

# BUILDING POLICE-COMMUNITY TRUST IN ILLINOIS: WILL WE EVER GET THERE?

## AN EXAMINATION OF THE ILLINOIS POLICE AND COMMUNITY RELATIONS ACT

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### I. INTRODUCTION

The ongoing tension and tragic altercations between law enforcement and community members across the United States has resulted in unfortunate fatalities and an undeniable absence of trust. As a result, on December 18, 2014, President Barack Obama established the Task Force on 21st Century Policing by executive order and charged “the task force with identifying best practices and offering recommendations on how policing practices can promote effective crime reduction while building public trust.”<sup>1</sup> The *President’s Task Force on 21st Century Policing Final Report*, issued on May 18, 2015, identified “Six Pillars of Change”—six categories composed of mandates that practitioners were required to implement beginning in 2016.<sup>2</sup> In Illinois, the effort to implement the “Six Pillars of Change” resulted in the Illinois Legislature’s passage of *The Police and Community Relations Improvement Act* (PCRIA) on August 12, 2015.<sup>3</sup> *This comment argues that with a commitment to implement the PCRIA’s reform measures and a willingness of police officers and community members to cooperate with each other, police-community trust in Illinois is achievable.*

Specifically, this comment analyzes how well the PCRIA implements the “Six Pillars of Change” and proposes pertinent amendments to specific provisions of the PCRIA to further the goals envisioned by the President’s Task Force and the Illinois legislature—police officer reform and building public trust. Part II discusses the purposes of the PCRIA, the goals of the President’s Task Force, and provides an overview of the PCRIA, including its legislative history and relevant post-enactment events. Part III discusses the “Six Pillars of Change” and the Task Force’s motivations underlying each. Part IV examines how well the PCRIA implements the “Six Pillars of

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<sup>1</sup> President’s Task Force on 21st Century Policing, *Final Report of the President’s Task Force on 21st Century Policing* 1 (2015), [https://cops.usdoj.gov/pdf/taskforce/taskforce\\_finalreport.pdf](https://cops.usdoj.gov/pdf/taskforce/taskforce_finalreport.pdf).

<sup>2</sup> WILLIAM P. MCCARTY & RAHUL KALSI, AN EXAMINATION OF THE 2015 POLICE AND COMMUNITY RELATIONS IMPROVEMENT ACT: FROM DOCTRINE TO PRACTICE 1 (The Veritatis Institute) (2016).

<sup>3</sup> *Id.* at [vi].

Change,” analyzes questions raised both before and after its enactment regarding how the PCRIA applies, and gives recommendations about how to further amend the PCRIA to better implement the Task’s Force’s “Six Pillars of Change.”

## II. BACKGROUND, HISTORY, AND OVERVIEW OF THE PCRIA

The PCRIA “was the result of difficult negotiation and compromise between political parties and law enforcement representatives.”<sup>4</sup> Its purpose includes, among other things, to “reform policing practices and build trust and legitimacy within the community.”<sup>5</sup> It was also intended to “reduce civil rights violations and combat racial profiling.”<sup>6</sup> Governor Bruce Rauner signed the PCRIA to address police reform specifically in Illinois,<sup>7</sup> and it is a “compilation of 200 separate pieces of legislation.”<sup>8</sup> The PCRIA required law enforcement agencies to begin complying with its provisions as of January 2016.<sup>9</sup>

### A. The President’s Task Force

The *President’s Task Force on 21st Century Policing Final Report* addressed the existing tension between police officers and citizens across the United States<sup>10</sup> and analyzed how to strengthen “trust among law enforcement and the communities they serve.”<sup>11</sup> The Task Force brought various stakeholders together “to study the problems from all perspectives.”<sup>12</sup> The stakeholders heard “from over 120 live witnesses” and “read thousands of pages of written testimony submitted by experts from one issue to the next.”<sup>13</sup> The Task Force itself “consisted of police chiefs, academics, a police union leader, a state-wide police training director and [community]

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<sup>4</sup> Jeff Kolkey, *New Illinois Law Aims to Promote Trust in Police, Combat Racial Profiling*, RRSTAR.COM (Aug. 31, 2015, 9:44 PM), <http://www.rstar.com/article/20150831/NEWS/150839906>.

<sup>5</sup> MCCARTY & KALSI, *supra* note 2, at 1.

<sup>6</sup> Kolkey, *supra* note 4.

<sup>7</sup> MCCARTY & KALSI, *supra* note 2, at [vi].

<sup>8</sup> *Illinois Passes Sweeping Police Reform Bill with Rules on Chokeholds and Body Cameras*, RT QUESTION MORE (Aug. 13, 2015, 2:56 PM), <https://www.rt.com/usa/312311-illinois-passes-sweeping-police-reform/>.

<sup>9</sup> MCCARTY & KALSI, *supra* note 2, at 1.

<sup>10</sup> *Id.* at 2.

<sup>11</sup> President’s Task Force on 21st Century Policing, *supra* note 1, at [iii].

<sup>12</sup> *Id.* at 1.

<sup>13</sup> Sean Michael Smoot, *Remarks at the Southern Illinois University School of Law and School of Medicine Symposium: The President’s Task Force on 21st Century Policing: Procedural Justice, Policing, and Public Health*, 40 S. ILL. U. L.J. 427, 429 (2016).

activists.”<sup>14</sup> The report identified the following “Six Pillars of Change:” (1) building trust and legitimacy, (2) policy and oversight, (3) technology and social media, (4) community policing and crime reduction, (5) training and education, and (6) officer wellness and safety.<sup>15</sup>

The Task Force’s recommendations directly influenced the Illinois legislature as it crafted the PCRIA: “In addition to establishing trust, one of the things the legislature wanted to do was push forward on the recommendations regarding police training from the President's Task Force by codifying them into statute.”<sup>16</sup> This comment examines the extent to which the PCRIA successfully achieves this goal of implementing the “Six Pillars of Change” through modifications to the law.<sup>17</sup>

## B. Legislative History and Context

Representative Elgie Sims, a Democratic representative from Chicago, who headed the legislation in the House, stated, “[*Illinois*] lawmakers on both sides of the aisle [feel] compelled to take action to address the disparities and restore trust.”<sup>18</sup> He and Senator Kwame Raoul, who is also a Democrat from Chicago, sponsored the bill which “addresses a wide range of police reforms [including] policies to end stop and frisk discriminatory practices.”<sup>19</sup> In addition, the 174-page law proscribes the use of chokeholds except when it is necessary to use deadly force.<sup>20</sup> Under the Illinois Criminal Code 2012, article 7, deadly force is necessary “when officers need to defend themselves or another person, or to protect property.”<sup>21</sup> The PCRIA also encourages the use of officer-worn body cameras.<sup>22</sup> Peoria, Illinois’ Democratic representative Jehan Gordon-Booth, who also sponsored the bill, reaffirmed that utilizing body worn cameras (BWCs) “is going to completely open up an eye to the general public as it relates to what police actually deal

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<sup>14</sup> MCCARTY & KALSI, *supra* note 2, at 2.

<sup>15</sup> *Id.* at 1.

<sup>16</sup> Smoot, *supra* note 13, at 429.

<sup>17</sup> See *infra* part IV.

<sup>18</sup> *Illinois Passes Sweeping Police Reform Bill with Rules on Chokeholds and Body Cameras*, *supra* note 8.

<sup>19</sup> Lindsey Hammond, *Police Reform Bill Passes the Illinois General Assembly*, COMMUNITY RENEWAL SOCIETY (June 3, 2015, 5:00 PM), <https://www.communityrenewalsociety.org/blog/police-reform-bill-passes-illinois-general-assembly>.

<sup>20</sup> *Illinois Passes Sweeping Police Reform Bill with Rules on Chokeholds and Body Cameras*, *supra* note 8.

<sup>21</sup> *Id.*

<sup>22</sup> Police and Community Relations Improvement Act, Pub. L. No. 99-352 §§ 10-1, 10-20, 50 ILL. COMP. STAT. 727 (2016).

with on a day-to-day basis.”<sup>23</sup> Gordon-Booth explained, “There may be occurrences where there was malfeasance, there may be occurrences where there weren’t. Now, there won’t be a question.”<sup>24</sup>

Moreover, Senator Raoul, “cautioned that the bill will not necessarily prevent violent encounters between police and the communities they serve, but gives departments tools to better train officers and respond to incidents.”<sup>25</sup> He stated, “You’re never going to pass a law that’s going to prevent an event from happening.”<sup>26</sup> Rather, he said, “It’s about, how do we use that to better approach a similar incident in the future.”<sup>27</sup> Spokesman Ed Yohnka “for the American Civil Liberties Union of Illinois, whose attorneys were involved in the negotiations for the new law, [also] praised the body camera rules as a balance between transparency and oversight of law enforcement, and the protection of personal privacy.”<sup>28</sup> Yohnka emphasized, “Most of all, we’re not going to have a different standard here than we have in Champaign, than we do in Peoria, than we do in Chicago.”<sup>29</sup>

Finally, an on-leave Rockford, Illinois, police officer, who also co-sponsored the bill, stated, ‘We can never change some folks’ view of law enforcement, but I think this [bill] is a step in the right direction and it will hopefully protect our officers’ and ‘make sure our citizens are safer and our police officers are safer.’<sup>30</sup> On the contrary, the police chief of Winnebago County believes police “are already respectful of residents’ civil rights” and “is skeptical that the measures would lead to improvements.”<sup>31</sup> He believes that the law will burden police agencies without providing additional funds to support “the constitutional policing, civil rights and procedural justice education training or the stop receipts it will require.”<sup>32</sup>

### C. Overview of the PCRIA

The PCRIA contains various articles. Article 1 is cited as “the Police and Community Relations Improvement Act” and requires independent

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<sup>23</sup> Kim Geiger & Jeremy Gorner, *Rauner Signs Police Body Camera Bill into Law*, CHI. TRIBUNE (Aug. 12, 2015, 6:06 PM), <http://www.chicagotribune.com/news/local/politics/ct-bruce-rauner-police-body-camera-bill-met-0713-20150812-story.html>.

<sup>24</sup> *Id.*

<sup>25</sup> *Id.*

<sup>26</sup> *Id.*

<sup>27</sup> *Id.*

<sup>28</sup> *Id.*

<sup>29</sup> *Id.*

<sup>30</sup> Kolkey, *supra* note 4.

<sup>31</sup> *Id.*

<sup>32</sup> *Id.*

investigations of officer-involved deaths.<sup>33</sup> For instance, every police department must “have a written policy regarding the investigation of officer-involved deaths,” and “[t]he investigators conducting the investigation shall, in an expeditious manner, provide a complete report to the State’s Attorney of the county in which the officer-involved death occurred.”<sup>34</sup> Article 5 is cited as “the Uniform Crime Reporting Act” and discusses monthly reporting requirements for crime statistics from all law enforcement agencies.<sup>35</sup> It mandates that all law enforcement agencies submit to the Department of State Police a monthly report disclosing all arrest-related deaths, “any instance when a law enforcement officer discharges his or her firearm causing a non-fatal injury to a person,” incidents involving hate crimes and domestic violence, as well as incidents reported by schools to law enforcement.<sup>36</sup>

Article 10 is cited as “the Law Enforcement Body-Worn Camera Act” and requires the Illinois Law Enforcement Training Standards Board (ILETSB) to create the “basic guidelines for the use of officer-worn body cameras by law enforcement agencies.”<sup>37</sup> According to Article 10, “officer-worn body cameras may provide impartial evidence and documentation to settle disputes and allegations of officer misconduct . . . while protecting individual privacy and providing consistency in its use across this State.”<sup>38</sup> Finally, Article 20 amends the Freedom of Information Act, The Racial Profiling Prevention and Data Oversight Act, and The Illinois Police Training Act.<sup>39</sup> Under Article 20, The Racial Profiling Prevention and Data Oversight Board has the responsibility to “promulgate model policies for police agencies that are designed to protect individuals’ civil rights related to police traffic enforcement.”<sup>40</sup> The Board “shall also study stops lasting over 30 minutes and define categorical reasons for the extended stops.”<sup>41</sup> In particular, after a traffic stop or search, police officers must provide a receipt containing the officer’s name and badge number to individuals.<sup>42</sup> The chief criminal prosecutor for Winnebago County in Rockford, Illinois, asserted, “A lot of times people are nervous when they are stopped and they [do not] think to ask for the officer’s name. This is a way to make the encounter

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<sup>33</sup> Police and Community Relations Improvement Act, Pub. L. No. 99-352 §§ 1-1, 1-10, 50 ILL. COMP. STAT. 727 (2016).

<sup>34</sup> *Id.* § 1-10.

<sup>35</sup> *Id.* §§ 5-5, 5-10, 5-12.

<sup>36</sup> *Id.* § 5-12.

<sup>37</sup> *Id.* §§ 10-1, 10-20.

<sup>38</sup> *Id.* § 10-5.

<sup>39</sup> *Id.* §§ 20-105, 20-125, 20-130.

<sup>40</sup> *Id.* § 20-125.

<sup>41</sup> *Id.*

<sup>42</sup> Kolkey, *supra* note 4.

[friendlier] between” police officers and community members.<sup>43</sup> Moreover, as indicated previously, the PCRIA prohibits the use of chokeholds in the officer’s performance of his duties unless deadly force is justified. Article 20 defines “chokehold” as “applying any direct pressure to the throat, windpipe, or airway of another with the intent to reduce or prevent the intake of air” but “does not include any holding involving contact with the neck that is not intended to reduce the intake of air.”<sup>44</sup>

#### D. Post-Enactment Developments

Senator Raoul is of the opinion that “Illinois has . . . set the standard nationally” with the PCRIA.<sup>45</sup> However, there are still problems in the wake of the PCRIA as evidenced by a recent lawsuit against the city of Chicago. Although Chicago Mayor, Rahm Emanuel, and the Department of Justice (DOJ) have coordinated a process to strive towards police reform, Attorney General Lisa Madigan sued the city on August 29th, 2017, with the support of Mayor Emanuel.<sup>46</sup> She asked the court to stop the CPD from using excessive force practices and other discriminatory acts against African Americans and Latinos.<sup>47</sup> Mayor Emanuel stated he was proud “that Illinois’ attorney general is standing up—for our city and our officers—where the Trump Justice Department fell flat,” and noted the reforms “that lie ahead, will help us ensure Chicago has the most professional, proactive police department possible.”<sup>48</sup>

In contrast, U.S. Attorney General Jeff Sessions has criticized “federally-mandated police reform measures since taking office in February [2017], especially the use of consent decrees.”<sup>49</sup> Despite the resistance and skepticism from Attorney General Sessions and others opponents of police reform, the DOJ has reiterated, through its spokesperson, Ian Prior, that it “will not agree to or support any measure that will endanger the lives of Chicago’s residents or law enforcement by eroding the rule of law or by failing to properly address violent crime in Chicago.”<sup>50</sup> Rather, the DOJ is committed to helping Chicago implement community policing and reduce crime.<sup>51</sup>

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<sup>43</sup> *Id.*

<sup>44</sup> Police and Community Relations Improvement Act § 20-155.

<sup>45</sup> *Illinois Passes Sweeping Police Reform Bill with Rules on Chokeholds and Body Cameras*, *supra* note 8.

<sup>46</sup> Laura Jarrett, *Illinois AG Sues Chicago Over Police Reforms*, CNN POL. (Aug. 29, 2017, 4:27 PM), <http://www.cnn.com/2017/08/29/politics/lisa-madigan-chicago-police-reforms/index.html>.

<sup>47</sup> *Id.*

<sup>48</sup> *Id.*

<sup>49</sup> *Id.*

<sup>50</sup> *Id.*

<sup>51</sup> *Id.*

Illinois Attorney General Madigan has asked a federal court to designate an independent monitor, with the court's review, to evaluate how the new policies and procedures are implemented.<sup>52</sup> A DOJ official who worked on the investigation into the CPD believed "the lawsuit was a step in the right direction."<sup>53</sup> Christy Lopez, a former deputy chief of the Civil Rights Division at the DOJ who helped conduct the investigation, stated it was "heartening that a government actor is stepping into the void left by Sessions' abdication of his enforcement responsibilities to protect the civil rights of Chicago's residents."<sup>54</sup> Another former official of the DOJ's Civil Rights Division under President Obama, Vanita Gupta, also asserted, "Where Attorney General Sessions refuses to act, we hope that other state and local governments will follow Illinois' example and step into the breach" as "[e]veryone deserves a police department that will keep them safe, consistent with the protections our Constitution demands."<sup>55</sup> Because there are ongoing allegations of police misconduct in Illinois, it is, therefore, important to scrutinize the PCRIA to see how it is being implemented and how it can be improved.

### III. DISCUSSION OF THE SIX PILLARS OF CHANGE

This comment focuses on analyzing the six pillars established within the Task Force's Final Report and proposes amendments to the PCRIA designed to make it more effective in achieving the goals of reforming police use of force and building trust in heavily policed communities. In doing so, it builds on a similar, previous effort by The Veritatis Institute, which conducted a one-day forum on December 8, 2015, to "review the implementation process and costs of compliance with this new law."<sup>56</sup>

#### A. Pillar One: Building Trust and Legitimacy

Pillar one contends "[b]uilding trust and nurturing legitimacy on both sides of the police [and] citizen divide is the foundational principle underlying the nature of relations between law enforcement agencies and the

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<sup>52</sup> *Id.*

<sup>53</sup> *Id.*

<sup>54</sup> *Id.*

<sup>55</sup> *Id.*

<sup>56</sup> MCCARTY & KALSI, *supra* note 2, at 1. The Veritatis Institute is an "independent, nonpartisan think-tank," which coordinates forums in which members of academia, practitioners, and shareholders discuss and debate important issues in our society and proffer their opinions and recommendations regarding proposed legislation and public policy. *Id.* at [iv].

communities they serve.”<sup>57</sup> Years of research reinforce the proposition “that people are more likely to obey the law when they believe that those who are enforcing it have the legitimate authority to tell them what to do.”<sup>58</sup> Furthermore, police officers’ perspective of their own role determines the tone of the community.<sup>59</sup> Thus, “[l]aw enforcement cannot build community trust if it is seen as an occupying force coming in from outside to rule and control the community.”<sup>60</sup> Finally, it is vital that police departments “share with the community all the measures they are undertaking to improve community policing, procedural justice and minimize implicit bias.”<sup>61</sup> The lack of documentation of all positive actions are believed to “have led to negative perceptions of law enforcement.”<sup>62</sup>

### B. Pillar Two-Policy and Oversight

Acting in accordance with established policies that reflect community values and that do not lead to disparate impacts will assist law enforcement officers in carrying out their responsibilities.<sup>63</sup> “To ensure policies are maintained and current, law enforcement agencies are encouraged to periodically review policies and procedures, conduct nonpunitive peer reviews of critical incidents separate from criminal and administrative investigations, and establish civilian oversight mechanisms with their communities.”<sup>64</sup> In order to keep everyone safe and protect the rights of all involved during police-community encounters, ongoing research, supervision, and accountability are vital.<sup>65</sup> Increased data collection is essential “to knowing what works and what does not work, which policing practices are effective and which ones have unintended consequences.”<sup>66</sup> In addition, law enforcement agency “policies must be clear, concise, and openly available for public inspection.”<sup>67</sup> Most importantly, the Task Force encouraged the use of external prosecutors and independent criminal investigations of incidents involving “police use of force resulting in death, officer-involved shootings resulting in injury or death, or in-custody deaths.”<sup>68</sup>

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<sup>57</sup> President’s Task Force on 21st Century Policing, *supra* note 1, at 1.

<sup>58</sup> *Id.* at 9-10.

<sup>59</sup> *Id.* at 11.

<sup>60</sup> *Id.*

<sup>61</sup> MCCARTY & KALSI, *supra* note 2, at 4.

<sup>62</sup> *Id.*

<sup>63</sup> President’s Task Force on 21st Century Policing, *supra* note 1, at 19.

<sup>64</sup> *Id.* at 2.

<sup>65</sup> *Id.* at 19.

<sup>66</sup> *Id.* at 19-20.

<sup>67</sup> *Id.* at 20.

<sup>68</sup> *Id.* at 21.



### C. Pillar Three-Technology and Social Media

Pillar three is of extreme significance considering that today's technology is advancing more rapidly than our laws.<sup>69</sup> Consequently, police departments "need to be able to identify, assess, and evaluate new technology for adoption . . . [to] improve their effectiveness, efficiency, and evolution without infringing on individual rights."<sup>70</sup> Technology and social media are important because they "give police departments an opportunity to fully engage and educate communities in a dialogue about their expectations for transparency, accountability, and privacy."<sup>71</sup> Social media, in particular, is a tool law enforcement can use to keep the public informed and to gauge the communities perspective of agency policies.<sup>72</sup> For instance, according to Ronald L. Davis, the Director of the Office of Community Oriented Policing Services of the DOJ, social media and videotapes have confirmed, on one hand, that a racial divide is alive and well and, on the other hand, "that the overwhelming majority of police officers are doing a tremendous job."<sup>73</sup>

### D. Pillar Four-Community Policing and Crime Reduction

Community policing and crime reduction under pillar four emphasizes that "law enforcement agencies should develop and adopt policies and strategies that reinforce the importance of community engagement in managing public safety."<sup>74</sup> The DOJ agreed there is a necessity for more effective community-oriented policing strategies,<sup>75</sup> and Davis averred "if community policing is going to advance in this country, then we have to accept . . . that the police and community are co-producers of public safety, that communities must accept responsibility and partner with the police community for public safety."<sup>76</sup> Moreover, "public safety [is not solely a reduction in] crime; it must include the presence of justice."<sup>77</sup> While crime has dropped in the last thirty years across the nation, police-community trust

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<sup>69</sup> *Id.* at 31.

<sup>70</sup> *Id.*

<sup>71</sup> *Id.*

<sup>72</sup> *Id.* at 32.

<sup>73</sup> Ronald L. Davis, *Keynote Address at The Southern Illinois University School of Law and School of Medicine Symposium: The President's Task Force on 21st Century Policing: Procedural Justice, Policing, and Public Health*, 40 S. ILL. U. L.J. 419, 424 (2016).

<sup>74</sup> President's Task Force on 21st Century Policing, *supra* note 1, at 42.

<sup>75</sup> See *Justice Department Announces Findings of Investigation into Chicago Police Department*, U.S. DEP'T JUST., OFF. PUB. AFF. (Jan. 13, 2017), <https://www.justice.gov/opa/pr/justice-department-announces-findings-investigation-chicago-police-department>.

<sup>76</sup> Davis, *supra* note 73, at 425.

<sup>77</sup> *Id.*

has not increased.<sup>78</sup> Consequently, a reduction in crime alone is insufficient if a community's perception of policing does not change.<sup>79</sup> How a police department fights crime is just as significant as crime reduction itself.<sup>80</sup>

#### E. Pillar Five-Training and Education

The fifth pillar “focuses on the training and education[al] needs of law enforcement.”<sup>81</sup> Today, police officers face several “challenges including international terrorism, evolving technologies, rising immigration, changing laws, new cultural mores, and a growing mental health crisis.”<sup>82</sup> Therefore, there is a need for higher education and continual training.<sup>83</sup> In addition, “it is imperative that agencies place value on both educational achievements and socialization skills when making hiring decisions.”<sup>84</sup> All personnel should obtain leadership training through the course of their careers as well.<sup>85</sup> Training should focus on topics included but not limited to “procedural justice, community policing, police accountability, . . . and communicating with the . . . public.”<sup>86</sup> The Task Force also encouraged “partnerships between law enforcement and academic institutions” and “training for all officers in cultural diversity and related topics that can build trust and legitimacy in diverse communities.”<sup>87</sup>

#### F. Pillar Six-Officer Wellness and Safety

The “wellness and safety of law enforcement officers is critical not only for the officers, their colleagues, and their agencies but also to public safety.”<sup>88</sup> The sixth pillar “emphasizes the support and proper implementation of officer wellness and safety as a multi-partner effort.”<sup>89</sup> Police officers are involved in “risky situations and encounter tragedy on a regular basis,” which can result in “physical, mental, and emotional injuries [that] plague many law enforcement agencies.”<sup>90</sup> In addition, many officers

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<sup>78</sup> *Yale Law School's Tracey Meares Discusses Policing and Community Trust*, YALE SCH. MGMT., <http://som.yale.edu/event/2017/03/conversation-with-yale-law-school-professor-tracey-meares-on-police-legitimacy-and-police-reform> (last visited on Dec. 20, 2018).

<sup>79</sup> Davis, *supra* note 73, at 426.

<sup>80</sup> *Id.* at 425.

<sup>81</sup> President's Task Force on 21st Century Policing, *supra* note 1, at 3.

<sup>82</sup> *Id.* at 51.

<sup>83</sup> *Id.*

<sup>84</sup> *Id.*

<sup>85</sup> *Id.* at 54.

<sup>86</sup> *Id.*

<sup>87</sup> *Id.* at 55, 58.

<sup>88</sup> *Id.* at 61.

<sup>89</sup> *Id.* at 4.

<sup>90</sup> *Id.* at 61.

suffer from “poor nutrition, lack of exercise, sleep deprivation, and substance abuse.”<sup>91</sup> Unfortunately, these deficiencies may cause an officer to not only “be of little use to the community he or she serves but also . . . a danger to the community and to other officers.”<sup>92</sup> Sadly, the suicide rate among law enforcement officers is problematic.<sup>93</sup> This problem may be due to depression, serving in dangerous areas, working long hours, and an absence of family or employer support.<sup>94</sup> To further this pillar, the Task Force encouraged officer wellness and safety, physical, mental, and emotional health, and partnerships with social service organizations.<sup>95</sup>

#### IV. ANALYSIS OF THE PCRIA’S IMPLEMENTATION OF THE SIX PILLARS OF CHANGE

This section examines how well the PCRIA implements the pillars and proffers suggestions for amending and improving the PCRIA to better implement them. As mentioned previously, this analysis builds on a similar, previous effort by The Veritatis Institute. After being presented with scientific evidence regarding successful programs, the institute’s attendees “developed recommendations to make this law even more effective.”<sup>96</sup> The first presentation of the day consisted of a discussion of the Six Pillars of Change.<sup>97</sup>

##### A. Pillar One: Building Trust and Legitimacy

Illinois will undoubtedly experience a delay in the reconciliation between police departments and community members if there is not a commitment to restoring trust. Thus, “[l]aw enforcement culture should embrace a guardian—rather than a warrior—mindset to build trust and legitimacy both within agencies and with the public.”<sup>98</sup> Unfortunately, recent events suggest Illinois police departments have strayed away from a guardian approach to policing. For instance, the DOJ announced on January 13, 2017, “that it has found reasonable cause to believe that the Chicago Police Department (CPD) engages in a pattern or practice of using force, including

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<sup>91</sup> *Id.*

<sup>92</sup> *Id.*

<sup>93</sup> *Id.*

<sup>94</sup> *Id.*

<sup>95</sup> *Id.* at 63-64.

<sup>96</sup> MCCARTY & KALSI, *supra* note 2, at 1.

<sup>97</sup> *Id.* at 2.

<sup>98</sup> President’s Task Force on 21st Century Policing, *supra* note 1, at 1.

deadly force, in violation of the Fourth Amendment of the Constitution.”<sup>99</sup> The DOJ found the unconstitutional force stems largely from how the CPD “investigates uses of force, responds to allegations of misconduct, trains and supervises officers, and collects and reports data on officer use of force.”<sup>100</sup> It identified a prevalence of racially discriminatory conduct by some officers and noted the CPD’s pattern of excessive force occurs primarily in Black and Latino communities; this issue will require solutions to address discrimination and the disproportionality of illegal uses of force on minorities if we are to ever restore police-community trust.<sup>101</sup>

With respect to building trust and legitimacy, the PCRIA incorporates pertinent measures. For example, it prohibits police departments from investigating officer-involved shootings themselves.<sup>102</sup> “The requirement of an independent, outside party could address perceived conflict of interest issues with local officials.”<sup>103</sup> The PCRIA provides in pertinent part:

Each officer-involved death investigation shall be conducted by at least 2 investigators, or an entity or agency comprised of at least 2 investigators, one of whom is the lead investigator. The lead investigator shall be a person certified by the [ILETSB] as a Lead Homicide Investigator, or similar training approved by the [ILETSB] or the Department of State Police or similar training provided at an [ILETSB] certified school. No investigator involved in the investigation may be employed by the law enforcement agency that employs the officer involved in the officer-involved death, unless the investigator is employed by the Department of State Police and is not assigned to the same division or unit as the officer involved death.<sup>104</sup>

In addition, a “report on the findings [of the investigation must] be sent to the State’s Attorney of the county in which the police-involved death occurred.”<sup>105</sup> However, if the State’s Attorney’s office concludes that it has

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<sup>99</sup> *Justice Department Announces Findings of Investigation into Chicago Police Department*, *supra* note 75.

<sup>100</sup> *Id.*

<sup>101</sup> *Id.*

<sup>102</sup> *Illinois Passes Sweeping Police Reform Bill with Rules on Chokeholds and Body Cameras*, *supra* note 8.

<sup>103</sup> Michele L. Jawando & Chelsea Parsons, *4 Ideas that Could Begin to Reform the Criminal Justice System and Improve Police-Community Relations*, CTR. FOR AM. PROGRESS (Dec. 18, 2014, 12:48 PM), <https://www.americanprogress.org/issues/courts/reports/2014/12/18/103578/4-ideas-that-could-begin-to-reform-the-criminal-justice-system-and-improve-police-community-relations/>.

<sup>104</sup> Police and Community Relations Improvement Act, Pub. L. No. 99-352 § 1-10(b), 50 ILL. COMP. STAT. 727 (2016).

<sup>105</sup> *Illinois Passes Sweeping Police Reform Bill with Rules on Chokeholds and Body Cameras*, *supra* note 8.

no basis to prosecute the officer involved or if the officer has not been charged or indicted, the investigators must release a public report.<sup>106</sup>

The Illinois legislature “recognizes that trust and mutual respect between law enforcement agencies and the communities they protect and serve are essential to effective policing and the integrity of our criminal justice system.”<sup>107</sup> Thus, to further implement pillar one, the PCRIA “created a uniform statewide framework for local law enforcement agencies to implement body camera programs instead of allowing differing policies to be adopted on a local level.”<sup>108</sup> The PCRIA urges the use of BWCs and states that “officer-worn body cameras may provide impartial evidence and documentation to settle disputes and allegations of officer misconduct. Ultimately the uses of [BWCs] will help collect evidence while improving transparency and accountability, and strengthening public trust.”<sup>109</sup> If a police department chooses to use BWCs, it must adopt a written policy that adheres to the guidelines created by the ILETSB.<sup>110</sup> Some assert BWCs are likely to be a net positive despite “their limitations to improve policing or provide transparency” for the following reasons:

(1) body cameras may not influence police behavior; (2) video evidence of police encounters can be interpreted differently by viewers; (3) law enforcement still has the power to enact policies regarding the use of body cameras; (4) police may still withhold body camera footage, as was the case of Laquan McDonald in Chicago; (5) video evidence of police misconduct does not necessarily lead to a conviction of a police officer, as in the case of Eric Garner in New York; and (6) from the physical perspective of the police officer, the footage may not adequately capture the encounter and actions of the officer.<sup>111</sup>

On the contrary, BWCs are beneficial because they “can provide evidence of what actually occurred between an officer and civilian in what otherwise might be a suspicious encounter.”<sup>112</sup> They shed light into incidents involving police officer uses of force and are “beneficial in the more prevalent problem of unconstitutional searches.”<sup>113</sup> The transparency that

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<sup>106</sup> Police and Community Relations Improvement Act § 1-10(e).

<sup>107</sup> *Id.* § 10-5.

<sup>108</sup> Liane C. Dublinski, *Comprehensive Police Officer Body Camera Guidelines in Illinois*, 47 LOY. U. CHI. L.J. 1449, 1465 (2016).

<sup>109</sup> Police and Community Relations Improvement Act § 10-5.

<sup>110</sup> Dublinski, *supra* note 108, at 1455.

<sup>111</sup> Renee C. Hatcher, *The Everyday Economic Violence of Black Life*, 25 J. AFFORDABLE HOUSING & COMMUNITY DEV. L. 275, 290-91 (2017).

<sup>112</sup> Dublinski, *supra* note 108, at 1450-51.

<sup>113</sup> *Id.* at 1451.

results from the use of BWCs “in these situations can lead to increases in perceived legitimacy of police, which, in turn, creates a greater sense of trust between the police and the public.”<sup>114</sup>

Furthermore, BWCs benefit the police as well as the public.<sup>115</sup> Departments that utilize them have experienced a substantial decrease in the number of complaints against officers and incidents arising from the use of force.<sup>116</sup> This impact may be “attributed to self-awareness—that is, people are less likely to engage in socially undesirable behavior if they know they are being observed.”<sup>117</sup> The CPD, in particular, has initiated a program for BWCs to be utilized throughout the CPD under Mayor Emanuel and Superintendent Eddie Johnson.<sup>118</sup> Anthony Guglielmi, a spokesman for the CPD, said, “[T]he department plans to apply for state grant money to buy more body and car cameras and necessary technology to expand its program.”<sup>119</sup> Additionally, the CPD “has a federal grant application pending with the [DOJ].”<sup>120</sup>

Moreover, police chiefs have noted that in requiring their officers to inform a citizen that they are being recorded is often sufficient to deescalate a confrontational encounter.<sup>121</sup> In fact, at the time of the Veritatis Institute’s forum, research demonstrated “that the presence of BWCs resulted in fewer external complaints in studies conducted in Orlando, Florida, and London, England” and “resulted in fewer incidents of force by police in a study conducted in Rialto, CA.”<sup>122</sup> In a recent study conducted by the Metropolitan Police Department in Washington, D.C., however, the data “suggests police officer’s body-worn cameras had no effect on use of force incidents or civilian complaints [at least] in the nation’s capital.”<sup>123</sup> The study indicated that after two years of research, BWCs appear to “[have] no detectable, meaningful effect on documented uses of force or civilian complaints.”<sup>124</sup> Some contend, therefore, that BWCs are unwise investments and urge police department to evaluate “whether the expenditure of tax payer money is worthwhile.”<sup>125</sup> In response to this study, Dr. James Densley, an associate

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<sup>114</sup> *Id.*

<sup>115</sup> *Id.*

<sup>116</sup> *Id.*

<sup>117</sup> *Id.*

<sup>118</sup> *Justice Department Announces Findings of Investigation into Chicago Police Department, supra* note 75.

<sup>119</sup> Geiger & Gorner, *supra* note 23.

<sup>120</sup> *Id.*

<sup>121</sup> Dublinski, *supra* note 108, at 1451-52.

<sup>122</sup> MCCARTY & KALSI, *supra* note 2, at 3.

<sup>123</sup> Kirsten Swanson, *Study: Police Body Cameras Show No Effect on Use of Force Incidents, Complaints*, 5 ABC EYEWITNESS NEWS (Oct. 20, 2017, 10:17 PM), <http://kstp.com/news/police-body-cameras-show-no-effect-on-use-of-force-incidents-complaints/4642155/>.

<sup>124</sup> *Id.*

<sup>125</sup> *Id.*

professor at Metro State University in Minneapolis, Minnesota, indicated that his own research demonstrates that BWCs actually “have affects that cannot be statistically measured in some cases” and that “[t]he presence of body cameras is reassuring to the community.”<sup>126</sup>

The primary concern regarding BWCs is the impact on privacy.<sup>127</sup> Requiring the use of cameras on all officers “allows the government to record all aspects of the lives of members of the public.”<sup>128</sup> When police officers enter a home even for a legitimate purpose, law enforcement agencies could “review the tapes, slow them down, and enhance images, which could lead to the discovery of evidence that would otherwise have gone unnoticed.”<sup>129</sup> There is also an issue with the PCRIA’s requirement that BWCs remain on even when an officer is not interacting with the public as this may reveal personal conversations unrelated to the officer’s employment.<sup>130</sup> Therefore, police officers could also argue their privacy is infringed as the cameras could capture moments when officers are not “interacting with the public and may be speaking about private matters.”<sup>131</sup> Representative Sims indicated in the House debates, however, “that this type of exception was not created because when a police officer is on duty, he or she has no expectation of privacy.”<sup>132</sup>

Another integral problem with attempting to balance the benefits of using BWCs and protecting personal privacy is that control of the recording feature is ultimately “subject to an officer's judgment and user error—that is, an officer may forget to turn the camera off or on in the moment the recording is actually necessary.”<sup>133</sup> Accordingly, there is a belief that “this could defeat the purpose of having the cameras in the first place as it would not hold officers accountable for their actions at all times.”<sup>134</sup>

In sum, while the PCRIA outlines minimum standards regarding the use of BWCs, it should be amended to specify safeguards to protect personal privacy when the cameras are in use and address how the courts should deal with the accessibility of evidence that otherwise would not have been discoverable. In general, the PCRIA has effectively implemented pillar one through its requirement of independent investigations of officer-involved deaths, its guidelines for use of BWCs, and the issuing of receipts after traffic

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<sup>126</sup> *Id.*

<sup>127</sup> Dublinski, *supra* note 108, at 1452.

<sup>128</sup> *Id.*

<sup>129</sup> *Id.* at 1452-53.

<sup>130</sup> *Id.* at 1453.

<sup>131</sup> *Id.*

<sup>132</sup> *Id.* at 1457.

<sup>133</sup> *Id.* at 1453-54.

<sup>134</sup> *Id.* at 1454.

stops and searches. According to law enforcement agencies, these measures have diminished the number of fatal incidents due to increased transparency and accountability. With the addition of the amendments outlined above, the PCRIA will further the goal of building public trust and legitimacy.

#### B. Pillar Two: Policy and Oversight

Under the PCRIA, law enforcement agencies must also create a professional conduct-database to track officers who were fired or who resigned due to misconduct or illegal actions.<sup>135</sup> One sponsor of the bill, Republican Representative and former police officer John Anthony, commended the creation of the new database because it “will allow [police chiefs] to search the work history of potential hires and learn if they have been dismissed or resigned during a misconduct investigation. That will prevent rogue officers from jumping from one department to another to avoid disciplinary action.”<sup>136</sup> At the local level, under Mayor Emanuel and Superintendent Johnson, the CPD, for instance, has created the Civilian Office of Police Accountability to replace the Independent Police Review Authority, implemented a new policy requiring the release of videos and materials related to officer misconduct, and promised to launch an anonymous hotline for employees to report misconduct.<sup>137</sup>

In addition, the PCRIA established the Racial Profiling Prevention and Data Oversight Board (the Board) “to operate purely as an advisory body.”<sup>138</sup> The Board’s changes to any rules or policies “may be reported to the Governor, the Secretary of State, and the General Assembly or to appropriate law enforcement agencies.”<sup>139</sup> Its duties include “to coordinate the development, adoption, and implementation of plans and strategies to eliminate racial profiling in Illinois.”<sup>140</sup> The fifteen members of the Board are responsible for analyzing an annual stop and search report; preparation of these annual reports has costs Illinois taxpayers more than \$1.6 million.<sup>141</sup> Unfortunately, “NBC5 Investigates has found that the [B]oard has only met a few times; members admit that virtually no one is looking at the annual

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<sup>135</sup> Kolkey, *supra* note 4.

<sup>136</sup> Geiger & Gorner, *supra* note 23.

<sup>137</sup> *Justice Department Announces Findings of Investigation into Chicago Police Department*, *supra* note 75.

<sup>138</sup> Police and Community Relations Improvement Act, Pub. L. No. 99-352 § 40(a), 50 ILL. COMP. STAT. 727 (2016).

<sup>139</sup> *Id.*

<sup>140</sup> *Id.* § 40(b).

<sup>141</sup> Phil Rogers, *Police More Likely to Stop, Search Minority Drivers in Chicago and Scores of Area Suburbs*, NBC 5 CHI. (May 19, 2016, 10:36 PM), <https://www.nbcchicago.com/investigations/Police-More-Likely-to-Stop-Search-Minority-Drivers-in-Chicago-and-Scores-of-Area-Suburbs-380207481.html>.



reports, and it's not exactly clear if anyone is using this data to recommend changes in how police choose to stop and search drivers."<sup>142</sup>

To further the pillar of policy and oversight, the PCRIA should require, rather than permit, law enforcement agencies to adhere to the Board's initiatives. Such a requirement will help to ensure police departments are committed to ending racial profiling as a recent poll by the Associated Press-NORC Center for Public Affairs Research "show[ed] that a majority of blacks believe they have been treated unfairly by police because of their race."<sup>143</sup> More importantly, the PCRIA should have provisions providing for the swift removal of Board members who have neglected their duties and establish a system to monitor the activities, or lack thereof, of the Board to ensure its purpose and goals are being accomplished.

Furthermore, amending the Act to include a protection similar to the Health Care Quality Improvement Act in the medical community may help law enforcement agencies internally review incidents and discuss how they can avoid repeating mistakes without fear of self-incrimination. Currently, law enforcement agencies suffer from the inability to openly and honestly discuss their insufficiencies. Contrarily, in the medical field, "[s]entinel event reviews occur after . . . a mistake is made . . . where everyone who was involved in that procedure sits around the table in a non-blaming, non-judgmental format [and] talks about what happened."<sup>144</sup> The objective is to learn from the mistake to prevent it in the future.<sup>145</sup> These discussions are possible as a result of "the Healthcare Quality Improvement Act, which gives [medical professionals] basically a legal privilege, so that anyone who is involved in the process can speak freely without fear of having their statements used against them later on in litigation."<sup>146</sup> With the increase of BWCs, growth and improvement could be achieved in law enforcement agencies if officers involved in an incident could review their camera's footage and honestly discuss how the mistakes made could have been avoided and identify other means to better handle similar situations in the future.<sup>147</sup> Unfortunately, such discussions "will not happen until there is some kind of a legal protection so that they can be facilitated."<sup>148</sup> A provision of immunity for statements made in such reviews would be a helpful addition to the PCRIA.

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<sup>142</sup> *Id.*

<sup>143</sup> Kolkey, *supra* note 4.

<sup>144</sup> Smoot, *supra* note 13, at 430.

<sup>145</sup> *Id.* at 430-31.

<sup>146</sup> *Id.* at 431.

<sup>147</sup> *Id.*

<sup>148</sup> *Id.*

### C. Pillar Three: Technology and Social Media

Concerning the use of BWCs, the PCRIA declares “officer-worn body cameras will provide state-of-the-art evidence collection.”<sup>149</sup> Although this benefit is of substantial importance to the justice system, the PCRIA should be amended to explain how police departments and the courts should account for error when officers use subjective discretion in determining when an interaction should or should not be recorded.

While the law does not mandate the use of BWCs, it does specify “how long they should be worn, when they must be turned on, and how long recorded videos should be kept.”<sup>150</sup> The PCRIA requires that BWCs “be turned on 30 seconds before an encounter with the public, be able to record for 10 hours, and be on at all times when an officer is responding to a call.”<sup>151</sup> Furthermore, “[a]n officer must inform the public they are being recorded.”<sup>152</sup> Officers may cease recording, however, when they are “interacting with a confidential informant used by the law enforcement agency” or when “the victim [or witness] of a crime requests that the camera be turned off,” unless the surrounding circumstances make it “impractical or impossible” to stop the recording.<sup>153</sup> According to the PCRIA:

An officer may continue to record or resume recording a victim or a witness, if exigent circumstances exist, or if the officer has reasonable articulable suspicion that a victim or witness, or confidential informant has committed or is in the process of committing a crime. Under these circumstances, and unless impractical or impossible, the officer must indicate on the recording the reason for continuing to record despite the request of the victim or witness.<sup>154</sup>

Under the new law, “body camera footage will be held for 90 days before being destroyed unless it has been flagged because of a complaint or as part of an investigation.”<sup>155</sup> For instance, “recordings generally will not be subject to the state's open records law, unless they contain potential evidence in a use-of-force incident, the discharge of a weapon or a death.”<sup>156</sup>

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<sup>149</sup> Police and Community Relations Improvement Act, Pub. L. No. 99-352 § 10-5, 50 ILL. COMP. STAT. 727 (2016).

<sup>150</sup> *Illinois Passes Sweeping Police Reform Bill with Rules on Chokeholds and Body Cameras*, *supra* note 8.

<sup>151</sup> *Id.*

<sup>152</sup> *Id.*

<sup>153</sup> Police and Community Relations Improvement Act § 10-20(a)(4)(A)-(C).

<sup>154</sup> *Id.*

<sup>155</sup> *Illinois Passes Sweeping Police Reform Bill with Rules on Chokeholds and Body Cameras*, *supra* note 8.

<sup>156</sup> Geiger & Gorner, *supra* note 23.

Moreover, the legislation exempts Illinois law that bans eavesdropping.<sup>157</sup> Finally, because “body cameras are expensive and many police departments lack the funds to outfit their officers,”<sup>158</sup> a \$5 fee will be added onto all “criminal and traffic offenses that result in a guilty plea or conviction. The fee [will not] apply to parking, registration or pedestrian offenses.”<sup>159</sup> However, it is unknown “how much money the fee will raise.”<sup>160</sup>

The Veritatis Institute attendees supported the use of BWCs but agreed the “current implementation requirements under the PCRIA discourage police agencies from adopting them” as “the [PCRIA] overlooks the preparatory planning and policy development process, which are necessary to increase the likelihood of successful implementation.”<sup>161</sup> Accordingly, the forum participants opined that the implementation of BWCs should be delayed until budgetary and technological restrictions were resolved.<sup>162</sup> They also recommended Illinois partner with the Police Training Board to purchase a large quantity of the technology and equipment required to implement the use of BWCs and reduce the initial costs.<sup>163</sup> Finally, panel members stated their apprehensions “over storage of video and the costs associated with purchasing and implanting BWCs.”<sup>164</sup> The overall fear of the forum attendees was “that an improper rollout of BWCs would further erode police and community relations.”<sup>165</sup> Because there is an uncertainty regarding whether the additional fee imposed onto criminal and traffic offenses will generate substantial revenue, it is indeed essential for the State of Illinois to partner with police departments to help provide the financial assistance necessary to effectively implement the new requirements. Without adequate funding, Illinois may never realize the benefits surrounding the use of BWCs.

In addition, there remains a lack of clarity as to whether the brand name or varying technical features of various types of BWCs “affect any outcome measures.”<sup>166</sup> Some contend there is “a lack of uniform standards,” leaving “departments with legal questions about how and when [BWCs] should be

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<sup>157</sup> *Illinois Passes Sweeping Police Reform Bill with Rules on Chokeholds and Body Cameras*, *supra* note 8.

<sup>158</sup> *Id.*

<sup>159</sup> Geiger & Gorner, *supra* note 23.

<sup>160</sup> *Id.*

<sup>161</sup> MCCARTY & KALSI, *supra* note 2, at 4.

<sup>162</sup> *Id.*

<sup>163</sup> *Id.*

<sup>164</sup> *Id.*

<sup>165</sup> *Id.*

<sup>166</sup> *Id.* at 3-4.

used.”<sup>167</sup> In response to this concern, the PCRIA should designate specific brand names of BWCs that are acceptable for use. Others are also weary of “the impact on policing and body cameras when a citizen requests the device be turned off” and questioned “whether audio could be redacted since technology currently only allows for redaction of video footage.”<sup>168</sup>

In response to a survey created by the Veritatis Institute and open for response between December 16, 2015, and January 19, 2016, eighty-eight percent of the 501 Illinois respondents indicated they currently did not use BWCs and fifty-two percent of those who do not currently use them indicated they had no plans to do so in 2016.<sup>169</sup> Thirty-seven percent indicated they were unsure whether they would use BWCs in 2016.<sup>170</sup> In sum, “few agencies in Illinois currently use BWCs and few ha[d] definitive plans on using them in 2016.”<sup>171</sup> Moreover, for those agencies who reported they did not use BWCs, they also identified several barriers to their implementation, which included but were not limited to “a lack of video storage capabilities, cost of equipment, receiving and responding to FOIA requests, and being able to redact video and sound audio, when required.”<sup>172</sup> Of the remaining twelve percent of agencies that indicated they currently did use BWCs, fifty-three percent used the technology for less than a year, thirty-three percent used it for one to two years, and fourteen percent for more than two years.<sup>173</sup> Most respondents mentioned the technology improves evidence, officer safety, and increases transparency in the department, and ninety-two percent were satisfied or very satisfied with their use of BWCs.<sup>174</sup> While sixty-five percent [of agencies using BWCs] plan to continue using [them], “the [thirty-five percent] of respondents who plan to discontinue or [who do not] know [if they will continue using them] is at least somewhat troubling given the overall broad satisfaction expressed with BWCs.”<sup>175</sup> The Veritatis Institute’s survey included 501 respondents, and “the large sample size does suggest that the respondents represent some of the diversity of law enforcement agencies in the state of Illinois, but it by no means is a representative sample of that group.”<sup>176</sup>

While the PCRIA does not speak specifically to its implementation of the social media component of pillar three, a writer for PoliceOne suggests

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<sup>167</sup> Geiger & Gorner, *supra* note 23.

<sup>168</sup> MCCARTY & KALSI, *supra* note 2, at 4.

<sup>169</sup> *Id.* at 5, A-1.

<sup>170</sup> *Id.* at A-1.

<sup>171</sup> *Id.*

<sup>172</sup> *Id.* at A-5.

<sup>173</sup> *Id.* at A-3.

<sup>174</sup> *Id.* at A-4.

<sup>175</sup> *Id.* at A-5.

<sup>176</sup> *Id.* at A-6.

that one “can’t measure the quality of [a police] department by [its] social media presence. But [a department] can have an effect on [its] community’s perception of police through social platforms.”<sup>177</sup> For example, a social media presence can be beneficial to law enforcement agencies and communities in the following ways:

- (1) Building a trustworthy relationship and a sense of community by engaging with each other;
- (2) Gaining control over the department’s reputation with the community;
- (3) Providing a forum for people to ask questions and for you to share tips you otherwise wouldn’t share; [and]
- (4) Spread[ing] knowledge quickly and with minimal effort that could protect your community, help catch suspects, find missing persons, etc.<sup>178</sup>

#### D. Pillar Four: Community Policing and Crime Reduction

With respect to the crime reduction component of this pillar, in particular, the PCRIA mandates police departments submit to the Department of State Police its monthly and annual crime statistics regarding “arrest-related deaths, criminal homicides, police discharge of firearms, crime incidents, and offenses in schools.”<sup>179</sup> Police departments “must also provide supplemental, quarterly criminal homicide reports, including a description of the victim, the offender, the relationship between the victim and offender, any weapons used, and the circumstances of the incident.”<sup>180</sup> The PCRIA provides the “Department of State Police shall be a central repository and custodian of crime statistics for the State and shall have all the power . . . to demand and receive cooperation in the submission of crime statistics from all law enforcement agencies.”<sup>181</sup> Every year, “the Department shall make available compilations of crime statistics required to be reported by each law enforcement agency.”<sup>182</sup>

With respect to community policing, the PCRIA does a poor job implementing measures to encourage this component. However, such efforts are apparent at the local level. For example, the city of Chicago and the DOJ have signed a court-enforceable agreement, reviewable by an independent

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<sup>177</sup> Loraine Burger, *4 Ways Social Media Can Help Police Departments*, POLICEONE (May 28, 2013), <https://www.policeone.com/social-media-for-cops/articles/6250205-4-ways-social-media-can-help-police-departments/>.

<sup>178</sup> *Id.*

<sup>179</sup> *Illinois Passes Sweeping Police Reform Bill with Rules on Chokeholds and Body Cameras*, *supra* note 8.

<sup>180</sup> Dublinski, *supra* note 108 at 1463.

<sup>181</sup> Police and Community Relations Improvement Act, Pub. L. No. 99-352 § 5-10, 50 ILL. COMP. STAT. 727 (2016).

<sup>182</sup> *Id.*

monitor, to work together along with the community to address community policing and crime reduction.<sup>183</sup> During an investigation of the CPD, the DOJ interviewed city leaders, police officials, and officers of all ranks.<sup>184</sup> DOJ representatives also participated in over sixty ride-alongs through every police district, listened to the concerns of more than 1,000 community members and over ninety local organizations, reviewed thousands of pages of police documents regarding CPD policies and procedures, and evaluated a representative sample of reports involving the use of force that occurred between January 2011 and April 2016.<sup>185</sup>

To further implement this component of pillar four, the PCRIA must effectuate the goals of community policing: “seek[ing] to address the causes of crime and . . . reduc[ing] fear of social disorder through problem-solving strategies and police- community partnerships.”<sup>186</sup> These goals are attainable through simple measures, such as “providing information and/or assistance to people in need, as well as offering youth education and coordinating community outreach efforts.”<sup>187</sup> Police departments should “network to establish partnerships between residents and the law enforcement agency,” which is possible through “a greater use of foot and bicycle patrols and frequent meetings with community groups.”<sup>188</sup> The PCRIA should also take a “comprehensive approach by adopting internal procedural justice” to further effectuate community policing.<sup>189</sup> Sean Smoot, the Director and Chief Counsel of the Police Benevolent and Protective Labor Committee of Illinois and member of the President’s Task Force on 21st Century Policing, stated, “When a government is grounded in procedural justice, its agents practice procedural justice on the street, and community members, the people who police officers interact with, feel that they are being treated fairly.”<sup>190</sup>

Also, adding a provision to the PCRIA to bridge the gap between the criminal justice system and the medical system could help further this pillar in its entirety.<sup>191</sup> Too often, individuals suffering from mental illnesses are arrested because they have no other place to go; they are medicated while in custody, released, and never connected with a mental health provider.<sup>192</sup> By “transitioning people from the criminal justice system to the medical system

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<sup>183</sup> *Justice Department Announces Findings of Investigation into Chicago Police Department*, *supra* note 75.

<sup>184</sup> *Id.*

<sup>185</sup> *Id.*

<sup>186</sup> *Community Policing*, BUREAU OF JUST. STAT. (Sept. 10, 2018), <https://www.bjs.gov/index.cfm?ty=tp&tid=81>.

<sup>187</sup> *Id.*

<sup>188</sup> *Id.*

<sup>189</sup> Smoot, *supra* note 13, at 428.

<sup>190</sup> *Id.*

<sup>191</sup> *Id.* at 433.

<sup>192</sup> *Id.*

. . . they can get the mental health care they need” to avoid this unfortunate cycle.<sup>193</sup> For instance, Mr. Smoot shared a tragic example of this cycle at the Southern Illinois University School of Law and School of Medicine Symposium in 2016. The parents of a young man, who had not been taking his medication, called the police because the young man was harming himself and threatening others.<sup>194</sup> Officers knew this man because they had previous encounters with him before.<sup>195</sup> The man believed the devil sent the officers, so he tried to stab them with a pitchfork.<sup>196</sup> Consequently, the officers shot and killed this young man, and although the parents did not blame them for their son’s death, the officers blamed themselves.<sup>197</sup> Apparently, “[t]here were multiple times when [the man] went into jail, got medicated, and was released from jail, and there was no hand off to a mental health provider.”<sup>198</sup> Smoot hopes that “we can start with developing a template for transitioning people from the [legal] system to the medical system so they can get the mental health care they need, so tragedies like the one . . . described do not happen in the future.”<sup>199</sup>

#### E. Pillar Five: Training and Education

Training and education are important, especially given the DOJ’s recent assertion that Chicago officers unnecessarily endanger themselves by their practices, thereby causing avoidable uses of force.<sup>200</sup> This pattern resulted “from systemic deficiencies in training and accountability, including the failure to train officers in de-escalation and the failure to conduct meaningful investigations of uses of force.”<sup>201</sup> The following explanation further indicates why police officer training and education is essential:

As our nation becomes more pluralistic and the scope of law enforcement’s responsibilities expands, the need for expanded and more effective training has become critical. Today’s line officers and leaders must be trained and capable to address a wide variety of challenges including international

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<sup>193</sup> *Id.*

<sup>194</sup> *Id.* at 432.

<sup>195</sup> *Id.*

<sup>196</sup> *Id.*

<sup>197</sup> *Id.*

<sup>198</sup> *Id.* at 433.

<sup>199</sup> *Id.*

<sup>200</sup> *Justice Department Announces Findings of Investigation into Chicago Police Department*, *supra* note 75.

<sup>201</sup> *Id.*

terrorism, evolving technologies, rising immigration, changing laws, new cultural mores, and a growing mental health crisis.<sup>202</sup>

The PCRIA implements this pillar with its guidelines for usage of BWCs, which provide “additional opportunities for training and instruction.”<sup>203</sup> The law also promotes additional police academy training through guidelines requiring course curriculum “on procedural justice, on cultural competency, on implicit bias, on the proper use of force and law enforcement authority, and on dealing with the disease of addiction.”<sup>204</sup> Along with these additions to basic training, the PCRIA incorporates an annual training requirement.<sup>205</sup> Annual training now incorporates “instruction on legal updates and use of force and, every three years, refresher training on procedural justice, civil rights, cultural competency, and the proper use of force.”<sup>206</sup> “These are very progressive training requirements for any state and the state of Illinois is now leading in this area.”<sup>207</sup>

However, some urge Illinois to increase its current 480-hour training requirement for new police recruits, as this is among the lowest requirement in the country.<sup>208</sup> Other suggestions include “ensuring train[ing] is evidenced-based” and “creat[ing] an evaluation process to measure the effectiveness of enhanced training programs.”<sup>209</sup> Unsurprisingly, these recommendations are often met with a “growing concern . . . that police agencies lacked the necessary budget to adopt new training requirements.”<sup>210</sup> Therefore, it is necessary for the State of Illinois to partner with police departments to help provide adequate financial assistance to effectively implement the additional training. Without such funding, Illinois will not reap the benefits attendant to police officer training and education.

#### F. Pillar Six: Officer Wellness and Safety

The DOJ agrees there is a necessity for more effective support for the wellness and safety of officers.<sup>211</sup> This pillar can be effectively implemented

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<sup>202</sup> President’s Task Force on 21st Century Policing, *supra* note 1, at 3.

<sup>203</sup> Police and Community Relations Improvement Act, Pub. L. No. 99-352 § 10-5, 50 ILL. COMP. STAT. 727 (2016).

<sup>204</sup> Smoot, *supra* note 13, at 429.

<sup>205</sup> *Id.* at 430.

<sup>206</sup> *Id.*

<sup>207</sup> *Id.*

<sup>208</sup> MCCARTY & KALSI, *supra* note 2, at 4.

<sup>209</sup> *Id.* at 5.

<sup>210</sup> *Id.* at 4.

<sup>211</sup> Justice Department Announces Findings of Investigation into Chicago Police Department, *supra* note 75.



by adopting procedural justice.<sup>212</sup> A police department grounded in internal procedural justice will result in officers being treated fairly and, consequently, impacts how they treat and respond to the individuals they encounter in the community.<sup>213</sup> When asked by the President's Task Force to identify their highest cause of stress, police officers indicated the number one cause of stress was not their interactions with citizens, fighting crime, or matters concerning their personal lives, but how they were "treated by their employers."<sup>214</sup> This is why internal procedural justice is critical.<sup>215</sup>

To further implement officer wellness and safety, the PCRIA must address the misunderstandings that police officers and community members have concerning each other. The PCRIA's additional guidelines for basic training, which incorporates information regarding cultural differences and implicit bias, represent affirmative steps towards improving officer wellness and safety, but the law must also strive to correct the inconsistent perceptions pertaining to the police officer's role in society. For example, police officers are told from the time of hire that they are warriors and crime fighters.<sup>216</sup> They are soldiers with the responsibility to combat the war on drugs, crime, poverty, and violence.<sup>217</sup> Simultaneously, society expects police officers to act as social workers, counselors, peacemakers, and in some circumstances, as mental health providers and medical technicians.<sup>218</sup> While these roles may surface at various times in an officer's career, external actors, such as the police department and society, also impose the burden to do everything right.<sup>219</sup> Unfortunately, the correct way for an officer to fulfill his role often varies depending on who his supervisor, mayor, or sheriff is, or even based on the city in which the officer works.<sup>220</sup> Inconsistent expectations can cause officers serious mental stress and health problems.<sup>221</sup>

Unfortunately, the PCRIA contributes to this dilemma as it does not provide a uniform definition for "law enforcement officer" or "officer." In section 1-5, the PCRIA defines "law enforcement officer" or "officer" as "any person employed by a State, county, or municipality as a policeman, peace officer, or in some like position involving the enforcement of the law

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<sup>212</sup> Smoot, *supra* note 13, at 428.

<sup>213</sup> *Id.* at 428-29.

<sup>214</sup> *Id.* at 429.

<sup>215</sup> *Id.*

<sup>216</sup> *Id.* at 427.

<sup>217</sup> *Id.*

<sup>218</sup> *Id.*

<sup>219</sup> *Id.* at 428.

<sup>220</sup> *Id.*

<sup>221</sup> *Id.*

and protection of public interest at the risk of the person's life.”<sup>222</sup> In another section, the PCRIA provides the following definition for “law enforcement officer” or “officer:”

[A]ny officer, agent, or employee of this State or a unit of local government authorized by law or by a government agency to engage in or supervise the prevention, detection, or investigation of any violation of criminal law, or authorized by law to supervise accused persons or sentenced criminal offenders.<sup>223</sup>

Defining these terms in varying ways can cause confusion as to which definition ranks as primary, in what situations are each applicable, and whether officers must strive to embody all the definitions. To provide clarity, the definitions in the PCRIA should be intertwined so that police departments and citizens can begin to reconcile their differing expectations. By combining the definitions, one can properly expect officers to not only enforce the laws and investigate crimes, but also to serve our communities and residents through the genuine pursuit of peace and justice.

The PCRIA also does not address the fact that “[t]he suicide rate among police officers is among the highest of any profession.”<sup>224</sup> Accordingly, funding and staffing for a program such as a peer-to-peer hotline for police officers should be a priority.<sup>225</sup> Furthermore, there is a necessity for medical research evaluating the optimal number of hours that an officer should work per day, as prior research demonstrates, “shift work can be extremely damaging to them physically, emotionally and mentally . . . .”<sup>226</sup>

## V. CONCLUSION

After tumultuous events “revealed a deep sense of mistrust between law enforcement and the public, reform measures were a priority for both Illinois lawmakers and the law enforcement community alike.”<sup>227</sup> The Police and Community Relations Improvement Act—despite its imperfections—is undoubtedly a positive step towards restoring this relationship and achieving the goals of the President’s Task Force—public trust and crime reduction. As previously discussed, the PCRIA has implemented numerous reform measures to further the Task Force’s “Six Factors of Change,” and the

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<sup>222</sup> Police and Community Relations Improvement Act, Pub. L. No. 99-352 § 1-5, 50 ILL. COMP. STAT. 727 (2016).

<sup>223</sup> *Id.* § 5-5.

<sup>224</sup> Smoot, *supra* note 13, at 431.

<sup>225</sup> *Id.*

<sup>226</sup> *Id.*

<sup>227</sup> Dublinski, *supra* note 108, at 1465.

amendments proposed in this comment will also assist in this effort. Pertinent amendments include providing adequate financial assistance to fund additional police officer training and education as well as the use and maintenance of BWCs. The PCRIA should also clearly delineate how courts should address the accessibility of evidence that otherwise would not have been discoverable. In addition, the law should provide a legal protection in conjunction with sentinel event reviews, adopt internal procedural justice, and provide a uniform definition concerning the role of police officers. By incorporating these amendments, the PCRIA will more effectively implement the “Six Factors of Change” and thereby assist in restoring police-community trust.