



Office of the Inspector General
U.S. Department of Justice

OVERSIGHT ★ INTEGRITY ★ GUIDANCE



**Audit of the Department of
Justice's Efforts to Address
Patterns or Practices of Police
Misconduct and Provide Technical
Assistance on Accountability
Reform to Police Departments**



Executive Summary

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Objectives

Four Department of Justice (DOJ) components provide a range of activities that address police misconduct allegations, assess the need for police accountability reforms, and help improve police-community relations. We performed this audit to: (1) evaluate how the Civil Rights Division (CRT) identified and selected potential patterns or practices of unlawful police conduct for investigation, (2) review how the Office of Community Oriented Policing Services (COPS Office) and the Office of Justice Programs (OJP) directed technical assistance for accountability reforms to local law enforcement agencies, (3) assess how the Community Relations Service's (CRS) mediation efforts could assist other DOJ outreach efforts, and (4) ascertain how well DOJ has coordinated and assessed the results of these efforts.

Results in Brief

We found that the: (1) CRT could better document decisions made with regard to opening patterns or practices investigations; (2) COPS Office needed a cost-benefit review between Collaborative Reform contracts and cooperative agreements; (3) OJP should continue to enhance its oversight of its Diagnostic Center; and (4) CRS can further assist other DOJ police accountability reform efforts. Overall, DOJ components best achieved their respective mission and program objectives when they worked in concert with one another. Enhanced coordination could improve information sharing, prevent overlap of services, and ensure operational efficiency.

During the audit, the CRT, COPS Office, and OJP initiated important efforts to assess the results of each of their programs to help shape their future work, avoid overlaps, and increase effectiveness.

Recommendations

We make 15 recommendations to assist the Department and related components in their oversight, management, and operation of efforts to: (1) address patterns or practices of police misconduct and (2) provide technical assistance to police departments in the area of accountability reform.

Audit Results

Allegations of unlawful use of force by local police departments and strong community reactions regarding related police practices have strained relations between some law enforcement agencies and the communities they serve. Our audit generally focused on the police accountability efforts of four DOJ components that took place from January 2011 through December 2015.

Component Coordination – Though we found that some informal coordination existed among DOJ components, this coordination neither ensured that appropriate information was shared nor prevented overlapping efforts. In 2016, the Deputy Attorney General issued guidance to DOJ components on how to coordinate activities responding to “high-profile” civil rights incidents. However, the guidance did not define which component is responsible for designating an incident as “high profile” and thus initiate the protocol. Although generally aware of this new guidance, component officials had different understandings of who should initiate efforts under the protocol. Thus, we believe that DOJ needs to consider which component should initiate action under particular circumstances and develop procedures for appropriate coordination between its components and the relevant U.S. Attorney's Office. By doing so, DOJ will better ensure an efficient and effective response to high-profile civil rights incidents.

In March 2017, the Attorney General announced an agency-wide review of DOJ activities supporting state, local, and tribal law enforcement. The review included many – and ultimately affected some – of the DOJ efforts included in this audit. We believe that our findings can provide useful information for DOJ to consider as it reviews its involvement in these efforts.

The Civil Rights Division – The CRT Special Litigation Section has the responsibility for investigating systemic civil rights violations arising from the actions of about 18,000 law enforcement agencies across the United States. The CRT has standardized how it initiates patterns or practices investigations, but we believe that it can better ensure that its leadership has more complete information when determining which law



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enforcement agencies to investigate. Specifically, although it has revised its work planning process, the CRT could enhance its case selection procedures to better memorialize decisions to move forward or not with investigations. For example, even though CRT attorneys formally recommended investigating a local police department at least four times between 2006 and 2015, we could not readily determine when or who among CRT leadership deferred or declined investigating these allegations during this time. Ultimately, the CRT opened an investigation of this local police department only after the release of a video tape depicting the shooting of an unarmed civilian.

Considering the CRT's mission, we believe it is important that it refine its established strategic work-planning process to ensure it can identify both pressing priorities and long-standing concerns. The CRT's consideration of prior efforts and referrals that may indicate at-risk law enforcement agencies will enhance its institutional knowledge of particular law enforcement agencies and help it evaluate future incidents.

The Office of Community Oriented Policing Services – Before September 2017, both the COPS Office's Collaborative Reform and Critical Response programs assessed law enforcement agency procedures and recommended reforms based on best practices. Collaborative Reform provided non-adversarial technical assistance requested by local law enforcement agencies on policies and processes that affected their community relationships. Critical Response reviewed a requesting law enforcement agency's response to high-profile events or specific long-term problems. The COPS Office stated that it evaluated Collaborative Reform during our audit, and we believe Critical Response would benefit from a similar evaluation.

Despite the COPS Office's decision to transition from using cooperative agreements to using a contract to fund Collaborative Reform, it continued to assign and provide assistance under both cooperative agreements as well as the contract. The continued use of cooperative agreements raised questions as to whether these services were substantially similar to those provided through a contract and what effect any differences had on the locations involved. Therefore,

we believe that the COPS Office should (1) perform a cost-benefit analysis on the engagements performed thus far and (2) implement strategic goals and performance measures to better ascertain the effectiveness of the technical assistance provided in particular situations and determine which instrument better achieves program goals. In September 2017, DOJ announced that Collaborative Reform would be refocused to provide technical assistance to requesting law enforcement agencies in ways that promote, "officer safety, officer morale, and public respect for their work." The COPS Office stated that Collaborative Reform, as realigned, will no longer formally assess or monitor the police practices of requesting law enforcement agencies.

The Office of Justice Programs – OJP directs many law enforcement technical assistance services through its Diagnostic Center, which we found relied on a contractor to run almost all aspects of its operations. As a result, very few OJP employees supervised the contractor activities, which we believe increased the risk of inadequate oversight and evaluation. During our audit, OJP addressed this concern by allocating additional personnel to help it administer the Diagnostic Center. OJP should continue to assess and ensure adequate personnel are assigned to oversee the Diagnostic Center contract.

The Community Relations Service – The CRS assists communities and persons targeted by hate crimes and discriminatory acts associated with race, color, national origin, religion, gender, gender identity, sexual orientation, or disability. While the CRS must at times limit its coordination efforts with other DOJ components due to a confidentiality provision and other mandates in its authorizing legislation, we found that CRS conciliators have been able to assist other DOJ components in the past. Such assistance comports with the tenets of a 2016 DOJ protocol on responding to high-profile civil rights incidents that encouraged coordination among DOJ components. We believe the CRS should explore appropriate opportunities to enhance its collaboration with other DOJ components, particularly the COPS Office and OJP, on non-litigation community outreach aspects of their programs.

**AUDIT OF THE DEPARTMENT OF JUSTICE’S EFFORTS TO
ADDRESS PATTERNS OR PRACTICES OF POLICE MISCONDUCT
AND PROVIDE TECHNICAL ASSISTANCE ON ACCOUNTABILITY
REFORM TO POLICE DEPARTMENTS**

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AUDIT OF THE DEPARTMENT OF JUSTICE'S EFFORTS TO ADDRESS PATTERNS OR PRACTICES OF POLICE MISCONDUCT AND PROVIDE TECHNICAL ASSISTANCE ON ACCOUNTABILITY REFORM TO POLICE DEPARTMENTS

INTRODUCTION

Allegations of the unlawful use of force by local police departments and strong community reactions regarding related police practices have strained relations between some law enforcement agencies and the communities they serve. In fulfilling its mission to enforce the law and ensure the fair and impartial administration of justice for all Americans, the U.S. Department of Justice (DOJ or Department) works to: (1) investigate allegations of police misconduct in an effort to ensure that police departments act in accordance with the Constitution and federal statutes protecting civil rights; (2) provide accountability reform grants and technical assistance to police departments, and (3) foster improved police department relations with the communities they serve.

Background

Four DOJ components engage with local police departments to either investigate allegations of systemic unconstitutional violations or assist them in implementing effective police practices and reforms through various technical assistance and training programs designed to stem unconstitutional policing and increase community outreach.

- The Civil Rights Division (CRT) enforces laws prohibiting discrimination in education, employment, credit, housing, public accommodations, and voting. The CRT Special Litigation Section (SPL) also investigates allegations of unlawful patterns or practices by state and local law enforcement agencies

that deprive people of their constitutional rights and ensures enforcement of constitutional protections within certain federally funded programs.¹

- The Office of Community Oriented Policing Service (COPS Office) provides technical assistance to and works with local police departments to help develop strategies and methodologies that address community or problem-oriented policing.²
- Various bureaus and offices within the Office of Justice Programs (OJP) award local law enforcement agencies grants or provide training and technical assistance that are intended, at least in part, to assist with accountability reform or procedural justice initiatives. The primary OJP program to directly provide such technical assistance is the Diagnostic Center, which gathers data and other empirical evidence to assist various entities in developing public safety recommendations. OJP's Office for Civil Rights (OJP OCR) maintains concurrent jurisdiction with the CRT to review systemic allegations of discrimination by DOJ fund recipients, but the OJP OCR's jurisdiction is limited to administrative investigations and compliance reviews of harms caused by such recipients.
- The Community Relations Service (CRS) seeks to help communities: (1) resolve conflicts and tensions caused by race, religion, and national origin differences and (2) address violent hate crimes committed based on gender, gender identity, sexual orientation, and disability.³

The combined efforts of these components range from narrowly focused, data-driven assessments; to more extensive, cooperative reviews of problematic

¹ The Violent Crime Control and Law Enforcement Act of 1994 authorized the Attorney General to review allegations of such patterns or practices by making it unlawful for police departments to engage in patterns or practices that deprive people of constitutional rights (42 U.S.C. § 14141 (2016)). Other statutes also require that law enforcement agencies receiving federal funds, or are public entities, comply with anti-discrimination laws. For example, Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d (2016)), the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. § 3789d(c) (2016)), and the Americans with Disabilities Act of 1990 (42 U.S.C. §§ 12131-12134 (2016)) all contain anti-discrimination clauses applicable to federal funds recipients. See, 18 U.S.C. § 245(b)(1)(E) (2016).

The CRT's Criminal Section, often working with United States Attorney's Offices around the country, also prosecutes criminal cases involving the use of excessive force or other violations of constitutional rights under color of law, in violation of 18 U.S.C. §§ 241, 242 (1996), and other statutes. The Department's efforts in investigating and prosecuting such criminal matters was outside the scope of this review.

Effective September 2017, 42 U.S.C. § 14141 was re-codified as 34 U.S.C. § 12601 and 42 U.S.C. § 3789d(c) was re-codified as 34 U.S.C. § 10228(c). We nevertheless refer to the original citations as they were effective during the preponderance of this audit.

² Pub. L. No. 103-322 (1994) (reauthorized by Pub. L. No. 109-162 (2006)) and 42 U.S.C. § 3796dd (d) (2016).

³ Title X of the Civil Rights Act of 1964 (42 U.S.C. § 2000g, et seq. (2016)) and the Matthew Shepard and James Byrd, Jr. Hate Crimes Prevention Act of 2010 (Pub. L. No. 111-84, Div. E, (2009) and 18 U.S.C. § 249(a)(2)(2016).

policing procedures, suggesting best practice-based solutions; to full investigations that may result in litigation regarding patterns or practices of excessive uses of force, biased policing, and unlawful searches, seizures, and detention.

In addition, the Attorney General issued a Memorandum dated March 31, 2017, directing an immediate review of “all Department activities – including collaborative investigations and prosecutions, grant making, technical assistance and training, compliance reviews, existing or contemplated consent decrees, and task force participation,” associated with supporting all levels of local law enforcement.⁴ The Memorandum listed eight principles, including four particularly relevant to the programs we audited: (1) local control and accountability are necessary to effective policing and the federal government cannot “manage non-federal law enforcement;” (2) “the misdeeds of individual bad actors should not impugn or undermine” the legitimate work that law enforcement officers and agencies perform; (3) collection of reliable crime statistics are essential; and (4) “local law enforcement must protect and respect the civil rights of all members of the public.” The Memorandum stated that the review will ensure all components adhere to these principles in order to advance the goal of using Department resources “to effectively promote a peaceful and lawful society, where the civil rights of all persons are valued and protected.”

OIG Audit Approach

In February 2016 the Department of Justice Office of the Inspector General (OIG) began an audit of DOJ’s efforts to address or prevent unlawful police department conduct and improve police-community relations. The specific objectives of this audit were to: (1) evaluate how the CRT identified and selected potential patterns or practices of unlawful police conduct for investigation, (2) review how the COPS Office and OJP direct technical assistance for accountability reforms to local law enforcement agencies, (3) assess how the CRS’s mediation efforts might assist other DOJ outreach efforts, and (4) ascertain how well DOJ coordinates and assesses the results of these efforts.

We requested and obtained source documents from the CRT on how it initiated investigations of police departments for systemic misconduct, the COPS Office and OJP regarding technical assistance each provided on police accountability reform programs and procedural justice issues, and CRS regarding its conciliation and community outreach efforts. We reviewed policies, guidelines, regulations, laws, budget data, correspondence, case management data, and work products. Unless otherwise noted, the scope of the audit generally spanned from January 2011 through December 2015. As necessary to address our audit objectives, we included in our audit activities that took place through September 2017.

We interviewed over 30 current and former CRT officials, attorneys, and other staff to determine how they identify and select allegations of potential

⁴ March 31, 2017, Attorney General Memorandum, “Supporting Federal, State, Local and Tribal Law Enforcement.”

patterns or practices of police misconduct for investigation. We also inquired as to how the CRT developed and assessed the remedies prescribed in negotiated settlement agreements and consent decrees approved by the courts to address findings of misconduct. We met with COPS Office staff who oversee and support technical assistance under its Collaborative Reform Initiative and Critical Response program. Additionally, the audit team interviewed officials from five different OJP bureaus about accountability related programs, and assessed the operations, work products, and trainings of the Diagnostic Center and the National Initiative for Building Community Trust and Justice. We further interviewed over a dozen CRS officials and conciliation specialists regarding their community engagement approaches and staffing patterns.

We also assessed the efforts of these four components to coordinate their work with one another. For both the COPS Office and OJP, we analyzed cooperative agreements and contracts to provide technical assistance to the same police departments. In this vein, we conducted fieldwork on location at the police departments of Fayetteville, North Carolina and Minneapolis, Minnesota, interviewing officers and community members. In addition, we spoke with contractors, cooperative agreement service providers, subject matter experts retained by the COPS Office and OJP, and contracting officials at the Justice Management Division (JMD) and both components.

This report presents the results of our audit in five sections. The first four sections describe the individual efforts of each reviewed component, while the last section focuses on how DOJ components could collectively increase coordination among their respective activities and programs to remedy findings of unconstitutional conduct and assist local law enforcement agencies.

AUDIT RESULTS

The Civil Rights Division

Although the CRT has increased the transparency of how it selects jurisdictions to investigate for police misconduct practices, including publishing a January 2017 report discussing its processes and priorities, we found that its case selection systems and procedures could be enhanced. In particular, we found that CRT leadership, who reviewed justification memoranda prepared by CRT attorneys to request opening an investigation of a particular law enforcement agency, did not always record decisions when denying or deferring the opening an investigation. Moreover, the CRT did not maintain these draft memoranda in a central depository. An archive of deferred or declined draft justification memoranda, along with the general reasons why the CRT leadership deferred or declined to open an investigation, would improve the CRT's institutional memory and help its attorneys identify potentially at-risk agencies for future consideration. Further, the CRT's approach to settling police misconduct cases became more complex after 2011 by including outcome measures in court enforceable consent decrees. Therefore, in 2016, the CRT contracted with Arizona State University to evaluate consent decree requirements across the country, including outcome measures and it should take action accordingly.

Overview of CRT Police Misconduct Enforcement

The CRT works to uphold and defend constitutional rights, enforce federal statutes that prohibit discrimination, and provide a remedy for constitutional violations. Its Special Litigation Section (SPL) has the primary responsibility for enforcing civil rights with respect to the policies, practices, and procedures of law enforcement agencies, juvenile justice systems, correction facilities, and institutions for people with disabilities.

As of April 2016 the SPL had assigned to its Police Practice Group (PPG) about 33 full-time equivalent (FTE) employees, including 22 staff attorneys, 5 supervisory attorneys, 2 investigators, and 4 contracted outreach specialists. These personnel investigate, litigate, and negotiate remedies for cases involving patterns or practices of police misconduct. The most recent numbers available show that just under half the cost of the SPL Section was spent on the PPG. Specifically, during FY 2016, the PPG expended \$6.7 million, representing about 46 percent of the \$14.5 million total cost of the SPL Section that year.⁵

PPG attorneys rely mainly on 42 U.S.C. § 14141 (§ 14141) to investigate and then seek federal injunctions or settlements to bring about structural changes to law enforcement agencies found to have engaged in systemic unconstitutional

⁵ Of the overall 2016 costs, the SPL as a whole spent \$9.9 million in personnel costs, \$2.9 in overhead, and \$1.7 million in non-personnel costs; of which PPG expended \$ 4.5 million, \$1.3 million, and \$0.9 million, respectively.

misconduct.⁶ The PPG may also rely on Title VI of the Civil Rights Act of 1964, among other statutes, which prohibits discrimination based on race, color, national origin, sex, or religion by state and local law enforcement agencies receiving financial assistance from the DOJ.⁷

In general, before filing in federal court, the PPG seeks to settle investigative findings of systemic misconduct through out-of-court settlement agreements or by court-enforceable consent decrees. Such settlements require law enforcement agencies to comply with specific reforms such as altering their policies, policing procedures, training, oversight processes, or accountability systems. Most consent decrees require the court to select independent monitors to ensure that the law enforcement agency complies with consent decree requirements and provide progress reports and other updates on the status of reforms.⁸ The consent decree implementation process may require several years to complete. When the independent monitor has determined a subject law enforcement agency is in substantial compliance with the provisions contained within a consent decree, and when the agency has sustained substantial compliance for a period of time set forth in the consent decree, the court will terminate the agreement.

According to records provided by the CRT, from January 2011 through December 2016 the PPG opened 17 new investigations alleging unconstitutional policing (also referred to as “pattern or practice” violations). Also during this period, CRT records show that the PPG worked on eight ongoing investigations opened prior to 2011. As shown in Table 1, the PPG negotiated settlements or consent decrees for 21 of these 25 investigations as of January 2017.⁹

⁶ As noted previously, effective September 2017, 42 U.S.C. § 14141 was re-codified as 34 U.S.C. § 12601. We nevertheless refer to the original citation at 42 U.S.C. § 14141 as this was effective during the preponderance of the scope of this audit.

⁷ Title 42 U.S.C. § 2000d, et seq. (2016) and 42 U.S.C. § 3789d(c) (2016), prohibit both individual instances and patterns or practices of discriminatory misconduct, with jurisdiction shared by the CRT and OJP’s Office for Civil Rights. As noted previously, OJP focuses its authority on administrative investigations and compliance reviews of non-criminal harms caused by entities receiving DOJ grant funds or incidents otherwise related to the use of such funds. Under Title VI, DOJ may seek changes in the policies and procedures to remedy violations of the law and, if appropriate, also seek individual remedial relief.

⁸ In addition, even out-of-court settlements may use “independent reviewers” agreed upon by the parties to assess compliance as happened in the 2012 settlements of the related cases involving the Missoula Police, Missoula County Attorney, and University of Montana.

⁹ See *The Civil Rights Division Pattern and Practice Police Reform Work 1994-Present*, U.S. Department of Justice, 43 (January 04, 2017), for a discussion of each investigation.

Table 1
CRT Police Misconduct Enforcement Actions
January 2011 through January 2017

Investigation/Year Opened	Resolution	Resolution Date
Pre-2011		
Puerto Rico Police Department	Decree ^a	17-Jul-13
New Orleans Police Department, Louisiana	Decree	24-Jul-12
Virgin Islands Police Department	Decree	24-Mar-09
East Haven Police Department, Connecticut	Decree ^a	20-Nov-12
Suffolk County Police Department, New York	Settlement	13-Jan-14
Detroit Police Department, Michigan	Decree ^b	18-Jul-03
Warren Police Department, Ohio	Decree	26-Jan-12
Yonkers Police Department, New York	Settlement	14-Nov-16
2011		
Seattle Police Department, Washington	Decree	21-Sep-12
Newark Police Department, New Jersey	Decree	5-May-16
Los Angeles County Sheriff's Department (Antelope Valley), California	Decree ^a	1-May-15
Portland Police Bureau, Oregon	Decree ^a	29-Aug-14
Meridian Police Department, Mississippi	Decree	18-Sep-15
Miami Police Department, Florida	Settlement	10-Mar-16
2012		
Albuquerque Police Department, New Mexico	Decree	2-Jun-15
University of Montana of Public Safety	Settlement	9-May-13
Missoula County Attorney's Office, Montana	Settlement	10-Jun-14
Missoula Police Department, Montana	Settlement	15-May-13
2013		
Cleveland Division of Police, Ohio	Decree	26-May-15
2014		
Ferguson Police Department, Missouri	Decree	19-Apr-16
2015		
Baltimore Police Department, Maryland	Decree	7-Apr-17
Chicago Police Department, Illinois	Agreement ^c	13-Jan-17
Ville Platte Police Department, Louisiana	Ongoing	-
Evangeline Parish Sheriff's Office, Louisiana	Ongoing	-
2016		
Orange County Sheriff's Office, California	Ongoing	-

^a Settlement under Fed. R. Civ. Pro. 41(a)(2) that included an independent monitor.

^b Detroit's consent decree was terminated in full on March 02, 2016.

^c Chicago agreed in principle to negotiate reforms with the CRT to settle the case.

Source: CRT

For the 17 investigations opened and settled during our audit scope, we reviewed data from the CRT Interactive Case Management System and found that SPL line attorneys reported working an average of 6,354 hours per case or matter.¹⁰ However, we note there was a significant variability in the number of hours SPL line attorneys charged to investigate different police misconduct allegations, settle cases, and enforce agreements. PPG attorneys told us that a variety of factors – such as force size, claim complexity, and a jurisdiction’s willingness and ability to implement reforms – dictated the amount of time each case required. Although some investigations reached settlement quickly, most took over 2 years to settle and required several additional years to implement the terms of a settlement. PPG attorneys also conducted three separate civil actions during this time, two of which generated settlement agreements.¹¹

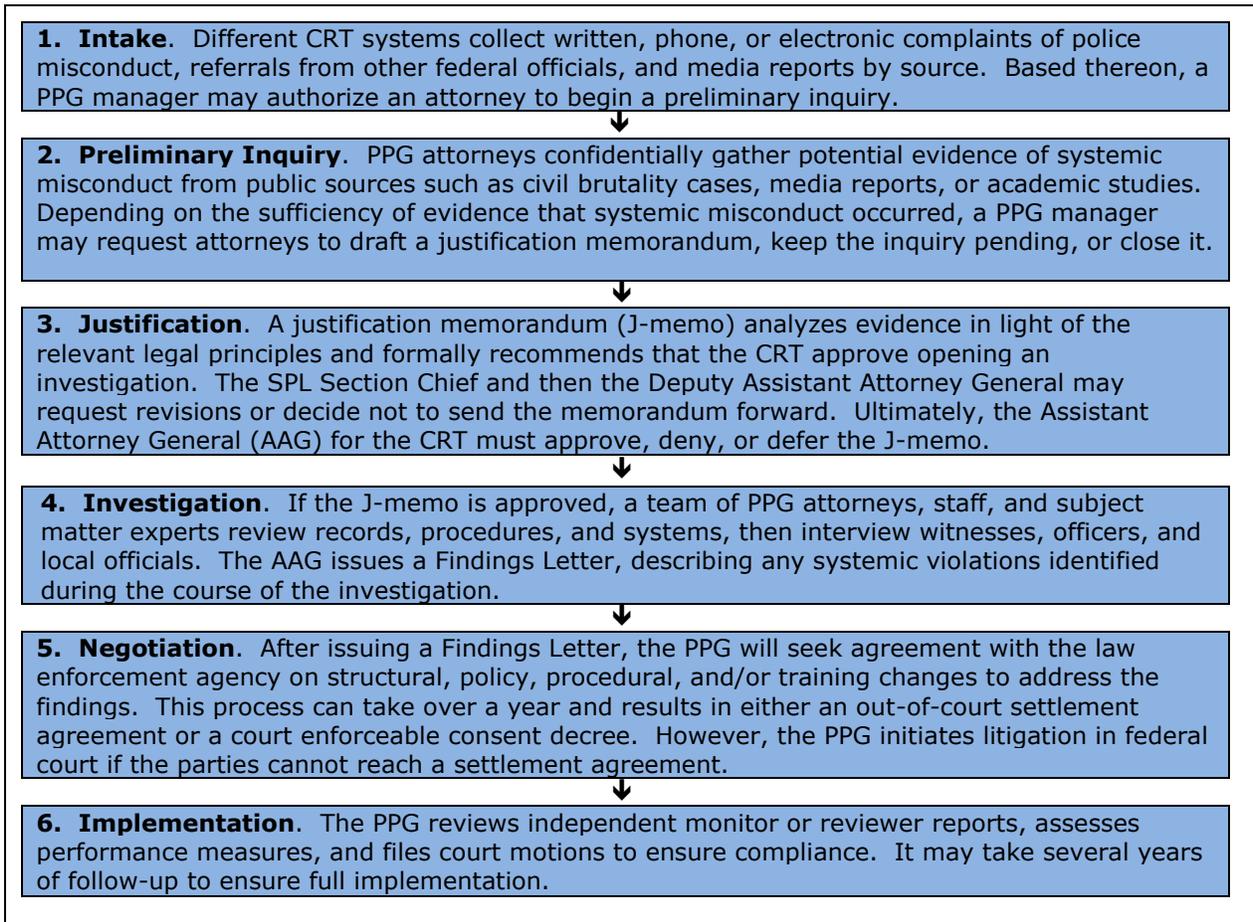
Process for Selecting Police Misconduct Enforcement Actions

The CRT police misconduct patterns or practices enforcement actions generally follow a six-stage process. As detailed in Table 2, the first steps of this process seek to identify, review, or otherwise assess issues and complaints received by the CRT.

¹⁰ The average hours spent per case does not include the time of SPL managers, contractors or other attorneys that may have been assisting from a U.S. Attorney’s Office.

¹¹ The following are not shown in Table 1: (1) *United States v. Maricopa County, Arizona*, settled July 15, 2015; (2) *United States v. Alamance County, North Carolina*, settled Aug. 17, 2016; and (3) *United States v. Town of Colorado City, Arizona*.

Table 2
Police Practice Group Case Workflow



Source: CRT PPG

To assess how the CRT identifies and selects potential patterns or practices of police misconduct for investigation, we reviewed the systems and processes used and records kept since 2011 for the first three phases listed above: (1) intake, (2) preliminary inquiry, and (3) justification.

Intake of Complaints and Referrals

The CRT developed separate processes and procedures to receive, catalog, and assess complaints and referrals of police misconduct that are largely dependent on the source and fall into one of two categories, controlled or non-controlled. The CRT specially designates complaints or investigation requests from elected federal, state, and local officials, as well as any communication addressed to the Attorney General, as controlled correspondence. The CRT tracks such controlled correspondence in the Intranet Quorum system, maintained by the Justice Management Division’s Departmental Executive Secretariat. Correspondence from the public addressed directly to the CRT or its personnel, as well as referrals from local advocacy groups, federal law enforcement agencies, Assistant United States

Attorneys, research groups, litigators, and whistleblowers within state and local police departments, are designated as non-controlled. CRT staff scan and log non-controlled correspondence into the Correspondence Tracking System (CTS) database. Additionally, the CRT uses investigative journalism reports and media coverage of significant police misconduct as a source of potential allegations. However, the CRT does not specifically track such news stories.

From 2011 to 2016, the CRT’s systems logged 8,605 referrals or complaints received by the SPL that related to state or local law enforcement agencies.

Table 3
Tracked Special Litigation Section Communications Related to Police
2011 - 2016

Medium	Count
Phone calls	727
Emails	4,383
Non-Controlled Mail Correspondence	3,074
Controlled Correspondence	421
Total	8,605

Source: CRT

To assist in capturing this information and permit staff and managers to engage in work planning together, the PPG established a new Case Selection Advisory Committee (CSAC). The CSAC maintains a database to track relevant information. However, we noted that the CRT still has no formal policy requiring its attorneys to notify the CSAC of individual referrals they receive via emails and phone calls. We believe this increases the risk that some attorneys may not always forward the referrals they receive, which may result in missed opportunities for the CRT to obtain and prioritize all referred misconduct issues for possible future consideration by CRT decision makers. Therefore, we recommend that the CRT institute a formal policy requiring that its attorneys report all referrals of police misconduct incidents they receive to the CSAC.

PPG attorneys stated that an individual complaint of police misconduct rarely demonstrates a systemic concern with a particular law enforcement agency. However, correspondence from advocacy groups may present evidence of multiple constitutional rights violations typically needed to raise such system-wide concerns. Throughout our review, nearly all of the CRT and PPG managers emphasized that the PPG is not, and should not be, a complaint-driven operation. PPG stated that many factors must be taken into account before a complaint or allegation triggers the PPG to begin a patterns or practices investigation. Nevertheless, we noted that the PPG had not established written policies to guide its attorneys – beyond obtaining a manager’s approval to continue research of a complaint, referral, or media report – on how to initially assess complaints and referrals. We also noted that PPG attorneys do not use CRT tracking systems to prospectively identify

potential problem departments or analyze trends. PPG attorneys and managers told us that conducting trend analysis of police use of force incidents and complaints would be very beneficial, but current databases have very incomplete records.

However, the OJP's Bureau of Justice Statistics (BJS) has various initiatives, some operated in conjunction with the Federal Bureau of Investigation (FBI), to improve police reporting and available data. The BJS reported that through the National Crime Statistics Exchange (NCS-X) it has worked with the FBI to expand the use of the National Incident Based Reporting System (NIBRS) with 400 scientifically selected law enforcement agencies, including the 72 largest police departments in the United States. The BJS stated that through this expansion, NIBRS may serve as the crime reporting standard for all law enforcement agencies across the country, improve data quality, and allow for the development of more informative national estimates of reported crime. We believe that such advances in data availability and quality would provide the CRT an opportunity to examine data for potential trends of police misconduct that may provide additionally objective information to identify at-risk jurisdictions. We therefore recommend that the CRT: (1) coordinate with OJP and the FBI to keep apprised of relevant, respective police data initiatives, such as NCS-X, and (2) establish procedures as to how personnel should consider such data while assessing complaints and referrals of police misconduct.

Preliminary Inquiry

The first decision point for the CRT in selecting allegations for investigation is whether to open a preliminary inquiry. The PPG has an informal but widely understood practice that requires that any attorney spending more than 2 hours researching a complaint, referral, or media report request a DOJ number (DJ number) and approval from a PPG manager to continue to assess the allegation as a preliminary inquiry. Between January 2011 and December 2015 the PPG reported opening 69 preliminary inquiries, averaging about 13 per year, from which CRT would ultimately open an average of 3 formal PPG investigations annually.

When conducting a preliminary inquiry, a PPG attorney generally researches any publically available information, such as news articles or civil litigation regarding potential incidents of police misconduct, and may communicate with complainants, referring officials, and whistleblowers, as appropriate. Although a PPG attorney typically does not contact the subject law enforcement agency during this time or seek other non-public information, PPG managers stated that the CRT does not restrict attorneys from discussing aspects of the complaint with trusted law enforcement personnel with knowledge pertaining to an allegation or complaint.

If a preliminary inquiry uncovers evidence that indicates systemic misconduct by a law enforcement agency, the PPG attorney discusses the matter with a manager to decide whether to prepare a justification memorandum analyzing the relevant facts and recommending a full investigation to the CRT leadership. If insufficient evidence or information exists to proceed to preparing a justification

memorandum, a PPG manager can direct the attorney to close the preliminary inquiry and draft a memorandum documenting the reasons for closure. Our review of available closing memoranda revealed them to be summary documents, sometimes clearly stating a lack of evidence as a reason, but sometimes indicating lack of resources or differing priorities dictated closing the file.

Alternately, the PPG manager may decide to keep open the preliminary inquiry for an indeterminate period. PPG managers we spoke with said leaving a preliminary inquiry open allows for the CRT to consider new information as it becomes available, but does not heighten the scrutiny of the original complaint. In fact, one PPG supervisor stated that sometimes a preliminary inquiry could remain open simply because the CRT may receive a number of questions regarding a particular law enforcement agency and PPG attorneys must track the time they spend responding to these inquiries. Although practice group managers make a practice of periodically reviewing open inquiries for closure, such inquiries may remain open for several years.

Justification Memorandum

Should a preliminary inquiry uncover what appears to be evidence warranting a full investigation, a PPG attorney works with his or her supervisor to prepare a draft justification memorandum (commonly known as a J-memo) that summarizes publically available evidence such as: (1) academic studies, (2) media reports, (3) civil rights group allegations, and (4) private civil lawsuits over excessive use of force or police tactics that disproportionately affect minorities. The draft justification memorandum also analyzes pertinent laws, reviews recent prosecutions, and often provides a potential investigative plan.

We found that the drafting process for justification memoranda has evolved over time. During the scope of our audit, we found that the PPG generally prepared draft justification memoranda collaboratively between its line attorneys and supervisors. Once a draft is prepared, PPG supervisors review it again to ascertain whether it should be routed to the SPL Section Chief for further review and consideration. If approved by the SPL Chief, the justification memorandum is transmitted to the supervising Deputy Assistant Attorney General at the CRT, who may concur with, alter, defer, or deny it. If approved, the Deputy Assistant Attorney General forwards the memorandum to the Assistant Attorney General for the CRT. Only after the Assistant Attorney General approves the justification memorandum does it become final and serve as the legal and factual basis for opening an investigation.¹² However, if the justification memorandum is deferred or otherwise not approved during any phase of the preparation process, the PPG may either close the preliminary inquiry or keep it open to gather additional information and, possibly, resubmit a revised justification memorandum.

¹² Prior to final CRT approval, the PPG team will contact the relevant U.S. Attorney's Office (USAO) where the police department is located to de-conflict with local efforts and determine USAO interest in contributing resources, but USAOs have no formal veto over CRT action in these matters.

Analysis of PPG Selection Process

To assess misconduct allegations in order to open preliminary inquiries or determine the suitability of drafting a justification memorandum, both PPG managers and attorneys said they used some version of PPG’s investigative decision factors as detailed in Table 4.

Table 4
PPG Patterns or Practices Investigative Decision Factors

Factor	Description
Nature of Allegation	Clearly meets requirements of 42 U.S.C. § 14141 and CRT precedent in addressing the type of conduct at issue.
Credibility of Source(s)	Number and situation of complainants (arrestees, whistleblowers, law enforcement referrals, etc.), and existence of corroborating support.
Jurisdiction-type and Diversity of Police Misconduct Docket	Ensuring docket broadly represents all geographic regions, community and police force sizes, and protected classes; may include possible impact on similar jurisdictions.
Police Practice Group (PPG) Capacity and Workflow	Current and future availability of attorney time to start new reviews given workflow of current cases.
Opportunity Costs	Extent to which resources required for a case would likely prevent opening future urgent or complex cases.
Exigency Factors	Perceived urgency from threats to public order or safety and other issues arising from public interest and media coverage.

Source: Interviews with CRT Officials

The PPG distributed these decision factors to its attorneys as part of the CSAC initiative. Attorneys we spoke with stated that they had been familiar with the same or similar factors before this. We note that although many of these factors require objective information, the relative importance each attorney places upon each factor in deciding the merits of the case can be subjective.

Although CRT-approved justification memoranda consistently applied the facts of specific allegations to § 14141 legal requirements, we found that such justification memoranda did not clearly delineate or analyze other decision factors consistently. We recommend the CRT consider requiring that future justification memoranda routed to CRT leadership from the SPL contain a section explicitly discussing how the PPG and SPL assessed and prioritized all the designated decision factors with regard to whether to recommend opening an investigation.

Handling and Recording the Disposition of Justification Memoranda

We found that while the CRT tracks the status of particular matters by DJ number and performs docket reviews, neither the SPL nor CRT collect or archive all draft justification memoranda prepared by its attorneys. We note that the SPL Section Chief must forward each memorandum before it can be considered by CRT

leadership. The CRT could provide us copies of Assistant Attorney General-approved justification memoranda but was unable to readily identify or find justification memoranda that were not approved by CRT leadership because such documents were not tracked or maintained in a systematic way. We found that there was no central depository for drafted justification memoranda. Instead, these drafts remain only in the personal files of individual attorneys, which makes the PPG reliant on institutional memory to recall past efforts and concerns about individual law enforcement agencies. Therefore, when responding to our requests for particular unapproved justification memoranda, the CRT had to search the individual working files of its current and former attorneys. As such, we could not: (1) identify a universe of drafted justification memoranda prepared during our audit scope or (2) determine at which level in the process some drafted justification memoranda were deferred or denied.

We believe that justification memoranda that were not approved by CRT leadership present a valuable resource for the CRT to help plan and prioritize future work. If CRT leadership deferred action on a justification memorandum because they believed more evidence was necessary to establish a sufficient pattern or the SPL could not staff an investigation at the time, the memorandum could be maintained to consider when sufficient additional evidence had been amassed or the SPL had the resources available to conduct an investigation. Without a central depository of such memoranda, future CRT efforts to recommend investigations of the same law enforcement entity, or of similar conduct by another law enforcement entity, may miss valuable historical information contained in a prior justification memorandum. In addition, an archive of unapproved or otherwise drafted justification memoranda would also provide a resource for attorneys performing future inquiries on matters involving the same or similar law enforcement agencies.

An example of where we believe an archive of drafted justification memoranda would have been helpful concerned the CRT's repeated consideration of opening an investigation of a local police department since 2006. SPL attorneys opened a preliminary inquiry of this local police department to review alleged patterns or practices of improper conduct. Under this inquiry, which the CRT kept open for several years, SPL attorneys drafted three separate justification memoranda that outlined repetitive excessive use of force and discriminatory actions that they stated merited opening a patterns or practices investigation of this local police department.¹³ None of the three memoranda noted who among CRT leadership declined or deferred the request to open an investigation and none of the requests ultimately resulted in a formal investigation. It was only after we

¹³ The first justification memorandum, which we determined was drafted about 2 years after the preliminary inquiry was opened, detailed allegations of excessive use of force and recommended that the CRT proceed with a patterns or practices investigation of this police department. This memorandum also noted that another DOJ component requested that the CRT defer such an investigation because of this police department's leadership changes. The second justification memorandum, prepared and dated the following year, detailed continuing alleged patterns or practices of excessive force and other misconduct. This memorandum also highlighted what it referred to as the police department's apparent lack of progress on reforms. Two years after the date of the second memorandum, SPL attorneys drafted a third justification memorandum that detailed additional concerns of excessive use of force and discriminatory policing by this local police department.

reviewed e-mail records and spoke to several current and former CRT officials regarding these memoranda that we could ascertain who among CRT leadership declined or deferred opening an investigation and when the official made this decision.

CRT leadership ultimately approved an investigation into this local police department after SPL attorneys drafted a fourth justification memorandum in response to a second inquiry opened to address different allegations of discriminatory policing. We determined that no substantive action occurred on this second inquiry until a high-profile incident. We were told that after this incident, PPG researched, drafted, and submitted a revised justification memoranda based largely on excessive use of force allegations.

Absent better documentation as to why some justification memoranda resulted in investigations and others did not, we were unable to assess the level of information needed to justify an investigation or what factors may be of importance in making that decision. However, based on our review of CRT's processing of such matters, and to assist it in its future work planning efforts, we recommend that the CRT: (1) establish a depository of justification memoranda for PPG use on subsequent matters involving the same law enforcement agencies or similar conduct; and (2) adopt a procedure requiring the documentation of denials and deferrals of PPG justification memoranda and the management level of review at which such decisions were made.

Need for Improved Strategic Work Planning

The CRT maintains the responsibility for investigating systemic civil rights violations stemming from the actions of about 18,000 law enforcement agencies across the United States. Considering the number of issues communicated to and received by the CRT, we believe it is critical that the CRT embrace a strategic work planning process that permits it to objectively identify the most pressing priorities and concerns. A January 2015 review of the CRT by the National Academy of Public Administration (NAPA), which was mandated by Congress following an OIG review related to the operations of the CRT Voting Section, recommended that the CRT develop written policies regarding its enforcement decision-making process and improve its strategic planning.¹⁴ Specifically, the NAPA review cited that "the lack of written policies and procedures makes it easier for political appointees to disregard time-honored approaches and institute practices that can inject bias and threaten the integrity and accountability of the [CRT]."¹⁵ The review also found that the CRT focused its attention on casework and paid less attention to operational management. The review thus recommended that the CRT implement

¹⁴ This review stemmed from U.S. Department of Justice Office of the Inspector General, *A Review of the Operations of the Voting Section of the Civil Rights Division*, (March 2013). See, *The Consolidated Appropriations Act of 2014*, Pub. L. No. 113-76, Div. B, Title II (2014).

¹⁵ National Academy of Public Administration, Department of Justice Civil Rights Division: A Strategic Management Framework for Building on the Past, Moving to the Future, January 2015, pp. 53-55.

a more integrated management approach to strengthen accountability with a focus on management policies, strategic planning, and leadership development.¹⁶

We recognize that the CRT's CSAC has worked with the PPG and its managers to update PPG's priorities to help it assess potential new patterns or practices investigations. This effort incorporated several new issues such as police interactions with children in school and discriminatory policing that had not been addressed in previous cases as well as other considerations such as the availability of other DOJ initiatives that might address a potential concern (to include those offered by the COPS Office, the Diagnostic Center, or the CRT's Criminal Section address the issues). Such considerations highlighted the importance of coordinating with the U.S. Attorney's Offices and other potentially relevant DOJ offices and programs, as further discussed in this report.

In January 2017, the CRT issued a report that summarized its methodology in selecting particular matters to investigate. In this report, the CRT asserted that it was critical that it have discretion to sort and rank priorities to permit it to review jurisdictions that meet its criteria for opening an investigation. In addition, CRT managers and attorneys stated that there are law enforcement agencies that the office understands exhibit concerning behaviors because of the number of questions or complaints the office receives on these agencies. However, the CSAC does not account for police departments of previous concern based on open preliminary inquiries or unapproved justification memoranda. Consequently, we believe that while the CSAC's work to updated PPG priorities constitutes progress in identifying additional areas of concern, it does not sufficiently memorialize or track law enforcement agencies that preliminary inquiries or unapproved justification memoranda have found to be potentially at-risk.

Without prioritizing potentially problematic law enforcement agencies, we believe the CRT is at risk of appearing exclusively reactive when it evaluates whether to open an investigation into potential patterns or practices of unlawful police conduct. We therefore recommend that the CRT continue to develop a more risk-based strategic work planning process. Building on our previous recommendations, this approach should include periodically reviewing and ranking case selection priority issues and applying these priorities to particular law enforcement agencies that prior preliminary inquiries, justification memoranda, and referrals indicated may be particularly at-risk.

Assessment of Remedies in Police Misconduct Investigations

Once the CRT approves a patterns or practices investigation, the PPG engages with the law enforcement agency to review its policies, training, and procedures. The PPG often hires consultants to analyze the police department's training, patrol and search tactics, use of force practices, and accountability or other relevant systems or procedures. Following an investigation, the AAG issues a

¹⁶ In particular, Recommendation 4.1 stated that the CRT should produce written policies on the enforcement decision-making process and develop and publish procedures manuals.

public report, known as a findings letter, detailing its conclusions.

Where the PPG finds patterns or practices of misconduct, the PPG works with the subject law enforcement agency as well as community stakeholders and police practice experts to develop a negotiated settlement agreement with specific remedies tailored to problems identified or, in the absence of such agreement, the CRT will initiate litigation. PPG attorneys told us that in recent years, the CRT had concentrated on negotiating court-enforced Consent Decrees rather than out-of-court settlement agreements, although it still does both. In some instances where a law enforcement agency implemented significant reforms but certain issues remain, the Division will seek the court's permission to terminate the consent decree and then enter into a separate transition agreement addressing the remaining issues.

Consent Decree 2.0 Evaluation Effort

Historically, PPG settlements have included a series of process improvements, yet contained few measures that could definitively demonstrate that the process improvement actually resulted in greater constitutional policing, or increased confidence by local communities in their policing authorities. In recent years, the PPG began including in the agreements both qualitative and quantitative outcome measures. Examples of outcome measures include performing community surveys to assess changes in public confidence in the subject police departments and collecting data to track and analyze patterns of police activities. The effort to integrate outcome measures, known as Consent Decree 2.0, is intended to reduce guesswork and subjectivity when assessing compliance with and the impact of agreements.

Most settlement agreements have independent monitors or reviewers to ensure that the law enforcement agency complies with the tenets of an agreement. Of the 18 open reform agreements as of January 2017, all but 4 were overseen by independent monitoring teams. Similarly, of the eight cases or matters opened before 2011 that the CRT either settled or litigated, two settled, one resulted in a consent decree without an independent monitor, and five resulted in consent decrees with an independent monitor.

However, prior to 2016, PPG had not validated whether prescribed outcome measures accurately assessed whether reform efforts actually achieved their respective intended effects. In 2016, the PPG entered into a contract with the Arizona State University (ASU) to assess the outcome measures of recent PPG patterns or practices settlements from 2010 through 2016 and identify the best measures to apply to future agreements. CRT officials told us that they hope that the first phase of this effort will recommend changes to the outcome metrics used in current or future agreements. A CRT official also hoped to examine the effect of previous reform agreements by evaluating individual cases including the East Haven (Connecticut) Police Department and Seattle (Washington) Police Department reform agreements, both of which were reached in 2012.

In addition, the CRT reported that it hopes that the second phase of the effort will: (1) evaluate whether the PPG's current reform model was effective in eliminating patterns or practices of unconstitutional law enforcement conduct and (2) identify effective police reform practices. The CRT should complete its evaluation, analyze the results of these assessments, and take action accordingly to maximize the efficacy of its efforts in this important area.

The Office of Community Oriented Policing Services

The COPS Office Collaborative Reform for Technical Assistance (Collaborative Reform) and Critical Response programs offered assessments of participating law enforcement agencies' procedures and recommended reforms based on best practices. We found that while the COPS Office had begun evaluating the effectiveness of Collaborative Reform, it had made no such arrangements to evaluate its Critical Response program. We also found that the COPS Office transitioned from cooperative agreements to a contract provider for its Collaborative Reform program. Nonetheless, the COPS Office continued to assign and provide assistance under both the cooperative agreements and the contract, providing different levels of coordination for the engagements and control over performance. We believe that the COPS Office should perform an analysis regarding engagements performed and implement strategic goals to measure the effectiveness of the technical assistance provided to make a final determination as to which of these procurement instruments provided the best service in particular situations.

Technical Assistance Efforts Assessing Police Policy and Practices

The COPS Office serves to advance community policing initiatives and partnerships between community stakeholders and police in order to increase trust and cooperation. The COPS Office maintains two police accountability reform programs: (1) Collaborative Reform, which, until September 2017, assessed and recommended approaches to correct institutional police department issues, and (2) the Critical Response program, which provides best practices or peer-to-peer advice on a specific concern in response to particular, high-profile events or specific long term problems.

Collaborative Reform

The COPS Office developed Collaborative Reform in 2011 to provide non-adversarial technical assistance to law enforcement agencies on use-of-force practices, officer involved shootings, racial profiling, and officer misconduct matters. Collaborative Reform deploys outside subject matter experts to review a law enforcement agency's policies, practices, and training to identify issues that

negatively affect public trust and then develop recommendations to resolve those issues.¹⁷

As seen in Table 5, the COPS Office Collaborative Reform program provided its first assistance to the Las Vegas (Nevada) Metropolitan Police Department in 2011. Since then, the COPS Office has initiated Collaborative Reform with 15 other law enforcement agencies.

Table 5
Collaborative Reform Review Sites, 2011 to 2016

Police Department	Date Announced / Requested
1. Las Vegas Metropolitan Police Department, Nevada	Dec-2011
2. Philadelphia Police Department, Pennsylvania	Nov-2013
3. Spokane Police Department, Washington	Feb-2013
4. St. Louis County Police Department, Missouri	Sep-2014
5. Baltimore Police Department, Maryland	Oct-2014
6. Fayetteville Police Department, North Carolina	Oct-2014
7. Salinas Police Department, California	Mar-2015
8. Calexico Police Department, California	Apr-2015
9. Milwaukee Police Department, Wisconsin	Dec-2015
10. San Francisco Police Department, California	Feb-2016
11. North Charleston Police Department, South Carolina	May-2016
12. Chester Police Department, Pennsylvania	May-2016
13. Commerce City Police Department, California	Aug-2016
14. Memphis Police Department, Tennessee	Oct-2016
15. Fort Pierce Police Department, Florida	Nov-2016
16. Saint Anthony Police Department, Minnesota	Dec-2016

Source: The COPS Office

¹⁷ In September 2017, the Department announced “significant changes” to the Collaborative Reform program to refocus it on providing targeted technical assistance specifically requested by local law enforcement agencies and “based on their identified needs and requests.” [\[Link\]](#) In announcing these changes, the Attorney General indicated that “[t]his is a course correction to ensure that resources go to agencies that require assistance rather than expensive wide-ranging investigative assessments that go beyond the scope of technical assistance and support.” Citing an “unintended consequence of a more adversarial relationship” between DOJ and law enforcement agencies, the COPS Office stated that Collaborative Reform, as changed, will: (1) align with the goal of promoting “officer safety, officer morale, and public respect for their work,” and (2) no longer produce assessments and progress reports or otherwise monitor law enforcement agencies requesting technical assistance.

Appendix 4 details the COPS Office’s full response to our draft audit report and includes more information regarding the changes made to Collaborative Reform subsequent to the time of our review.

Collaborative Reform, as reviewed by this audit, had four phases: (1) intake, (2) assessment and reports, (3) implementation progress reporting, and (4) final report.

Intake

For intake, COPS Office officials told us that law enforcement agency leaders often informally communicated with them about Collaborative Reform following “flashpoint” incidents, such as excessive use of force, officer-involved shooting, or racial profiling. However, law enforcement agencies also contacted the COPS Office when they proactively sought assistance to address problematic police-community relations issues. This was the case for the Calexico Police Department in Calexico, California, which sought Collaborative Reform assistance to improve its accountability and oversight procedures following criminal misconduct allegations against officers, including kidnapping and schemes to conduct illicit surveillance for extortion. Similarly, in the fall of 2014, then Chief of Police for Fayetteville Police Department in North Carolina requested COPS Office’s assistance after officers reported that they believed police-community relations were poor.

Generally, the heads of both the requesting law enforcement agency and the local government submitted a formal notice to request Collaborative Reform assistance, which distinguished it from SPL investigations that are not initiated by the subject policing authority. When the COPS Office received such a notice, its personnel conducted a pre-assessment to determine the viability of COPS Office assistance for the requesting agency by taking into account the six questions in Table 6.

Table 6
COPS Office Pre-Assessment Considerations

<ol style="list-style-type: none">1. Are the problem areas identified systemic throughout the law enforcement agency?2. Do the concerns represent learning opportunities for other law enforcement agencies?3. Are internal reform efforts underway positioned to succeed and address the problem areas?4. Does the local government executive support a potential Collaborative Reform effort?5. Does the COPS Office have the funding available to address the problem areas?6. Are there any actions by the CRT pending or underway against the requesting law enforcement agency?
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Source: The COPS Office

At this point, the COPS Office determined which of its programs would best address the law enforcement agency’s needs, based on whether the agency’s concerns were systemic or narrow in scope. If the COPS Office determined that the

requesting agency met the eligibility criteria, COPS Office personnel discussed with law enforcement agency leaders the subjects and scope of the Collaborative Reform assessment phase, as detailed below.

Assessment and Report

The topics and agency functions covered in Collaborative Reform assessments varied depending on the scope of the review. In this respect, the assessment differed from SPL investigations in that the scope of the issues examined by the COPS office were not determined by the Department alone, but rather by collaboration between the requesting law enforcement agency and the Department. Over the course of the assessment, a Collaborative Reform team consisting of COPS Office program staff and select subject matter experts visited the requesting law enforcement agency. During such visits, the team interviewed law enforcement agency personnel, other government officials, members of civic organizations, and community representatives. Collaborative Reform teams often also hosted community listening sessions to obtain community feedback about public safety and policing concerns.

Following information gathering, the Collaborative Reform team developed and issued an assessment report containing the institutional issues it identified and recommendations for remedies based on best practices in policing. Two examples illustrate what Collaborative Reform assessments included under the tenets of the program before it was changed in September 2017. The assessment report prepared for the Calxico Police Department, which arose out of allegations of officer criminal conduct, reviewed the police department's accountability and oversight systems and focused on internal affairs training, policies, and procedures for the intake and investigation of misconduct complaints. The report found deficiencies regarding how the police department supervised and performed its internal affairs functions and recommended new community policing strategies to improve community engagement. In the case of the Fayetteville Police Department, where officers reported poor police-community relations including complaints of racial profiling in traffic stops, the COPS Office recommended improved oversight and accountability processes regarding a use of force policy, traffic and pedestrian stop practices, and community engagement efforts with disaffected residents.

Progress Reporting and Final Report

After the Collaborative Reform team issued its assessment report, the subject law enforcement agency would then begin to implement its recommendations. The Collaborative Reform team then worked to assist and assess progress geared towards implementing the recommendations. For example, in Fayetteville, North Carolina, we observed officer training monitored by the COPS Office team and a working group meeting to revise the police department's officer-involved shooting manual with the assistance of a COPS Office subject matter expert.

Before Collaborative Reform changes were announced in September 2017, the general practice was for the COPS Office to issue an implementation report, generally 6 months following an assessment report, which detailed the local law enforcement agency's progress in meeting the recommendations. A year following the implementation report, the Collaborative Reform team would return to review changes and provide further advice. After this, the COPS Office issued a final report reviewing the actions taken to address its recommendations. At the time of our review, the COPS Office had issued only one final report, in 2014, for the Las Vegas (Nevada) Metropolitan Police Department. According to officials at the COPS Office, this department implemented 96 percent of COPS Office recommendations.

COPS Office officials told us that Collaborative Reform teams did not experience significant pushback or disengagement from assessed law enforcement agencies regarding findings or recommendations because the process is, by definition, collaborative, which means that the jurisdiction that requested assistance had a proactive role in helping to shape the scope of the technical assistance provided, as well as some flexibility in how to formulate recommended changes. Although voluntary, COPS Office officials stated that Collaborative Reform recommendations have "the power of public opinion" because the assessment and implementation reports are published for everyone to see.

We believe that the Collaborative Reform program in place before September 2017 provided a potentially valuable and constructive review and recommendation function to local law enforcement agencies. Several Fayetteville, North Carolina police officers told us that they would recommend the assistance they received from the COPS Office to other local police departments facing challenges with the communities they serve. In fact, the then Chief of Police of Fayetteville stated that he believed the decline of officer-involved shootings stemmed from several of the changes initiated by Collaborative Reform.

Over the past several years, the Collaborative Reform program has undergone several organizational changes within the COPS Office.¹⁸ Collaborative Reform procedures also have evolved significantly since 2011. In August 2015, the COPS Office began drafting procedures to guide and formalize the stages of collaborative reform. However, we found the COPS Office had not yet finalized these procedures. We recommend that the COPS Office prioritize the completion of its Collaborative Reform procedures and distribute such information or documents to relevant staff and, where appropriate, potential partners.¹⁹

¹⁸ Initially, staff in the COPS Office's Community Policing Advancement Division supervised all Collaborative Reform efforts. In December 2015, the COPS Office established the Policing Practices and Accountability Initiative within the Director's Office to oversee Collaborative Reform. However, the COPS Office again reorganized in November 2016, placing the program in the Community Policing Advancement Directorate.

¹⁹ In its response to a draft of this report, the COPS Office stated that it completed and distributed Collaborative Reform procedures as recommended. We detail additional analysis of this action in Appendix 8.

Funding and Management

For the initial Collaborative Reform assessment, the COPS Office used funds from the Department's Community Policing Development Program. In FY 2014, the COPS Office began receiving separate appropriations from Congress for Collaborative Reform. The COPS Office accomplishes its Collaborative Reform reviews and follow up via the support of subject matter experts through cooperative agreements and contracts. Table 7 details these agreements, which totaled just under \$5 million for FY 2014.

Table 7
FY 2014 Collaborative Reform Awardees

Awardee	Cooperative Agreement Number	Award Amount (\$)
Institute for Intergovernmental Research	2014CRWXXK001	1,124,750
Police Foundation	2014CRWXXK002	1,124,331
CNA Corporation	2014CRWXXK004	1,125,000
Community Resources for Justice	2014CRWXXK005	500,000
Hillard Heintze	2014CRWXXK006	1,125,000
Total		\$4,999,081

Source: The COPS Office

In Fiscal Year 2015, the COPS Office again received \$5 million in appropriations for Collaborative Reform from Congress. Subsequently, the COPS Office entered into a \$4.85 million multi-year indefinite delivery, indefinite quantity (ID/IQ) contract (DJJ15-C-2614) with Hillard Heintze, LLP, to complete similar Collaborative Reform analytical work accomplished by the cooperative agreement awardees. Specifically, the contract noted that the contractor was to complete engagements with "eight to ten departments" over 3 years.

COPS Office leadership told us that completing engagements under a single contract instead of a series of cooperative agreements would provide the government with sole ownership of the work products and intellectual property created as a result. Such sole ownership would clarify that the findings and recommendations of Collaborative Reform would represent the official opinion of the Department. COPS Office management stated that using cooperative agreements resulted in the providers' names and logos appearing on the reports and providers retaining rights to the intellectual property contained therein. COPS Office officials also told us that awarding an ID/IQ contract allowed it the flexibility to establish multiple task orders that could detail specific activities the contractor would perform for Collaborative Reform.

In FY 2016, the Collaborative Reform budget increased to \$10 million and in September 2016, the COPS Office awarded a second task order (DJJ2614-0002), obligating an additional \$4.53 million dollars to Hillard Heintze to complete new engagements. COPS Office officials told us that they awarded the second task order because the contract required additional funds for current and new

engagements. Based on our evaluation in Table 9, the engagements under the contract appear to be more expensive than engagements under the Cooperative Agreements.

At the time of our review, the first task order supported Collaborative Reform assessments of four departments, but the COPS Office planned to move two of those assessments to the second task order. The remainder of the funds under the first task order would then serve to complete the first two engagements with the Milwaukee (Wisconsin) Police Department and the San Francisco (California) Police Department and fund Program Management Office (PMO) related contractor activities. In addition, COPS Office officials told us they substantially revised the contract's Statement of Work in 2016 to ensure better coordination through the engagements between the COPS Office and the contractor, permit the contractor to provide more logistical support under the contract, and specify the role of COPS Office employees in the engagement process as well as their relationship with the contractor.

Despite awarding the ID/IQ contract to Hillard Heintze in 2015 to complete engagements with "8 to 10 departments" over 3 years, our review showed the COPS Office arranged for no more than four engagements under its first task order and two additional engagements under its second task order. However, we also found the COPS Office during this period continued to assign engagements under the FY 2014 cooperative agreements that were still in effect. COPS Office officials stated that the cooperative agreements still had unused funds available and they planned to use this funding to complete some of the newer engagements, but they expected the contractor under the ID/IQ instrument to perform all future engagements for Collaborative Reform. Table 8 shows the cost per engagement as of the end of FY 2016 under the cooperative agreements and the contract.

Table 8**Cost for All Engagements under Collaborative Reform by Fiscal Year**

Engagement Performed	Award Type	FY 2012 (\$)	FY 2013 (\$)	FY 2014 (\$)	FY 2015 (\$)	FY 2016 (\$)	Totals
Las Vegas	Coop. Agreement	318,863	163,785	26,152	-	-	\$508,800
Philadelphia	Coop. Agreement	-	-	219,538	132,304	105,517	\$457,359
Spokane	Coop. Agreement	-	-	198,108	103,239	68,494	\$369,841
St. Louis Co.	Coop. Agreement	-	-	1,545	351,891	95,648	\$449,084
Baltimore	Coop. Agreement	-	-	27,950	455,134	96,922	\$580,006
Fayetteville	Coop. Agreement	-	-	-	230,465	89,601	\$320,066
Salinas	Coop. Agreement	-	-	-	188,510	172,585	\$361,095
Calexico	Coop. Agreement	-	-	-	192,046	58,646	\$250,692
North Charleston	Coop. Agreement	-	-	-	-	71,791	\$71,791
Chester	Coop. Agreement	-	-	-	-	109,766	\$109,766
Milwaukee	Contract	-	-	-	-	703,888	\$703,888
San Francisco	Contract	-	-	-	-	1,336,921	\$1,336,921
Commerce City ^a	Contract	-	-	-	-	-	-
Memphis ^a	Contract	-	-	-	-	-	-
Fort Pierce ^a	Contract	-	-	-	-	-	-
St. Anthony ^a	Contract	-	-	-	-	-	-
PMO Cost	Contract	-	-	-	-	952,773	\$952,773

^a Collaborative Reform for these cities was determined and assigned by the COPS Office to the contract but will not be billable until FY 2017.

Source: OIG analysis of COPS Office financial data provided on October 31, 2016.

Based on our review of the limited comparable cost information available, it appears that the COPS Office's use of a contract through 2016 increased the cost per engagement, and includes additional operational costs not seen in the engagements performed under the cooperative agreements. For example, the cost of the San Francisco effort, which reflects the costs only through issuance of the assessment report, already costs two and-a-half times the amount spent on the entire Las Vegas effort under the cooperative agreement. Similarly, the Milwaukee assessment under the contract appears about two times the cost of assessments for the Spokane, Philadelphia, or St. Louis engagements under cooperative agreements.

In our opinion, one reason for the cost gap between the contract and cooperative agreement are the costs associated with Hillard Heintze assistance to the Collaborative Reform Program Manager Office (PMO).²⁰ In FY 2016, the COPS Office incurred \$952,773 in PMO-related costs. In contrast, awardees do not incur PMO-related costs under the cooperative agreements, as the main objective for

²⁰ The original statement of work provided for PMO expenses, but the revised Statement of Work, under Modification 5, included more information regarding PMO costs. COPS Office officials noted that additional supporting information, outside of the contract, delineates the specific tasks related to PMO efforts.

Collaborative Reform cooperative agreements is to develop and provide technical assistance for law enforcement. The COPS Office’s decision to use a contract for Collaborative Reform support expanded the provider Statement of Work from just technical assistance to logistical and programmatic management efforts.

Cooperative agreements and contracts operate differently and provide the COPS office different levels of control over how work is performed and the resulting work product. By concurrently providing Collaborative Reform under the contract and through cooperative agreements, the COPS Office has raised a question about whether these services are substantially similar and what effect any differences will have on the locations involved. Federal law provides criteria for executive agencies in selecting the correct procurement instrument to achieve government goals.²¹ The COPS Office should consider these criteria in order to determine the best procurement instrument for achieving Collaborative Reform. Further, we believe that the COPS Office should consider not only intellectual property control matters but also the cost-effectiveness of the different engagements performed, given the significant differences in costs for the ultimate assessments and reports obtained. Therefore, we recommend that the COPS Office perform a cost-benefit analysis regarding the engagements performed under the cooperative agreements and the engagements performed under the standing contract for the Collaborative Reform in order to determine the best procurement instrument to achieve their goals, prior to exercising the next annual contract option year.²²

In addition, we believe that the COPS Office can improve its planning process for Collaborative Reform. The COPS Office received and obligated about \$20 million dollars for Collaborative Reform yet has spent only \$5.6 million.²³ The last 3 years of COPS Office’s budgets for the Collaborative Reform appear in Table 9.

Table 9
Annual Award Activity for Collaborative Reform

Year	Budget (\$)	Obligations (\$)	Expenditures (\$)
2014	5,000,000	4,999,081	2,744,972
2015	5,000,000	5,000,000	2,842,964
2016	10,000,000	8,139,775	--
TOTAL	20,000,000	18,138,856	5,587,936

Source: The COPS Office as of October 12, 2016.

²¹ 31 U.S.C. §§ 6301-6308 (2016).

²² In its response to a draft of this report, the COPS Office stated that it conducted a cost comparison and concluded that cooperative agreements were the most appropriate funding vehicle to perform technical assistance as recommended. We detail additional analysis of this action in Appendix 8.

²³ The COPS Office directed an additional \$3,609,775 of these funds to its 21st Century Policing Initiative, which started in May 2016, as part of the larger Collaborate Reform effort. The COPS Office stated that this program initiative will provide technical assistance to 15 law enforcement agencies and produce guidance materials for other agencies.

The COPS Office told us that they did not establish Collaborative Reform goals because the number of law enforcement agencies actually requesting assistance are unknown in advance, and costs to provide such assistance may vary. Requests from law enforcement agencies drive the voluntary participation in Collaborative Reform. Although the COPS Office has reached out to law enforcement groups and its website displays past Collaborative Reform achievements, COPS Office officials told us that many local law enforcement agency leaders they encounter still seem unaware of the purpose of Collaborative Reform. We asked the COPS Office about their strategies to reach out to local departments to increase awareness of Collaborative Reform. The COPS Office stated that it is working on a marketing program for local law enforcement agencies that combats a perception that a law enforcement agency requesting Collaborative Reform indicates that there is trouble.

COPS Office budget documents reflect that it sets its budget to enable it to accomplish 8 to 10 engagements under the first task order for Collaborative Reform. However, COPS Office officials told us requests for Collaborative Reform have been slower than anticipated, leaving a significant amount of funds obligated for Collaborative Reform unused. We recommend that the COPS Office implement strategic goals and performance measures to better ascertain the effectiveness of the technical assistance provided in particular situations and make a final determination as to which procurement instrument better achieves its program goals.²⁴

In 2016, the COPS Office arranged for the Crime & Justice Institute (CJI) to begin evaluating the effectiveness of Collaborative Reform. For this effort, the CJI is identifying a set of performance indicators and collecting qualitative data from stakeholders – including COPS Office staff, service providers, law enforcement personnel, elected leaders, and members of community-based organizations and focus groups, to assess the success of Collaborative Reform monitoring efforts. For each site, the CJI will gather and assess information from progress reports, communications with COPS Office staff and service providers, and media reports to offer lessons learned and make recommendations to strengthen the Collaborative Reform program. We believe that the results of this review would assist the Department in assessing and improving the efficacy of the Collaborative Reform program.

Critical Response

According to the COPS Office, high-profile events involving alleged police misconduct put stress on police officers and the communities they serve. Long-term, ongoing issues may arise in particular neighborhoods or geographic subsections of jurisdictions with high levels of poverty and violent crime, which can strain police-community relationships. The COPS Office Critical Response Technical

²⁴ In its response to a draft of this report, the COPS Office shown that it developed and incorporated a performance measure framework in its Collaborative Reform Application Guide as recommended. We detail additional analysis of this action in Appendix 8.

Assistance Program (Critical Response) seeks to assist law enforcement agencies with high-profile events or specific long-term problems requiring resolution.

Critical Response provides four specific kinds of technical assistance to local law enforcement agencies: (1) peer-to-peer exchanges allowing enforcement personnel to interact with peers in another agency involved in the same line of work, like gang prevention; (2) facilitating conversations between police officers, representatives of non-profit organizations, and members of community groups to discuss problems and best practices; (3) strategic planning development assistance, for example for the development of community outreach and crime reduction programs; and (4) targeted in-depth reviews, which may range from evaluating an agency's practices in a specific issue area, like racial profiling, or after action reviews detailing the tactical actions taken and level of coordination by multiple law enforcement agencies responding to a major event, like a mass-shooting. In contrast to Collaborative Reform, Critical Response engagements do not review law enforcement agency efforts to implement report recommendations. Instead, the final product of Critical Response is only an assessment report addressing a local law enforcement agency's response to a specific incident or situation.

As such, the Critical Response introduces the COPS Office as an outside party to study the issues and offer its unbiased opinion. Critical Response reports contain findings and recommendations that may consist of data analysis and interviews with personnel at various levels in the law enforcement agency, municipal officials, and other community stakeholders on the topic identified. Critical Response reports often detail best policies and practices from other law enforcement agencies to address particular situations or issues. Table 10 details the Critical Response engagements that the COPS Office initiated between 2011 and 2016.

Table 10
Critical Response Engagements, 2011 to 2016

Police Department	Date Announced/ Requested
1. Detroit Police Department, Michigan	September 2013
2. Ferguson Police Department, Missouri*	September 2014
3. San Diego Police Department, California	March 2014
4. New Orleans Police Department Training Academy, Louisiana	December 2014
5. Tampa Police Department, Florida	April 2015
6. Pasco Police Department, Washington	May 2015
7. San Bernardino, California	January 2016
8. Minneapolis Police Department, Minnesota	March 2016
9. Dearborn Police Department, Michigan	April 2016
10. Oglala Sioux Tribe Department of Public Safety Pine Ridge Indian Reservation, South Dakota	May 2016
11. Orlando Police Department, Florida	July 2016

^a The after-action review included St. Louis County Police Department, St. Louis Metropolitan Police Department, Missouri State Highway Patrol, and Ferguson Police Department.

Source: The COPS Office

Depending on the assistance provided, the Critical Response process may have up to four phases: (1) intake, (2) assessment, (3) report, and (4) implementation.

The intake process for Critical Response works the same way as the intake process for Collaborative Reform, with the local law enforcement agency heads or local government executives either informally communicating with the COPS Office about available technical assistance programs or sending a formal Technical Assistance Request Letter signed by the agency's executive (e.g. commissioner, chief, or sheriff) and the local government executive. COPS Office officials told us that they understand that not every agency needs an intensive program like Collaborative Reform, but may instead benefit from more targeted types of assistance permitted by Critical Response.

The Critical Response assessment phase involves a team comprised of third-party subject matter experts and, for more complex matters, a COPS Office representative, which reviews policy, interviews police leadership and officers, and conducts community outreach. As noted above, the technical assistance provided may also include on and off-site expert assistance, research, management support, and facilitation of information-sharing opportunities. Assessment teams also consult with other subject matter experts and legal counsel to inform their work.

In one example, the Minneapolis Police Department (MPD) requested technical assistance in November 2015 to assess its response to an officer-involved shooting and subsequent community unrest involving the occupation by protestors in a precinct building. The service provider and the COPS Office team spoke with

MPD officers, Department leadership, and local community leaders, as well as assessed command structures and incident response structures within the MPD. Both police officers and community members stated that they believed the assistance of COPS Office assessments would be valuable when the report was issued.²⁵

Assessment reports condense the interviews and analysis of materials into core areas of consistent concerns. The reports may also compare local trends and processes to legal requirements or widely accepted police best practices. Based on analysis and validation, the report typically details the Critical Response team's findings and assessment of lessons learned from the review. We also noted that some Critical Response reports included specific recommendations for change. For instance, the report on advancing community relationships for the Pasco (Washington) Police Department, concluded that the police department needed to: (1) improve officer use of force training, (2) recruit a more diverse workforce, (3) increase the number of officers fluent in Spanish, and (4) promote police-community relationships. However, the Critical Response report process does not subsequently assess how the subject law enforcement agency implements report recommendations.

After-action Critical Response reports detail the lessons learned from the response to a major event to improve future deployments and for potential use by other law enforcement agencies. For instance, in September 2015, the Critical Response program issued an after-action report on how four law enforcement agencies responded to the demonstrations in Ferguson, Missouri. The report identified over 100 lessons learned that reflected 6 themes that "permeated all aspects of the police response."²⁶

While we found that the COPS Office has started to assess the effectiveness of Collaborative Reform, it has not made a similar effort to evaluate the results of its Critical Response program. The COPS Office must remain diligent in ensuring its programs are effective in delivering their intended benefits. We recommend that the COPS Office develop a process to assess the effectiveness of its Critical Response program.

²⁵ In March 2017, the COPS Office publicly released the results of its MPD assessment. [\[Link\]](#)

²⁶ See, *After-Action Assessment of the Police Response to the August 2014 Demonstrations in Ferguson, Missouri*, U.S. Department of Justice, p. xiv (Sept. 3, 2015). The concerns include reactive law enforcement strategies; inconsistencies among responding agencies with disparate missions, policies, training, and cultures; inconsistent leadership of frontline officers; insufficient understanding of endemic community problems; inadequate communications and information sharing; and inappropriate tactics not consistent with best practices.

The Office of Justice Programs

The OJP directs many law enforcement technical assistance related services through its Diagnostic Center, which analyzes persistent justice system issues, when requested by localities, and recommends data-driven policy solutions. We found that the Diagnostic Center uses a contractor to run almost all aspects of its operations, including processing intake requests, recommending engagements, staffing experts, and drafting reports. At the beginning of our review, we found that the level of federal employee supervision did not correspond to the intricacies of this contract, thus increasing the risks of inadequate oversight and evaluation. OJP addressed this issue during the course of our audit by providing additional personnel to assist in the administration of the Diagnostic Center during 2016. Further, OJP's National Initiative for Building Community Trust and Justice (National Initiative) is in the process of delivering procedural justice training to six pilot cities, including guidance on how law enforcement agencies interact with the public and how those interactions shape public perception, as well as engagement on public safety. We also reviewed other OJP bureaus' efforts to determine their involvement in assisting local law enforcement agencies or other DOJ components in addressing police misconduct. In particular, BJS data could inform other components of national systemic issues and better direct their respective work planning needs.

OJP Efforts Relevant to Police Accountability

The mission of OJP is to increase public safety and improve the administration of justice by partnering with federal, state, local, and tribal agencies to develop, operate, and evaluate a wide range of criminal and juvenile justice programs. On a voluntary basis, the OJP Diagnostic Center provides training and technical assistance to local police departments relevant to accountability reform and improving community relations. The Diagnostic Center, in part, provides requesting local law enforcement agencies evidence-based and data-driven services to build a specific entity's capacity to use such data in public safety policy and programming, and also provides voluntary procedural justice training through the National Initiative for Building Community Trust and Justice. In addition, the BJS gathers and analyzes criminal justice information that provides a national context for police data and helps identify systemic issues potentially relevant to police misconduct. The OJP Office for Civil Rights (OJP OCR) ensures that OJP award recipients comply with federal laws that prohibit discrimination in both employment and the delivery of services or benefits.

Diagnostic Center

The Diagnostic Center began as part of OJP's Evidence Integration Initiative (E2I) in 2011. In September 2013, OJP awarded an \$18 million, 5-year contract to Booz Allen Hamilton, Inc. (contractor). To operate the Diagnostic Center, as of September 2016, the contractor had spent \$10.2 million and conducted 113 engagements under the contract. The purpose of the Diagnostic Center is to assist a requesting entity in using data to assess public safety and criminal justice issues,

and develop effective strategies to address those issues. As such, law enforcement is only one of the Diagnostic Center’s eight core focus areas.²⁷

Even within the law enforcement focus area, we found that a third of the Diagnostic Center’s 15 analytical products related to law enforcement agency issues other than accountability reform or community relations, as detailed in Table 11.

Table 11
Diagnostic Center Law Enforcement Engagements with Reports

Location	Engagement Details
1. Albert Lea, Minnesota	Addressing Human Trafficking
2. Alorton, Illinois	Officer Accountability and Violent Crime
3. Brooklyn, Illinois	Officer Accountability and Violent Crime
4. Charlottesville and Albemarle County, Virginia	City and County System Responses to Domestic Violence
5. Durham, North Carolina	Violent Crime and Community Relations
6. East Haven, Connecticut	Community-Police Relationships
7. East St. Louis, Illinois	Officer Accountability and Violent Crime
8. Fayetteville, North Carolina	Violent Crime and Community Relations
9. Fort Myers, Florida	Community-Oriented Policing and Violence
10. Gary, Indiana	Addressing Violent Crime
11. Manchester, Connecticut	Effectiveness of Response for Children of Arrested Caregivers
12. Minneapolis, Minnesota	Officer Accountability and Community Relations
13. Niagara Falls, New York	Crime Affecting Tourism
14. Rockford, Illinois	Gun Violence and Drug-Related Crimes
15. Washington Park, Illinois	Officer Accountability and Violent Crime

Source: OJP Diagnostic Center

Before the Diagnostic Center begins an engagement, it must receive a request for assistance from a state, local, or tribal government official, a DOJ component, or an OJP technical assistance provider. The contractor maintains a project tracking database to keep track of requests and assesses the referral to determine if the Center’s model is appropriate. Periodic meetings occur where OJP stakeholders approve requests, and the Diagnostic Center contractor then determines how best to accommodate approved requests through either a data-based analysis or a review of research publications, when reliable sources exist to support the request without a full engagement.

The Diagnostic Center employs a three-phased process: (1) “Diagnose,” by identifying factors contributing to particular criminal justice concerns and conducting data analysis, (2) “Implement,” by recommending evidence-based programs and technical assistance, and (3) “Assess,” by conducting additional data

²⁷ The other focus areas are Corrections, Court Systems, Crime Prevention, Drugs and Abuse, Justice Systems, Youth Advocacy, and Victim Advocacy.

analysis to determine whether those efforts addressed the diagnosed concerns. These engagements can implicate police accountability reform directly, such as by recommending improved discipline processes, or indirectly by identifying problematic community partnerships or relationships and suggesting means to address them.

For example, in 2014, the Diagnostic Center helped identify problematic police officer behaviors and improve oversight for the Minneapolis Police Department (MPD) at the request of its Chief of Police. After interviewing MPD personnel and assessing data on MPD misconduct, complaints, and disciplinary actions, the Diagnostic Center recommended that the MPD, among other things, strengthen community engagements, and create an early intervention system.

Also in early 2014, the Police Chief in Fayetteville, North Carolina requested Diagnostic Center assistance. Reflective of its focus on evidence-based and data-related services, the Diagnostic Center conducted surveys and reviewed research to outline the scope and nature of factors it found contributed to concerns regarding youth community relations with the police department. The Diagnostic Center further suggested that the Fayetteville Police Department work with the COPS Office to address their concerns regarding excessive use of force.²⁸

Oversight of Diagnostic Center Efforts

We found that the contractor operates almost all aspects of the Diagnostic center, including referrals, diagnosis, implementation, and assessment of the engagements as well as developing strategies to market Diagnostic Center services to law enforcement agencies.

Contract requirements dictate that the contractor submit to OJP numerous deliverables related to operating and managing the Diagnostic Center on a monthly, quarterly, and annual basis. In addition, the contractor must annually produce a case study to demonstrate program effectiveness, including significant advice with respect to the establishment of public safety policy and programs.

At the beginning of our audit, we found that few OJP personnel were involved in overseeing the work of the Diagnostic Center contractor. Given the contractor's extensive responsibilities, we were concerned that having too few OJP personnel actively involved increased the risks of insufficient oversight. When the Diagnostic Center began as an initiative in the OJP Assistant Attorney General's office in 2011, OJP detailed a Policy Advisor, the permanent Director of the Diagnostic Center as of 2016, and an additional Policy Advisor detailee. OJP allowed each to allocate 30 percent of their time for their detail assignments overseeing the Diagnostic Center.

²⁸ Subsequently, the Fayetteville Police Department requested COPS Office Collaborative Reform assistance to review its oversight and accountability processes related to use of force, assess its practices for traffic and pedestrian stops—sources of public complaint—and review its efforts at community engagement in the fall of 2014, as noted in the previous section.

The Director reviewed all diagnostic assessments and performance reports, determined final selection of new engagements, and coordinated meetings with other OJP offices providing funding for the Diagnostic Center. The Director also served as the Contracting Officer's Representative (COR), providing the initial review of the contractor's financial reports and billing invoices prior to submitting them to the contracting officer.²⁹

At the time of our review, the Director had the responsibility of reviewing the status of all 113 engagements completed or underway as of September 2016. We note that after the Policy Advisor detailee left in November 2015, the Director was the only federal employee conducting programmatic oversight for several months, at a revised 60 to 70-percent of her time allocated for this effort. The Federal Acquisition Regulation (FAR) requires that a sufficient number of qualified government employees be assigned to oversee contractor activities, especially those that involve support of government policy or decision-making.³⁰ The number of requests for assistance and deliverables resulting from Diagnostic Center engagement make the oversight of this contract particularly complex and demanding. In February 2016, OJP officially made the Director position and detailed two FTEs to assist the Director. With these new detailees, we believe that OJP has made important progress in providing additional resources to enhance its oversight capabilities.

We nevertheless recommend that OJP review Diagnostic Center administration and operations to ensure adequate federal personnel are assigned, consistent with the FAR, to oversee the Diagnostic Center contract.³¹ For instance, at least one OJP official could provide project level management, including being directly present for at least initial fieldwork, permitting the Director to focus on overall oversight of the program's strategic operations and contractor management.

National Initiative for Building Community Trust and Justice

The National Initiative for Building Community Trust and Justice (National Initiative) started in September 2014, when OJP awarded a 3-year, \$4.75 million grant to the John Jay College of Criminal Justice to develop and launch the National Initiative to provide specialized training to six pilot police departments: (1) Stockton, California; (2) Pittsburgh, Pennsylvania; (3) Gary, Indiana; (4) Fort

²⁹ A Contracting Officer (CO) and Contract Specialist in the OJP Office of Administration's Acquisition Management Division also reviewed invoices and contract modifications, but rely on the COR to assess the adequacy of task performance.

³⁰ 48 C.F.R. § 37.114(a) (2016).

³¹ In its response to a draft of this report, OJP stated it has expanded the federal personnel that oversee its Diagnostic Center as recommended. We detail additional analysis of this action in Appendix 8.

Worth, Texas; (5) Minneapolis, Minnesota; and (6) Birmingham, Alabama.³² The training focused on three areas: (1) facilitating communication between communities and law enforcement on pervasive local tensions, (2) how law enforcement interactions can shape public perception, and (3) recognizing implicit bias.

In March 2015, OJP expanded Diagnostic Center responsibilities and modified its contract to include support for the pre-existing National Initiative in developing and delivering procedural justice trainings, including a three-part course for law enforcement agencies. Procedural justice training provides guidance on how law enforcement agencies should best interact with the public, and how those interactions shape public perception, as well as how they could best engage in public safety activities.

As of November 2016 all six pilot sites, constituting approximately 4,700 sworn officers, had begun receiving procedural justice training modules from the National Initiative. OJP reports that it plans to deliver all procedural justice training modules to these pilot sites by fall 2017. During fieldwork, several Minneapolis Police Department (MPD) employees reported positive reactions to the procedural justice trainings provided as part of the National Initiative, although other MPD employees expressed concern about the similarities between the separate procedural justice training modules and the time they took away from policing.

We note that Minneapolis requested three distinct types of DOJ accountability assistance during the period of our review: (1) a Critical Response assessment regarding its response to protest demonstrations, (2) a Diagnostic Center review to improve its accountability systems, and (3) National Initiative training on procedural justice. Although most police departments have not received even one of these DOJ programs, the Chiefs of Police in both locations we visited – Minneapolis, Minnesota and Fayetteville, North Carolina – repeatedly used both COPS Office and OJP programs. In both cases, these officials had already begun self-reform efforts, reached out to learn what DOJ resources existed, and viewed DOJ programs as important to enhance to their own efforts.

Following the pilot program, OJP expanded its National Initiative procedural justice training, and as of November 2016, had coordinated procedural justice training modules with 10 law enforcement agencies, with an additional 14 agencies on a waiting list.

Bureau of Justice Statistics

The BJS collects, analyzes, and reports criminal activity information at the federal, state, and local level. With a FY 2016 budget of \$61.4 million, BJS

³² The award also included involvement by the Yale Law School, the Urban Institute, and the Center for Policing Equity at the University of California, Los Angeles. Before 2015, the part-time help of Diagnostic Center staff and a grants manager from OJP's Office of Juvenile Justice and Delinquency Prevention assisted in the federal oversight of the initial National Initiative award.

spearheads several statistical projects to improve criminal justice data, including improving reporting on criminal incidents, enforcement trends, and police-related fatalities. In 2015, BJS launched a pilot program to test collecting arrest-related deaths that used media reports of officer-involved shootings to identify potential arrest-related death cases and then requested verification from state and local law enforcement agencies. BJS released the results of its pilot in December 2016 and formulated a data collection methodology, which it publicly released for comment in August 2016.

In addition, BJS is working with the Federal Bureau of Investigation (FBI) to implement the National Crime Statistics Exchange (NCS-X), which intends to generate nationally-representative incident-based data on crimes reported to law enforcement agencies. NCS-X expands on the National Incident Based Reporting System (NIBRS), in which about 35 percent of local police departments across the United States report crime data to the FBI. Under NCS-X, BJS is recruiting a representative sample of 400 law enforcement agencies, including the 72 largest law enforcement agencies, to supplement existing NIBRS data. When completed, NCS-X will make NIBRS data projectable, allowing it to produce detailed measures of crime incidents.

Our discussion with BJS officials indicated that these data collection efforts could provide a national context for policies on police accountability and provide statistical benchmarks that may assist CRT in planning future inquiries, or directing technical assistance by OJP or the COPS Office. However, 42 U.S.C. § 3789g(a) prevents BJS from disclosing research or statistical information identifiable to any specific person or entity for any purpose other than the purpose for which it was obtained. Practically, this provision means that Department-level data is not identifiable in BJS databases. On the other hand, BJS officials noted that 42 U.S.C. § 3789g(a) does not apply to the data collected from law enforcement agencies by the FBI through NIBRS and NCS-X. We believe that as those projects come online and develop in the future, they can and should provide other DOJ components with appropriate data to help identify potential cases of systemic misconduct.

OJP Office for Civil Rights

OJP's Office for Civil Rights (OJP OCR) ensures that recipients of DOJ financial assistance comply with federal civil rights and anti-discrimination laws regarding both employment and the delivery of services or benefits.³³ Both the OJP OCR and the CRT share jurisdiction enforcing civil rights laws over recipient law enforcement agencies. In September 2016, the OJP OCR established a new protocol with the CRT to guide how these offices share their workload with one another. Similar to prior arrangements, this protocol recognized a division of labor between the OJP OCR, which focuses on individual, non-criminal instances of discrimination, and CRT, which targets patterns or practices of misconduct across recipient law enforcement agencies or, in criminal cases, individual civil rights violations.

³³ This includes recipients of financial assistance from the COPS Office and the Office on Violence Against Women.

When the OJP OCR receives a complaint over which it has jurisdiction, it assesses the claim and may initiate an investigation. If the OJP OCR determines the complaint has merit, the OJP OCR seeks to resolve it pursuant to the administrative processes set forth in the applicable regulations. In addition to their division of labor agreement, the OJP OCR and the CRT hold monthly meetings to discuss cases and ensure no duplication of efforts.

The Community Relations Service

The CRS mission is to assist communities and persons targeted by hate crimes and discriminatory acts. We found that the CRS is limited in its coordination efforts with other DOJ components due to a confidentiality provision in its authorizing statute. However, CRS conciliators have provided assistance to other DOJ components in the past, and the 2016 Protocol for Responding to High-Profile Civil Rights Incidents requires increased coordination among DOJ components. We believe the CRS should explore appropriate opportunities to enhance its collaboration with other DOJ components' non-litigation efforts regarding the community outreach aspects of their programs, in particular, the programs of the COPS Office and OJP's Diagnostic Center.

CRS Mediation and Technical Assistance Programs

Title X of the 1964 Civil Rights Act established the CRS to help mediate community tensions related to race, color, and national origin.³⁴ In 2009, Congress passed legislation that expanded the CRS's mandate to assist communities and persons targeted by hate crimes, as well as discriminatory acts associated with gender, gender identity, religion, sexual orientation, or disability. While OJP and COPS Office programs are geared towards assessing or assisting with specific and systemic accountability concerns of law enforcement agencies, the CRS works to address a broad spectrum of community tensions related to civil rights issues that may occur in a myriad of situations, including following allegations of police misconduct.

The CRS offers four types of services to law enforcement agencies: (1) mediation, (2) facilitated dialogue, (3) training, and (4) consultation. Pursuant to 42 U.S.C. § 2000g, *et seq.*, the CRS can neither take sides in a dispute, nor can it make determinations as to what constitutes police or other misconduct. Thus, it must play an unbiased, third-party role to mediate agreements between aggrieved parties. Unlike technical assistance offered by COPS Office programs or OJP's Diagnostic Center, the CRS may self-initiate interventions through internal monitoring or at the request of a variety of entities, including community leaders, law enforcement officials, and civil rights organizations. CRS services are strictly voluntary and must be accepted by all parties.

In FY 2016, the CRS had a \$14.4 million budget and a staff allocation of 74 FTEs, though only 45 FTEs were actually on board as of 2015. Between 2011 and 2015, the CRS addressed an average of 704 cases a year through 10 regional offices and 4 field offices, staffed by a total of 32 Conciliation Specialists (conciliators) and supervising regional directors as of 2015. As of May 2016, 46 percent of FY 2016 CRS cases involved "administration of justice issues," which the CRS defines as actions of law enforcement that fuel community tensions.³⁵ When in

³⁴ 42 U.S.C. § 2000g, *et seq.* (2016).

³⁵ The remaining 54 percent of cases are related to education and general community relations issues.

the field, the CRS conciliators open lines of communication between stakeholders to develop collaborative action plans to help the community resolve conflict. The CRS may also provide trainings to a range of law enforcement, government, and community organizations to promote mutual understanding and collaboration. In addition, CRS consultative support includes identifying best practices and available grant resources through other available federal entities.

An example of the type of intervention provided by the CRS in the law enforcement area is its work in Ferguson, Missouri following the death of Michael Brown on August 9, 2014. Within 24 hours of the shooting, the CRS had two conciliation specialists in Ferguson to establish contact with law enforcement officials, assess community tension, and identify local community and faith-based leaders. In the weeks following the incident, the CRS attempted to begin developing working relationships between law enforcement officers and local community leaders. The CRS also deployed additional specialists to provide information to leaders of protest groups on how to demonstrate peacefully, and they worked with law enforcement to improve the accuracy and timeliness of communications provided to the community. CRS conciliators facilitated town hall meetings to allow residents to share their concerns and attempt to develop local community solutions in a neutral space.

CRS efforts expanded beyond the city of Ferguson, and established a coalition of local elected and government agency officials, community leaders, law enforcement executives, school administrators, and faith-leaders throughout the greater St. Louis, Missouri area. The purpose of this initiative was to discuss the underlying issues of the conflict and begin developing long-term solutions to various community tensions. Additionally, the CRS hosted meetings between various DOJ components (including the FBI, U.S. Attorney's Offices, and the CRT) and local community leaders. However, a CRS official stated that such instances of coordination were infrequent due to CRS' confidentiality and neutrality mandates.

CRS officials we interviewed stated that the CRS operates under a statutory mandate to maintain the confidentiality of parties receiving CRS services.³⁶ Therefore, conciliators conduct their work in strict confidence to encourage participants to share candidly and without fear of retaliation or unwanted public notoriety, which is essential to maintaining public confidence in the neutrality and fairness of the process. CRS management has released official guidance interpreting the confidentiality mandate to assist conciliators. However, the CRS has not established procedures outlining whether or how to perform coordination with DOJ components in accordance with its confidentiality mandate while conducting technical assistance. Therefore, CRS conciliators do not disclose the

³⁶ 42 U.S.C. § 2000g-2(b) (2016), provides in part: "The activities of all officers and employees of the Service in providing conciliation assistance shall be conducted in confidence and without publicity, and the Service shall hold confidential any information acquired in the regular performance of its duties upon the understanding that it would be so held. No officer or employee of the Service shall engage in the performance of investigative or prosecuting functions of any department or agency in any litigation arising out of a dispute in which he acted on behalf of the Service."

identities of parties it has served to other DOJ programs. Our review also found that the CRS has, in large part, limited its coordination efforts with the CRT to avoid even the appearance of assisting with CRT investigations.

Despite the CRS confidentiality statute, we believe it may be possible and appropriate for the CRS to provide valuable assistance to other DOJ components that do not conduct investigations for litigating or prosecuting purposes, such as the OJP and COPS Office. For instance, the rapid response offered by the CRS following many civil rights incidents places conciliators in a position to directly notify key community leaders with whom they already have worked about public outreach meetings organized by DOJ technical assistance providers. Such positive synergy occurred after a patterns or practices investigation settled when the CRS coordinated with the CRT to provide a series of all-day anti-racial profiling and bias-based police trainings in January 2013 for the entire staff of a police department.³⁷

Furthermore, on March 14, 2016, then Deputy Attorney General Yates released the "Protocol for Responding to High-Profile Civil Rights Incidents," which was addressed to, among others, the Office of Public Affairs (OPA), the FBI, United States Attorney's Offices (USAO), COPS Office, the CRS, OJP, and CRT.³⁸ The protocol provides guidance for responding to "high-profile incidents with civil rights implications, such as officer-involved shootings and violent hate crimes" to ensure the Department has a well-coordinated response, including directing that the CRS:

- Coordinate with other DOJ components on the first day of an incident, regarding whether and how the CRS can provide assistance and what type of community engagement should occur;
- Communicate with the local chief or sheriff and contact local community leaders (e.g., faith leaders, civil rights organizations, and advocates) to gain perspective on issues and concerns;
- Determine the CRS' jurisdiction (i.e., a community conflict, dispute, or situation related to discriminatory practices concerning race, color, national origin or preventing or responding to an alleged violent hate crime committed on the basis of actual or perceived gender, gender identity, sexual orientation, religion, or disability);
- Within 24 hours, identify which CRS services may be needed;
- Coordinate with other DOJ components within 2 weeks, to determine what additional CRS assistance is necessary (mediation, conciliation, training

³⁷ On November 20, 2012, the CRT settled an investigation finding a pattern or practice of profiling Latino-Americans by the East Haven (Connecticut) Police Department. The CRT filed a consent decree that, in part, required officers to receive procedural justice training. The CRS also gave a series of community awareness and cultural competency programs for officers to improve officer understanding of and communication with minority communities.

³⁸ See Appendix 2 for a copy of the DOJ Protocol for Responding to High-Profile Civil Rights Incidents.

and facilitated dialogue) and continue to identify and connect key conflict stakeholders.

In fact, the protocol states that successfully responding to high-profile incidents is “based on immediate coordination and cooperation” from the relevant USAO district, CRT, FBI, COPS Office, CRS, and OPA. The protocol also supposes the CRS can and should coordinate more robustly with other DOJ components. By coordinating with other DOJ components, the CRS may be able to advise on or assist with their respective community outreach efforts generally, and also help harmonize DOJ programs regarding outreach and training. Therefore, considering that there may be circumstances where the CRS confidentiality mandate and need for neutrality do not prohibit greater coordination with other DOJ outreach efforts, we recommend that the CRS work with the COPS Office, OJP, and CRT to develop procedures to facilitate other DOJ component non-litigation community outreach efforts, where appropriate, and revise its guidance to its conciliators accordingly.

Coordination Among DOJ Components

Various DOJ components informally coordinated their work to address police misconduct concerns and provide assistance. While this coordination provided benefits to DOJ's overall efforts in this area, we found that more regular and systemic coordination would better enable DOJ components to share information, prevent overlap of services, and ensure efficiency in achieving its goals. Further, in March 2016 the Deputy Attorney General issued Department-wide guidance to ensure that DOJ effectively addresses "high profile" civil rights incidents. Under this guidance, DOJ components must communicate and coordinate their activities to ensure that DOJ appropriately responds to such incidents. However, this protocol does not define what constitutes a "high-profile" civil rights incident.

Informal Component Coordination

Informal and episodic coordination exists between DOJ components involved in this audit. However, such coordination is limited because each component has a distinct program and mission related to these potentially delicate and complex matters. Table 12 below highlights each program's objective and target audience showing the broad range of assistance provided by DOJ, even apart from criminal investigations and prosecutions.

Table 12
Overview of DOJ Police Accountability Reform Programs

Program	Primary Objectives	Entities Addressed	Program Outcomes
CRT/SPL/PPG	Investigate and bring civil actions against law enforcement agencies engaging in systemic unconstitutional policing practices.	Law enforcement agencies	Consent decrees, settlements, and/or litigation
COPS Office Collaborative Reform	Assisted agencies with issues undermining public trust, provided best practice-based recommendations, and reviewed implementation efforts.	Law enforcement agencies	Recommendations to improve policies and procedures ^a
COPS Office Critical Response	Provide targeted technical assistance to agencies facing high profile incidents or sensitive issues.	Law enforcement agencies	Best practices for a specific topic
OJP Diagnostic Center	Provide evidence-based, data driven services to build local capacity to address public safety and justice concerns.	Law enforcement agencies, state, local, and tribal jurisdictions, and related entities	Recommendations to improve effectiveness through use of data and evidence-based strategies.
OJP National Initiative	Provide training on procedural justice, implicit bias, and racial reconciliation to improve police-community relations.	Law enforcement agencies	Training and research
OJP Office for Civil Rights	Ensure recipients of DOJ financial assistance comply with federal laws that prohibit discrimination.	DOJ grant and cooperative agreement recipients ^b	Corrective Actions regarding specific violations
CRS	Resolve racial and ethnic conflicts peacefully through mediation, training, consultation, and dialogue.	Law enforcement agencies, state and local governments and local community groups	Address community conflict and increase cultural awareness

Source: OIG Analysis

^a As of September 2017, Collaborative Reform has been changed to no longer produce assessment and progress reports that make recommendations to law enforcement agencies.

^b OJP's Office for Civil Rights authority also extends to recipients of funds from the COPS Office and the Office on Violence Against Women.

Based on the evidence acquired during our review, coordination between these programs primarily occurs for two reasons: (1) to avoid or de-conflict work within the same jurisdiction and (2) to review and comment on reports. For example, before the OJP Diagnostic Center decides to provide technical assistance to a particular law enforcement agency, it will reach out to the CRT to determine if that jurisdiction is a subject of an investigation or under scrutiny. Likewise, the COPS Office only opens a Collaborative Review or Critical Response review after a

“front-end” de-confliction analysis that includes outreach to the CRT and OJP to ensure each has no work underway or about to begin with the requesting jurisdiction. Additionally, before the CRT, OJP, or COPS Office issues a report, these components share the draft report among themselves for comment and review to ensure a consistent approach regarding pertinent accountability matters.

However, just because one component has work with the same jurisdiction does not mean that another component cannot review or offer a different type of technical assistance to that agency. Several CRT attorneys confirmed that de-confliction efforts occur, but noted that de-confliction did not prevent coinciding efforts between the COPS Office and CRT in certain locations. To prevent overlap, COPS Office officials told us that the program director and SPL section chief share information on jurisdictions where each group plans to work.

CRT officials stated that if its SPL decides not to initiate an investigation, they may refer matters to OJP or the COPS Office. The practical effect of a CRT referral may be limited because the CRT does not typically inform jurisdictions that they are the subject of preliminary inquiries and both the COPS Office and OJP require that a local jurisdiction specifically request assistance before offering technical assistance.³⁹ On the other hand, CRT officials also told us that they refer both citizen complaints and law enforcement agency inquiries to the COPS Office and OJP when it believes a law enforcement agency may benefit from technical assistance. CRS officials stated that they have occasionally provided referrals to community leaders and law enforcement officers about what services other DOJ components offer, such as Collaborative Reform and the 21st Century Policing Project.

Despite these efforts, we identified no formal or systematic procedure for providing referrals or coordinating outreach processes between the CRT, COPS Office, OJP, and CRS. Instead, we determined that these DOJ components coordinated informally and episodically, and that their working relationships depended on personal relationships developed over time. According to our analysis of documents provided by the CRT, 90 percent of its coordination with DOJ components was with the COPS Office. Such coordination included organizing town halls and meetings, providing information about training, and reviewing and commenting on reports. Additionally, the CRT has coordinated community-building initiatives with the CRS to assist in implementing at least one consent decree.⁴⁰

Nevertheless, a COPS Office official with whom we spoke encouraged a more formalized process of coordination, and several CRS officials told us that additional coordination prior to entering a site would be of benefit to DOJ because its field offices have acquired first-hand knowledge working with communities on police-community issues. While the CRT and OJP’s Office for Civil Rights have established

³⁹ Even if the COPS Office or OJP informally reached out to referred law enforcement agencies, much less incentive might exist to accept unexpected offers of assistance than knowing that the CRT has been reviewing a locality.

⁴⁰ The CRT East Haven settlement asked the CRS to assist in implementing several provisions within the Agreement, including providing training for law enforcement officers.

a protocol to coordinate cases in which they have concurrent jurisdiction, we found no formal agreements or current Memoranda of Understanding (MOU) regarding coordination among the other components included in this review. Several employees stated that an MOU would be beneficial to detail each component's role in addressing police misconduct, eliminate any sense of competition between components, and increase information sharing. Therefore, we recommend that all DOJ components that are involved with police misconduct and technical assistance develop procedures (such as an MOU) to ensure more regular and systemic coordination to share information, prevent overlap of services, and ensure efficiency in achieving their goals.

Protocol for Responding to High-Profile Events

In addition, as discussed above, then-Deputy Attorney General Yates issued Department-wide guidance in March 2016 to ensure that DOJ effectively addresses "high profile" civil rights incidents, including police misconduct allegations, a copy of which is attached in Appendix 2. Under this guidance, DOJ components (including the CRT, COPS Office, CRS, and OJP) must communicate and coordinate their activities to ensure that DOJ appropriately responds to such incidents. However, this protocol does not detail which agency is responsible for designating an incident as "high-profile." Although each component was generally aware of the guidance, we found that officials in the components reviewed had different understandings of which component should initiate action under the protocol. As noted above, we found that coordination between components lacks formal procedures, other than the 2016 protocol, and is often informal, episodic, and based on personal relationships. We recommend that DOJ clarify the circumstances in which a component is responsible for designating an incident to be "high-profile" under the March 2016 guidance.

Further, we believe it is important that there be appropriate coordination with U.S. Attorney's Offices (USAO) in the locations where DOJ components provide law enforcement accountability related technical assistance. This will ensure that the USAO is appropriately informed regarding DOJ efforts in the district, and the non-litigating CRT components can obtain valuable information and perspective from the U.S. attorneys who work with the technical assistance recipient. We note that the U.S. Attorneys Manual requires the CRT to advise and consult with the relevant USAO district before opening an investigation.⁴¹ Although officials at the OJP, COPS Office, and CRS all stated that they will notify the relevant USAO when they deem it appropriate, no written procedures require such coordination. Therefore, we recommend that DOJ and the COPS Office, OJP, and CRS collectively develop procedures detailing the circumstances when notification and coordination with the relevant U.S. Attorney's Office is appropriate in jurisdictions where technical assistance activity occurs.

⁴¹ United States Attorney Manual, 8-2.110 Investigations.

CONCLUSION AND RECOMMENDATIONS

Four DOJ components – the CRT, COPS Office, CRS, and OJP – engage with local law enforcement agencies to either investigate allegations of systemic constitutional violations or provide technical assistance and training to implement police reforms and training programs to stem unconstitutional policing practices and improve community relations. Although we found that coordination exists among some of these DOJ components, the informal and inconsistent nature of this coordination could be improved to foster greater sharing of relevant information, prevent overlap of services, and ensure operational efficiency. We also believe that further defining the roles and responsibilities on high-profile civil rights incidents can help improve coordination across DOJ in this important area.

We reviewed the non-criminal work of each component and made specific recommendations for each office. These recommendations include updating policies to better track potential investigations and analyzing whether the correct procurement instrument is being used to provide technical assistance. Prior to and during our audit the CRT, COPS Office, and OJP have each initiated important efforts to assess the results of their work. We believe that such assessments will help both to shape each components future work and to avoid overlap of efforts, while maximizing efficiency going forward.

With the March 2017 Attorney General announcement that all Department activities involving state, local, and tribal law enforcement are now under review, including collaborations, grants, technical assistance, compliance reviews, and consent decrees, the Department will be reviewing each component within our scope. We believe that our findings can provide useful information for the Department to consider as it reviews its involvement in these matters “in order to ensure that they fully and effectively promote the principles outlined” in the Attorney General’s 2017 Memorandum. The recommendations within this report can serve as a roadmap of priority areas for the Department to improve upon going forward in this critically important area.

We recommend that the CRT:

1. Institute a formal policy requiring that its attorneys report all referrals of police misconduct incidents they receive to the Case Selection Advisory Committee.
2. Coordinate with OJP and the FBI to keep apprised of relevant, respective police data initiatives, such as NCS-X, and establish procedures as to how personnel should consider such data while assessing complaints and referrals of police misconduct.
3. Consider requiring that future justification memoranda routed to Civil Rights Division leadership from the Special Litigation Section contain a section explicitly discussing how the Police Practice Group and Special Litigation

Section assessed and prioritized all the designated decision factors with regard to whether to recommend opening an investigation.

4. Establish a depository of justification memoranda for PPG use on subsequent matters involving the same law enforcement agencies or similar conduct.
5. Adopt a procedure requiring the documentation of denials and deferrals of PPG justification memoranda and the management level of review at which such decisions were made.
6. Continue to develop a more risk-based strategic work planning process, including periodically reviewing and ranking case selection priority issues and applying these priorities to particular law enforcement agencies that prior preliminary inquiries, justification memoranda, and referrals indicated may be particularly at-risk.

We recommend that the COPS Office:

7. Prioritize the completion of its Collaborative Reform procedures and distribute such information or documents to relevant staff and, where appropriate, potential partners.
8. Perform a cost-benefit analysis regarding the engagements performed under the cooperative agreements and the engagements performed under the standing contract for the Collaborative Reform in order to determine the best procurement instrument to achieve this goal, prior to exercising the next annual contract option year.
9. Implement strategic goals and performance measures, to better ascertain the effectiveness of the technical assistance provided and make a final determination as to which procurement instrument better achieves its program goals.
10. Develop a process to assess the effectiveness of its Critical Response program.

We recommend that OJP:

11. Review Diagnostic Center administration and operations to ensure adequate federal personnel are assigned, consistent with the Federal Acquisition Regulation, to oversee the Diagnostic Center contract.

We recommend that the CRS:

12. Work with the COPS Office, OJP, and CRT to develop procedures to facilitate other DOJ component non-litigation community outreach efforts, where appropriate, and revise its guidance to its conciliators accordingly.

We recommend that DOJ:

13. Develop procedures (such as an MOU) to ensure more regular and systemic coordination to share information, prevent overlap of services, and ensure efficiency in achieving their goals.
14. Clarify the circumstances in which a component is responsible for designating an incident to be “high-profile” under the March 2016 guidance.
15. Develop procedures detailing the circumstances when notification and coordination with the relevant U.S. Attorney’s Office is appropriate in jurisdictions where technical assistance will be provided by the OJP, COPS Office, or CRS.

STATEMENT ON INTERNAL CONTROLS

As required by the *Government Auditing Standards*, we tested, as appropriate, internal controls significant within the context of our audit objectives. A deficiency in an internal control exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to timely prevent or detect: (1) impairments to the effectiveness and efficiency of operations, (2) misstatements in financial or performance information, or (3) violations of laws and regulations. Our evaluation of the Department of Justice's Civil Rights Division (CRT), Office of Community Oriented Policing Service (COPS Office), Office of Justice Programs (OJP), and Community Relations Service (CRS)'s internal controls was *not* made for the purpose of providing assurance on its internal control structure as a whole. The CRT, COPS Office, OJP, and CRS management is responsible for the establishment and maintenance of internal controls.

As noted in the Audit Results section of this report, we identified deficiencies in the CRT, COPS Office, OJP, and CRS' internal controls that are significant within the context of the audit objectives and based upon the audit work performed that we believe adversely affect the CRT, COPS Office, OJP, and CRS to operate effectively and efficiently, report performance information correctly, and ensure compliance with laws and regulations.

Because we are not expressing an opinion on the CRT, COPS Office, OJP, and CRS' internal control structure as a whole, this statement is intended solely for the information and use of the CRT, COPS Office, OJP, and CRS. This restriction is not intended to limit the distribution of this report, which is a matter of public record.

STATEMENT ON COMPLIANCE WITH LAWS AND REGULATIONS

As required by the *Government Auditing Standards* we tested, as appropriate given our audit scope and objectives, selected transactions, records, procedures, and practices, to obtain reasonable assurance that the management of the Department of Justice's Civil Rights Division (CRT), Office of Community Oriented Policing Service (COPS Office), Office of Justice Programs (OJP), and Community Relations Service (CRS) complied with federal laws and regulations for which noncompliance, in our judgment, could have a material effect on the results of our audit. The management for the CRT, CRS, COPS Office, and OJP, are each responsible for ensuring their component complies with applicable federal laws and regulations. In planning our audit, we identified the following laws and regulations that concerned the operations of the CRT, CRS, COPS Office, and OJP, and that were significant within the context of the audit objectives:

- 42 U.S.C. § 14141 (recodified as 34 U.S.C. § 12601)
- 42 U.S.C. § 2000d
- 42 U.S.C. § 2000g-2 (b)
- 42 U.S.C. § 3789d (c), (g)
- 31 U.S.C., Title 31, Subtitle V
- 28 CFR § 42.401
- Federal Acquisition Regulation (FAR), 48 C.F.R. Ch. 1 § 37.114(a)
- Justice Acquisition Regulation System (JAR), 48 C.F.R. Ch. 28

Our audit included examining, on a test basis, the CRT, COPS Office, and OJP's compliance with the aforementioned laws and regulations that could have a material effect on the CRT, COPS Office, and OJP's operations, through obtaining source documents from each of the components. We reviewed policies, guidelines, regulations, laws, budget data, correspondence, case management data and work products. Unless otherwise noted, the scope of the audit spanned January 2011 to December 2015, with updates through 2016 as appropriate.

Nothing came to our attention that caused us to believe that the CRT, COPS Office, OJP or CRS were not in compliance with the aforementioned laws and regulations.

OBJECTIVES, SCOPE, AND METHODOLOGY

Objectives

The objectives of this audit were to: (1) evaluate how the Civil Rights Division (CRT) identifies and selects potential patterns or practices of unlawful police conduct for investigation, (2) review how the Office of Community Oriented Policing Services (COPS Office) and Office of Justice Program (OJP) direct technical assistance for accountability reforms to local law enforcement agencies, (3) assess how the Community Relation Service (CRS)'s mediation efforts might assist other Department of Justice (DOJ) outreach efforts, and (4) ascertain how well DOJ coordinates and assesses the results of these efforts.

Scope and Methodology

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives. Our audit generally covered, but was not limited to, 2011 through December 2015. As necessary to address our audit objectives, we updated the scope, as we believed appropriate and detailed in this report, to include activities that took place through September 2017.

To evaluate how the CRT identifies and selects potential patterns or practices of unlawful police conduct for investigation we interviewed over 30 current and former CRT section chiefs, managers, line attorneys and non-attorney staff. We also discussed how the CRT maintains correspondence and how the CRT develops and assesses the remedies prescribed within negotiated agreements and consent decrees. We reviewed relevant sections of the United States Attorney Manual, laws and regulations, as well as academic studies regarding constitutional policing. We analyzed the hours spent on each CRT investigation, the number of correspondence that CRT reviews annually, case selection priorities and decision making, and how each investigation is documented. We reviewed all justification memoranda and findings letters within the scope of our audit. During this review, we noted that a justification memorandum concerning a police department mentioned previous existing memoranda indicating prior requests by the CRT to initiate an investigation. Because we were uncertain of the disposition of these requests, we reviewed the previous justification memoranda. We conducted additional reviews of CRT email correspondence relating to the disposition of the justification in this investigation. We also interviewed additional CRT employees (and former Department officials) involved in the decisions regarding whether to initiate an investigation into this agency.

To review how the COPS Office directs technical assistance for accountability reforms to local law enforcement agencies we interviewed officials at the COPS Office, employees working on the cooperative agreement and contracts associated with the Collaborative Reform for Technical Assistance and Critical Response, and the responsible contracting officer and contracting officer's representative. We reviewed policies and procedures, relevant laws and regulations, contracts and cooperative agreements. We analyzed the COPS Office intake process, site selection and how reports are issued at each site. We also interviewed officials involved with the 21st Century Policing Task Force. We performed fieldwork in Fayetteville, North Carolina, where the Collaborative Reform program performed a review; and Minneapolis, Minnesota, where a Critical Response was performed. We interviewed officials at Fayetteville Police Department and Minneapolis Police Department to determine how effective the reviews were and determine if changes within the department had occurred. As stated earlier, our audit scope ended in September 2017 prior to when the COPS Office announced changes to the Collaborative Reform program. This audit did not review or verify any of the changes made to this program.

To review how OJP directs technical assistance for accountability reform to local law enforcement agencies, we interviewed the director for the Diagnostic Center, the Diagnostic Center Policy Advisor detailee, and the Senior Advisor for the National Initiative. We spoke with the Program Director at Booz Allen Hamilton, as well as the Contracting Officer and Contracting Officer's Representative. We also interviewed officials in the Bureau of Justice Assistance, Bureau of Justice Statistics, National Institute for Justice, Office of Juvenile Justice and Delinquency Prevention, and OJP's Office for Civil Rights. We also reviewed policies and procedures for intake and case development. We analyzed the procedural justice training provided through the National Initiative. In addition, we reviewed the contract for the Diagnostic Center, as well as executed modifications, financial reports, contract proposals, conflict of interest documentation, orientation, goals, and budget and financial documentation. As part of this review, we performed field work in Fayetteville, North Carolina where the Diagnostic Center performed a review; and Minneapolis, Minnesota, where the Diagnostic Center and National Initiative were involved. We interviewed officials at Fayetteville Police Department and Minneapolis Police Department to determine how effective the reviews were and determine if changes within the department had occurred.

To assess how the CRS mediates civil rights conflicts to assist other DOJ outreach efforts we interviewed officials at CRS headquarters, as well as in their field offices across the United States. We reviewed policies, laws and regulations, staffing patterns, and organizational charts. We reviewed the CRS's annual reports for 2011 through 2014. We reviewed their cases from each region, and trainings offered through the CRS.

To ascertain how well DOJ coordinates and assesses the results of these efforts for both the COPS Office and OJP programs, we analyzed any associated cooperative agreements and contracts to provide technical assistance. In addition, we spoke with contractors, cooperative agreement service providers, subject matter

experts retained by those programs, and contracting officials in both agencies and the Justice Management Division. We conducted fieldwork on location at the Fayetteville Police Department and Minneapolis Police Department, interviewing officers and community members. We reviewed emails provided by the CRT where coordination of activities with other DOJ components were discussed. We analyzed the Protocol for Responding to High-Profile Civil Rights Incidents issued by then-Deputy Attorney General Yates. We also interviewed officials from the CRT, the COPS Office, OJP, CRS and Fayetteville, North Carolina and Minneapolis, Minnesota police departments to determine coordination efforts.

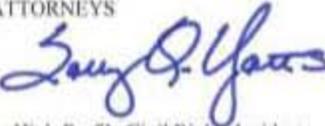
**2016 DOJ PROTOCOL FOR RESPONDING TO
HIGH-PROFILE CIVIL RIGHTS INCIDENTS**



U.S. Department of Justice
Office of the Deputy Attorney General

Washington, DC 20530
March 14, 2016

MEMORANDUM FOR THE ASSISTANT ATTORNEY GENERAL, OFFICE OF
LEGISLATIVE AFFAIRS
THE ASSISTANT ATTORNEY GENERAL, OFFICE OF
JUSTICE PROGRAMS
THE DIRECTOR, FEDERAL BUREAU OF INVESTIGATION
THE DIRECTOR, EXECUTIVE OFFICE FOR
UNITED STATES ATTORNEYS
THE DIRECTOR, OFFICE OF COMMUNITY ORIENTED
POLICING SERVICES
THE DIRECTOR, COMMUNITY RELATIONS SERVICE
THE DIRECTOR, OFFICE OF PUBLIC AFFAIRS
THE PRINCIPAL DEPUTY ASSISTANT ATTORNEY GENERAL,
CIVIL RIGHTS DIVISION
ALL UNITED STATES ATTORNEYS

FROM: Sally Q. Yates 
Deputy Attorney General

SUBJECT: Protocol for Responding to High-Profile Civil Rights Incidents

In recent years, the Department of Justice has responded to several high-profile incidents with civil rights implications—such as officer-involved shootings and violent hate crimes—that have required immediate and continued coordination among many of the Department’s components. The Civil Rights Division, the FBI, and the United States Attorney’s Office in the district where the incident occurred have routinely worked together to determine whether, how, and when to investigate these incidents. In addition, when these incidents have led to community tension and unrest, other components such as the Office of Community Oriented Policing Services, the Community Relations Service, and the Office of Justice Programs have provided various forms of assistance to local jurisdictions.

To ensure that the Department consistently has a well-coordinated response when such incidents occur, I asked representatives from components that are frequently involved in the Department’s response to work together to develop the attached Protocol for Responding to High-Profile Civil Rights Incidents. This protocol sets forth a variety of actions that components should take in the immediate aftermath and days and weeks following an incident to ensure they are effectively communicating and coordinating with each other as appropriate.

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Memorandum for Distribution List
Subject: Protocol for Responding to High-Profile Civil Rights Incidents

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Because such incidents will vary, this protocol is not intended to be a "one-size-fits-all" model or a rigid mandate. Rather, the protocol's framework builds on best practices and knowledge developed from components' experiences in having handled past incidents. Depending on the nature and circumstances of the incident, some of the actions set forth in the protocol may not be necessary, or may need to be modified. The protocol is intended to help facilitate initial and continued coordination among the components involved to ensure that the Department appropriately and effectively responds to such incidents.

Thank you for your commitment to this important issue.

Attachment

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Protocol for Responding to High-Profile Civil Rights Incidents



When high-profile incidents with civil rights implications occur, such as officer-involved shootings or violent hate crimes, they often are of intense public interest and have the potential to become flashpoints for tension and concern in the communities in which they occur and around the country. This document sets out the Department of Justice's protocol for responding promptly and appropriately when such incidents occur. The protocol is based on immediate coordination and cooperation from the following components: the U.S. Attorney's Office in the district in which the incident occurred (USAO); the Civil Rights Division (CRT); the Federal Bureau of Investigation (FBI); the Office of Community Oriented Policing Services (COPS Office); the Community Relations Service (CRS); and the Office of Public Affairs (OPA). Depending on the nature of the incident, not all components may be involved at all times, but initial and continued coordination will help ensure that the Department responds appropriately and effectively to all such incidents.

IMMEDIATE RESPONSE - DAY ONE

- ❑ **Initial Coordination Among Law Enforcement Components: USAO, CRT, and FBI**
 - As soon as possible after the incident, representatives from each component should communicate with one another and coordinate efforts to respond to the incident. The coordination should include a discussion of local relationships to assess which component(s) should take the lead in contacting law enforcement and community leaders in the community where the incident occurred. Each component is encouraged to identify a point of contact (POC) to help facilitate effective and efficient communication going forward.
 - Components should notify and coordinate with DOJ Leadership offices (Attorney General, Deputy, and Associate), as well as the Offices of Public Affairs and Legislative Affairs.
 - The components should jointly assess how to implement the steps outlined below.
- ❑ **USAO, CRT, and FBI Coordinated Responsibilities**
 - **Law Enforcement Engagement**
 - Coordinate with FBI Headquarters (FBIHQ) and local field office to gather facts.
 - CRT and USAO should coordinate communication with FBI to avoid duplication of inquiries.
 - Assess DOJ investigative posture: i.e., open federal investigation; monitor local investigation; support local investigation. The federal investigation may be concurrent with, but independent from, the state or local investigation.
 - Determine whether and how the matter will be opened in each office.
 - CRT and USAO should each assign a line attorney (trial attorney and AUSA respectively), and clearly establish supervisory roles and expectations. CRT and USAO should ensure that the assigned line attorneys are communicating with each other. CRT and USAO should also clarify parameters of any potential separate (civil and criminal) investigations.

- Determine what specific investigative or evidence gathering activities will commence on Day One. If feasible and appropriate:
 - Engage victim/witness coordinators in CRT, USAO, FBI, and be sure to coordinate with state authorities so that victims are not contacted by more people than necessary.
 - Begin conducting witness interviews, collecting evidence, etc.
 - Determine what precautions should be taken to protect against any investigators being tainted by *Garrity* material (material that may not be constitutionally permissible for use in a criminal case under the Fifth Amendment).
 - ✓ Strongly consider assembling “clean” and “taint” teams at the beginning of an investigation. The clean team should be advised to avoid all media reports of the incident until they are designated clean by the taint team.
- Designate POC(s) to coordinate with local prosecutor/law enforcement.
- Determine if criminal and civil matters will proceed at the same time. If so, promptly draft a Parallel Proceedings Memo.
- Determine what community engagement, if any, may be appropriate and whether COPS, CRS, and/or CRT should provide any immediate assistance.

○ **FBI-Specific Responsibilities**

- If warranted, the affected FBI field office will follow its Crisis Response Plan, which outlines specific response protocols.
- The Special Agent in Charge (SAC) of the affected FBI field office will work with the USAO and CRT to develop and implement the federal law enforcement response and will coordinate with the USAO, CRT, other agency decision-makers, and FBIHQ to address other related issues as they arise.
- During events where a command post is activated, a Legal Coordinator will be assigned to the Operations Support Group. This is typically the Chief Division Counsel (CDC) when the On Scene Commander (OSC) is the FBI SAC. The Legal Coordinator generally : (a) provides appropriate legal guidance to the OSC; (b) initiates and maintains contact with the local U.S. Attorney’s Office, State Prosecutor’s Office, etc.; and (c) in coordination with the local U.S. Attorney’s office, provides guidance to FBI personnel on all legal matters that arise during the crisis.

□ **Public/Community/Internal Engagement**

- DOJ-Office of Public Affairs (OPA), USAO-Public Affairs Officer, DOJ Leadership offices, FBI, CRT, COPS, CRS and other relevant components should coordinate regarding public statements on DOJ’s investigative posture. Components should designate an OPA POC.
 - All public statements related to the incident should be coordinated with DOJ-Office of Public Affairs.
- Ensure that information is segregated or shared, as appropriate under DOJ policy.
- Coordinate with the Office of Legislative Affairs to respond to any inquiries from members of Congress.

- Canvass CRT sections to develop a full picture of the Division's civil rights work in the affected jurisdiction.

□ **COPS Office Responsibilities:**

- Coordinate with other DOJ components (CRT, FBI, USAO, and CRS) regarding whether and how the COPS Office can provide assistance and resources to the affected jurisdiction, as well as the timing of such assistance.
- Communicate with local chief/sheriff and U.S. Attorney (typically communication is initiated by local chief/sheriff or U.S. Attorney).
- Determine if immediate assistance is appropriate. Immediate assistance could include: providing existing COPS Office resources (research, best practices, and other knowledge products) that are relevant; arranging a conference call with the affected chief of police and other chiefs of police who have expertise and perspective on the particular issues of concern; and/or through the COPS Office Critical Response program, identifying who (if anyone) should immediately be on the ground and facilitating engagement of the appropriate people.

□ **CRS Responsibilities**

- Coordinate with other DOJ components (CRT, FBI, USAO, and COPS) regarding whether and how CRS can provide assistance and what community engagement and/or service delivery, if any, should take place.
- Identify which CRS services may be needed within the first 24 hours after the incident.
- Communicate with local chief/sheriff and the mayor, if appropriate.
- Contact local community leaders (e.g., faith leaders, civil rights organizations, and advocates) to gain perspective on issues and concerns and to determine CRS jurisdiction (i.e., a community conflict, dispute, or situation related to discriminatory practices concerning race, color, national origin or preventing or responding to an alleged violent hate crime committed on the basis of actual or perceived gender, gender identity, sexual orientation, religion or disability).
- If necessary, identify who and how many CRS conciliators should be deployed to the affected jurisdiction.

DAY TWO – TWO WEEKS

□ **Law Enforcement Engagement: USAO, CRT, and FBI Continue Coordinated Efforts**

- In consultation with CRT, USAO, and FBI, make a preliminary determination of the federal investigative role. Establish and revise, as needed, a schedule for the coming days regarding the evaluation of federal law enforcement involvement in the matter, as circumstances may change.

- Ensure that DOJ Leadership offices are informed of such decisions in a timely manner, either directly or through use of the Urgent Report system.
- CRT and USAO should continue to coordinate regarding personnel assigned to the case.
- If a criminal investigation is opened:
 - In conjunction with CRT-CRM Section, USAO and FBI should:
 - Consider any immediate evidence-preservation steps
 - ✓ Search warrants
 - ✓ Subpoenas
 - Meet with District Attorney and/or local law enforcement
 - Use social media to seek information for investigation
 - CRT attorney should assess whether and when to travel to the location of the incident to meet with FBI, local prosecutors, District Attorney and/or local law enforcement.
- **Internal DOJ Coordination Regarding Media and Community Engagement**
 - Coordination among DOJ-Office of Public Affairs, USAO-Public Affairs Officer, DOJ Leadership offices, and other relevant components to devise and execute an effective media plan/strategy.
 - Coordinate among relevant components and DOJ Leadership offices to alert media and other stakeholders as to the nature of DOJ involvement.
 - Consider whether the Attorney General, Assistant Attorney General for the Civil Rights Division, U.S. Attorney and/or other principals should make media statements regarding incident and federal investigative posture.
 - Draft talking points for U.S. Attorneys in districts outside of district where incident occurred, relevant agency heads, and any other government officials who may have to field questions. Prior to dissemination, the relevant components and DOJ Leadership offices should confer regarding such talking points.
 - Consider using social media to amplify message that DOJ is engaged.
 - Depending on the circumstances of the incident, engage in community outreach. Any such outreach should be carefully considered and conducted in coordination with (but not necessarily jointly) with other DOJ components to avoid multiple and potentially inconsistent messages from DOJ. Offices to coordinate with include: CRT, USAO, FBI, CRS, and the COPS Office.
 - Continue to review community and law enforcement response to the incident.
 - Relevant components and DOJ Leadership offices confer to assess advisability of a visit to locality by DOJ principals.
 - In consultation with DOJ Leadership offices, CRT, USAO, and the COPS Office should:
 - Consider AG/AAG/CRT/COPS conference call with concerned national and local community groups, faith leaders, civil rights leaders, and law enforcement organizations.
 - Determine whether to contact local elected officials and law enforcement leaders, including the mayor, police chief, police union(s), and state prosecutor.

- The Office of Legislative Affairs (OLA) should determine whether to contact members of Congress.

□ CRT/Special Litigation Section (SPL) Responsibilities

- Ascertain whether SPL already has an open matter(s) in the jurisdiction.
- If a matter is open, consider the impact of the new incident and related events and reporting on the open matter:
 - Preliminary investigation → consider whether to open a full, noticed investigation
 - Noticed Investigation → consider facts as part of pattern-or-practice analysis
 - Filed Litigation → consider facts as evidence during discovery, motions, and trial stages; determine whether incident indicates need for immediate litigation response (e.g., a TRO)
 - Enforcement of Reforms → consider whether to seek contempt finding or specific remedy
- If a matter is not open, consider other DOJ options, in consultation with the COPS Office and the Office of Justice Programs (OJP) regarding their component-specific potential interventions:
 - Collaborative Reform (COPS)
 - Technical Assistance & Critical Response (COPS)
 - Diagnostic Center (OJP)
 - Other COPS or OJP Technical Assistance
- If a matter is open and unrest seems likely, make contact with individuals and groups with whom CRT-SPL already has a rapport to assess the temperature on the ground and opportunities for federal assistance. Connect individuals and community groups to CRS and/or local USAO resources, as appropriate.
- Consider whether and when the investigative trial team should visit the area to meet with city officials, law enforcement, and community members.

□ COPS Office Responsibilities

- In coordination with other DOJ components (CRT, FBI, USAO, and CRS), explore the need for new or additional assistance. If warranted, develop a technical assistance work plan in consultation with the Office of Justice Programs (OJP), and begin delivering technical assistance.
 - Depending on the circumstances of the incident, offerings such as “peer-to-peer exchange” may be appropriate. This includes offering peer-to-peer support to the chief (bringing in chiefs from other jurisdictions that have experienced similar situations and can offer guidance).
- Notify U.S. Attorney in affected district, as well as other relevant components and DOJ Leadership offices, of specific plan for assistance.

□ CRS Responsibilities:

- In coordination with other DOJ components (CRT, FBI, USAO, and COPS), determine what additional assistance is necessary. Additional CRS services may include mediation, conciliation, training, and/or facilitated dialogue to community and conflict stakeholders.
- Conduct community outreach to identify and determine which, if any, of the following groups are involved in responses to the incident: demonstration groups, social media activists, bloggers, and potential counter-demonstration groups.
- Continue to identify and connect key conflict stakeholders. These frequently include the mayor and other local government and elected officials; law enforcement; Human Relations Commission and Community Relations Officials; local and national civil rights organizations; faith leaders; youth organizations; secondary schools and institutions of higher learning; and housing and neighborhood associations; and the Department of Housing and Urban Development (HUD).
- Identify desired outcomes based on current conflict, i.e.:
 - Establishing and/or improving police–community dialogues;
 - Reducing tension in the community
- Coordinate with other relevant components and other Federal agencies (e.g., DHS, FEMA, DOL, HUD) that are present in the community, when appropriate and in compliance with the Agency’s Confidentiality Mandate and jurisdictional lane.
- Continue to assess whether additional staff need to be deployed.

TWO WEEKS AND BEYOND

□ Law Enforcement Engagement: USAO, CRT, and FBI Continue Coordinated Efforts

- Consider scheduling regular call with the USAO, CRT, and FBI to discuss status.
- Local investigation/prosecution: periodically reevaluate whether the action being taken at the local level is appropriate and sufficient.
 - Monitor any state criminal investigation, obtaining pertinent materials in real time if possible.
 - Ensure that all potentially pertinent investigative material are being collected and preserved.
- Obtain victim services to help with those traumatized by the incident, if appropriate.
- Ascertain whether there are any broader issues which might indicate that a broader investigation should be opened. For example, if the incident and subsequent investigation pertain to a single shooting of an unarmed civilian, consider whether there is evidence, such as other instances of use of deadly force in similar circumstances, that suggests that a pattern and practice investigation is appropriate.

- Consider participating in and/or attending community meetings, adhering to the principle that the Department must always be and must be perceived as an objective party in evaluating the facts.
 - Utilize existing structures and credible community events to enhance outreach on topics related to the incident.
 - Monitor any civil proceeding, both collecting pertinent information in real time if possible, and ascertaining whether such proceedings should be stayed in order not to interfere with a criminal investigation.
 - Host periodic calls with all DOJ stakeholders to coordinate outreach.
- **Internal DOJ Coordination Regarding Media and Community Engagement**
- Continue to communicate and coordinate among DOJ components and DOJ Leadership offices.
 - Continue to assess media plan/strategy, and update the media plan as needed.
 - Develop long-term strategy, if necessary, defining roles and responsibilities among relevant components.
- **COPS Office Responsibilities:**
- In coordination with other DOJ components (CRT, FBI, USAO, and CRS), assess the need for additional technical assistance. Depending on the circumstances, offerings might include:
 - *Providing training to officers.* Training may include procedural justice training (fair-and-impartial training, etc.), media, and social media training, etc.
 - *Strategic planning development.* Strategic planning development provides guided assistance to law enforcement officials by helping them align goals and objectives with the mission of their departments.
 - *Targeted in-depth review, analysis, and recommendations.* At the request of the law enforcement agency, the COPS Office can initiate an assessment (to include analysis and recommendations) of a specific law enforcement issue. The assessment may include a review of relevant departmental policies and accountability systems, focus groups and interviews with city and department stakeholders, community outreach, and direct observation of department operations.
 - Assess the need for Collaborative Reform (a long-term, holistic strategy to improve trust between police agencies and the communities they serve by providing a means to organizational transformation).

□ CRS Responsibilities:

- In coordination with other DOJ components (CRT, FBI, USAO, and COPS), continue to assess the situation and the need to remain on the ground (and for how long), as well as the need to continue to provide mediation, conciliation, and/or on-going training.

**CIVIL RIGHTS DIVISION'S RESPONSE
TO THE DRAFT AUDIT REPORT**



U.S. Department of Justice

Civil Rights Division

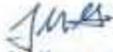
Office of the Assistant Attorney General

Washington, D.C. 20530

MEMORANDUM

TO: Michael E. Horowitz
Inspector General
United States Department of Justice

THROUGH: Jason R. Malmstrom
Assistant Inspector General for Audit
Office of the Inspector General
United States Department of Justice

FROM: John M. Gore 
Acting Assistant Attorney General
Civil Rights Division
United States Department of Justice

SUBJECT: Response to the Office of the Inspector General's Draft Audit Report,
*Audit of The Department of Justice's Efforts to Address Patterns or
Practices of Police Misconduct and Provide Technical Assistance on
Reform to Police Departments*

DATE: December 20, 2017

This memorandum provides a response to the Office of Inspector General's (OIG) November 29, 2017, draft audit report entitled, *Audit of The Department of Justice's Efforts to Address Patterns or Practices of Police Misconduct and Provide Technical Assistance on Reform to Police Departments*. The Civil Rights Division appreciates the opportunity to review and comment on the draft report.

Responses to OIG Recommendations to CRT:

1. Institute a formal policy requiring that its attorneys report all referrals of police misconduct incidents they receive to the Case Selection Advisory Committee.¹

The Division agrees with Recommendation 1. The Special Litigation Section is currently drafting a formal policy requiring Section attorneys to report all referrals of police misconduct incidents to the Case Selection Advisory Committee. The Special Litigation Section expects to implement this policy within 60 days.

2. Coordinate with OJP and the FBI to keep apprised of relevant, respective police data initiatives, such as NCS-X, and establish procedures as to how personnel should consider such data while assessing complaints and referrals of police misconduct.

The Division agrees with Recommendation 2. The Division currently engages in coordination efforts with OJP and the FBI and has expanded these efforts to ensure that the Division remains apprised of relevant, respective police data initiatives, such as NCS-X. As described in the response to Recommendation 6, the Special Litigation Section will establish guidelines for how its personnel will consider such data in assessing complaints and referrals of police misconduct. The Section expects to implement the guidelines within 90 days.

3. Consider requiring that future justification memoranda routed to Civil Rights Division leadership from the Special Litigation Section contain a section explicitly discussing how the Police Practice Group and Special Litigation Section assessed and prioritized all the designated decision factors with regard to whether to recommend opening an investigation.

The Division agrees with Recommendation 3. The Special Litigation Section has implemented a requirement that all future justification memoranda from the Section regarding police misconduct matters will include a section explicitly assessing and prioritizing designated factors that bear on whether to open an investigation. This requirement will also be included in the memorialization of justification memoranda requirements that is discussed in response to Recommendation 6 and which will be completed within 90 days.

4. Establish a depository of justification memoranda for PPG use on subsequent matters involving the same law enforcement agencies or similar conduct.

The Division agrees with Recommendation 4. Previously, CRT has discussed with OIG its efforts to developing a system to track and memorialize decisions on justification memoranda and other significant litigation documents. CRT expects to begin beta testing that system (currently referred to as CRAFTS) in the next 120 days.

¹ The recommendation is phrased in terms of CRT requiring that its attorneys be required to report police misconduct. Given the context of this recommendation, we assume that OIG meant to say that only SPL attorneys should have this obligation.

Over time, the Division plans to make CRAFTS the central repository for all CRT justification memoranda. In addition, the Special Litigation Section has established a depository of justification memoranda that will contain all future SPL justification memoranda. The Section also requires that attorneys describe previous justification memoranda in new justification memoranda involving the same agencies. Over the next 90 days, the Section will make reasonable efforts to locate all previous justification memoranda and will include them in the depository. The Section will document its efforts to locate previous justification memoranda for future auditing purposes. After the depository includes all previous justification memoranda that can be found, the Section will implement a requirement that when its attorneys assess complaints or referrals of police misconduct, its attorneys will consult the depository for previous justification memoranda involving the same law enforcement agencies.

5. Adopt a procedure requiring the documentation of denials and deferrals of PPG justification memoranda and the management level of review at which such decisions were made.

The Division agrees with Recommendation 5. CRAFTS will move CRT's justification memorandum approval process from a paper and email based system to a unified platform that allows CRT decision makers to review and approve or disapprove recommendations electronically. CRT expects CRAFTS to be fully operational in the fourth quarter of FY 2018. In addition, the Special Litigation Section has implemented a procedure requiring documentation of denials and deferrals of justification memoranda in police misconduct matters, as well as the management level that made the decision. Until CRAFTS is fully operational, the Division's front office will provide the requisite information to the Special Litigation Section for decisions made above the section-level.

6. Continue to develop a more risk-based strategic work planning process, including periodically reviewing and ranking case selection priority issues and applying these priorities to particular law enforcement agencies that prior preliminary inquiries, justification memoranda, and referrals indicated may be particularly at-risk.

The Division agrees with Recommendation 6. The Special Litigation Section has established a protocol for reviewing and ranking case selection priority issues on an annual basis, in consultation with Civil Rights Division leadership.

In an effort to integrate all of OIG's recommendations and ensure that it appropriately documents a more risk-based strategic work planning process, the Special Litigation Section will, within 90 days, take two additional steps:

- The Section will establish guidelines for assessing the need to take action with regard to particular law enforcement agencies in light of complaints, referrals, police data, previous preliminary inquiries, previous justification memoranda, and other available information regarding such agencies, as well as the Practice Group's priority issues.

- The Section will memorialize the requirements for future justification memoranda. The Section will require all justification memoranda to explicitly discuss all complaints or referrals received (*see* Recommendation 1); any police data considered (*see* Recommendation 2); how the Practice Group assessed and prioritized designated decision factors (*see* Recommendation 3); all previous justification memoranda related to the same agency, including any denials or deferrals (*see* Recommendations 4 and 5); and how the Practice Group assessed the agencies in light of its priority issues (*see* Recommendation 6).

**THE OFFICE OF COMMUNITY ORIENTED POLICING SERVICES'
RESPONSE TO THE DRAFT AUDIT REPORT**



U.S. DEPARTMENT OF JUSTICE
OFFICE OF COMMUNITY ORIENTED POLICING SERVICES
Office of the Director
145 N Street, N.E., Washington, DC 20530

COPS

MEMORANDUM

TO: Jason R. Malmstrom
Assistant Inspector General for Audit
Office of the Inspector General

FROM: Russell Washington *RW*
Acting Director
Office of Community Oriented Policing Services

DATE: December 20, 2017

SUBJECT: Draft Audit Report -The Department of Justice Efforts to Address Patterns or Practices of Police Misconduct and Provide Technical Assistance on Accountability Reform to Police Departments

This memorandum is in response to the Office of the Inspector General’s (OIG) draft audit report entitled, “The Department of Justice Efforts to Address Patterns or Practices of Police Misconduct and Provide Technical Assistance on Accountability Reform to Police Departments”, dated November 29, 2017. Thank you for the opportunity to review and comment on the above-referenced draft. The Department of Justice (DOJ) Office of Community Oriented Policing Services (COPS) appreciates the work of the OIG and has carefully considered the findings and recommendations presented in OIG’s draft report. Below please find our detailed explanation on the changes to the collaborative reform model, and our responses to each recommendation. Additionally, we are including some additional significant technical comments, beginning on page 5 of this response.

The COPS Office thanks the OIG for its thorough review of the review of the Collaborative Reform for Technical Assistance Initiative model (CRI-TA). While the draft audit report accurately describes the model as it existed until recently, this model is no longer operational. After a thorough review of the program by Department of Justice (DOJ) leadership, the Office of Community Oriented Policing Services (COPS Office) is implementing changes to the program that will fulfill the Attorney General’s commitment to respecting local control and accountability¹, while still delivering important, tailored, technical assistance resources to state, local, and tribal law enforcement. As noted below, in several passages the presentation of the program and activities are outdated, representing the previous CRI-TA, and provide a misleading picture of the current state.

¹ On March 31, 2017, Attorney General Sessions issued a memorandum to the heads of Department of Justice components and U.S. Attorneys outlining principles and guidance for supporting Federal, state, local, and tribal law enforcement.

ADVANCING PUBLIC SAFETY THROUGH COMMUNITY POLICING

Over the past several years, Collaborative Reform evolved to include much broader-ranging assessments of law enforcement agencies, identifying deficiencies in agency practices as a basis for the COPS Office to recommend significant changes and monitor the adoption of those changes. This led to the unintended consequence of a more adversarial relationship between DOJ and the participating law enforcement agencies.

On September 15, 2017, the Department of Justice announced changes to the Collaborative Reform program to ensure that it aligns with the goals of promoting “officer safety, officer morale, and public respect for their work,” as well as ensuring that public safety remains under “local control and local accountability.” Accordingly, the COPS Office has realigned the program to ensure that its focus remains on the provision of technical assistance related to best practices, crime reduction, and the needs of the field as specifically requested by law enforcement agencies.

This technical assistance more consistently reflects the COPS Office authorizing statute and appropriations language regarding the delivery of technical assistance to law enforcement agencies across the country. To accomplish this shift in focusing Collaborative Reform towards actionable technical assistance, the COPS Office intends to partner with one or more of the nation’s leading law enforcement professional groups to provide practical, “by the field, for the field” technical assistance from leading experts in public safety and policing. These partners will be selected based on a competitive application process that recently opened to law enforcement membership associations and groups. The selection of the new provider, using FY17 funding, will be announced in early FY18.

As mentioned at the exit conference, Collaborative Reform Initiative will provide targeted assistance directly to local law enforcement based on their identified needs and requests. Accordingly, the COPS Office will no longer produce assessment and progress reports or conduct monitoring activities. Instead, the program will focus its efforts and direct its resources towards delivering important, tailored, technical assistance and support “by the field, for the field” to address the needs of requesting agencies and to reduce violent crime. While aspects of the Collaborative Reform process will differ under this streamlined approach, the COPS Office’s fundamental goal of working with law enforcement to implement best practices in policing remains the same.

The COPS Office is willing to provide the OIG with more detailed information for consideration and inclusion into the final report appendix, so that an accurate current presentation of the Collaborative Reform program will be available as valuable context for the audit findings.

The OIG addressed four recommendations to the COPS Office. For ease of review, the draft audit recommendations are included below in bold font and underlined, followed by the COPS Office’s response to each recommendation.

Recommendation 7 (to the COPS Office): Prioritize the completion of its Collaborative Reform procedures and distribute such information or documents to relevant staff and, where appropriate, potential partners.

The COPS Office concurs with this recommendation, and requests closure in the final report based on the actions taken, as described below.

The COPS Office had finalized and implemented a set of Standard Operating Procedures (procedures) under the previous Collaborative Reform model; those procedures were provided to the contractor for implementation in March 2017. The procedures were designed to ensure consistency and reflect the major aspects of work under the Collaborative Reform program, including site intake and selection, announcements, site visits, document reviews, analyses, etc.. Although these procedures apply to our previous model, we are providing them as an attachment, along with the documentation that we provided them to our partners, to demonstrate that this recommendation was satisfied (see Attachment 1).

Additional Actions

On Friday, September 15, the COPS Office reached out to the 14 sites that participated in Collaborative Reform under the previous model to describe the changes to the program. Those changes include an option for those agencies that have not received an assessment report to continue under the Collaborative Reform program, under a modified memorandum of agreement (MOA), to receive technical assistance in furtherance of their original goals and objectives. Those agencies that have received an assessment report were notified that they have received their recommendations under Collaborative Reform, and as such their MOA would end.

The COPS Office will be working with the current Collaborative Reform provider to develop a best practices document that summarizes recommendations based on the experiences of those agencies participating in Collaborative Reform, which will be distributed to all sites as well as the law enforcement field.

Moving forward, the COPS Office has issued a new competitive solicitation for this work through a cooperative agreement and is currently in the process of selecting a provider to deliver this more streamlined, crime-focused technical assistance. Once that cooperative agreement has been awarded, procedures will be developed that reflect the necessary processes and process owners, timelines, and expectations (see Attachment 2).

Recommendation 8 (to the COPS Office and OJP): Perform a cost-benefit analysis regarding the engagements performed under the cooperative agreements and the engagements performed under the standing contract for the Collaborative Reform in order to determine the best instrument to achieve this goal, prior to exercising the next annual option year.

The COPS Office concurs with this recommendation and requests closure in the final report based on the actions taken, as described below.

The COPS Office conducted a cost comparison of Collaborative Reform work under both contract and cooperative agreement vehicles and concurs with the conclusion that work under the contract has been costlier. Due to the nature of the changes to this technical assistance program described in our opening comments above, including the intellectual property considerations outlined within the audit report, DOJ leadership has determined that, the program will no longer include wide-ranging audits of law enforcement agencies or monitoring of progress towards implementing recommendations. Instead, this technical assistance will be designed to assist law enforcement with crime reduction needs and with best practice identification and implementation. Moreover, these resources will be designed as technical assistance “by the field, for the field” rather than a federal assessment report with recommendations dictated by the Department of Justice.

Based on the changes to this technical assistance program, COPS Office leadership has concluded that cooperative agreements to perform technical assistance under this model are a more appropriate funding vehicle. Beginning with FY 2017 funding to be awarded in FY 2018 (1st Quarter), the COPS Office will transition towards delivering this technical assistance through a cooperative agreement vehicle, consistent with the audit recommendation to determine the best funding instrument to achieve program goals. Attached please find our solicitation document (see Attachment 2 referenced above).

Collaborative Reform work to support the current sites will continue to be performed under the current contract, and its performance period will conclude no later than September 21, 2018.

Recommendation 9 (to the COPS Office and OJP): Implement strategic goals and performance measures, to better ascertain the effectiveness of the technical assistance provided and make a final determination as to which vehicle better achieves its program goals.

The COPS Office concurs with this recommendation and requests closure in the final report based on the actions taken, as described below.

Within the recently released Collaborative Reform funding solicitation, the COPS Office has developed and incorporated a performance measure framework that reflects the requirement to identify measureable program goals and performance metrics, and we will work with the new provider to build this into the program. The purpose of the performance measures is to assess the effectiveness of the technical assistance provided under the new Collaborative Reform model in

assisting agencies that request technical assistance in meeting their stated public safety priorities. This performance measure aligns with COPS 1st strategic goal related to providing law enforcement with resources to increase their capacity to reduce crime, enhance public safety, and promote officer safety and wellness through community policing. Attached please find an excerpt from our Collaborative Reform funding solicitation that includes the performance measure framework (see Attachment 3).

Recommendation 10 (to the COPS Office and OJP): Develop a process to assess the effectiveness of its Critical Response program.

The COPS Office concurs with this recommendation.

The COPS Office is currently examining its Critical Response program and to determine how to best to assess the effectiveness of the program. As our improved model of Collaborative Reform is implemented, we will reposition our Critical Response resources so that they best complement the COPS Office technical assistance portfolio. We agree with the need to assess the effectiveness of the Critical Response program moving forward, and once the review of Critical Response is completed and the model improvements are made, we will look for ways to assess its effectiveness.

Additional Technical Comments

The following are specific passages where we request consideration be given to including language to present a more updated and accurate presentation of programs and activities, or which represent a previous operational model. We do understand that clarifying language may not be possible throughout the report, and we caution that care should be given to the tense used in describing programs and activities that have undergone review and seen important changes.

- 1) Executive Summary. In the third paragraph, beginning with "In March 2017. . .," we think it would be useful to add that the review of DOJ activities has resulted in significant changes to the Collaborative Reform model as assessed within this audit report.
- 2) P. ii. Within the section on the Office of Community Oriented Policing Services, we believe that it would be helpful to clarify within the Executive Summary that "under the previous models" Collaborative Reform and Critical Response assessed requesting law enforcement procedures and recommended reforms. . . ." The previous models of both initiatives are described throughout this paragraph in the present tense, although both have undergone important changes.
- 3) Within that same paragraph, it might be useful to note that the COPS Office evaluation of the Collaborative Reform program has been completed.
- 4) P. 19. The fourth sentence beginning with "Nonetheless" is factually incorrect given the changes to the program described above. COPS is not assigning any new work sites to the existing contract.
- 5) P. 20. An update to Table 5 to reflect the current status of the 16 Collaborative Reform sites may be useful, as the program changes described earlier resulted in the closing of all but a subset of those sites, and a more direct yet narrow scope of direct delivery of TA to

the those remaining active sites. Please consider updating table 5 to reflect that this assistance has been closed for 9 of the 16 sites including the first 8 sites listed in the table, and #10.

- 6) P. 20. The entire section on Intake is no longer accurate given the changes described above. A new intake process will be announced as we launch the revised Collaborative Reform program in December 2017.
- 7) P. 21. The entire section on Assessment and Report is no longer accurate given the changes described above, as Collaborative Reform will not include agency assessments or produce reports outlining agency deficiencies.
- 8) P. 22. The entire section on Progress Report and Final Report is no longer accurate given the changes described above, as Collaborative Reform will no longer include auditing and monitoring activities.
- 9) P. 23. Footnote 19 seems to provide important context for the Collaborative Reform program changes, and we think a more prominent presentation of the changes provided as important context might be useful earlier in the discussion.
- 10) P. 24. The paragraph starting with "The first task order supported. . ." is now factually incorrect given the program changes described above.
- 11) P. 26. The 21st Century Initiative funding has produced technical assistance and guidance, and we recommend indicating that the COPS Office has reported that these resources have been provided to the 15 sites. Please consider updating footnote 21 to reflect that this guidance has been provided.
- 12) P. 28. Much of this section is no longer accurate given the ongoing review of Critical Response.
- 13) P. 30. As noted earlier, the report on Critical Response report on Minneapolis was issued to the Minneapolis Police Department and the public.
- 14) P. 43. The summaries of Collaborative Reform and Critical Response within Table 12 are no longer accurate, given the changes described above. Please consider updating table 12, objectives for COPS Office Collaborative Reform to reflect that we have assisted agencies, and the objectives for COPS Critical Response to reflect that we have provided targeted technical assistance.

The COPS Office thanks the Office of the Inspector General for the opportunity to review and respond to this draft audit. If you have any questions, please contact Donald Lango at (202) 616-9215. If I may be of further assistance to you, please do not hesitate to contact me.

cc: Richard P. Theis
Assistant Director, Audit Liaison Group
Justice Management Division

Wayne Henry, Acting Deputy Director
Management Services Directorate
Office of Community Oriented Policing Services

Katherine McQuay, Acting Deputy Director

Mr. Jason R. Malmstrom

December 20, 2017

Page 7

Community Policing Advancement
Office of Community Oriented Policing Services

Robert Chapman, Deputy Director
Operations Directorate
Office of Community Oriented Policing Services

John Manning
Regional Audit Manager, Washington Regional Audit Office
Office of the Inspector General

**THE OFFICE OF JUSTICE PROGRAMS'
RESPONSE TO THE DRAFT AUDIT REPORT**



U.S. Department of Justice

Office of Justice Programs

Office of the Assistant Attorney General

Washington, D.C. 20531

December 20, 2017

MEMORANDUM TO: Jason R. Malmstrom
Assistant Inspector General for Audit
Office of the Inspector General
United States Department of Justice

THROUGH: John J. Manning
Regional Audit Manager
Washington Regional Audit Office
Office of the Inspector General

FROM: /s/
Alan R. Hanson
Principal Deputy Assistant Attorney General

SUBJECT: Response to the Office of the Inspector General's Draft Audit Report, *The Department of Justice's Efforts to Address Patterns or Practices of Police Misconduct and Provide Technical Assistance on Accountability Reform to Police Departments*

This memorandum responds to the Office of the Inspector General's (OIG's) November 29, 2017, draft audit report entitled, *The Department of Justice's Efforts to Address Patterns or Practices of Police Misconduct and Provide Technical Assistance on Accountability Reform to Police Departments*. The Office of Justice Programs (OJP) appreciates the opportunity to review and comment on the draft report.

OJP provides training and technical assistance services to numerous law enforcement entities throughout the country. As OIG highlighted in the subject draft audit report, the Diagnostic Center was established in Fiscal Year (FY) 2011 to provide local leaders and law enforcement officials with customized assistance in addressing violent and other serious crimes. Requests for Diagnostic Center services come from state, local, and tribal government officials and other justice professionals, such as victim service providers.

In addition to the customized assistance provided to communities, the Diagnostic Center builds awareness of existing training and technical assistance resources through events with state, local, and tribal community partners, and with our Federal counterparts. The Diagnostic Center has experienced continued interest from communities across the country seeking assistance on how to address drug-related and violent crimes, and to obtain techniques on how to best engage the community in meaningful and productive partnerships.

The draft audit report contains 15 recommendations and no questioned costs to the Department, of which, one recommendation is directed to OJP. For ease of review, this recommendation is summarized below and is followed by OJP's response.

11. We recommend that OJP review Diagnostic Center administration and operations to ensure adequate federal personnel are assigned, consistent with the Federal Acquisition Regulation, to oversee the Diagnostic Center contract.

The OJP agrees with this recommendation. The Diagnostic Center has expanded to include four full-time Federal staff, two of whom serve as Contracting Officer's Representatives for the Diagnostic Center contract. This level of Federal oversight on a contract of this size is consistent with the Federal Acquisition Regulation 48 C.F.R. §37.114(a).

Accordingly, OJP requests closure of this recommendation and written acceptance of this action from your office.

With respect to Recommendations 2, 12, and 15, in which OJP is referenced in the draft audit report, OJP will cooperate fully and work with the appropriate DOJ counterparts to ensure that systemic coordination of information sharing occurs, overlap of services is prevented, and efficiency in delivering technical assistance to the law enforcement community is realized.

Thank you for your continued collaboration to improve the administration of our programs. If you have any questions regarding this response, please contact Ralph E. Martin, Director, Office of Audit, Assessment, and Management, at (202) 305-1802.

cc: Maureen A. Henneberg
Deputy Assistant Attorney General

Katherine Darke Schmitt
Senior Policy Advisor and Director of the OJP Diagnostic Center
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OJP Executive Secretariat
Control Title IT20171207070833

**THE COMMUNITY RELATIONS SERVICE'S
RESPONSE TO DRAFT AUDIT REPORT**



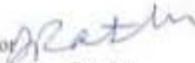
U.S. Department of Justice
Community Relations Service

Washington, D.C. 20530

MEMORANDUM

TO: Michael E. Horowitz
Inspector General
United States Department of Justice

THROUGH: Jason R. Malmstrom
Assistant Inspector General for Audit
Office of the Inspector General
United States Department of Justice

FROM: Gerri Ratliff 
Deputy Director
Community Relations Service
United States Department of Justice

SUBJECT: Response to the Office of the Inspector General's Draft Audit Report,
*Audit of The Department of Justice's Efforts to Address Patterns or
Practices of Police Misconduct and Provide Technical Assistance on
Reform to Police Departments*

DATE: December 20, 2017

This memorandum provides a response to the Office of Inspector General's (OIG) November 29, 2017, draft audit report entitled, *Audit of The Department of Justice's Efforts to Address Patterns or Practices of Police Misconduct and Provide Technical Assistance on Reform to Police Departments*. The Community Relations Service (CRS) appreciates the opportunity to review and comment on the draft report.

Recommendation 12 reads as follows:

Work with the Community Oriented Policing Service (COPS), Office of Justice Programs (OJP), and the Civil Rights Division (CRT) to develop procedures to facilitate other DOJ component non-litigation community outreach efforts, where appropriate, and revise its guidance to its conciliators accordingly.

Plan of Actions and Milestones:

CRS agrees with the recommendation to develop procedures with COPS, OJP, and CRT to facilitate outreach efforts, as appropriate, and revise its guidance to conciliators accordingly. These procedures will be developed as a part of the Department's planned action to develop procedures to ensure more regular and systematic coordination pursuant to the implementation of Recommendation 13.

CRS agrees to take the following actions to comply with the recommendation:

Action Item	Target Date
CRS participation in DOJ's implementation of Recommendation 13 will include coordinating the identification by CRT, OJP, and COPS of areas where CRS can facilitate the non-litigation community outreach efforts of those components.	March 1, 2018
Recommendation to CRS, CRT, OJP and COPS outlining areas where CRS can facilitate community outreach efforts of CRT, OJP, and COPS submitted to CRS, CRT, OJP, and COPS leadership for approval.	June 1, 2018
CRS to finalize guidance to conciliators, based on recommendation approved by CRS, CRT, OJP, and COPS.	August 31, 2018

THE OFFICE OF THE DEPUTY ATTORNEY GENERAL'S
RESPONSE TO THE DRAFT AUDIT REPORT



U.S. Department of Justice
Office of the Deputy Attorney General

Office of the Deputy Attorney General

930 Pennsylvania Ave., N.W. (202) 305-7848
Room 4115, RFK Main Justice Bldg.
Washington, D.C. 20530

MEMORANDUM

TO: Jason R. Malmstrum
Assistant Inspector General for Audit
Office of the Inspector General

FROM: Scott Schoofs 
Associate Deputy Attorney General
Office of the Deputy Attorney General

DATE: December 20, 2017

SUBJECT: Status Update in Response to OIG's Audit Report Entitled, *The Department of Justice's Efforts to Address Patterns or Practices of Police Misconduct and Provide Technical Assistance on Accountability Reform to Police Departments*

The Office of the Deputy Attorney General (ODAG) appreciates the review undertaken by the Office of the Inspector General (OIG) and the opportunity to comment on the OIG's final draft audit report regarding *The Department of Justice's Efforts to Address Patterns or Practices of Police Misconduct and Provide Technical Assistance on Accountability Reform to Police Departments*. Although this review also included the Civil Rights Division (CRT), the Office of Community Oriented Policing Services (COPS), the Office of Justice Programs (OJP), and the Community Relations Service's (CRS), this response does not cover the status of the recommendations made to those components because they have responded separately. The report makes three recommendations to the Department. ODAG responds to those recommendations below.

Recommendation 13: Develop procedures (such as an MOU) to ensure more regular and systemic coordination to share information, prevent overlap of services, and ensure efficiency in achieving their goals.

Response:

The Department concurs with this Recommendation. ODAG has asked CRT to take the lead and work with other relevant components to develop more regular, flexible, and practical procedures for increased coordination and information sharing. The Office of the Associate Attorney General (OASG), in coordination with the ODAG, will review CRT's proposed procedures to ensure that they are appropriate and consistent with the Department's overall

policy and OIG's recommendations.

The Department anticipates that its work on this Recommendation will be completed by the end of fiscal year 2018. ODAG will provide OIG with a status update on this Recommendation by March 30, 2018.

Recommendation 14: Clarify the circumstances in which a component is responsible for designating an incident to be "high profile" under the March 2016 guidance.

Response:

The Department concurs with this Recommendation. ODAG has asked CRT to examine the circumstances in which a component is responsible for designating an incident to be "high profile" and to offer additional training to components that would clarify the scope of the March 2016 guidance. However, before CRT offers training to components, OASG, in coordination with the ODAG, will review CRT's clarification of the circumstances in which a component is responsible for designating an incident to be "high profile" to ensure that the clarification is appropriate and consistent with the Department's overall policy and OIG's recommendations.

The Department anticipates that its work on this Recommendation will be completed by the end of fiscal year 2018. ODAG will provide OIG with a status update on this Recommendation by March 30, 2018.

Recommendation 15: Consider developing procedures detailing the circumstances when notification and coordination with the relevant U.S. Attorney's Office is appropriate in jurisdictions where technical assistance will be provided by the OJP, COPS Office, or CRS.

Response:

The Department concurs with this Recommendation. ODAG has asked CRT to take the lead and work with the other components identified in this Recommendation, as well as EOUSA, to develop a protocol for notifying and coordinating with U.S. Attorney's Offices when OJP, COPS, or CRS intends to offer technical assistance. OASG, in coordination with the ODAG, will review CRT's proposed protocol to ensure that it is appropriate and consistent with the Department's overall policy and OIG's recommendations.

The Department anticipates that its work on this Recommendation will be completed by the end of fiscal year 2018. ODAG will provide OIG with a status update on this Recommendation by March 30, 2018.

**OFFICE OF THE INSPECTOR GENERAL
ANALYSIS AND SUMMARY OF ACTIONS
NECESSARY TO CLOSE THE AUDIT REPORT**

The OIG provided a draft of this audit report to the Civil Rights Division (CRT), the Office of Community Oriented Policing Service (COPS Office), the Office of Justice Programs (OJP), and the Community Relations Service (CRS). We incorporated each component's response, as well as a response from the Office of the Deputy Attorney General (ODAG), in Appendices 3 to 7 of this final report.

In response to our audit report, the CRT, COPS Office, OJP, CRS, and ODAG concurred with our recommendations and discussed the actions each will implement in response to our findings. As a result, the status of the audit report is resolved. The following provides the OIG analysis of the response and summary of actions necessary to close the report.

Analysis of COPS Office's Response

Among the component-level responses we received on the draft report, the COPS Office's response offered additional comments that do not pertain to a particular recommendation. Specifically, the COPS Office noted that its Collaborative Reform program detailed in this report is no longer operational. This is because the Department realigned Collaborative Reform to fulfill the Attorney General's concern of respecting "local control and accountability" of law enforcement agencies. Therefore, the COPS Office stated that several passages of the report were "outdated" and "provide[d] a misleading picture" of the Collaborative Reform program that has changed significantly since our audit work.

Our substantive fieldwork and analysis, including multiple interviews and on-site visits with police departments that received Collaborative Reform assistance, took place in earnest throughout 2016 and 2017. In August 2017, we met with COPS Office officials to share and discuss our findings on this program. On September 15, 2017, the COPS Office announced changes to the Collaborative Reform program. While we appreciate that the COPS Office subsequently revised Collaborative Reform, we believe our review and findings are important for the COPS Office to consider as it implements and considers any additional changes to Collaborative Reform.

Nevertheless, we updated, as appropriate, certain language in our report to ensure that our report described what Collaborative Reform once did, not necessarily what the Department plans for it to do in the future.

Recommendations for the CRT:

- 1. Institute a formal policy requiring that its attorneys report all referrals of police misconduct incidents they receive to the Case Selection Advisory Committee.**

Resolved. The CRT concurred with our recommendation. In its response, the CRT stated that the Special Litigation Section (SPL) is currently drafting a formal policy requiring that SPL attorneys report all referrals of police misconduct incidents to the Case Selection Advisory Committee.

This recommendation can be closed when we receive documentation demonstrating that the CRT has formalized a policy requiring Section attorneys to report all referrals of police misconduct to the Case Selection Advisory Committee.

- 2. Coordinate with OJP and the Federal Bureau of Investigation (FBI) to keep apprised of relevant, respective police data initiatives, such as National Crime Statistics Exchange (NCS-X), and establish procedures as to how personnel should consider such data while assessing complaints and referrals of police misconduct.**

Resolved. The CRT concurred with our recommendation. In its response, the CRT stated that it currently engages in coordination efforts with OJP and the FBI and has expanded these efforts to ensure it remains apprised of relevant, respective police data initiatives, such as NCS-X.

This recommendation can be closed when the CRT demonstrates how CRT personnel consider police data in assessing complaints and referrals.

- 3. Consider requiring that future justification memoranda routed to Civil Rights Division leadership from the Special Litigation Section contain a section explicitly discussing how the Police Practice Group and Special Litigation Section assessed and prioritized all the designated decision factors with regard to whether to recommend opening an investigation.**

Resolved. The CRT concurred with our recommendation. In its response, the CRT stated that it requires all future SPL justification memoranda explicitly assess and prioritize designated factors to consider regarding whether to open an investigation.

This recommendation can be closed when the CRT demonstrates that it requires that SPL justification explicitly assess and prioritize designated factors to consider regarding whether to open an investigation.

4. Establish a depository of justification memoranda for PPG use on subsequent matters involving the same law enforcement agencies or similar conduct.

Resolved. The CRT concurred with our recommendation. In its response, the CRT stated that it expects to begin testing a system to track and memorialize decisions on justification memoranda and other litigation documents in the next 120 days. Additionally, the CRT plans to make a central repository for all CRT justification memoranda. The CRT also plans to make reasonable efforts to locate all previous justification memoranda and include them in such a depository.

The CRT stated that it would document efforts to locate previous justification memoranda for future auditing purposes. The CRT also stated it will require that attorneys consult the depository when they assess complaints or referrals of police misconduct.

This recommendation can be closed when we receive evidence that the CRT has established a central depository and requires its attorneys use it to assess complaints or referrals of police misconduct involving the same law enforcement agency or similar types of misconduct.

5. Adopt a procedure requiring the documentation of denials and deferrals of PPG justification memoranda and the management level of review at which such decisions were made.

Resolved. The CRT concurred with our recommendation. In its response, CRT stated that the justification memorandum approval process will move from a paper and e-mail based system to a unified platform that allows the CRT decision makers to review and make recommendations electronically. The CRT also stated that it has implemented a procedure requiring documentation of denials and deferrals of justification memoranda in police misconduct matters, as well as the management level that made the decision. Until the unified database is operational, CRT leadership will provide the requisite information to the SPL for decisions made above the section-level.

This recommendation can be closed when the CRT demonstrates that it has implemented a procedure that documents denials and deferrals of justification memoranda in police misconduct matters, as well as the management level that made the decision.

6. Continue to develop a more risk-based strategic work planning process, including periodically reviewing and ranking case selection priority issues and applying these priorities to particular law enforcement agencies that prior preliminary inquiries, justification memoranda, and referrals indicated may be particularly at-risk.

Resolved. The CRT concurred with our recommendation. In its response, the CRT stated that SPL has established a protocol for reviewing and ranking case selection priority issues on an annual basis, in consultation with its leadership.

This recommendation can be closed when the CRT demonstrates that it has implemented this work planning process to review and rank case selection priorities.

Recommendations for the COPS Office:

- 7. Prioritize the completion of its Collaborative Reform procedures and distribute such information or documents to relevant staff and, where appropriate, potential partners.**

Closed. The COPS Office concurred with our recommendation. In its response, the COPS Office stated that it finalized and implemented a set of Standard Operating Procedures for Collaborative Reform and provided these procedures to the contractor for implementation. We note that these procedures only apply to the previous Collaborative Reform model. We nevertheless reviewed the published guide and confirmed that it was distributed appropriately. This recommendation is therefore closed.

- 8. Perform a cost-benefit analysis regarding the engagements performed under the cooperative agreements and the engagements performed under the standing contract for the Collaborative Reform in order to determine the best procurement instrument to achieve this goal, prior to exercising the next annual contract option year.**

Closed. The COPS Office concurred with our recommendation. In its response, the COPS Office stated that it conducted a cost comparison and concluded that cooperative agreements were the most appropriate funding vehicle to perform technical assistance. As a result, the COPS Office stated that it is transitioning towards delivering future technical assistance through cooperative agreements.

Further, the COPS Office stated that Collaborative Reform work performed under the contract will conclude no later than September 21, 2018. This recommendation is therefore closed.

- 9. Implement strategic goals and performance measures, to better ascertain the effectiveness of the technical assistance provided and make a final determination as to which procurement instrument better achieves its program goals.**

Closed. The COPS Office concurred with our recommendation. In its response, the COPS Office stated that it developed and incorporated a performance measure framework in their Collaborative Reform Application

Guide that reflects our recommendation. Specifically, the updated Collaborative Reform Application Guide requires that recipients report progress toward implementing their award. The COPS Office stated that it will work with the new provider to build these performance measures into the new Collaborative Reform program to assess the effectiveness of the technical assistance provided. We reviewed the performance measures framework and requirements and determined that they were designed in a way that adequately address our recommendation. As a result, this recommendation is closed.

10. Develop a process to assess the effectiveness of its Critical Response program.

Resolved. The COPS Office concurred with our recommendation. In its response, the COPS Office stated that it is currently examining its Critical Response program and how best to assess the effectiveness of the program. The COPS Office indicated that once the review of Critical Response is complete, they will look for ways to assess its effectiveness.

Therefore, this recommendation can be closed once the COPS Office demonstrates that it has developed a process to assess the effectiveness of the Critical Response program.

Recommendation for OJP:

11. Review Diagnostic Center administration and operations to ensure adequate federal personnel are assigned, consistent with the Federal Acquisition Regulation, to oversee the Diagnostic Center contract.

Closed. The OJP concurred with our recommendation. In its response, OJP stated that it has now expanded to include four full-time federal employees, two of whom serve as Contracting Officer's Representatives, on the Diagnostic Center contract. This recommendation is therefore closed.

Recommendation for the CRS:

12. Work with the COPS Office, OJP, and CRT to develop procedures to facilitate other DOJ component non-litigation community outreach efforts, where appropriate, and revise its guidance to its conciliators accordingly.

Resolved. The CRS concurred with our recommendation. In its response, the CRS stated that it will work with the COPS Office, OJP, and CRT to develop procedures to facilitate other DOJ component non-litigation community outreach efforts, where appropriate, and revise its guidance to its conciliators accordingly.

This recommendation can be closed when the CRS demonstrates that it has finalized guidance to conciliators, based on newly developed community outreach procedures developed with the CRT, OJP, and COPS Office.

Recommendations for the Department:

13. Develop procedures (such as an MOU) to ensure more regular and systemic coordination to share information, prevent overlap of services, and ensure efficiency in achieving their goals.

Resolved. The ODAG concurred with our recommendation. In its response, the ODAG stated that it has asked CRT to take the lead to work with other relevant DOJ components. The Office of the Associate Attorney General (OASG), in coordination with the ODAG, will review the proposed procedures to ensure consistency with the Department's overall policy and the OIG recommendation.

This recommendation can be closed when we receive and assess documentation of the development and implementation of these coordination efforts.

14. Clarify the circumstances in which a component is responsible for designating an incident to be "high-profile" under the March 2016 guidance.

Resolved. The ODAG concurred with our recommendation. In its response, the ODAG stated that they have asked the CRT to examine the issue and to offer training to components that clarifies the scope of the guidance. Before any training, the OASG, in coordination with the ODAG, will review CRT's clarification to ensure it is appropriate and consistent with the Department's overall policy and the OIG's recommendation.

This recommendation can be closed when we receive and analyze documentation of the clarification of the March 2016 guidance and the component trainings have been completed.

15. Develop procedures detailing the circumstances when notification and coordination with the relevant U.S. Attorney's Office is appropriate in jurisdictions where technical assistance will be provided by the OJP, COPS Office, or CRS.

Resolved. The ODAG concurred with our recommendation. In its response, the ODAG stated that it has asked CRT to take the lead to work with other components identified in the recommendation, as well as the Executive Office for U.S. Attorneys, to develop a protocol for notifying and coordinating technical assistance. The OASG, in coordination with the ODAG will review CRT's proposed protocol to ensure it is appropriate and consistent with the Department's overall policy and this recommendation.

This recommendation can be closed when the Department implements the proposed protocol to facilitate component efforts to coordinate technical assistance.



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