

BOULDER POLICE DEPARTMENT

Independent Analysis of Police Data
and Review of Professional Police
Complaint Processes

HILLARD  HEINTZE®



February 18, 2016

February 18, 2016

Mr. Tom Carr
City Attorney
City of Boulder
1777 Broadway
Boulder, Colorado 80302

Ms. Jane S. Brautigam
City Manager
City of Boulder
1777 Broadway
Boulder, Colorado 80302

Dear Mr. Carr and Ms. Brautigam:

Please find attached our final report detailing the results of our objective and independent review of select areas of the Boulder Police Department's operations. Specifically, we analyzed and reviewed data on stops, arrests and summons, and conducted an evaluation of the Police Professional Standards Review Panel (PSRP).

We identified 16 key findings, ranging from deficiencies in the capture, availability and use of stop-related data, to validation of complaint-related processes and protocols. These findings are based on our review of data and interviews with police command, officers, City and court personnel and community stakeholders. The rest are from our review of the PSRP investigative process, as well as information we received during interviews with stakeholders inside and outside the Department.

Our team developed 12 recommendations, highlighting the most important opportunities for the City of Boulder and the Boulder Police Department to address in order to improve the quality of policing services, enhance relationships with Boulder citizens and communities, increase transparency and build a stronger foundation for sustainable public trust.

Thank you again for this opportunity to be of service. We take it as a special honor that you have chosen to place your trust in us on this matter.

Sincerely,

HILLARD HEINTZE LLC



Arnette F. Heintze
Chief Executive Officer



TABLE OF CONTENTS

EXECUTIVE SUMMARY	5
I. INTRODUCTION	7
Purpose: Three Principal Objectives	7
Scope: What We Were Asked to Address	7
Actions Taken: How We Conducted This Review	7
Assessors: A Team of National Experts	8
II. KEY FINDINGS.....	11
III. OVERVIEW OF THE BOULDER POPULATION	14
IV. A BRIEF DISCUSSION OF BIAS-BASED POLICING	16
The Effect of Race on Decision-Making.....	16
Understanding Disproportionate Arrest Rates	17
The Potential for Over-Policing.....	17
V. ANALYSIS AND REVIEW OF DATA ON STOPS, ARRESTS AND SUMMONS	19
Methodology and Approach.....	19
Comparison of Incident Data from Comparable Cities.....	34
How We Interpret the Data	38
VI. EVALUATION OF POLICE PROFESSIONAL STANDARDS REVIEW PANEL	40
Methodology and Approach.....	40
BPD’s Process for Investigating and Documenting Citizen Complaints.....	40
Current Structure of the BPD Professional Standards Review Panel	44
Random Sampling Review of Internal Affairs Investigations	46
Interviews of Current and Past Panel Members	48
Interviews of BPOA and Other Union Members.....	49
Interviews of Community Stakeholders, Advocates and Community Members.....	50
VII. OVERVIEW OF CIVILIAN REVIEW PROCESS FOR COMPARABLE CITIES	54
National Civilian Review Processes	54
An Overview of Comparable Cities.....	55
Eugene, Oregon	56
Fort Collins, Colorado	59



Palo Alto, California.....	61
Provo, Utah.....	63
Santa Cruz, California.....	65
VIII. RECOMMENDATIONS AND CONSIDERATIONS	68
Next Steps: Three Options, One Strategic Opportunity.....	68
Recommendations: Actions That Will Make a Difference	68
Final Considerations: A Bright, Clear Path Ahead	71
ENDNOTES.....	73



EXECUTIVE SUMMARY

Strategic Context: The Entire Country Has Become Focused on the Issue of Bias-Based Policing

As concerns continue to grow across the country following the outcomes of high-profile exchanges between police and the communities they serve, police departments across the nation are facing intense scrutiny to ensure they enforce the law equally across their jurisdictions and investigate complaints against their own officers in a thorough, fair, objective and transparent manner.

Local Perspective: The Boulder Police Department's Challenges Reflect National Trends

These challenges are also relevant for the City of Boulder and the Boulder Police Department (BPD). In November 2014 an article in the national newspaper *USA Today* suggested minorities receive disparate treatment in Boulder. The article generated new scrutiny from members of the community, as well as the media, regarding whether the BPD's enforcement stops and arrest statistics reflect a disparate impact on African Americans. To the credit of the City Manager, the Police Chief and elected officials, rather than simply ignoring these concerns or waiting for public clamor to die down, they proactively chose to initiate an independent review and analysis of the BPD's enforcement stops and arrest statistics to gain insight on how current policies and procedures could possibly be creating disparate impacts on minorities within the City of Boulder. These insights would guide any potential operational changes in keeping with the City of Boulder's commitment to continuous improvement. They also chose to include in this review and analysis the current policies and procedures for handling both internal and external citizen complaints against the Department.

Assignment and Authorization: What We Were Asked to Do

In order to address these issues directly - and in an independent manner - the City of Boulder conducted a competitive, nationwide Request for Proposal process to identify a firm to undertake an objective and transparent review of select areas of the Department's operations. On August 24, 2015, the City awarded the contract to Hillard Heintze and authorized the following:

- 1. Analysis and Review of Data on Stops, Arrests and Summons:** An objective, transparent analysis and evaluation through an independent review of the BPD's contact, field interview, arrest and summons data for the past five years (2010 to 2015). Note, the data we reviewed included arrest data from 2011 through August 2015, and internal affairs data from 2010 to 2015.
 - 2. Evaluation of Police Professional Standards Review Panel (PSRP):** Recommendations to ensure the structure and processes of the PSRP meet current best practices for cities and police departments similar in size and complexity to the City of Boulder.
 - 3. Gathering Subjective and Anecdotal Information from Community Stakeholders:** To inform City leaders and the BPD on the perspectives of a number of key community stakeholders by conducting interviews of over 30 City and County leaders, local government officials, and leaders and representatives from the University of Colorado, local social service organizations, non-profit organizations and neighborhoods.
-



Assessors: Overview of Team

The Hillard Heintze assessment team included nationally recognized law enforcement subject-matter experts in (1) community-oriented policing and collaborative reform, (2) constitutional patterns and practices and the protection of civil rights, (3) cultural transformation and change management, and (4) strategic planning, mission alignment and execution. These areas include, for example: procedural justice; use of force and complaint investigations; internal affairs; early intervention; training and supervision; staffing analysis for police departments; and governance, ethics and integrity in public policing.

Outcomes: Key Findings and Recommendations

The assessment team has drawn 16 key findings, ranging from gaps and deficiencies in the capture, availability and use of stop-related data, particularly with respect to race and ethnicity, to validation of complaint-related processes and protocols that, by and large, are thorough, fair and objective.

The team has also developed 12 recommendations that highlight the most important opportunities for the City of Boulder and the Boulder Police Department to address in order to improve the quality of policing services, enhance relationships with Boulder citizens and communities, increase transparency and build a stronger foundation for sustainable public trust.



I. INTRODUCTION

PURPOSE: THREE PRINCIPAL OBJECTIVES

The three objectives supporting this engagement can be summarized as follows:

1. **UNDERSTAND:** Determine if disparate patterns are evident, particularly racial. Clarify the causes of any disparities identified and analyze why the data may differ from the resident demographics. Gain greater insight into the viewpoints and opinions of key community stakeholders who represent a variety of local interests.
2. **COMPARE:** Compare patterns identified in Boulder's data to available data from peer cities or similar municipalities.
3. **RECOMMEND:** Evaluate the structure and processes of BPD's PSRP and provide recommendations for the implementation of best practices that will ensure public trust and credibility as well as police accountability.

SCOPE: WHAT WE WERE ASKED TO ADDRESS

The **data analysis** included a review of the City of Boulder population (e.g., residents, workers, transients, visitors, students and the homeless); determination of true incident rates taking into account repeat incidents with BPD and whether there was a correlation between race and incident disposition; related factors such as time of day or location of incidents; and demographics and incident data from peer cities.

The **PSRP evaluation** included research on best practices by other U.S. cities to review allegations of police misconduct, including the structure of citizens' review boards or other form of civilian oversight; provision of data concerning possible differences in the structure and effectiveness of such review boards; evaluation of the Boulder PSRP; and recommendations for the City and Department based on this review.

ACTIONS TAKEN: HOW WE CONDUCTED THIS REVIEW

Based on the authorization, objectives and specified scope of work, the Hillard Heintze team:

1. Developed an understanding of the **Department's mission, vision and values** as well as its **history, organization and cultural environment**.
2. Requested, and reviewed numerous policies, procedures, general orders, training documents, annual reports, surveys, arrest data, officer contact reports, court records and other **data and documents provided by the City and BPD** and other community stakeholders.
3. Analyzed the **current social, political and economic realities** facing BPD - in light of the fact that law enforcement agencies in nearly all cities across the nation are being challenged to provide professional police services to increasingly diverse populations while budgets have decreased to historically low levels.



4. Interviewed **police employees and command staff, City and community stakeholders** regarding their understanding of the scope of our assessment and gathered insights and information with bearing on the assessment's objectives.
5. Reviewed **BPD's contact, field interview, arrest and summons data** for the past five years (2011 to 2015).
6. Acquired, analyzed and compared **relevant data from other peer cities and police departments** to identify patterns that might prove helpful to the City and the Department.
7. Identified successful **civilian oversight and PSRP models** to validate best practices endorsed by the Department of Justice (DOJ), International Association of Chiefs of Police (IACP), and other agencies.
8. Researched and reviewed other **emerging national and state practices** in the areas related to the assessment goals including structural and practical methods for creating policies, procedures, processes, practices and training.
9. Developed **recommendations** and prepared this **final report**.

ASSESSORS: A TEAM OF NATIONAL EXPERTS

About Hillard Heintze

Hillard Heintze is one of this nation's foremost privately held strategic advisory firms specializing in independent ethics, integrity and oversight services – with a special focus on federal, state and local law enforcement agencies including police departments, sheriff's departments and internal affairs bureaus.

The firm provides the strategic thought leadership, trusted counsel and implementation services that help leading government agencies and institutions, corporations, law firms and major public service organizations target and achieve strategic and transformational levels of excellence in law enforcement, security and investigations.

The Hillard Heintze team included the following senior law enforcement subject-matter experts.

Arnette F. Heintze, Chief Executive Officer – Engagement Leadership

As Hillard Heintze's co-founder and CEO, Arnette Heintze has transformed a small high-performing cadre of senior experts into a globally recognized strategic law enforcement advisory and consulting firm with strong practices in law enforcement consulting, security risk management and investigations. Under his leadership, Hillard Heintze has emerged as one of the fastest-growing private companies in the United States. Heintze brings to our law enforcement clients over 38 years of experience in federal, state and local policing.

Kenneth A. Bouche, Chief Operating Officer – Executive Oversight

Over nearly two decades, Ken Bouche has established a career as an executive leader and senior advisor at the forefront of applying best practices in management, government, technology, information sharing and intelligence to the highly specialized needs of the law enforcement, homeland security and justice communities. In addition to serving as Hillard Heintze's Chief



Operating Officer, Bouche provides executive oversight of the firm's support to the U.S. Department of Justice COPS Office's Collaborative Reform Initiative, which is responsible for independent assessments of police department operations; constitutional policing audits and biased-based assessments; development and application of crime-reduction strategies; collaboration, community partnerships and information-sharing; and community-oriented policing strategies. Bouche has great depth in the justice and homeland security space having served as a member the IJIS Institute's Board of Directors from 2009 to 2013. Bouche served for 23 years with the Illinois State Police.

Robert Davis, Senior Vice President - Practice Leader and Lead Project Manager

Davis is a highly regarded and innovative national leader and expert in policing and public safety with a special emphasis on ethics and integrity programs, as well as issues ranging from use of force policy to active shooter planning. He leads the firm's Law Enforcement Consulting practice. This responsibility has ranged from serving as a strategic advisor on a high-level engagement Hillard Heintze conducted in partnership with DHS's Homeland Security Studies and Analysis Institute to evaluate integrity and counter-corruption programs within U.S. Customs and Border Protection to advancing the firm's on-the-ground support to the U.S. Department of Justice COPS Office's Collaborative Reform Initiative for a growing list of cities across the United States as well as other DOJ initiatives. Davis has over 4,000 hours of experience over a 17-year period delivering law enforcement training for local police academies throughout California while working as a full-time police officer at the San Jose Police Department. This included designing and leading specialized training for the California Commission on Peace Officer Standards and Training (POST) and developing courses taught throughout California's police academies, and for POST-certified training programs at local police agencies. Davis earned several "Top Instructor" awards at the police academy in San Jose. Davis was the Chief of Police of San Jose, California for seven years and served as the President of the Major Cities Chiefs Association.

Marcia K. Thompson, Esq. Vice President - Subject-Matter Expert

Marcia Thompson is a Supreme Court of Virginia certified mediator and holds a coaching certificate awarded by the American Society for Training and Development. She has worked extensively with federal, state and local law enforcement, national and international corporations, as well as state and federal government agencies to help teach, coach and create better workplace environments and stronger working relationships built on trust and mutual respect. As a Hearing Officer for the Department of Justice, Office of Justice Programs, Thompson held delegated authority to review claims and conduct oral hearings throughout the United States; issue subpoenas; administer oaths; examine witnesses; and receive evidence to render a determination regarding a pending Public Safety Officers' Benefits (PSOB) claim. For more than 12 years, Thompson owned and operated her own firm providing a wide range of consultative services to public and private sector clients on conflict resolution and training. Her organization facilitated courses for the Department of Justice, Department of Homeland Security, State Department and other law enforcement and social, professional organizations. During this period, she provided and handled all forms of alternative dispute resolution, mediation and facilitation services. Additionally, Thompson also handled legal and collaborative representation and served as a contract civil prosecutor or attorney at the state and county levels.



Dr. Alexander Weiss - Subject-Matter Expert

Weiss is a nationally prominent expert and specialist in public safety, law enforcement and police department operational and staffing analysis, Dr. Alexander Weiss brings more than 30 years of experience to the Hillard Heintze Senior Leadership Council. For nine years, Weiss was Director of the Northwestern University Center for Public Safety and Professor of Management and Strategy at the J.L. Kellogg Graduate School of Management. During that time he also served as a senior advisor to the Indianapolis Police Department. During his tenure with the Colorado Springs Police Department, he served as a field supervisor and director of operations analysis. Dr. Weiss has developed the most recognized police-staffing model in modern policing and is the co-author (with Dr. Jeremy Wilson) of A Performance-Based Approach to Police Staffing and Allocation, published by the COPS Office, U.S. Department of Justice.



II. KEY FINDINGS

The first six key findings below are based on our review of data and interviews with police command, officers, City and court personnel and community stakeholders. The rest are key findings emerging from our review of the PSRP investigative process including a random sampling of internal affairs cases completed between January 2010 and November 2015, as well as information we received during interviews with stakeholders inside and outside the Department.

**Key Finding #1:
Stop-Related Data Is Non-Existent**

BPD officers do not gather any data when a vehicle is stopped and the driver is not cited. As a result, we cannot determine whether there was any bias in the decision to stop the vehicle because we are limited in our ability to evaluate the officer's conduct after the stop was initiated. This lack of information about vehicle stops is common in Colorado, but is a significant impediment in making assessments about bias.

**Key Finding #2:
No Records Are Available on Investigative Actions During Traffic Stops**

There are no records in the BPD database about investigatory actions during the traffic stop – such as whether a consent search was conducted. This is critical because once the traffic stop has been initiated we can presume that the officer has drawn a conclusion about the race of the driver, and we know from studies in other communities that consent searches often show evidence of racial bias.¹

**Key Finding #3:
Reporting and Data Capture on Race and Ethnicity Is Inconsistent**

The race and ethnicity of persons contacted by BPD officers is not reported in a consistent manner. BPD permits officers to list a person's race as "unknown." In many records the area of the form relating to the race of the subject is simply left blank. The Field Interview Card has a block to list a person's race but not one for ethnicity. As a result, most people of Hispanic origin were listed as white on Field Interview Cards, rather than white of Hispanic origin.

**Key Finding #4:
Bias Was Evident in BPD Traffic and Misdemeanor Citations**

Despite data unavailability and inconsistency, we believe that an African American person is approximately twice as likely to be cited for a traffic or misdemeanor offense than we would expect based on community demographics.

**Key Finding #5:
Inconsistency of Data Collection May Skew Contact Card Conclusions**

It is possible that the overrepresentation of African Americans in the data is because officers are more likely to prepare a Field Interview Card for a black person than for a non-black individual.



Key Finding #6:

Disparity of Data in Felony Arrests Not Indicative of Bias

On its face, the felony arrest data is the strongest evidence of racial disproportionality in arrests. However, most of the BPD arrests are for non-discretionary serious offenses and a substantial portion of the remaining data is based on status violations generated by the court or other agencies and not by BPD officers.

Key Finding #7:

BPD's Complaint Investigation Protocols Are Up-to-Date

The processes and tools the Professional Standards Unit (PSU) investigator and the Department employ to investigate complaints against BPD members or policies and procedures are based on protocols we consider to be up-to-date and consistent with those used by progressive police departments across the country.

Key Finding #8:

PSU Investigations Are Conducted Fairly and Objectively

The PSU investigators who investigated the cases we reviewed completed their work in a very timely and professional manner. These cases were also investigated in a thorough, fair and objective way.

Key Finding #9:

Findings and Recommendations Also Appear to Be Thorough, Fair and Objective

The Findings and Recommendations documented in these cases appeared to be thorough, fair and objective, as were the levels of discipline in the cases of sustained employee misconduct.

Key Finding #10:

Formal Reviews and Recommendations for Class I Cases Are in Good Order

The formal reviews of the Class I cases conducted by the Professional Standards Review Panel were thorough, fair and objective, and we believe the recommendations the panel members made for each of these cases were appropriate based upon the facts of each case.

Key Finding #11:

Few Community Members Interviewed Understood the PSRP Process

Although the City of Boulder solicits members of the community to serve as volunteer members of the Professional Standards Review Panel, the community members we interviewed were largely unaware of the process to apply for a position and unfamiliar with the selection process.

Key Finding #12:

The PSRP Member Selection Process Fuels Mistrust Within the Community

The process for selecting members of the Professional Standards Review Panel, in which mainly members of the Police Department conduct the initial interview of applicants and then provide a list of candidates for consideration to the City Manager for inclusion on the panel, creates some level of mistrust within the community. Questions have arisen regarding the objectivity of the initial applicant review process.



Key Finding #13:

BPD Needs to Improve External Communication of Internal Affairs Investigations

There is no formal mechanism by which the BPD provides ongoing or annual public information regarding the internal affairs investigations it conducts or the general outcomes of those cases.

Key Finding #14:

Community Feedback on Internal Affairs Matters Is Not Captured

There is no formal process through which BPD proactively solicits or receives feedback from the community about the quality of the internal affairs investigations it completes.

Key Finding #15:

A Written Process Is Needed to Ensure Insights Gleaned from Complaints and Referrals are Captured in Training Curriculums

BPD has a documented process to analyze the complaints and referrals it receives to determine trends that would drive changes in training, policies and procedures. However, the PSU Sergeant and the training commander need to formalize a process to analyze the complaint data and update training curriculums and policies to ensure lessons learned from complaint investigations are put into practice.

Key Finding #16:

The BPD Website Provides Detailed Information Regarding the Internal Affairs Process But Should Be Translated into Other Languages

Our review and analysis of the BPD website indicated that BPD provides very detailed information indicating how citizens may make formal complaints against Department employees, policies and procedures. It does not, however, provide detailed information about its internal affairs investigations processes or provide copies of complaint forms in any language other than English.



III. OVERVIEW OF THE BOULDER POPULATION

The City of Boulder is located 35 miles northwest of Denver, nestled in the foothills of the Rocky Mountains at an elevation of 5,430 feet and covers 25 square miles surrounded by greenbelt, city trails, open space and mountain parks. The City has approximately 100,000 residents, including 30,000 students from the University of Colorado. Despite Boulder's proximity to metropolitan Denver, the City has disproportionately fewer minorities than the rest of the State of Colorado in most categories, as shown in **Table 1**. Population data for this study is taken from the 2010 U.S. Census.²

Table 1		
CITY OF BOULDER DEMOGRAPHICS - 2010	City of Boulder	State of Colorado
Population Breakdown by Race and Ethnicity		
Total Population	97,385	5,029,196
White alone, not Hispanic or Latino	83%	70%
Black or African American alone (a)	1%	4%
American Indian and Alaska Native alone (a)	0%	1%
Asian alone (a)	5%	3%
Native Hawaiian and Other Pacific Islander alone (a)	0%	0%
Two or More Races	3%	3%
Hispanic or Latino (b)	9%	21%
(a) Includes persons reporting only one race		
(b) Hispanics may be of any race, so also are included in applicable race categories		



The student population of the University of Colorado at Boulder represents a large percentage of the City's population as shown in **Table 2**.

Table 2			
DEMOGRAPHICS FOR THE UNIVERSITY OF COLORADO AT BOULDER ³			
	2014	2015	2015 (%)
Total Headcount	29,772	30,789	
Female	13,048	13,559	44%
Male	16,724	17,230	56%
International	2,152	2,558	8%
Domestic (U.S.)	27,620	28,231	92%
U.S. Non-minority	21,619	21,767	71%
White	21,023	21,226	69%
Unknown	596	541	1.8%
U.S. Minority	6,001	6,464	21%
African American	643	693	2.2%
Asian American	2,024	2,158	7.0%
Hispanic/Chicano	2,797	3,025	9.8%
Native American	398	440	1.4%
Pacific Islander	139	148	0.5%



IV. A BRIEF DISCUSSION OF BIAS-BASED POLICING

The City of Boulder is among a number of communities identified recently as a place where persons of color, and particularly African Americans are more likely to be arrested. In other words, the fact that data indicates blacks are over-represented among those arrested by the Boulder Police Department suggests the possibility that the Department engages in bias-based policing.

When indications like these emerge - from data, research or anecdotes based on one or several high-profile incidents - many communities express a range of reactions including surprise, indignation and concern. Communities often respond to this notoriety by proclaiming that their police department respects the rights of all individuals and its officers do not engage in any type of discrimination. Unfortunately, there is rarely data available to support these assertions.

THE EFFECT OF RACE ON DECISION-MAKING

The City of Boulder has determined that it is important for the community to determine the real relationship between race and police officer decision-making in the Boulder Police Department. To achieve this one must understand the underlying questions and methodology. For a number of years researchers and policy makers have sought to understand the effect of race on decision-making in the criminal justice system. Such concern is well placed.

According to the U.S. Department of Justice Office of Justice Programs:⁴

- Almost 3% of black male U.S. residents of all ages were imprisoned as of December 31, 2013 (2,805 inmates per 100,000 black male U.S. residents), compared to 1% of Hispanic males (1,134 per 100,000) and 0.5% of white males (466 per 100,000).
- Black males had higher imprisonment rates across all age groups than all other races and Hispanic males. In the age range with the highest imprisonment rates for males (ages 25 to 39), black males were imprisoned at rates at least 2.5 times greater than Hispanic males and 6 times greater than white males.
- For males ages 18 to 19 - the age range with the greatest difference in imprisonment rates between whites and blacks - black males (1,092 inmates per 100,000 black males) were more than 9 times more likely to be imprisoned than white males (115 inmates per 100,000 white males).

Of particular concern is the effect of race on decision-making by law enforcement officers. A recent study⁵ has defined racial profiling as "...the use of race or ethnicity, or proxies thereof, by law enforcement officials as a basis for judgment of criminal suspicion."

The author further suggests that, "if police pay more attention to (are more likely to stop and/or search) members of some racial groups, then regardless of actual criminality or offending rates, those groups will bear a disproportionate share of sanctions." Moreover, racial bias by law enforcement officers may subject innocent individuals to stops, searches and arrests.



UNDERSTANDING DISPROPORTIONATE ARREST RATES

There are a number of reasons that might explain why African Americans are disproportionately arrested. (See sidebar.) First, it may be the case that blacks offend at higher rates than others. While African Americans are clearly arrested and imprisoned more frequently, this may be a result of racial bias rather than offending, so we need to find another way to assess the distinction. Another way to look at this question is through the National Criminal Victimization Survey (NCVS).⁶ NCVS is the nation's primary source of information on criminal victimization. Each year, data is obtained from a nationally representative sample of about 90,000 households, comprising nearly 160,000 persons, on the frequency, characteristics and consequences of criminal victimization in the United States. Each household is interviewed twice during the year. The NCVS provides the largest national forum for victims to describe the impact of crime and characteristics of violent offenders.

We refer often to arrest rates for African Americans. While we are interested in the effect of racial bias on other minority groups, most police arrest reports classify Hispanics as white.

In 2008, participants who reported having been victim of a violent crime perpetrated by a single individual were asked to identify the race of the offender. Respondents indicated that the offender was black 22.8 percent of the time. Among African American victims, the offender was identified as black 65 percent of the time. So while this survey suggests that blacks are over-represented among offenders (African Americans represent about 13 percent of the U.S. population), this difference is not enough to explain the different rates of arrest or incarceration.

At the same time, studies examining racial bias in traffic stops have found that minority drivers are more likely to be stopped than whites, even though very few studies have ever determined that whites and minority drivers offend at different rates. In his extremely rigorous study of the New Jersey State Police, for example, John Lamberth found that black drivers were disproportionately stopped on the New Jersey Turnpike, and that black drivers committing serious traffic violations were stopped more than whites committing similar violations. We refer often to arrest rates for African Americans. While we are interested in the effect of racial bias on other minority groups, most police arrest reports classify Hispanics as white.

THE POTENTIAL FOR OVER-POLICING

Another plausible explanation for evidence of disproportionality is what we might call “over-policing.” Police departments normally deploy their resources based on demand. That is, they base staffing on citizen calls for service. In most cities, officers are assigned to the areas with the highest levels of crime and disorder, and there are likely to be higher numbers of officers per population in those areas.

Over-policing may have the unintended consequence of increasing disproportionality at an agency. Even when officers do not engage in racially biased policing, because there are more officers in minority areas relative to other areas the agency-level data may reflect disproportionality. Although there are areas that experience high levels of police activity in Boulder, these areas do not have concentrations of minority residents.



Finally, we may conclude that at least some of the disparities identified result from racial bias in law enforcement. This bias has been demonstrated in scores of empirical studies and more recently highlighted by James B. Comey, the Director of the Federal Bureau of Investigation. Police “often work in environments where a hugely disproportionate percentage of street crime is committed by young men of color,” Comey said. “Something happens to people of goodwill working in that environment. After years of police work, officers often can’t help but be influenced by the cynicism they feel. A police officer, whether ‘white or black,’ has a different reaction to two young black men on the side of a street than he does to two white men, Comey said, because the black men ‘look like so many others the officer has locked up.’”⁷



V. ANALYSIS AND REVIEW OF DATA ON STOPS, ARRESTS AND SUMMONS

METHODOLOGY AND APPROACH

Data Reviewed and Analyzed

Our examination of BPD activity focused on three sets of data:

1. All traffic and misdemeanor offenses involving issuance of a summons.
2. Field Interview Cards which are prepared by officers when they encounter an individual and believe it is important to make a record of the contact.
3. Felony arrests.

We examined data from 2011 to 2014 and the first eight months of 2015. All tables showing data for 2015 represent a partial year. As with any data set, there are limitations in the BPD data that make it challenging to answer questions about potential police bias. Among the more critical issues are the following:

- **BPD does not gather any data when a vehicle is stopped and the driver is not cited.** As a result, we cannot determine if there was any bias in the decision to stop the vehicle or if there were factors related to the stop that influenced the officer's conduct after the stop was initiated.
- **There are no records in this database about investigatory actions during traffic stops, including if a consent search was conducted.** If a vehicle search results in an arrest the information about the search will appear in the arrest report. This is critical because once the traffic stop has been initiated, we can presume that the officer has drawn a conclusion about the race of the driver, and we know from studies in other communities that consent searches often show evidence of racial bias.⁸
- **The race and ethnicity of individuals contacted by BPD is not reported consistently because the BPD allows officers to list a person's race as unknown.** Unlike the scenarios above, in which no information is collected, in many Field Interview Card records, the area of the form relating to the race of the subject is left blank. The Field Interview Card - unlike the citation - has a block to indicate an individual's race, but not one for ethnicity. As a result, we are unable to study police officers' decision-making as it applies to Hispanics for field interview cards.

Citation Data

Boulder Police Department officers can cite individuals in four ways:

1. Most traffic offenses are cited into municipal court.
2. More serious offenses (e.g., DUI, no insurance, driver's license violation) are cited into Boulder County Court.
3. Some non-traffic offenses are cited into municipal court, including offenses such as brawling, camping, certain marijuana offenses, public alcohol possession, trespassing and public urination.



4. More serious misdemeanor cases are cited into Boulder County Court including assault in the third degree and some thefts.

Table 3 below compares the number of county and municipal citations issued by BPD from 2011 through August 2015 and are classified by race and ethnicity. We have excluded traffic citations that resulted from traffic accidents because they do not involve a traffic stop.

For example, in 2011, 12 percent of citations issued to Asian individuals were assigned to county court, and 88 percent were assigned to municipal court. All the citations ask the officer to indicate both the race and the ethnicity of the offender. In cases in which the defendant was classified as white (race) and Hispanic (ethnicity), we reclassified them as Hispanic.

During this period, 82 percent of citations were issued for appearance in municipal court. The data reflects the number of citations issued; however, it is possible to include several charges on one citation. In fact, 15 percent of citations included more than one charge. When there was more than one charge, we captured the first one on the record. Therefore if a person were issued two citations from one stop, it would appear as two stops.

Table 3
Citations Issued by BPD 2011 - August 2015

2011 Citations	American Indian	Asian	Blank	Unknown	Hispanic	White	Black	Total
Written to County Court	9	49	4	11	650	2,331	133	3,187
Percentage	20%	12%	15%	16%	30%	14%	32%	16%
Written to Municipal Court	36	364	23	58	1,492	14,808	287	17,068
Percentage	80%	88%	85%	84%	70%	86%	68%	84%
TOTAL	45	413	27	69	2,142	17,139	420	20,255
Percentage	0.2%	2%	0.1%	0.3%	11%	85%	2%	



**Table 3
Citations Issued by BPD 2011 – August 2015**

2012 Citations	American Indian	Asian	Blank	Unknown	Hispanic	White	Black	Total
Written to County Court	20	36	3	17	552	2,589	99	3,316
Percentage	23%	9%	12%	22%	32%	15%	24%	17%
Written to Municipal Court	66	375	22	59	1,195	14,574	307	16,598
Percentage	77%	91%	88%	78%	68%	85%	76%	83%
TOTAL	86	411	25	76	1,747	17,163	406	19,914
Percentage	0.4%	2%	0.1%	0.4%	9%	86%	2%	

**Table 3
Citations Issued by BPD 2011 - August 2015**

2013 Citations	American Indian	Asian	Blank	Unknown	Hispanic	White	Black	Total
Written to County Court	9	42	3	12	596	2,350	100	3,112
Percentage	16%	16%	18%	23%	46%	16%	25%	19%
Written to Municipal Court	49	227	14	40	690	12,016	296	13,332
Percentage	84%	84%	82%	77%	54%	84%	75%	81%
TOTAL	58	269	17	52	1,286	14,366	396	16,444
Percentage	0.4%	2%	0.1%	0.3%	8%	87%	2%	



**Table 3
Citations Issued by BPD 2011 – August 2015**

2014 Citations	American Indian	Asian	Blank	Unknown	Hispanic	White	Black	Total
Written to County Court	14	32	0	11	568	2,081	86	2,792
Percentage	27%	13%	0%	44%	48%	17%	27%	20%
Written to Municipal Court	38	216	1	14	618	10,004	238	11,129
Percentage	73%	87%	100%	56%	52%	83%	73%	80%
TOTAL	52	248	1	25	1,186	12,085	324	13,921
Percentage	0.4%	2%	0.0%	0.2%	9%	87%	2%	

**Table 3
Citations Issued by BPD 2011 - August 2015**

2015 Citations	American Indian	Asian	Blank	Unknown	Hispanic	White	Black	Total
Written to County Court	6	16	0	8	372	1,247	64	1,713
Percentage	14%	10%	0%	33%	42%	15%	27%	18%
Written to Municipal Court	38	147	6	16	510	6,988	174	7,879
Percentage	86%	90%	100%	67%	58%	85%	73%	82%
TOTAL	44	163	6	24	882	8,235	238	9,592
Percentage	0.5%	2%	0.1%	0.3%	9%	86%	2%	



Racial Disproportionality in Citations

In our first look at the issue of racial disproportionality in citations we determined the percentage of citations issued to blacks and Hispanics. These are illustrated below in **Table 4**.

Table 4 Racial Disproportionality in Citations 2011 - 2015					
Year	Total	Black	%	Hispanic	%
2011	20,255	420	2.07%	2,142	10.58%
2012	19,914	406	2.04%	1,747	8.77%
2013	16,444	396	2.41%	1,286	7.82%
2014	13,921	324	2.33%	1,186	8.52%
2015	9,592	238	2.48%	882	9.20%

A Closer Look at the Data

To more thoroughly understand this component of the analysis, it is imperative that we examine the data from **2014**, the last full year for which information was available. **Table 5** illustrates the distribution of citations by type and court.

Table 5 Citations for 2014	
Description	Total
County Offense Summons	1,021
County Traffic Summons	1,771
Municipal Offense Summons	3,080
Municipal Traffic Summons	8,049
(Blank)	2
Total	13,923

Approximately 70 percent of citations were for traffic offenses. According to data from Boulder Police and Fire Dispatch, BPD made 19,312 traffic stops in 2014, suggesting that a substantial fraction of stops do not result in a citation, which means we have no information about who was stopped, why they were stopped and why they were not cited.



Frequently Issued Citations

Table 6 illustrates the offenses that were cited at least 100 times in 2014. Note that we captured the first offense on the record, therefore the number of offenses listed below may not be accurate. It is shown for illustrative purposes. For example, in 2014, BPD reported 584 arrests for DUI.

Table 6	
Offenses with a Minimum of 100 Citations	
Offense	Citations
Speeding - 10 to 19 MPH over limit	3,230
Valid license plate required	1,254
Possession/consumption of alcohol in public	688
Stop at stop sign required	475
Obedience to turn device required	471
Possession/sale of alcohol by minors	374
U-Turn prohibited/hazardous	349
Drove vehicle license restraint	341
Trespassing	324
Disobeyed red signal light - left turn	316
Dogs running at large	315
DUI	252
Failed to present evidence of insurance	239
Obedience to turn-prohibited sign	227
Speeding - 5 to 9 MPH over limit	206
Drove on restricted street	202
Camping/lodging on property without consent	199
Theft under \$50.00	163
Driving without valid license	157
Urinating in public	149
Disobeyed red signal light - straight thru	130
Theft \$50 - \$300	113
Speeding - 20 to 39 MPH over limit	111
Consumption of marijuana in public	110
Displayed expired number plates	105



The information in **Table 6** reveals important issues:

- Most of these offenses present the opportunity to exercise officer discretion because most are low-level offenses.
- Twenty-five percent of all citations are for speeding.
- A number of offenses address public order including camping, urinating in public, public alcohol consumption and dogs running at large, which reflects the Department's commitment to order maintenance in public spaces.

Residency of Persons Cited

Table 7 shows the distributions of citations by race and by residency.

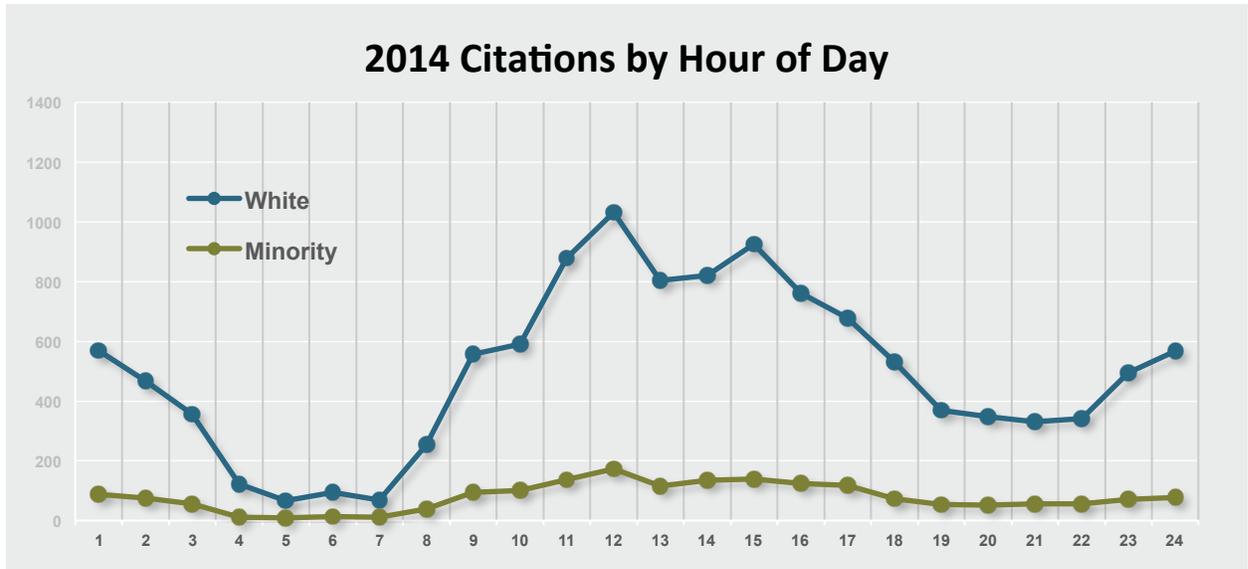
Table 7				
Residency of Individuals Cited (2014)				
	Non-Residents		Residents of Boulder	
	Count	%	Count	%
White	12,038	86.46%	7,525	87.79%
Minority	1,885	13.54%	1,047	12.21%
Total	13,923	100%	8,572	100%

The data suggests that residents and non-residents receive similar treatment.



Citations by Hour of Day

Finally, we observe the distribution of citations by hour of day. The peak hour for enforcement is noon.



Field Interview Data

BPD General Order 305 states that “the [D]epartment recognizes that the field interview is a lawful and effective means of crime prevention and information gathering concerning persons who are believed to be associated with criminal activity.” Field interview data is entered on a Field Interview Card that permits the officer to include information about four individuals, although the data file we used has a record for each individual. Since four individuals can be entered on each card, the sections on the form that ask about time and reason for the stop as well as whether an “intel” file should be created, apply to all those listed on the card. As previously mentioned, the cards have a section for race, but not ethnicity.



Table 8 illustrates the number of field interviews conducted from 2011 to 2015 by race.

Table 8
Field Interviews by Race 2011 - 2015

	Asian	Black	American Indian	Unknown	White	Blank	Total
2011	25	78	7	27	2,125	60	2,322
2012	30	71	15	24	2,780	77	2,997
2013	36	110	8	32	2,579	77	2,842
2014	33	129	24	19	2,226	79	2,510
2015	25	82	22	32	1,623	53	1,837
Total	149 (1.2%)	470 (3.8%)	76 (.6%)	134 (1.1)	11,333 (91%)	346 (2.8%)	12,508

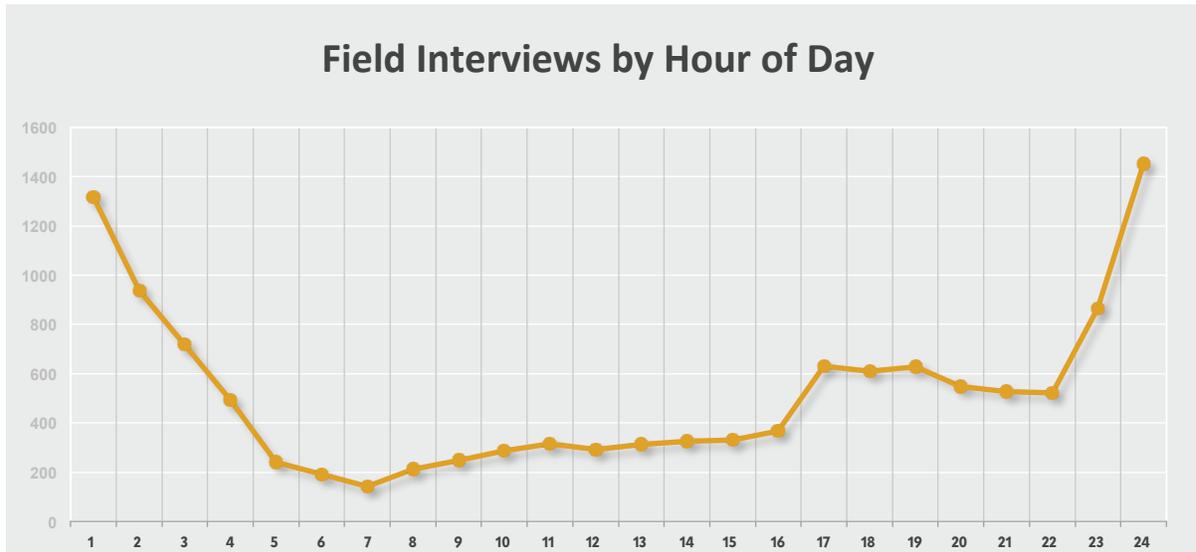
Of the 12,508 field interviews conducted, nearly four percent of the cards had the race listed as unknown (134) or was not filled out (346). **Table 9** displays the number of field interviews of black subjects.

Table 9
Field Interviews of Black Subjects 2011 - 2015

	Black	Total	%
2011	78	2,322	3.36%
2012	71	2,997	2.37%
2013	110	2,842	3.87%
2014	129	2,510	5.14%
2015	82	1,837	4.46%
Total	470	12,508	3.76%



Below we observe the distribution of field interviews by hour of day for the study period.



The Field Interview Card has a section for the officer to enter the reason for the stop: suspicious, noise and other (indicate). Of the 12,508 field interview records, 96 percent list the reason as noise (3,427) or suspicious (8,622). While the vast majority of interviews were conducted on Boulder residents, places with more than 100 contacts over five years included Denver (159), Lafayette (115) and Louisville (188). Surprisingly, in 2,444 records the city of residence is blank. City ordinances require a warning to be issued prior to citations for noise violations. The Field Interview Card is used to document the warnings.

Intelligence Value

An officer has the option to indicate whether the contact information is of intelligence value, as seen in **Table 10**.

Table 10

Intelligence Value of Field Interviews 2011 - 2015

	No	Yes	Blank	Total
2011	130	10	2,182	2,322
2012	408	14	2,575	2,997
2013	249	2	2,591	2,842
2014	7	2	2,501	2,510
2015	11	0	1,826	1,837
Total	805	28	11,675	12,508



Felony Arrests

The final component of our analysis is felony arrests, which are the most serious offenses that officers must handle. Suspects in felony cases are always arrested and held until they are released on bond or by the courts. BPD has two files that contain felony arrest data; the first lists each arrest for a felony. If one person is charged with three felonies, there are three records. The second file, and the one we used, lists all persons arrested for a felony offense. Because these files contain information about ethnicity, we can examine the felony arrest data for Hispanics. **Table 11** shows the number of persons arrested for a felony by BPD during the study period.

Table 11

BPD Felony Arrests 2011 - 2015

	Asian	American Indian	Unknown	Black	White	Hispanic	Total
2011	6	4	6	47	428	100	591
2012	3	7	5	32	461	127	635
2013	6	7	2	43	487	93	638
2014	10	5	7	45	514	99	680
2015	6	7	6	50	440	85	594
Total	31	30	26	217	2,330	504	3,138

For the total time period, blacks and Hispanics represented 23 percent of all individuals arrested for a felony.



A Closer Look at Felony Arrests of Blacks

Table 12 more closely defines the data of felony arrests for blacks by year.

Table 12

Felony Arrests of Blacks 2011 - 2015

	Total	Black	%
2011	591	47	7.95%
2012	635	32	5.04%
2013	638	43	6.74%
2014	680	45	6.62%
2015	594	50	8.42%
Total	3,138	217	6.92%

Because each data record represents a person arrested for a felony, the number of arrests could be skewed if a person was arrested more than once in a year. In fact, one African American was arrested twice in 2013 and twice again in 2014. Another was arrested twice in 2014.



Table 13 shows the types of felony offenses for which black suspects are arrested in Boulder for the study period. As previously mentioned, one arrest can result in one or more charges. Moreover, you can observe that a substantial number of these charges are for status offenses such as escape, failure to appear, failure to comply, failure to pay and fugitive from justice resulting in a warrant and mandatory arrest.

Table 13

Types of Felony Offenses of Black Suspects 2011-2015

Charges	Total
Accessory other felony	1
Aggravated motor vehicle theft	2
Arrest of probationer felony	9
At-risk adult/juvenile - 3rd degree assault	2
Attempt to influence public servant	3
Auto theft 1st /agg \$20,000 or less	2
Burglary first degree	4
Burglary second degree of dwelling/drugs	7
Burglary second degree	11
Burglary third degree	2
Child abuse-know/reckless cause sbi	1
Conspiracy	1
Contribute to the delinquency of a minor	7
Criminal attempt: other felon	3
Criminal attempt: felony	11
Criminal conspiracy: specified felon	4
Criminal impersonation	19
Criminal mischief \$1,000 to \$5,000	9
Dangerous weapon-possession	2
Distribute/manufacture/sale 1 drug felony	11
Domestic violence	1*
Driving while license revoked	1
Endangering public transportation	1



Table 13 continued
Types of Felony Offenses of Black Suspects 2011-2015

Escape attempt/felony charges pending	1
Escape from a DHS institution	1
Escape from class 1 or 2 conviction	1
Escape from felony conviction	3
Escape from pending felony	1
Failure to appear	17
False imprisonment	2
Felony menacing-weapon	19
Felony menacing-verbal	2
First degree assault	5
Forgery	2
Forgery possession of a forged instrument	1
Fraud and deceit	2
Fraud by check	1
Failure to comply	12
Failure to pay/comply	17
Fugitives from justice	10
Identity theft	12
Introduction of contraband	7
Marihuana-possession	1
Menacing	3
Offer false instrument or record	1
Other jurisdiction warrant	1
Parole violation	4
Pawnbroker-false information by seller	2
Perjury first degree	1
Possession of burglary tools	1
Possession of weapon by previous offender	3
Retaliation against victim/ witness	1
Robbery	5
Sale/transportation/dispensing mj	3



Table 13 continued
Types of Felony Offenses of Black Suspects 2011-2015

Schedule II substance	2
Second degree assault sbi	1
Second degree assault	39
Second degree kidnapping	5
Selling distributing near school	3
Sex assault	11
Sex assault - physically helpless	2
Sex assault-submit-force/threat drug	1
Sex offender registration violent	4
Stalking	3
Tampering physical evidence	1
Theft \$1000-20,000	3
Theft \$2,000 - <\$5,0000	3
Theft \$20,000 - <\$100,000	1
Theft \$5,000 - <\$20,000	3
Theft by receiving \$1,000 to 20,000	2
Trespass first degree	21
Unlawful distribution	1
Unlawful possession of an identification document	1
Unlawful possession of controlled substance	25
Violation of bail bond	3
Weapon-possession/previous offender dangerous	1
Total	392

* In 2014, BPD made 72 arrests for domestic violence, an offense for which arrest is mandatory. The arrest, however, was identified not as domestic violence - for which there is no specific charge - but as charges such as assault.



Table 14 shows whether a black suspect who was arrested was a resident of Boulder.

Table 14
Arrests of Blacks and Boulder Residency

	Felony Arrests of Blacks	Felony Arrests of Black Residents	Percentage	All Felony Arrests	Percentage of Felony Arrests of Black Residents
2011	47	31	65.96%	591	5.25%
2012	32	19	59.38%	635	2.99%
2013	43	22	51.16%	638	3.45%
2014	45	28	62.22%	680	4.12%
2015	50	22	44.00%	594	3.70%

COMPARISON OF INCIDENT DATA FROM COMPARABLE CITIES

It is instructive to look at BPD arrest data in comparison to other cities. The FBI Uniform Crime Reporting (UCR) Program (**Tables 15 and 16**) - the same data used by *USA Today* in its article on this subject on November 14, 2014 - counts one arrest for each separate instance in which an individual is arrested, cited or summoned for an offense. The UCR Program collects arrest data on 28 offenses, both felonies and misdemeanors. Because the UCR is a national data system, there is always some variation in the way in which agencies submit data. For example, in 2011 and 2012, BPD erroneously reported "ARC holds" (detox holds at Boulder's Addiction Recovery Center) as arrests under the NIBRS code 4299 (drunkenness). In mid-2012, they discovered the error. For consistency, they reported detox holds as arrests under 4299 for the remainder of 2012 and stopped reporting them for 2013. For 2011 and 2012, the data years used in the *USA Today* article, BPD over-reported a total of 2,721 arrests that were ARC holds out of a total of 8,869 adult arrests.

Removing the ARC holds from the BPD arrest data results in the following:

1. 2011 black arrests, 227; non-black arrests - 4,012
2. 2012 black arrests 187; non-black arrests - 4,443

Based on this data, the black arrest rate per 1,000 population for the period is 414. For non-blacks, the arrest rate is 87.7. Thus the ratio of black to non-black arrests is 4:7.



In the following tables, we describe the arrest rates per 1,000 residents for blacks and non-blacks. These rates are based on FBI arrest data we reviewed for 2011 and 2012 and census data for 2010.⁹ Note that this data comes from an interactive site hosted by *USA Today*. We did not independently verify the accuracy of the data submitted by the comparison cities to the FBI/UCR.

Table 15 compares Boulder to other communities in Colorado. **Table 16** illustrates the rates for several other communities with large universities.

Table 15

2011 – 2012 Arrest Data from Comparable Colorado Cities

City	Black Rate	Non-Black Rate	Ratio
Arvada PD	432.4	74.4	5:8
Boulder PD	568.5	117.8	4:8
Castle Rock PD	173.1	38.9	4:4
Broomfield	449.7	119.7	3:8
Denver	90.5	24.3	3:7
Boulder County SO	58.1	16.1	3:6
Fort Collins	264.4	74.8	3:5
Longmont	299.4	90.2	3:3
Westminster	410.0	125.3	3:3
Thornton	250.3	97.1	2:6
Northglenn	324.7	151.9	2:1
Greeley	238.5	135.7	1:8

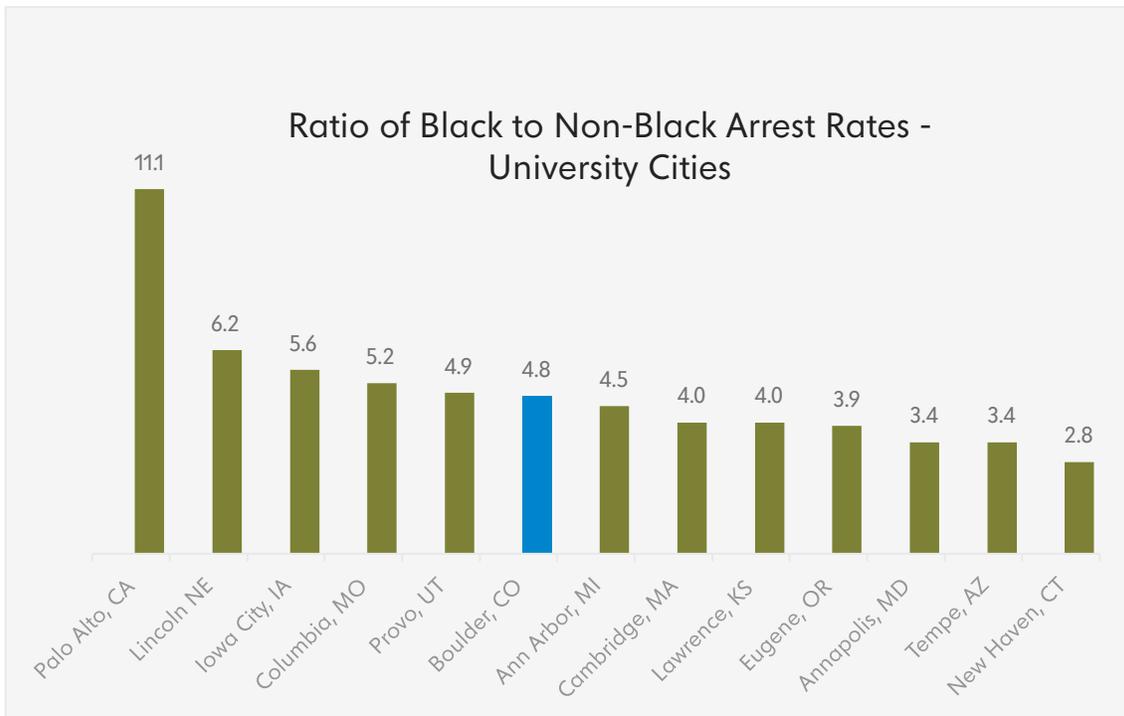
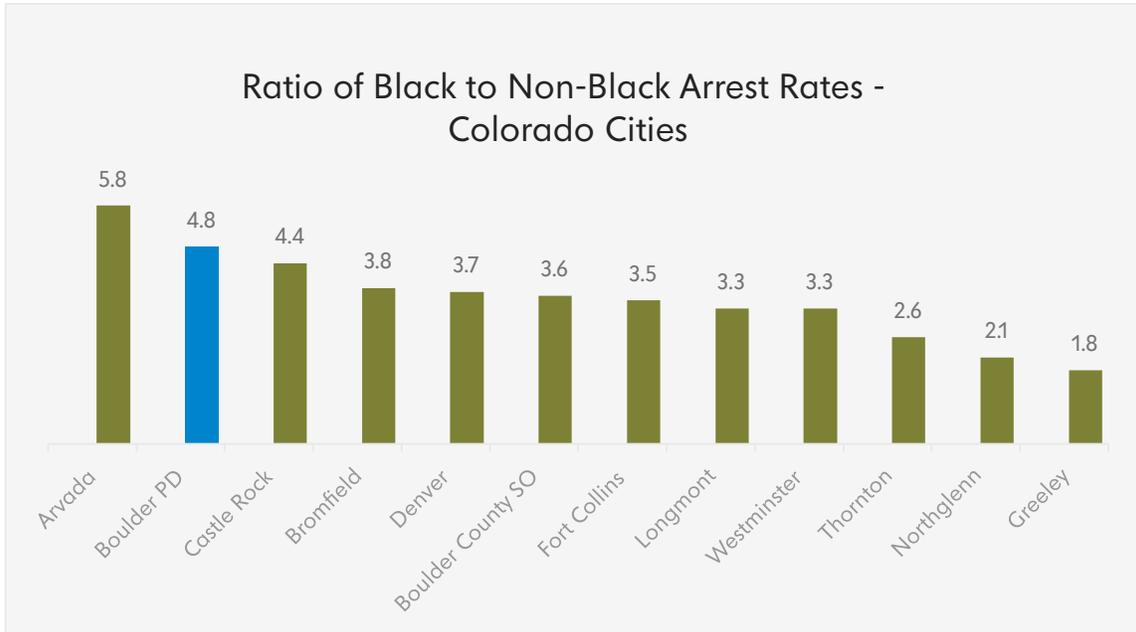


Table 16
2011 - 2012 Arrest Data from Comparable Cities with Large Universities

City	Black Rate	Non-Black Rate	Ratio
Palo Alto, CA	379.3	34.2	11:1
Lincoln, NE	614.0	98.6	6:2
Iowa City, IA	540.6	96.0	5:6
Columbia, MO	382.1	73.7	5:2
Provo, UT	280.9	57.4	4:9
Boulder, CO	568.5	117.8	4:8
Ann Arbor, MI	125.2	27.6	4:5
Lawrence, KS	410.5	102.4	4:0
Cambridge, MA	62.8	15.6	4:0
Eugene, OR	513	130.2	3:9
Annapolis, MD	421.6	122.3	3:4
Tempe, AZ	405.5	120	3:4
New Haven, CT	281	100.8	2:8



In these tables, we have included the ratio of black arrests to non-black arrests. The distributions for these ratios are illustrated below.





HOW WE INTERPRET THE DATA

Any study of racial bias in policing must invariably face several challenges. First, like any statistical study, there will likely be alternative explanations for the same outcome. Second, there are no “pass” or “fail” scores in this domain – meaning, there is no level of disparity at which we can unequivocally announce that a result is good or bad. Finally, no statistical test can tell us exactly what was in the mind of an officer when an enforcement decision was made. Given these caveats, we can offer the following interpretation of the data.

1. Comparing Boulder’s Arrest Rates

It is instructive to examine the FBI arrest rates. The arrest rate for African Americans and the ratio of arrests for blacks vs. non-blacks in Boulder is generally higher than the Colorado cities listed. However, when we compare Boulder to other university communities, a different pattern emerges – many of these communities also have very high arrest rates for African Americans.

This data is noteworthy. The offenses are generally minor and officers have significant discretion about what action they take. When we look at citations for traffic offenses and non-traffic offenses in Boulder, a relatively clear pattern emerges: for each year of our study at least two percent of these citations were issued to African Americans.

2. Benchmarking

One of the biggest challenges in constructing a rate is to properly define the affected minority population, as this serves as the denominator. In the subject area of racial bias in traffic stops, there has been significant debate, and even after nearly 20 years and scores of studies, no single well-accepted methodology has emerged. Perhaps the best indicator of the minority driving population comes from roadside surveys in which observers capture the race of drivers as they pass. Even this method is subject to observer error or bias, and moreover, it is particularly difficult to discern the race of drivers at night.

As a result, most studies rely on some modified benchmark based on population. In places like Boulder, population data can be particularly troublesome. There is a large daily, non-resident commuting population, a substantial homeless and transient community, and university students.

Nevertheless, every estimate we have seen places Boulder’s African American population at less than one percent. Even if we were to include the 600 or so African American students at the University of Colorado, Boulder, (**Table 2**) there is still a relatively small percentage of blacks who were likely to have contact with the BPD. Note that the U.S. Census is designed to identify people who reside in a community on census day. As a result, the census count will generally include students living in dormitories and off-campus residences and persons in shelters.¹⁰

Based on our estimates, we believe that an African American person is about twice as likely to be cited for a traffic or misdemeanor offense than we would expect based on community demographics.



3. Examining Field Interview Cards

During our examination, the field contact data proved problematic. As stated earlier, BPD officers are not required to complete a Field Interview Card; it is entirely voluntary. Moreover, the information on the cards is incomplete and of limited value for analysis. That said, the number of African Americans listed in the field interview data set ranged from 2.4 to 5.1 percent of all subjects. This imbalance is particularly troublesome given that officers are not required to complete these cards.

It is possible that the overrepresentation of African Americans in the data pool is because officers are more likely to prepare a Field Interview Card for a black person than for a non-black individual.

Of course, these field interview records are stored at BPD, and presumably used by investigators to follow up on cases. It is possible in these circumstances that an investigator looking for information will inquire about persons that might have been contacted at the time of an offense. If they do, there is a real chance that the field interview data may be misleading.

4. Taking a Closer Look at Felony Arrest Data

Finally, we look at the felony arrest data.

On its face, the felony arrest data is the strongest evidence of racial disproportionality in arrests. However, most of these are serious (non-discretionary) offenses and many are based on status violations and thus are not generated by BPD officers.

We do not believe that the felony arrest data is indicative of bias on the part of BPD.



VI. EVALUATION OF POLICE PROFESSIONAL STANDARDS REVIEW PANEL

METHODOLOGY AND APPROACH

Over the course of assessing the internal affairs investigations processes and the PSRP, the Hillard Heintze team interviewed:

- Sergeant Pat Wyton, who is currently assigned to investigate citizen complaints and internal complaints at BPD
- Commander Kerry Yamaguchi, who preceded Sergeant Wyton as the Internal Affairs Investigator
- Current and former members of the PSRP
- Members of the community, including representatives from throughout the criminal justice system in Boulder; leaders of local government agencies; leaders of some local nonprofit agencies; members of the community and staff at Colorado University; a representative from the ACLU; and members of various activist groups in Boulder (including two citizens who filed complaints with the BPD; four other law enforcement and public safety representatives from surrounding jurisdictions in Colorado; nine members of the Boulder advocacy community; five legal and judicial professionals; six citizen representatives from the PSRP; four human resources and/or community relations professionals; and five representatives from University of Colorado at Boulder.
- The current Boulder Chief of Police Greg Testa
- Former Boulder Chief of Police Tom Koby

We also (1) performed a review of a random sampling of 25 percent of the Class I cases the PSU investigators handled between 2010 and October 15, 2015, and (2) conducted research on BPD's internal affairs investigation processes and any civilian oversight mechanisms at five cities in the nation that are comparable in size and demographics to Boulder and have a large university located within the City limits.

BPD'S PROCESS FOR INVESTIGATING AND DOCUMENTING CITIZEN COMPLAINTS

BPD's current process for investigating complaints against Department members is similar to those used by progressive police departments across the country. To facilitate a comparison between the processes in Boulder and those of other cities, the following provides a general overview of the software programs BPD uses to track complaints against Department members as well as a detailed description of BPD's complaint investigation process.



Complaint Receipt and Monitoring: BPD uses IA Pro, a program management software tool, to document the receipt of complaints against personnel and to monitor the subsequent investigative process for handling the complaint from beginning to end.

- A subcomponent of the IA Pro software is a database program, Blue Team, that is accessible to all BPD supervisors and command officers.
- Supervisors typically use IA Pro to document details about an employee's work performance, noting areas of concern with an employee's performance as well as any commendable work, thus allowing BPD to address any work-related issues for members as well as to ensure that excellent work is brought to the attention of command officers for the purpose of rewarding Department members.
- IA Pro and Blue Team are both commonly used to accomplish police management tasks by numerous police departments throughout the country.

Complaint Submission: Any complaint or concern may be directed to the Department as follows:

- Filing directly with the Sergeant in the PSU at the Department.
- Filing online on the BPD website.
- Calling an investigator at PSU.
- Sending an email or mailing a letter to the investigator in the PSU or to another BPD official.
- Contacting the Community Advocates Program, which is not part of BPD, by calling the City's Office of Human Rights.

In some situations, the complainant may be afraid of filing a complaint. In these cases, the complainant can call the City's Office of Human Rights to file the complaint. A volunteer is then assigned to help the complainant process the paperwork, and, if desired, accompany them during any PSU interviews.

BPD clearly explains the complaint process to the public on the PSU section of the BPD website and includes answers to common questions a complainant may have. BPD goes well beyond a typical police department's efforts to be transparent about the complaint investigation process by providing access to the following items:¹¹

- A PDF version of BPD Gen. Order 120 in its entirety, which outlines in detail the official policies and procedures for the investigations of complaints against Department personnel.¹²
- A PDF form to file a complaint against a Department member or to make a commendation.¹³
- The name, telephone number and email address for the Sergeant in PSU responsible for investigating and coordinating all complaints against the Department.
- A PDF entitled, "*What Do the Results of the Investigation Mean?*"¹⁴
- A PDF entitled, "*What Happens When I File a Complaint?*"¹⁵
- A PDF entitled, "*What If I Am Afraid to Make a Report?*"¹⁶



Complaint Categories

Upon receiving the complaint or concern, BPD breaks down complaints against BPD personnel into four main categories:¹⁷

- **Class 1 Professional Standards Investigation:** The allegation is serious in nature, may cause great concern to the community and serious discipline may result if the allegation is sustained. Typically, PSU conducts the investigation.
- **Class 2 Professional Standards Investigation:** The allegation is non-serious in nature and any resulting discipline may not exceed a permanent letter of reprimand. Typically, the investigation is conducted by the affected member's immediate supervisor (see Gen. Order 121, Supervisory Reviews).
- **Referral:** The allegation is not based on a member's intentional misconduct, but rather is a complaint of a minor performance or protocol issue. A formal investigation is not conducted; however, the affected member's immediate supervisor is notified and makes the appropriate decision on disposition.
- **Inquiry:** Questions as to the propriety of Department policy and procedures or issues with regulations or actions of other agencies that are resolved by appropriate referral and not subject to a professional standards investigation, supervisory review or referral.

Complaint Process by Category

Once a complaint has been received and categorized, there are different investigative procedures depending upon the type of complaint.

Class I Complaint Process

Due to the seriousness of misconduct alleged in this type of complaint, the Sergeant assigned full-time to PSU typically handles the investigation personally and reports to the Chief of Police. The investigator will interview the complainant, the subject member and any witnesses to the alleged act of misconduct, documenting their statements in written form and placing them within a confidential investigative file. The investigator will then gather any necessary evidence to determine what occurred. At the conclusion of the investigation, the Sergeant prepares a formal memorandum summarizing the details of the investigation and forwards it to each supervisor in the subject's chain-of-command, beginning at the lowest level of supervision, and ending with the Chief of Police. Each supervisor reviews the case personally and determines which one of the following six dispositions best describes what each believes should be the outcome in the case prior to forwarding the case folder up to the next level in the chain-of-command. These six dispositions are similar in nature to dispositions used by numerous police departments across the country:

- **Exonerated:** The incident occurred as reported, but the individual's actions were justified, lawful and proper.
- **Exonerated with Commendation:** The incident occurred as reported, but the individual's actions were justified, lawful and proper under cases of exceptional circumstances.
- **Unfounded:** The complainant admits to false allegations; the charges were found to be false; the Department member was not involved, or the complainant has voluntarily



withdrawn the complaint prior to the conclusion of the investigation, and the Department elects to end the investigation.

- **Not Sustained:** An allegation is not supported by a preponderance of the evidence.
- **Sustained:** An allegation is supported by a preponderance of the evidence.
- **No Finding:** Cases when a Department member resigns and the Department elects not to continue the investigation.

When everyone in the subject officer's chain-of-command has reviewed the investigative file and made a disposition, along with a recommendation for potential discipline, if appropriate, the PSU Sergeant then contacts all members of the PSRP to schedule a time when they can each individually go to the Department to review the investigative case folder. The PSRP members have access to the entire investigative case file that was reviewed by all of the subject member's supervisors and command officers, with the exception of the memorandum, which outlines what disposition and potential recommendation for discipline each of those Department members documented. This is done so PSRP members may review the case with complete objectivity.

After all PSRP members have reviewed the case individually, the PSU Sergeant schedules an evening meeting where they gather with the BPD Personnel Commander to discuss the case and whether they believe the internal investigation was thorough, fair and complete. The official Document of Finding the panel prepares indicates what the group and individual members believe should be the formal disposition for the case. Once the Chief of Police reviews the Document of Finding from the PSRP, the Chief makes a formal decision about the disposition in the case, along with the discipline that will be given to the subject employee if the case is sustained.

Class II Complaint Process

The process for investigating a Class II Complaint is similar to that for an investigation for a Class I Complaint, with the exception that the PSRP does not review the case.

Referral Complaint Process

Because referrals are considered minor employee performance issues that do not typically result in any formal discipline, they are handled by the subject's immediate first-line supervisor. This supervisor is able to provide the additional training needed to correct future performance and assist the employee in understanding the reasons the policies and procedures exist. If the full-time Internal Affairs Investigator receives a complaint that could be classified as a referral, the investigator enters detailed information about the referral into the Blue Team software, and routes this information electronically directly to the officer's supervisor. If a referral comes directly to an employee's supervisor, the supervisor initiates action on the referral, including documenting the event in the Blue Team system and notifying the Sergeant in PSU.

The officer's supervisor is required to address the issues in the referral and prepare a memorandum outlining the steps taken to investigate the complaint, detail conversations with the complainant, and address any issues of concern with the individual involved. The supervisor then routes the memorandum through the chain-of-command to the appropriate command officer. The memorandum is then transmitted to the Internal Affairs Sergeant, who ensures the documentation is entered into the IA Pro system so the Department is able to track the number of referrals any given



employee may receive, as well as assist in determining whether there is a need for greater Department-wide training for any given issue.

Although this process for referring and documenting complaints up the chain-of-command is sufficient, our assessment revealed that the PSU Sergeant and the training commander should formalize a process to analyze the complaint data in order to identify opportunities to update training curriculum and policy to ensure lessons learned from complaint investigations are put into practice.

Inquiry Complaint Process

Typically, complaints that are determined to be inquiries are forwarded to the PSU Sergeant, who makes personal contact with the complainant to learn about any additional details surrounding the event that initiated the inquiry. The Sergeant explains the reasons why BPD has the particular policies and procedures in place, even though the complainant may not understand or disagree. Having a discussion with the complainant gives the PSU Sergeant an opportunity to hear the complainant's perspective on any given policy or procedure, and pass this information up the chain-of-command to the Chief of Police.

CURRENT STRUCTURE OF THE BPD PROFESSIONAL STANDARDS REVIEW PANEL

In 1993, the City of Boulder initiated a form of civilian oversight for BPD by selecting a group of individuals to sit on the Professional Standards Review Panel (PSRP), which is responsible for reviewing the Department's completed internal affairs investigations to ensure they are fair, thorough and complete. Our assessment team gathered details about this process after interviewing the current Internal Affairs Unit investigator, the previous investigator and several current members of the PSRP, as well as those who have served over the last few years.

PSRP Membership

The PSRP is comprised of 12 individuals, six of whom are community members not employed by the City of Boulder.¹⁸ Community members are invited to apply to sit on the Panel for up to two two-year terms. Typically, the City has advertised open Panel positions in the local media. Applicants must be able to meet the following objectives:

1. To maintain the integrity of the Department by reviewing complaints of member misconduct.
2. To protect the community from member misconduct.
3. To protect Department members from false or malicious allegations.

Individuals applying for a position on the Panel must also meet the following qualifications:

- Be a United States citizen.
- Have been a resident of the City of Boulder for the past three years.
- Be 21 years of age or older.
- Have no felony convictions.



- Have no misdemeanor convictions for the past five years.
- Submit to a criminal history check.

In addition, applicants who reflect Boulder's diversity are encouraged to apply as are Colorado University community members. Once candidates submit the application forms, they are interviewed by a panel of City employees as designated below, who then submit recommended candidates' names to the City Manager's Office. This initial panel consists of the following individuals:

- Management-level staff member of BPD
- Boulder Police Officer's Association (BPOA) member
- Boulder Municipal Employees Association (BMEA) member
- Supervisor of BPD's Professional Standards Unit
- Appointee from the City Manager's Office

The applicants are then interviewed by the City Manager's Office, and the City Manager or an appointee makes a final selection of six of the panel's 12 members. In 2013, the City Manager began to participate in the interviews of the individuals submitted to her office. The remaining six Panel members are appointed by the Chief of Police, with input from the BPOA and the BMEA. These six individuals consist of a sergeant, three police officers and two non-sworn members of the Department. While the Department avoids having sworn members on the Panel who are also serving as officials of the police union, the two non-sworn members are usually representatives of the union representing non-sworn employees.

Once selected, community members on the Panel attend a one-day training course presented by the Sergeant assigned to the Professional Standards Unit, the BPD Armorer and a representative of the Boulder City Attorney's Office. The training covers the following topics:

- Introduction to the Department
- Values, philosophies and ethics of law enforcement
- BPD's professional standards and discipline process
- BPD's use of force General Order 120
- Legal issues
- Taser overview
- Defensive tactics
- Officer safety and survival
- Firearms training
- Use of deadly force
- A tour of the Department



PSRP's Role in the Complaint Process

When an internal affairs investigation is completed for a Class I complaint, the PSU Sergeant contacts each member of the PSRP so they can review the completed investigative case file before they meet as a group to discuss the case. The Internal Affairs Unit Sergeant notifies the Panel members of the date and time of the meeting, and ensures there is a private room available at the Department where members can review the case file individually. As previously mentioned, the Panel members have access to the completed investigative file, but are unable to see the discipline recommendations that each member of the officer's chain-of-command have made.

The meeting, facilitated by the Commander of the BPD Personnel Unit, begins with the Commander reviewing the disciplinary outcome of any recently reviewed cases. The Internal Affairs Sergeant is also present at the meeting and is available to answer any questions the Panel may have from their review before discussing the case as a group. When all questions have been answered, the Internal Affairs Sergeant leaves the room so the Panel can have an impartial discussion regarding the investigation, with the Personnel Commander acting as the group facilitator. When it appears that all Panel members have had the chance to express their opinion, the facilitator then asks for a motion to vote on potential recommendations.

According to our interviews, the vote is often unanimous, but does not need to be in order to reach a decision. One of the Panel members acts as a scribe, and then completes a standard form indicating whether they believe the investigation was fair, thorough and complete. All Panel members participating in the meeting are then asked to sign the document indicating whether they agree or disagree with the group's recommendation. This document typically lists the reasons why the group came to the conclusion it did, but any Panel member may also provide a dissenting opinion in writing, as well as an additional written opinion in support of the recommendation.

The completed form goes into the investigative file, which is then forwarded to the Chief of Police. Having already reviewed the file prior to the panel meeting, the Chief reviews the findings and decides the level of discipline warranted and the final disposition finding. Depending on the seriousness of the discipline, coordination may also take place between the Chief of Police and representatives of the City Attorney's Office and the City's Personnel Department.

RANDOM SAMPLING REVIEW OF INTERNAL AFFAIRS INVESTIGATIONS

To assess the quality of the internal affairs investigations PSU investigators completed over the last five years, we conducted a random sampling of 25 percent of the cases that occurred between January 1, 2010 and November 9, 2015. The main focus of our assessment included a review of data points that were both qualitative and quantitative in nature, including the following:

- Types of misconduct allegations involved
- Whether the complaint was initiated from within the Department (DI) or whether a citizen made the complaint (CI)
- Rank of the employee(s) involved
- Number of days for the PSU investigator to complete the investigation of the complaint



- Whether the investigation was thorough, fair and complete
- Degree of cooperation the involved personnel provided throughout the investigation
- Time required from completion of the investigation until the Panel was able to review the case, meet as a group and provide findings, and whether the findings of the Panel appeared to be thorough, fair and objective
- Ultimate disposition of the case
- Level of discipline levied in sustained misconduct cases
- Time required from case opening to closure

We found that the two PSU investigators who completed the investigations were extremely efficient and thorough - they wasted no time once they received the cases and launched the investigations. It was clear they were managing the investigative process well in the way they notified subject employees about the cases, scheduled necessary interviews with Department members and citizens, conducted the interviews, sought out and reviewed evidence, documented their investigation, and forwarded these cases on to the command staff for findings and recommendations. They were also very prompt in reaching out to the members of the Panel once the cases were ready for review. Our assessment of the professionalism and efficiency of these two investigators was supported by some positive comments from current and former Panel members.

The efficiency of the investigations was also evident by time it took the Department to complete the investigation from opening to closure. The following data is based on the 12 cases we reviewed:

- Average time it took to complete a case: 53.83 days
- Median time to complete a case: 54 days
- Shortest time to complete a case: 8 days
- Longest time to complete a case: 109 days

Most of the cases were completed in less than two months, which falls well below the mandatory time period many states require, which is commendable given that some of the cases involved parallel criminal investigations.

Five of the 12 PSU cases involved BPD officers, three involved sergeants and four involved non-sworn members of BPD, showing that the Department does initiate and follow through on PSU cases regardless of the rank of the individual involved. Our assessment indicated that the formal discipline BPD meted out to subject officers in sustained misconduct cases appeared to be both merited and consistent with the level of discipline that would be meted out in similar cases within progressive police departments around the nation. In some cases, the subject officers readily acknowledged the errors they had made and said they were willing to receive any formal discipline. In fact, in one of these cases, members of the Panel were complimentary of BPD members who took responsibility for the errors they had made.



Progressive Discipline: A Definition

Progressive discipline holds that, when punishment is warranted, it is most effective to mete it out in increasing levels of severity based on reoccurrences. Less serious forms of misconduct and those that are first offenses do not always deserve or require severe punitive actions. They can often be dealt with effectively by verbal reprimands or counseling, among other possible alternatives. In other words, the discipline must fit the misconduct, or be appropriate to the misdeed at hand.¹⁹

We saw no indication of any hesitancy on the part of the Chief of Police or others within the command structure of the Department to hold back on the level of discipline that we believe was required. There was also no indication that the internal affairs investigation process at BPD was in any way inconsistent with the concept of progressive discipline.

Although our review of the manner in which BPD investigates both internal and external complaints conforms to what we consider to be best practices, we learned of what may be one potential area of concern. During our interviews with some community stakeholders, we heard anecdotal examples of individuals who actually contacted BPD to file a complaint, but were discouraged from taking any formal action as it could impact an officer's career. We were told that BPD members expressed to these individuals that the issues of concern could be addressed with the subject officers without taking a formal approach. Based on our conversations, we believe that these may not be isolated incidents, and that it requires some attention from BPD leadership to ensure that if such incidents are true, the concerns are addressed.

INTERVIEWS OF CURRENT AND PAST PANEL MEMBERS

We interviewed each current Panel member and a select sample of past members to learn their perspectives on how the Panel functions, including the solicitation, application and selection processes. We also learned about the training and the review processes.

Overwhelmingly, the answers from current and past members of the Panel were positive. The police and community members both felt the overall process was supported and that there was not any animosity from the Department when reviewing files or when matters were adjudicated. Many members of the Panel wanted to stay on the Panel beyond the allotted time period if they were allowed to do so. Many members reported that they were involved in the process because they believe officers and employees of the Department should be held accountable for misconduct in a fair and impartial manner, and they feel this process provides that vehicle and were proud to be a part of it.

The internal members all described the process for applying for the Panel and selection criteria consistently as did the external community members as it related to seeing a newspaper announcement for vacancies. By all reports, they completed the application and were offered an interview with members of the Department and ultimately with members of the City Manager's Office before being selected for the panel.

We discussed with each member the actual process of reviewing a Class I Complaint and how the Panel is convened and run internally. Almost every member described the process the same way and had no major complaints regarding how the Panel was run or facilitated. No one felt they were



not given adequate time to review the files. They were all provided access to the complete file and all attachments, and the Department tracks which members have reviewed the file prior to the Panel meeting for discussions. None of the individuals we interviewed felt any undue influence during the deliberations. Both civilian and police members complimented one another on the differing perspectives they bring to the discussion and how each balances the other in certain scenarios.

The Panel felt its role in reviewing the thoroughness of the investigative process conducted by the Department was respected by the command staff and that if there were concerns raised about a case, the Panel felt the Chief and Internal Affairs staff would and do take those concerns seriously. All of the current and past members we interviewed felt that their critiques and concerns were addressed. They stated that they were able to voice their concerns in writing if they did not agree with other Panel members.

During our interviews, Panel members suggested the Panel processes might be improved through measures such as the following:

- Provision of additional and on-going training on topics that may be relevant to the Panel and timely to the climate regarding internal oversight.
- Integration of more advocacy or community topics into the initial training and having the sworn members participate in that aspect of the training so new Panel members have an opportunity to meet existing and new members, and engage the community.
- Increased communication when Panel members are not being used, so they feel involved while waiting for a case to review.
- Assignment of the Panel to review other matters that currently do not meet the minimum threshold for convening a Panel to help with case-load reduction and to use the Panel as another level of oversight for more categories of complaints.

INTERVIEWS OF BPOA AND OTHER UNION MEMBERS

We had an opportunity during our interviews to speak with employees of the Department who were representative of both sworn and non-sworn members of local unions. During those discussions, no major concerns were raised related to the current internal affairs or professional standards review process. BPD has a well-documented process for the overall involvement and representation of union input in the professional standards process and by all accounts, it adheres to those policies in its general orders. The Department actively involves union representatives and leadership in policy development and the Department's operational decisions, which appears to be more comprehensive and inclusive than we have seen in other police organizations.



INTERVIEWS OF COMMUNITY STAKEHOLDERS, ADVOCATES AND COMMUNITY MEMBERS

During three on-site visits in September, October and November, and through phone interviews, our team interviewed community stakeholders including City Council members, City Manager's Office Staff, the Mayor, Human Relations staff, Boulder Coalition on Race members, Campus Police and other campus offices and representatives, ACLU representatives, District Attorney's Office representatives, judicial representatives, legal advocacy groups and other community members and stakeholders. These interviewees were generally asked about their understanding of the *USA Today* article and the allegations or concerns raised regarding disproportionate contacts with minority residents in Boulder. They were asked to discuss their understanding of the Panel and its processes, and to provide any data they may have collected in their professional capacities.

Many of the parties interviewed were aware of the *USA Today* article and the reason for our assessment. Many of these stakeholders were surprised by the disproportionate numbers and statistics mentioned in the article, but acknowledged that similar concerns have been raised previously in Boulder. Several stakeholders were aware of a small investigation and study conducted by the Human Relations Commission in 2001²⁰ regarding racial profiling. The report did not find any instances of racial profiling; however, we found that the perception of the police targeting the vulnerable, unhoused and minorities continues to exist within the community. Many stakeholders speculated that this perception is prevalent, but were reluctant to attribute racial temperament towards BPD, instead suggesting that the broader Boulder culture is responsible.

Implicit Bias: Key Examples

However, among many of the advocates, legal community and other community stakeholders we interviewed, there was more of a direct concern about the police and their interactions with minorities in the community including the unhoused, Colorado University athletes and other students of color. One of the themes was that BPD officers "may not be aware" of how they treat the unhoused and minorities within the community, and that their actions were the result of implicit bias, not overt racial animus. Several stakeholders provided anecdotal information about minority residents who they were personally aware of who had negative interactions with BPD including being arbitrarily stopped in their vehicles, being stopped and questioned while they were walking, and being arrested for offenses that other non-minorities engaged in were not arrested for. Many of the incidents described involved African American residents and students who were perceived to have been treated more harshly during encounters with police, and if they were arrested, the force necessary to affect the arrest was beyond that used on other non-minorities similarly disposed. Although the scope of our review and analysis did not include verifying the accuracy of these reported incidents, we found the information provided to be valuable in that it serves to inform Boulder officials about some of the concerns that exist among a number of community groups.

One particular incident widely shared and fairly well known throughout the community was an incident in February 2015 involving college students and fraternity members at multiple party locations. Community stakeholders raised concerns about perceived bias in how the incident was handled and arrests were made. However, we were informed that many of the incidents described were not filed as complaints with BPD, and therefore could not be addressed as such. Some stakeholders shared concerns that minorities within the Boulder community do not feel their concerns are taken seriously and fear possible retaliation because they cannot anonymously file a



complaint. Some stated that parties who have reported complaints felt they were being dissuaded by the police during the initial filing process and that their complaints were regarded as untrue.

National Common Concerns

The types of concerns shared by citizens and stakeholders during our interviews are not unlike those raised in other cities and municipalities across the U.S., including ensuring that: (1) the internal affairs process is welcoming and accessible by all segments of the community, (2) multiple mechanisms for reporting are available, and (3) more community education on the complaint filing process is provided. Although many of the stories shared were through secondary sources or observations of unreported incidents, some of the same types of sentiments raised were documented in a six-month report filed by the Bias Incident Hotline Project in 2008,²¹ specifically involving the police and other Boulder city services. Although the project was short in duration, the hotline received more than 50 calls and captured concerns regarding bias in the Boulder community, specifically with police and other service providers.

Consistently, those interviewed agreed that Boulder has a very limited diversity, which does not allow many opportunities for the community or the police to interact with people from diverse backgrounds and cultures on a regular basis. Boulder is universally believed to have a well-educated, wealthy population and in turn, possibly an isolated population that has not personally had negative interactions with police and, therefore, a limited capacity to appreciate what the more vulnerable citizens in Boulder are experiencing. Stakeholders speculated that many BPD officers are college educated and have never policed in diverse communities, and therefore, do not realize how their responses to diverse community members are perceived.

Community Involvement

We found that some of the stakeholders we interviewed held the opinion that BPD failed to help counteract some misconceptions and implicit biases they and the broader community may have and how it impacts the minority community. Some efforts have been made recently to address some of the national concerns about social and racial justice.

One of the advocacy groups arranged a facilitated conversation including the police and community to engage the community and police in a meaningful dialogue and promote problem-solving strategies. However, by all accounts, the meeting was not as impactful as it could have been because the structure of the meeting did not allow for meaningful discussion, as community members with similar backgrounds were grouped together instead of having a diverse mix of people, including police representatives, mingle next to each other to discuss community topics such as race-based concerns. The meeting was not planned or hosted by the BPD, rather the Department was invited to send representatives. Hence, some of these concerns were not the direct responsibility of BPD.

Some parties we interviewed acknowledged that BPD has been attending more community events recently and attends events when invited; however, they believed this has been a recent occurrence. They felt the Department has lacked basic community policing principles for years - and has not made it a priority.



A recurring theme of the interviews was the lack of proactive engagement by BPD to meet and address concerns when they are raised. Many stakeholders shared that they have had meetings in the past and worked on committees with various levels of the Department, including the current and former chiefs, and they do not feel the administration is sincere when it comes to issues raised by the community, advocates or stakeholders.

- Some of the community stakeholders we interviewed felt that when issues of race are brought up, BPD often dismisses it without trying to address the underlying concerns on how to eliminate the perceptions within the community, even if the Department does not support the notion of biased officers.
- The perceived reluctance by the Department to address the concerns historically raised regarding race have caused factions within certain stakeholders where there could be positive synergy and collaboration to reach populations who may be reluctant to work with the Department.

Although we heard numerous community stakeholders express concerns that BPD has not done enough community outreach in the past, we learned that there have been some significant efforts since Chief Testa took office to increase the engagement between BPD officers and the community. The following are some examples of those efforts:

1. In October 2015, approximately 30 BPD members organized a soccer match between themselves and approximately 50 youth from the local Hispanic community. BPD arranged for a local restaurant to donate food for the event. The event was the first of its kind in Boulder.
2. In 2015, BPD started an Explorer program to provide an opportunity for Boulder youth to learn about policing.
3. BPD developed a community policing survey for residents to complete to provide input on community policing and the Department. The Department designed both hard copy and electronic forms of the survey in English and Spanish. Access to these forms was provided on the BPD website. Over 500 surveys have been completed so far.
4. For several weeks, the Department set up canopy tents at local recreation centers in the morning and late afternoon. During this time, they served food and beverages as they spoke with residents about the BPD and how it is doing. Community policing survey forms were available for the residents to complete.
5. The Department designated some officers to serve as Hispanic liaison officers, and they routinely walk neighborhoods to build relationships by conversing with residents.
6. Neighborhood Impact Officers have walked neighborhoods on University Hill and knocked on doors to introduce themselves, discuss neighborhood problems and leave business cards for residents. These conversations center on neighborhood issues of concern.
7. Chief Testa attended the movie *Selma* with community advocates and at the conclusion of the film, participated in a community conversation to discuss police, community and race issues.
8. For several years, BPD has participated actively in the Special Olympics program, including having a Sergeant serve on the board.



BPD has taken some significant steps to improve the level of community-oriented policing services it provides, but at the same time, key community stakeholders continue to express concerns about what they believe is a lack of effort on BPD's part in this area. It is apparent that there is still a need for increased transparency and collaboration between the BPD and the community. Because this is still a pressing concern, it will be vital to the success of any potential changes BPD makes to its policies and procedures to include input from the community if the changes are to receive the requisite community support.

Many of the community stakeholders we interviewed were not personally aware of the role of the PSRP or how it functions. Some were unaware that it even existed until our assessment. Some of the advocates who were aware of the existence, however, were reluctant to give it much support because they felt there is a lack of transparency in the process.

The advocates stated that there was a lack of information including data on the outcomes of complaints reviewed by the panel on the website. In early 2015, the ACLU raised concerns about the impartiality of the PSRP due to its current make-up and suggested a panel consisting only of civilians. However, the interviewed stakeholders seemed more concerned about the representation of the community members on the panel and how they represent the broader Boulder community.

Unfortunately, this is not a new concern. In the 2001 investigation and report, several recommendations focused on improving education and awareness of procedures, policies and resources for parties who felt they were profiled and providing support to decrease fear of filing complaints among other policy and procedural reviews.²²



VII. OVERVIEW OF CIVILIAN REVIEW PROCESS FOR COMPARABLE CITIES

NATIONAL CIVILIAN REVIEW PROCESSES

A common theme within the law enforcement community is that a department must have internal affairs processes that not only address misconduct, but also ensure that ethical behavior and police accountability are modeled internally and externally within the community it serves. Naturally, the processes and mechanisms each department uses will vary from city to city.

Over 120 cities across the country have integrated some form of civilian review process into their internal affairs or professional standards process.²³ The most common forms of integration are:²⁴

- **Citizen Review Board:** A panel of citizens handles every aspect of the citizen complaint continuum.
- **Police Review/Citizen Oversight:** The police department handles every aspect of the complaint continuum, but citizens review those actions and determinations.
- **Police Review/Citizen-Police Appeal Board:** The police department handles every aspect of the complaint continuum, but the complainant may appeal the outcome to a board comprised of officers and citizens.
- **Independent Citizen Auditor:** The police department handles every aspect of the complaint continuum, but a citizen serves as an auditor to review the process for effectiveness and accuracy, making recommendations to improve the process as necessary.



AN OVERVIEW OF COMPARABLE CITIES

As part of our assessment, we compared the type of civilian review process already in existence in Boulder with the processes of departments with similar personnel and population sizes, as well as those with a college in the area they serve. We took note of the fact that Boulder was a leader in the establishment of such a civilian review process, with former Chief Koby having developed BPD's civilian oversight process in 1993 and implementing it in 1994. This was a progressive step that was not taken by most agencies up to that time, and it was done in the spirit of strengthening the relationship between BPD and the Boulder community. **Table 17** shows the information for each of the comparable cities and Boulder.

Table 17

Comparison of Police Departments

City	Department Size	Population Served ²⁵	Oversight	Year Adopted
Eugene, Oregon	190 Officers	160,561	Auditor (F/T) /CRB	2005 ²⁶
Fort Collins, Colorado	200 Officers	156,480	Citizen Review Board	1998 ²⁷
Palo Alto, California	91 Officers	66,955	Auditor (Contractual)	2007
Provo, Utah	105 Authorized	114,801	City Ombudsman	30+ years
Santa Cruz, California	100	63,364	P/T Independent Auditor	2003
Boulder, Colorado	179 ²⁸	105,112	Civilian Review Panel	1993



EUGENE, OREGON

Police Auditor and Civilian Review Board

The Eugene, Oregon Police Department has approximately 190 sworn officers to address and respond to 100,000 annual calls for service, provide police services and protect a population of 156,000 including several campus communities, such as the University of Oregon.²⁹ The Department has an Office of Professional Standards commanded by a lieutenant with the assistance of two sergeants, a civilian internal affairs management analyst and a program coordinator who investigate internal and external complaints and report commendations filed by citizens.³⁰ The Department has a link on its internal affairs web page that goes directly to a complaint and commendations form on the site of the Independent Police Auditor that can be completed and filed directly with the auditor.

In 2005, the Office of Police Auditor was created in Eugene for citizens to have an independent place to lodge complaints against the police that is isolated from the political process used by the City, which is often seen as an impediment to independence in police oversight. The position, funding and staff allocations were created by City ordinances and outline the reporting mechanisms, independence of the Auditor, protocols of the office and authority of the auditor as it relates to receiving complaints and investigating allegations of police misconduct. The ordinances provide the following information on the role and structure of the auditor's office:

"The office of the police auditor is established to provide an independent location to lodge complaints involving police employees, monitor internal investigations to ensure objective, thorough and high quality investigations, and develop recommendations to improve police services. The ordinances include approval for a full-time professional police auditor who is hired by and accountable to the City Council."³¹

The auditor in Eugene has a great deal of autonomy and is central to receiving and classifying complaints lodged by citizens while helping monitor the investigative process of the allegations being made and making recommendations to the City and Department as a result of analyzing the same. The auditor has the authority to oversee investigations and participate in interviews of parties involved, in addition to requesting additional information to help with ensuring the police conduct a thorough investigation. The City website states that the auditor has three broad mandates:³²

- Receive and classify complaints of police misconduct;
- Audit the investigations based on these complaints; and
- Analyze trends and recommendation improvements to police services in the City.

The auditor is actively involved in the early intervention process of the Department, has access to the IA Pro data and can review and raise concerns proactively if the auditor identifies trends from the data as it relates to an individual officer or Departmental protocols. The auditor - in line with established protocols - responds on site for critical incidents and is involved in use of force review boards. The auditor has the authority to determine if a complaint is appropriate for mediation or a facilitated dialogue, and if the parties involved agree to mediation, it can be used to resolve the issues of the complaint and investigation.



The auditor can categorize a complaint as “community impact cases,” which may have additional review and oversight by the Civilian Review Board (CRB). Community impact cases are complaints that involve allegations of excessive force, bias, disparate treatment or implicate other constitutional protections. The auditor determines if the case should be considered by the CRB for an additional level of review before and after the matter has been investigated, and provides feedback and recommendations.

Part of the auditor’s power and duties outlined in city ordinances involve serving as a liaison and providing staff support to the civilian review board and in coordination with the CRB, do the following:

- Establish policies, procedures and operating principles of the CRB.
- Conduct education and outreach to inform the community about filing complaints and commendations.
- Develop and distribute information and forms regarding the process for handling complaints and the review system.

The Civilian Review Board is an additional oversight component created by City ordinances and codes, and is integral to the overall police accountability process within Eugene.³³ The CRB is comprised of up to seven volunteers interviewed and appointed by the City Council to serve up to three years on the board.³⁴ The CRB serves several key oversight functions; however, the primary goals are to increase transparency and confidence in the police complaint process, and review the work of the Auditor and the police investigative process. The CRB’s mission is as follows:

“...to provide fair and impartial oversight and review of internal investigations conducted by the City of Eugene Police Department involving allegations of police misconduct, use of force and other matters. The Board will strive to build trust and confidence within the community and to ensure that complaints are handled fairly, thoroughly and adjudicated reasonably. The Board will encourage community involvement and transparency in order to promote the principles of community policing in the City of Eugene.”³⁵

The CRB has several primary duties and functions as established by ordinances:

- Establish protocols and procedures for the CRB in conjunction with the auditor.
- Review completed investigations and adjudications against sworn officers upon request.
- Review a random selection of closed cases.
- Conduct a comprehensive review of matters classified as community impact cases and provide recommendations.
- Review trends and statistics and develop recommendations for improvements.
- Evaluate the work of the auditor’s office.
- Provide the community with another forum for lodging complaints and raising concerns.
- Hold regular meetings allowing for public involvement and comment.
- Provide a written annual report.



The combined approach of having a full-time independent police auditor and a civilian review board has an impact in Eugene on how the community perceives the police and the mechanisms for accountability of officer misconduct. One of the key factors for developing an independent auditor office was to remove the concern of political and undue influence that could be perceived if the auditor reported to city officials. The position was created with transparency, community outreach and education as being integral to the success of the position. Both the auditor and the CRB are mandated to provide annual written reports, which often summarize trends, statics and recommendations. The auditor and the CRB may draft other reports upon request, as needed or as deemed appropriate and within their scope and authority.

The City Auditor's website has helpful resources such as relevant city ordinances, protocols, procedures, mechanisms for filing a complaint or commendation, and annual reports. For CRB members, the website provides upcoming meeting times and locations, resources, forms and direct links to review cases.

Key Distinguishing Oversight Factors:

- Full-time Auditor and Civilian Review Board
- Complaints filed outside the Department
- Active auditor involvement with investigations
- External review of early intervention systems and trend analysis
- Community impacts the case review
- Regular meetings with stakeholders
- Public meetings and discussions
- Public annual reports
- Weekly auditor newsletter
- Regular CRB training topics



FORT COLLINS, COLORADO

Citizen Review Board

The Fort Collins, Colorado Police Services has approximately 200 sworn officers to address and respond to approximately 97,000 calls for service and protect a population of over 150,000 including the Colorado State University campus community.³⁶

In 1998, the City of Fort Collins, Colorado adopted an ordinance to create the Citizen Review Board (CRB) to provide oversight and guidance that instills confidence that law enforcement is effective, professional and has the best interests of citizens, and to facilitate continued excellence in police services within the City of Fort Collins.³⁷ The CRB serves a critical function within the City in regards to oversight on serious allegations involving use of force and instills confidence in the investigative process. The CRB can have up to seven volunteer members who are nominated and selected from diverse sections of the community.³⁸ Once appointed by the City Council, each member may serve up to four years. The CRB has several duties and functions as established by ordinances:

- Makes recommendations to the City Manager or the Chief of Police concerning the interpretation of police policies and procedures.
- Reviews certain internal investigations conducted by the Office of Police Services and provides observations and recommendations.
- Upon written request, reviews any decision of the Chief of Police regarding the merits of an investigation for which a review has not been conducted by the board.
- Reconsiders any review previously conducted if the board determines that significant new information has become available.
- Completes file reviews in 45 days, unless an extension is requested.
- Upon the request of any other public law enforcement within the City, reviews the internal investigations of such entity.
- Provides written annual reports to the City Council and City Manager concerning the activities and recommendations of the board.
- Meets regularly allowing for public involvement and provides minutes from the meeting.³⁹
- Provides training annually.
- Provides a written work plan for the upcoming year.

A citizen can file a complaint with the Department's Internal Affairs Office. Most complaints are given directly to the immediate supervisor of the accused officer. A complainant must complete a complaints packet, which is available at various locations throughout the city, and submit it in person, by mail or by phone.



In early 2000, the CRB set a goal of establishing a liaison program with the Human Relations Commission to assist citizens in navigating the internal affairs process.⁴⁰ This initiative was in line with the community aspect of the original ordinances that stated the following:

- Develop a citizen liaison program to assist individual citizens who wish to file such complaints and appoint members of the public to serve as citizen liaisons.
- Solicit aid from other social agencies in educating the public.
- Communicate with other similar commissions in order to share experiences and become more sensitive to potential problems.

The City of Fort Collins Police Services website has links to relevant documents such as the Department policy manual and the complaints and commendations page, which details the process for filing a complaint, the classification and levels of complaints, and what happens after a complaint is filed. The website also lists contact information for the Internal Affairs Office and the CRB.

The CRB page on the City's website has copies of the CRB's agendas, minutes, work plans, bylaws and annual reports dating back to 1999.⁴¹ A citizen can also find the CRB member application, upcoming meeting details and contact information for current members, along with their term limits.

Key Distinguishing Oversight Factors:

- Regular public meetings
- Written annual reports and yearly work plans are publically accessible
- Regular topical training throughout the year
- Community liaison and community education mandate
- Video overview of the CRB and internal affairs process
- Access to the entire police department policy manual



PALO ALTO, CALIFORNIA

Independent Police Auditor

The Palo Alto, California Police Department has historically had over 90 sworn officers to address and respond to an average of 60,000 calls for service annually, provide police services and protect a population of approximately 67,000 citizens. The commuter population, made up of the Stanford University campus and daily business populations, increases the approximate population to 125,000.^{42 43}

The Department's basic process for investigating a complaint is summarized in a handout accessible on the website. Citizens can fill out an online reporting form to file commendations and complaints, making it easy for the Chief of Police⁴⁴ to oversee and review every complaint filed. However, citizens can also file a complaint in-person or by phone. The website has many resources such as monthly and annual statistics for calls for service and a direct link to the Independent Police Auditor page.

Approximately eight years ago, as a result of the community and the City Council, the Office of the Independent Auditor was launched to oversee police interactions and provide oversight and transparency. The Independent Auditor, a contractual position solicited through a competitive request for proposal process, has remained filled by the OIR Group since this report was drafted. The role and authority of the Auditor is as follows:

"The Independent Police Auditor⁴⁵ has the authority to review and assess for objectivity, thoroughness and appropriateness of disposition citizen complaint investigations of misconduct and internal affairs investigations associated with the Police Department and makes recommendations to the Police Chief."

Per the contract terms, the auditor provides written reports semi-annually of all completed investigations and the disposition for those matters.⁴⁶ The auditor identifies trends and policy recommendations as a result of the review, and discusses the findings with the City Manager and Chief of Police, providing any recommendations for policy or training improvements. The auditor is responsible for reviewing all cases when a TASER is deployed to ensure the use of the TASER was consistent and in line with Department policy and procedures. The auditor also makes recommendations for policy and training as needed.

The essential functions and duties of the auditor include:⁴⁷

- Receiving citizen complaints directly.
- Reviewing and assessing for objectivity, thoroughness and appropriateness of disposition.
- Making recommendations to the Chief of Police regarding further investigation, processes and dispositions.
- Formally meeting with the City Manager and Chief of Police once per quarter to discuss any issues.
- Formally meeting with the City Council twice per year to discuss issues.



All auditor reports and semi-annual reports since 2007 are available online.⁴⁸ As a result of concerns about racial bias, the auditor conducted an independent study regarding the police department's conduct related to the allegations of insensitivity and bias-based policing.⁴⁹ The report made recommendations to the City and Department on how to address the results of study.

Key Distinguishing Oversight Factors:

- Written public reports provided semi-annually (very descriptive of allegations, investigations and dispositions)
- Regular meetings and discussions regarding identified trends and recommendations on policies and training
- Independent review of every TASER deployment
- Unbiased review and public reporting of controversial or nuanced issues raised by the community



PROVO, UTAH

Ombudsman

Provo, Utah is a city with an estimated population of 114,801 residents.⁵⁰ The demographic breakdown of Boulder is very similar to that of Provo, with the overwhelming majority of the population comprised of Caucasians, 84.8 percent. Hispanics in Provo represent 15.2 percent of the population and African Americans represent 0.7 percent. Like Boulder, Provo is home to a very large university, Brigham Young University, with a student population of nearly 27,000.⁵¹

The Provo, Utah Police Department (PPD) has an authorized strength of 105 sworn positions, but currently has 102 officers. The Department member responsible for PPD's internal affairs investigations holds the rank of lieutenant. In addition to his internal affairs responsibilities, this lieutenant is responsible for overseeing special events in Provo, as well as the Department's training and firearms programs.

There are a variety of ways in which the lieutenant receives both internal and external complaints. Individuals can make complaints in-person, by phone, through the Department's website and through the office of the City's ombudsman. Although the Department has a form complainants may use to document the details of their complaint, it is not necessary.

PPD categorizes complaints into two categories: Category I and Category II. Category I complaints are more serious in nature and could lead to formal discipline. Category II complaints are the remainder of the complaints and are less serious in nature. We learned during our outreach that they receive an average of two cases per month.

The process for handling Category II complaints is very similar to that of BPD's process for handling Class II complaints and referrals, in that upon receipt of such a complaint from a community member, the PPD Internal Affairs lieutenant contacts a watch commander to advise him or her of the incident. The watch commander then works with the staff to interact with the subject employee to determine what happened. This information is then relayed back to the lieutenant, who writes the report and forwards it up the chain-of-command. A determination is then made regarding what to do in terms of any discipline or training for this lower-level complaint. For more serious complaints, the lieutenant conducts an investigation and report that includes findings and recommendations. This report is then forwarded up the chain-of-command to the Chief of Police, who has the final say in disciplinary outcomes.

Although Provo does not have a formal citizens review board, it has a full-time City employee serving as the City ombudsman, a position that has been in place for the past 35 years. The ombudsman is responsible for handling any complaints regarding any City employee, including complaints from individuals who choose not to file the complaint directly with the Department. The current ombudsman also serves as the City's property manager, reporting directly to the City Manager. However, because the Mayor appoints the ombudsman, they report directly to the Mayor when in the role of ombudsman.

The ombudsman handles approximately two complaints per month from citizens who have contacted the Internal Affairs Unit but are not satisfied with the result, who are uncomfortable appearing in-person, who only speak Spanish, or who are unable to fill out the complaint forms on



their own. The ombudsman contacts the lieutenant to inform him of the complaint and forwards the written complaint document. Our review of the process for handling complaints in Provo revealed that a very positive working relationship exists between the ombudsman and the Department.

The ombudsman is not involved in making findings and recommendations for complaints against police officers, nor does the ombudsman make recommendations for discipline in sustained cases of misconduct. However, the ombudsman attends a weekly meeting coordinated by the Department in which representatives from a variety of local law enforcement agencies and other social service organizations come together to discuss real-time problems within the City. These groups include the Department's community policing staff, representatives from the county's adult probation office, representatives of the Utah State Parole office, staff from the local agency handling low-income housing, and community representatives who provide food and housing to those in need. What is learned in this task force-type meeting, as well as through receiving citizen complaints directly, is tracked by the ombudsman to identify ongoing trends of things that may be generating complaints both for the Department and for other city agencies. This is then relayed to the appropriate City staff so the issues can be addressed through training or other means.

The Chief of Police coordinates a Citizen Advisory Board that regularly meets with the Chief to address any ongoing community concerns regarding the Department, but it is not tasked with reviewing officer complaints. The Department's annual report to the community outlines the number and basic details of all of the complaints filed with the Internal Affairs Unit.

Key Distinguishing Oversight Factors:

- Ombudsman Office
- Chief provides oversight and review of all complaints
- Chief regularly meets with informal citizen review board



SANTA CRUZ, CALIFORNIA

Independent Police Auditor

Santa Cruz, California is a coastal city with an estimated population of 63,364 residents.⁵² The demographic breakdown of Boulder is comparable to that of Santa Cruz, with nearly three-quarters of the population comprised of Caucasians, 74.5 percent. Hispanics in Santa Cruz represent 19.4 percent of the population and African Americans represent 1.8 percent. Like Boulder, Santa Cruz is home to a large university, the University of California at Santa Cruz, with a student population of nearly 17,200 students.⁵³

The Santa Cruz Police Department (SCPD) has an authorized strength of fewer than 100 sworn positions. The Department member responsible for SCPD's Internal Affairs investigations holds the rank of sergeant and reports directly to a deputy chief. Like most agencies, complaints against members of the SCPD may be filed directly at the Department. A complaint form, referred to as a Citizen Comment Form, is also available online in both English and Spanish.⁵⁴ The form can be mailed to the Department, sent by email or dropped off at the City Clerk's Office. However, it is not mandatory that a complainant completes this form to file a formal complaint with the Department.

The Internal Affairs Sergeant receives and investigates all cases, which are classified as: (1) a formal or Class I case, (2) an informal or Class II case, or (3) an Inquiry. Informal cases are those that if sustained, would result in a level of discipline no higher than documented oral counseling. However, if the investigation of an informal case indicates the complaint involves employee conduct of a more serious nature, the case is bumped up to a formal Class I case, which includes allegations of employee misconduct that would rise above the level of formal documentation of oral counseling. Class I and Class II cases are tracked through a numbering system, which allows the Department to track whether the complaint was filed by a citizen or generated internally. It was estimated that the Department handles approximately 10 Class I complaints and 50 Class II/Inquiry complaints each year.

SCPD has a system in which supervisors in the field are made aware of an officer/citizen interaction that could become a complaint. They write a memorandum detailing the issues surrounding the incident and forward it to the Internal Affairs Unit, where it is kept in a temporary informational file in the event that a formal complaint is subsequently filed. This allows the Department to be proactive not only in gathering important information that may be needed to complete a potential complaint investigation, but also allows the Department command staff to be aware of issues that may require additional staff training, whether a complaint is ever filed.

Once the SCPD Internal Affairs Sergeant completes an investigation, the written report is forwarded up the chain-of-command to the Chief of Police. However, unlike many Internal Affairs Units in the country, in which the cases are simply forwarded to the appropriate chain-of-command for follow-up without any indication of a potential finding, the SCPD Sergeant includes recommended findings in the report. The deputy chief who supervises the process ensures the case is complete and then forwards it to the Chief of Police, who makes the final decision after consulting his command staff.

The City of Santa Cruz implemented a CRB in the mid-1990s; however, our review found that stakeholders believed that it was becoming too focused on political issues rather than focusing on helping the Department conduct thorough, fair and objective internal affairs investigations. In



approximately 2003, the then-City Manager and members of the City Council terminated the process. In its place, the City created the office of the Independent Police Auditor (IPA) and tasked that individual with the responsibility of reviewing all complaints the Department investigated to ensure the cases were handled in a thorough, fair and objective manner.

Once the Chief of Police has made a determination of the case, the entire investigative file is forwarded to the IPA, who communicates with the Chief of Police and the Internal Affairs Unit as to whether he agrees with the outcome of the investigation and the level of discipline that was given to a subject employee. The IPA completes an audit report for the City Manager for each case he reviews indicating whether he believes the case was handled in a thorough, fair and objective manner and whether he agrees with the outcome of the case. The IPA also provides any feedback he feels is appropriate, including whether there is an indication that Department-wide training may be appropriate to address the issues that led to the complaint. The IPA forwards a copy of this audit letter to the Chief of Police. The Department then moves forward with the implementation of any formal discipline indicated in the case.

Due to the relatively low number of complaints the Department receives, the IPA position is a part-time responsibility, funded through a negotiated contract. The current IPA is the same individual who was appointed at the beginning of the IPA process, having now served for approximately 12 years. The IPA is an attorney who also serves as a part-time IPA for two other California cities.

To ensure the ongoing quality of the process, the IPA is required to meet with a subcommittee of the City Council at the end of each year, presenting both a written report and an oral presentation of an overview of the types of cases handled during the year, and hold a discussion about the quality of the internal affairs process. Any recommendations for changes to the process are made during that meeting. After the IPA's presentation, the Deputy Chief who oversees the Internal Affairs Unit answers any questions the committee members may have regarding information they learned during the IPA's presentation.

The SCPD does not produce an annual report of its own outlining the cases handled on an annual basis, preferring to allow the IPA to report the statistics to the subcommittee of the City Council to help ensure objectivity and transparency.

Representatives of the SCPD appear to have a very professional working relationship with the IPA that is built upon mutual trust, given that they do not always agree on any given case. However, to illustrate the trust that exists between the Department and the IPA, the Department routinely invites real-time feedback from the IPA about cases that it is currently investigating. This is unusual, as many police departments that have an IPA do not have much interaction during the investigation of a case, with the possible exception of an IPA who is able to sit in on the interviews. Most police departments simply interact with the IPA at the end of the investigation when the IPA provides feedback for a completed case.



Key Distinguishing Oversight Factors:

- Thorough complaint classification system allows ease of tracking status
- Because of the trust that has been developed between the IPA and SCPD staff, at times, the IPA is invited by the Internal Affairs Sergeant to provide real-time input for an ongoing investigation
- SCPD Sergeant includes recommended findings in the report
- IPA provides recommendations for how the entire Department can improve when there is a complaint
- Annual meetings with the City Council



VIII. RECOMMENDATIONS AND CONSIDERATIONS

NEXT STEPS: THREE OPTIONS, ONE STRATEGIC OPPORTUNITY

Faced with the type of information revealed in our report, agencies typically respond in one of three ways:

1. Some continue to deny the possible existence of implicit bias on the part of their officers and cite, for example, the lack of citizen complaints.
2. Others make some incremental changes such as revising policy or requiring officers to attend a cultural awareness course.
3. Well-led, progressive agencies, however, view the information as a real opportunity for reform. Toward that end, we present the following recommendations.

RECOMMENDATIONS: ACTIONS THAT WILL MAKE A DIFFERENCE

Recommendation #1: Adopt New Policy and Procedures for Data Collection during Traffic Stops

Many states and communities collect data on every traffic stop, even those in which no citation is issued. The Colorado legislature has debated requiring such data, but this legislation has not yet passed. BPD could be viewed as a leader in the field by adopting this approach.

The data to be collected should include, at minimum:

- Date and time of stop
- Location of stop
- District
- Duration
- Officer's name and ID number
- Information about driver (e.g., address, gender, race, date of birth)
- Information about vehicle
- Reason for stop
- Outcome (e.g., warning, citation)
- Was a consent search requested, and was permission granted?
- Was the search conducted?
- Was contraband found during the search?

Recommendation #2: Conduct a Comprehensive Review of the Field Interview Process

BPD should reassess how it uses the field interview stop and when a Field Interview Card should be completed. The Field Interview Card should include, at a minimum:

- Date, time and location of stop
- Demographics of person stopped
- Officer name and identification number
- Circumstances that led to the stop
- Was the person frisked? Why?



- Was the person searched?
- Were weapons or contraband found?
- Was physical force used?

BPD supervisors should take more care in reviewing Field Interview Cards and citations to make certain that they are complete and accurate.

Recommendation #3: Capture Stop-Related Information from Citizens

The City of Boulder should institute frequent randomized independent surveys to ask questions designed to capture information about traffic or pedestrian stops.⁵⁵ The goal of this inquiry is to obtain feedback from individuals stopped by the police.

These questions might include:

- Location of stop
- Demographics (e.g., age, race, city of residence, gender)
- Outcome of the stop (e.g., search, citation, arrest)
- Whether the person thought the stop was legitimate
- Whether the officer acted properly
- If force was used, was it appropriate?

Another approach to obtaining this information is to send a card or letter to individuals who have had a contact with BPD and ask about the nature of the contact.⁵⁶

Recommendation #4: Revise BPD Policy on the Use of Race as a Proxy for Criminality

General Order 200 states, "Actions are not based solely on reasons of race, ethnicity, gender, manner of dress, or other subjective criteria commonly referred to as "profiling." Although this sounds like a policy that discourages racial profiling, it is not. In reality, no officer takes enforcement action "solely" on race. Even in the most egregious cases of racial discrimination, the officer can always cite some violation of criminal law as justification. As a result, policies like this one are meaningless. Consider the new policy for federal law enforcement officers:

"In making routine or spontaneous law enforcement decisions, such as ordinary traffic stops, Federal law enforcement officers may not use race, ethnicity, gender, national origin, religion, sexual orientation, or gender identity to any degree, except that officers may rely on the listed characteristics in a specific suspect description. This prohibition applies even where the use of a listed characteristic might otherwise be lawful."⁵⁷

It is important to consider that even when data suggests otherwise, police officers may not be consciously involved in biased policing. As Professor Lorie Fridell has pointed out:

"The 'fair & impartial policing perspective' reflects a new way of thinking about the issue of biased policing. It is based on the science of bias, which tells us that biased policing is not, as some contend, due to widespread racism in policing. In fact, the science tells that



even well intentioned humans (and thus, officers) manifest biases that can impact on their perceptions and behavior. These biases can manifest below consciousness.

“Social psychologists have shown that ‘implicit’ or ‘unconscious’ bias can impact what people perceive and do, even in people who consciously hold non-prejudiced attitudes. Implicit bias might lead the line officer to automatically perceive crime in the making when she observes two young Hispanic males driving in an all-Caucasian neighborhood or lead an officer to be ‘under-vigilant’ with a female subject because he associates crime and violence with males. It may manifest among agency command staff who decide (without crime-relevant evidence) that the forthcoming gathering of African-American college students bodes trouble, whereas the forthcoming gathering of white undergraduates does not.”⁵⁸

Recommendation #5: Make Police Ethics and Accountability a Key Public Message

The Department should identify some new or improved methodologies for communicating to the community of Boulder and the Colorado University community the value of police accountability and the importance BPD places upon addressing allegations of BPD misconduct.

Recommendation #6: Keep Website Complaint-Filing Instructions Up-to-Date

Continuing to improve the information on the Department’s website will help community members learn how to file a complaint and understand how it will be processed. It would be best to provide this information in Spanish. Consider posting any written documents that may be created in the future regarding the internal affairs process, and consider posting other key policies that would help inform the community and ensure transparency in department operations.

Recommendation #7: Consider Providing More PSRP-Related Information on the Website

Providing more specific detail about the exact process members of the panel use to review the internal affairs investigations will help increase public transparency and buy-in.

Recommendation #8: Solicit Public and Private Partners in “Getting the Message Out”

The Department should work with private organizations and other public agencies to distribute or otherwise make written information available within the community explaining how complaints may be made and how they are processed.

Recommendation #9: Cast a Wide Net in Announcing Upcoming PSRP Vacancies

A number of actions could help improve the community’s trust in the selection process for members of the PSRP. Consider changes to the initial interview process that would require more participation directly from the City Manager and the community at large concerning those who will be recommended to the City Manager to become members of the PSRP. Ensure media releases announcing upcoming vacancies in the PSRP are distributed not only in the mainstream media, but in media markets commonly used in the Spanish-speaking community.



Recommendation #10: Consider Creating a Community Advisory Panel

To enhance ongoing two-way communication with the Boulder community, consider creating a Community Advisory Panel with its membership comprised of key Boulder stakeholders who would include, at minimum, members of the diverse communities within Boulder, local representatives of the business communities, leaders of local religious organizations, representatives from Colorado University responsible for student affairs, representatives from the City's and County's social outreach programs, and local representatives of advocacy groups. This advisory panel would provide advice and guidance to the BPD command staff on community and police matters.

Recommendation #11: Expand Training on Critical Policing Concepts

Have the BPD training staff, under the direction of the Chief of Police, continue to explore new ways to enhance Department-wide training addressing the concepts of bias-free policing, implicit bias, procedural justice and constitutional-based policing, as well as other training topics highlighted in the recent Police Executive Research Forum (PERF) report *The President's' Task Force on 21st Century Policing*.⁵⁹

Recommendation #12: Leverage the PSRP in Other Areas

Because of the relatively low number of internal affairs complaints BPD handles on an annual basis, consider, for example, having the PSRP review some of the Class II investigations involving topics of concern the community has raised.

FINAL CONSIDERATIONS: A BRIGHT, CLEAR PATH AHEAD

There is no "one-size-fits-all" or "cookie-cutter" form of civilian oversight for police departments that is universally recognized as representing the best model. In every single case, the most effective form of civilian oversight is specifically tailored to meet the needs of each local community.

BPD voluntarily initiated one of the nation's first civilian oversight programs, and the Department has over 20 years of experience working with some form of civilian oversight. Some of the advantages of BPD's current system are:

- The City of Boulder and BPD provide an opportunity for any member of the public to apply for the Professional Standards Review Panel.
- Those selected to serve on the PSRP receive training in BPD policies and procedures and in police internal affairs investigation protocols prior to their service on the panel.
- BPD provides each PSRP member access to the files of each internal affairs case that is pending the panel's review before the panel meets, which gives each member an opportunity to spend the requisite time to become familiar with the facts of the case.
- When a PSRP meeting convenes, the Internal Affairs Sergeant provides details from the completed investigation and then leaves the room so the panel members can have an open discussion for a thorough, fair, objective and complete review of each case.



- If there are disagreements among panel members about what recommendations should be made to the Chief of Police in any given case, individual members have the ability to write a formal rebuttal outlining why they disagree with the group's decision.
- Our review of the PSRP process indicates that the Chief routinely accepts the recommendations of the PSRP.
- By limiting PSRP panel members to a maximum of two consecutive two-year terms, an opportunity is provided for additional community members to sit on the panel.

Although there are many positive aspects to the current PSRP process in Boulder, we believe there are a number of enhancements to the current process that BPD could consider to strengthen the effectiveness of the PSRP, as well as its credibility within the community, which include the following:

- The PSRP could be asked to review Non-Class 1 cases when a case involves any particular issue of community concern.
- Greater efforts should be made to provide proactive outreach to Boulder residents from neighborhoods and community groups who have not traditionally been represented on the PSRP to encourage their application and selection.
- The City Manager and Chief of Police could consider inviting key community stakeholders to participate in the selection process of those community members applying for a position on the PSRP, allowing them to make recommendations for the selections.
- BPD policies and procedures could provide enhanced and regular reporting on some of the basic details and outcomes of the cases the PSRP reviews, as well as for the cases not reviewed by the PSRP.
- Although for the purposes of the current PSRP selection process Colorado University students may not be recognized as residents of Boulder, consideration could be given to including a student representative on the PSRP panel.
- PSRP members could be invited to host some form of regular community outreach programs in which they could help educate the larger Boulder community about the BPD Internal Affairs processes and the role the PSRP plays in the process. Such an effort could provide the PSRP with an opportunity to educate individuals about the steps that need to be taken to file a complaint.

However, notwithstanding this list of potential enhancements to the current civilian oversight process in Boulder, we advise the City of Boulder and the Boulder Police Department to undertake a close review of our formal recommendations and the information provided in this report describing the internal affairs processes at five cities with similar demographics and large university populations. This information can be used to determine which additional components Boulder may consider adding to its own local form of civilian oversight of police complaint investigations to enhance the effectiveness of the process and the trust the Boulder community has in it. If the City and Department do so, these actions will enhance the effectiveness of BPD internal affairs investigations and professional standards oversight, improve police accountability and build public trust for years to come.



ENDNOTES

- 1 The Disproportionate Risks of Driving While Black. *The New York Times* October 24, 2015.
- 2 <http://quickfacts.census.gov/qfd/states/08/0807850.html>
- 3 <http://www.colorado.edu/pba/div/enrl/>
- 4 E. Ann Carson, Ph.D. Prisoners in 2013, U.S. Department of Justice Office of Justice Programs, Bureau of Justice Statistics Revised September 30, 2014.
- 5 Jack Glaser. *Suspect Race: Causes and Consequences of Racial Profiling*. New York: Oxford University Press. 2015.
- 6 <http://www.bjs.gov/content/pub/pdf/cvus0802.pdf>
- 7 http://www.washingtonpost.com/world/national-security/fbi-director-acknowledges-hard-truths-about-racial-bias-in-policing/2015/02/12/023c6c6e-b2c6-11e4-854b-a38d13486ba1_story.html#hpid=hp_hp-top-table-main-racial-bias%3Ahomepage%2Fstory
- 8 The Disproportionate Risks of Driving While Black. *The New York Times*. October 24, 2015. See also: <http://wunc.org/post/can-vehicle-search-consent-forms-diminish-racial-bias-ask-fayetteville-nc#stream/0>
- 9 <http://www.usatoday.com/story/news/nation-now/2015/01/20/arrest-rate-interactive/22049927/>
- 10 https://www.census.gov/population/www/cen2010/resid_rules/resid_rules.html
- 11 <https://bouldercolorado.gov/police/professional-standards-unit>
- 12 <https://www-static.bouldercolorado.gov/docs/go120-1-201505281016.pdf>
- 13 https://www-static.bouldercolorado.gov/docs/Commendation_&_Complaint_Form-1-201307121344.pdf
- 14 <https://bouldercolorado.gov/police/what-do-the-results-of-the-investigation-mean-2>
- 15 <https://bouldercolorado.gov/police/what-happens-when-i-file-a-complaint-2>
- 16 <https://bouldercolorado.gov/police/what-if-i-am-afraid-to-make-a-report-2>
- 17 <https://www-static.bouldercolorado.gov/docs/go120-1-201505281016.pdf>
- 18 <https://www-static.bouldercolorado.gov/docs/go120-1-201505281016.pdf>
- 19 Employee Disciplinary Matrix: A Search for Fairness in the Disciplinary Process." Police Chief Magazine. International Association of Chiefs of Police, Oct. 2006, Web Nov. 2015.
- 20 Investigation of the Presence of Racial Profiling in the Issuance of Tickets by the Boulder Police Department, Human Relations Commission, 2001
- 21 The Bias Incident Hotline Project, 6 Month Report, 2008
- 22 Investigation of the Presence of Racial Profiling in the Issuance of Tickets by the Boulder Police Department, Human Relations Commission, 2001
- 23 National Association of Civilian Oversight of Law Enforcement (NACOLE) List of US Oversight Agencies (2015)
- 24 Building Trust Between the Police and the Citizens They Serve, DOJ/COPS/IACP Publication, 2009
- 25 Population data taken from the 2014 U.S. Census.
- 26 Council Ordinance Number 20435, effective September 11, 2009
- 27 Bylaws of the Citizen Review Board, City of Fort Collins, CO, 2011
- 28 Boulder RFP (32-2015)
- 29 <http://www.eugene-or.gov/index.aspx?NID=592>



30 <http://www.eugene-or.gov/index.aspx?nid=577>
31 <http://www.eugene-or.gov/index.aspx?nid=1039>
32 <http://www.eugene-or.gov/index.aspx?nid=1039>
33 Eugene, Oregon City Ordinance 20374
34 <http://www.eugene-or.gov/index.aspx?nid=88>
35 <http://www.eugene-or.gov/ArchiveCenter/ViewFile/Item/3705>
36 <http://www.fcgov.com/police/general-info.php>
37 Ordinance Number 76, 1998 - City of Fort Collins, Colorado
38 Ordinance Number 225, 1998 - City of Fort Collins, Colorado
39 Bylaws of the Citizen Review Board, Amended 2011, City of Fort Collins, Colorado
40 Memorandum Regarding Citizen Review Board Activities dated January 7, 2000
41 <http://www.fcgov.com/cityclerk/citizen-review.php>
42 www.cityofpaloalto.org/gov/depts/pol/info/stats.asp
43 <http://www.cityofpaloalto.org/gov/depts/pol/default.asp>
44 <http://www.cityofpaloalto.org/civicax/filebank/documents/35032>
45 <http://www.cityofpaloalto.org/gov/depts/pol/auditor.asp>
46 City of Palo Alto Contract Number: C10133537, Exhibit A, Scope of Services
47 <http://www.cityofpaloalto.org/gov/depts/pol/auditor.asp>
48 <http://www.cityofpaloalto.org/gov/depts/pol/auditor.asp>
49 <http://www.cityofpaloalto.org/civicax/filebank/documents/18904>
50 <http://quickfacts.census.gov/qfd/states/49/4962470.html?cssp=SERP>
51 <http://yfacts.byu.edu/Article?id=143>
52 <http://quickfacts.census.gov/qfd/states/06/0669112.html?cssp=SERP>
53 <http://www.ucsc.edu/about/facts-figures.html>
54 <http://www.cityofsantacruz.com/departments/police/how-do-i/obtain-a-citizen-comment-form>
55 For example, Police Behavior during Traffic and Street Stops, 2011. Bureau of Justice Statistics
56 See Results from the Police Community Interaction (PCI) Survey¹; Dennis P. Rosenbaum, Justin Escamilla, Gina Enciso, Thomas Christoff and Susan M. Hartnett University of Illinois at Chicago. National Police Research Platform.
57 Guidance for Federal Law Enforcement Agencies Regarding the Use of Race, Ethnicity, Gender, National Origin, Religion, Sexual Orientation, or Gender Identity. U.S. Department of Justice, December 2014.
58 <http://www.fairimpartialpolicing.com>
59 http://www.cops.usdoj.gov/pdf/taskforce/TaskForce_FinalReport.pdf