

EXHIBIT 8

**POLICE USE OF FORCE:
OFFICIAL REPORTS,
CITIZEN COMPLAINTS,
AND
LEGAL CONSEQUENCES**

BY:

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ABSTRACT

The legitimate use of force is the defining feature of the role of police in society. In fact, the police must be allowed to use force when necessary to achieve lawful police objectives. Unfortunately, however, the public is usually made aware of police use of force only on those occasions when the use of force is, or appears to be, excessive.

Despite the critical importance of the use of force in policing, little is known about the extent or nature of that use, the methods by which agencies monitor force, how often citizens complain that excessive force was applied, what happens to those complaints, how frequently allegations of excessive force result in lawsuits, and how those suits are resolved.

Recognizing the need for further research on these issues, the National Institute of Justice provided support to the Police Foundation to conduct a comprehensive national survey of law enforcement agencies to address these questions.

A total of 1,111 law enforcement agencies completed an extensive questionnaire designed to address issues pertaining to the important topic of police use of force.

This report presents a review of existing literature on the use of force by police, describes the methods by which the survey was conducted, presents the results of the key issues addressed by the survey, and discusses the research and policy implications of the results.

The other categories of complaints varied across studies, as they do across departments. Duga and Breda (1991) reported that 41.5 percent of the complaints to the Washington state agencies were for “verbal misconduct.” In contrast, Wagner (1980a) reported that only 9.8 percent of the complaints against “Metro City” officers were for verbal abuse. Possibly Littlejohn’s (1981) report of 24 percent “demeanor complaints” corresponds to the verbal misconduct category. Other categories reported by researchers are illegal arrest (at 15 percent in five cities, Kerstetter, 1985), illegal arrest or search and seizure (at 31 percent in Philadelphia in the early sixties, Coxe, 1961), harassment (at 26 percent in Philadelphia, Coxe, 1961), and procedure complaints (at 16 percent in Detroit in 1975, Littlejohn, 1981).

To add to what is known about the nature and extent of citizen complaints of excessive force, the Police Foundation survey collected information from the national sample of departments regarding the number of excessive force complaints received during 1991. The numbers of complaints, as well as the rates of complaints per number of sworn personnel, are presented in Chapter IV for the various agency types, sizes, and geographic locations.

D.2 CITIZEN CONFIDENCE IN AND AWARENESS OF THE COMPLAINT PROCESS

As mentioned above, the rate of complaints received by a jurisdiction may be as much a product of citizen confidence in the complaint process as any other factor. West (1988:113) commented that:

Frequently assumed to provide a measure of police performance, the complaints rate is one of the most badly abused police-based statistics. Thus, an increasing number of complaints filed with a particular agency may not reflect a deterioration in standards of officer behavior, but could be interpreted as indicating a sign of increasing citizen confidence in the complaints system.

Similarly, Walker and Bumphus (1992) suggested that higher rates of complaints received by departments may reflect high citizen confidence in the investigation and disposition of complaints and thus argued that “a more open and responsive” system for processing complaints would likely lead to an increase in complaints. They reported (1992, citing Whitaker, 1982) that only one-third of the persons who believe they have been mistreated by police file complaints. They pointed out that this figure is not unlike the proportion of persons who report to the police the crimes committed against them. That 43 percent of those persons who did not report the mistreatment they perceived because it “wouldn’t do any good” provides additional support for the contention that lack of citizen confidence in a complaint system will reduce the number of complaints received.

Additional support comes from case study data. As noted above, of the five cities studied by Perez (1978), Berkeley had the highest rate of complaints of police misconduct (see Kerstetter, 1985). The same study also found that the Berkeley complaint processing system was the most popular of the five. Conversely, Jolin and Gibbons (1984:p. 6) commenting on

B. CITIZEN COMPLAINTS OF EXCESSIVE FORCE

As indicated in the review of the literature, the primary method by which citizens can register their concerns about the use of excessive force by police officers is by means of the citizen complaint process. To provide a better understanding of that process, agencies were requested to indicate, by complaint type, how many complaints citizens filed against their officers in 1991 and the dispositions of those complaints. Departments were requested to exclude complaints that resulted from interactions between officers and citizens in jail settings. This section presents the results of the analyses of citizen complaints of excessive, undue, or unnecessary use of force. These analyses will be presented in terms of the reported number of complaints received and, in order to provide standardized estimates, the number of complaints received per 1,000 sworn officers. Each of these sets of data are presented by agency type and by agency type and size. In addition, this section provides comparisons between the demographic characteristics of complainants and the general population, as well as between the demographic characteristics of officers receiving complaints and those of officers in general.

The reliability and validity of these complaint data are affected by the many different ways departments categorize complaints of misconduct. These variations became apparent during the development of the instrument as a result of reviews of departmental documentation and discussions with police personnel. Fortunately, the most consistent categorization of misconduct complaints among departments was with regard to excessive use of force. Nevertheless, the Police Foundation questionnaire attempted to encompass the breadth of definitions used by departments by labeling this category “excessive/undue/unnecessary use of force; brutality (including use of weapons, cuffs, etc.” However, this problem of categorizing complaints should be kept in mind when interpreting the results.

Procedures used by departments to count complaints of misconduct may also vary and thus affect the reliability and validity of these data. Although departments were requested to indicate the “total number of citizens’ complaints filed against employees,” the definition of “filing” may vary across agencies. In some, any complaint, whether written or oral, submitted anonymously or by an identified person, certified or not, may be counted as “filed.” In others, there may be certain requirements that must be met (e.g., submission in writing, certification) before a complaint is considered “filed.” Some departments may count those complaints that were filed but subsequently were withdrawn by the complainants; others may exclude withdrawn complaints.

Another limitation to these data, as explained more fully below, is that approximately 25 percent of the agencies that returned surveys did not provide the requested complaint data. Thus, the interpretation of these estimates must be made with the recognition that, to the extent that the responding agencies may not be representative of law enforcement agencies in general, the estimates themselves may not be representative.