



Independent Investigations of Officer-Involved Shootings

Current Practices and Recommendations
from Law Enforcement Leaders in the United States and Canada



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Executive Summary

Officer-involved shootings (OIS) remain a challenging and often controversial aspect of the law enforcement process in the United States and elsewhere. The policies and practices associated with OIS investigations are critically important to law enforcement agencies, communities, offenders and victims, the broader criminal justice system, and other stakeholders. Unfortunately, there is currently a rather limited academic and practitioner literature that focuses on OIS investigations. Further, it is apparent that widespread variation exists in use of force policies and practices regarding how law enforcement conducts OIS investigations.

Following a series of controversial officer-involved shootings in the United States, then President Obama's Task Force on 21st Century Policing identified promising law enforcement practices and offered recommendations within six primary pillars. The six pillars focused on (1) building trust and legitimacy, (2) policy and oversight, (3) technology and social media, (4) community policing and crime reduction, (5) officer training and education, and (6) officer safety and wellness (President's Task Force on 21st Century Policing 2015, 1). The Policy and Oversight pillar included the following specific recommendation: "law enforcement agencies should have comprehensive policies on the use of force that include training, investigations, prosecutions, data collection, and information sharing. These policies must be clear, concise, and openly available for public inspection" (President's Task Force on 21st Century Policing 2015, 20). One aspect of this recommendation suggests that agencies' use of force policies should require "external and independent criminal investigations in cases of police use of force resulting in death, officer-involved shootings resulting in injury or death, or in-custody deaths" (President's Task Force on 21st Century Policing 2015, 21).

This study examines how large law enforcement agencies in the United States and in Canada are currently investigating OISs and assesses whether investigative independence and transparency are apparent. The study included four primary phases:

1. A literature review on prior OIS investigation research and current practices in the academic and law enforcement practitioner literatures
2. A snapshot assessment of OIS policies and accessibility among Major Cities Chiefs Association (MCCA) member websites
3. An online survey of MCCA agencies that examined current OIS investigation policies and practices
4. A focus group session with MCCA law enforcement leaders, academics, and practitioners to identify best practices and discuss recommendations for improving OIS investigations in the future

The following are some of the primary findings and recommendations from this project:

1. There is clearly a need for a broader understanding of OIS investigations, policies, and practices in the law enforcement community. A broader academic and practitioner literature on this topic and more extensive cross-country comparisons of OIS investigative practices would be informative.

2. Some of the large MCCA law enforcement agencies have already responded to the task force recommendations by updating their OIS policies and procedures and ensuring that the relevant documents are readily accessible to the community and easily retrieved from websites. A few MCCA agencies reported making these changes in direct response to the task force recommendations or because such changes were considered important to their communities and departments. This subsample of large law enforcement agencies may be more responsive to various forms of pressure (community members, politicians, media, etc.) to make investigative changes and increase transparency. However, some of the MCCA agencies have not made significant changes, so in many communities it would be difficult for community members, the media, and other interested parties to understand how local OIS investigations are conducted.
3. Substantial variation exists in how large law enforcement agencies conduct OIS investigations. There are substantial differences in terms of who actually conducts the investigation, the role the involved agency has in the process, and the extent to which OIS investigations are independent and transparent. There are some best practice models (the Peel Regional Police Service in Canada, the Milwaukee County [Wisconsin] consortium, and others) that are worthy of more extensive review and replication.
4. There are clear advantages and disadvantages with involving external agencies, partners, task forces, or others during OIS investigations. Ultimately, involving external investigators who are not representatives of or affiliated with the involved agency makes sense with respect to ensuring independence; however, investigator experience and expertise are sometimes compromised. Many MCCA law enforcement leaders agreed that investigative independence was an important goal. A few participants argued that independence was not particularly important, but the majority recognized that investigative independence includes both substantial costs and offers clear benefits.
5. There are certainly advantages to improving transparency during OIS investigations, although not at the expense of the overall integrity of the investigation. Some states have passed laws to ensure increased transparency, and some law enforcement agencies have expanded transparency on their own. Other states have passed laws that seemingly limit investigative transparency—through restrictions on the release of body camera footage as one example. Most of the MCCA law enforcement leaders agreed that transparency is critically important and can substantially contribute to improving community relationships in the future. Ultimately, most of the MCCA law enforcement leaders agreed that increased transparency was more important to the investigation, to their communities, and to their organizations than OIS investigative independence. A series of recommendations for ensuring OIS investigative independence and improving transparency is included in this report.

Introduction

Officer-involved shootings (OIS) can be and often are emotional and controversial events for law enforcement officers (Klinger 2010), victims, and communities. Recent OIS events in the United States have generated considerable discussion regarding the training of officers, use of force policies, and the internal and criminal investigations of these incidents (Oettmeier and Bratton 2017). Despite the recent attention, when considering all contacts between police and community members, officers use force or threats of force, in less than two percent of officer-civilian encounters (Hickman, Piquero, and Garner 2008). Police-community interactions where officers employ deadly force are even rarer when considered within the broader context of the extent of police-community member contacts. Recent reports show police having contact with one in four U.S. adults annually and making more than 11 million arrests each year (BJS 2011; FBI 2014; FBI 2015). Meanwhile, the *Washington Post* reports nearly a thousand fatal force incidents in 2015 and 2016 (991 and 963 deaths, respectively; it is also important to note that there are multiple databases that track officer-involved shootings, and each has strengths and weaknesses with respect to reliability and validity—see Zimring 2017). Despite the fact that OISs are fairly uncommon, every event should be investigated carefully and respectfully.

Law enforcement agencies, policymakers, and the public all have a stake in identifying opportunities to increase community trust and agency/officer legitimacy surrounding investigations of OIS incidents. Amid debates of modern-day policing practices, there is a growing demand for more neutral and unbiased reviews of OISs. As a result, OIS outcomes are often judged on the extent to which investigations are conducted independently from those officers and agencies that are directly involved (Savage 2013). This study examines how large law enforcement agencies in the United States and Canada currently investigate OISs and whether independence and increased transparency are apparent. These study findings provide a foundation for developing a set of best practices and recommendations for improving investigations of OISs in the future.



Literature Review

President's Task Force recommendation for independent investigations

In December 2014, weeks after a grand jury decided not to indict Darren Wilson for the shooting death of Michael Brown, then President Obama signed an executive order and formed an 11-member task force to identify key issues in law enforcement and to develop recommendations and solutions. The task force identified best practices and offered recommendations within the following six pillars: (1) building trust and legitimacy, (2) policy and oversight, (3) technology and social media, (4) community policing and crime reduction, (5) officer training and education, and (6) officer safety and wellness (President's Task Force on 21st Century Policing 2015, 1). The policy and oversight pillar included the following recommendation: "law enforcement agencies should have comprehensive policies on the use of force that include training, investigations, prosecutions, data collection, and information sharing. These policies must be clear, concise and openly available for public inspection" (President's Task Force on 21st Century Policing 2015, 20). One aspect of this recommendation is outlined in action item 2.2.2, which mandates that agencies' use of force policies should require "external and independent criminal investigations in cases of police use of force resulting in death, officer-involved shootings resulting in injury or death, or in-custody deaths" (President's Task Force on 21st Century Policing 2015, 21).

The International Association of Chiefs of Police (IACP) defines an officer-involved shooting as "a discharge of a service weapon by an officer during a hostile encounter or an accidental discharge, while on-duty or off-duty, irrespective of injuries to suspects, officers, or third parties" (IACP 2015). However, the manner in which agencies investigate OIS has become an important topic of conversation among law enforcement leaders, community members, and politicians. Moving toward an expectation of ensuring independent and external investigations can potentially improve perceived legitimacy and transparency of policing, particularly within racial and ethnic minority communities.

Variations of independence

While several recent officer-involved shootings (Ferguson, Missouri; North Charleston, South Carolina; and Baltimore, Maryland, among others) preceded President Obama's executive order, controversy stemming from police-involved shootings has existed for decades (Donner et al. 2017; Nelson 2001; Geller and Toch 1996). Historically, after an officer has been involved in a shooting, a range of responders (which, depending on the agency, can include homicide and forensic investigators, commanders, public information officers, district attorneys, medical examiners, union representatives, etc.) arrive at the scene to begin investigating the incident. While investigative teams vary by department, these teams have traditionally included a combination of officers from within the involved agency, including officers from Internal Affairs, Homicide units, special investigatory units, and other entities (IACP 2016). Larger agencies tend to use homicide detectives or special investigative teams to conduct criminal investigations of OISs. Smaller agencies, often more limited by resources, may ask other local or state agencies to lead these investigations (Katz 2015). Even departments that have developed special task forces for OIS criminal investigations are subjected to frequent threats to independence (e.g., the inclusion of investigatory officers from the same agency as the officer(s) involved in the event; Hammonds et al. 2016). Investigations of OISs have always been subject to debate. But a more specific challenge to police organizations is emerging—when criminal liability of an officer is to be decided, it is the "independence element" (and thus, the justness and fairness) of investigations that is increasingly being scrutinized (Savage 2013, 95).

While the IACP guide to OISs (IACP 2016) does not offer specific strategies for implementing independent criminal investigations, it does discuss how to increase transparency during investigations, such as by releasing details of the incident and identifying the officer(s) involved (with some exceptions, such as undercover officers or where there may be threats to officers' safety) in a timely manner. In addition, after investigations are completed, some agencies conduct a formal review of the findings, which can include personnel not involved in the incident, specialists, the prosecutor's office, and community members. This post-incident approach welcomes objective and external assessments of investigation findings. While this process may represent a step in the direction of achieving independent criminal investigations, it does not represent the level of change that groups like the American Civil Liberties Union and National Association for the Advancement of Colored People have advocated for in recent testimony (President's Task Force on 21st Century Policing, 2015).

Initiating external criminal investigations of OISs will involve significant procedural changes for most departments. The task force proposes two methods to accomplish and promote independence. One method for achieving objectiveness and independence in investigations is to form a new investigative entity comprising actors from different jurisdictions and across varying levels of law enforcement. A second method is to transfer this process and power to an external agency, either a local agency outside the jurisdiction or at a different level (e.g., a state investigative agency). By relying on external law enforcement agencies or officers not directly employed by the agency under review, these recommendations promote independence, potentially without hindering the thoroughness and accuracy of investigations. However, especially in cases that occur in large police departments with dedicated and experienced homicide investigators, an external agency may very well lack the expertise, experience, access, and resources to investigate these incidents.

In a more philosophical analysis of police complaint review processes in the United Kingdom and Ireland, Savage (2013) differentiated three grades or degrees of independence: (1) impartiality, (2) distance/separateness, and (3) objectivity. These varying degrees of independence were related, often overlapping concepts, but were not mutually exclusive categories. Impartiality was the most frequently adopted interpretation of independence, and impartiality emphasized neutrality. Agencies that cited this method of achieving independence mostly stressed their impartiality in deciding which narrative (i.e., the one from the officer or the complainant) was the most supported by the evidence. Distance/separateness is less about neutrality between two opposing parties and more about being separated from one party in particular (the police). Distance/separateness suggests not being affiliated with or led by law enforcement during the investigations, as well as not being accountable to a law enforcement organization (Savage 2013). This would potentially exclude state agencies or larger agencies from conducting investigations for smaller departments. Finally, objectivity as a conception of independence is more focused on facts and seeking the truth. Even among agencies that have an external review system in place, independence may be interpreted and implemented in different ways, both philosophically and in practice. As articulated by Savage (2013), the concept of independence is complex, subjective, and therefore often inconsistent across different states and jurisdictions.

Implications of independent OIS investigations

The thoroughness and accuracy of OIS investigations is critical in determining whether formal charges or other administrative processes will follow for the involved officer(s). Furthermore, transparency of the investigation and perceived legitimacy of the involved law enforcement agency will have implications for community member reactions, media coverage, and trust between agencies and their communities (IACP 2016; Savage 2013). Without transparent external criminal investigations, some civilians will continue to perceive these incidents as indicators of law enforcement bias that may affect their legitimacy (Katz 2015). Even more concerning is that these same community members are likely to question local prosecutors and the effectiveness of the broader criminal justice system. Importantly, among some countries that have created independent bodies to investigate OIS incidents, public perceptions of the criminal justice system are more favorable, even among racial and ethnic minorities, than in the United States (Katz 2015; Jackson et al. 2011).

Investigations of officer-involved shootings are high-stakes processes with countless implications for community members and officers.

While helpful in building trust and accountability, there are notable challenges presented with obtaining independence. Even independent investigators may be too “close” to police, in terms of relationships, reliance on resources, or support. Members of the media and the public have argued that there is an inherent bias in the process of these investigations, where law enforcement officers and prosecutors benefit from a strong working relationship with each other (Katz 2015). Just as agencies investigating their own officers raises some concerns, district attorney involvement in these investigations presents another question about independence (Hammonds et al. 2016). Another challenge exists where investigators are an entirely separate entity outside of the law enforcement organization in question and, as a result, may have limited resources and lack adequate and equivalent levels of expertise (Hammonds et al. 2016; Savage 2013, 104). Independent investigatory bodies may also have a small number of investigators covering a large geographical area. With constrained resources, it becomes increasingly important for investigators to maintain a cooperative relationship with law enforcement agencies, especially when they must rely on police expertise and services. Limited resources and expertise will not result in successful reform of these investigations and may displease the public and law enforcement alike.

Implementation of independence outside of the United States

Implementation of independent review processes in other countries, and suggestions by U.S. policymakers, can help to guide successful, independent investigatory bodies in the United States. In addition to the task force, the IACP released an OIS guide for law enforcement leaders that includes some recommendations, beginning with the preparation and training of officers and ending with post-incident considerations for addressing the media. This guide discusses external civilian oversight reviews of decisions; however, it is generally silent on the implementation of independent investigations (IACP 2016).

Meanwhile, the United Kingdom, Norway, and several Canadian provinces have developed legislation requiring independent (and often more transparent) investigations, and these models have successfully separated investigators and the involved police organizations and officers (Katz 2015; Savage 2013). For example, Ontario uses a civilian law enforcement agency to investigate questions of officer criminal liability; this implementation model of independence is successful because the investigatory unit also has entirely separate personnel and resources, including forensic specialists and a laboratory (Katz 2015; Special Investigations Unit 2018). Similar models, with varying degrees of independence from the police, are currently operating in Ireland, the United Kingdom, Norway, and other Canadian provinces (Seneviratne 2004). The practices in these countries may serve as foundational models for developing an independent and external review process for OISs in the United States. It is important to point out, however, that the annual number of OISs in the United States is substantially higher than in many other countries (Kuhns and Knuttson 2010), and the corresponding challenges of ensuring independence are therefore more challenging and costly.

Some common characteristics were observed among successful independent investigatory units. For example, Katz (2015) asserts that these units must have legislative power to investigate officers' potential criminal liability and must have the power to make recommendations to prosecutors. These units must operate in a way that appears to be independent to most external observers (i.e., be disassociated from any law enforcement agency). In addition, to conduct thorough and accurate investigations, these units must have unrestricted access to all police records and operate with a substantial and sufficient budget. While other countries have used civilian investigative bodies, the President's Task Force on 21st Century Policing (2015) acknowledges that the accuracy and thoroughness of these investigations and their findings is of primary concern. Therefore, the task force recommended that independence can be achieved through investigations by other law enforcement agencies, which undoubtedly have more experience and expertise regarding use of force incidents.

Implementation of independence in the United States

In the United States, a handful of states have made changes to existing laws regarding the investigations of OISs; however, these laws have achieved varying degrees of independence. Wisconsin's statute §175.47, enacted in April 2014, mandates that investigations be led by at least two investigators (typically former law enforcement officers who report to the attorney general), neither of whom can be employed by the agency in question. Similarly, a

Utah law (House Bill 361) requires that the investigating agency not be the agency where the involved officer is employed. OISs in Florida have also introduced an element of independence, although not uniform in protocol. Some agencies in Florida have the Florida Department of Law Enforcement (FDLE) investigate OISs, while other agencies investigate their own. A Florida senator proposed requiring the FDLE to investigate all such incidents, but this bill was withdrawn from consideration in March 2018. Colorado made changes to its investigation protocol, although not to achieve complete separateness from the involved agency. Effective since 2015, the Colorado law mandates that at least one outside agency assist in the implicated agency's investigation. Other states, including Georgia, Tennessee, and Minnesota, have taken steps towards increasing independence in OISs by turning these investigations over to state agencies (e.g., Georgia Bureau of Investigation, Tennessee Bureau of Investigation, Bureau of Criminal Apprehension), and it is possible that still others will follow. Currently, the Wisconsin model offers one American solution toward independence, and notably, it does so while ensuring a thorough and accurate investigation (Hammonds et al. 2016).

Preliminary review and search of MCCA agency policies

To broaden our understanding of OIS investigations in the United States, member agencies of the MCCA participated in an online survey designed to assess current OIS practices. Specifically, the MCCA was interested in examining whether recommendations of the task force on 21st century policing had affected OIS policies as of mid-2017.

Prior to examining the survey results and as a cross-check of some of the anticipated answers from the survey, a systematic preliminary search of MCCA agency websites and OIS policies was conducted. More specifically, the purpose of this preliminary review was to collect descriptive information on MCCA agencies and their respective use of force and OIS policies. MCCA agency website searches were completed between January and February 2017.

While the MCCA includes both American and Canadian members, Canadian agencies were excluded from this preliminary phase of the project because task force recommendations are directed to U.S. agencies only and Canada already has independent OIS investigations. However, the subsequent survey results will include Canadian agencies and practices. During the systematic website search, the following types of information were gathered:

1. Agency website address
2. Availability of use of force policies and OIS policies
3. Ease of access to these policies (how easy was it to locate policies on the website)
4. Document names and URLs

5. Presence and titles of OIS investigative units and entities
6. Indications of independence as a mentioned element of OIS investigations
7. Evidence of a written policy on investigative independence
8. Most recent year of OIS policy updates and whether any updates occurred after the task force report release in May 2015
9. Evidence of some direct response to the task force recommendations

Search strategies for policies and ease of access

The task force recommendations emphasize a need for comprehensive use of force policies and specify that these policies be “clear, concise, and openly available for public inspection” (President’s Task Force on 21st Century Policing 2015, 20). Based on the task force’s goal of promoting trust and legitimacy between law enforcement and the communities they serve, these policies should therefore be easily accessible on agency websites. To maintain transparency between law enforcement and the communities they serve, it is critical that use of force policies, particularly policies addressing OISs, be available to the public and easily accessible.

To measure and assess accessibility and transparency, keyword searches were conducted on 68 MCCA member agency websites.¹ MCCA agencies were then rated based on a subjective assessment of the how easy or difficult it was to locate this information. Agencies whose use of force policies were accessible online and easily retrieved received a rating of 1. Specifically, an agency was rated 1 if a link to the departmental directive or policy was found on the home page of the website or if the directive was found on the first page of the search results. In addition, agencies that displayed their use of force policy under site headings such as “transparency,” “data,” or “resources” were rated 1. MCCA member agency policies not located with these search strategies but that were found with subsequent searches received a rating of 2. Most of these directives were located under “about” or “information” headings. Finally, MCCA agencies without a use of force policy available on their site received a rating of 3.

Forty-three agencies (63 percent) had use of force and OIS policies that were easily found when employing these basic search strategies, while eight agency policies (12 percent) were found using additional search strategies. There were 17 agencies (25 percent) for which searches did not locate the department directive. Specific departments and ease-of-access ratings are summarized in table 1. It is important to note that these access ratings would likely change over time and potentially improve as websites and search processes improve.

1. The DeKalb County (Georgia) Police Department recently joined the MCCA but did not participate in this study. The following search terms were used: “department directives,” “department policies,” “rules and regulations,” “general orders,” “use of force,” “officer-involved shooting,” “deadly force response,” and “response to resistance.” It is important to note that these initial search process results are dependent on the search engine or protocol operating on each respective website. Therefore, these preliminary results do not fully reflect the value that each department places on the importance of OIS policies and procedures. Further, some departments may have justifiable reasons for limiting public distribution of some operating policies and procedures. Regardless, these results can potentially help some departments improve communication and transparency regarding OIS investigations.

Table 1. Ease of access to OIS policies (n=68)

Rating		Agency	
Group 1. Policy was easily found (n=43)	1.	Albuquerque, NM	22. Milwaukee, WI
	2.	Atlanta, GA	23. Minneapolis, MN
	3.	Aurora, CO	24. Montgomery County, MD
	4.	Baltimore, MD	25. New Orleans, LA
	5.	Baltimore County, MD	26. Oakland, CA
	6.	Boston, MA	27. Oklahoma City, OK
	7.	Charlotte-Mecklenburg, NC	28. Omaha, NE
	8.	Chicago, IL	29. Philadelphia, PA
	9.	Cincinnati, OH	30. Phoenix, AZ
	10.	Cleveland, OH	31. Portland, OR
	11.	Dallas, TX	32. Prince George's County, MD
	12.	Denver, CO	33. Sacramento, CA
	13.	Fairfax County, VA	34. Salt Lake City, UT
	14.	Jacksonville, FL	35. San Antonio, TX
	15.	Kansas City, MO	36. San Diego, CA
	16.	Las Vegas Metropolitan, NV	37. San Francisco, CA
	17.	Long Beach, CA	38. San Jose, CA
	18.	Los Angeles County, CA	39. Seattle, WA
	19.	Los Angeles, CA	40. Tucson, AZ
	20.	Louisville Metropolitan, KY	41. Virginia Beach, VA
	21.	Mesa, AZ	42. Washington, DC
Group 2. Policy was found with additional searches (n=8)			43. Wichita, KS
	1.	Austin, TX	5. Honolulu, HI
	2.	Columbus, OH	6. Newark, NJ
	3.	Fort Worth, TX	7. New York City, NY
Group 3. Policy was not found on agency website (n=17)	4.	Fresno, CA	8. Tulsa, OK
	1.	Arlington, TX	8. Miami-Dade, FL
	2.	Buffalo, NY	9. Miami, FL
	3.	Detroit, MI	10. Nashville, TN
	4.	El Paso, TX	11. Nassau County, NY
	5.	Houston, TX	12. Orlando, FL
	6.	Indianapolis, IN	13. Pittsburgh, PA
	7.	Memphis, TN	14. Raleigh, NC
			15. St. Louis, MO
			16. Suffolk County, NY
			17. Tampa, FL

In accordance with the task force's recommendation that policies be available for public inspection, agencies should at minimum include use of force policies on department websites. For those agencies that already make their policies or directives publicly available, small changes could positively affect how quickly and easily these documents could be found by members of the public, media, and others. Further, including these policies on primary pages or under clearly defined subheadings is also encouraged. In addition, making policies easily identifiable could simply mean adopting a uniform set of names or titles for these documents. Searches of each department's site found that policies regarding use of force and OIS policies had considerable variation in key words chosen for document titles.

Recent changes and responses to task force

At the same time use of force and OIS policies were searched and located, changes to these policies were recorded by year. Specifically, we recorded whether departments had updated their policies since the task force recommendations were released in May 2015, and whether departments explicitly updated these policies in response to this document. Most of the policies had been updated recently (three in 2017, 17 in 2016, 10 in 2015, and two where the dates were unclear). Of the 51 agencies with OIS policies available for public inspection, 31 (61 percent) had made changes since the task force report was released in May 2015. Of these 31 agencies, five departments (16 percent) clarified that they had have updated their policies explicitly in response to the task force recommendations.² Agencies with policy changes that occurred since the task force report was released and specifically in response to the task force recommendations are displayed in table 2. It is worth noting, of course, that we could not ascertain exactly what changes had occurred because we did not have the original documents for purposes of comparison.

2. The criterion for inclusion in this group was whether specific language was used by the department (e.g., "21st century policing", "policing initiative", or "presidential initiative") within a retrievable document or, more generally, on a website heading.

Table 2. Recent policy changes and responses to task force recommendations (n=31)

Date and motivation for policy change		Agency	
Departments with recent OIS policy changes (after May 2015)	1.	Albuquerque, NM	17. Mesa, AZ
	2.	Aurora, CO	18. Minneapolis, MN
	3.	Austin, TX	19. Montgomery County, MD
	4.	Baltimore, MD	20. New Orleans, LA
	5.	Baltimore County, MD	21. New York City, NY
	6.	Charlotte-Mecklenburg, NC	22. Oklahoma City, OK
	7.	Chicago, IL	23. Philadelphia, PA
	8.	Cincinnati, OH	24. Phoenix, AZ
	9.	Denver, CO	25. Prince George's County, MD
	10.	Fairfax County, VA	26. Salt Lake City, UT
	11.	Fort Worth, TX	27. San Francisco, CA
	12.	Fresno, CA	28. San Jose, CA
	13.	Kansas City, MO	29. Seattle, WA
	14.	Las Vegas Metropolitan, NV	30. Virginia Beach, VA
	15.	Long Beach, CA	31. Wichita, KS
	16.	Louisville Metropolitan, KY	
Departments with changes specifically noted to be in response to the task force recommendations	1.	Charlotte-Mecklenburg, NC	4. Philadelphia, PA
	2.	Louisville Metropolitan, KY	5. San Jose, CA
	3.	Mesa, AZ	

Language of independence or policy on independent investigations

One primary objective of this project was to summarize current OIS practices among MCCA member agencies. Specifically, the MCCA is assessing the implementation of recommendation 2.2.2 of the task force report, which urges police agencies to mandate external and independent criminal investigations of police use of force incidents resulting in injury or death.

Departmental OIS policies and websites were searched for language indicative of independent investigation practices, and those departments with current practices mentioning principles of independence were noted.³ In addition, each agency's OIS policy was searched to identify the primary investigative unit or entity that handled OIS incidents.

3. The search terms were "independence" OR "independent investigation" OR "outside investigation" OR "external investigation".

Of the 51 MCCA member agency policies available online, 13 departments (25 percent) had a policy mentioning an independent investigation of OISs.⁴ To be clear, a mention of the word “independent” or “external” in a policy does not guarantee that the agency practices independence during investigations or involves an external agency in the process. This simply records which agencies mention these words in their policy documents.

A more comprehensive search of each agency’s directives resulted in a list of the investigative entities charged with investigating OISs. Among the 13 agencies with policies mentioning independence, investigative entities appear (at least by name) to be special investigatory teams created for this purpose. Nearly every agency had multiple teams, entities, or bodies that were responsible for the criminal investigation of OISs. However, there are nearly as many names of these entities (e.g., Critical Incident Response Team, Officer Involved Shooting Investigation Team, Firearms Discharge Investigation Team) as there are agencies. If departments are interested in expanding the public’s understanding of how OIS events are investigated, encouraging consistency and uniformity in naming OIS response teams may also be helpful for those who are not familiar with the decentralized nature of law enforcement in the United States. It was unclear exactly how these special teams and investigatory bodies are formed (i.e., which individuals are involved in external investigations). Therefore, another recommendation is to include this information within OIS policies. For a full list of these investigative entity names please refer to appendix A.

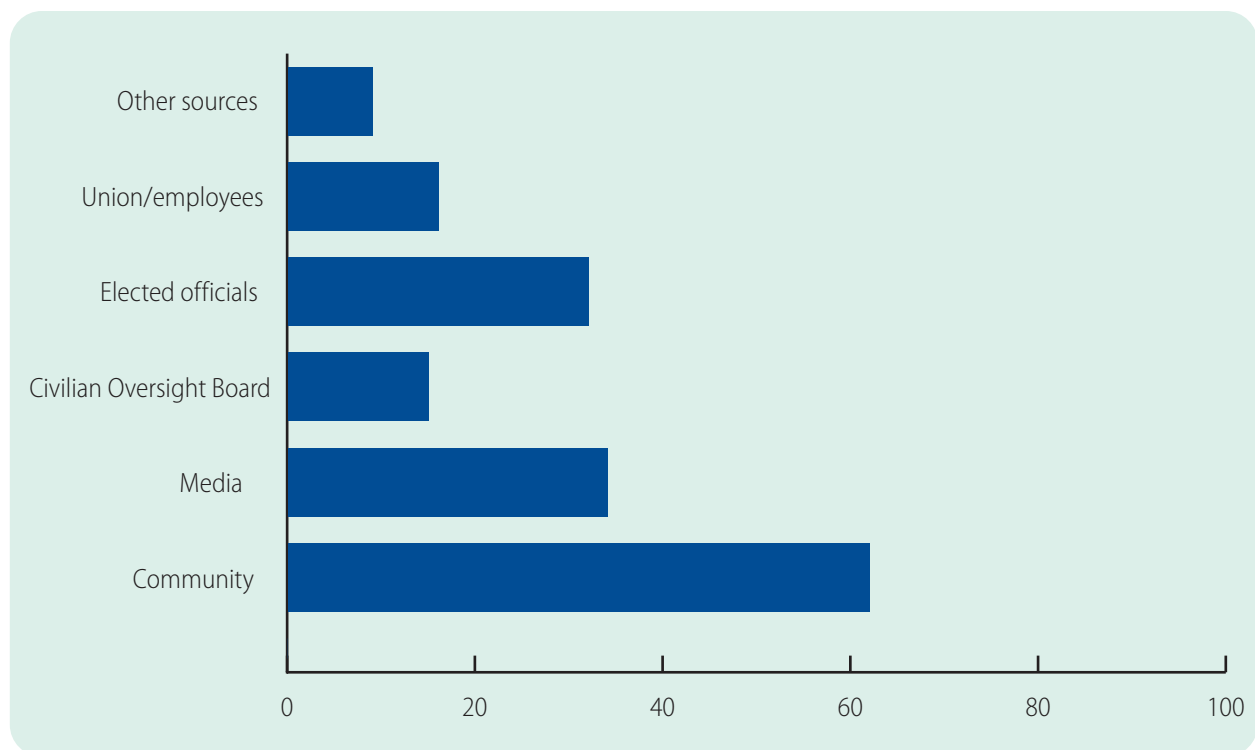
4. The 13 agencies were Baltimore, Boston, Chicago, Fairfax County, Fresno, Jacksonville Sheriff’s Department, Louisville Metropolitan, Mesa, New Orleans, Oakland, Salt Lake City, San Diego, and San Francisco.

Survey Results of MCCA Officer-Involved Shooting Practices

To broaden our understanding of the status of OIS investigations, independence, and transparency, MCCA agencies were invited to participate in an online survey. The survey explored questions about whether MCCA agencies had modified their OIS practices and policies, about whether such changes occurred since the task force report was released in May 2015, about how investigations occur and assessing the extent of independence, and exploring whether agencies are moving towards transparency in their OIS responses. Eighty-one agencies completed the survey, which was open between February and March 2017.⁵ The survey instrument is included as appendix B.

Sixty-two percent of responding MCCA agencies reported receiving some community pressure to change their agency's approach to OIS investigations, 42 percent perceived some media pressure to facilitate changes, and 40 percent reported pressure from local officials. Fewer agencies were encouraged by civilian oversight boards (19 percent) or unions and employees (20 percent) to make such changes. Just over one-third of agencies (37 percent) indicated that they initiated some changes following the release of the task force report (see figure 1). Overall, two-thirds (67 percent) of the agencies had made changes to their OIS investigation policies in 2015 and 2016, and another 22 percent indicated that proposed changes were in progress but not yet fully adopted and implemented.

Figure 1. Sources of pressure to change OIS practices and policies (n=81)

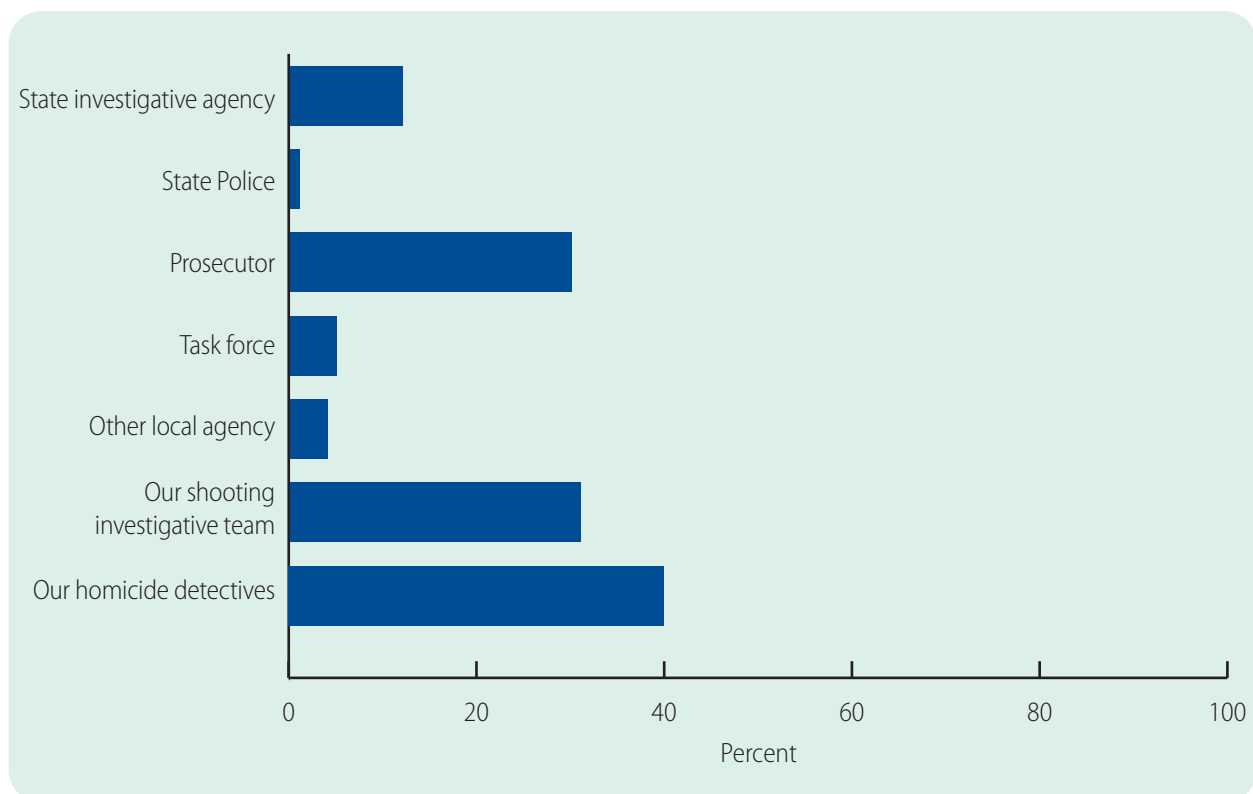


5. Three additional agencies responded, in part, but did not self-identify, and one agency responded twice. These four cases were removed from some of these analyses.

Independence of OIS investigations is a function of who or what individuals, agencies, or task forces handle OIS investigations. Most of the responding MCCA agencies reported that criminal investigations associated with OISs are most often conducted by homicide detectives (49 percent), followed by an internal shooting investigation team (38 percent), the prosecutor's office (37 percent), or another state investigative agency (15 percent). Fewer agencies reported that another local agency (5 percent) or a combined task force (6 percent) investigated these events (see figure 2).

Most agencies reported that the prosecutor's office (75 percent) made final decisions on filing criminal charges, although some agencies (7 percent) were directly involved and made the decision collaboratively with the prosecutor. Two agencies (2 percent) reported making those decisions independent of the prosecutor's office. A few other agencies reported having some civilian oversight committee involvement in these final decisions.

Figure 2. Who conducts criminal investigations of OIS? (n=81)



Current practices—External and internal involvement in OIS investigations

Forty agencies (49 percent) indicated that they conduct their own OIS investigations and do not include external agencies in the process at all. Among the other 41 agencies that reported involving some external investigators, one-third (14 agencies) indicated that their agency was also involved in the investigation at some level, and some agencies were involved with both investigating and processing the crime scene (see figure 3).

Internally, most OIS investigations were conducted by an Internal Affairs division or unit (67 percent) or by an internal task force team (16 percent). Civilian review board involvement was rare (2 percent; see figure 4 on p. 16).

Figure 3. Role of an external agency conducting an OIS investigation of our agency (n=81)

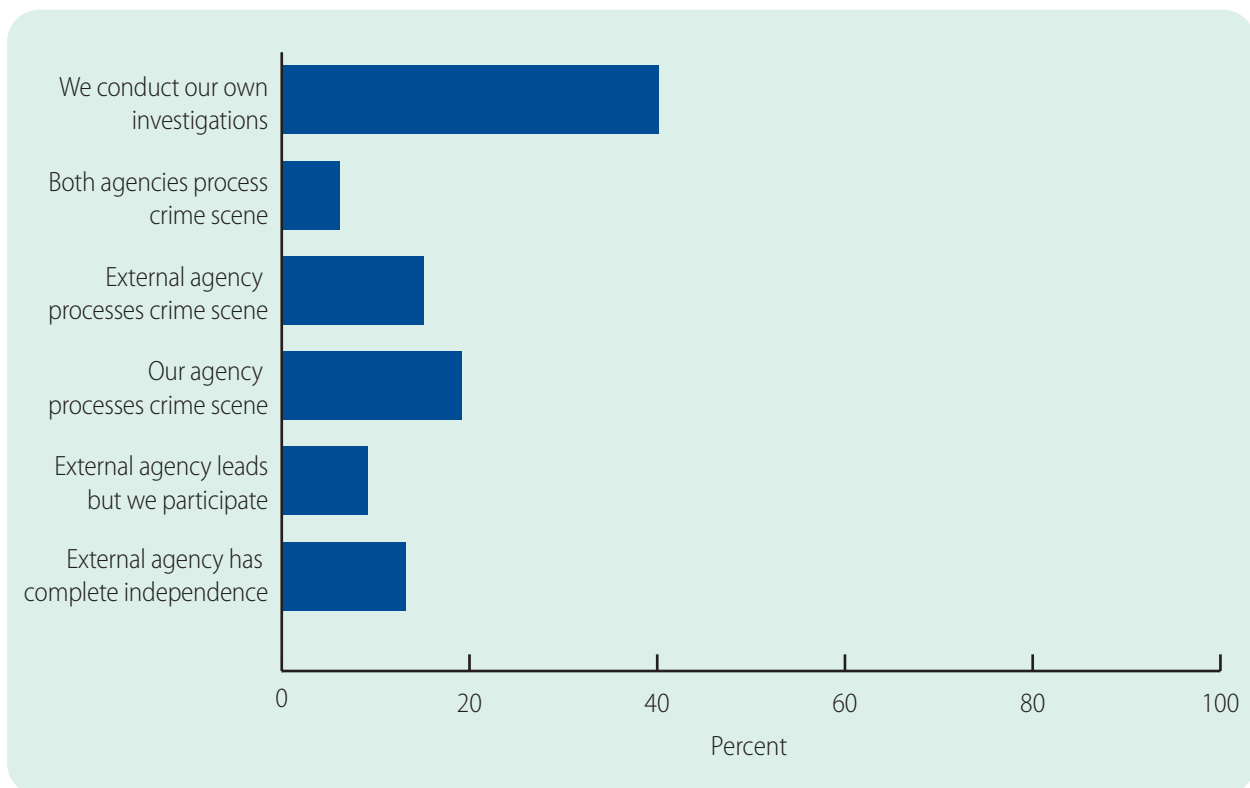
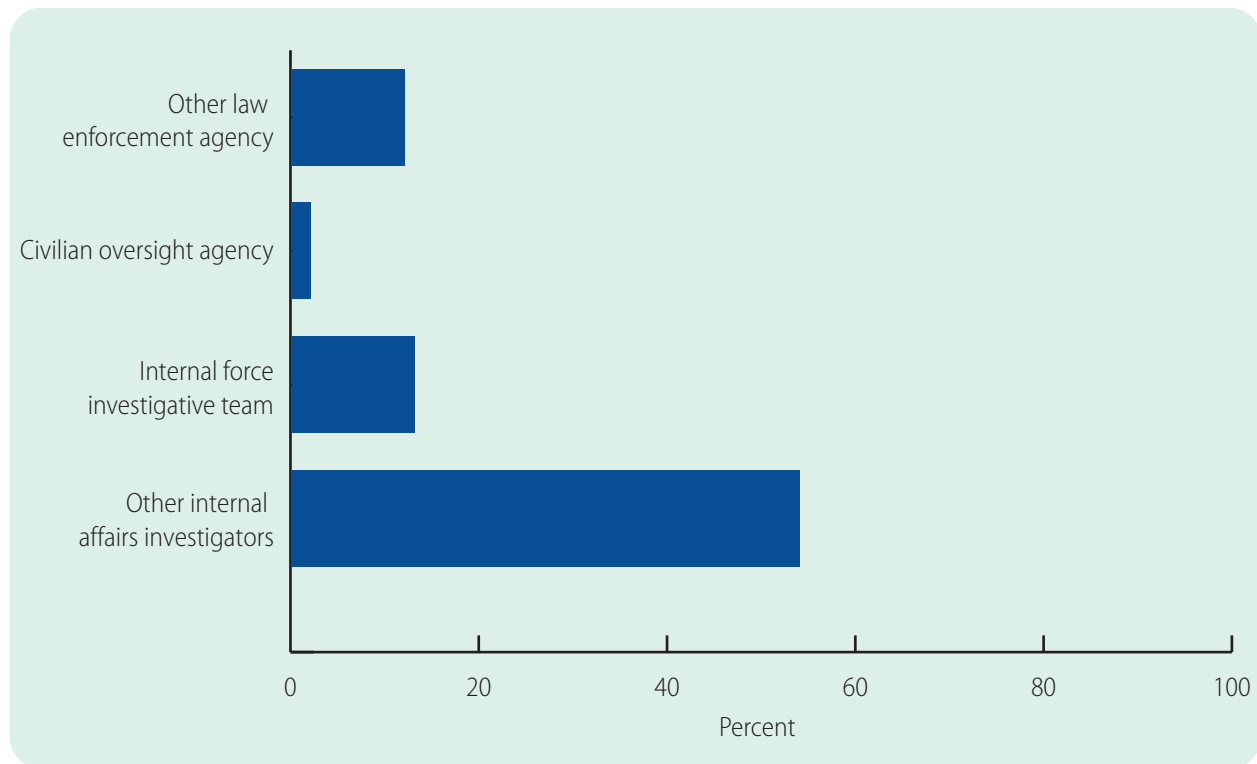
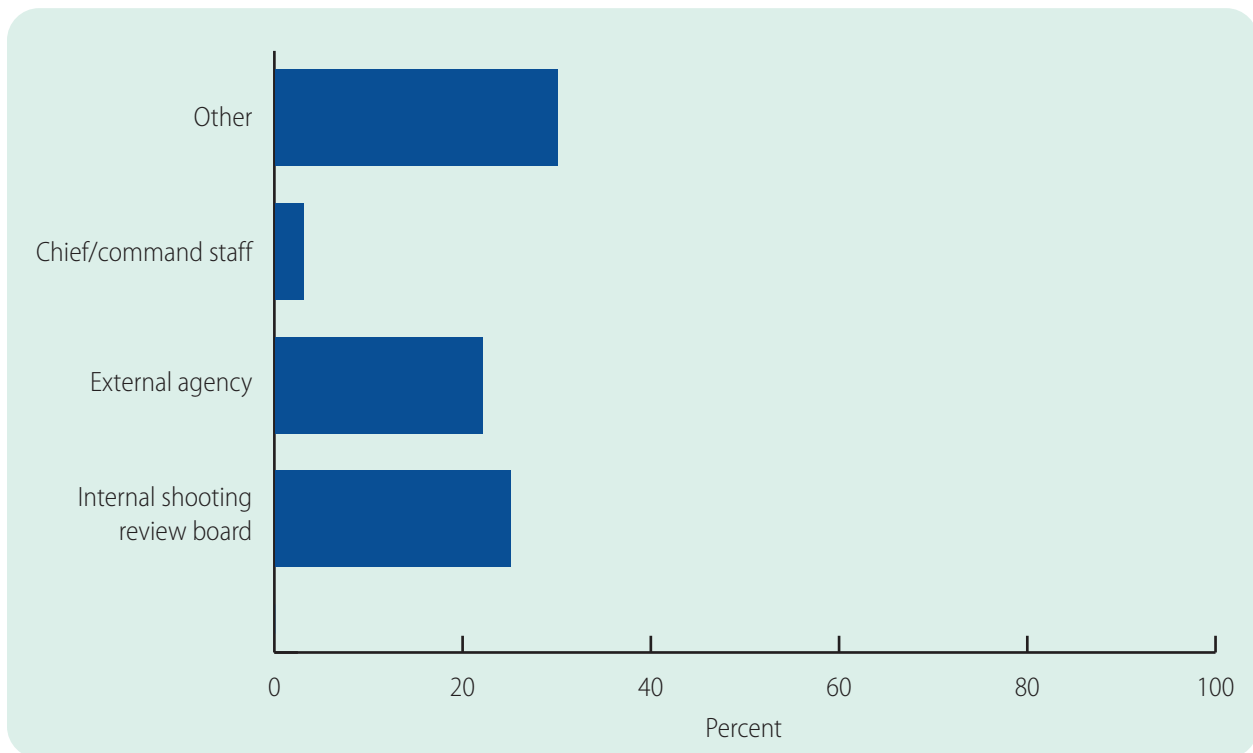


Figure 4. Who conducts the internal OIS investigation? (n=81)

Following an OIS, a determination regarding whether the event was consistent with agency policy was determined differently across agencies, by an Internal Shooting Review Board (31 percent), an external agency (28 percent), by a wide range of other decision-makers or units (such as an Office of Professional Standards—sometimes but not always akin to an Internal Affairs Division—or a Firearms Board/Committee, a Standing Review Board, a Chief’s Advisory Board, an Inspectional Service Bureau, more than one person/entity, etc.), or in a few cases by a the chief or command staff (4 percent; see figure 5 on p. 17).

Figure 5. Who determines whether an OIS was consistent with agency policy? (n=81)

An additional question inquired about who would make a final decision regarding officer discipline if necessary. For 89 percent of the agencies (72 agencies), an internal shooting review board decided on disciplinary decisions that followed OIS investigations. In some other cases, decisions were made by a combination of internal and external participants. Only one agency indicated that an external agency would make such determinations.⁶

Advantages and disadvantages of internal and external OIS investigations

In addition to understanding agency involvement in OIS investigations, the survey solicited a more comprehensive perspective of potential challenges to moving towards independence. Respondents from participating MCCA agencies reported what they perceived as the advantages and disadvantages of internally conducted (by their own agency) and externally conducted (independent of their agency) OIS investigations. These sets of questions were open-ended and therefore yielded a broader range of responses. A content analysis of these responses was completed and the results are discussed in the following sections.

6. Many departments conduct both a criminal investigation to assess whether any laws were violated and an internal policy review to determine whether the officer(s) adhered to departmental policies and procedures. Given the large number of departments in the United States, many conduct the internal policy reviews differently.

Internally conducted OIS investigations

Agency responses regarding the advantages of conducting OIS investigations internally most frequently included the terms “knowledge,” “expertise,” and “resources.” Regarding “knowledge,” there were more than 30 responses suggesting that internal investigations benefit from training and understanding of the investigative process. In addition, knowledge of departmental OIS policies and procedures was often cited as an advantage of internal investigations. MCCA agency respondents listed expertise as an advantage of internal investigations nearly as frequently as knowledge of policy and procedures. Specifically, agencies frequently reported that internal investigators have unmatched experience and skill in responding to shooting investigations and the case management of OISs as well as subject matter expertise throughout an investigation. The most frequently noted advantage of internally conducted OIS investigations was resources. Further, nearly half of the responding agencies provided comments on the timeliness of investigations; ease of access to information, data, and evidence; access to facilities (e.g., forensics lab); and access to officers. Other advantages offered by respondents included community trust and cooperation, union relationships, credibility of the investigations, reduced anxiety for involved officers, familiarity with geographical areas, and “familiarity with our jobs” (e.g., “This is what we do every day”).

In contrast, agencies discussed numerous disadvantages associated with internally conducted OIS investigations. Summarizing these disadvantages yielded two common and related themes: (1) reduced public opinion and trust and (2) perceptions of bias. Nearly half of the respondents stated that internally conducted investigations can generate negative public opinion. Respondents explained that these types of investigations often give rise to increased public scrutiny and criticism of agencies as well as a lack of confidence and trust in the investigative process or the involved officers.

About 60 percent of MCCA responding agencies explained that internally conducted investigations can suffer from a public perception of bias or subjectivity. A few agencies stated that internal investigations might produce a perceived or actual bias between investigators and the involved officers because of personal or professional relationships (“the perception that we are policing ourselves, and that we can be trusted to do that”). Other disadvantages included a lack of transparency, ongoing criticism by the media, lack of independence and oversight, concerns with ensuring legitimacy in the process, possible contamination or interference, managing union interference and involvement, and monetary or personnel costs for agencies.

Two agencies responded with “none” when asked about disadvantages of internally conducted OIS investigations.

Externally conducted OIS investigations

In a separate open-ended survey question, agencies discussed what they believed were the advantages and disadvantages of external or independently conducted OIS investigations. As expected, agency comments on the advantages of external and independent investigations closely mirrored the responses given for the disadvantages of internally conducted investigations. Nearly all agencies felt that external or independent investigations help to increase transparency and accountability, improve public trust in policing and public confidence in the outcomes of investigations, reduce suspicion or criticism of police by media or activist groups, and eliminate actual or perceived bias in the investigations. Other advantages offered were resource-related (e.g., reducing costs and relieving agency detectives from these investigations).

Agency remarks on the disadvantages of external investigations also repeated themes discussed earlier in the section on advantages of internally conducted OIS investigations. A majority of responding agencies believe that external investigators lack the knowledge, skills, training, expertise, experience, familiarity with policy and procedure, and resources of internal investigators and their investigations. The most frequently cited disadvantage of external investigators managing these incidents was a delayed response to the crime scene and delays throughout the duration of an investigation (due to less qualified personnel, lower levels of experience and training, less cooperation from officers, and limited access to resources and facilities).

Beyond these more general disadvantages, agencies frequently mentioned skepticism or lack of trust between investigators and involved officers, less control over processes and information, logistical complexity, and cultural barriers. Other comments included limited police union trust, officer morale concerns, fear and anxiety among involved officers, unresponsiveness to community concerns, lack of information released to the public, lack of objectivity (political influences or pressure), and lack of thoroughness in investigating. One agency remarked that external investigations remain problematic when the external investigative entity is also a law enforcement organization (the perception of “policing our own” persists). Given these agency responses, clearly the benefits derived from externally conducted investigations (i.e., transparency, reduced bias, and increased public trust) are perceived by law enforcement to be at odds with the advantages of internally conducted investigations (i.e., familiarity with policies and procedures, training, knowledge and experience, and access and resources).

Informing the public and victims and families regarding OIS investigation status

The public release of information following an OIS investigation is often decided and managed by the department (in 64 percent of agencies) but is sometimes handled by an external investigative agency (15 percent), by the prosecutor (4 percent), or through some other arrangement (multiple agencies, agency and prosecutor decide, etc.). Many agencies indicated a willingness to release video (if available), although the timing of the release varied considerably (e.g., after charges are filed, at trial, after the investigation can no longer be compromised, or on a case-by-case basis [44 percent]). Only six agencies indicated that they would never release OIS video to the public. Some agencies (16 percent) reported that they would always share video evidence with involved families and victims prior to public release. More agencies (33 percent) indicated that they never share the video with families. However, nearly half of the agencies reported that this decision is made on a case-by-case basis (49 percent). Further, there are some state legislatures that have either mandated (e.g., Ohio) or severely limited (e.g., North Carolina, South Carolina, and others) the public release of law enforcement in-car and body camera videos, in which case the departmental discretion is regulated or restricted by state laws.



Summary of Roundtable Focus Group Discussions

Finally, to solicit additional information from law enforcement leaders, a focus group meeting occurred in August 2017 in Louisville, Kentucky. The primary purposes of the meeting were to (1) discuss the preliminary draft of the report, which included a literature review, the systematic review of MCCA agency websites, and the online survey results and (2) solicit input from agency representatives regarding how they conduct OIS investigations and what works effectively in their organizations and communities. Specifically, the discussions focused on the specific mechanics of how each agency conducts their OIS investigations, barriers to effective OIS investigations, OIS investigation training and policy recommendations, and indicators and extent of investigative independence and transparency. The meeting included representatives from 19 MCCA agencies.⁷ These agencies were included based on their responses to the online survey; specifically, we invited agencies that relied on varied investigative models or practices when responding to OISs. In other words, some relied completely on independent investigative processes, some were completely non-independent, and others had both internal and external investigative processes or used varied hybrid approaches. These agencies typically responded to at least a few and as many as 100 OIS incidents each year.

Common barriers to effective OIS investigations

Many of the focus group comments mirrored the narrative comments from the online survey. Specifically, organizational capacity, expenses, and resources were common challenges to effective investigations. Many agencies discussed their concerns with external investigations, specifically with respect to expertise, timeliness and response time (specifically, the Ferguson concerns of having the deceased lying outside on the street for several hours), cultural and organizational knowledge, trust between internal and external investigators, and organizational transparency (including between organizations and between the organizations and the public).

Depending on the agency, union influences presented additional challenges to OIS investigations. Again, depending on the agency and community, differences in policies (e.g., body-worn cameras) could impact OIS investigations. To clarify this point, one participating agency (Indianapolis Police Department) reported that their officers did not currently have body-worn cameras and that the agency had very few in-car cameras. Other participating agencies reported that all officers had body-worn cameras. Further, some law enforcement agencies were limited by state laws or local prosecutors with respect to the public release of videos, while others were required to release body-worn camera videos associated with an OIS investigation within a specified time frame. The state of Ohio, as one example, mandates that all in-car camera videos be available immediately as matters of public record. Still other agencies had installed both body-worn and in-car cameras but maintained complete case-by-case discretion regarding video release decisions and schedules. Many community members are unaware of the impact of state laws and therefore hold the agency or the chief responsible for the perceived lack of transparency.

7. The participating agencies included Charlotte-Mecklenburg (NC), Chicago (IL), Cincinnati (OH), Columbus (OH), Dallas (TX), Denver (CO), Houston (TX), Indianapolis (IN), Las Vegas Metro (NV), Los Angeles (CA), Louisville Metro (KY), Memphis (TN), Mesa (AZ), Milwaukee (WI), Montgomery County (MD), Oakland (CA), Philadelphia (PA), and San Jose (CA) police departments from the United States and the Peel Regional Police Service from Canada.

Various forms of external agency involvement in OIS investigations

There was a considerable variety of opinions about the usefulness of involving external agencies. Most agencies conduct both an internal (administrative) and an external (criminal) investigation simultaneously. Often local laws dictate that these investigations occur independently of one another. Many agencies also have multiple entities involved in OIS investigations (homicide units, internal affairs, prosecutor's office, civilian review boards, external agencies, etc.). Focus group participants indicated that involving external investigators creates distance and independence for the involved agency and can help reduce community pressures regarding the timely release of information—and ultimately when making difficult decisions about controversial OIS cases.

Regardless, there were considerable differences in approaches with respect to external agency involvement and what that involvement entails. For example, during OIS investigations, walkthrough interviews of the involved officers at the scene are common, but not all agencies used this practice. Collecting on-scene verbal statements from involved officers is common, but again not always a part of the protocol. Lawyers for the officers are sometimes present during questioning—but not always. In some agencies, attorneys are involved immediately; in other agencies officers provide written statements and conduct walkthroughs immediately without a lawyer present. Finally, at least one agency requires its officers who are involved in an OIS to “take a couple days” before being interviewed at all (which arguably could severely compromise transparency or, at minimum, appear to do so). External investigators, of course, would need to fully understand the organizational complexities, policies, practices, and culture prior to initiating an effective OIS investigation, and that process can take some time and impact transparency and independence of the investigative process. In some cases, organizational culture and leadership may further limit access, transparency, and investigative independence (Paoline and Terrill 2014).

Recommended training for OIS investigators

Some of the focus group discussions centered on training considerations and recommendations. When identifying potential OIS investigators, many agencies recommended and generally started with their best homicide detectives. There are both pros and cons with using this approach. Certainly, the more capable homicide detectives will increase the quality of the investigative work. On the other hand, OIS investigators may or may not remain assigned to the homicide unit or division depending on the agency. Maintaining an assignment with the homicide unit limits the appearance of independence for an OIS investigator or investigation (this topic is discussed further beginning on page 23). Other training suggestions included video examination techniques (forensic breakdown and diagnosis of videos), interviewing and interrogation skills, and social media training (for experienced detectives who may be skilled investigators but are less familiar with current and evolving technologies). Some states, including California, have specific classes devoted to OIS investigations. The Federal Law Enforcement Training Center also offers these courses.

Other post-investigation recommendations included using completed OIS investigations as case studies to expand training internally. For example, body-worn camera footage is sometimes used for subsequent OIS training and to develop firearms simulator scenarios. Random checks of body-worn camera video footage may also be useful for identifying tactical mistakes.

In addition, subject matter experts (SME) can examine OIS investigations and consider ways to improve. Some agencies routinely conduct a “hot wash” review of all OISs with commanders and executives. Law enforcement leaders recommended de-escalation training and training officers on the sanctity of life and hiring officers who place a high value on the lives of others. Training officers, supervisors, and possibly dispatchers to slow down potentially risky events that could result in an OIS was a considered a priority. In short, proactive steps designed to limit the likelihood of OISs in the future is an important recommendation that merits broader attention. A prior report based on a MCCA project on the use of firearms against law enforcement officers may provide some insights on potentially risky OIS events (Kuhns et al. 2016). It would be useful for agencies to carefully and systematically consider which kinds of calls for service and other events are most likely to escalate into OISs and proactively identify methods, processes, and procedures for de-escalating these events before the use of firearms becomes necessary.

Indicators of OIS investigative independence

The focus group meeting included some extended conversation regarding the value of independence and transparency (discussed in the sections that follow) during an OIS investigation. Again, the levels of investigative independence varied considerably among the participating agencies, and the range of possible indicators of independence can be numerous. For example, independence is based to some degree on the agency’s level of involvement in the investigation. Arguably, less agency involvement is indicative of increased investigative independence. However, investigative independence extends beyond the level of agency involvement in the actual investigation. For example, the involvement of the prosecutor or district attorney may or may not extend investigative independence. Some law enforcement agencies work directly with prosecutor’s officers routinely (and retired officers work in the prosecutor’s office in some communities and vice versa). Further, investigative independence can be related to the role and level of discretion that an external agency has during the investigation. Some external agencies offer recommendations to the involved organization and executive leader rather than making actual decisions.

Community involvement in reviewing OIS investigations and findings offers another potential indicator of independence. Agencies that have active and empowered citizen⁸ review boards (Walker 2000), which investigate independently or review findings after the internal or external investigation is completed, arguably offer an additional level of independence (and transparency, discussed in the sections that follow). However, the process for appointing community members to review boards may limit the appearance of independence and ultimately the capability of the board. During the focus group meeting, some agencies reported that their citizen review board lacked diversity, while others indicated that diversity (not expertise or capability) influenced appointment processes. Further, the findings from citizen review board cases over time (do they always find in favor of the department?), level of authority (subpoena powers, ability to overturn findings, etc.) and the external reporting process (are the findings made public or only provided to the department?) can all impact transparency, independence, and effectiveness (Walker 2000; IACP 2000).

For agencies that are involved in OIS investigations, ensuring some level of independence often requires parallel but separate investigations for policy rather than criminal outcomes or investigation by other units that are outside of normal investigative units (Internal Affairs, Homicide, etc.). As suggested by some of the focus group participants, physical and functional separation of an OIS investigation team from the agency or other investigative units may

8. This report uses “citizen” to refer to all individuals in a city or town who are not sworn law enforcement officers or government officials. It should not be understood to refer only to U.S. citizens.

be an important step toward increased independence. Ultimately, independence can impact an agency's relationship to the community, and communities that lack investigative independence following an OIS may compromise that relationship in the future.

Varying levels of independence in investigations

In Canada, fully independent OIS investigations are standard practice. In 1989, the Ontario Provincial Government created an external agency and developed and implemented a fully independent investigative process that ensures external investigation and oversight of all OISs (although they have had only 30 from 2007 to 2017) that occur in the Peel Regional Police Service (and other Canadian agencies). There is also a fully independent Citizen's Complaint Bureau. This level of commitment allows for complete independence within the OIS investigative process. The Peel Regional Police Service reports some concerns with timeliness and transparency during the investigation, but the extent of independence is clear and generally indisputable.

Peel Region

The Peel Regional Police Service has several levels of civilian oversight established by the Police Services Act in 1990. The Police Services Act covers all police agencies in Ontario. The act establishes policing standards and four levels of civilian oversight and review.

1. Police Services Board

- Determines, after consultation with the chief of police, objectives and priorities with respect to police services within the municipalities
- Establishes policies for the effective management of the police service
- Recruits and appoints the chief and deputy (or deputies) of police and annually determines their remuneration and working conditions
- Establishes guidelines for the administration of the public complaints system and receives quarterly reports on the subject
- Negotiates collective agreement
- Approves the capital and operating budget (Police Services Board 2017)

2. Special Investigation Unit

- The mandate of the SIU is to investigate incidents of police actions resulting in serious injury, death, or allegations of sexual assault.
- Incidents that fall within this mandate must be reported to the SIU by the police service involved and may be reported by the complainant or any other person.
- The objective of every SIU investigation is to determine whether there is evidence of criminal wrongdoing on the part of the police. It is not to determine whether the involved officer(s) may have committed some lesser offence, such as the breach of a provincial law or professional misconduct under the code of conduct of police officers.

3. Office of Independent Review Director

- The Office of the Independent Police Review Director (OIPRD) is responsible for receiving, managing, and overseeing all public complaints about the police in Ontario.
- The OIPRD accepts complaints about the conduct of a police officer or the policies and services of a police department.

- Conduct complaints are about how a police officer behaves. Policies of a police department are the rules and standards that guide an officer in delivering police services. Services are how effectively and efficiently a particular department performs its duties.
- The OIPRD has the power to conduct systemic reviews. A systemic review goes beyond the immediate issues raised by a given complaint and looks at the underlying causes to determine whether an organization's practices comply with its underlying legal and policy framework and—more importantly—whether that framework can be improved to prevent such issues from arising in the future.
- A systemic review is generally not about individuals. Its purpose is not to assign individual fault but to determine whether systemic failings have occurred, to make recommendations to address those failings, and to help restore and enhance public confidence in police and policing.

4. Ontario Police Commission performs adjudication process

- The Ontario Civilian Police Commission (OCPD) is an independent oversight agency tasked with ensuring that adequate and effective policing services are provided in a fair and accountable manner under the Ontario Police Services Act.
 - Hears appeals of police disciplinary decisions
 - Adjudicates disputes between municipal councils and police service boards involving budget matters
 - Conducts hearings into requests for the reduction, abolition, creation, or amalgamation of police services
 - Conducts investigations and inquiries into the conduct of chiefs of police, police officers, and members of police services boards
 - Determines the status of police service members
 - Administers general enforcement relating to the adequacy and effectiveness of policing services (Stubblings 2017)

Ontario recently commissioned an Independent Police Oversight Review by Justice Michael H. Tulloch, a judge who serves on the Ontario Court of Appeal. Justice Tulloch has made more than 70 recommendations for change in the Ontario civilian oversight processes. These recommendations are under consideration by the Ontario Attorney General.

Most agencies in the United States have adopted lesser forms of independence when conducting OIS investigations, and generally the level of independence in the U.S. law enforcement community varies considerably. For example, the Indianapolis Police Department conducts all of their investigations internally, although the Federal Bureau of Investigation (FBI) may become involved in controversial cases (this is the case in most states—the FBI can and sometimes does review OIS cases, particularly those involving potential violations of civil rights). The Charlotte-Mecklenburg Police Department also conducts their investigations internally; however, community members can request a concurrent external investigation from the State Bureau of Investigation. The Memphis Police Department conducts their own investigations simultaneously with the Tennessee Bureau of Investigation, and the Denver Police Department conducts an internal investigation, but the agency is legally required to work with an external agency. The Las Vegas Metropolitan Police Department relies on an Office of Internal Oversight and Constitutional Policing unit that handles these investigations. Their process includes the district attorney and a citizen's review board, both of which visit the investigative scene. Each of these approaches offers some investigative independence, but clearly the processes are varied and the level of independence is quite different from one jurisdiction to the next. Considerable variability also exists with respect to how agencies conduct internal policy reviews following an OIS.

An OIS investigative model that is operational in the state of Wisconsin provides a level of independence while addressing some of the disadvantages of fully independent investigations. The Milwaukee Police Department (MPD), operating under a Wisconsin state law, has a multiagency cooperative agreement in place throughout Milwaukee County that allows any of the member agencies (21 agencies as of late 2017) to rely on another external agency to conduct OIS investigations. There are five agencies designated as lead agencies (the MPD is one of these five), and these five agencies assume primary investigator responsibility on OIS cases on a rotational basis. The investigative processes and procedures are fully articulated, signed, and agreed upon in writing. The task force meets on a regular basis to assign new cases, to discuss changes to the investigative protocols and policies, and occasionally to add new member organizations to the agreement. This county-level cooperative model of investigative independence may work well in larger metropolitan areas or counties—particularly those with numerous large law enforcement agencies but that lack a state-level investigative agency (or that may have limited numbers of experienced investigators in the state investigative agency).

Indicators of OIS investigative transparency

In addition to discussing the importance of investigative independence, the conversation focused on the importance of OIS investigative transparency. Most if not all of the law enforcement leaders agreed that investigative transparency was more important to community confidence than investigative independence. Agencies that focus on ensuring organizational transparency generally and that were successful at maintaining transparency during OIS investigations reported being less susceptible to criticisms regarding limited (or a complete lack of) investigative independence. Effective and informed leaders and public information officers are particularly important during an OIS investigation. Further, many agencies indicated that ensuring transparency further strengthened their relationship with the communities they serve, which is particularly important when a controversial OIS occurs. The Houston Police Department specifically noted that organizational transparency has been helpful during difficult times, and other law enforcement leaders echoed that sentiment.

The focus group offered a range of best practices and proactive methods for increasing investigative and organizational transparency. Some potential indicators of organizational transparency include the following:

1. A willingness to publicly acknowledge when the investigation showed an OIS was inconsistent with organizational policy
2. Prior arrests or prosecutions of officers who were criminally liable
3. Proactively disseminating information about civil litigation or settlements associated with OIS investigation outcomes

4. Releasing timely updates about the status of the OIS investigation, including
 - a. releasing involved officer(s)' names, experience levels, and assignments (although exceptions were expected for undercover officers or for officer safety);
 - b. press releases and open question-and-answer sessions, certainly within 24 hours of the event and routinely thereafter, although some participating agencies reported that their chief, executive, or designated public information officer would be on the news from the crime scene within hours of the event;
 - c. assigning an officer to work directly with families during an OIS investigation and ensure timely communication;
 - d. establishing and maintaining open access to OIS investigations, records and reports including the release of body-worn camera or in-car camera video (following private viewings with family members of those involved as appropriate while recognizing that some agencies are bound by state laws to either release or not release videos);
 - e. informing the public through a variety of methods, potentially including via animated videos of the OIS process (Louisville Police Department), website updates (Dallas and Las Vegas Metropolitan Police Departments), town hall meetings (Oakland Police Department) or YouTube channels or other social media outlets (Columbus Division of Police and others)
5. Making OIS policies and procedures available to the public and easily retrieved on agency websites, including providing a clear timeline of investigative milestones and a publicized date of investigation completion
6. Publicizing complaints department activities and civilian review board findings and ensuring that those entities are functional, that they are legally authorized to conduct independent reviews (including serving subpoenas), and that members are appointed using a process that is democratic and appropriate and that ensures adequate rigor and experience

Which matters more to community members: Investigative independence or transparency?

There appears to be some professional and perhaps organizational tension between OIS investigation independence and transparency. Agencies that conduct their own investigations are criticized for a lack of independence. However, those agencies can likely mitigate some criticisms with increased transparency. Meanwhile, agencies that rely on external investigators to conduct their OIS investigations are criticized for a lack of transparency, presumably in part because those external (often state-level) agencies and investigators are less affected by and less responsive to local demands for transparency and timely communication. On the other hand, the external investigation relieves some of the pressures associated with internal investigative processes for the local agency.

Considered broadly, organizational transparency is probably easier to establish, improve, and maintain when investigations are conducted by external agencies, and increased transparency seems to help agencies during the difficult times that often follow an OIS. Ultimately, organizational transparency may be more important than investigative independence to community members. Some community members or community groups will simply never trust law enforcement, but others may be more willing to give the agency the benefit of the doubt if there has been a persistent pattern and practice of transparency, collaborative communication, and proactive community relationship development. In short, law enforcement agencies that are proactively and positively engaged with their communities and neighborhoods are in a potentially advantageous position to benefit from their collective good will when an OIS occurs. Agencies that are less engaged with their communities and less committed to community policing, partnership development, and collaborative problem solving may be under greater scrutiny and perhaps are at increased risk for civil unrest following controversial OIS events.

Conclusion

The overall effectiveness of the law enforcement process and the perceived and actual legitimacy of that process depend on the establishment and maintenance of mutual trust and confidence between community members and law enforcement agencies. Nurturing and protecting public trust and confidence is an important priority for law enforcement leaders and organizations, particularly those operating in communities with high crime rates, diverse populations, and poverty.

OISs are relatively rare events in many communities and countries and are nearly nonexistent in countries with unarmed populations (Kuhns and Knutsson 2010). Nevertheless, these rare events can severely compromise and erode community trust and confidence in law enforcement, facilitate substantial levels of civil unrest, and generate long-lasting negative views of law enforcement officers and departments—even if the OIS is fully justified and legal—if the event and subsequent investigation are suspect and not transparent. Therefore, the methods by which OISs are investigated are critically important for agencies and communities.

Ideally, OIS investigations are conducted in a manner that is transparent, fair, and legitimate for the officers, victims and their families, the criminal justice system, and local community. Ideally, OIS investigations are conducted in an impartial (and perhaps independent) manner that prioritizes communication, maximizes transparency, and ultimately ensures justice and community confidence in the outcome. Not surprisingly, the ideal OIS investigative process is difficult to achieve and is unlikely to be the same in every community, state, or country.

This study offers some helpful insights and suggestions into how OIS investigations are conducted and how such investigations might be improved in the future. Building on a limited literature review, which needs to be broadened, this study assessed the status and nature of the OIS investigative processes in large law enforcement agencies in the United States and Canada. A survey of those law enforcement agencies offered additional insights regarding how these organizations have responded to a national call for change, how they currently conduct OIS investigations, and what steps they are taking to adopt and perhaps improve investigative independence and transparency. A focus group session with law enforcement leaders confirmed (1) that OIS investigations are handled in a variety of ways; (2) that there are substantial differences of opinions and wide variations in practice regarding whether and how to involve external agencies and investigators; and (3) that investigative transparency, while vitally important to many law enforcement leaders and communities, is constrained by local practices, departmental policies, union rules, and state laws. Some of these local practices, policies, and laws make sense; others should be reconsidered (e.g., allowing an officer to “take a couple days” before submitting a statement following an OIS is not a practice that enhances public confidence in agency transparency).

Despite our many differences, most people can agree that investigating law enforcement officers, who are authorized to enforce our laws and who unfortunately are sometimes required to use force (including deadly force) while doing so, is a particularly difficult and highly sensitive process. Fortunately, most law enforcement officers will never be directly involved in a shooting event and most community members will not be directly impacted by OIS events. Justice and fairness demand that we carefully investigate OIS events knowing that the relatively few officers who ultimately fire weapons in the line of duty may also suffer afterward (Klinger 2010). OIS investigations that are unjust or perceived as unfair ultimately jeopardize public safety and arguably make the law enforcement process more dangerous for everyone involved.



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Appendix A

This section details the entities that handle OIS investigations for each of the law enforcement agencies responding to the MCCA survey.

Agency name	Investigating agency, entity, or unit
Albuquerque, NM	Critical Incident Response Team (CIRT) Force Investigation Team (FIT) Multi-Jurisdictional Task Force
Atlanta, GA	Homicide Officer Involved Shooting Team (HOIST)
Aurora, CO	Officer Involved Shooting Investigative Team (OISIT) Internal Affairs (IA)
Austin, TX	Special Investigations Unit (SIU) Internal Affairs (IA)
Baltimore County, MD	Homicide/Missing Persons Unit (HMPU) Internal Affairs Section (IAS)
Baltimore, MD	Special Investigation Response Team (SIRT) Homicide Office of the State's Attorney*
Boston, MA	Firearm Discharge Investigation Team (FDIT)
Charlotte-Mecklenburg, NC	Officer Involved Shooting Team (OIST) Internal Affairs (IA)
Chicago, IL	Bureau of Internal Affairs (BIA) Bureau of Detectives Crime Prevention and Information Center (CPIC)
Cincinnati, OH	Criminal Investigations Section (CIS) Internal Investigations Unit (IIU) Homicide Unit
Cleveland, OH	Use of Deadly Force Investigation Team (UDFIT) Firearm Investigation Team (FIT)
Columbus, OH	Critical Incident Response Team (CIRT) Internal Affairs*
Dallas, TX	Special Investigations Unit (SIU)
Denver, CO	Major Crimes Division DA's Office Internal Affairs (IA)*
Fairfax County, VA	Major Crimes Division Criminal Investigations Bureau Internal Affairs

Agency name	Investigating agency, entity, or unit
Fort Worth, TX	Major Case Unit Critical Police Incident Investigation Team Internal Affairs
Fresno, CA	Homicide Unit Internal Affairs
Honolulu, HI	Criminal Investigation Section of the Professional Standards Office
Jacksonville, FL	Homicide Cold Case Team DA's Office*
Kansas City, MO	Police Incident Team Violent Crimes Division (VCD) Internal Affairs Unit (IAU)
Las Vegas, NV	Critical Incident Response Team (CIRT) Force Investigation Team (FIT) Office of Internal Oversight (OIO)
Long Beach, CA	Homicide Unit
Los Angeles County, CA	Internal Affairs Board (IAB) Force Shooting Response Team
Los Angeles, CA	Force Investigation Division (FID) Real Time Analysis and Critical Response Division (RACR)
Louisville, KY	Public Integrity Unit (PIU) Crime Scene Unit (CSU) Professional Standards Unit (PSU)*
Mesa, AZ	Homicide Unit Maricopa County Attorney's Office (MCAO)
Miami-Dade, FL	N/A
Milwaukee, WI	Assigned Police Lieutenant
Minneapolis, MN	Supervising Officer* Homicide*
Montgomery County, MD	Homicide Section Internal Affairs Division (IAD) Use of Force and Weapons Review Committee
New Orleans, LA	Force Investigative Team (FIT) Public Integrity Bureau (PIB)* Independent Police Monitor Use of Force Review Board (UFRB)*
New York City, NY	Force Investigation Division (FID) Detective Bureau
Newark, NJ	Supervisor

Agency name	Investigating agency, entity, or unit
Oakland, CA	Homicide Section Internal Affairs Division (IAD) DA Office Standby Team*
Oklahoma City, OK	Homicide Division Crime Scene Investigations
Omaha, NE	Officer-Involved Investigations Team (OIIT)
Philadelphia, PA	Homicide Unit* Detective Division of Occurrence Internal Affairs Shooting Team (assists)
Phoenix, AZ	Professional Standards Bureau (PSB) Violent Crimes Bureau (VCB) Incident Review Unit (IRU)
Portland, OR	Detective Division Homicide Division District Attorney's Office (DA)*
Prince George's County, MD	Special Investigation Response Team (SIRT)
Sacramento, CA	Homicide Unit District Attorney*
Salt Lake City, UT	Protocol Team Detective Division DA's Office*
San Antonio, TX	Shooting Team Homicide Unit Internal Affairs
San Diego, CA	Homicide Unit Internal Affairs District Attorney
San Francisco, CA	Homicide Detail Risk Management Office Office of the DA
San Jose, CA	Homicide-Crime Scene Unit Internal Affairs Unit
Seattle, WA	Force Investigation Team (FIT)
Tucson, AZ	Crimes Against Persons Division Office of Internal Affairs (OIA)
Tulsa, OK	Major Crime Unit (MCU) Detective Division/Internal Affairs
Virginia Beach, VA	Internal Affairs On-Duty Supervisor

Agency name	Investigating agency, entity, or unit
Washington, D.C.	Force Investigation Team (FIT) Office of the Superintendent of Detectives
Wichita, KS	WPD Persons Crime Bureau

* indicates that those units may be used at the discretion of the agency in some cases

Appendix B

The formatting of this section has been slightly modified to conform to publication standards.

1. Have you faced pressure to change your approach to officer-involved shooting investigations (OIS) from any of the following?

	Yes	No
Community		
News media		
Civilian Oversight Board		
Elected officials		
Union / Employees		
Other (please specify)		

2. The President's Task Force on 21st Century Policing report was released in May 2015. Have you made OIS policy changes in response to the President's Task Force on 21st Century Policing?

☐ Yes

☐ No

If yes, please specify _____

3. When was the last time that you modified your OIS policy?

☐ Within the past two years

☐ Within the past 3 to 5 years

☐ More than 5 years ago

Comment _____

4. Have changes to your OIS policy been proposed and not yet adopted?

☐ Yes

☐ No

If yes, please specify _____

5. Who conducts the criminal investigation for officer-involved shootings? Please check all that apply.

☐ Our homicide detectives

☐ Our shooting investigative team

☐ Other local agency

☐ Task force (our department and others)

☐ Prosecutors' office

☐ State police

☐ Other state investigative agency

☐ Other (please specify) _____

6. The determination on whether or not criminal charges will be filed is made by:

☐ Police

☐ Prosecutor

☐ Police and prosecutor together

Other (please specify) _____

7. What are the advantages/disadvantages of *internally conducted* (by your agency) OIS investigations?

Advantages _____

Disadvantages _____

8. What are the advantages/disadvantages of an *external/independently conducted* OIS investigation?

Advantages _____

Disadvantages _____

9. When an external agency investigates an OIS for our agency (Check all that apply):

☐ The external investigative agency has complete independence from our agency.

☐ The external investigative agency leads but we have investigators assigned as well.

- ☐ Our agency processes the crime scene.
- ☐ The external agency processes the crime scene.
- ☐ We work together to process the crime scene.
- ☐ Not applicable because we conduct our own (internal) investigations.

Comment: _____

10. Who conducts the internal investigation (policy) for OIS?

- ☐ Our internal affairs investigators
- ☐ Internal Force Investigative Team
- ☐ Civilian oversight agency
- ☐ Other law enforcement agency
- ☐ Other (please specify) _____

11. Who makes the determination of whether or not an OIS was consistent with agency policy?

- ☐ Internal Shooting Review Board
- ☐ External agency
- ☐ Chief/Command staff
- ☐ Other (please specify) _____

12. Disciplinary decisions are the responsibility of my department.

- ☐ Yes
- ☐ No

If no, who is responsible? _____

13. Who has the primary responsibility for releasing public information on OIS investigations?

- ☐ Our agency
- ☐ The external investigative agency

___ The prosecutor

___ Other (please specify) _____

14. If you have video footage of the shooting, when do you publicly release it?

___ We never publicly release the footage.

___ The footage is typically publicly released after the charging decision is made.

___ The footage is typically publicly released at the trial.

___ The footage is typically publicly released when the investigation has progressed to the point that it will not be harmed.

___ The timing of video footage release to the public is decided on a case-by-case basis.

___ Other (please specify)

15. Do you normally review video footage with the family of the deceased before it is released?

___ Yes

___ No

___ Varies depending on the case (please specify) _____

16. Address

Name _____

Department _____

City/Town _____

Email address _____

Phone number _____

About the Authors

Joseph B. Kuhns

Dr. Joe Kuhns teaches courses in policing, community policing, drugs and crime, and research methods at the undergraduate and graduate levels. Prior to arriving at the University of North Carolina at Charlotte in 2003, Dr. Kuhns served as a Senior Policy Analyst at the U.S. Department of Justice (Office of Community Oriented Policing Services). Dr. Kuhns has worked on a wide range of research and evaluation projects focused on use of deadly force by and against the police, alcohol, drug and violent crime relationships, and the impact of burglary offending and victimization. From 2005 to 2009, he worked with a number of scholars and practitioners and with the Trinidad and Tobago Police Services to help to reduce violent crime and improve law enforcement services in that developing nation. His coedited book about police use of force, firearms, and nonlethal weapons in various countries around the world was recognized with a Choice Award in 2010. Dr. Kuhns is continually working directly with numerous police departments, national associations, and federal agencies to improve policing practices, identify emerging priorities, and enhance officer and community safety.

Josie F. Cambareri

Josie Francesca Cambareri is a doctoral student in the School of Criminology and Criminal Justice at Northeastern University. Cambareri received her Master of Science in Criminology and Criminal Justice from the University of North Carolina at Charlotte. Her research interests include recruitment of women into law enforcement; civilian oversight of police; officer-involved shooting policy; perceptions of police; and the intersection of race, justice, and policing. Cambareri is currently a research assistant on an experiment to enhance procedural justice in hot spots policing and a project to evaluate a Boston nonprofit's mission to reduce youth crime through education.

Shannon Messer

Shannon Messer is a graduate student at the University of North Carolina, studying under the tutelage of Dr. Joe Kuhns. She has worked on several policing projects including a study of deadly force against police and another focused on the impact of burglary offending and victimization. Shannon has previously served as a Teaching and Research Assistant at UNCC and is the recipient of the Graduate School Masters Merit Award. She intends to pursue a career in criminal justice reform.

Darrel W. Stephens

Darrel W. Stephens served as the Executive Director of Major Cities Chiefs Association for seven years from 2010 to 2017. He is an accomplished police executive with more than 40 years of experience. His career began as a police officer in Kansas City, Missouri, in 1968. In addition to his police experience, he served for two years as the City Administrator in St. Petersburg, Florida, where he was responsible for a work force of approximately 3,000 employees and a budget of \$380 million. He has 22 years of experience in a police executive capacity including almost nine years from September 1999 to June 2008 as the Chief of Police of the 2,100 member Charlotte-Mecklenburg Police Department. He also served as a member of the faculty of the Public Safety Leadership

Program in the School of Education at Johns Hopkins University from 2008 to 2013. In addition, he served as the Executive Director of the Police Executive Research Forum from 1986 until 1992. Stephens has written extensively about policing, is widely sought after for consulting, and is a frequent speaker advocating progressive policing approaches. He received the prestigious Police Executive Research Forum's Leadership Award and the Academy of Criminal Justice Sciences O.W. Wilson Award. In 2006, he was awarded an Honorary Doctorate of Laws Degree from Central Missouri State University. He was inducted into the Evidence Based Policing Hall of Fame in 2010 and also received the Distinguished Achievement Award in Evidence Based Crime Policy.

About the Major Cities Chiefs Association

The **Major Cities Chiefs Association (MCCA)** is a professional association of chief police executives representing the largest cities in the United States, Canada, and the United Kingdom. MCCA membership comprises chiefs and sheriffs of the 67 largest law enforcement agencies in the United States, 10 largest in Canada, and two in the United Kingdom. They serve 91.4 million people (70 million in the United States, 11.5 million in Canada, and 9.9 million in the United Kingdom) with a sworn workforce of 241,257 (162,425 in the United States, 21,939 in Canada, and 56,893 in the United Kingdom) officers and nonsworn personnel. The MCCA's strategic goals are

- to guide national and international policy that affects public safety and major cities;
- to develop current and future police executive leaders;
- to promote innovation and evidenced-based practices in policing.

To learn more, visit the MCCA online at <https://www.majorcitieschiefs.com>.

This paper presents the results of research by the Major Cities Chiefs Association (MCCA) of large law enforcement agencies in the United States and Canada to study community perceptions of officer-involved shootings and the investigations that follow them. There is a growing demand among the public for increases in the transparency of such investigations and in the neutrality of the investigators. The MCCA looked into the range of practices already in place, conducted focus group discussions, and administered a survey; this report presents summaries of the research and recommendations based on it.



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