INTRODUCTION TO THE NEW POLICE ACCOUNTABILITY

THE NEW POLICE ACCOUNTABILITY AT WORK: THREE EXAMPLES

Problems at the Century Station in the Los Angeles Sheriff’s Department

The Century Station of the Los Angeles Sheriff’s Department (LASD) was deeply troubled in the late 1990s. Officers assigned there averaged more than 12 shootings of citizens a year. Admittedly, the Century Station was a tough assignment, covering a high crime area in South Central Los Angeles County. Between 1991 and 2001, half of all LASD deputies killed by gunfire worked out of the Century Station. Merrick Bobb, Special Counsel to the LASD, described the Century Station as “a microcosm of American policing in inner city, crime-ridden, minority neighborhoods.” Closer inspection suggested there was nothing inevitable about the number of officer-involved shootings. The neighboring Los Angeles Police Department’s Southeast precinct, with comparable social conditions, had only one third as many officer-involved shootings during the same years.

An investigation by Special Counsel Bobb found that the issues in the Century Station were the result of management problems and not the fault of a few bad officers. Century Station deputies were among the youngest and least experienced in the entire LASD, and they were “supervised by an equally
young and inexperienced crew of sergeants.” Even more alarming, the department had allowed the ratio of sergeants to officers on the street to rise to an average of 1:10 or 1:12, and at times as high as 1:20–25, “in direct violation of the LASD’s own official policy of 1:8.”3 The Century Station also suffered from an extremely high turnover rate among officers. Officers at all ranks wanted to transfer out as rapidly as possible and feared they would be stigmatized if they stayed there too long. Finally, the station had the additional burden of a very high percentage of probationary officers in training. They were assigned there in the—very misguided—belief that a high crime area, or what the LASD calls a “fast” assignment, would give them a lot of experience in a short period of time.4

Bobb’s report led to a number of management reforms. The department assigned its best and “most-likely-to-be-promoted” lieutenants to the station, and they implemented tighter supervision of deputies on the street, with a special focus on potential shooting incidents. The results were dramatic. There was only one officer-involved shooting in the Century Station in 1999 and during one 17-month period there were no shootings at all. Significantly, the decline in shootings was not accompanied by a similar dip in the crime rate or number of arrests: “Rather,” Bobb concluded, “it was directly related to increased supervision by the sergeants and lieutenants, along with a new effort to discourage foot pursuits, actions which were implicated in a large number of shootings at the station.”5

Ending Racial Profiling by the New Jersey State Police

Sued by the Civil Rights Division of the U.S. Department of Justice for well-documented race discrimination in traffic stops, the New Jersey State Police entered into a consent decree mandating a set of management reforms. Most important was the requirement that troopers report each traffic stop to their dispatchers when they initiate the stop; that they activate a video and audio recording of each stop; and that they complete a detailed report of the encounter, including the reasons for the stop, the race or ethnicity of the driver and any passengers, and the final outcome (e.g., search, traffic citation, arrest). Additionally, the data on each traffic stop are entered into a computerized database that permits a detailed analysis of patterns and the identification of any unacceptable patterns of stops or searches.6
Systematic Performance Review in a Large Police Department

In a large urban police department in the western United States, the early intervention (EI) system database displayed some alarming patterns of officer activity. One officer had made only eight arrests during the time period under review (some other officers in the same unit had made more than 100) and had used force in five of those situations. A use of force rate of 63% is virtually unheard of in policing. Another officer, meanwhile, had a seemingly exemplary record of no citizen complaints and no use of force reports. Closer examination, however, revealed that he had made no arrests, no traffic stops, and no pedestrian stops during the period. In short, he had done no real police work. With a few clicks of the mouse, the Internal Affairs officers quickly found that he was working the maximum number of hours in off-duty employment (this information is also included in the department’s early intervention system database). In short, all his energy was going into his second job and he was doing little if any police work for the city. A third officer had received a citizen complaint from a woman alleging an inappropriate sexual advance. A check of the officer’s performance record revealed a suspiciously high number of traffic stops of female drivers. In short, he was a sexual predator using his law enforcement authority to harass women.7

These performance patterns were revealed by the department’s EI system, an administrative tool that collects officer performance data in a computerized database in which they can be analyzed to identify patterns of questionable conduct. Officers identified by the system are then given appropriate counseling or retraining. Although EI systems were initially devised as a means of identifying officers who repeatedly use excessive force, the three examples here indicate that they can identify a wide range of officer performance problems.8

NEW DIRECTIONS IN POLICE ACCOUNTABILITY

The three cases described above are examples of the new police accountability: new strategies and tools for dealing with the ancient problems of police misconduct.9 Merrick Bobb’s investigation of LASD’s Century Station found that the problem of shootings was not a matter of a few bad officers—the proverbial “rotten apples”—but poor management practices. Law professor Barbara Armacost argues that police reform needs to focus on “rotten barrels”
rather than rotten apples. Bobb’s role as Special Counsel to the LASD represents an important new practice: permanent external oversight of a law enforcement agency by an expert in policing with a sizeable support staff. The new controls over traffic enforcement in the New Jersey State Police, meanwhile, involve the requirement that officers should be subject to detailed written rules of conduct and that they complete a report each time they use their authority, including use of force, a traffic stop, and deployment of the departmental canine unit. Finally, the early intervention system described in the third example illustrates how this new management tool can be used to identify a broad range of unacceptable performance, including doing no police work at all.

Police misconduct is nothing new in the United States. Use of excessive force (or what is popularly known as “police brutality”), unjustified shootings, race discrimination, and a general lack of accountability for officer conduct have been serious problems since the first police departments were created in the early nineteenth century. Several generations of reform efforts have attempted to curb these problems and establish professional standards in policing, but until recently with only limited success. As Chapter Two of this book argues, these reforms largely failed to address persistent on-the-street misconduct. In the past decade, however, new strategies and tools have emerged that promise to achieve new standards of police accountability. This book examines the promise of—and the obstacles facing—the new police accountability.

The basic thrust of the new police accountability is a focus on organizational change. This is a departure from past reform efforts that have focused too much on individual officers who may have used excessive force or made a racially biased arrest. The result has been a misplaced attention to symptoms (the rotten apples) rather than underlying organizational causes (the rotten barrels). As LASD Special Counsel Merrick Bobb explains,

The basic premise on which we operate is that the risk of excessive and unnecessary force, lethal and non-lethal alike, can be meaningfully reduced through conscientious work on police management’s part.

Barbara Armacost, noting the depressing cycle of scandal, reform, and subsequent scandal in Los Angeles, argues that “reform efforts have focused too much on notorious incidents and misbehaving individuals,” and not enough on police organizations that sustain a “police culture that facilitates and rewards violent conduct.”
Attention to organization and management problems is also the central thrust of the federal “pattern or practice” suits that have been brought against law enforcement agencies under Section 14141 of the 1994 Violent Crime Control Act. The law specifically authorizes the U. S. Department of Justice to bring civil suits against law enforcement agencies, as opposed to criminal charges against individual officers. The consent decrees, memoranda of agreement, and letters settling the Department of Justice suits against the Pittsburgh Police Bureau (1997), the New Jersey State Police (1999), the Los Angeles Police Department (2001), and about a dozen other agencies require them to implement a set of organizational reforms. All of these settlements include the key elements of the new police accountability discussed in this book. They include a comprehensive use of force reporting system (Chapter Three), an open and accessible citizen complaint procedure (Chapter Four), and an early intervention system (Chapter Five). These “best practices” are described in the 2001 Department of Justice report Principles for Promoting Police Integrity, the first document to present them as a coherent package of police reforms.

Implementation of each consent decree, meanwhile, is overseen by a court-appointed monitor who regularly reviews the police department’s compliance with the terms of the decree and issues a public report on the findings. These monitors, however, exist only for the duration of the consent decree, and their authority is limited to the specific terms of the decree. Police auditors, a new form of citizen oversight described in Chapter Six, function on a permanent basis and are an additional element of the new police accountability.

THE GOAL OF THIS BOOK

The goal of this book is to describe and analyze the strategies and tools that constitute the new world of police accountability. Although this book argues that the strategies and tools of the new police accountability represent an important new development in policing and that they hold great promise for reducing police misconduct, it also gives due attention to the considerable obstacles facing the successful implementation of these new mechanisms. Indeed, Chapters Three through Six report substantial evidence of false starts and failures associated with the new accountability mechanisms. The book concludes in Chapter Seven with reflections on these problems and some thoughts on what is needed to fully achieve the potential of the new police accountability.
This book is built on four basic sets of source material: consent decrees and memoranda of understanding, reports of court-appointed monitors, reports of police auditors, and other reports of police problems.

**Consent Decrees and Memoranda of Understanding**

The various consent decrees and memoranda of understanding settling federal pattern or practice suits, along with the settlements of other cases, are basic source material on the new accountability mechanisms. By implication, they also document the specific problems in particular police departments. The fact that the Memorandum of Agreement in Cincinnati contains a provision requiring documentation of each incident in which police officers draw their weapons indicates that this practice occurred frequently and was perceived by the community to be a problem in that city.\(^{16}\)

**The Reports of Court-Appointed Monitors**

Each consent decree includes the requirement of a court-appointed monitor who is responsible for regularly auditing progress in implementing the terms of the decree and then issuing a public report, usually on a quarterly basis. The reports that have been issued to date are an extremely valuable resource, particularly on the issue of organizational change in policing. Many people mistakenly assume that if a court orders a police department to, for example, implement a new use of force policy, the new policy will be promptly implemented. Whereas some of the departments subject to consent decrees have implemented mandated reforms in a timely fashion, others have not. Taken as a whole, the reports of all the court-appointed monitors provide a revealing picture of the difficulties of bringing about change in a law enforcement organization.\(^{17}\)

**The Reports of Police Auditors**

As Chapter Six explains, police auditors have emerged as a new form of citizen oversight of the police. By mid-2004, there were twelve police auditors in the United States. Each auditor is required to issue public reports on a regular
basis. These reports typically explore particular police problems and make recommendations for changes in policies and procedures. The particular value of the auditing approach to citizen oversight is the capacity of the auditor to conduct a follow-up investigation months or years later. The reports of the various police auditors provide a wealth of valuable information about problems within the various departments about policy changes and the process of organizational change.\textsuperscript{18}

Other Reports on Police Problems

This book also draws on a variety of reports on police problems. Some of these are reports on special one-time investigations of a particular department or problem within a department. In addition, some police departments, as a part of their own accountability efforts, have created ongoing internal reviews of such issues as the use of force or racial profiling. Some of these efforts include substantial citizen participation and the publication of periodic reports. These reports are extremely valuable sources of information.\textsuperscript{19}

Because they have emerged relatively recently, many of the documents listed above are unknown to many experts in the field of policing. Nonetheless, they are a good source of information about the key issues related to police accountability. Because we now live in the digital age, all of these documents are readily available on the web. The appropriate web addresses are cited throughout this book.

A DEFINITION OF POLICE ACCOUNTABILITY

It is appropriate at the outset to define what we mean by police accountability in this book. Police accountability has two basic dimensions.\textsuperscript{20} On one level it refers to holding law enforcement agencies accountable for the basic services they deliver: crime control, order maintenance, and miscellaneous services to people and communities. At the same time, however, it also refers to holding individual officers accountable for how they treat individual citizens, particularly with regard to the use of force, equal treatment of all groups, and respect for the dignity of individuals. In certain important respects, of course, the agency-level and officer-level dimensions of accountability merge. Effective crime control and order maintenance depend on what individual officers do
on the street. And individual officer misconduct ultimately depends on what police departments do to define and enforce standards of conduct.\textsuperscript{21}

It is a basic principle of a democratic society that the police should be answerable to the public.\textsuperscript{22} The political process is the basic means of ensuring that the police reflect the will of the people. Mayors, city council members, county commissioners, governors, state legislatures, presidents, and the Congress exercise control and oversight through budgets and appointments.\textsuperscript{23} At the same time, the police are also accountable to the law and should conform to established standards of lawfulness in all of their operations (including not just law enforcement activities such as arrest and search and seizures, but personnel procedures involving equal employment opportunity, sexual harassment, and so on). The courts are the principal mechanism for this aspect of accountability.

In a democratic society the three branches of government are ultimately controlled by the citizenry, acting through the political process. The public also acts through other important nongovernmental institutions. Particularly important in recent American history has been the role of civil rights and civil liberties organizations. Local chapters of the NAACP and the ACLU, along with countless ad hoc community groups, have exerted an enormous impact on American policing. Finally, the news media have played a sporadic but nonetheless powerful influence on public understanding of police problems. The impact of the famous videotape of the 1991 beating of Rodney King by Los Angeles police officers is incalculable.

One of the greatest obstacles to police accountability in this country is that, while the general roles of the three branches of government are clear, the specific strategies and tools for ensuring police accountability involve complex administrative arrangements. The unhappy fact is that most elected officials do not understand the details of police administration and have been unable—and often unwilling—to provide guidance to law enforcement executives. Mayors in particular are rarely knowledgeable about policing and generally subject to a variety of countervailing political pressures, such as public demands to get tough on crime. Legislators are often less closely attuned to the details of police administration and prone to symbolic legislative gestures. Although the federal courts stepped into this vacuum in the 1960s and began to require detailed controls, the courts, as Chapter Two explains in more detail, are an imperfect tool for the ongoing administrative reform of police departments.

Nothing is easy in a democracy, however, and the influence of public opinion over the police has been a very mixed blessing. Public control of the
police and other government agencies has often involved the denial of rights to racial minorities and other powerless groups, as white majorities associate crime with people who are not like them.\(^{24}\) Compounding the problem of accountability is the melancholy but inescapable fact that very often public demands for crime control conflict with principles of due process and equal protection of the law. The history of American criminal justice is replete with episodes in which public demands for law and order conflicted with the rights of powerless groups.\(^{25}\) In a classic statement of the problem, Herbert Packer defined it in terms of a clash between crime control and due process perspectives on the criminal process.\(^{26}\) The story of the Supreme Court’s revolution in civil rights and due process in the late 1950s and 1960s involves the role of the
most undemocratic political institution in our society in overriding the wishes of the majority to protect the rights of otherwise powerless minorities.

The political dilemma involving conflicting demands on the police translates into policy dilemmas over alternative mechanisms for enhancing police accountability. This has generally taken the form of tensions between internal mechanisms, such as professional management and supervision, and external mechanisms, such as direct political control, the courts, and external review agencies. This book argues that this traditional conflict is now sterile and irrelevant. The strategies and tools of the new police accountability involve a merger of internal and external mechanisms that have traditionally been seen as conflicting alternatives.

THE BEST OF TIMES, THE WORST OF TIMES: AMERICAN POLICING TODAY

Images of Police Misconduct

The images, broadcast nationwide on television on November 30, 2003, were depressingly familiar: police officers delivering repeated blows with billy clubs on Nathaniel Jones, an African American man, who died a few hours later. The fact that these were Cincinnati police officers immediately brought back memories of the riot that broke out in the city in April 2001 following the fifteenth fatal shooting of a young black man in 6 years by the Cincinnati police.27

The video of the 2003 Cincinnati beating inevitably recalled the sensational images of the March 3, 1991 beating of Rodney King by Los Angeles police officers. The subsequent acquittal of four LAPD officers on criminal charges in June 1992 sparked massive rioting and property destruction in Los Angeles and other cities.28

Not captured on any video are some equally alarming examples of police misconduct. In Miami, four officers (out of eleven indicted) were convicted in 2003 of beating and framing citizens. A civil suit arising from similar misconduct resulted in a consent decree imposing sweeping organizational reforms on the Oakland, California, Police Department. Finally, what began as a civil suit involving sexual abuse of a teenage girl by a Pennsylvania State Police officer led to the exposure in 2003 of a massive pattern of sexual misconduct by Pennsylvania state troopers, including several high-ranking command officers.
The police problems in Cincinnati, Los Angeles, Oakland, Miami, Pennsylvania, and other communities might well lead a reasonable person—that is, someone well-informed about civic events but with no special expertise in policing—to conclude that the American police have made little if any progress since the strife-torn decade of the 1960s. Race discrimination, excessive force, unjustified shootings, and corruption might appear to be as prevalent and serious today as they were 40 years earlier. This might also suggest to our hypothetical reasonable person that the many police reform efforts of the past four decades have accomplished nothing. These efforts include celebrated Supreme Court decisions limiting abusive police practices; the spread of community policing and problem-oriented policing; a significant increase in the number of African American, Hispanic, and women police officers; and dramatic improvements in police officer educational levels and training programs. One might reasonably ask, in light of recent scandals, did all of these reforms produce no significant or lasting improvements in our police?

Beyond the Media Images

Our hypothetical reasonable person would be misled by the scandals that have dominated the news, however. Quietly, and with little publicity, a number of police departments have made significant progress with regard to police accountability in recent years and have taken steps to curb excessive force, unjustified shootings, and other forms of misconduct. These efforts are the central theme of this book.

Ironically, some of the best indicators of this progress are to be found in the settlements secured by the Department of Justice in its pattern or practice suits. The reforms mandated in those agreements were not developed by attorneys in the Department of Justice, but were drawn from the policies and procedures already in place in the better police departments. Local police departments developed, in an ad hoc fashion, comprehensive use of force reporting systems and early intervention systems—albeit under pressure from local civil rights and civil liberties advocates. The principle of an open and accessible citizen complaint system also developed locally in an erratic fashion in cities and counties across the country. Early intervention systems first appeared in a few departments almost 25 years ago. The significant development in the mid-1990s was that these various practices coalesced into a coherent program for enhancing police accountability.
There is, in short, an enormous gap between the best and the worst police departments in this country. This phenomenon was noted several years ago by Herman Goldstein, arguably the premier authority of American policing over the past 40 years and the creator of problem-oriented policing. He observed that (at that time, the mid-1980s) the gap between the best and worst police departments was greater than at any time in American history. The better departments had made a serious commitment to accountability and had the organizational capacity to explore new strategies and tools. The worst departments, meanwhile, were overwhelmed by the problems associated with the increase in drug abuse and violent crime. This book concurs with Goldstein’s assessment and attempts to explain some of the reasons why.

A NEW FRAMEWORK FOR POLICE REFORM

The new police accountability consists of two elements. The first includes a set of specific strategies and tools designed to enhance accountability. The second is a conceptual framework that unites these strategies and tools into a coherent program of police reform.

New Strategies and Tools

If you quickly scan all of the settlements of Department of Justice pattern or practice suits you will quickly notice that they are very similar, with only slight variation from department to department. This similarity is due to the fact that they all embrace a short list of recognized best practices designed to enhance police accountability. This list emerged slowly in the 1980s and 1990s, and only coalesced into a coherent package in the mid-1990s. These strategies and tools are, in some cases, entirely new devices and, in some other cases, simply extensions and elaborations of practices that have existed in policing for some time.

Use of Force and Other Critical Incident Reporting

The first element of the new police accountability involves written policies governing police use of force and other critical incidents, accompanied by the requirement that police officers file official reports each and every time
they engage in one of these incidents. A critical incident is defined as any police action that poses a risk to the life, liberty, or dignity of a citizen. Additionally, these reports are automatically reviewed by supervisors to ensure that the officer complied with departmental policies. The overall strategy for holding officers accountable through written policies, required reports, and automatic review of those reports is discussed in detail in Chapter Three.

Open and Accessible Citizen Complaint Procedures

The second management tool for holding officers accountable is to maintain an open and accessible process for citizen complaints about officer conduct. Traditionally, police departments regarded citizen complaints as virtually hostile acts, to be fended off if at all possible. In the new accountability, however, citizen complaints are regarded as an important form of management information: that is, indicators of possible performance problems that need to be corrected. The basic principles and administrative details of open and accessible citizen complaint procedures, which can be maintained by either a police department or an external citizen oversight agency, are discussed in detail in Chapter Four.

Early Intervention Systems

The third management tool for enhancing accountability is an early intervention system that involves the systematic collection and analysis of data on officer performance for the purpose of identifying problems that need to be corrected. The computerized databases of EI systems utilize the use of force reports and citizen complaints that are generated by the first two tools discussed above. The nature and potential uses of EI systems are discussed in detail in Chapter Five.

External Citizen Oversight

The fourth tool for enhancing accountability is an external citizen oversight agency, which brings to a police department sustained input from experts who are not members of the police department. This book argues that the most effective form of citizen oversight is the relatively new concept of the police auditor. Unlike the traditional civilian review board, which reviews individual
citizen complaints, the police auditor investigates the patterns and practices of a police department for the purpose of recommending policies that will correct problems that exist. The nature and functions of police auditors are discussed in Chapter Six.

A New Conceptual Framework

A tool is nothing more than that—an instrument that can be used properly or improperly, or not used at all. The new police accountability also involves a conceptual framework that unites and organizes the tools described above into a coherent instrument of police reform. The conceptual framework of the new accountability consists of several elements.

Changing Police Organizations

The basic goal of the new police accountability is organizational change. This represents a significant shift from a long-standing police reform emphasis on individual officers, or what is often called the rotten apple theory of police misconduct. The rotten apple theory persists and motivates many community activists because it has powerful emotional and political appeal. It personalizes misconduct and gives it a human face. Unfortunately, it is simplistic and ineffective. Most important, it does not address the underlying organizational and management causes of unjustified shootings and persistent use of excessive force. The new accountability thinks instead in terms of “rotten barrels,” and directs its energies toward fixing the barrel. The changes involved, however, are decidedly lacking in emotional appeal: complex administrative procedures that have no human face, are difficult to implement and even harder to maintain over the long term, and whose results lie in the future rather than in the emotionally charged present. Firing a cop or a police chief has a certain cheap appeal, and chiefs can be rather easily dismissed. Far more difficult is the task of changing the culture of a police department, in the sense of developing informal norms of professional conduct and a habit of reporting and investigating misconduct.

In an initial assessment of the Justice Department’s efforts under Section 14141, Debra Livingston argues that the “conclusion drawn by many police scholars” is that “police reform will be most effective . . . when reform involves not simply adherence to rules in the face of punitive sanctions, but a
change in the organizational values and systems to which both managers and line officers adhere.” The central argument of this book is that Livingston is absolutely correct—but that she only defines the starting point. The heart of the matter is how to change the organizational values of a police department and to maintain that change over time.

**Controlling Street-level Officer Behavior**

Changing a police organization ultimately is deeply intertwined with measures designed to control the behavior of individual officers on the street. To separate the two conceptually or in practice is to invite failure. After all, the millions of police–citizen interactions that occur every day are the ultimate test of whether the police are in fact accountable. The strategies and tools described in this book seek to reach deep down into police organizations and affect their day-to-day behavior. The organizational process is inseparable from the on-the-street product. Use of force reporting systems, although directed at individual officers, represent an organizational mechanism that defines new standards and new ways of doing business. Ultimately, or perhaps we should say hopefully, the strategies and tools of the new police accountability will alter the culture of the police organization.

**The Systematic Collection and Analysis of Data**

Changing a police organization requires the systematic collection and analysis of data on officer performance. Critical incident reporting, an effective citizen complaint process, and an early intervention system are the specific tools for this purpose. The larger strategy is to develop a fact-based picture of officer activity for the purpose of identifying recurring problems that merit corrective action. The strategy of collecting and using systematic data for purposes of organizational improvement and improving the delivery of social services is increasingly used in other professions: medicine, private enterprise, and other government agencies.

One of the most celebrated reforms in policing in the past decade, in fact, is COMPSTAT, a program that collects and analyzes systematic data on patterns of crime and disorder for the purpose of focusing crime reduction efforts. At the same time, systematic data collection embraces the principles of problem-oriented policing (POP), the first cousin of community policing and
in many respects a more specific road map for action. The action framework for POP involves the SARA model of scanning, analysis, response, and assessment. Scanning, in this context, means the collection of systematic data; analysis involves the review of that data and the identification of problems that need attention; response is the action a department takes with regard to a problem; and assessment is the follow-up review on the impact of the response.43

The power of data is described by Merrick Bobb, Special Counsel to the Los Angeles Sheriff’s Department (LASD). He concluded his report on the troubled Century Station by observing that “this chapter began with a discussion about numbers and ended with a discussion about management. This is how it should be.”44 The reform strategy of the new paradigm, instead of focusing on individual officers, uses comprehensive data about agency and officer performance to identify management problems that are likely to lead to misconduct by individual officers.

The Convergence of Internal and External Accountability

The tools and strategies of the new accountability involve a convergence of internal and external strategies for accountability that have historically been seen as competing alternatives. Traditionally, the police vigorously insisted that they have both the responsibility and the capacity to manage their own affairs—including matters of discipline—free of external intervention. Civil rights activists, despairing of the capacity of police departments to police themselves, have pursued a variety of external mechanisms of accountability.45 These mechanisms have included the intervention of the courts, particularly with respect to constitutional standards for police work, and external citizen oversight agencies to handle citizen complaints. Figure 1.1 (p. 9) is a graphic representation of the competing accountability mechanisms.

The politics of police accountability over the past 40 years has to a great extent been defined by a bitter struggle between the claims of internal and external accountability, or between professional autonomy and external oversight. The focal point of this struggle has been the issue of civilian review boards. This book argues that the new police accountability involves a convergence of internal and external accountability and the emergence of a “mixed system” of mutually reinforcing accountability mechanism, as illustrated in Figure 1.1. The best example involves citizen complaint procedures. Traditionally, police departments regarded complaints as hostile acts on the part of citizens and did their best to reject or discredit them. In the new police accountability, an open and
accessible citizen complaint process is an important source of management information. This information is entered into the departmental early intervention systems and analyzed to identify performance problems.

A similar convergence of internal and external mechanisms is embodied in police auditor systems (Chapter Six). The police auditor has emerged as an important form of citizen oversight, an alternative to the civilian review board that police departments traditionally bitterly opposed. The best-functioning police auditor systems bring an outsider’s perspective to police operations and are designed primarily to promote internal police management reforms.

CONCLUSION: THE CHALLENGE OF CHANGING POLICE ORGANIZATIONS

Can Police Departments Change? Beyond Pessimism

If the focus of the new police accountability is to change police organizations, we have to confront the question of whether it is possible to transform them into organizations in which the commitment to accountability is self-sustaining. This is a major challenge. The history of police reform is filled with stories of highly publicized changes that promised much but evaporated over the long run with only minimal impact.

One of the more notable examples of the failure of accountability-related reforms would be the reforms developed by New York City Police Commissioner Patrick V. Murphy in the early 1970s. In the wake of the highly publicized corruption scandal investigated by the Knapp Commission (and generally associated with the name of officer Frank Serpico), Murphy decentralized corruption control in Field Investigative Units. These units were designed to be closer to streets where the problems existed than the old centralized unit, and therefore presumably more effective. Yet, as subsequent scandals and the 1994 Mollen Commission report revealed, these reforms had completely collapsed and blatant corruption flourished. Even worse, the Mollen Commission found a new and even more insidious form of corruption within the NYPD, a combination of brutality and graft.46

Many cynics believe that the American police are incapable of reforming themselves and that the police subculture is resistant to all efforts to achieve accountability. Regrettably, a review of police history lends an uncomfortable amount of support to this very pessimistic view.
Grounds for Optimism

The basic argument of this book is, to the contrary, that self-sustaining commitment to accountability is indeed possible. There is evidence of such a commitment in a number of law enforcement agencies across the country. As already noted, the elements of the new police accountability that the U.S. Department of Justice has incorporated into all of its consent decrees were already-existing programs in agencies around the country. Department of Justice litigators invented nothing new, but simply selected the best of these programs and packaged them into a coherent set of best practices.47

It is worth noting that in Los Angeles, Sheriff Lee Baca took the extraordinary step in 2001 of creating a second form of independent citizen oversight. The Office of Independent Review (OIR), led by a former U.S. Attorney and staffed with seven attorneys, duplicates much of the mission of the Special Counsel which had been in place since 1993.48 Sheriff Baca could easily have not taken this step by claiming budget constraints and citing the existence of the Special Counsel. But he took it, making the LASD the first law enforcement agency in the United States to have two fully staffed forms of independent citizen oversight. (These two efforts are discussed in detail in Chapter Six.)

At the same time, the police departments in both Seattle and San Diego have undertaken programs of continuing review of use of force and racial profiling issues. Particularly notable is the fact that they are ongoing efforts to review policies and practices, include a high degree of citizen involvement, and produce reports that are readily available to the public on the web. Similar efforts are underway in other police departments.

It would be easy to overestimate the significance or the long-term prospects of these promising efforts. After all, the cycle of reform and failure has been repeated many times in the history of the American police. But there are also grounds for optimism. One of the central arguments of this book is that what is particularly new about the new police accountability is a more sophisticated understanding of the nature of the problem and a new set of tools and strategies to deal with it.

Grounds for Skepticism

The new police accountability is an exciting development. It holds great promise for the future. But we should not ignore the obvious problems it faces.
Candor requires that we emphasize the promise of the new accountability, as distinct from an achieved reality. By the prevailing standards of social science research there is only limited evidence that the tools and strategies described in this book in fact achieve their intended goals.

Even more disturbing, the evidence used in this book to argue for the new police accountability also includes many examples in which the new tools and strategies have not been properly implemented or have been allowed to fall into disrepair through administrative neglect. This evidence represents a substantial red flag about the prospects for meaningful and lasting reform. Will the new police accountability succeed? We cannot say at this point. It is too early in this national effort to draw any definitive conclusions about success or failure. What this book does do, however, is to map the landscape: to describe the new accountability mechanisms, explain in detail how they are intended to work, and carefully weigh the available evidence on successes and failures. Some years down the road, we will be able to say whether the effort succeeded, and if the book did identify the conditions of success, and if it did not at least help to tell us where we went wrong. In the meantime, more research is needed on which accountability mechanisms work and which ones work best.