006 PARC report on the FPC found that the commission “underutilizes its policy review powers.”¹²⁰

X. VIOLATIONS OF THE REASONABLE SUSPICION STANDARD

37. It is my opinion that the 2017 MPD Planning and Implementation Guide fails to respond to the findings and recommendations of the Draft COPS Report and Revised COPS Report. In response to COPS Recommendation 34.2, that the MPD “develop a training bulletin” establishing the “reasonable suspicion” standard “for the stop,” for example, the Guide refers to MPD SOP 085.20.¹²¹ I have addressed above key deficiencies in SOP 085’s guidance for officers on the lawful circumstances in which to conduct a stop. It is my opinion that 2017 MPD Planning and Implementation Guide also contains several serious flaws in identifying “points to be considered by

¹¹⁵ Ibid., 58; it is my opinion that the task described here is exactly what the Collaborative Reform program in fact did.

¹¹⁶ Planning and Implementation Guide, 58.

¹¹⁷ Ibid., 65.

¹¹⁸ Ibid., 71.

¹¹⁹ Ibid., 75.

¹²⁰ Promoting Police Accountability, 2.

¹²¹ Planning and Implementation Guide, 60.

[MPD] members,” which are drawn from problematic guidance in SOP 085 and promote stops that are not based on reasonable suspicion:

- A. The first bulleted point refers to “the appearance or demeanor of an individual [which] suggest that he or she is part of a criminal enterprise or is engaged in a criminal act.”¹²² As addressed at length above, this bulleted point provides no guidance regarding what kind of appearance suggests criminal activity. It is my opinion that the lack of specificity opens the door for stereotypes, such as clothing or headwear that an officer may believe—erroneously and based solely on a stereotype—is, for example, gang-related. The term “demeanor” is similarly not guided by specifics. A demeanor that is non-responsive or even hostile to an officer is not, in and of itself, an indication of possible criminal activity.
 - B. The third and fourth bulleted points refer, respectively, to “the hour of day or night [that] is inappropriate for the subject’s presence” and “the subject’s presence in a neighborhood or location [that] is inappropriate.”¹²³ The 2017 MPD Planning and Implementation Guide, however, provides no guidance as to what is “inappropriate” in these situations. Consequently, the judgments are left entirely to the individual officers, which may involve racial or ethnic stereotypes or concerns about “race out of place,” *e.g.*, being a Black person in a predominantly white neighborhood, rather than by the *behavior* of such a person or any indicia of possible criminal activity. Stops based on African Americans allegedly being “out of place” in white neighborhoods has been recognized as one factor in racial profiling by the police.¹²⁴
 - C. The eighth bulleted point refers to officers having “knowledge of the subject’s prior criminal record or involvement in criminal activity.”¹²⁵ It is my opinion that, at the moment an officer observes an individual in the community, that person’s prior criminal record or prior involvement in criminal activity, without more, does not constitute reasonable suspicion. The effect of using prior criminal record is to criminalize a person for past conduct which is unrelated a person’s immediate conduct.
38. It is my opinion that, as noted above (Paragraphs 31-33), the MPD policy and practice of encouraging officers to engage in a high rate of stops puts pressure on those officers to conduct stops irrespective of whether they comply with the constitutional standard requiring such stops to be based on objective, individualized reasonable suspicion that

¹²² Ibid.

¹²³ Ibid.

¹²⁴ Onwachi-Willig, *Policing the Boundaries of Whiteness*.

¹²⁵ Planning and Implementation Guide, 60.

the person stopped has committed, or is about to commit, a crime. Officers on patrol, knowing that their number of stops is below what their sergeant or other supervisor expects (e.g., captains at CompStat meetings), are likely to engage in traffic and pedestrian stops he or she would not otherwise make were it not for the pressure to produce a higher number of stops.¹²⁶ The Draft COPS Report, in fact, found officers reporting how “pressure” on them to make stops distorts their decision-making with respect to when a stop is truly appropriate (“put[ting] them in the position of making stops on someone who appears easy to stop and will not take a long time to process”).¹²⁷ As a result, at least some of these stops are very likely to violate the reasonable suspicion standard.

39. It is my opinion that the MPD has failed to adopt a number of policies and practices that are essential to ensuring that officers comply with the constitutional standard requiring both traffic and pedestrian stops to be made based on objective, individualized reasonable suspicion.
40. The Draft COPS Report indicates that multiple deficiencies in MPD policies and practices may lead to stops being made without reasonable suspicion, and it contains five recommendations related to ensuring that MPD officers adhere to the reasonable suspicion standard. They include Recommendations 34.2 (training bulletin), 34.3 (definition of reasonable suspicion), 34.4 (supervisors responsibility for accurate Field Interview cards), 34.5 (training for supervisors related to pattern identification), 34.6 (audit of field interviews).¹²⁸
 - A. It is my opinion that it is absolutely essential that the MPD develop a clear definition of reasonable suspicion, as recommended by the Draft COPS Report (Recommendation 34.3);
 - B. It is my opinion that it is absolutely essential that the MPD adequately train its officers and its supervisors on the legal standard of reasonable suspicion, as recommended by the Draft COPS Report (Recommendation 34.2);
 - C. It is my opinion that MPD supervisors must be adequately trained on the responsibilities for ensuring the accuracy of Field Interview cards if they are to

¹²⁶ Draft COPS Report, 83-84.

¹²⁷ Ibid., 88; Charles R. Epp, Steven Maynard-Moody and Donald Haider-Markel, *Pulled Over: How Police Stops Define Race and Citizenship* (Chicago: University of Chicago Press, 2014). The authors argue that investigatory stops, as opposed to traffic enforcement stops, are regarded as particularly intrusive by African Americans, and that such stops are often the result of a conscious department crime fighting strategy.

¹²⁸ Draft COPS Report, 96.

effectively supervise officers under their command, as recommended by the Draft COPS Report (Recommendation 34.4);

D. It is my opinion that it is essential for MPD supervisors to discern troubling patterns of officer conduct, either through systematic review of official data or systematic direct observation of MPD officers at work, if they are to effectively identify officers with recurring non-compliance problems related to the legal standard of reasonable suspicion, as recommended by the Draft COPS Report (Recommendation 34.5); and

E. It is my opinion that the MPD must conduct regular audits of traffic and pedestrian stop documentation if it is to effectively ensure compliance with the legal standard of reasonable suspicion, as recommended by the Draft COPS Report (Recommendation 34.6).¹²⁹

XI. PUBLIC COMPLAINTS AND COMPLAINT INVESTIGATIONS¹³⁰

41. It is my opinion that there are serious deficiencies in the MPD's procedures for receiving public complaints (also referred to as "citizen complaints" by the MPD) that impede the Department's capacity to hold officers accountable for their conduct in interacting with community residents. Failure to provide an effective citizen complaint process, moreover, creates two problems. First, it has a negative impact on community perceptions of a police department, as citizens come to feel the police department does not offer an adequate avenue of redress for perceived misconduct. Second, an inadequate public complaints process undermines officer accountability. Incidents of misconduct are allowed to either go uninvestigated (because people do not file complaints) or unpunished (if the investigation and discipline procedures are unprofessional and/or biased against complainants).¹³¹

¹²⁹ While these reforms would be useful initial steps in ensuring that MPD officers only perform stops supported by reasonable suspicion, this list is not intended to be exhaustive of the types of reforms that MPD should undertake.

¹³⁰ The commonly used terms for this subject are fraught with problems. The term "civilian" (as in "civilian review of the police" assumes a civilian/military dichotomy, which is inappropriate for domestic policing in the United States. The term "citizen" (as in "citizen complaints" or "citizen review" is also inappropriate, in that many people who have contact with the police are not formally citizens of the United States. The term "residents" is also inappropriate, in that many people who have contact with the police in a particular are not in fact residents of that city. Thus, this report uses the term "public."

¹³¹ Joseph De Angelis, Richard Rosenthal and Brian Buchner, *Civilian Oversight of Law Enforcement: A Review of the Strengths and Weaknesses of Various Models* (Washington, DC: Department of Justice and NACOLE, September 2016), 26. The authors emphasize the problem

42. It is my opinion that the MPD fails to maintain an accessible and transparent public complaint process. The Draft COPS Report concluded that the MPD’s public complaint intake process is “neither accessible nor entirely transparent.”¹³² The lack of accessibility is the result of “practical challenges and subtle barriers.”¹³³ “A primary barrier to accessibility” is that complaint forms and information pamphlets are “only located at police stations.”¹³⁴
43. It is my opinion that it is a best practice in the law enforcement profession for departments to make forms and informational material widely available throughout the community—for example, at public libraries and other government offices. Understandably, some potential complainants are intimidated by the prospect of going to the police station to ask for a complaint form. In addition, other public facilities, such as libraries, might be more conveniently located than the nearest police station.¹³⁵
44. It is my opinion that the MPD fails to ensure that all attempts by community residents seeking to file a complaint will be officially recorded and investigated by the MPD. The Draft COPS Report found that MPD officials have the power to determine whether the complaint is legitimate.¹³⁶ The Draft COPS Report found “a potential lack of transparency” regarding these determinations. If an MPD official does not believe the complaint meets two specific criteria, the official complaint form “shall not normally be completed.” (If the complainant is “adamant” about filing the complaint, however, the MPD official will file the required form PI-31.) The Draft COPS Report concluded that “accepting all complaints is crucial to ensuring transparency and community trust in the complaint process.”¹³⁷
45. It is my opinion that the practices of the MPD with regard to the accessibility of the complaint process and the acceptance and classification of public complaints have the potential for producing an inaccurate official count of the number of complaints filed and discourages people who have negative interactions with the police from filing complaints. As a result, the official complaint rate (as measured by complaints per

of public disillusionment if “expectations for change are not met” by an oversight agency. Samuel Walker, *Police Accountability: The Role of Citizen Oversight* (Belmont, CA: Wadsworth, 2001).

¹³² Draft COPS Report, 109.

¹³³ Ibid.

¹³⁴ Ibid.

¹³⁵ Walker, *Police Accountability*, 89-90.

¹³⁶ Draft COPS Report, 110.

¹³⁷ Ibid.; Walker, *Police Accountability*, 127-128.

population or per officer) is artificially lowered and does not reflect the true level of community discontent with police practices. This serves to disguise the true level of community dissatisfaction with the police department, in the eyes of community residents, public officials, and the news media.¹³⁸

46. It is my opinion that the lack of accessibility in the MPD complaint process results in an unknown number of potential complaints not being filed. An unknown number of those unfiled complaints would undoubtedly have involved serious allegations regarding unconstitutional stops, frisks, searches or arrests, and/or allegations of racial profiling. It is also very possible that some of the unfiled complaints would involve the same officers, who were engaging in a pattern of unprofessional conduct. Consequently, an unknown amount of unprofessional, improper, and illegal police conduct will go unaddressed by the Department and therefore be allowed to continue.
47. It is my opinion that the MPD fails to provide proper direction for the investigation of public complaints. The Draft COPS Report found that MPD SOP 450 (Personnel Investigations) does not provide “clear direction for determining who will be tasked with handling complaint investigations.”¹³⁹ It is an unprofessional practice for a police department to maintain an important administrative process without a clearly specified director. The Draft COPS Report states that “MPD should ensure that supervisors are trained on their responsibilities under the new policy requiring acceptance of public complaints.”¹⁴⁰
48. It is my opinion that the MPD does not have a professional practice for properly classifying public complaints with regard to the seriousness of the incident. MDP SOP 450.10(J) regarding complaint investigations refers to the category of “serious violation[s].” The Draft COPS Report criticizes the “vagueness” of this term, concluding that it leaves supervisors “significant room for interpretation.”¹⁴¹ Finding 39 of the Draft COPS Report states that “MPD policy does not clearly define what constitutes a serious complaint.”¹⁴² Recommendation 39 calls for “a written directive or additional language in MPD policy that specifically defines the categories and types of complaints that are serious in nature.”¹⁴³

¹³⁸ Walker, *Police Accountability*, 119-132.

¹³⁹ Draft COPS Report, 110.

¹⁴⁰ *Ibid.*, 123.

¹⁴¹ *Ibid.*, 110.

¹⁴² *Ibid.*, 123.

¹⁴³ *Ibid.*

49. It is my opinion that, as indicated by the 2017 Planning and Implementation Guide, the MPD in 2017 continues to fail to respond to the problems related to properly defining “serious” citizen complaints, as identified by the Draft COPS Report.¹⁴⁴ The Planning and Implementation Guide devotes a medium-length paragraph to the COPS Finding 39 and Recommendation 39.¹⁴⁵
- A. Based on my research and publications on public complaint procedures, it is my opinion that the MPD’s response does not provide or promise to provide the “directive or additional language” recommended by the Draft COPS Report.¹⁴⁶
- B. It is my opinion that “seriousness” with regard to public complaints can and should depend on the circumstances. For instance, a policy on how to address allegations of verbal disrespect by an officer can and should distinguish between everyday rudeness (e.g., “Shut up, stupid.”) and offensive epithets related to a person’s race, ethnicity, gender or sexual orientation. Such distinctions are crucial to guiding complaint investigators and also to determining the degree of culpability of the officer in question.
50. It is my opinion that the MPD wrongly claims that it is adequate for the Department to use public complaints to hold officers accountable for stops that are violations of the reasonable suspicion standard. When asked whether the MPD had implemented any measures to ensure that officers have reasonable suspicion for the stops they make, Chief Flynn testified, “What we monitor are citizen complaints,”¹⁴⁷ even though, as discussed above, there are significant deficiencies in the public complaint procedures. In addition, as noted below (Paragraph 58) the MPD does not even include public complaints among the performance indicators in its EIP. While it is certainly possible for the MPD to review existing public complaint files with respect to complaints involving violations of reasonable suspicion, including such complaints in the EIP would be an obvious method of facilitating such reviews. Public complaints are used as an indicator of officer performance in virtually all law enforcement EIP-type systems around the country, and including them makes possible correlating reasonable suspicion complaints with other problematic officer performance.¹⁴⁸ Additionally, an EIP can also be configured to collect demographic information about individuals subjected to traffic stops, pedestrian stops, and frisks, which would enable the flagging of officers whose stop and frisk conduct results in racial or ethnic disparities. Such a

¹⁴⁴ Ibid, 110.

¹⁴⁵ Planning and Implementation Guide, 65.

¹⁴⁶ Ibid.

¹⁴⁷ Flynn Deposition, 303:10-11.

¹⁴⁸ Walker, *Early Intervention Systems* (2003).

configuration would assist the police department in monitoring and correcting unlawful stop and frisk conduct.

51. It is my opinion that the MPD does not properly train supervisors and investigators with respect to investigating citizen complaints. The Draft COPS Report found that there had been no training for “district supervisors and IAD investigators on conducting complaint investigations.”¹⁴⁹ There had been some training for sergeants and lieutenants in the past (2014), and the Draft COPS Report recommended that “a more recent training should be considered for supervisors and investigators.”¹⁵⁰
52. It is my opinion that the MPD does not maintain professional-level files on public complaints and complaint investigations. The Draft COPS Report found “inconsistency” in complaint investigation files, partly because of a lack of a “standard checklist or specific written guidelines for conducting complaint investigations that ensures completeness and consistency.”¹⁵¹ The report noted that the consequences of not having a checklist included “[i]nconsistency in the effort to contact community members,” “[v]ariance” in the collection and consideration of “supporting documents,” and evidence of a lack of consideration of “key relevant factors” in determining discipline in cases of sustained complaints.¹⁵² Finding 43 of the Draft COPS Report states that “Complaint investigation files are poorly organized, lack consistency, and are often incomplete.” Recommendation 43.1 recommends corrective action the MPD should take with regard to this issue, listing five separate specific actions (e.g., “Provide a standard checklist or more specific guidelines for conducting investigations”).¹⁵³
53. It is my opinion that MPD complaint investigators engage in practices inconsistent with professional standards. For example, the Draft COPS Report found that in nearly ten percent of the files examined, “interviewers asked leading questions.”¹⁵⁴ Leading questions involve an investigator providing to the person being interviewed (in this case, the officer under investigation) words that will help that person explain his or her actions. Leading questions represent a biased complaint investigation process.¹⁵⁵

¹⁴⁹ Draft COPS Report, 110.

¹⁵⁰ Ibid.

¹⁵¹ Ibid.

¹⁵² Ibid., 111.

¹⁵³ Ibid., 125.

¹⁵⁴ Ibid., 112.

¹⁵⁵ Walker, *Police Accountability*, 166.

54. It is my opinion that, with respect to the issue of leading questions to MPD officers, it should be noted that the Draft COPS Report does not address the other side of the coin, involving investigators asking hostile questions to complainants (as in “Didn’t you really ...?”). Hostile questions to complainants represent a biased complaint investigation process.¹⁵⁶
55. It is my opinion that the FPC has failed to provide an effective means for people who have had an encounter with an MPD officer to file a formal complaint and to have that complaint receive an independent, thorough and fair investigation. By law, the FPC provides a citizen complaint process that has co-equal status with the MPD complaint process. Thus, a potential complainant can choose either the FPC or the MPD complaint process. The 2006 PARC report found that the FPC complaint process was a “broken process” that was “beyond repair”.¹⁵⁷ The report recommended that the process “should be discontinued” (Recommendation 4.1).¹⁵⁸ At that time, the MPD was handling 90 percent of all citizen complaints. PARC investigators “did not find a single person, inside or outside the FPC, who stated that the complaint process was effective or even acceptable.”¹⁵⁹ At the time of the report, the FPC had “no investigators,” and complainants had to conduct their own investigation of the incident in question.¹⁶⁰ Few complaints “made it all the way to an FPC trial.”¹⁶¹ The FPC process was not timely, with cases taking two to three years to reach a trial.¹⁶² Finally, the FPC process rarely sustains complaints against police officers, sustaining complaints against only two officers, out of 437 complaints filed, between 2005 and 2009.¹⁶³ The testimony of current FPC Executive Director Regan indicates that she defines her role with the FPC as deferring to the FPC Board of Commissioners and that she is reluctant to challenge existing FPC practices on her own initiative.¹⁶⁴ (See Paragraph 22 and 29, above).

¹⁵⁶ Ibid., 106-108.

¹⁵⁷ Promoting Police Accountability, 46.

¹⁵⁸ Ibid., 50.

¹⁵⁹ Ibid., 46.

¹⁶⁰ Ibid., 48.

¹⁶¹ Ibid., 47.

¹⁶² Ibid., 49.

¹⁶³ Ibid.

¹⁶⁴ Regan Deposition. 75:2-5; 92:20-94:11; 107:21-24.

XII. INADEQUATE EARLY INTERVENTION PROGRAM

56. It is my opinion that poor design and management of the MPD's Early Intervention Program undermines the potential effectiveness of the EIP in identifying officers with recurring performance problems and in undertaking the appropriate intervention designed to correct those problems. The inadequacies are noted in the Draft COPS Report (Finding 47 and Recommendations 47.1 through 47.4; Finding 48 and Recommendations 48.1 and 48.2), and the Revised COPS Report (Recommendations 44.1 through 44.7).¹⁶⁵ It should be noted that Early Intervention Systems ("EIS"), which is the generic term for such programs, are widely recognized in the law enforcement profession as a powerful accountability tool.¹⁶⁶ EIS have been included, for example, in all consent decrees and memoranda of agreement negotiated by the Civil Rights Division of the DOJ in its litigation involving constitutional violations by local and state law enforcement agencies.¹⁶⁷
57. An inadequate EIP allows officer misconduct—including unlawful stops and frisks—to continue. An EIP that does not meet professional standards will fail to identify patterns of misconduct on the part of individual officers. Even for those officers who are identified by the EIP, unprofessional procedures may result in a failure to provide the necessary corrective intervention (e.g., counseling, retraining), or an inappropriate intervention (e.g., counseling by an immediate supervisor rather than professional counseling for a substance abuse problem).
58. It is my opinion that the MPD's EIP is inadequate because it uses only five performance indicators to track officers' performance.¹⁶⁸ Compared with EIPs or equivalent programs in other large police departments, the use of only five performance indicators is extremely low. DOJ consent decrees all mandate the creation of an EIS, and they generally include about 15 performance indicators.¹⁶⁹ The MPD EIP, for example, does not include performance indicators on public complaints (which is generally regarded as one of the most important indicators), officer discipline history, arrests and stops; civil suits naming an officer; training history, and compliments from the public.¹⁷⁰ Given the paucity of indicators included in the MPD's

¹⁶⁵ Draft COPS Report, 127-128; Revised COPS Report, ch. 7, 29.

¹⁶⁶ Walker, *Early Intervention*.

¹⁶⁷ U.S. Department of Justice, Civil Rights Division, *The Civil Rights Division's Pattern or Practice Police Reform Work: 1994-Present*, 31. Walker and Macdonald, "An Alternative Remedy for Police Misconduct," 508-510. Walker, *Twenty Years of Justice*.

¹⁶⁸ Draft COPS Report, 117.

¹⁶⁹ Walker, *Early Intervention Systems*, 26-30.

¹⁷⁰ *Ibid.*

existing EIP, the Draft COPS Report provides a list of additional performance indicators the MPD should consider.¹⁷¹ In short, the MPD EIP does not provide a sufficient array of performance indicators that would allow a full picture of an officer's performance over time, nor the relative risk that the officer will engage in unlawful conduct. The MPD EIP is not consistent with established practices in other large urban police departments.

59. It is my opinion that to correct the deficiencies in its EIP system, the MPD should implement all of the 15 separate recommendations for corrective action made by the Draft COPS Report (Recommendations 46 through 49.2).¹⁷²
60. It is my opinion that the MPD utilizes inadequate “benchmarks” to identify officers who are in need of corrective intervention because of their performance records, as identified by the EIP.¹⁷³ The term “benchmarks” is used to describe the formula used in an EIS to identify officers in need of corrective intervention (addressing, for example, the question of what level of racial disparity in traffic stops by a particular officer in a given time period would merit intervention).¹⁷⁴
61. It is my opinion that the benchmarks used by the MPD EIP are too high, in the sense that an officer would have to engage in an extremely high rate of misconduct in order to be identified by the system. One benchmark, for example, involves “A total of three or more sustained or not sustained personnel investigations issued within 90 days.”¹⁷⁵ The result is that the system will not identify an officer whose misconduct is higher than peer officers but does not reach the extremely high benchmark set by the MPD EIP system. The Draft COPS Report recommended a review of the MPD EIP, including retaining “an EIP professional to assess the overall program and evaluate the indicators” (Recommendation 46.1).¹⁷⁶
62. It is my opinion that the MPD fails to utilize its EIP to perform pattern analyses of officer conduct, but “only look[s] specifically at individual officers’ incidents in a

¹⁷¹ Draft COPS Report. 117-118

¹⁷² Ibid., 126-128.

¹⁷³ Ibid., 118, 126 (Recommendation 46.1).

¹⁷⁴ Walker, *Early Intervention Systems*.

¹⁷⁵ Draft COPS Report, 118.

¹⁷⁶ Ibid. 126.

certain time period.”¹⁷⁷ The capacity of an EIS to conduct pattern analyses of officer conduct is regarded as a central function of an EIS.¹⁷⁸

63. It is my opinion that the MPD does not adequately inform its employees, including both sworn officers and civilian employees, about the nature and purpose of its EIP. The Draft COPS Report found that “many officer [sic] and some supervisor [sic] expressed having no knowledge of EIP or how it was handled.”¹⁷⁹ It is essential for all sworn officers have a solid understanding of a department’s EIS so that they fully understand their department’s commitment to accountability.

XIII. LACK OF ATTENTION TO COMMUNITY POLICING IMPLEMENTATION

64. It is my opinion that the MPD does not adequately implement its stated commitment to community policing. Finding 10 of the Draft Cops Report states that “MPD does not have a formal, Department-wide strategy that guides officers, supervisors, and commanders in its community policing efforts.”¹⁸⁰
65. It is my opinion that MPD officer performance evaluations “do[] not consider any community policing criteria” (Draft COPS Report).¹⁸¹ Recommendation 11.5 of the Draft COPS Report states that “MPD should update the employee performance appraisal process to ensure that it includes . . . positive police-community interaction and problem resolution.”¹⁸²
66. It is my opinion that the top priority given to traffic and pedestrian stops by the MPD does not leave adequate time for officers to engage in community policing activities. The Draft COPS Report found that officers reported that “too much time is spent on traffic stops and not enough time is allocated for community policing efforts or receiving tips about criminal activity.”¹⁸³ This lack of attention to community policing may thereby undermine crime prevention efforts.

¹⁷⁷ Ibid., 119-120.

¹⁷⁸ Walker, *Early Intervention Systems*. Walker and Archbold, *The New World of Police Accountability*, 137-177. I argue that an EIS is a central element in the systematic approach to police accountability.

¹⁷⁹ Draft COPS Report, 120.

¹⁸⁰ Ibid., 54.

¹⁸¹ Ibid., 108.

¹⁸² Ibid., 56.

¹⁸³ Ibid., 108.

XIV. FAILURE TO ADDRESS SYSTEMATIC PATTERNS OF IMPROPER OFFICER CONDUCT

67. It is my opinion that the MPD fails to engage in practices designed to identify systemic patterns of improper or unlawful officer conduct. Experts on policing today recognize that on-the-street policing problems (involving, for example, stops and frisks) are not the result of a few bad officers (commonly referred to as the “rotten apple” theory) but instead are systemic problems resulting from inadequate policies, training, supervision, monitoring, and oversight.¹⁸⁴
68. It is my opinion that the MPD does not have in place procedures to monitor officer conduct related to the frisks of people who are stopped, either in traffic or pedestrian stops. SOP 085 does not require that officers complete a report of each frisk (referred to as a “pat-down search” by MPD), even though it does require officers to report all pedestrian stops (“field interviews”), including the reason for the stop. The lack of reports on frisks makes it impossible to monitor the number, nature, and patterns of frisks; makes it impossible to identify officers with problematic patterns of frisks; and makes it impossible to hold individual officers accountable for their conduct of frisks that are unsupported by the required reasonable suspicion or are impermissibly based on race or ethnicity.¹⁸⁵
69. It is my opinion, as noted above (Paragraph 62), that the MPD does not utilize its EIP to conduct pattern analyses of officer conduct, despite the fact that such pattern analyses are a core function of EIS. Finding 48 states that “MPD does not examine aggregated EIP data to identify potential problems and trends across the organization.”¹⁸⁶ Such systemic reviews are today regarded as essential practice in American law enforcement.¹⁸⁷
70. It is my opinion that the MPD does not utilize its public complaint investigation process to systematically review officers’ complaint and discipline history for the purpose of identifying officers with patterns of problematic performance and unlawful conduct of stops and frisks. The Draft COPS Report regards this as a “promising practice,” but was unable to find any “requirement in MPD’s written policy or IAD

¹⁸⁴ (“The Division’s pattern-or-practice cases focus on systemic police misconduct rather than isolated instances of wrongdoing.” Department of Justice, Civil Rights Division, *The Civil Rights Division’s Pattern or Practice Police Reform Work: 1994-Present*, 1; *Ibid.*, 2; “the Division’s reform agreements emphasize institutional reforms.” This point is the central argument in Walker and Archbold, *The New World of Police Accountability*.)

¹⁸⁵ SOP 085.25 (B) – Procedures for Performing a Pat-Down Search.

¹⁸⁶ Draft COPS Report, 127.

¹⁸⁷ Walker, *Early Intervention Systems*, 90.

Unit Guidelines to do so.”¹⁸⁸ The systematic review of officer complaint and disciplinary history, in fact, is one of the core principles underlying Early Intervention Systems.¹⁸⁹ Finding 42 of the Draft COPS Report states that “MPD does not analyze trends, patterns, or other issues associated with complaint data.”¹⁹⁰ It is my opinion that this problem could be corrected by including public complaints as a performance indicator in the MPD EIP (see Paragraph 58, above). Recommendations 42.1 and 42.2 address the corrective action that the MPD should take on this issue.¹⁹¹

71. It is my opinion that the MPD fails to use its CompStat program to effectively guide the operations of the Department and specifically to discuss the most effective ways to hold individual officers accountable for their conduct in interactions with members of the public, including stops and frisks that are unsupported by the required reasonable suspicion or are impermissibly based on race or ethnicity. When asked in his deposition whether there are policies and procedures for how CompStat meetings are facilitated, Chief Flynn answered “I don’t know that there are.” And when asked, “Are there policies and procedures on officer performance metrics?,” he answered “No.” When asked “Are there policies and procedures on officer proactive activity metrics?,” he answered “There aren’t policies and procedures on them, no.”¹⁹² The answers to these three questions indicate that the MPD is not utilizing a nationally recognized accountability tool for the purpose of guiding and monitoring officer conduct with regard to its traffic and pedestrian stop activities.
72. It is my opinion that the MPD leadership could use the CompStat program to effectively enhance and guide the operations of the department for the purpose of holding officers accountable for the conduct in interactions with members of the public, including unlawful stops and frisks. The Draft Interim COPS Report found that the regular CompStat meetings set the “tone” for “hold[ing] district captains accountable for various law enforcement measures within their districts.”¹⁹³ In a similar fashion, regular CompStat meetings could be used by MPD leadership to discuss and identify the most effective ways to hold officers accountable for conducting stops and frisks without proper legal justification. Captains could be reminded, for example, of the department’s official commitment to Fair and Impartial Policing (SOP 001) and also to the importance of the legal standard of reasonable suspicion for traffic and pedestrian stops. Captains could be advised to communicate

¹⁸⁸ Draft COPS Report, 111.

¹⁸⁹ Walker, *Early Intervention Systems*.

¹⁹⁰ Draft COPS Report, 124.

¹⁹¹ Ibid.

¹⁹² Flynn Deposition, 54:4-12.

¹⁹³ Draft COPS Report, 83.

these two departmental commitments to sergeants under their command, and the sergeants' responsibility would be to communicate these commitments to officers under their command. Time at CompStat meetings could be devoted to discussions of how these important messages could be effectively communicated.¹⁹⁴

73. It is my opinion that the FPC has failed to effectively oversee the MPD with respect to addressing systemic patterns of improper conduct by officers, including unlawful stops and frisks. By state statute, the FPC has full authority to “oversee” the policies and procedures of the MPD. The 2006 PARC report on the FPC, however, found that the FPC “underutilizes its policy review powers.”¹⁹⁵ The FPC has both the authority and the responsibility, for example, to review the MPD’s EIP and to make recommendations for improvement. Yet, it has failed to do so. Similarly, the FPC has the authority and the responsibility to oversee the operations of the MPD’s CompStat program with respect to MPD activities that might encourage improper officer conduct in interactions with the public. Yet, the FPC has failed to do so.

XV. THE RETIREMENT OF MPD CHIEF EDWARD FLYNN

74. It is my opinion that the retirement of Milwaukee Police Chief Edward Flynn in February 2018 does not fundamentally alter the conclusions stated in this report. It is indeed true that a police chief bears primary responsibility for the policies and practices of a police department. It is equally true, however, that once established in a department, policies and practices become ingrained in the organizational culture of a department. The “culture” of a law enforcement agency is defined by experts in the field as the established informal norms and habits of officers in that department. It is also generally accepted that changing the culture of a police department is extremely difficult, and that fact is widely regarded as one of the major obstacles to reform efforts designed to reduce or eliminate unconstitutional practices and/or practices that involve racial or ethnic bias.¹⁹⁶ A local news media story of Flynn’s retirement observed that Flynn’s “biggest legacy will be in the command staff that he developed.”¹⁹⁷ As a result, there is no valid reason to assume that the policies and practices discussed in this Report, and which were identified in the Draft COPS

¹⁹⁴ This could be done through helpful scenario-based conversations with subordinates rather than mere lectures.

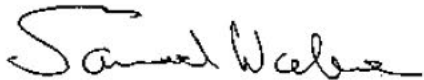
¹⁹⁵ Promoting Police Accountability, 2.

¹⁹⁶ Walker, *Twenty Years of Justice*.

¹⁹⁷ “A Lifetime in Policing: Chief Ed Flynn Retires Having Radically Changed the Milwaukee Police Department,” *Milwaukee Journal Sentinel* (February 16, 2018), <https://www.jsonline.com/story/news/crime/2018/02/16/lifetime-policing-milwaukee-police-chief-ed-flynn-retires-leaves/334878002/>.

Report, will quickly change solely because of the appointment of a new Milwaukee police chief.

75. It is my opinion that the retirement of Chief Flynn in no way invalidates the values and policies expressed in the MPD Planning and Management Guide. The Guide was most certainly not the work product of one person, and certainly was produced with the input from other senior MPD leaders. Thus, it is my opinion that the Planning and Management Guide represents current MPD thinking and practices.

A handwritten signature in black ink that reads "Samuel Walker". The signature is written in a cursive style with a large, sweeping initial 'S'.

SAMUEL WALKER, PhD., CONSULTANT

Appendix A

VITA

Samuel Walker

2017

School of Criminology and Criminal Justice
University of Nebraska at Omaha
60th and Dodge Street
Omaha, NE 68182-0149
(402) 554-3590 FAX: (402) 554-2326s
samwalker@unomaha.edu

121 South 50th Avenue
Omaha, NE 68132-3515
(402) 556-4674

WEB SITES

<http://samuelwalker.net>

Personal web site with research and commentary on policing and civil liberties.

<http://todayinlh.com>

Today in Civil Liberties History. A web-based calendar of civil liberties events for each day of the year.

<https://www.theserights.org> This web site contains alternative lyrics for Woody Guthrie's classic song, "This Land is Your Land," which are "These Rights Are Our Rights," an anthem for the Bill of Rights.

EDUCATION

Ph.D., Ohio State University, December 1973, Department of History
M.A., University of Nebraska at Omaha, August 1970, Department of History
B.A., University of Michigan, May 1965, American Culture Program

EXPERIENCE

Department of Criminal Justice, University of Nebraska at Omaha

Professor Emeritus, 2005 -

Coordinator, Police Professionalism Initiative, 2002 -

Isaacson Professor, 1999-2005

Kiewit Professor, 1993 -1999

Professor, 1984-1993
Associate Professor, 1978-1983
Assistant Professor, 1974-1977
Research Director, Educational Development Consortium, 1974-1976

BOOKS

A Critical History of Police Reform: The Emergence of Professionalism. Lexington, Massachusetts: Lexington Books, 1977.

Popular Justice: A History of American Criminal Justice. New York: Oxford University Press, 1980.

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4th ed., revised, 2002, with Charles M. Katz

5th ed., revised, 2005, With Charles M. Katz

6th ed., revised, 2007, with Charles M. Katz

7th ed., revised, 2011, with Charles M. Katz

8th ed., revised, 2013, with Charles M. Katz

9th ed., revised, 2018, with Charles M. Katz

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3rd ed., revised, Sense and Nonsense About Crime and Drugs, 1994.

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GRANTS, FELLOWSHIPS, CONTRACTS

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Police Professionalism Initiative. U.S. Congress. \$1,000,000. July 1, 2002 - June 30, 2005.

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Program Development in Mediation of Citizen Complaints. Office of Community Oriented Policing Services. Fall 1999 - December 2000. \$148,000.

Grant-in-Aid. University Committee on Research, UNO. Summer, 1999. "A Study of Police Interactions with Hispanic Citizens.

Analysis of the QSA Survey Forms. Minneapolis Civilian Review Authority. \$500. February - March 1999.

Follow-up Analysis and Report, January 2001. \$250.

Quality Service Audit Development. Minneapolis Civilian Review Authority. \$2,500. May-August, 1998

A National Evaluation of Early Warning Systems. Grant. National Institute of Justice. \$174,643. January, 1998 - June, 1999.

Fellowship. Center on Crime and Communities, Open Society Institute. \$49,000. Fall, 1997-August 1998. Renewed, 1998-1999. \$49,000.

Sub-contract. Buffalo (NY) Police Department. A Study of Stress Among Minority and Female Police Officers. \$25,000. December, 1996-December 1998.

Consultant. City Council, Albuquerque, New Mexico. Evaluation of the Oversight for the Albuquerque Police Department. \$15,000. October, 1996-February, 1997.

Consultant. KPMG Peat Marwick. Evaluation of the Charlotte, North Carolina Police Department. March, 1997-1998.

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Summer Grant-in-Aid, UNO University Committee on Research. "An Evaluation of the Police Review Function of Citizen Review. Summer 1996. \$5090.00.

Ford Foundation Fellowship, History and Analysis of the Survey of the Administration of Criminal Justice, September, 1987-December, 1988.

Summer Research Fellowship, University of Nebraska at Omaha, University Committee on Research, 1979, 1985.

Summer Research Travel Grant, University of Nebraska at Omaha, University Committee on Research, 1983.

COMMISSIONS, TASK FORCES

Member, American Law Institute (ALI), Advisory Committee, *Principles of Law: Police Investigations*, 2015-.

Consultant, National Academy of Sciences, Project of Proactive Policing, 2015-2016.

Testimony, U.S. Commission on Civil Rights, Hearings on Police-Community Relations, New York City, April 20, 2015.

Testimony, Ohio Governor's Task Force on Police-Community Relations, Toledo, OH, March 17, 2015.

Testimony, President's Task Force on 21st Century Policing, Hearings, Washington, DC, January 13, 2015.

Member, National Academy of Sciences, Panel on *Fairness and Effectiveness in Policing: The Evidence*, 2001-2004.

HONORS, AWARDS

Langum Prize for Best Book in American Legal History 2012, for *Presidents and Civil Liberties From Wilson to Obama* (2012).

W. E. B. DuBois Award for contributions to the field of Criminal Justice on race and ethnicity. Western Society of Criminology, February 5, 2011.

Sense and Nonsense About Crime named one of the "Great Books" in Criminal Justice. The rating is in a survey by Gennare F. Vito and Richard Tewksbury published in the *Journal of Criminal Justice Education*, (V. 19, November 2008).

Tribute to Civil Libertarians Award. ACLU Membership Meeting. Washington, DC. October 16, 2006.

Outstanding Achievement Award. National Association for Citizen Oversight of Law Enforcement (NACOLE). December, 2005.

Academic Freedom Award, 2005. Academic Freedom Coalition of Nebraska. November, 2005.

Graduate Student Mentor Award. University of Nebraska at Omaha. April, 2002.

Faculty Member of the Year. Department of Criminal Justice. UNO. 2002.

Distinguished Alumni Award. College of Humanities. Ohio State University. June 2001.

Isaacson Professorship. University of Nebraska at Omaha. Fall 1999-present.

Bruce Smith Award. Academy of Criminal Justice Sciences (ACJS). 1998

MCB Publishing Award for Best Article Published in the American Journal of Police, 1996, for "Varieties of Citizen Review" (with Betsy Kreisel).

Gustavus Myers Award for the Outstanding Books on Human Rights, 1995.
For Hate Speech (University of Nebraska Press).

Fellow, Center For Great Plains Studies. University of Nebraska. Lincoln, NE

Peter T. Kiewit Professor, University of Nebraska at Omaha, 1993-96
Renewed for 2nd term, 1996-1999

Finalist, 1994-95 Outstanding Book Award, for Hate Speech, Society of Midland Authors.

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"You Made A Difference" Award, Nebraska Pro-Choice Coalition, 1992.

"Civil Libertarian of the Year," 1991. Nebraska Civil Liberties Union.

Award for Distinguished Research and Creative Activity, University of Nebraska at Omaha, 1989

Honorary Fellow, Institute for Legal Studies, University of Wisconsin Law School, 1987-1988.

Visiting Scholar, Woodrow Wilson School, Princeton University, May-November, 1985.

Frederick H. Kayser Professorship, University of Nebraska at Omaha, 1985-1991.

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"The Politics of Police Accountability: The Seattle Police Spying Ordinance as a Case Study," in E. Fairchild and V. Webb, eds. *The Politics of Criminal Justice*. Beverly Hills: Sage Publications, 1985. Pp. 144-157.

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"Reexamining the President's Crime Commission: 'The Challenge of Crime in a Free Society' After Ten Years," *Crime and Delinquency*, 24 (January 1978), pp. 1-12.

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"The Urban Police in American History: A Review of the Literature," *Journal of Police Science and Administration*, IV (September 1976), pp. 252-260.

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"Documentary Photography in America: the Political Dimensions of an Art Form," *Radical America*, II (Jan-Feb 1977), pp. 53-66.

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"George Howard Gibson: Christian Socialist Among the Populists," *Nebraska History*, 55 (Winter 1974), pp. 553-572.

PRESENTATIONS

“Not Muted Voices at All: The Long-Term Contributions of the Voices of World War I Conscientious Objectors and Dissenters Against the War.” Presentation, Conference, Remembering Muted Voices: Conscience, Dissent, Resistance, and Civil Liberties in World War I through Today. Kansas City, MO, October 20, 2017.

“The Future of Race and Policing in the Trump Era.” Presentation, Wisconsin Bar Association, Annual Meeting, Wisconsin Dells, June 15, 2017.

Panelist. Symposium on Community Oversight of the Police. Chicago, IL, May 18, 2017.

Panelist. Symposium for Texas Journalists on “Cops, Reform, and Justice.” University of Texas, School of Journalism. Austin, TX, April 14, 2017.

“Actually, Effective Strategies Do Exist: Police and Community Violence.” Presentation, Symposium on Addressing Violence as a Public Health Issue.” College of Public Health, University of Nebraska Medical Center, Omaha, NE, April 21, 2017.

Discussant. Panel on Police Community Relations, following screening of *Do Not Resist*. February 7, 2017.

“ ‘The Heart of the Matter:’ Officer Use of Force Reports as the Core of Police Accountability. Presentation, University of California, Irvine Law School. Irvine, CA, October 7, 2016.”

“The National Police Crisis: What Can We Do.” Presentation, Jewish Community Center, Omaha, NE, July 20, 2016.

“Policing – and Governing—the Police: Wrestling with the Problem of Democracy.” University of Chicago Law Forum, Chicago, IL, November 6, 2015.

“Police Auditors.” Presentation, Community Renewal Society, Chicago, IL, November 5, 2015.

“Police Union Contract Provisions: Impediments to Police Accountability.” Presentation. NAACP Legal Defense and Education Fund (LDF), Annual Conference, Warrenton, VA, October 23, 2015

“An Independent Police Auditor: An Effective form of Citizen Oversight of the Police.” Presentation. Coalition for Increased Civilian Oversight of the Pasadena Police.” Community Conference, Pasadena, CA, October 6, 2015.

“Ferguson, Baltimore, and the Challenges for Citizen Oversight of the Police.” Presentation, Community Conference for Just and Dignified Policing, Riverside, CA, October 5, 2015.

“Police Response to the Mentally Ill: Lessons from Recent U.S. Experience.” Presentation, XXXIX International Conference on Law and Mental Health, Vienna, Austria, July 17,

2015.

“Achieving Respectful Policing.” Testimony. United States Commission on Civil Rights. Hearings. New York City, April 20, 2015.

“Getting Serious About Day-to-Day Police Misconduct. Keynote Address. April Symposium on Racial Justice. Arizona State University. Phoenix, AZ, April 10, 2015.

“Statement on Respectful Policing.” Ohio Task Force on Police-Community Relations. Written Submission. March 17, 2015.

“After Ferguson: Lessons from a Tragedy.” Presentation. Conference on Race, Justice and Community: Can We All Get Along? John Jay College. New York City. February 9, 2015.

“Citizen Voice in Police Policy Making: Old Issues, New Evidence” Presentation. Conference on Moving Beyond Discipline: The Role of Civilians in Policing. National Association for Citizen Oversight of Law Enforcement and Seattle University. Seattle, WA, February 6, 2015.

“A Respectful Policing Initiative.” Presentation. President’s Task Force on 21st Century Policing. Washington, DC. January 13, 2015.

“The Most Important Police Research Needs.” Presentation. Police Section Meeting, American Society of Criminology. San Francisco. November 20, 2014.

“Police-Community Relations Today.” Presentation and discussion. Reason/Omaha, Monthly meeting. Omaha, NE. December 10, 2014.

“Militarization of the Police,” Panelist. Public Forum. Nebraskans for Peace. Lincoln, NE. November 17, 2014.

“Police Officer Body Cameras: Their Place in the Larger Police Accountability Picture. Presentation. Conference on Police Officer Body Cameras, Seattle University, Seattle, WA, October 10, 2014.

“Community vs. Chaos: Community Dialogue; What Would We Do if Ferguson Happened in Omaha?” Panelist. Community Forum. Omaha, NE. September 8, 2014.

“The PTSR Framework: A Systematic Approach to Police Accountability.” Presentation. Phoenix, AZ Metropolitan Area Police Chiefs Groups. Phoenix, AZ. April 21, 2014.

“An Unprecedented Situation for Police Reform.” Community Forum on the NYPD. Cardozo Law School. New York City. January 27, 2014.

“Finding the Right Balance.” Presentation. Annual Meeting, National Association for Citizen Oversight of Law Enforcement,” September 23, 2013. Salt Lake City, Utah.

“On the Stand: What I Learned as an Expert Witness in the NYPD Stop and Frisk Trial.” University of Nebraska at Omaha. Constitution Day Talk. September 17, 2013.

Presidents and Civil Liberties: What History Tells Us About Obama and Romney.” Presentation, Colorado State University, October 22, 2012.

“Pattern or Practice Litigation and Police Accountability.” Presentation. Annual Meeting, National Association for Citizen Oversight of Accountability. San Diego, October 17, 2012.

“The Engineer as Progressive: The Wickersham Commission in the Arc of Herbert Hoover’s Life and Work. Presentation. Conference on America’s First National Crime Commission And the Federalization of Law Enforcement.” Marquette University Law School. October 4, 2012.

“Police Accountability – Lawfulness and Legitimacy.” Seminar. Center for Public Safety, Northwestern University. September 12, 2012.

“Presidents and Civil Liberties: Scenes from the White House.” Presentation, Binghamton University, March 21, 2012.

“Police Accountability.” Workshop, Safe Communities, Fair Sentences Conference. Omaha, Nebraska, March 10, 2012.

“Police Practices that Contribute to the Prison Pipeline – And How to End Them.” Presentation, Malcolm X Conference, University of Nebraska at Omaha, March 7, 2012.

“Institutionalizing Accountability Reforms.” Presentation, Conference on Control of Police Misconduct in a Post-Exclusionary Rule World: Can it be Done? St. Louis University Law School. February 24, 2012.

Commentator. Panel on “Job Commitment, Satisfaction, and Corruption: Papers from the National Police Platform. American Society of Criminology Annual Meeting, November 18, 2011. Washington, DC.

“Making Police Reforms Endure: The Keys for Success.” Presentation. Annual Meeting. National Association for Civilian Oversight of Law Enforcement. October 18, 2011. New Orleans, LA.

“Rethinking Police Litigation Strategies,” Presentation, Center for Constitutional Rights, New York City, August 17, 2001.

“Citizen Oversight of the Police: Why it is Needed, What is the Best Model? Presentation, African American Studies Department, Ohio State University, Columbus, OH, March 1, 2011.

“Two Steps Forward, One Step Backwards: Forty Years of Police Reform.” George Beto Lecture, Sam Houston State University, Huntsville, TX, February 15, 2011.

“Race and Justice in America: A 40 Year Perspective. Keynote Address, Western Society of Criminology Annual Meeting, Vancouver, CA, February 5, 2011.

“Linking Policy Change, Officer Response, and Organizational Transformation: A Theoretical Perspective,” with Dennis Rosenbaum. Presentation. American Society of Criminology, Annual Meeting, San Francisco, CA, November 18, 2010.

“Roundtable Discussion: The Auditor Model of Citizen Oversight. Roundtable Leader. National Association for Citizen Oversight of the Police, Annual Meeting, Seattle, WA, September 21, 2010.

“Alternative Strategies for Dealing with Police Misconduct.” Presentation. Rights Working Group. Washington, DC, May 11, 2010.

“Rethinking Packer’s ‘The Two Models of the Criminal Process’.” Presentation. American Society of Criminology. Annual Meeting. Philadelphia, PA. November 6, 2009.

“Renewing Research on Police Accountability.” Moderator and Presenter. American Society of Criminology. Annual Meeting. Philadelphia, PA. November 5, 2009.

“Models of Oversight: The Auditor Model.” Roundtable Discussion Moderator. National Association for Citizen Oversight of Law Enforcement. Annual Meeting, Austin, TX. October 31, 2009.

“Problem-Solving Approaches to Reducing Violence.” Forum: From Awareness to Action: A Community Approach to Youth Violence. League of Women Voters, Omaha, NE. November 17, 2008.

“Current Directions in Police Accountability.” Community Forum. St. Louis, MO. November 13, 2008.

Commentary. Author Meets Critics: Richard Leo on Police Interrogations. Annual Meeting, American Society of Criminology, November 12, 2008.

“The Auditor Model of Citizen Oversight.” Roundtable Discussion Leader. NACOLE Annual Meeting, Cincinnati, OH. October 27, 2008.

“Can We Reform the Police Through Pattern or Practice Litigation?” University of Cincinnati. Cincinnati, OH. October 27, 2008.

- “Core Principles for Effective Violence Reduction Strategies.” Presentation. Judiciary Committee, Nebraska Unicameral. Omaha, NE. September 12, 2008.
- “Building Trust in Police– Needed for Effective Crime Fighting.” Presentation. Stop the Violence Conference. Omaha, NE. April 25, 2008.
- “Omaha’s Police Problems in National Perspective.” Presentation. League of Women Voters of Omaha. Annual Meeting. April 19, 2008.
- “Alternatives for Citizen Oversight of the Police.” Presentation to the Commission on the Creation of a Civilian Review Board, San Juan, Puerto Rico, March 6, 2008.
- “Presidents and Civil Liberties.” ACLU Washington Legislative Office. Washington, DC. December 14, 2007.
- “The Abuse of Presidential Power: Wilson, FDR, Nixon, and Bush.” Presentation. Brownville Lyceum. Brownville, NE. October 7, 2007.
- “The Survival of Citizen Oversight Agencies.” Presentation. Annual Meeting, National Association for Citizen Oversight of Law Enforcement. San Jose, CA. September 25, 2007.
- “Not the Same Old Police-Community Relations Issue.” Presentation. Conference on Immigration. Arizona State University. Phoenix, AZ. April 5, 2007.
- “Lessons of the Scopes Case: Strategies for Responding to the Religious Right.” C. E. Sorensen Memorial Lecture. Unitarian Church of Lincoln, Nebraska. April 1, 2007.
- “Police Accountability: Issues and Research Needs.” National Institute of Justice, Police Planning Research Workshop. Washington, DC. November 28, 2006
- “Lessons of the Scopes Case: Strategies for Responding to the Religious Right.” Americans United for Separation of Church and State. Nebraska Chapter Meeting. Omaha, NE. November 8, 2006.
- “The Impact of Consent Decrees on Policing.” Presentation. Annual Meeting, American Society of Criminology. Los Angeles, November 2, 2006.
- “The New World of Police Accountability.” Presentation. Americans for Effective Law Enforcement (AELE). Las Vegas, NV, October 30, 2006.
- “Why the Neglect of Police Unions? Exploring One of the Most Important Areas of American Policing.” Presentation. Conference on Police Reform from the Bottom Up. The Law School. University of California, Berkeley. October 12-13. 2006.

- “The Larger Legacy of Jim Fyfe: The Control of Discretion in Criminal Justice.” Presentation. Memorial Conference on The Legacy of James Fyfe. John Jay College. New York City. October 5, 2006.
- “An Uncertain Defense: Presidents and Civil Liberties, From Woodrow Wilson to George W. Bush.” Constitution Day Address. University of Nebraska at Omaha. September 18, 2006.
- “DNA Dragnets: Use and Experience.” Presentation. Conference on DNA Fingerprinting and Civil Liberties. American Society of Law, Medicine and Ethics. Boston, MA. May 12, 2006.
- “Too Many Sticks, Not Enough Carrots.” Presentation. University of St. Thomas Law School. Minneapolis, MN. March 30, 2006.
- “National Trends in Early Intervention Systems.” EIS Best Practices Conference. Phoenix Police Department. Phoenix, AZ. March 27, 2006.
- “Diversity in Law Enforcement Employment: Values, Goals, Results.” Presentation. Performance Institute. Washington, DC. February 16, 2006.
- “Innovations in Police Accountability: Opportunities and Challenges.” Conference on Innovations in Police Accountability. Upper Midwest Regional Community Policing Institute. Minneapolis, MN. January 17, 2006.
- “Models of Citizen Oversight: The Auditor Model.” Workshop. National Association for Citizen Oversight of Law Enforcement. Miami, Florida. December 13, 2005.
- “What Real Police Accountability Looks Like.” Presentation. National Association for Citizen Oversight of Law Enforcement. Annual Meeting. Miami, FL. December 12, 2005.
- “The Worst President Ever on Civil Liberties?” History News Network. On line edition. <http://hnn.us>. December 5, 2005.
- “Evidence-Based Police Accountability: What We Know, What We Need to Know.” Presentation. American Society of Criminology, Annual Meeting. Toronto, Canada. November 17, 2005.
- “Race, Incarceration and Social Policy.” Presentation. Dana College. October 17, 2005.
- “DNA Sweeps by Police: An Ineffectual Investigative Tactic.” Presentation. Police Executive Research Forum, Annual Meeting. New York City. April 24, 2005.
- “The New World of Police Accountability.” Presentation. Crime, Law and Public Policy Lecture Series. University of Arizona Law School. Tucson, AZ. March 9, 2005.

“Issues in Criminal Justice.” Omaha Public Schools, Improving Teaching Workshop. February 22, 2005. Omaha, NE.

“Racial Profiling.” University of Nebraska - Lincoln, Martin Luther King Week Program. January 18, 2005.

“Citizen Complaints as a Performance Measure for the Police,” American Society of Criminology, Annual Meeting. November 17, 2004. Nashville. TN

Keynote Address, “The New World of Police Accountability.” Toronto Police Service, 4th Annual Professional Standards Conference. October 27, 2004. Toronto, Canada.

Keynote Address: “Only One Part of the Picture: Traffic Stop Data Collection in Perspective.” Police Executive Research Forum By the Numbers Conference, August 24, 2004. Kansas City, MO.

“Best Practices: Early Intervention Systems in Policing” (with Geoffrey P. Alpert). National Institute of Justice Annual Research and Evaluation Conference. July 17, 2004. Washington, DC.

“Whistle Blower Protection for Police Officers: The Need and the Obstacles.” Presentation. Rutgers-Camden Law School. April 2, 2004. Camden, NJ.

“The New World of Police Accountability.” Presentation. University of Houston Law Center. March 25, 2004. Houston, TX.

“A Closer Look at the History of Policing in the U.S.” Workshop. Annual Meeting. Academy of Criminal Justice Sciences. March 10, 2004. Las Vegas.

“Police Auditors in the United States: An Emerging Model of Oversight.” Conference, Comparative Perspectives on Police Accountability.” United Nations. New York, NY. December 3-4, 2003.

“The Auditor Model of Citizen Oversight of the Police.” American Society of Criminology. Denver, CO. November 13, 2003.

“Alternative Strategies for Citizen Oversight of the Police.” Citizens Investigative Panel. Miami, Florida. November 6, 2003.

“The Hispanic Community and the Police: Research Opportunities.” National Latino Peace Officers Association Annual Meeting. Washington, DC. October 23, 2003.

“New Directions in Police Accountability.” Police Executive Research Forum. Washington, DC. September 12, 2003.

- “Internal Benchmarking for Traffic Stop Data.” New Jersey Attorney General’s Stop Data Committee. Police Institute. Rutgers University. April 9, 2003.
- “Internal Benchmarking for Traffic Stop Data.” Dean’s Forum. School of Criminal Justice. Rutgers University. April 9, 2003.
- “Internal Benchmarking for Traffic Stop Data.” Racial Profiling Conference. Northeastern University. Boston, MA. March 8, 2003.
- “Best Practices in Early Intervention Systems.” Teleconference. U.S. Justice Department. February 13, 2003.
- “Is There Still No Justice?: Race and Criminal Justice 35 Years After the Kerner Commission.” On-line Teleconference. Wadsworth Publishing. January 24, 2003.
- “Is There Still No Justice?: Reflections on 40 Years of Struggle for Racial Justice.” Keynote Address. Texas Philosophical Society. Fort Worth, TX. December 7, 2002.
- “Early Intervention Systems for Police.” PATC Conference. Las Vegas, NV. December 3, 2002.
- “Models of Civilian Oversight.” Discussant. Annual Meeting, National Association for Citizen Oversight of Law Enforcement. Boston, MA. November 1, 2002.
- “Accountability and Police Ethics.” Presentation. Annual Meeting, International Association of Chiefs of Police. Minneapolis, MN. October 9, 2002.
- “Innovations in Handling Citizen Complaints.” Presentation, Conference on Community Policing Keeps America Safe.” Washington, DC. July 16, 2002.
- “Planning and Implementing Early Warning Systems.” Presentation, Conference on Community Policing Keeps America Safe.” Washington, DC. July 16, 2002.
- “Race, Ethnicity, and Police Accountability. Old Problems, New Approaches.” Presentation. California State University at Northridge. April 16, 2002.
- “The New World of Police Accountability.” Keynote Address. Conference on Police Accountability. St. Louis University Law School. April 5, 2002.
- “Strategies for Combating Racism in Criminal Justice.” Nebraskans for Peace, Annual Conference. Omaha, NE. February 16, 2002.
- “Covering the Police: Criteria for News Media.” Annenberg School. University of Southern California. Los Angeles, CA. December 5, 2001.
- “New Directions in Police Accountability.” Police Training Seminar. Las Vegas, NV. December 4, 2001.

- “Implementing Citizen Oversight.” Presentation. Annual Meeting, National Association of Civilian Oversight of Law Enforcement (NACOLE). Denver, CO. October 11, 2001.
- “Early Warning Systems and Racial Profiling.” Racial Profiling Report Implementation Conference. Police Executive Research Forum. August 6, 2001.
- “The New World of Police Accountability.” Presentation. Lawyers Committee for Human Rights. New York, NY. June 27, 2001.
- “Linking Internal and External Accountability Mechanisms.” Presentation. Performance and Accountability Summit for Law Enforcement. February 27, 2001. Washington, DC.
- “What Are Police Doing to Police Themselves?” Presentation. University of Illinois - Chicago. February 20, 2001. Chicago, Illinois.
- “Understanding Complaints Against the Police: A Theoretical Perspective.” Presentation. Center for the Study of Law and Society. University of California - Berkeley. January 25, 2001.
- “Early Warning Systems as a Best Practice.” Conference. U.S. Department of Justice, Washington, DC. November 29, 2000.
- “Citizen and Police Satisfaction with Civilian Review.” Presentation [with Leigh Herbst]. American Society of Criminology. Annual Meeting. San Francisco. November 17, 2000.
- “Early Warning Systems as an Accountability Mechanism.” Presentation. American Society of Criminology. Annual Meeting. San Francisco. November 15, 2000.
- “Best Practices in Police Accountability.” Presentation. Justice Coalition of Greater Chicago. Chicago, IL. October 25, 2000.
- “The Auditor Model of Oversight as a Means of Promoting Police Accountability.” Seminar. New York University Law School. New York, NY. October 2, 2000.
- “Mediating Citizen Complaints Against the Police: A New Form of Community Justice?” Presentation. John Jay College of Criminal Justice. New York, NY. October 2, 2000.
- “Technology is NOT the Issue.” Presentation. American Bar Association. Council on Racial and Ethnic Justice. ABA Annual Meeting. New York City. July 8, 2000.
- “Citizen Oversight Procedures.” Presentation. Mayor’s Working Group. Portland, OR. June 8, 2000.
- “Mediating Citizen Complaints Against the Police.” Presentation. American Bar Association. Section on Dispute Resolution. Annual Conference. San Francisco. April 8, 2000.

Workshop. Police Accountability. Academy of Criminal Justice Science. Annual Meeting. New Orleans. March 24, 2000.

Chair. Panel on Police Misconduct. Academy of Criminal Justice Sciences. Annual Meeting. New Orleans. March 23, 2000.

"A Historical Perspective on Police Accountability." Hearings. Public Advocate of New York. New York City. November 15, 1999.

"Early Warning Systems: An Overview." Conference, "Building Accountability into Police Operations." U.S. Department of Justice. Washington, DC. November 12, 1999.

"Early Warning Systems." Workshop. Kansas City Police Department. Kansas City. September 28, 1999.

"Citizen Oversight of the Police." Workshop. Mayor's Police Oversight Task Force. Austin, TX. August 31, 1999.

"The False Dichotomy Between Individual Rights and Community." Presentation. Communitarian Summit. Washington, DC. February 28, 1999.

"The Police and Race." Panel Discussion. American Society of Criminology Annual Meeting. Washington, DC. November 11, 1998.

"Citizens in the POP Process: Ethical considerations." Presentation. Problem-Oriented Policing Conference. San Diego, CA. November 1-3, 1998.

"Louisville's War on Crime." Panel Discussion. Louisville, KY. October 12, 1998

"External Oversight of Federal Law Enforcement Agencies: A Proposal." Presentation. Commission on the Advancement of Federal Law Enforcement. Washington, DC. August 24, 1998.

"Zero-Tolerance Policing: Unanswered Accountability Issues." Conference. Albany, NY. April 24, 1998.

"Policing the Police: Who, How, and Why?" Public Forum. Albuquerque Law School. Albuquerque, NM. March 12, 1998.

"Are the Police Changing?" Academy of Criminal Justice Sciences, Annual Meeting, Albuquerque, NW. March 12, 1998

"Public Perceptions of Racial Minority Employment and its Perceived Impact on Police Service" (with Vincent J. Webb). Presentation. Annual Meeting, ASC. San Diego. November 19, 1997.

- Panelist. "Author Meets Critics: James B. Jacobs, 'The Pursuit of Absolute Integrity'." San Diego. Annual Meeting, ASC. November 21, 1997.
- "New Developments in Citizen Oversight of the Police." Presentation. Sand Diego County Citizens Law Enforcement Review Board. San Diego. November 17, 1997.
- "New Developments in Citizen Oversight of Police." Presentation. Problem-Oriented Policing Conference. San Diego, CA. November 16, 1997.
- "Best Practices in Citizen Oversight." Presentation. External Review Advisory Commission. Eugene, Oregon. October 31, 1997.
- "Future Directions in Citizen Oversight of Police." Presentation. National Association for Civilian Oversight of Law Enforcement (NACOLE). Annual Meeting. Oakland, CA. October 16, 1997.
- "Revitalizing the New York CCRB: A Proposal for Change," Presentation, Open Society Institute, New York City, September 26, 1997.
- "Strategies for Combating Police Misconduct," Presentation, ACLU Biennial Conference, Santa Fe, New Mexico, June 7, 1997.
- "Citizen Review of the Police." Community Forum. Des Moines, IA. May 15, 1997.
- "Hate Speech in America." Arizona State West University. Phoenix, AZ. April 23, 1997.
- "Responding to Racist Incidents on Campus: Hate Crimes and Hate Speech. April 2 1997. University of Nebraska at Omaha.
- "Best Practices in Citizen Review of the Police." City Manager's Task Force. Charlotte, North Carolina. February 5, 1997.
- "Police Reform and Human Rights," Keynote Address, Human Rights Day Observance, University of Nebraska - Lincoln. December 10, 1996
- "Police Misconduct and Citizen Complaints: The Results of a Victimization Survey." (with Nanette Graham). American Society of Criminology. Annual Meeting. Chicago, IL. November 1996.
- "Roundtable Discussion: The Future of Citizen Review." American Society of Criminology. Annual Meeting. Chicago, IL. November, 1996.
- "The Heart of Darkness: Crime and Social Control in Contemporary America." Organizer and Presenter. Lay School of Theology. Augustana Lutheran Church. Omaha, NE. October 7, 14, 21, 28, and November 4, 1996.

- "Comparative Studies of Citizen Review." Presentation. International Association for Citizen Review of Law Enforcement. Annual Meeting. Washington, DC. September 27, 1996.
- "The Impact of External Forces on Police Integrity." Presentation. National Symposium on Police Integrity. National Institute of Justice. Washington, DC. July 16, 1996.
- "Sense and Nonsense About the Administration of Justice." Iowa Western Community College. Council Bluffs, Iowa. March 25, 1996.
- "Curbing Police Misconduct." Presentation. Criminal Law and Individual Rights Section of the District of Columbia Bar Association. Washington, DC. February 28, 1996.
- "The Constitution and First Amendment Rights." Nebraska LEAD Program. Nebraska Agricultural Leadership Council, Inc. Lincoln, NE. February 10, 1996/
- "The Police and the Race Crisis." Kennedy School of Government, Harvard University. November 16, 1995.
- "Citizen Review of the Police: Alternative Strategies." Boston, MA. November 15, 1995.
- "Rethinking the Sustain Rate: New Perspectives on Evaluating the Success of Police Complaint Procedures. American Society of Criminology. Annual Meeting. Boston, MA. November 15, 1995.
- "Racial Justice and Policing: Where Do We Stand." Presentation. Police Executive Research Forum. Semiannual Meeting. Miami, Florida. October 14, 1995.
- "Wars on Crime/Struggles for Justice: Conflicting Trends in American Criminal Justice, 1965-1995." Conference on Crime and Criminal Justice. Stanford University. October 7, 1995.
- "The Differences Among Citizen Oversight Agencies -- And the Difference it Makes." Presentation. International Association for Civilian Oversight of Law Enforcement. Annual Meeting, Vancouver, Canada. September 27, 1995.
- Workshop on "Hate Crime Legislation." Omaha Public Schools Curriculum Day. September 5, 1995. Omaha, NE.
- "The Police and the Community: New Approaches." Presentation. Des Moines League of Women Voters. March 16, 1995. Des Moines, Iowa.
- "Citizen Review of the Police- 1994: The Findings of a National Survey." Academy of Criminal Justice Sciences. March 1995. Boston, MA.
- "The Treatment of Women in Introductory Criminal Justice Textbooks." [With Molly Brown]. Academy of Criminal Justice Sciences. March 1995. Boston, MA.

"A Theory of Criminal Justice." Presentation. Academy of Criminal Justice Sciences. March, 1995. Boston, MA.

Discussant. Session on "Twentieth Century Civil Rights Struggles." Conference on African Americans and the Great Plains. Center For Great Plains Studies. Lincoln, NE. February 24, 1995.

"A Classic Revisited: Justice Without Trial in History." Presentation. American Society of Criminology. November 11, 1994. Miami, Florida.

"Through the Looking Glass Ceiling: Gender and Race in Police Promotions." [With Susan E. Martin. American Society of Criminology. November 11, 1994. Miami, Florida.

"Crime and Community." Presentation. Omaha League of Women Voters. October 13, 1994. Omaha, NE

"Hate Speech: Historical Perspective on a Current Problem." Presentation. Author's Lecture Series. Prairie Lights Book Store and Iowa Public Radio. September 29, 1994. Iowa City, IA.

"Crime, Race, and Community." Presentation. Iowa Attorney General's Conference. July 28, 1994. Des Moines, Iowa.

"Hate Speech: American Policy and the Holocaust Connection." Presentation. The National Archives. July 19, 1994. Washington, DC.

"Law Enforcement." Paper. Conference on the 50th Anniversary of Gunnar Myrdal's An American Dilemma. Atlanta, GA. April, 1994.

"Communitarianism and Organ Donations," Presentation. Nebraska-Dartmouth Project Colloquium. February 18, 1994. Omaha, NE,

"Less Than Meets the Eye: Police Bias Crimes Units: An Exploratory Survey" (with Charles M. Katz). Academy of Criminal Justice Sciences. Annual Meeting. Chicago, IL. March 1994.

"Hijacked!: How the War on Drugs Co-opted the Idea of Community Policing." Presentation. Seventh International Conference on Drug Policy Reform. November 17-20, 1993. Washington, DC.

"Progress in Racial Minority and Female Employment in Policing: Thoughts on What Works and What Doesn't," Presentation, American Society of Criminology, Phoenix, AZ. October 1993.

Panelist, Authors Meet Critics: Skolnick and Fyfe: Above the Law. American Society of Criminology, Phoenix, AZ, October 1993.

"Trends in the Employment of African-American and Hispanic Police Officers, 1983-1992." Presentation, Police Executive Research Forum, Annual Meeting, Washington DC, May 5, 1993.

"The American Bar Foundation Survey of Criminal Justice: Origins and Impact." Presentation, American Bar Association, Annual Midwinter Meeting, Boston, MA, February 6, 1993.

"Between Two Worlds: The President's Crime Commission and the Police." Presentation, American Society of Criminology, New Orleans, November, 1992.

"Civilian Review of the Police: Recent Trends and New Questions." Presentation. American Society of Criminology, New Orleans, November, 1992.

"Are Civilian Review Boards the Answer?" Presentation. Southwestern Law Enforcement Institute, 13th Annual Contemporary Issues in Police Administration Conference, Dallas, TX, March 20, 1992.

"Revisionism and the First Amendment." Presentation. Conference on Revisionism and the Holocaust, Millersville University, Millersville, PA, April 5, 1992.

"History." Panel on Criminology: A Multi-Disciplinary Focus. American Society of Criminology, Annual Meeting, San Francisco, CA, November 21, 1991.

"Stress and the Hispanic Police Office." Presentation. Hispanic Institute of Law Enforcement. National Convention. Chicago, IL, July 3, 1991.

"Private Realms and Public Issues: Civil Liberties and the Changing American Legal Culture." Conference in Honor of Paul L. Murphy, University of Minnesota, May 5-7, 1991

"The Growth of Civil Liberties, 1890-1945." University of South Florida, St. Petersburg, Florida, February 4, 1991.

"The Drug War and Civil Liberties." Conference on Police and Community Responses to Drugs, Chicago, Illinois, December 7, 1990.

"Community Policing: Philosophy and Promise," Administration forum, John Jay College, New York City, September 25, 1990.

"Alternatives to Incarceration: The Good News and the Bad News." Iowa Correctional Association Annual meeting, October 18, 1990.

"Community Policing." Panel Discussion, Academy of Criminal Justice Sciences, Annual Meeting, April, 1990.

"Reflections on the History of Punishment," Nebraska Conference on Alternatives to Incarceration. Lincoln, Nebraska, October 20, 1991.

"Human Rights: America and the World," US West, Human Rights Month Seminar, Omaha, NE, January 30, 1990.

"The History of Police Corruption," FBI Public Corruption Conference, Tampa, Florida, November 14, 1989.

Presentation, Community Policing: Prospects and Problems, Washington Council on Crime and Delinquency, Seattle, WA, April 18, 1989.

Chair, Session on Douglas as Civil Libertarian, William O. Douglas Commemorative Symposium, Seattle, WA, April 15-17, 1989

Chair and Commentator, Session on Knowledge Utilization: The Use and Misuse of Academic Research by Criminal Justice Policymakers, Annual Meeting, Academy of Criminal Justice Science, March 29, 1989.

Presentation: "Paths to Police Reform." Annual Meeting, Academy of Criminal Justice Sciences, San Francisco, April, 1988.

Participant, Roundtable Discussion, "Controlling the Cops: Alternative Strategies," ACJS Annual Meeting, San Francisco, April, 1988.

Participant, Symposium on Miranda, Creighton University Law School, August 31, 1987.

"Responding to Hysteria: The Lessons From ACLU History," ACLU Biennial Conference, Philadelphia, June 18, 1987.

"The Library Bill of Rights, 1938, and the Des Moines Public Library," Presentation to the Des Moines Public Library, May 14, 1987.

"The ABA Committee on the Bill of Rights and the 150th Anniversary of the Constitution and the Bill of Rights, 1937-1941," Missouri Valley History Conference, Omaha, NE, March, 1987.

"The Police and Domestic Violence: Unanswered Questions," Austin, Texas, May, 1986.

"The President's Crime Commission" A Twenty-Year Perspective on Police Reform," Marquette University, April, 1986.

"Private Realms and Public Events: Towards a Reconstruction of American Social History," Ohio State University, April, 1986.

"The Historian's Perspective," Conference on Redefining the Crime Debate," Atlanta, GA, March 6-8, 1986.

"New Directions in Police Reform," Rutgers-Newark, February, 1986.

"Searching for a Middle Ground: Quantitative and Qualitative methodologies in Criminal Justice History," American Society of Criminology, Annual Meeting, Cincinnati, 1984.

"Controlling Police Misconduct: The Seattle Police Intelligence as a Model," Academy of Criminal Justice Sciences, Annual Meeting, Chicago, March, 1984.

"Achieving Affirmative Action: Observations on Black and Hispanic Police Officer Recruitment in the 50 Largest American Cities," Academy of Criminal Justice Sciences, Annual Meeting, Chicago, March, 1984.

"Broken Windows and Fractured History: The Use and Misuse of History in Recent Police Patrol Analysis," American Society of Criminology, November, 1983.

"Reform as History: The Dynamics of Change in American Criminal Justice," Conference on The Impact of Reform in Criminal Justice, sponsored by NCCD, November, 1983.

"The Varieties of Police History: Recent Work and Future Needs," Academy of Criminal Justice Sciences, forthcoming, March, 1983, San Antonio, Texas.

"Police-Community Relations, Social Science, and the Responsibility of Scholars." Paper, Conference on Moral Issues in Policing, November 19-21, 1981, Boston, Mass.

Commentator, Session on Criminal Justice History, Social Science History Association Meeting, October, 1980, Rochester, NY.

"Popular Justice: A Theoretical Framework for the History of American Criminal Justice." Paper, Academy of Criminal Justice Sciences, March, 1978.

"Research Opportunities in the Comparative Study of the American Police." Paper, Organization of American Historians, April, 1978.

"Neo-Conservatism and Criminal Justice Policy: Thinking About James Q. Wilson." Co-Author with Vincent J. Webb. Paper, Western Social Science Association Meeting, April 30, 1976, Tempe, Arizona.

"The Rise of Women Police in the Progressive Era." Paper, Missouri Valley History Conference, March 13, 1976, Omaha, Nebraska.

"Powderly, The Knights of Labor, and Temperance Reform." Paper, Ohio Academy of History, April 28, 1973, Dayton, Ohio.

"Terence V. Powderly and the Social Contest of the Early American Labor Movement." Paper, Missouri Valley History Conference, March 8, 1973, Omaha, Nebraska.

"Abolish the Waste System: The Rhetoric of Labor Reform," Centennial Conference on the Knights of Labor, May, 1979, Chicago, Illinois.

Moderator. Session on "America in the Late 19th Century." Missouri Valley Historical Conference, March 10-12, 1977, Omaha, Nebraska.

Commentator. Session on "Law Enforcement: A Look into the Future." Academy of Criminal Justice Sciences, March 25, 1976, Dallas, Texas.