A

Missed Opportunities, Shared Responsibilities:

Final Report of The Cambridge Review Committee

June 15, 2010

EXECUTIVE SUMMARY

On July 16th, 2009, Sergeant James Crowley responded to a 911 call about a possible break-in in progress on Ware Street in Cambridge, Mass. Crowley, a respected 11-year veteran of the Cambridge police force, arrived at the address, which he later would learn was the home of Harvard Professor Henry Louis Gates, Jr., one of the most prominent African-American scholars in the United States. Seconds after Crowley and Gates encountered each other, the situation deteriorated rapidly, according to both men. Within six minutes, Crowley had arrested Gates for disorderly conduct and placed him in handcuffs at his own home.

How was this possible?

Five days later, the City of Cambridge and the city's Police Department recommended that the prosecutor drop the charge against Professor Gates, in the interest of providing "a just resolution to an unfortunate set of circumstances." Two weeks later, Professor Gates and Sergeant Crowley met again at the White House, with President Obama and Vice President Biden, to have what the President called "a friendly, thoughtful conversation."

The arrest of Professor Gates received national and international attention. Some residents of Cambridge, believing that the incident created an inaccurate impression of their city, wished that the controversy could end. Many Cambridge residents consider their city one of the most progressive in the nation, and believe that the city's Police Department reflects the city's forward-thinking nature. Many Cambridge police officers proudly speak of doing things "the Cambridge way," by which they mean policing within a strong heritage of tolerance, respect, and community input.

While many wished that the July 16th incident would just go away, Cambridge Police Commissioner Robert Haas, to his credit, believed that there were lessons to be learned—not only for his department and the city of Cambridge, but for other police departments and other communities. Commissioner Haas recommended to Cambridge City Manager Robert W. Healy that a study be conducted to identify those lessons and help other cities avoid such incidents.

City Manager Healy approved Commissioner Haas's request, and the City and the Police Department cooperated fully with this study. This report, by the Cambridge Review Committee, is the result. The Committee is a panel of individuals who were chosen for their knowledge of issues in policing and criminal justice, law, race, community relations, organizational

behavior, and conflict resolution, as well as for their familiarity with the City of Cambridge. Members of the committee donated their time to this endeavor.

The members of the Committee are:

Chuck Wexler (Chairman), Executive Director, Police Executive Research Forum*

Stacy Blake-Beard, Associate Professor of Management, Simmons School of Management

Marian Darlington-Hope, Assistant Professor of Human Services and Nonprofit Management, Lesley University

John Farmer, Jr., Dean and Professor of Law, Rutgers School of Law

Terrance Gainer, U.S. Senate Sergeant at Arms

John Gallagher, Assistant U.S. Attorney, Eastern District of Pennsylvania

John Kosko, Retired school administrator and community leader, Cambridge, Mass.

Tracey L. Meares, Deputy Dean and Professor of Law, Yale Law School

Jack McDevitt, Associate Dean for Research and Graduate Studies, College of Criminal Justice, Northeastern University

Aaron David Miller, Public Policy Fellow at the Woodrow Wilson International Center of Scholars, Washington, D.C.

Louis F. Quijas, President of North American Operations, Datong Electronics and former FBI Assistant Director

Charles H. Ramsey, Commissioner of Police, Philadelphia.

Robert Wasserman, Chairman of the Strategic Policy Partnership, served as advisor to the Committee.

Jennifer Flagg of the Cambridge Police Department served as coordinator and facilitator to the Committee.

Tony Narr and Craig Fischer of the Police Executive Research Forum assisted in the drafting of this report.

The Committee undertook a variety of activities to fulfill its mission. Panelists interviewed Professor Gates and Sergeant Crowley, along with a number of experts and witnesses to the encounter; reviewed the relevant training currently offered by the Cambridge Police Department; interviewed the Commissioner and other members of the Cambridge Police Department; held two citywide public meetings and attended neighborhood meetings to discuss the incident; reviewed many public records and reports; and conducted research on law enforcement policies and nationally recognized best practices in policing.

The Cambridge Review Committee was charged with identifying lessons to be learned from the incident and producing findings and recommendations aimed at preventing similar incidents in the future. The Committee was not charged with writing an "after-action" or fact-finding report, and did not request the tools that would be required to conduct such an investigation, such as subpoena power. Readers are cautioned against attempting to read between the lines of this report or interpreting any particular sentence beyond what it says.

*The Police Executive Research Forum was compensated for some of the time its staff contributed to this project.

FINDINGS

MISSED OPPORTUNITIES: THE JULY 16TH INCIDENT WAS AVOIDABLE

The Cambridge Review Committee believes that the July 16th incident was avoidable. Sergeant Crowley and Professor Gates each missed opportunities to "ratchet down" the situation and end it peacefully.

The Committee believes that the incident was sparked by misunderstandings and failed communications between the two men. For various reasons, each man reported feeling a certain degree of fear of the other. Sergeant Crowley was responding to a 911 emergency call about an unknown and potentially dangerous situation—a reported breaking and entering in progress. His training and experience gave him reason to be cautious. Professor Gates was also wary—of the police. He did not recognize Sergeant Crowley's concerns or why the Sergeant wanted him to step outside his own home.

However, regardless of whether the two men were fearful of each other at the beginning of their encounter, once Professor Gates showed Sergeant Crowley his identification and Crowley explained why he was at Gates' home, the potential threat was diminished, and the behavior of both men should have begun to change. But instead of de-escalating, both men continued to escalate the encounter.

On one hand, Sergeant Crowley told the Cambridge Review Committee that he believed he "had no choice" but to arrest Professor Gates. The Committee believes that Sergeant Crowley missed opportunities to find a better outcome. For example, once he saw proof of Professor Gates' identity, Sergeant Crowley could have taken greater pains to explain the uncertainty and potential dangers of responding to a serious crime-in-progress call. Perhaps he could have expressed why, in the early stages of such a call, police officers must focus on the safety of the public and their own safety, and why his need to assess and mitigate any risks may have caused him to adopt a seemingly abrupt tone.

On the other hand, Professor Gates also told the Cambridge Review Committee that in retrospect, he would not have done anything differently, except that he would not have followed Sergeant Crowley outside of his house when the officer was moving to leave the scene. The Committee believes that Professor Gates, like Sergeant Crowley, missed opportunities to de-escalate the encounter. Professor Gates could have tried to understand the situation from the point of view of a police officer responding to a 911 call about a break-in in progress, and could

have spoken respectfully to Sergeant Crowley and accommodated his request to step outside at the beginning of their encounter.

No members of the Cambridge Review Committee were witnesses to the July 16th incident, and even if the committee members had witnessed the encounter, they could not have known exactly what Sergeant Crowley and Professor Gates were thinking during their six minutes together. However, communications clearly were a problem. Sergeant Crowley told the Committee that he tried to explain his presence to Professor Gates but "couldn't get a word in edgewise." In his Incident Report, Officer Carlos Figueroa agreed that Professor Gates "refused to listen." On the other hand, Professor Gates reported that he considered Sergeant Crowley unresponsive to his questions.

What is certain is that the July 16th incident was not a success in terms of police-community relations. Furthermore, the incident raises issues that affect policing every day in cities across the nation. Much of the Committee's work involved identifying those issues and defining how police departments and the communities they serve can work together to avoid such incidents in the future.

To say that the arrest of Professor Gates was avoidable is not to say that it was unjustified from a legal standpoint or in terms of police policy. Police are by necessity vested with substantial legal discretion to deal with a wide variety of unpredictable encounters. In the Committee's view, one of the questions raised by the July 16th incident, and explored in this report, is whether some police actions that may be "within policy" are not necessarily the best outcomes to a situation and may undermine the relationship between the police and the communities they serve. Cambridge Police Commissioner Robert Haas told the Cambridge Review Committee that he considers the arrest an aberration that does not reflect how the Police Department sees itself or generally does its job.

SHARED RESPONSIBILITIES

The July 16th incident serves as a textbook example of how a police officer and a member of the community can clash if they do not share a sense of responsibility about cooperating toward the common goal of a positive encounter that results in increased public safety. Because Sergeant Crowley and Professor Gates did not change their attitudes toward each other, even after each man realized that the other posed no physical threat, the encounter continued to deteriorate and eventually reached an outcome that the Police Department and Professor Gates agreed was unfortunate. If, on the other hand, both men had shared responsibility for understanding each other and communicating openly, the outcome could have been better.

The outcome of one particular encounter between a police officer and a citizen may seem insignificant, even when it makes as many headlines as the July 16th incident did. But the relationship between a police department and its community is the aggregation of thousands of such encounters. If each police officer and each member of the community can think in terms of sharing responsibility for showing one another respect and understanding, the entire functioning of a police department will improve.

Why will mutual respect produce better policing? The simple answer is that police need the support of their communities to do their jobs well and to provide the services that their communities require. Today's police departments cannot operate independently of the communities they serve; today's policing strategies and operations are deeply enmeshed in the community.

As one member of the Cambridge Review Committee expressed it, "We can only police a community that *allows* itself to be policed."

RELEVANT ISSUES AND CONSIDERATIONS

The Cambridge Review Committee's interviews and research resulted in the identification of a number of relevant issues, including the following:

The significance of differing perspectives: The Committee interviewed both Sergeant Crowley and Professor Gates, and noted that while there were significant differences in their descriptions of the July 16th event, much of the basic outline of the event is similar in both men's accounts. However, Sergeant Crowley and Professor Gates clearly differ in their interpretation of what happened. Two well-regarded people—one white, one black; one an experienced and well-trained police sergeant, one an eminent scholar—experienced the same event and drew radically divergent conclusions about the implications of what happened.

Some of the details of Professor Gates' and Sergeant Crowley's perspectives are discussed in this report. However, the Committee believes that the important point is that this dynamic of differing perspectives is characteristic of other situations in which police engage with communities. For example, when police adopt aggressive crime-fighting tactics in high-crime neighborhoods, they often are responding to demands from the community and they may honestly believe they are doing good work, especially if crime rates drop significantly. But if police tactics leave many law-abiding residents feeling resentful, the best-intended and most successful accomplishments of the police may not be well-regarded or recognized as effective.

Thus, exploring differing perspectives is critical to effective policing. If residents do not support a police action or policy, the police must learn the reason why.

Balancing "legitimacy" and "procedural justice" with tactical and safety considerations: Social psychologists use the term "legitimacy" to describe the judgments that ordinary citizens make about the rightfulness of police conduct and the extent to which they support the police department or other government agencies. A judge can determine if a police action was lawful, and a police supervisor can determine whether an officer acted within the bounds of departmental policy. But citizens will form their own opinions about whether they view the actions of an officer as measured or excessive, as impartial or discriminatory.

That is not to say that appearances tell the whole story, or that appearances can never be deceptive. There may be situations in which an officer's actions may not appear "legitimate" to some members of the public, but were nevertheless the right thing to do. Officers must be trained to do what is right, not what appears to be right.

A key element of police legitimacy is whether the police provide what researchers call "procedural justice." This term encompasses not just whether a person believes that a law is fair and that police enforce it even-handedly, but also whether the police officer *treats a person with dignity and respect*. Indeed, some research has shown that people's feelings about an encounter with the police can depend more on procedural justice (e.g., whether they believe the officer was respectful and courteous) than on the actual outcome (e.g., whether they received a warning or a citation).

"Legitimacy" and "procedural justice," in this context, are not legal rights. Police officers ideally should always conduct themselves both lawfully and in ways that lead citizens to consider their actions legitimate. Yet it is possible for police officers to behave lawfully while also undermining perceptions of legitimacy among

citizens. This is important to note because researchers have demonstrated that increased perceptions of legitimacy not only lead to greater understanding between officers and citizens, but also to higher levels of voluntary compliance with the law, which in turn leads to less crime and fewer opportunities for incidents that put officers at risk.

Efforts to increase perceptions of procedural justice must give way if they conflict with public safety. For example, officers can facilitate a sense of legitimacy by explaining their actions to community members, but they must also exercise caution and good judgment. There are often good tactical reasons why officers cannot share all the information they possess. Often, officers must be guarded about sharing information about what they are doing until the incident scene is secure, risks are mitigated, and no potential suspects are present.

The July 16th incident is an example of how these interests must be balanced. The Cambridge Review Committee's interview of Professor Gates left committee members with the impression that Gates believed he was denied procedural justice on July 16th. He believed that at several points, Sergeant Crowley simply did not answer his questions. Gates considered Crowley's silence demeaning.

On the other hand, during the first few minutes of the encounter, Sergeant Crowley had legitimate concerns about safety and security. If Professor Gates had recognized these concerns as the motivation for Sergeant Crowley's conduct and had responded accordingly, it is quite likely that the incident never would have reached the point of conflict that it did.

De-escalation of conflicts: In retrospect, it appears that if either Sergeant Crowley or Professor Gates had been able to articulate his concerns to the other, or ideally if both had been able to make their positions understood, the incident might have been resolved quickly and peacefully. But because the misunderstanding persisted, the encounter went in the other direction.

The Cambridge Review Committee believes that police should be better trained to understand that:

- Police have a significant amount of discretion in how they respond to encounters with members of the public,
- Encounters with members of the public are dynamic, and changes in the situation should guide appropriate changes in what officers say and how they say it, and
- When police believe they are not in physical danger, they generally should de-escalate tensions.

In some cases, de-escalation also can be a tool for helping to reduce danger by calming a person who is upset or unstable.

Police officers should be trained in a "continuum" of options for de-escalating encounters, just as they are trained in a continuum of options in the use of force. As one member of the Committee expressed it, "De-escalation needs to be seen as one of the tools that officers can pull out of their toolbox to defuse a situation."

For their part, community members should understand that when they are in the midst of an encounter with a police officer, they should strive to de-escalate any perceived hostility by complying with the officer's instructions and responding to the officer's inquiries, trusting that the officer must do his or her job and recognizing the inherent risk that officers face in many situations.

Even though the Committee emphasizes that its recommendations apply both to the police and the community, it also believes that officer training must recognize the reality that officers cannot always *expect* members of the public to be reasonable and supportive. Ideally, police officers and civilians alike will

conduct themselves reasonably and be willing to de-escalate potentially tense encounters. But if the citizen does not do so, the officer must be trained to take the higher road and always work to de-escalate hostilities and communicate reasonably.

Officer discretion: Questions of officer discretion are at the heart of any discussion of how police relate to their communities, because it is in the discretionary "gray areas" that residents are most likely to develop negative feelings about the police if they do not understand why the police act as they do.

There is a strong consensus in the American justice system that police officers must be allowed some discretion in enforcing the law. A policy of zero tolerance for any violation of any law would be extremely impractical. And policing experts have noted that a significant part of the police officer's job is problem-solving—which includes making choices about the best way to handle relatively minor problems. Consistent with these ideas, the U.S. Supreme Court repeatedly has found that police discretion is necessary and proper.

However, police discretion is limited by laws and court rulings as well as by police agency written directives and rules. Police departments increasingly are defining the limits of police discretion to reflect what the citizens of their communities believe are measured, impartial, and nondiscriminatory uses of police authority.

Disorderly conduct laws: One type of law that often involves a high level of officer discretion, and the type under which Professor Gates was arrested, is the "disorderly conduct" statute or ordinance. Courts generally have upheld disorderly conduct statutes, declining to strike them down unless they are unconstitutionally vague. But courts have imposed some restrictions on such laws.

The Cambridge Police Department conducted a detailed analysis of its disorderly conduct arrests in recent years, paying special attention to cases that may have a higher likelihood of being questionable: those in which the officer was the only "victim" of the disorderly conduct (as opposed to cases in which the arrested person was fighting another person or was otherwise involved with other "victims"), and cases in which disorderly conduct was the only offense charged. The Committee believes that the type of analysis conducted in Cambridge would be useful in other police agencies.

Community comment: A number of issues were raised by members of the Cambridge community at public forums and other meetings with the Cambridge Review Committee. Residents expressed a variety of opinions about the July 16th incident, and many expressed concerns about how their city was portrayed in light of the incident. Residents called for further discussions with the police about many of the issues raised in this report, including police discretion, de-escalation of conflicts, disorderly conduct enforcement, and better communications between the police and the community.

The Committee believes there are opportunities for expanded partnerships between city officials and community groups, including the sizeable academic community in Cambridge. In addition, the Committee believes that the citizens of Cambridge might benefit if the city's Police Department explored greater integration of missions, policies, and training with the Harvard University Police and MIT Police.

Recruitment and training: Policing today is far more complex than in the past, and requires a more complex set of skills and knowledge, such as problem-solving skills, communications techniques, and familiarity with technologies. In Massachusetts, state civil service regulations make it difficult for police departments to seek out applicants possessing the specific background and traits they prefer for their police officers. The Cambridge Review Committee

believes the department should engage with state officials to discuss possible reform measures to the state's civil service system.

The Cambridge Police Department's 24-week police academy represents a significant opportunity to provide recruits with the knowledge, skills, and abilities they will need to develop in order to meet the challenges of policing in Cambridge. However, the curriculum could be improved by adding a specific scenario-based block of instruction dealing with officer discretion and de-escalation techniques.

The 10-week field training program for new officers used by Cambridge and many other police agencies is no longer considered a professional best practice. Many progressive agencies have switched to a 13-week police training officer (PTO) program first employed by the Reno, Nevada Police Department in 2001, which emphasizes critical thinking and problem-solving principles and adult-learning methods.

THE CAMBRIDGE REVIEW COMMITTEE'S RECOMMENDATIONS

Following are the Committee's recommendations, which in most cases apply both to the Cambridge Police Department and to other police agencies nationwide:

1. WHEN "LEGITIMACY" AND SAFETY ISSUES COLLIDE: Police need support from the public to do their jobs effectively, so police must recognize the importance of ensuring that community members believe they are receiving "procedural justice," which involves whether residents feel they are treated with dignity and respect during an encounter with police.

Police must strive to ensure that members of the community understand how legitimacy and procedural justice issues can conflict with the safety of police officers and the public, and that safety must take priority. Police should recognize that misunderstandings can occur, and should attempt, after any dangers or threats have been mitigated, to engage citizens in conversation to explain actions and resolve conflicts.

The public should recognize that during encounters with police, officers may sometimes do or say things that the public does not immediately understand, but which are based on proper police procedure. Community members should understand that when they are in the midst of an encounter with a police officer, they should comply with the officer's instructions and respond to the officer's inquiries, recognizing the inherent risk that officers often face in such encounters. Complaints can be made and discussed later in other venues.

Additional recommendations in this area are found below and are described in greater detail in the full report.

2. DE-ESCALATION OF CONFLICTS: Police officers, as well as community members, should strive to de-escalate the level of tension in their encounters with each other. Officers should be trained in interpersonal communication skills in order to de-escalate encounters—*after* they have satisfied themselves that they have control of the situation and risks have been mitigated. In some cases, de-escalation also can be a tool for helping to reduce danger by calming a person who is upset or unstable.

3. DISCRETION: Police departments should recognize that the discretion given to officers is an important tool and should adopt policies to guide officers in the exercise of discretion. The goal is to teach officers to make discretionary decisions based on the values and principles of the department, while recognizing that, by the very nature of discretion, rules cannot be written for every possible situation.

4. COMMUNITY INVOLVEMENT: The City of Cambridge should make additional efforts to engage the community in policing initiatives, including the academic community.

The Cambridge Police Commissioner should consider establishing a Police Commissioner's Advisory Board, consisting of leaders from various segments of the greater Cambridge community, with whom the commissioner would meet and consult periodically.

5. WORKING WITH UNIVERSITY POLICE DEPARTMENTS: The Cambridge Police Department should make concerted efforts to work with the Harvard University Police and MIT Police toward greater integration of their missions, policies, procedures, and interdepartmental training, with a special interest in areas of concurrent jurisdiction. When multiple police agencies share jurisdiction over a community, the more their operations can be coordinated and standardized, the easier it becomes for the public to form accurate expectations of the police, regardless of which department they may encounter.

6. HELPING CITZENS TO UNDERSTAND POLICING: Police departments should expand the use of programs, such as Citizen Police Academies, that help residents to understand what it is like to be a police officer.

7. RECRUITING AND TRAINING: Police departments should identify the knowledge, skills, and abilities they want in new officer candidates, as well as the desired problem-solving abilities and other traits, and then should develop a strategy to recruit applicants who are likely to possess those qualifications. The Cambridge Police Department should work with other police agencies in Massachusetts to engage with state officials about possible reform measures regarding restrictive statewide civil service requirements.

The Cambridge Police Department's police academy for new recruits and ongoing training for officers could be improved with a specific block of instruction dealing with officer discretion and de-escalation techniques. And the department should consider expanding and improving its field training program for new officers.

8. SHARING INFORMATION ABOUT HIGH-PROFILE INCIDENTS: The police should work with elected and appointed government officials to develop protocols for the timely dissemination of accurate information about incidents that generate great public interest.

9. RESEARCH AND BEST PRACTICES: Police should continually monitor research and seek out the best training practices adopted within law enforcement in the area of arrests, arrest alternatives, discretion, de-escalation, and communications skills.

10. NEXT STEP: COMMUNITY FORUMS: The Committee recommends that the Cambridge Police Department consider convening a series of community forums, similar to those that have been conducted in cities such as Kansas City and Chicago. The Cambridge Police Department conducted a similar program in 2003, called the Collaborative Leadership Project. These types of forums are not open meetings in which residents are invited to speak out on any topic. Rather, they are discussions, facilitated by a moderator, that focus on a particular topic in each meeting. The goal is to encourage open discussions and allow police and community leaders to learn from each other about critical issues.

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1. INTRODUCTION

Every day, nearly 800,000 state and local police officers in the United States have millions of interactions with the residents of their communities. On July 16, 2009, one of these encounters—an incident that lasted only six minutes—caught the attention of the entire nation to such an extent that even President Obama chose to speak out about it. The arrest of Harvard University Professor Henry Louis Gates, Jr. by Sergeant James Crowley of the Cambridge Police Department sparked a debate about the ways in which issues of race, class, power, authority, and respect intersect with the everyday operations of police. That debate continues to this day, and most people have strong opinions about the July 16th incident.

The Cambridge Review Committee was formed at the behest of the Cambridge Police Department to define the implications of the July 16th incident for policing in Cambridge and in other police departments across the nation. The Cambridge Review Committee is a panel of individuals who were chosen for their wide-ranging knowledge of issues in policing and criminal justice, law, race, community relations, organizational behavior, and conflict resolution, as well as for their familiarity with the City of Cambridge.

Based on the Committee's interviews of Professor Gates and Sergeant Crowley and other information, the Committee has come to the conclusion that the July 16th incident deteriorated within seconds after Gates and Crowley first spoke to each other—"in the first five *nano*seconds," as Professor Gates expressed it.

Thus, an initial question addressed by the Committee was why the encounter went so badly so quickly, and what could have been done to prevent it. After all, Sergeant Crowley was simply responding to a 911 call about a possible break-in in progress at a certain address, and it developed that there was no burglar at the house; there was only Professor Gates, who lived there. How could such a call, in just six minutes, turn into a major incident that prompted expressions of regret by both the Police Department and Professor Gates?

WHY THE JULY 16TH INCIDENT BECAME A NATIONAL RORSCHACH TEST

In some ways, the arrest of Professor Gates was not a unique event, or even an unusual one. Police departments across the nation regularly contend with the issues of race, class, respect,

and police authority, and these issues must be addressed forthrightly if police officers' actions are to win support in American communities.

Police must strive to develop operational practices that are effective in providing public safety, and at the same time are perceived as respectful by the residents. As will be explained in this report, miscommunications often can result in residents perceiving rudeness in actions that a police officer considers necessary, or even respectful, given the circumstances.

On the other hand, police efforts to work with and protect their communities will be successful only if the residents of those communities understand that they also have a critical role to play: community members also must make honest efforts to improve communications with the police and make compromises when possible to reach the widest-possible consensus on the difficult issues.

Understanding that the Gates arrest has broader implications may help explain why the incident resonated with millions of Americans, including many who live far from Cambridge and have little or no real knowledge of the Cambridge Police Department, Professor Gates, or the City of Cambridge. People have strong opinions about the Gates arrest because it reminds them of police-related incidents in their own lives.

Many people have observed that the Gates arrest was like a national Rorschach test; nearly everyone has a strong opinion about it, and these opinions often seem to be based more on what people read into the incident than on their knowledge of the July 16th incident itself.

This report explores the implications of the Gates incident not only for the Cambridge Police Department, but also in terms of lessons that other state and local law enforcement agencies might learn from this encounter.

In this report, the Cambridge Review Committee describes its deliberations and findings, and offers recommendations about how the Cambridge Police Department and other police agencies can continue to work toward reducing crime in their neighborhoods and at the same time can establish strong bonds of trust with their law-abiding residents.

For the sake of clarity, a few words must be written about what the Cambridge Review Committee's mission is *not*. The Committee was not charged with writing an "after-action" or fact-finding report, or with assigning blame either to Sergeant Crowley or to Professor Gates. Readers are cautioned against attempting to read between the lines of this report or interpreting any sentence beyond what it says.

Rather, the Committee was charged with identifying the lessons that can be learned from the incident, and the implications of those lessons for the policies, procedures, and mission of the Cambridge Police Department and the city of Cambridge as well as other police departments and cities across the nation.

The Committee interviewed both Sergeant Crowley and Professor Gates for purposes consistent with its mission. As will be explained later in this report, the differing perspectives of Professor Gates and Sergeant Crowley about what happened on July 16, 2009 serve to illustrate the challenges that police departments and their communities face. There was agreement regarding some of the basic facts of what happened, as described by Professor Gates and Sergeant Crowley. But there were profound differences in how each man was "reading" what happened during their six-minute encounter.

In the following sections of this report, the Committee seeks to accomplish several objectives:

- Summarize information about the incident at Professor Gates' home on July 16th;

- Explore the issues that the incident raises, such as the significance of differing perspectives; the concept of police "legitimacy" and "procedural justice" and how they intersect with officer safety issues; de-escalation of police-citizen encounters; police officer discretion when enforcing laws; enforcement of disorderly conduct laws; community perspectives; and recruitment and training issues; and
- Make recommendations that first and foremost are of value to the Cambridge Police Department and the citizens of Cambridge, and that also demonstrate how the "Cambridge story" can be a teaching moment for other police departments across the country.

2. INFORMATION ABOUT THE JULY 16TH INCIDENT

The following is a general description of the July 16th incident, based on the Cambridge Review Committee's interviews of Professor Gates and Sergeant Crowley, records such as Crowley's Incident Report, the tape of the 911 call that initiated the encounter, and other information. This description is not intended to serve as the final word about the incident. It is offered as background information, as context for what follows in this report, and as an exploration of differing perspectives and missed communications that may have clouded Sergeant Crowley's and Professor Gates' perceptions of the incident.

THE 911 CALL

On July 16th, 2009, the Cambridge Emergency Communications Center (ECC), the city's 911 center, received a call at 12:43 p.m.[1] According to the caller, an elderly woman had observed two men with suitcases attempting to enter a residence on Ware Street in Cambridge. The elderly woman expressed concern to the caller that the men were attempting to break into someone's home. The caller observed that the front door screen had been broken, but expressed uncertainty about whether the men perhaps lived there and "just had a hard time with their key." At 12:46 p.m., a Cambridge Police patrol unit in the area was dispatched to respond to Ware Street for a "possible breaking and entering in progress." Sergeant James Crowley radioed that he would respond, since he was nearby on Harvard Street. After arriving at the scene, Sergeant Crowley requested that the department "keep the cars coming."

CONTEXT OF THE CALL: THE CITY OF CAMBRIDGE AND ITS POLICE DEPARTMENT

The call to 911 was placed in a city and to a police department that has been shaped by unique demographics and history. Cambridge is a diverse community, and many of its residents

1. Audio recordings and transcripts of the 911 call and police radio transmissions are available through various news media websites, such as: http://abcnews.go.com/print?id=8185376 and http://www.boston.com/news/local/breaking_news/2009/07/cambridge_polic_4.html.

take pride in living in a city that is welcoming and accepting. Residents also have a strong sense of "participatory democracy" and high levels of involvement in their local government.

Cambridge, with an area of just 6.26 square miles, has a population of over 101,000 residents, 20 percent of whom are college students or graduate students. The majority of residents are between the ages of 20 and 44. The majority of the population (68 percent) is white, 12 percent are black, 12 percent are Asian, and 7 percent are Hispanic. Cambridge is one of the most expensive housing markets in the Northeastern United States, with a median sale price of $790,000 for single-family homes. Harvard University and the Massachusetts Institute of Technology are the top employers, accounting for nearly 19,000 employees.

The community is served by the Cambridge Police Department, which is staffed by 273 officers and 38 civilian personnel. Departmental statistics indicate that three murders and nine rapes were reported in the city in 2009. The number of street robberies, residential burglaries, and larcenies were all down compared to the prior year, while commercial break-ins had increased. Overall, index crimes in 2009 decreased by 8 percent compared to the prior year.

The call to 911 about Professor Gates' residence was one of over 37,000 911 calls processed in 2009 by the Police Department. The vast majority of calls for service handled by the police in Cambridge (in excess of 100,000 calls in 2009) were not in response to crimes, but rather about community concerns like noise and traffic complaints and other "quality of life" issues.

CONTEXT OF THE ENCOUNTER: SERGEANT JAMES CROWLEY'S DESCRIPTION[2]

Sergeant James Crowley

Sergeant Crowley has a reputation for being a no-nonsense, by-the-book police officer. He has been commended for dedication and professional conduct for helping a diabetic victim avert a tragedy and for diligence that resulted in an arrest and successful investigative case closure. Among his peers, regardless of their race, Crowley is well-liked and respected on the force. In 1993, Crowley was a campus police officer at Brandeis University when he administered CPR trying to save the life of former Boston Celtics player Reggie Lewis. He was selected by former Police Commissioner Ronnie Watson to teach a class on preventing racial profiling at the Police Academy in Lowell, Mass. He has conducted that training, along with an African-American officer, for five years.

During the past five years Sergeant Crowley has made 12 arrests, including one arrest of a disorderly person, one for disturbing the peace, and three for unlawful assembly. It is important to understand that sergeants, with multiple and varied supervisory and administrative duties, including guiding officers in arrest situations, do not normally make large numbers of arrests themselves.

Sergeant Crowley reported that he arrived at the Ware Street residence in full uniform, with his name tag and badge number clearly displayed, as required by the Police Department. The recording of the 911 call shows that the caller said she was "not really sure" about the race of the men attempting to enter the residence, but that "one looked kind of Hispanic."

2. Sergeant Crowley's Incident Report is included as an appendix to this report.

But according to Crowley's Incident Report, by the time he arrived and spoke to the 911 caller on the sidewalk in front of the house, she told him that she had observed "what appeared to be two black males" on the porch. Crowley stated that the caller said she was suspicious because she saw one of the men wedging his shoulder into the door, as if he were trying to force entry.

In his Incident Report, Crowley reported that "since I was the only police officer on location and had my back to the front door," he asked the caller to wait for other responding officers while he investigated further. Crowley reported to the Committee that he walked onto Professor Gates' front porch and felt very exposed because of the large windows he had to pass by. He looked into the home and saw an older black man in the foyer, whom Crowley, motioning with his hand, asked to step out onto the porch. According to Crowley, the man, who later identified himself as Henry Louis Gates, Jr., refused, saying "No, I will not." Crowley claimed that Gates demanded to know who Crowley was, and Crowley said he identified himself as "Sergeant Crowley from the Cambridge Police" and informed Gates that he was there to investigate a report of a break-in in progress at the residence. Crowley reports that it was at this point that Gates opened his door and exclaimed, "Why, because I am a black man in America?" Crowley stated that he then asked Gates if there was anyone else in the house, to which Gates yelled that it was none of his business. Crowley said that Professor Gates then accused Crowley of being a racist police officer.

Crowley said he assured Gates that he was responding to a citizen's call to the Cambridge Police Department and the caller was still present, outside. Crowley said Gates then telephoned an unknown person and asked that person to "get the chief," and then told whoever was on the line that he was dealing with a racist police officer. According to Crowley, Gates then told Crowley he had no idea who he was "messing" with and that he hadn't heard the last of this.

At this point in his Incident Report account, Crowley wrote, "While I was led to believe that Gates was lawfully in the residence, I was quite surprised and confused with the behavior he exhibited toward me." Crowley said he then asked Gates for photo identification so he could verify that Gates, in fact, resided there. Crowley said Gates refused initially but later complied, showing a Harvard identification card. Crowley reported that upon learning that Gates was affiliated with Harvard, he radioed ECC and requested the presence of the Harvard University Police, and then prepared to leave the premises.

Crowley reported that Gates again demanded to know Crowley's name, accused Crowley of being a racist police officer, and said that he, Gates, "wasn't someone to mess with." Crowley became aware that Officer Carlos Figueroa was present.[3] Crowley said that Gates continued to request his name and badge number. Crowley said that he told Gates that he had already provided his name twice upon Gates' request, that he was leaving Gates' residence, and that if he had any other questions, he "would speak to him outside of the residence." Crowley said that "my reason for wanting to leave the residence was that Gates was yelling very loud and the acoustics of the kitchen and foyer were making it difficult for me to transmit pertinent information to ECC or other responding units."

According to Crowley, he walked outside and noticed "several Cambridge and Harvard University police officers assembled on

3. Officer Figueroa's Incident Supplement Report is included as an appendix to this report.

the sidewalk," as well as the 911 caller and at least seven passers-by looking in the direction of Gates, who had followed Crowley outside. Crowley's account in his police report stated that Gates was continuing to yell and behave in a "tumultuous" manner. Crowley stated that he warned Gates that he was becoming disorderly, but that Gates ignored his warning and continued yelling, which caused the bystanders to appear "surprised and alarmed." Crowley said he warned Gates a second time while taking out his handcuffs, but that Gates again ignored his warning. Crowley then placed Gates under arrest.

Crowley reported that Gates objected to being handcuffed behind his back, because he said he was disabled and could not walk without a cane. Crowley ordered another officer to handcuff Gates with his hands in front, and went into the house to retrieve Gates' cane. Crowley reported asking Gates if he wanted the property secured, to which Gates replied that the lock on the door was broken from a previous break-in attempt. A Harvard University maintenance person then arrived to secure the house.

Crowley's Incident Report states that Gates was arrested for disorderly conduct because he exhibited "loud and tumultuous behavior, in a public place, directed at a uniformed police officer who was present investigating a report of a crime in progress."

Five days later, the Middlesex County District Attorney's Office dropped the charge against Gates. The City of Cambridge, the Cambridge Police Department, and Professor Gates released a joint statement saying that "the incident of July 16th, 2009 was regrettable and unfortunate," and that dropping the charge was "a just resolution to an unfortunate set of circumstances."[4]

CONTEXT OF THE ENCOUNTER: PROFESSOR HENRY LOUIS GATES' DESCRIPTION

Professor Henry Louis Gates

Professor Gates is an American literary critic, educator, scholar, and writer. Professor Gates earned his M.A. and Ph.D. in English literature from Clare College at the University of Cambridge and his B.A. in history from Yale University, where he was a Scholar of the House. Professor Gates is currently the Alphonse Fletcher University Professor at Harvard University, where he is Director of the W.E.B. Du Bois Institute for African and African-American Research. Gates has previously taught at Yale, Cornell and Duke Universities. Among his many other notable accomplishments, Gates was listed in *Time* as one of 1997's "25 Most Influential Americans." In January 2008, Gates co-founded *The Root*, a website dedicated to African-American perspectives, published by The Washington Post Company. Gates also serves on the boards of many institutions, including the New York Public Library, the Aspen Institute, the Brookings Institution, the NAACP Legal Defense Fund, the Harlem Educational Activities Fund, and the Center for Advanced Study in the Behavioral Sciences located in Stanford, California.

According to published reports and Professor Gates' interview with the Cambridge Review Committee, he was arriving home from the airport on July 16th, 2009. A local limousine company dropped Gates off at his home. Gates attempted to enter through the front door of the property, but had trouble because the door was damaged. Specifically, Gates reported seeing damage suggesting that someone had tried to jimmy the lock; he also noticed a large footprint

4. The text of the joint statement is included as an appendix to this report.

on the door. The limousine driver, whom Gates referred to as Driss, assisted Gates in attempting to gain entry to the house. Gates ultimately entered the rear entrance with his key and attempted to open the front door from the inside. Gates was able, with the driver's help, to force the front door open and proceed through with his luggage.

The driver said that he noticed an elderly female looking at them from next door as they were trying to enter the house. Gates recalled Driss's comment at the time that the woman "was calling the police on us."

Gates reported that he called the Harvard Real Estate office to report the damage; while he was on the phone, he noticed a uniformed police officer on his front porch. Gates opened the door, and the officer asked Gates to step outside. Gates said that the officer's tone of voice made the hairs on the back of his neck stand up, and he refused to step outside.

Gates said he told the officer that he lived there and was a faculty member at Harvard University, and that the officer then asked him for proof that he lived there. Gates said he went into his kitchen, followed by Crowley, to get his wallet, and then placed his open wallet showing his Harvard identification card and Massachusetts driver's license on the counter for Crowley to see. Gates said that Officer Crowley did not respond. Gates said he asked for the officer's name and badge number on several occasions, but that the officer never responded or asked him if he was all right. Gates said that "the silence was deafening." Gates said he then said to the officer, "You're not responding because I am a black man and you're a white officer."

Gates said that Crowley said, "We are done here," and turned to leave the house. Gates then followed Crowley toward the front door, where he saw other police officers outside. When the officer left his home, Gates followed, still trying to get Crowley's badge number and name. Gates reported that as he again asked for the officer's identification, pointing his finger at Crowley's chest, the officer responded, "Thank you for accommodating my earlier request; now you're under arrest," and then placed Gates under arrest. Gates was then transported to the Cambridge Police Station and was held for four hours.

Gates told the Cambridge Review Committee that in retrospect, he would not have done anything differently, other than stepping outside onto the front porch after the encounter with Crowley inside the house. Gates said he could not understand why Crowley did not further explain why he had come to the house, but rather had remained silent. He said that during his encounter with Crowley, he became concerned that he was considered a suspect, because Crowley was not responding to his questions and seemed to take a long time studying his identification cards. He said he could not understand how Sergeant Crowley could think he was a burglar—a slight, elderly man who walks with a cane and who comes to the front door, telephone in hand, to talk to the police. "What criminal would do that?" he wondered.

THE SIGNIFICANCE OF DIFFERING PERSPECTIVES

While some of the basic outlines of the July 16th incident are similar in Sergeant Crowley's and Professor Gates' accounts, there are significant differences in how the two men describe the event. As previously noted, the Cambridge Review Committee was not charged with conducting a definitive fact-finding regarding the incident of July 16th, and has not attempted to do so. The Committee feels strongly that such an inquiry would likely prove fruitless.

Even if conclusions could be reached, the Committee is unanimous in believing that such a narrow focus would miss the larger picture. What matters in this case is that two well-regarded people—one white, one black; one an experienced and well-trained police sergeant,

one an eminent scholar—experienced the same event and drew radically divergent conclusions about the implications of what happened.

In their interviews with the Cambridge Review Committee, Professor Gates and Sergeant Crowley each recalled a level of confusion at the other's behavior. Sergeant Crowley said that he requested that Professor Gates step outside to ensure their safety, as he was responding to a call about a break-in in progress. The implication is that he was concerned that an intruder might still be in the house. Sergeant Crowley could not understand why Professor Gates would not comply with his simple request.

Meanwhile, Professor Gates felt that it was Sergeant Crowley who was not responding to his inquiries and who had adopted a frightening tone. He was concerned that he was being seen as a burglary suspect.

On another point, Professor Gates said he was greatly disturbed that Sergeant Crowley refused to formally give him his name and badge number. He interpreted this refusal as an insult and an abuse of power. Sergeant Crowley, on the other hand, stated that he did attempt to provide his identification but that Professor Gates was yelling so loudly that he was unable to communicate with him. Further, Crowley stated that he was in full uniform with his name tag and badge number displayed. Sergeant Crowley interpreted Professor Gates' repeated questions as attempts to be belligerent.

These divergent views have been adopted and echoed by various groups and interested parties in Cambridge and across the country. In the simplest terms, some view the encounter as an example of racial profiling, while others see an example of responsible police work. As will be explained in this report, the Committee believes that these differences in perspectives are evidence that further work must be done between police agencies and their communities to explore differences in how they perceive each other, and how community members perceive police initiatives, programs, and actions.

3. BALANCING "PROCEDURAL JUSTICE" IN POLICING WITH TACTICAL AND SAFETY CONSIDERATIONS

The Cambridge Review Committee members believe that the encounter between Sergeant Crowley and Professor Gates resonated with many law enforcement officers and members of the public because it implicated the concept of "legitimacy" in the field of policing, criminal justice, and other institutions that are entrusted by the public to exert authority over people.

The extensive research in this area, led by Professor Tom Tyler of New York University, involves exploring why people choose to accept—or resist—the decisions made by others, and why people do or do not defer to authority. It is, accordingly, an appropriate subject with which to begin the discussion of the July 16th incident.

Social psychologists use the term "legitimacy" to describe the judgments that ordinary citizens make about the rightfulness of police conduct and the extent to which they support the police department or other government agencies. A judge can determine if a police action was lawful, and a police supervisor can determine whether an officer acted within the bounds of departmental policy. But citizens will form their own opinions about whether they view the actions of an officer as measured or excessive, as impartial or discriminatory. In short, did the officer exercise his or her discretion in a fair manner?

That is not to say that appearances tell the whole story, or that appearances can never be deceptive. There may be situations in which an officer's actions may not appear "legitimate" to some members of the public, but were nevertheless the right thing to do. Officers must be trained to do what is right, not what appears to be right.

A key element in whether the public considers police enforcement legitimate is whether police provide "procedural justice." Procedural justice not only involves whether a person believes that the law is fair and enforcement is even-handed, but also whether the police treat the person with dignity and respect as they enforce the law. Research has found that people's feelings about an encounter with the police can depend more on whether they believed the officer was respectful and courteous than on the actual outcome (e.g., whether they received a warning or a citation).[5]

5. National Research Council. (2004). "Police Fairness: Legitimacy as the Consent of the Public." *Fairness and Effectiveness in Policing: The Evidence.* Washington, D.C.: The National Academies Press.

Legitimacy and procedural justice are important because they can lead to greater levels of voluntary compliance with the law. When people believe that the police conduct themselves in ways that deserve support, they are more likely to behave cooperatively with the police, which leads to fewer incidents that put officers at risk.

The Cambridge Review Committee's interview of Professor Gates left committee members with the impression that Professor Gates believed he was denied procedural justice on July 16th. He believed that at several points, Sergeant Crowley refused to answer his questions, and Gates considered that silence demeaning.

However, the concepts of procedural justice and legitimacy must be balanced against tactical and safety considerations. Police officers' efforts to increase residents' perceptions of procedural justice must give way, at least temporarily, if they conflict with these tactical and safety issues.

For example, one of the best ways for officers to gain public support is simply to explain what they are doing and why. However, there are often tactical reasons why officers cannot share information; during a live encounter, they must be guarded about sharing information until they have established that the incident scene is secure, that risks are mitigated, and that no potential suspects are present.

The July 16th incident also demonstrates that side of the issue. During the first few minutes of his encounter with Professor Gates, Sergeant Crowley had concerns about his security and the safety of bystanders. He was responding to a 911 call about a possible break-in in progress. Thus, until he saw Professor Gates' identification cards, he may have had good cause to be guarded in his approach. If Professor Gates had understood Sergeant Crowley's safety concerns and had simply answered the Sergeant's questions and accommodated his request to step outside, it is likely that the incident never would have escalated to the level of conflict that it did.

The way an officer's actions are perceived can not only shape the community's judgment of that officer in that particular encounter, but also damage the public perception of other officers and the entire department if too many interactions with the police are viewed negatively.

This was evidenced in Cambridge after the July 16th incident. The community was not empowered to judge the arrest of Professor Gates as lawful or unlawful, but many residents expressed a variety of opinions about how the matter was settled. Some within the Cambridge community and across the nation felt the arrest was proper, while others felt the arrest was unnecessary and excessive and might have been discriminatory. Regardless of whether any of these views is accurate, when negative sentiments become the norm, the public's sense of procedural justice can come into question.

It is therefore critical that police take seriously the responsibility to apply discretion not merely within the strict letter of the law, but also wisely and fairly. When the police make the determination that strict enforcement action is needed to meet a legitimate law enforcement purpose, or, conversely, officers exercise their discretion to refrain from making an arrest because of mitigating circumstances, the cause of their actions must be recognized as fair and appropriate by the public or the perceived legitimacy of the action and the police will suffer.

It is important to note that discussions of "legitimacy in policing" do not carry any implication that today's police departments or police officers are somehow not legitimate. For purposes of this discussion, legitimacy is not an absolute quality in which police are legitimate or are not legitimate. Rather, the discussion is about the extent to which a particular police action, or a police initiative or policy, is perceived as fair and reasonable by the community.

The Committee also recognizes that some actions that police take are necessary but may not be perceived as fair or proper. In those cases, the agency's chief executive should seek out opportunities to explain more fully the circumstances.

There is one simple reason for police officers and police departments to aspire to legitimacy and procedural justice: Police need public support to do their jobs. As one police executive on the Cambridge Review Committee put it, "We can only police a community that *allows* itself to be policed."

Or as Sir Robert Peel, the 19th Century British Prime Minister known as the father of modern policing, put it, "The police are the public and the public are the police."

Psychologists have demonstrated that the public is much more likely to support and participate in the criminal justice system and support the officials who run the system when the public believes that the system is just and fair. People want to be treated with dignity. They want decision-makers to act without bias. In general they expect authorities to act in ways that inspire trust. If these things do not happen, then negative public perceptions follow. Public perceptions that the system is unfair can result in low levels of public support, which, in turn, can lead to diminished respect for the law. Research connects diminished respect for the law to less compliance with it.[6]

It takes time and commitment throughout the police ranks to develop and maintain the trust that is intrinsic to legitimacy. Even a single negative incident can erase progress made over long periods of time. So it is important that police supervisors and managers set expectations and review procedures to ensure the fair and respectful exercise of police discretion.

In fact, some police chiefs across the country speak in terms of explaining their plans to the members of their community, and requesting a community's "buy-in" prior to implementing a controversial or aggressive crime-fighting strategy. For example, a number of police chiefs, aware that security camera programs are often criticized by civil libertarians, have said that they frankly tell residents in particular neighborhoods, "We think it would be a good idea to install cameras in these particular locations, but we will not pursue the matter unless you accept our reasons and support the camera program."

A number of police departments across the country have also undertaken efforts to explain their initiatives during traffic stops and other encounters with members of the public. For example, officers who make large numbers of traffic or pedestrian stops as part of violence reduction strategies in high-crime neighborhoods can be instructed to "sell the stop" when possible—to say a few words that help to convey the larger context of the stop. However, as explained above, when an officer perceives possible risk to himself or others during a traffic or pedestrian stop, safety issues must take priority over efforts to increase perceptions of procedural justice.

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6. *See* Tom R. Tyler, *Why People Obey The Law* (1990).
See also Tracey L. Meares, *Norms, Legitimacy, and Law Enforcement*, 79 Ore. L. Rev. 391 (2000).

4. TEACHING OFFICERS AND THE COMMUNITY ABOUT DE-ESCALATING DIFFICULT ENCOUNTERS

A number of observers have found it difficult to understand how the July 16th incident between Professor Gates and Sergeant Crowley could "go from zero to 100 mph" in a matter of seconds. Were there unseen dynamics beneath the surface that boiled over seconds after Sergeant Crowley stepped onto Professor Gates' porch? What were those dynamics?

It appears that fear was an issue for both men. Sergeant Crowley was on the scene by himself at a priority call for service, a breaking and entering in progress, and he had not yet sorted it out. Were burglars still on the scene? If so, were they armed? Were the residents at home? If so, were they safe, injured, at risk, or even hostages? Most police officers can understand that Sergeant Crowley was concerned for his safety and the safety of others as he approached Professor Gates' house.

Meanwhile, Professor Gates had returned home from a trip to find his front door lock damaged, and it appeared the door had been "jimmied." A short time later, he observed Sergeant Crowley on his porch. As soon as Crowley gestured to Gates and asked him to step outside, Professor Gates said, he became so fearful that "all the hairs stood up on the back of my neck and I realized that I was in danger."

In an interview posted on TheRoot.com, Gates explained why he was afraid: "Now it's clear that he (Crowley) had a narrative in his head: a black man was inside someone's house, probably a white person's house, and a black man had broken and entered, and this black man was me." So Gates, instead of being relieved to find the police at his home, was afraid that the police would believe that he was a burglar.

In retrospect, it appears that if either Sergeant Crowley or Professor Gates had been able to articulate his concerns to the other, or ideally if both had been able to make their positions understood, the incident might have been resolved quickly and peacefully.

From Gates' point of view, once he produced his identification cards, the incident could have been immediately defused if Sergeant Crowley had said something like, "If I appeared brusque earlier, it's because I needed to be cautious about how I approached you. I'm on the scene without backup at a 911 call of a burglary in progress involving two men, and I was afraid there might be armed intruders in your home. That's why I asked you to come outside on the porch. I can understand why you might not have understood my position. Here's my card if I can do anything else to assist you."

And from Crowley's point of view, the incident might have been defused if Gates had said, "Yes, officer, here is my ID and I will provide any information you need."

But because the misunderstanding persisted, things went the other direction—in a direction that, regardless of how anyone might assign blame, clearly was not a "legitimacy-enhancing" encounter.

Police have a significant amount of discretion in how they respond to encounters with members of the public. Furthermore, encounters with members of the public are dynamic; the situation can change minute by minute. Changes in the situation should result in changes in what officers say and how they say it. Thus, when police believe they are not in physical danger, they generally should try to put citizens at ease and de-escalate tensions.

For their part, community members should understand that when they are in the midst of an encounter with a police officer, they should comply with the officer's instructions and respond to the officer's inquiries, recognizing the inherent risks that officers must handle in many situations.

As one member of the Cambridge Review Committee said to his colleagues regarding the challenges facing police today:

"The interpersonal skills of people today are not strong. People spend more time today using computers, phones, and other impersonal communications devices. They spend less time face-to-face with people. Officers need to be trained to communicate better and make better decisions. We don't train officers in how to de-escalate from a situation. Officers can be trained to back out of a situation with what they say. In policing we have a continuum-of-force, with firearms at the top, and below that Tasers, OC spray, batons, and so on. We need to develop a continuum in the use of discretion and de-escalation. De-escalation needs to be seen as one of the tools that officers can pull out of their toolbox to defuse a situation."

The Cambridge Review Committee believes that the July 16th confrontation was avoidable. Sergeant Crowley and Professor Gates missed several opportunities to "ratchet down" the situation and end it peacefully.

The Committee believes that the police departments in Cambridge and in other departments across the country can better train their officers to understand when they should attempt to de-escalate an encounter, and when they should not. Training can focus on the communications skills and techniques that have proved useful in this area. This training should be provided not only to new recruits, but also on an in-service basis to sworn officers.

The Committee believes that police also should discuss with their communities the role of community members in being cooperative and civil with their police officers. Community members must be made aware of the inherent dangers and risk involved in police officers' daily encounters with the public. The time to question a police officer's actions is not at the very moment of the encounter, but later, when there are no safety or security considerations at issue.

At the same time, officers should be trained to expect that some members of the public will not be as reasonable as the police are trained to be. Ideally, both the police officer and the civilian will conduct themselves reasonably and will choose to de-escalate any tense encounter. But if the civilian does not do so, the officer must be trained to take the higher road and work to de-escalate the encounter.

In some cases, de-escalation also can be a tool for helping to reduce danger by calming a person who is upset or unstable.

The Committee is not saying that de-escalation should be a goal in every police encounter with a member of the public. Though it would

be ideal to de-escalate encounters with known violent offenders or persons exhibiting violent or threatening behavior, officers' priority must be to gain control of the situation in order to safeguard others and themselves. When police officers have encounters with people they do not know, they are correct to be wary and on guard against the threat of violence. In 2008, 58,792 police officers were assaulted in the United States, and 41 were killed feloniously, according to the FBI.

Police can explain these types of concerns to residents at community meetings and other venues—not when potentially dangerous incidents are playing out on calls or in the street.

Part of the process of advancing procedural justice is explaining to residents why police do what they do, and why they exhibit certain manners in certain situations. This can include explaining why an officer who seems "abrupt" or "rude" may simply be focusing on studying his surroundings and staying alert to the possibility of threats. One of the most important ideas to convey may be that residents should not expect officers to be casual and friendly while they are in the midst of what, from the officer's point of view, may be a potentially dangerous situation. Citizens should be sensitive to the idea that questioning police authority can sometimes exacerbate an already tense encounter.

At the same time, police should be taught that "officious" behavior can unintentionally offend and frighten citizens, and that sometimes the actions that police take to protect their safety and the safety of others can seem cold, insensitive, or overly authoritarian.

Thus, police should recognize that for many citizens, the actions of a police officer in uniform create a certain degree of anxiety and tension. Whatever police can reasonably do to explain the reasons for the interaction and de-escalate a situation is vital to the peaceful resolution of the encounter. And the more that residents truly understand the challenges that police officers face and how they try to handle them, the more likely it is that residents will be inclined to obey the law, defer to police authority when requested to do so, and generally support police crime-fighting programs.

5. POLICE OFFICER DISCRETION

According to Sergeant Crowley's Incident Report, once he saw Professor Gates' Harvard University identification and believed that Gates was lawfully in the residence, he called for the Harvard University Police to respond and intended to leave the scene. But according to Crowley's account, Gates "continued to yell at me" and followed Crowley outside. "Due to the tumultuous manner Gates had exhibited in his residence as well as his continued tumultuous behavior outside the residence, in view of the public, I warned Gates that he was becoming disorderly," Crowley wrote. "Gates ignored my warning and continued to yell, which drew the attention of both the police officers and citizens, who appeared surprised and alarmed by Gates's outburst. For a second time I warned Gates to calm down while I withdrew my department issued handcuffs from their carrying case. Gates again ignored my warning and continued to yell at me. It was at this time that I informed Gates that he was under arrest."

As stated earlier, the Cambridge Review Committee was not charged with determining whether Sergeant Crowley's arrest of Professor Gates was justified or within department policy. Sergeant Crowley told the Cambridge Review Committee that given the circumstances, he believed that he "had no choice" but to make the arrest. The Committee believes that Sergeant Crowley did have other options to consider, and that both he and Professor Gates missed opportunities to de-escalate their encounter. The Committee notes that City of Cambridge asked the prosecutor to drop the charge "in the interests of justice."

There are a number of questions that can be asked about any incident involving a police officer's discretion in making an arrest:

- Did the nature and severity of the violation justify an arrest?
- Were there mitigating circumstances against the arrest?
- Was arrest the most effective way to resolve the situation?
- Were there legitimate alternatives to defuse the situation without making an arrest?
- Could the expectations of the community and the police have been met by employing a solution other than arrest?

The following pages of this report address this general issue of police officer discretion—the thousands of incidents every day in which officers have multiple options for handling

a situation. All of the options may be within police department policy, but some options will be more effective than others, not only in resolving the immediate conflict, but also in promoting police-community relations. This section of the report is about those situations in which police supervisors tell their officers, "Just because you *can* do something doesn't mean you *should*."

WHAT IS DISCRETION?

Police discretion is the latitude granted to police officers to determine how to respond to a violation of law—by making an arrest, or perhaps taking some lesser measure. The legitimate exercise of discretion involves the interplay of public safety and considerations of fairness, empathy, and common sense, within prescribed boundaries set by the law and departmental policy.

Cambridge Police Commissioner Robert Haas told the Committee that the July 16th incident actually has prompted calls for the abolition of police discretion. But the Committee, like Commissioner Haas, believes that such a proposal is unworkable and undesirable.

Herman Goldstein, the University of Wisconsin law professor who advanced the concept of problem-oriented policing, a major advance in police thinking in the 1980s and 1990s, has written that the police officer's job often involves making the best of troublesome situations.

"Through the exercise of discretion, police officers—against great odds—often demonstrate a remarkable ability to arrive at effective and fair solutions to the problems they must handle," Professor Goldstein wrote in his 1977 book *Policing a Free Society*.

As a New York Police Department training manual notes, "There are many reasons that police exercise discretion. Most important, it simply is not possible to come up with a textbook solution to every problem that officers are asked to confront on the street."[7]

Sociologist James Q. Wilson concluded from his studies that a small percentage of a police officer's time is spent on actual law enforcement, including making arrests and issuing summonses. The vast majority of the officer's time is spent on "order maintenance"—the handling of problems or potential problems with some combination of warnings, referrals, mediation, and cajoling.

There is a strong consensus in American society that police officers must have some discretion in enforcing the law. A universal policy of zero tolerance for any violation of any law would be extremely impractical. Officers would have little time to focus on serious crimes because they would be busy dealing with jaywalkers and other minor offenders.

Furthermore, a 100-percent zero tolerance policy would not be readily supported by the public, because it is incompatible with the service-oriented duty of the police. People expect their police departments to perform a real service—protecting residents and ensuring their safety. This is a difficult job that requires thoughtfulness, judgment, and flexibility.

A policy of zero tolerance for any violation of any law is also incompatible with commonly understood notions of justice. There are frequently good reasons for not enforcing apparent violations of law, including the need to focus limited police resources on more serious offenses, the need for flexibility to solve problems short of arrest, or even the appreciation

7. NYPD *Police Student's Guide: Discretion*, p. 23. July 2009.

that, in certain circumstances, strict compliance with the law can be more harmful than not.

Consistent with these ideas, the U.S. Supreme Court has repeatedly recognized police discretion as necessary and proper. However, the court also has discussed the harm that can flow from broad grants of discretion or the abuse of police power.

Constitutional law recognizes that police officers must make subjective discretionary determinations in the course of their duties. Discretionary decisions regarding whom to stop, whom to search, and whom to arrest are commonly made by officers on the street, subject to a review of whether the exercise of discretion was consistent with the Fourth Amendment ban on unreasonable searches and seizures.

The two sides of the discretion coin were summed up by Justice Sandra Day O'Connor in 1999, when the Supreme Court considered the Constitutionality of a Chicago ordinance that banned street gang members from loitering in public places. The court struck down the ordinance, and one of the court's reasons was that the ordinance did not provide sufficient limitations on police discretion.

"I agree that some degree of police discretion is necessary to allow the police to perform their peacekeeping responsibilities satisfactorily," Justice O'Connor wrote in a concurring opinion. "A criminal law, however, must not permit policemen, prosecutors, and juries to conduct a standardless sweep ... to pursue their personal predilections." (*Chicago v. Morales*, 527 U.S. 41 (1999))

SHAPING DISCRETION THROUGH LAW AND REGULATION

Police discretion is limited not only by court rulings such as *Morales* and by the texts of statutes and ordinances, but also by police agency general orders and workplace rules.

In certain cases, laws and policies restrict police officers' discretion in ways that are intended to provide strict enforcement of laws. For example, many jurisdictions today have laws or policies *requiring* officers to make arrests when responding to calls involving domestic violence or violations of restraining orders. These laws and policies are intended to put an end to what was seen as weak enforcement of such laws in past decades. Similar mandates are in place in some jurisdictions for the crimes of child abuse, elder abuse, and driving under the influence of alcohol or drugs.

However, these mandatory arrest directives involve only a tiny fraction of crimes on the books. The more typical method of managing discretion is to shape it, rather than to prohibit it.

Police discretion must be managed because any exercise of discretion potentially involves arbitrary or discriminatory enforcement of law. And misuse of discretion can damage the relationship between police agencies and the communities they serve.

So police departments must take affirmative steps to establish a culture that encourages officers to take initiative and exercise discretion in choosing appropriate actions and alternatives when an arrest is not the best solution. Departments should develop protocols guiding officers in their use of discretion in the enforcement of various laws under various circumstances, but they cannot be expected to address every possible situation. Guidance should include clear policies and value statements, developing training for new recruits and current officers, establishing review procedures that allow line supervisors and managers to monitor officers' use of discretion, and imposing discipline for aberrant conduct.

Perhaps most important, police departments should foster an open dialogue with the communities they serve. They should seek to understand residents' perceptions of the use

of discretion by officers, as well as residents' expectations regarding the limits on discretion that they believe are reasonable and proper.

ENSURING THAT OFFICER DISCRETION IS USED APPROPRIATELY

Defining the limits of police officer discretion is a task that police departments increasingly are undertaking in the context of the police legitimacy and procedural justice concepts discussed in this report.

As previously noted, citizens will form their own opinions about whether the actions of an officer were measured and impartial, rather than excessive and/or discriminatory. And this can be a very important consideration, because even if an officer's perceived abuse of power does not result in police department discipline or have an impact on any court proceedings, it can cause damage to the reputation of an entire police department.

From the standpoint of public opinion, the arrest of Professor Gates was an important incident. It is probably safe to say that millions of Americans know about the incident and have strong opinions about it, and that those opinions vary widely depending on whether a person sees the incident as a question of race, or class, or police authority, or respect, or some combination of different points of view.

The fact that President Obama took the unusual step of commenting on a local police incident was perhaps the strongest indication of how a single incident can quickly become a national story with profound implications for the police department and community.

TO ARREST OR NOT TO ARREST

Typically, the more serious the crime, the more likely it is that an arrest will be made. An officer is often expected to make decisions on a discretionary basis regarding whether to make arrests for less serious offenses, such as disorderly conduct, public intoxication, loitering, loud music, disturbing the peace, and even littering. These offenses are not necessarily inconsequential; they can impinge upon the good order of a neighborhood and can harm the quality of life for the residents. Indeed, officers' ability to conduct "problem-solving" to deal with such conditions is at the core of community policing. In these circumstances, the officer considers, among other things, what harm must be addressed and whether an arrest is the best means to correct the harm and, if so, at what cost.

For instance, community patrol officers might adopt a strict posture toward the enforcement of an "open container" law to address local residents' complaints about loud, boisterous persons drinking in the streets in the early morning hours after nightclubs close. The same officers will likely make an equally appropriate decision to ignore a violation of the same law when they see a man sitting on his own porch at dusk drinking a beer.

6. "DISORDERLY CONDUCT" LAWS

One type of law that typically involves a great deal of officer discretion is "disorderly conduct" statutes. This is the violation for which Sergeant Cowley arrested Professor Gates. Massachusetts General Law 272 § 53 provides that a person is guilty of disorderly conduct if, with purpose to cause public inconvenience, annoyance or alarm, or recklessly creating a risk thereof, he (a) engages in fighting or threatening, or in violent or tumultuous behavior; or (b) creates a hazardous or physically offensive condition by any act which serves no legitimate purpose of the actor.

Courts generally have upheld disorderly conduct statutes, not striking them down unless they are unconstitutionally vague. Massachusetts courts have held that the law cannot prohibit conduct that involves the lawful exercise of a First Amendment right, and that a defendant cannot be convicted of disorderly conduct based solely on his speech.

Disorderly conduct laws often list several types of actions that can be considered disorderly conduct, such as public drunkenness, fighting, obstructing traffic, and making loud or unreasonable noises. But in general, such statutes call upon the patrol officer to determine whether the actions of a citizen are a threat to good order or peacefulness.

THE CAMBRIDGE POLICE DEPARTMENT'S REVIEW OF ITS DISORDERLY CONDUCT ARRESTS

In the aftermath of the July 16th incident, the Cambridge Police Department conducted an analysis of its disorderly conduct arrests in recent years in an attempt to detect any patterns that could suggest misuse of discretion. Essentially, the Police Department conjectured that there may be a higher likelihood of misuse of discretion (for example, making an arrest as retribution for citizen "backtalk" or disrespect of the police) in cases where the officer is the only "victim" of the disorderly conduct, as opposed to cases in which the arrested person was fighting another person or otherwise involved with other "victims." In Cambridge, 38 of the 115 disorderly conduct arrests in 2008, or 33 percent of the total, fell in the "officer victim" category.

Furthermore, the Police Department conjectured that another possible indicator of questionable use of discretion could be that the arrested person was not charged with any additional offenses. In Cambridge, 26 of the 115 disorderly conduct arrests in 2008, or 23 percent, did not involve any other charges.

When those two factors are combined in a matrix, the result is that 9 of the 115 arrests, or 8 percent of the total, were situations in which the officer was the only "victim" and no charges were filed other than disorderly conduct. The Cambridge Police Department analyzed the arrest reports of all the cases to study the reported circumstances of the arrests (e.g., "kicked out of bar for fighting," "interfered with the arrest of his brother for firearm and drugs," "Citibank protest—4 protesters chained themselves to door of bank"), and also subjected its statistical breakdowns to racial analysis.

The Police Department concluded that its analysis of arrests, particularly the 9 arrests in the highest-risk category, does not indicate misuse of power. Commissioner Haas told the Cambridge Review Committee that he does not believe that the July 16th incident reflects how the city's Police Department generally does its job, and that he considers the incident an aberration.

The Cambridge Review Committee found this analysis compelling and recommends this type of analysis to other police departments.

7. COMMUNITY PERSPECTIVES

Members of the Cambridge Review Committee held two citywide public meetings and attended community forums and other events in an effort to gather information about the nature of the city and residents' relationship to their Police Department. Following are a number of observations based on those efforts:

Cambridge is a diverse community, and its residents take pride in how strongly they value all types of diversity, including diversity of race, ethnicity, religion, sexual orientation, and economic status. Many residents of Cambridge have chosen to live in this community because of this longstanding and widely held belief in the value of diversity. Thus, any incident that is perceived to involve unwarranted bias against an individual represents a challenge to these values.

The residents of Cambridge also express pride in valuing "participatory democracy," defined as taking pains to ensure that all voices can receive a public hearing. Beginning in the 1960s, the residents of Cambridge have often sought to influence local, national, and international public policy by expressing a broad range of ideas. Today, this commitment to participatory democracy is seen in the large number of community groups that regularly meet among themselves and with public officials to express concerns and offer recommendations about community problems.

Many community residents see the Cambridge Police Department as an important organization in helping Cambridge to meet the goals of valuing diversity and maintaining an open and participatory form of community government.

The Cambridge Police seem to embrace this role. A number of police officials, in discussions with the Cambridge Review Committee, used the term "policing the Cambridge way," which means being more tolerant of diversity than may be the case in other communities, and understanding that participating in community conversations about a range of topics is an important part of the Police Department's job.

CONCERNS ABOUT HOW THE CITY OF CAMBRIDGE WAS PORTRAYED IN THE NEWS MEDIA

The reactions of Cambridge residents to the July 16th incident varied widely. Some found fault with Sergeant Crowley, while others found fault with Professor Gates. However, some broad themes have emerged from the Cambridge

Review Committee's conversations with community members.

One broadly held reaction was that the incident portrayed Cambridge in a negative light, in what most believed was an unfair and inaccurate portrayal. Most residents of Cambridge who spoke with the Committee seemed to hold their Police Department in high regard and embrace the values of diversity that are important to the community. Hearing Cambridge talked about negatively in the national news media was painful.

Many community members felt that having a positive outcome from this incident is very important, both for the community of Cambridge and the nation. Many community members told Committee members that this kind of incident could happen anywhere in America, so it is important that the City of Cambridge identify lessons to be learned from this troubling incident.

ISSUES RAISED BY COMMUNITY MEMBERS

A number of observations emerged from discussions between members of the Cambridge Review Committee and community members at public forums and other meetings. Several of these observations are summarized below:

- **Need for community education about the role and limitations of the police:**
  The July 16th incident exposed a need for police and community members to understand each other better and to discuss what the police do, why they do it, and any constraints on the police of which community members may be unaware. For example, it was clear to the Committee that the police sometimes act to protect officers' safety in ways that may be misinterpreted by some members of the community.

  Community members also raised issues not related to the July 16th incident but relevant to the general issue of improving the community's understanding of police operations. For example, a number of residents discussed the role that police can play in resolving disputes that occur among neighbors. Incidents such as loud parties, trash in someone's yard, or youths hanging out on street corners are often seen as a problem for the police to handle. But it became clear to the Cambridge Review Committee that the police often have limited tools to resolve these kinds of problems on their own, and that neighbors working with each other and with the police might find additional ways to deal with these "quality of life" problems.

  Community members expressed support for the Neighborhood Sergeants Program, in existence in Cambridge since 1997, which assigns sergeants to each of 13 neighborhoods in Cambridge. The program allows community members to get to know individual officers, and helps those officers to understand the concerns and needs of individual neighborhoods. A number of residents suggested that this program is already effective at improving police-community relations. This existing avenue for interactive communications could be expanded to include in-depth discussions about why police do things in certain ways.

  Community members also called for a broader conversation about what behaviors constitute disorderly conduct, and about techniques that might be used by police and community members to de-escalate potentially volatile situations.

- **Focusing on the importance of using discretion to identify effective solutions:**
  A number of Cambridge community members said they would like to see continued training of officers in ways to de-escalate

conflicts. Whether police use discretion wisely in volatile situations has a significant impact on the community's view of the police. If the community views the police response as racially biased or as disproportionate to the risk posed by the individual, they will question the proper use of discretion and problem-solving in other areas as well.

- **Need for swift and reliable communication between city leaders and the public:** A number of community leaders recognized the importance of communication in the aftermath of the July 16th incident. Local leaders requested that a plan be developed to define how communications should flow in the future. The City Council, City Manager's Office, and Police Department would work together on such a plan.

THE COMMUNITY'S ROLES AND RESPONSIBILITIES

Community leaders understand that the success of all efforts to improve police-community communications and relationships depends on the willingness of everyone concerned to act responsibly.

Communities and individuals who have concerns about their interactions with officers and/or the Police Department in general must be willing to bring those concerns, in a constructive manner, to officers. This may be accomplished by contacting the Police Department directly or by raising issues in public forums. Such airing of concerns is essential to bridging gaps between the community and their police.

At the same time, these public forums can serve as opportunities for the police to explain that the time for debate is not when an officer is plainly engaged in the investigation of a crime or a response to a call for service. The public should always honor officers' requests that residents not interfere when they are trying to stabilize a scene, make an arrest, or save a life.

Additionally, officers should recognize that once the initial encounter has been de-escalated or stabilized, the police should explain why the encounter occurred and to take responsibility for any inconvenience that may have resulted.

Open discussion of these types of issues at community meetings will help to ensure that residents will understand and fulfill their duties in this regard.

BUILDING BRIDGES BEFORE YOU NEED THEM

Many experienced police chiefs have noted that one of the most difficult challenges in their job is that a single serious mistake by an officer, or even a proper action that is misunderstood by the public, can undermine years of efforts to build public support for a department that may in fact have a well-disciplined police force operating under strong, effective, humane policies.

By the same token, many police chiefs have said that when an incident of excessive force by an officer or some other mistake or perceived abuse of authority does occur, the most important asset that a police department can have is a solid foundation of trust and goodwill among its community members. Experienced chiefs advise their less-experienced colleagues to make a top priority of establishing good relations with their communities from their first day in office, if for no other reason than the fact that they will need strong allies in the community to help them manage the bad incidents that can occur even in a well-run department.

Veteran police chiefs stress that the time to build a bridge is not the day *after* you needed to cross the river. Close relationships with the community cannot be established overnight or in the midst of a crisis. Rather, they must be built up by years of community meetings and consultations. The meetings may have different

topics, but the important subtext of all community consultations is the following message: "We, the police, genuinely care about your needs and your views about what you want from the police, and we will try to be the kind of police department you want and deserve."

Efforts by police to work with community members can be complicated by the fact that community perceptions may vary from one neighborhood to another or may change over time. One size does not fit all.

ENGAGING CAMBRIDGE'S ACADEMIC COMMUNITY

A number of community members believe that the sizeable academic community in Cambridge does not interact to any great extent with the city government in general or the Police Department in particular. They suggested that city officials explore ways to reach out to academic leaders and bring them into local government activities. The highly respected academic institutions in Cambridge undoubtedly have a great deal of expertise and national perspectives to offer on local issues. And a greater involvement and sense of "connection" between the city's major universities and the local government will help to cement relations and prevent the "town/gown" divisions that often trouble cities with sizeable academic communities.

Furthermore, the Committee believes that the Cambridge Police Department should make concerted efforts to work with the Harvard University Police and MIT Police toward greater integration of their missions, policies, procedures, and training. Many police managers share the view that any city police department that shares jurisdiction with university police agencies, or other agencies such as transit and housing police, benefits from developing close cooperation and mutual understandings with those agencies. When multiple police agencies share jurisdiction over a community, the more their operations can be coordinated and standardized, the easier it becomes for the public to form accurate expectations of the police, regardless of which department they may encounter. This is never an easy task in cities across the country; but Cambridge, with its unique culture and its academic partners, may be able to serve as a national model in this regard.

8. POLICE RECRUITMENT AND TRAINING

POLICE RECRUITMENT

The job of a police officer has evolved significantly in the last few decades. Historically, police recruitment was deemed successful if it simply resulted in a large applicant pool. Recruiters tended to highlight the aspects of policing that were considered most likely to attract a young man's attention: kicking in doors and making arrests. And usually the selection process focused on finding applicants who met established minimum qualifications. In other words, if an applicant who passed the written entrance exam was not disqualified by a criminal record or other problem, he or she was qualified, and was hired.

Today, policing requires a more complex assortment of knowledge, skills, and abilities, such as being comfortable with high technologies, developing strong problem-solving skills, and using sophisticated communications techniques to keep control of a situation. Today's policing requires finding innovative solutions to community problems, neighborhood disputes, and everyday calls for service that often do not result in any arrests or court involvement.

With the advent of community policing and problem-oriented policing in the 1980s came a recognition that officers can make a greater impact on crime, disorder, and the quality of life in their communities if they know how to interact with the public to jointly solve problems. The Community Oriented Policing Services (COPS) Office of the U.S. Justice Department conducted a project aimed at attracting recruits who would make good community police officers. At about the same time, efforts in California began to focus on occupational parameters for community policing. Various behavioral and psychological dimensions were formulated and incorporated into officer selection processes. Sought-after "positive behaviors" were based in part on concepts of wise use of discretion and de-escalation of conflicts.

A number of forward-thinking police agencies have recognized that problem-solving abilities, the skillful exercise of discretion, and good judgment are not simply topics to be taught in a Police Academy setting. Rather, these qualities may be reflected in the personal characteristics of people who apply for the job of police officer. As a result, some police departments have begun to examine their recruiting and selection processes to determine if they are in fact hiring the most suitable applicants, those with the best skill sets for officer positions.

However, to varying degrees, many police departments remain subject to regulations and

processes that thwart their ability to reach out to the best applicants.

Recruitment of police officers in Cambridge is handled by the Police Department with significant city involvement and oversight. Although the Police Department's diverse recruitment team understands the desirable characteristics sought after in recruits (including problem-solving, communications skills, and community involvement), no targets are established and no formal training exists for recruiters to bring in candidates with these qualities.

These conditions persist, to a large degree, because the department's hands are tied when it comes to hiring officers. In the Commonwealth of Massachusetts, selection processes are bound by civil service regulations that call for strict rank-ordered hiring from a certified hiring list. Individual standing on that list is determined solely by applicants' written test scores, rather than by testing the practical skills required in modern policing. In many instances, the department's first opportunity even to interact with applicants comes when they are cleared for hiring. This makes it difficult for the Cambridge Police Department to seek out applicants possessing the most favorable behavioral traits.

That is not to say that Cambridge's existing police force does not have officers who are well-suited to the 21st Century roles of police officers. It is only to say that the task of hiring such officers in Cambridge has been made more difficult by statewide civil service regulations.

POLICE TRAINING

After officers are hired, the challenge for police departments shifts to training. This is the stage at which new officers are prepared to meet the challenges they will encounter on the street. How well an officer is prepared to handle a critical incident, the de-escalation of a confrontation, the exercise of discretion, or making an arrest depends on the officer's personal qualities, as discussed in the section on recruiting above. But an officer's success also depends on the strength of the instructional material in the recruit academy curriculum, and on the careful direction of those who teach, guide and mentor newly hired officers.

Police departments in the United States all have relatively similar training requirements. New officers must undergo rigorous instruction and training on an array of topics that includes: Constitutional and criminal law; police department policy and procedure; criminal procedure; tactics and officer safety; firearms and other use-of-force options; emergency driving; and scores of others.

Police training commissions in some states believe that all this material can be covered in as little as eight or nine weeks; many more require police academy programs that run as long as six months. Some larger police departments administer their own academies; other academies are managed by state training commissions; and some academies are affiliated with educational institutions.

Upon completing police academy instruction and achieving state certification, recruit officers undergo "field training," in which they ride with designated veteran officers for another 6 to 12 weeks. During this time, the recruits get their first real-world opportunity to apply what they have learned, and they must demonstrate their proficiency in key areas that include problem-solving and conflict management skills. Thereafter, states require that officers undergo a minimum number of "in-service" training hours every year. Typically the state police training commissions dictate some topics to be covered in annual in-service training, and the police departments select elective topics. In addition, throughout officers' careers, they may be afforded specialty training (investigations, traffic enforcement, etc.), and they may undergo training to prepare them for key promotions.

Though police academy curricula vary, there is one common problem: *There is simply too much to teach in too little time.* Often this results in some topics being ignored or covered in a cursory way. For example, if a lack of time forces trainers to choose between defensive tactics and verbal de-escalation techniques, most academy directors will choose defensive tactics, in order to keep their officers safe.

Some academies make time for both. In New York City, the Police Academy first introduces topics like discretion and tactical communications in its Student Guide, which is given to all recruits. Many officers who have attended tactical communications courses (such as one called "Verbal Judo") report that these courses taught them phrases and strategies to verbally disarm uncooperative persons. Many veteran officers believe that de-escalation strategies of this type can be of great value at the entry level because many of today's recruits have rarely faced extremely angry people.

There is room for variation and creativity in police training programs. The Wisconsin Law Enforcement Standards Board has developed a curriculum that focuses on how police can communicate with and engage the public. Police in Washington, D.C. asked the Anti-Defamation League and the U.S. Holocaust Memorial Museum to develop a program that draws on lessons learned from the Holocaust and explores the personal responsibility of officers to administer their authority in an ethical manner. Since 1998, more than 50,000 police officers and federal agents have undergone this training.

Another program, called Tools for Tolerance for Law Enforcement, focuses on trust, respect, and critical thinking skills in the areas of diversity, ethics, and values. This program has been adopted in many police departments across the nation. In an effort to bring innovative and practical training to its members, the Cambridge Police Department sent two of its officers to California to assess this program, and has decided to offer this training department-wide. Participants engage in discussions of diversity, personal values, and responsibility, as these concepts are applied to the workplace and beyond.

TRAINING OF RECRUITS AND OFFICERS IN CAMBRIDGE

In Cambridge, the Police Department complies with the training requirements of the Massachusetts Police Training Commission (MPTC), first by sending all new recruits to the MPTC Certified Academy in nearby Lowell, Mass. The Cambridge Police Department has assigned one full-time, sworn instructor to the academy. This instructor gives the department input into the training provided to Cambridge's new hires, and serves as a daily link between the department and its recruits during the 24-week academy. At the conclusion of the academy training in Lowell, recruits ride with a seasoned officer in a 10-week Field Training Officer (FTO) Program. Upon demonstration of the knowledge, skills and abilities required of officers to adequately perform the job of police officer, recruits are approved for solo patrol assignments.

Although the Lowell Academy curriculum is extensive, there is no specific block of instruction that deals with officer discretion or de-escalation techniques, other than Verbal Judo, which is incorporated in defensive tactics training. However, recruits are given training in issues of racial profiling, hate crimes, and community policing. Annual in-service training consists of 48 state-mandated hours, plus 16 elective hours of instruction to be determined by the department, but the topics of discretion and de-escalation have not been covered in this training either.

This 24-week police academy provides comprehensive entry-level training, but the 10-week FTO program, used by many police agencies for decades, is no longer considered

a professional best practice. Many progressive police agencies have moved to a 13-week multi-phase Police Training Officer program first employed by the Reno Police Department in 2001, which emphasizes critical thinking, problem-solving principles, and adult-learning methods.

As discussed earlier in this report, the Committee believes that the Cambridge Police Department and other departments across the country should train their officers to identify circumstances in which they should attempt to de-escalate an encounter, and circumstances in which officer safety and other critical considerations must be addressed first. Training also should focus on the communications skills and techniques that have proved useful in this area. This training should be provided not only to new recruits, but also on an in-service basis to sworn officers.

ANOTHER PERSPECTIVE: "ZONES OF CONFLICT" AND "IDENTITY QUAKES"

Cambridge Review Committee panelist Aaron David Miller, an expert in Middle East politics and negotiations, offered an analysis of the July 16th incident in terms of conflict management principles. These principles could be included in training officers to understand why community members—or police officers themselves—might react disproportionately to each other. In Dr. Miller's view, interpersonal conflicts are dynamic situations, and the July 16th incident can be seen as moving through two "zones of conflict," or phases.

Drawing on concepts explored in the Harvard Negotiation Project and the book *Difficult Conversations: How to Discuss What Matters Most*, Dr. Miller also discusses why the psychological concept of "identity quakes" may be pertinent in this regard. Additional information is contained in an appendix to this report.

9. RECOMMENDATIONS

The following pages include a number of recommendations that are intended not only for the Cambridge Police Department, but as general "lessons learned" for police departments nationwide. The Committee acknowledges that the Cambridge Police Department already has undertaken a number of initiatives in many of these areas, including initiatives that predate the July 16th incident.

1. WHEN "LEGITIMACY" AND SAFETY ISSUES COLLIDE:

Police should recognize the importance of "procedural justice," and the community should understand the complexities and inherent dangers that police often face in encounters with the public, and that officers may need to exercise caution.

The concept of police "legitimacy" defines the extent to which a police department has support in the community for its actions and decisions. A key element in whether the public considers police enforcement legitimate is whether police provide "procedural justice." Procedural justice not only involves whether the person believes the law is fair and the enforcement of the law is even-handed, but whether the police treat the person with dignity and respect.

For police departments, there is one simple reason to seek high levels of perceived legitimacy and procedural justice in the eyes of the public: Police need public support to do their jobs effectively.

It takes time and commitment throughout the police ranks to develop and maintain the trust that is intrinsic to legitimacy. Police departments should strive to make legitimacy and procedural justice concepts that officers, commanders and chiefs think about on an everyday basis.

Police—from the chief to the officer on the street—must have a wider variety of two-way communications with community members—explaining police operations when that will help reassure the public, and soliciting the public's input about police operations.

These communications should not be made only in a one-time community forum. Rather, they should be incorporated wherever they may be helpful in the day-to-day thinking of the police and community members.

Discussions of procedural justice must include discussion of how this interest should be balanced against other

interests—in particular, the safety of police officers and bystanders, and police tactics for controlling a potentially dangerous situation. The fatal shooting of four police officers in Oakland, California in March 2009 is just one of many examples of officers killed in situations that began with a "routine" traffic stop. As important as it is to advance police-community relations, proper procedures that safeguard officers and the public cannot be compromised.

These are the types of considerations that can be explained in a community meeting or through new types of electronic communications available to police agencies, such as blogs, emails and Twitter messages to residents, and so on. There are many real-world video clips available that can be very instructive on this point—for example, police dashboard camera footage showing seemingly benign motorists who suddenly fire guns at officers, turning traffic stops into fatal encounters.

Police can build public support by making presentations on these issues in their regular community meetings or ad-hoc meetings about particular operations, or by holding special forums in the community to explore these issues in depth.

For example, if police are contemplating saturation patrols, traffic stops, and pedestrian stops in a particular neighborhood in order to deal with a severe spike in violent crime, police can enlist community support by explaining their thinking to the community in advance, and soliciting residents' views about whether they support such tactics. Law-abiding persons who are subjected to repeated traffic stops as part of such an operation may be more likely to support the initiative if they believe that the purpose is to rid their own neighborhood of violent crime, and if they have been asked in advance by the police for their views and support for such a plan.

2. DE-ESCALATION OF CONFLICTS:

Officers should be trained in interpersonal communication skills in order to de-escalate tensions in encounters with members of the public—*after* they have satisfied themselves that they have control of the situation and that dangers have been mitigated. In some cases, de-escalation also can be a tool for helping to reduce danger by calming a person who is upset or unstable.

The Cambridge Review Committee believes that police should be trained to understand that:

- police have a significant amount of discretion in how they respond to encounters with members of the public,
- encounters with members of the public are dynamic, and changes in the situation should result in changes in what officers say and how they say it, and
- when police have mitigated the risks in an encounter, they generally should de-escalate tensions, and should see de-escalation as one of the tools that they can pull out of their toolbox to defuse a situation.

For their part, community members should understand that when they are in the midst of an encounter with a police officer, they should comply with the officer's instructions and respond to the officer's inquiries, recognizing the inherent risk that officers must handle in many situations.

Training also should focus on the communications skills and techniques that have proved useful in this area. This training should be provided not only to new recruits, but also on an in-service basis to all sworn officers.

The committee believes that police departments should also work to educate their communities that community members also have a role to play in being civil with their police officers. Community members should be informed that there are established mechanisms for

filing complaints with the police department about any matter of concern, and that the time to make a complaint is not while an officer is handling a call for service, making an arrest, or dealing with some other potentially dangerous situation.

At the same time, officers should be trained to recognize that members of the public will not always conduct themselves as reasonably as the police are trained to do. Ideally, both the police officer and the civilian will conduct themselves reasonably and de-escalate any tense encounter. But if the citizen does not, the officer must be trained to take the higher road and work to explain the reason for the interaction and de-escalate the encounter.

Police departments should continue to train officers to focus on protecting their own safety and the safety of other officers and the public when handling 911 calls, making traffic stops, or engaging in other encounters with unknown persons.

Training should also instruct officers, once they are satisfied that risks have been mitigated, to take a moment before leaving a scene to explain any of their actions that may have seemed gruff or inconsiderate to the persons with whom they have interacted.

3. DISCRETION:

Police departments should recognize that the discretion given to officers is an important tool, and should adopt specific policies to guide officers in the exercise of discretion.

The application of discretion is an important component of community policing. It is a necessary problem-solving tool, but it can lead to divisions between police and their communities if it is exercised in a manner that is not legally justified or that appears to be unfair or unreasonable to residents.

Policy Development

A thorough policy covering discretion should be grounded in a strong values statement that expresses the norms to which a police department is committed. This values statement should make clear that officers must be fully conscious of the enormous authority they have in exercising their discretion as well as the awesome responsibility that accompanies it. It is important to emphasize that, when judging how best to exercise discretion, officers must consider the law, department policy, and how their actions will be perceived by the community they serve.

Supervisory Follow-Up

The development of a strong policy must be accompanied by training and follow-up review by supervisors. This is particularly important with line supervisors, the patrol sergeants, who will be in the most direct position to evaluate how their officers exercise discretion. These supervisors should also work closely with the officers to help them understand the range of options available to them in a given situation. And supervisors' regular evaluations of their officers should include substantial comment on the officers' judgment in exercising discretion.

Throughout the chain of command, police managers should likewise review the discretionary decisions of their subordinates. Similarly, citizen complaints and department-initiated citizen surveys should examine police activity for both lawfulness and legitimacy and procedural justice as perceived by the community. Where necessary, discipline should be focused on remediation through training, with the goal of sharing any lessons learned throughout the department.

Training

Police departments should develop training for both new recruits and seasoned officers that provides instruction on the department's discretion policies. This training should also have a practical component in which the department can test discretionary skills under realistic circumstances. This training could be similar to existing computerized firearms simulation training, in which officers react to quickly-changing situations that provoke them to shoot or not shoot. Discretion training can be designed to test officers' judgment about whether a situation calls for de-escalation techniques—or an arrest.

The importance of this training demands that it be presented adequately. Every training academy requires a minimum number of hours of "range/firearms" and "defensive tactics" training. Officer discretion deserves similar treatment. The block of instruction covering police discretion should be mandated by a written directive requiring a minimum number of hours at entry level (or the first time it is presented to a veteran officer) and the recommended number of in-service or refresher hours required thereafter.

In addition to the basic discretion training for officers, specific training should be developed for supervisors. Supervisors play a primary role in evaluating the professional exercise of discretion and gauging the perceptions of the community. Training should be developed to set expectations for supervisors and to provide them with instruction for identifying potential problematic exercises of discretion.

The importance of applying discretion wisely and within the bounds of departmental policy is sufficient to warrant the development of a Discretion Study Guide to serve as a tool during training and later as a reference guide for officers.

Specific training also should be developed on disorderly persons statutes and police discretion in making disorderly persons arrests.

The Cambridge Review Committee recommends that police departments across the nation conduct analyses of their disorderly conduct arrests, similar to the analysis conducted by the Cambridge Police Department. In this way, police managers can better monitor arrests and the use of officer discretion in this area of enforcement, giving particular scrutiny to cases in which there is no complainant other than the officer, and no additional charges were filed.

4. COMMUNITY INVOLVEMENT:

The City of Cambridge should make additional efforts to engage the community in policing initiatives, especially the academic community.

The Cambridge Review Committee was struck by the depth of the commitment exhibited by Cambridge residents to developing policing that reflects the values of the city. Many residents eagerly stepped forward to share with the Committee their concerns and suggestions about policing in Cambridge. Because many of the recommendations in this report concern building strong police-community relations and understanding, it will be critical to involve the community as much as possible in any reform efforts. The Cambridge community appears ready to join in these efforts.

A number of community leaders believe that the sizeable academic community in Cambridge does not interact to any great extent with the city government in general or the Police Department in particular. They suggested that city officials look for ways to reach out to academic leaders and bring them into local government activities.

The Cambridge Police Commissioner should consider establishing a panel that could be known as the Police Commissioner's Advisory Board. The board would consist of community leaders from various fields, with whom the commissioner would meet periodically, perhaps monthly or every other month. The

Advisory Board members would bring forward information about what is happening in the communities they represent, as well as advice for the Police Commissioner and feedback about police initiatives. In addition, the Police Commissioner could consult with Advisory Board members following a major incident, and call upon them to help spread correct information about the incident.

5. WORKING WITH UNIVERSITY POLICE DEPARTMENTS

The Committee believes that the Cambridge Police Department should make concerted efforts to work with the Harvard University Police and MIT Police toward greater integration of their missions, policies, procedures, and interdepartmental training, with a special interest in areas of concurrent jurisdiction. When multiple police agencies share jurisdiction over a community, the more their operations can be coordinated and standardized, the easier it becomes for the public to form accurate expectations of the police, regardless of which department they may encounter.

6. HELPING CITZENS TO UNDERSTAND POLICING:

Police departments should develop programs that help residents to understand what it is like to be a police officer.

Residents of a community are more likely to support police initiatives if they understand the initiatives and the thought processes behind them. And residents may be better able to understand police officers' ways of thinking if they participate in programs like the Citizen Police Academies offered by many cities' police departments. In these programs, residents typically receive several hours of education once a week for several months about criminal law, patrol tactics, processing of crime scenes, use of police canines, and other subjects. They may meet patrol officers, trainers, and command staff members, and participate in a ride-along with an officer.

7. RECRUITING AND TRAINING:

Police departments should identify the knowledge, skills, abilities, and character traits they want in new officer candidates, and then should develop a strategy to recruit applicants who are likely to possess those qualifications.

Selection processes for police officers must consist of components aimed at identifying applicants who possess the knowledge, skills and abilities to perform the job of a police officer. This should include seeking out behaviors predictive of the ability to engage in problem-solving, conflict resolution, use of persuasion rather than force when possible, positive verbal and non-verbal communications, and generally good decision-making.

The Cambridge Police Department should work with other police departments in Massachusetts to launch an effort to engage state policy-makers on the question of whether existing rules dictating hiring can be modified to give police agencies greater flexibility in constructing selection processes to hire the most suitable applicants. The police officers hired today represent the future of policing. Hiring processes that are restricted by strict selection from a rank-ordered certified list based solely on written test scores, and by civil service regulations that were designed to apply to the full spectrum of government employees, may be inconsistent with the specific needs of a police agency.

Although the Lowell Academy training curriculum is extensive, there is no specific block of instruction that deals with officer discretion or de-escalation techniques, other than Verbal Judo, which is incorporated in defensive tactics training. The Cambridge Police Department should consider whether such elements should be added.

This 24-week police academy provides comprehensive entry-level training, but the 10-week FTO program, used by many police agencies for decades, is no longer considered a professional best practice. Many progressive police agencies have moved to a 13-week multi-phase Police Training Officer program first employed by the Reno Police Department in 2001, which emphasizes critical thinking and problem-solving principles and adult-learning methods.[8]

8. SHARING INFORMATION ABOUT HIGH-PROFILE INCIDENTS:

The police should work with elected and appointed government officials to develop protocols for dissemination of accurate information about incidents that generate great public interest.

Often the public develops perceptions about high-profile incidents from early accounts in the news media and through rumors that spread across the community. These sources may be inaccurate or provide an incomplete picture of the incident. Experienced police chiefs note that the information they receive in the first minutes or hours following an incident often is incorrect.

To reduce the spread of misinformation and promote the dissemination of accurate information, the Cambridge Police Department should work with the City Manager's Office and City Council to develop protocols regarding internal and external communications following a major incident. In addition to police department channels, information can be passed through government and community leaders who often have quick and direct access to their constituents.

9. RESEARCH AND BEST PRACTICES:

Police should continually monitor research and seek out best training practices adopted within law enforcement in the area of arrests, arrest alternatives, discretion, de-escalation, and communications skills.

Searching for best professional practices is an ongoing process. New and more comprehensive policies and practices are developed in law enforcement agencies every day. The Committee believes that through continual research, police departments should always search for best training practices to adopt. For example, the Committee takes note of an independent study by Professor Modupe Akinola of the Columbia University Business School, in which, working with Cambridge police officers, she used a video simulation technique to test for racial bias and to examine the effects of stress in shoot/don't shoot exercises (see appendix to this report).

10. NEXT STEP: COMMUNITY FORUMS

The Committee recommends that the Cambridge Police Department consider convening a series of community forums, similar to those that have been conducted in the past in cities such as Kansas City and Chicago. The Cambridge Police Department conducted a similar program in 2003, called the Collaborative Leadership Project. These types of forums are not open meetings in which residents are invited to speak out on any topic. Rather, they are discussions, facilitated by a moderator, that focus on a particular topic in each meeting. The goal is to encourage open discussions and allow police and community leaders to learn from each other about critical issues.

8. See http://www.cops.usdoj.gov/default.asp?item=461.

10. CONCLUSION: MISSED OPPORTUNITIES AND SHARED RESPONSIBILITIES

Because the Cambridge Review Committee was made up of a diverse group of individuals with expertise in a variety of fields, panelists viewed the July 16th incident from the standpoints of the law, conflict management, community relations, police management, race relations, and other perspectives.

From every viewpoint, it was striking that such a small incident could have such sweeping repercussions. On paper, the facts of the July 16th incident seem minor. Every day, police departments across the nation investigate homicides and other incidents with irrevocable and far more tragic outcomes. Yet the July 16th incident quickly sent reverberations to the White House and beyond.

The incident matters because its contours are so familiar to so many people in the law enforcement and broader communities. The all-too-familiar nature of the encounter, and the willingness of so many to leap to conclusions about it, are revealing of how much progress remains to be made by police departments and communities across the country. For this reason, the Committee believes that the incident presents a real opportunity. The lessons to be learned from the conflict between Professor Gates and Sergeant Crowley are applicable in thousands of encounters occurring every day between police officers and citizens across the country.

Those lessons are spelled out in this report. Sergeant Crowley and Professor Gates missed opportunities to lower the temperature of their encounter and communicate clearly with each other, and the results were unfortunate for everyone concerned. They share responsibility for the outcome. In essence, both men contributed, perhaps unintentionally, to the escalation of the encounter.

The Cambridge Review Committee believes that incidents like this can be avoided if police are taught how to effectively de-escalate encounters and recognize the importance of "procedural justice." At the same time, the public should be educated to recognize the inherent complexities and dangers that police face, and citizens should take responsibility for not questioning police authority until such time as the facts of a situation can be aired in a safe and productive environment.

The point of improving communications between the police and residents is not simply that it would be "nice" if everyone could get along better. The importance goes far deeper, to a question that is at the heart of effective policing: How can police gain the strong levels of community backing that they will need to

fight crime and prevent terrorism in the coming years?

Police departments across the nation have made remarkable progress over the last two decades, reducing violent crime rates nationwide by 40 percent since the early 1990s. But much work remains to be done, especially in urban neighborhoods where crime and violence remain far too prevalent. Often, these are the very neighborhoods where police struggle to win support from community members. By applying the lessons learned from the July 16th event, police can develop stronger support in the community. Working with the communities they serve, police can reach more favorable outcomes on traffic stops, calls for service, anti-crime initiatives, and other encounters with residents.

APPENDICES

APPENDIX A:
The Members of the Cambridge Review Committee

Chuck Wexler, Chairman
Chuck Wexler was appointed Executive Director of the Police Executive Research Forum (PERF) in 1993, and leads a staff engaged in police research, management studies, and publication of research findings. In recent years, he has led research on topics ranging from violent crime and police use of force to immigration policy and PERF's analysis of the D.C. sniper investigation. Wexler held a number of positions in the Boston Police Department, where he was instrumental in the development of the Community Disorders Unit, which focused on prosecuting and preventing racially motivated crime. Wexler earned a bachelor's degree from Boston University, a master's in criminology from Florida State University, and a Ph.D. in urban studies and planning from MIT.

Stacy Blake-Beard
Stacy Blake-Beard is a tenured Associate Professor of Management at the Simmons School of Management and research faculty at the Center for Gender in Organizations. Prior to joining Simmons, Dr. Blake-Beard was on the faculty at the Harvard University Graduate School of Education and worked at both Procter & Gamble and Xerox. She has published research on gender, diversity and mentoring. She sits on the advisory board of several organizations and has been the recipient of numerous grants and fellowships, including a 2010-2011 Fulbright award. Dr. Blake-Beard holds a BS in Psychology from the University of Maryland at College Park and an MA and Ph.D. in Organizational Behavior from the University of Michigan.

Marian Darlington-Hope
Marian Darlington-Hope is a resident of the City of Cambridge and an Assistant Professor of Human Services and Nonprofit Management at Lesley University. She received a Master's degree in City Planning from the School of Architecture and Planning at the Massachusetts Institute of Technology and a Ph.D. from The Heller School for Social Policy and Management at Brandeis University. Ms. Darlington-Hope is a community organizer who is a member of the Cambridge Area 4 Coalition, the Margaret Fuller House Neighborhood Board, and a Cambridge Human Services Commissioner.

John Farmer, Jr.
John Farmer is the Dean and a Professor of Law at Rutgers School of Law. Farmer began his career as a law clerk to an Associate Justice of the New Jersey Supreme Court, and then worked as a litigation associate before joining

the US Attorney's Office in Newark. He has previously served as Chief Counsel to New Jersey Governor Christine Todd Whitman, Senior Counsel and Team Leader for the 9/11 Commission, and is President of the Board of Trustees of the New Jersey Institute for Social Justice. He is a contributor to the Star-Ledger, the New York Times, and various law journals. Mr. Farmer received his BA from Georgetown University.

Terrance Gainer

Terry Gainer, an attorney, is currently the United States Senate Sergeant at Arms. As the Chief Law Enforcement Officer, he leads an agency of 1,000 personnel and oversees the 2,700-member United States Capitol Police. During his 40-year law enforcement career, Mr. Gainer has served at the city, state and federal level, including Director of the Illinois State Police, Chief of the United States Capitol Police, and Executive Assistant Chief of the Metropolitan Police Department in the District of Columbia. He served with the Chicago Police Department for 20 years. Mr. Gainer holds a Bachelor's degree in Sociology, Master of Science in Management of Public Service, and Juris Doctor degree from DePaul University of Chicago. He was awarded Honorary Doctorate of Humane Letters, Benedictine College, Atchison, Kansas. A retired Navy Captain, is a decorated veteran of Viet Nam.

John Gallagher

John Gallagher is currently a federal prosecutor in Philadelphia. He is a former White House Fellow who served as counsel on the personal staffs of two United States Attorneys General. Gallagher started his career as a New York City police officer assigned to Central Harlem at the height of the crack cocaine epidemic. He has also served as Assistant Chief of Police in Miami, Florida, and as Special Counsel to the Philadelphia Police Department, during historic periods of reform for these police departments.

John Kosko

John Kosko is a retired School Administrator, serving 35 years as a teacher, coach, counselor, Principal and Superintendent. He has his BA from Boston College and a MS in Counseling from Southern Connecticut State University. Mr. Kosko is also a trained mediator through the Harvard Mediation Program. He has served on numerous boards and committees in Cambridge and remains active in the New England Association of Schools and Colleges, specializing in operations, management and governance in American and international schools abroad. Mr. Kosko has been a Cambridge resident for 25 years, and has a consulting practice there.

Tracey L. Meares

Tracey Meares is Deputy Dean and Walton Hale Hamilton Professor of Law at Yale Law School and Senior Research Fellow at the Berkeley Center for Criminal Justice. She received her B.S. in General Engineering from the University of Illinois and her J.D. from the University of Chicago Law School. Upon graduation, Professor Meares clerked for Judge Harlington Wood, Jr. of the U.S. Court of Appeals for the Seventh Circuit and then served as an Honors Program Trial Attorney in the Antitrust Division in the United States Department of Justice before joining the University of Chicago Law faculty in 1994. She has served on the Committee on Law and Justice, a National Research Council Standing Committee of the National Academy of Sciences, since 2004 and is also a member of the Harvard Executive Session on Policing and Public Safety. She has written extensively on issues of race, crime and the law which focus on addressing the immensely difficult problem of high crime rates among primarily poor and minority urban neighborhoods. Both her academic writings as well as her grounded practice projects connected to this topic are concertedly interdisciplinary in an effort to develop constructive and practical proposals to improve

both legal doctrine and police practices.

Jack McDevitt

Jack McDevitt is the Associate Dean for Research and Graduate Studies the College of Criminal Justice at Northeastern University, directing the Institute on Race and Justice and the Center for Criminal Justice Policy Research. He is the co-author of three books, numerous publications and reports, and has spoken and testified on hate crime, racial profiling and criminal justice before the US House and Senate Judiciary Committees and the White House. Currently, he is leading a team providing technical assistance and support to the Massachusetts Shannon Community Safety Initiative to reduce gang violence and is the co-principal Investigator for the US Department of Justice's Office of Community Oriented Policing Services (COPS.) He received his MPA from Northeastern University.

Aaron David Miller

Aaron David Miller is currently Public Policy Fellow at the Woodrow Wilson International Center of Scholars in Washington DC, where he recently published his fourth book on Middle East relations. He previously served at the Department of State as an advisor to six Secretaries of State, as Deputy Special Middle East Coordinator, and most recently as the Senior Advisor for Arab-Israeli Negotiations. He was the former President of Seeds of Peace, a nonprofit organization dedicated to empowering young leaders from regions of conflict to advance reconciliation and coexistence. Mr. Miller received his Ph.D. in American Diplomatic and Middle East History from the University of Michigan.

Louis F. Quijas

Louis Quijas is currently President of North American Operations of Datong Electronics, an organization that works with government, law enforcement and security agencies worldwide. He was previously FBI Assistant Director of the Office of Law Enforcement Coordination, and served as Chief of Police in High Point, North Carolina after a 25 year law enforcement career in Kansas City, Mo. He has served as the National President of the National Latino Peace Officers Association, National Board member of the Hispanic American Police Command Officers Association, and has received numerous awards and recognition. He holds a BS in Criminal Justice Administration and a Master's Degree in Public Affairs, and is a graduate of the FBI National Academy and the Senior Executives in State and Local Government Program at the John F. Kennedy School of Government.

Charles H. Ramsey

Chuck Ramsey has been the Philadelphia Police Commissioner since January 2008, currently leading the fourth largest police department in the country. He previously served as the Chief of the Metropolitan Police Department in Washington, DC for 8 years where he led numerous high profile investigations and events. Mr. Ramsey worked in a variety of assignments for almost 30 years in the Chicago Police Department, retiring as Deputy Superintendent. He holds both his bachelor's and master's degrees from Lewis University and is a graduate of the FBI Academy and the National Executive Institute.

APPENDIX B: Joint Statement by the City of Cambridge, the Cambridge Police Department, and Professor Gates, July 21, 2009

City of Cambridge Police Department

News Detail

July 21, 2009

Press Release 7/21/09

JOINT PRESS RELEASE

The City of Cambridge and the Cambridge Police Department have recommended to the Middlesex County District Attorney that the criminal charge against Professor Gates not proceed. Therefore, in the interests of justice, the Middlesex County District Attorney's Office has agreed to enter a nolle prosequi in this matter.

The City of Cambridge, the Cambridge Police Department, and Professor Gates acknowledge that the incident of July 16, 2009 was regrettable and unfortunate. This incident should not be viewed as one that demeans the character and reputation of Professor Gates or the character of the Cambridge Police Department. All parties agree that this is a just resolution to an unfortunate set of circumstances.

Contact Information:

Walter Prince, Prince Lobel Glovsky and Tye 617-456-8000

Professor Charles Ogletree, Harvard Law School 617-495-5097

Robert Haas, Commissioner 617-349-3235

Gerard Leone, DA 781-897-8325

APPENDIX C: Incident Reports by Sergeant James Crowley and Officer Carlos Figueroa

CAMBRIDGE POLICE DEPARTMENT
CAMBRIDGE, MA

Incident Report #9005127

Report Entered: 07/16/2009 13:21:34

Case Title	Location	Apt/Unit #
	[redacted] **WARE ST**	
Date/Time Reported	Date/Time Occurred	
07/16/2009 12:44:00	**to**	
Incident Type/Offense		
1.) DISORDERLY CONDUCT c272 S53 —		
Reporting Officer	Approving Officer	
CROWLEY, JAMES (467)	**WILSON III,JOSEPH (213)**	

Persons

Role	Name	Sex	Race	Age	DOB	Phone	Address
WITNESS	[redacted]			40	[redacted]	H [redacted] C	[redacted] PLYMOUTH ROAD MALDEN, MA

Offenders

Status	Name	Sex	Race	Age	DOB	Phone	Address
DEFENDANT	GATES, HENRY	MALE	BLACK	58	- [redacted]	H [redacted] C	[redacted] WARE ST CAMBRIDGE, MA

Vehicles

Property

Class	Description	Make	Model	Serial #	Value

Narrative

On Thursday July 16, 2009, Henry Gates, Jr. [redacted], of [redacted] Ware Street, Cambridge, MA) was placed under arrest at [redacted] Ware Street, after being observed exhibiting loud and tumultuous behavior, in a public place, directed at a uniformed police officer who was present investigating a report of a crime in progress. These actions on the behalf of Gates served no legitimate purpose and caused citizens passing by this location to stop and take notice while appearing surprised and alarmed.

On the above time and date, I was on uniformed duty in an unmarked police cruiser assigned to the Administration Section, working from 7:00 AM-3:30 PM. At approximately 12:44 PM, I was operating my cruiser on Harvard Street near Ware Street. At that time, I overheard an ECC broadcast for a possible break in progress at [redacted] Ware Street. Due to my proximity, I responded.

When I arrived at [redacted] Ware Street I radioed ECC and asked that they have the caller meet me at the front door to this residence. I was told that the caller was already outside. As I was getting this information, I climbed the porch stairs toward the front door. As I reached the door, a female voice called out to me. I turned and looked in the direction of the voice and observed a white female, later identified as Lucia Whalen. Whalen, who was

standing on the sidewalk in front of the residence, held a wireless telephone in her hand and told me that it was she who called. She went on to tell me that she observed what appeared to be two black males with backpacks on the porch of [redacted] Ware Street. She told me that her suspicions were aroused when she observed one of the men wedging his shoulder into the door as if he was trying to force entry. Since I was the only police officer on location and had my back to the front door as I spoke with her, I asked that she wait for other responding officers while I investigated further.

As I turned and faced the door, I could see an older black male standing in the foyer of [redacted] Ware Street. I made this observation through the glass paned front door. As I stood in plain view of this man, later identified as Gates, I asked if he would step out onto the porch and speak with me. He replied "no I will not". He then demanded to know who I was. I told him that I was "Sgt. Crowley from the Cambridge Police" and that I was "investigating a report of a break in progress" at the residence. While I was making this statement, Gates opened the front door and exclaimed "why, because I'm a black man in America?". I then asked Gates if there was anyone else in the residence. While yelling, he told me that it was none of my business and accused me of being a racist police officer. I assured Gates that I was responding to a citizen's call to the Cambridge Police and that the caller was outside as we spoke. Gates seemed to ignore me and picked up a cordless telephone and dialed an unknown telephone number. As he did so, I radioed on channel 1 that I was off in the residence with someone who appeared to be a resident but very uncooperative. I then overheard Gates asking the person on the other end of his telephone call to "get the chief" and "what's the chief's name?". Gates was telling the person on the other end of the call that he was dealing with a racist police officer in his home. Gates then turned to me and told me that I had no idea who I was "messing" with and that I had not heard the last of it. While I was led to believe that Gates was lawfully in the residence, I was quite surprised and confused with the behavior he exhibited toward me. I asked Gates to provide me with photo identification so that I could verify that he resided at [redacted] Ware Street and so that I could radio my findings to ECC. Gates initially refused, demanding that I show him identification but then did supply me with a Harvard University identification card. Upon learning that Gates was affiliated with Harvard, I radioed and requested the presence of the Harvard University Police.

With the Harvard University identification in hand, I radioed my findings to ECC on channel two and prepared to leave. Gates again asked for my name which I began to provide. Gates began to yell over my spoken words by accusing me of being a racist police officer and leveling threats that he wasn't someone to mess with. At some point during this exchange, I became aware that Off. Carlos Figueroa was standing behind me. When Gates asked a third time for my name, I explained to him that I had provided it at his request two separate times. Gates continued to yell at me. I told Gates that I was leaving his residence and that if he had any other questions regarding the matter, I would speak with him outside of the residence.

As I began walking through the foyer toward the front door, I could hear Gates again demanding my name. I again told Gates that I would speak with him outside. My reason for wanting to leave the residence was that Gates was yelling very loud and the acoustics of the kitchen and foyer were making it difficult for me to transmit pertinent information to ECC or other responding units. His reply was "ya, I'll speak with your mama outside". When I left the residence, I noted that there were several Cambridge and Harvard University police officers assembled on the sidewalk in front of the residence. Additionally, the caller, [redacted] and at least seven unidentified passers-by were looking in the direction of Gates, who had followed me outside of the residence.

As I descended the stairs to the sidewalk, Gates continued to yell at me, accusing me of racial bias and continued to tell me that I had not heard the last of him. Due to the tumultuous manner Gates had exhibited in his residence as well as his continued tumultuous behavior outside the residence, in view of the public, I warned Gates that he was becoming disorderly. Gates ignored my warning and continued to yell, which drew the attention of both the police officers and citizens, who appeared surprised and alarmed by Gates's outburst. For a second time I warned Gates to calm down while I withdrew my department issued handcuffs from their carrying case. Gates again ignored my warning and continued to yell at me. It was at this time that I informed Gates that he was under arrest. I then stepped up the stairs, onto the porch and attempted to place handcuffs on Gates. Gates initially resisted my attempt to handcuff him, yelling that he was "disabled" and would fall without his cane. After the handcuffs were properly applied, Gates complained that they were too tight. I ordered Off. Ivey, who was among the responding officers, to handcuff Gates with his arms in front of him for his comfort while I secured a cane for Gates from within the residence. I then asked Gates if he would like an officer to take possession of his house key and secure his front door, which he left wide open. Gates told me that the door was un securable due to a previous break attempt at the residence. Shortly thereafter, a Harvard University maintenance person arrived on scene and appeared familiar with Gates. I asked Gates if he was comfortable with this Harvard University maintenance person securing his residence. He told me that he was.

After a brief consultation with Sgt. Lashley and upon Gates's request, he was transported to 125 6th. Street in a police cruiser (Car 1, Off's Graham and Ivey) where he was booked and processed by Off. J. P. Crowley.

CAMBRIDGE POLICE DEPARTMENT
CAMBRIDGE, MA

Incident Supplement #9005127 - 1

Report Entered: 07/16/2009 13:52:50

Case Title	Location	Apt/Unit #
DISORDERLY CONDUCY	**[redacted] WARE ST**	
Date/Time Reported	Date/Time Occurred	
07/16/2009 12:44:00	**to**	
Incident Type/Offense		
1.) DISORDERLY CONDUCT c272 S53 —		
Reporting Officer	Approving Officer	
FIGUEROA, CARLOS (509)	**TIMMINS,PAUL (334)**	

Persons

Role Name	Sex	Race	Age	DOB	Phone	Address
[redacted]			40	[redacted]	H [redacted] C [redacted]	[redacted] **PLYMOUTH ROAD MALDEN, MA**

Offenders

Status	Name	Sex	Race	Age	DOB	Phone	Address

Vehicles

Property

Class	Description	Make	Model	Serial #	Value

Narrative

On July 16, 2009 at approximately 12:44 PM, I Officer Figueroa#509 responded to an ECC broadcast for a possible break at [redacted] Ware St. When I arrived, I stepped into the residence and Sgt. Crowley had already entered and was speaking to a black male.

As I stepped in, I heard Sgt. Crowley ask for the gentleman's information which he stated "NO I WILL NOT!". The gentleman was shouting out to the Sgt. that the Sgt.. was a racist and yelled that "THIS IS WHAT HAPPENS TO BLACK MEN IN AMERICA!" As the Sgt. was trying to calm the gentleman, the gentleman shouted " You don't know who your messing with!"

I stepped out to gather the information from the reporting person, [redacted] stated to me that she saw a man wedging his shoulder into the front door as to pry the door open. As I returned to the residence, a group of onlookers were now on scene. The Sgt., along with the gentleman, were now on the porch of [redacted] Ware St. and again he was shouting, now to the onlookers (about seven) ,"THIS IS WHAT HAPPENS TO BLACK MEN IN AMERICA"! The gentleman refused to listen to as to why the Cambridge Police were there.

While on the porch, the gentleman refused to be cooperative and continued shouting that the Sgt. is racist police officer.

APPENDIX D:
"Zones of Conflict" and "Identity Quakes"

Cambridge Review Committee panelist Aaron David Miller, an expert in Middle East politics and negotiations, offered an analysis of the July 16th incident in terms of conflict management principles that might be included in training officers to understand why community members—or police officers themselves—might react disproportionately to each other. In Dr. Miller's view, interpersonal conflicts are dynamic situations, and the July 16th incident can be seen as moving through two "zones of conflict," or phases.

Zone One: The first zone began with the 911 dispatch call and ended at the point when Sergeant Crowley and Professor Gates both realized that they were not at any physical risk. During this time, it appears that neither man fully understood the circumstances of their meeting, and both had unresolved fears. It is possible that if Sergeant Crowley had had additional information or had taken a different approach, such as waiting for backup officers to arrive, he might have been better equipped for what he encountered at the Gates residence. As for Professor Gates, it might be argued that he should have been less alarmed by the presence of a police officer on his porch; Gates himself recalled his driver alerting him to a neighbor watching them attempt to enter the house and stating that the neighbor was likely calling the police. But for whatever reason, Professor Gates seemed unclear about why Sergeant Crowley was at his front door, asking him to step outside.

Zone Two: At the point when Professor Gates produced his identity cards and Sergeant Crowley understood that Professor Gates was in his own home, the situation can be seen as moving into a second zone, in which Crowley saw no immediate threat to his safety. It is not possible to know exactly what was going through each man's mind during these few minutes, but it seems possible that for both men, the nature of the threat, and the nature of the conflict, changed. Professor Gates may have been reacting to a perceived threat to his privacy and to his dignity as an African-American man and an accomplished scholar, while Sergeant Crowley may have reacted to a perceived threat to his status as a law enforcement officer, played out in front of his coworkers, his subordinates, and the general public.

Drawing from concepts well explored in the Harvard Negotiation Project,[9] Dr. Miller explained that the psychological concept of

9. *See also* Douglas Stone, Bruce M. Patton, and Sheila Heen. *Difficult Conversations: How to Discuss What Matters Most.* New York: Penguin Books, 1999.

"identity quakes" also may be pertinent in this regard. Identity quakes can occur when one person questions the basic premises that define how another person identifies himself. Saying things that cause another person to have an identity quake can result in a highly emotional and aggressive response.

In psychological terms, if either Sergeant Crowley or Professor Gates had summoned a measure of "ego detachment" and stepped outside of himself for a moment to gain some perspective, he could have begun to act strategically rather than responding to the perceived threat to identity being posed by the other man.

These psychological concepts carry implications for training police to de-escalate conflicts. Police officers can be taught to understand these dynamics, and if officers can see clearly what is happening, they can say things that dampen the conflict rather than accelerate it. This requires a police officer to understand how he is being perceived by the other party to the conversation; and to rise above that perception in cases where discretion is possible. In short, the police officer needs to look at the confrontation through the eyes of a mediator, rather than as a protagonist.

APPENDIX E:
Research by Prof. Modupe Akinola on Officer Stress and Racial Bias

The Cambridge Review Committee takes note of an independent study in which Professor Modupe Akinola of the Columbia University Business School used a video simulation technique to examine whether Cambridge police officers exhibit racial bias in their decisions to fire weapons under stress. Professor Akinola's research, which she presented to the Committee, examined the role that stress might play in Cambridge police officers' decisions to shoot potentially hostile suspects. The research was prompted by high-profile incidents of police shootings of unarmed black men, such as Amadou Diallo and Sean Bell, as well as by numerous social-psychological experiments demonstrating that racial bias can influence the decision of non-police officers to fire weapons.

A year before the July 16 incident, during the summer of 2008, Professor Akinola recruited 87 Cambridge police officers to participate in a video-based experiment aimed at investigating whether stress would exacerbate shooting errors among officers. Officers were first exposed to a stressful situation that activated the body's stress systems. Following this stress induction, officers engaged in a video simulation that required split-second judgments. In this simulation, images of white and black men, each gripping a handgun, a cell phone, or a wallet, flashed onto a computer monitor. Within 850 milliseconds, officers had to decide whether to shoot the image (if the man in the picture was carrying a gun) or holster their gun (if the man in the picture was carrying a cell phone or wallet).

One year later, Professor Akinola followed up with these same participants and had them engage in the video simulation once again, but this time, with no stress involved.

Results revealed that under stress, officers made more errors in their shooting decisions than they did when they had not been under stress. This finding is consistent with prior studies which have found that stress can impair decision-making.

Professor Akinola's research also showed that officers were no more likely to make errors based on the race of the target in the video simulation under stress than they were when they were not under stress. Regardless of officers' stress levels, they were less likely to shoot a black target carrying a cell phone or a wallet than a white target carrying a cell phone or wallet. Furthermore, results revealed that officers made fewer errors when shooting black targets carrying guns than they did when shooting white targets carrying guns, and as officers' stress levels increased, measured by examining their cortisol levels (a hormone associated with stress), officers' accuracy increased with armed black targets. This finding is aligned with previous findings demonstrating that increases in cortisol can result in heightened vigilance for danger and enhanced attention to threat cues.

Monitoring Police Officer Use of Discretionary Authority

An Analysis of Incidents & Offenders Charged with Disorderly Conduct in Cambridge

June 30, 2010

Lieutenant Daniel Wagner
Cambridge Police Department
Crime Analysis Unit

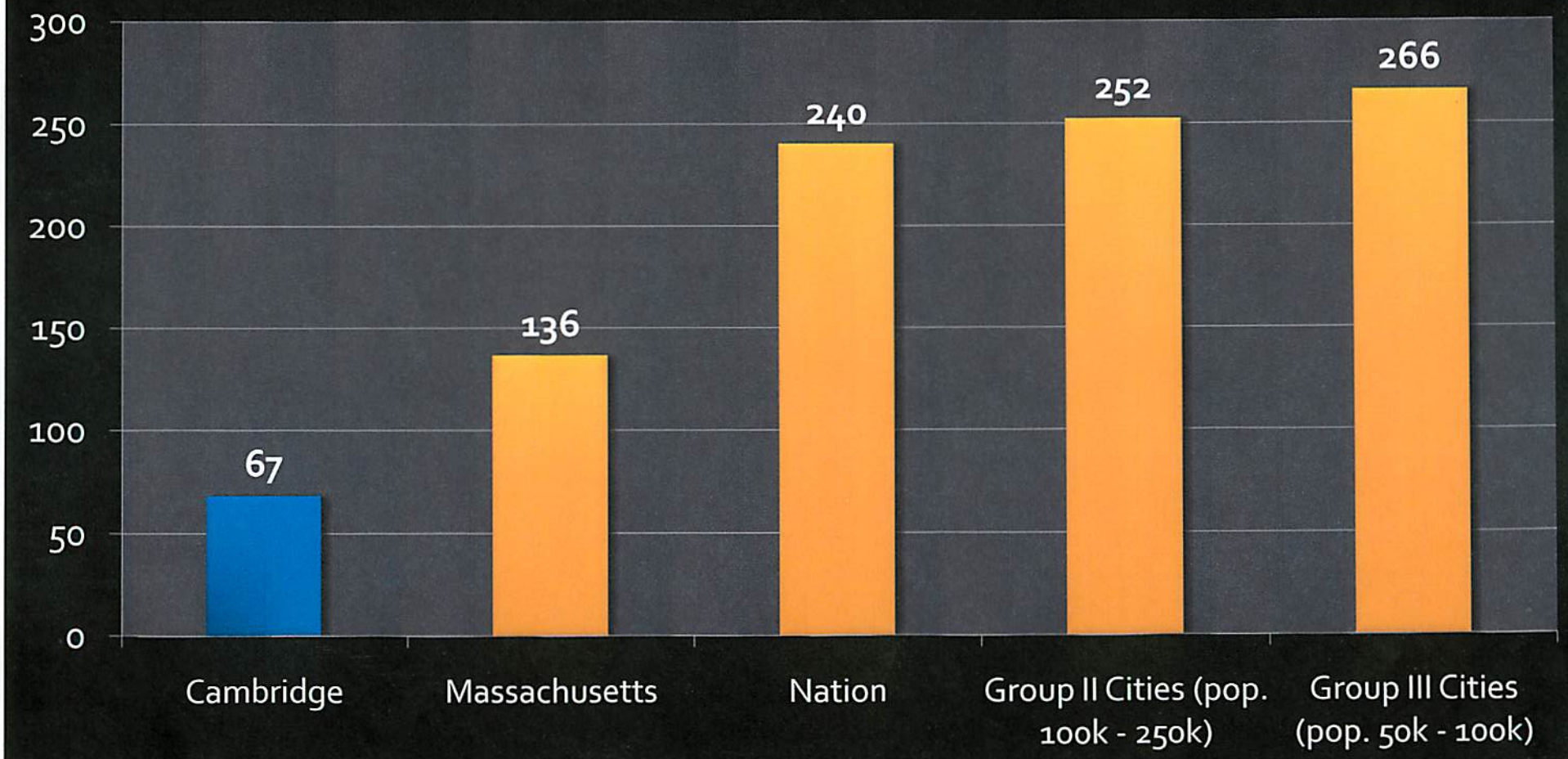
B

Overview of New Monitoring Indicator and Disorderly Conduct Incidents in Cambridge

- Introduction of new, Discretionary Authority Indicator (DAI)
  - Innovative, non-traditional, proactive method for evaluating officer performance.
- Analysis of Disorderly Conduct Incidents
  - General Statistics – comparison of CPD Disorderly Conduct incidents to national and regional incident statistics.
  - Analysis – an in-depth look at one year of incidents resulting in charges for Disorderly Conduct.
  - Observations from the field – comments from a night patrol supervisor on discretion, conflict resolution, and tolerance.

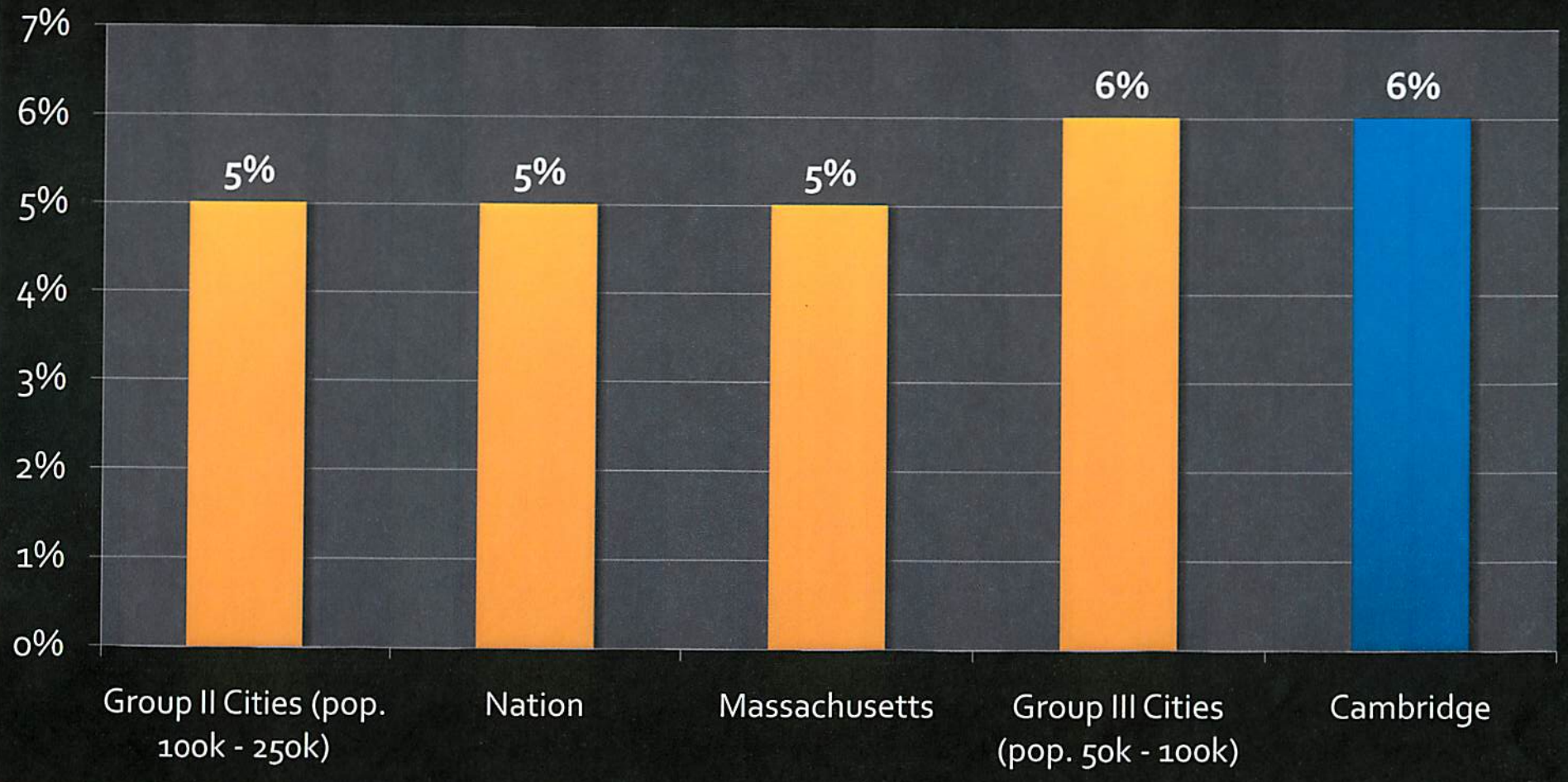
National Averages

source: FBI UCR 2007



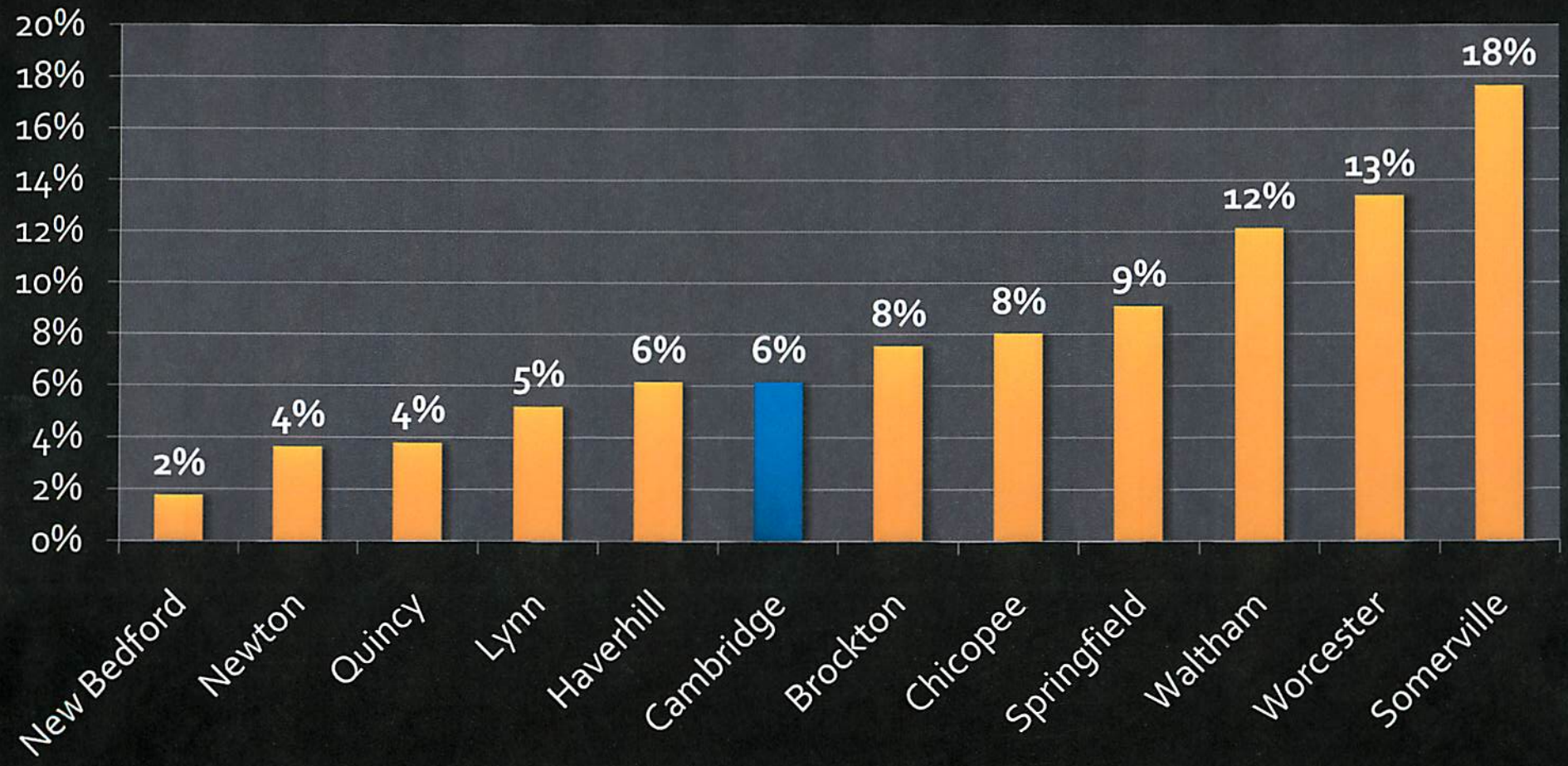
National Averages

source: FBI UCR 2007



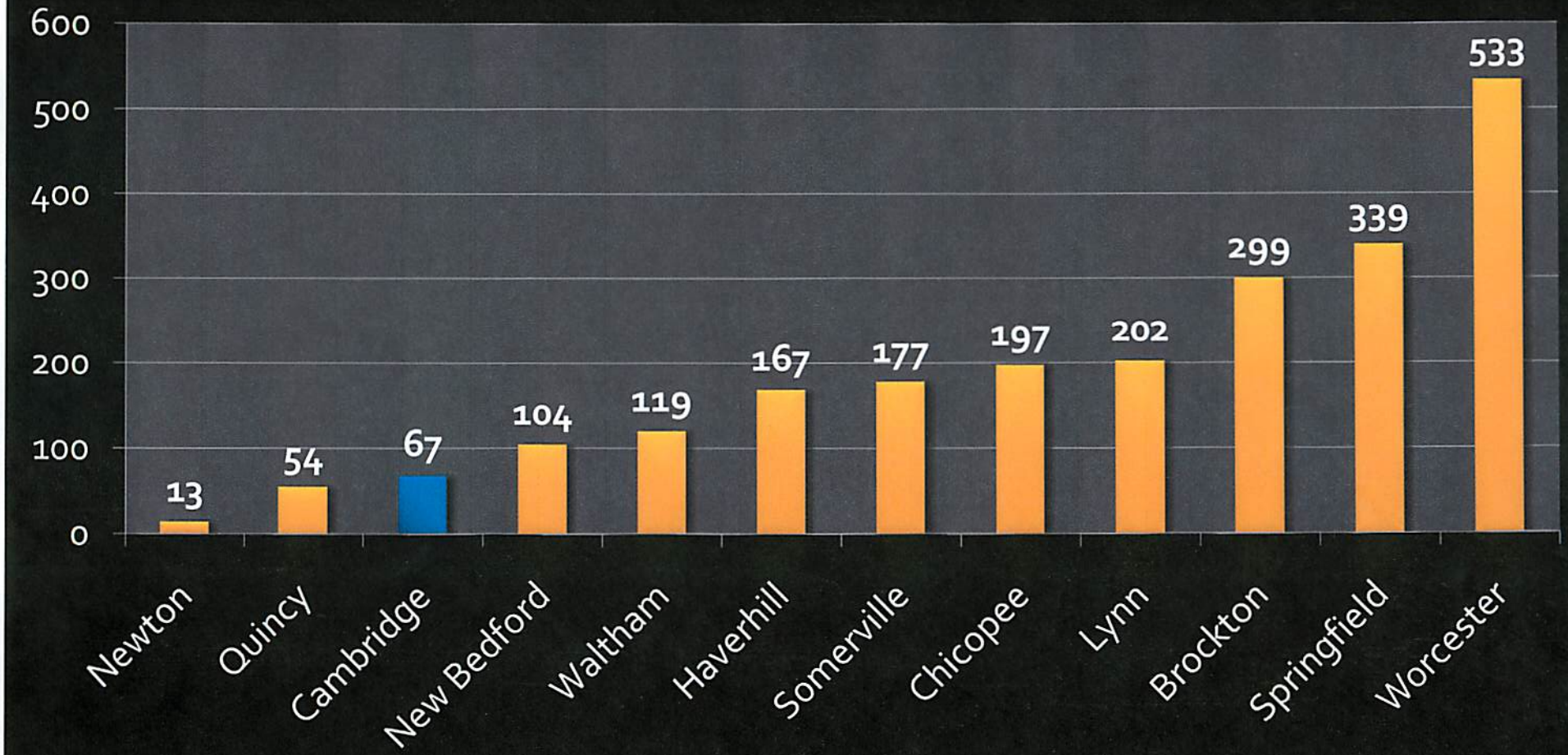
Select Massachusetts Cities & Towns

source: Massachusetts UCR 2007



Select Massachusetts Cities & Towns

source: Massachusetts UCR 2007



Summary of Arrest Rates

2007 National, State, and Regional Disorderly Conduct Arrest Rates

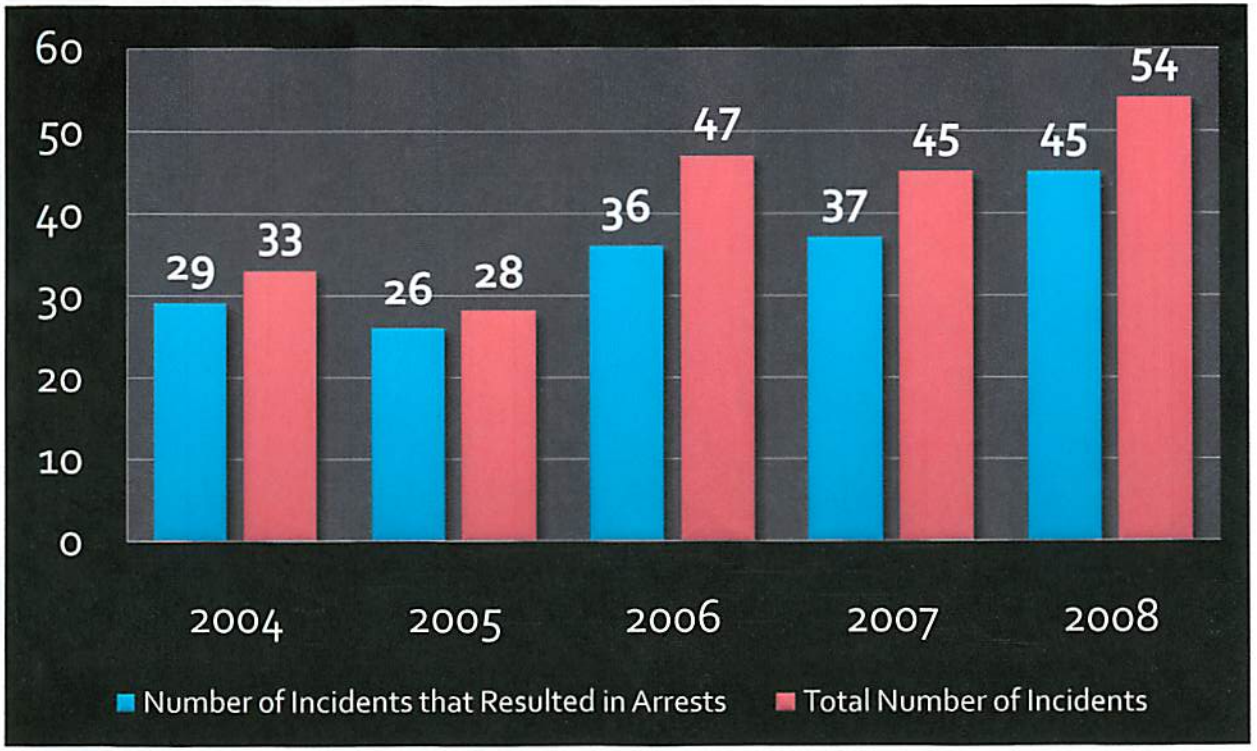
- CPD makes limited use of Disorderly Conduct charges compared to its peer departments.
- Disorderly Conduct charges account for a very small amount of total incidents.
- Disorderly Conduct charges account for a very low rate of charges per 100,000 residents.

5 Year Analysis of Cambridge Disorderly Conduct Incidents & Arrests: 2004-2008

An Overview of Disorderly Conduct Incidents by Cambridge Police from 2004 to 2008

- **CPD performed a detailed analysis of Disorderly Conduct incidents & arrests by:**
  - Neighborhood where the incident occurred
  - Business District where the incident occurred
  - Race:
    - Of the Officer
    - Of the Charged

Cambridge Disorderly Conduct Incidents & Arrests: 2004 - 2008

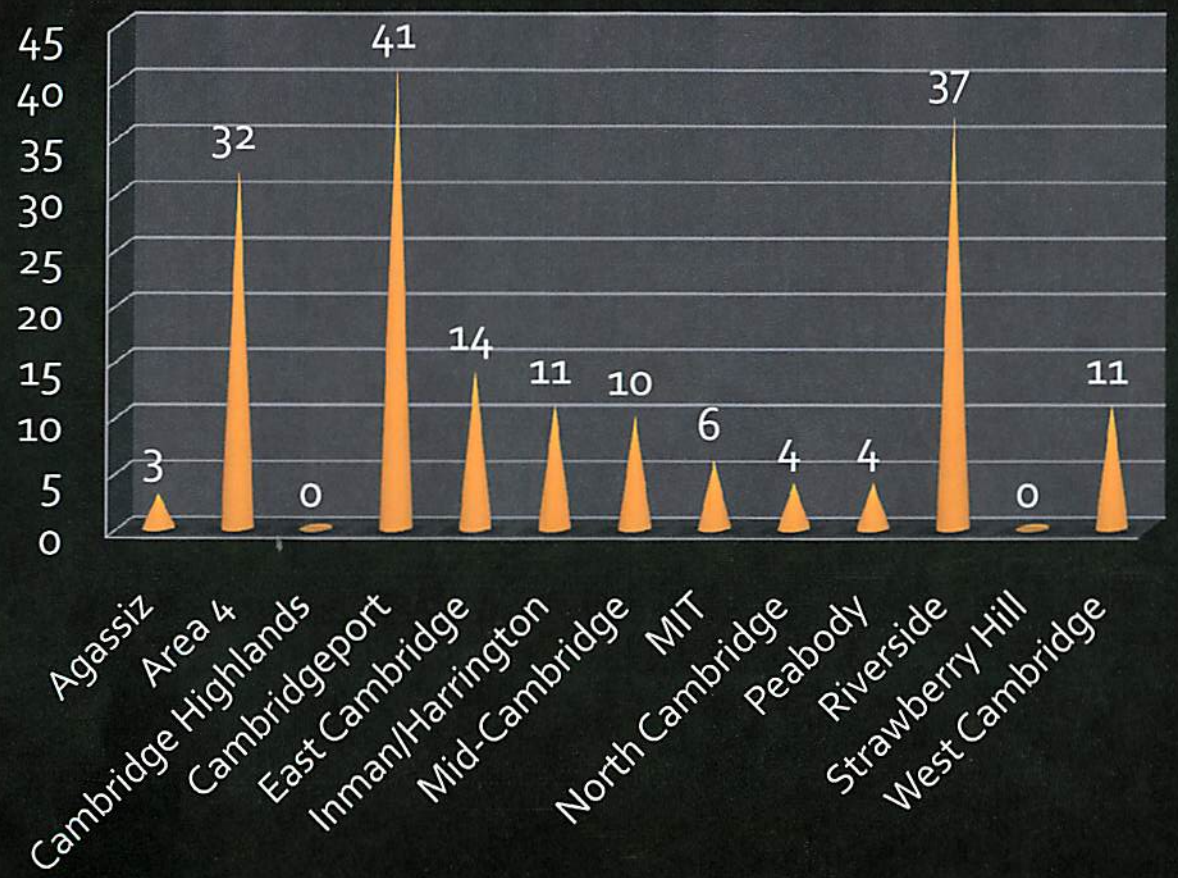


*The number of arrests in this chart refers to the number of incidents that resulted in an arrest, not the number of persons arrested. In some incidents, more than one person may have been arrested.

Comparing Documented Disorderly Incidents to Arrests

It is important to note that comparing the total number of disorderly incidents that result in a police report to the number of arrests is not an accurate measure of arrest ratio. There are typically many more incidents or occurrences of disorderly conduct where probable cause to arrest may exist, but no arrest is made, that never rise to the level of requiring a detailed police incident report.

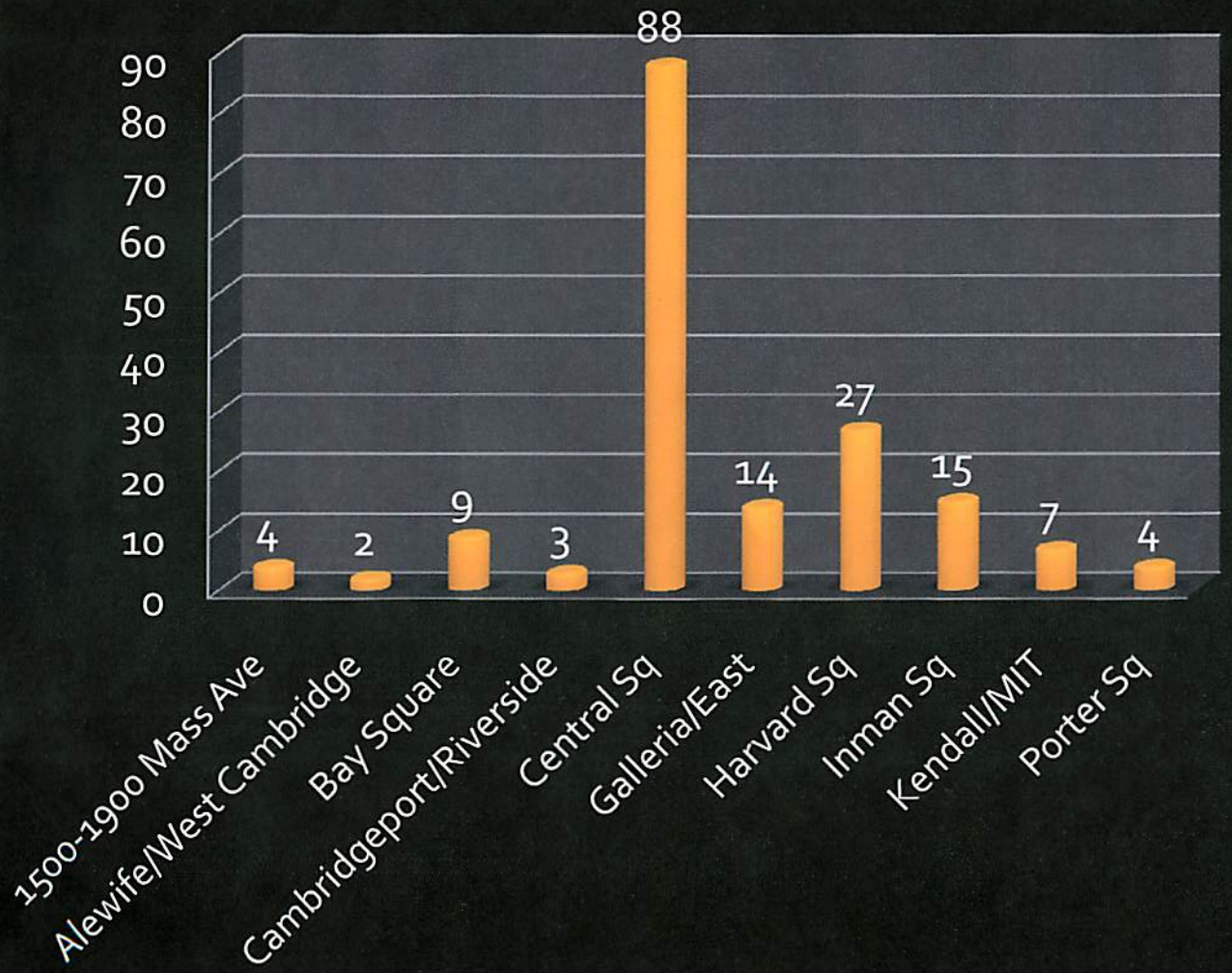
Breakdown by Neighborhood of Disorderly Conduct Incidents that Resulted in Arrests, 2004 - 2008



Agassiz	2%
Area 4	18%
Cambridge Highlands	0%
Cambridgeport	24%
East Cambridge	8%
Inman/Harrington	6%
Mid-Cambridge	6%
MIT	3%
North Cambridge	2%
Peabody	2%
Riverside	21%
Strawberry Hill	0%
West Cambridge	6%

The three neighborhoods that accounted for the largest percentage of disorderly incidents were Area 4, Cambridgeport and Riverside. These three neighborhoods border/intersect with Central Square which has a large homeless population and many restaurants and bars.

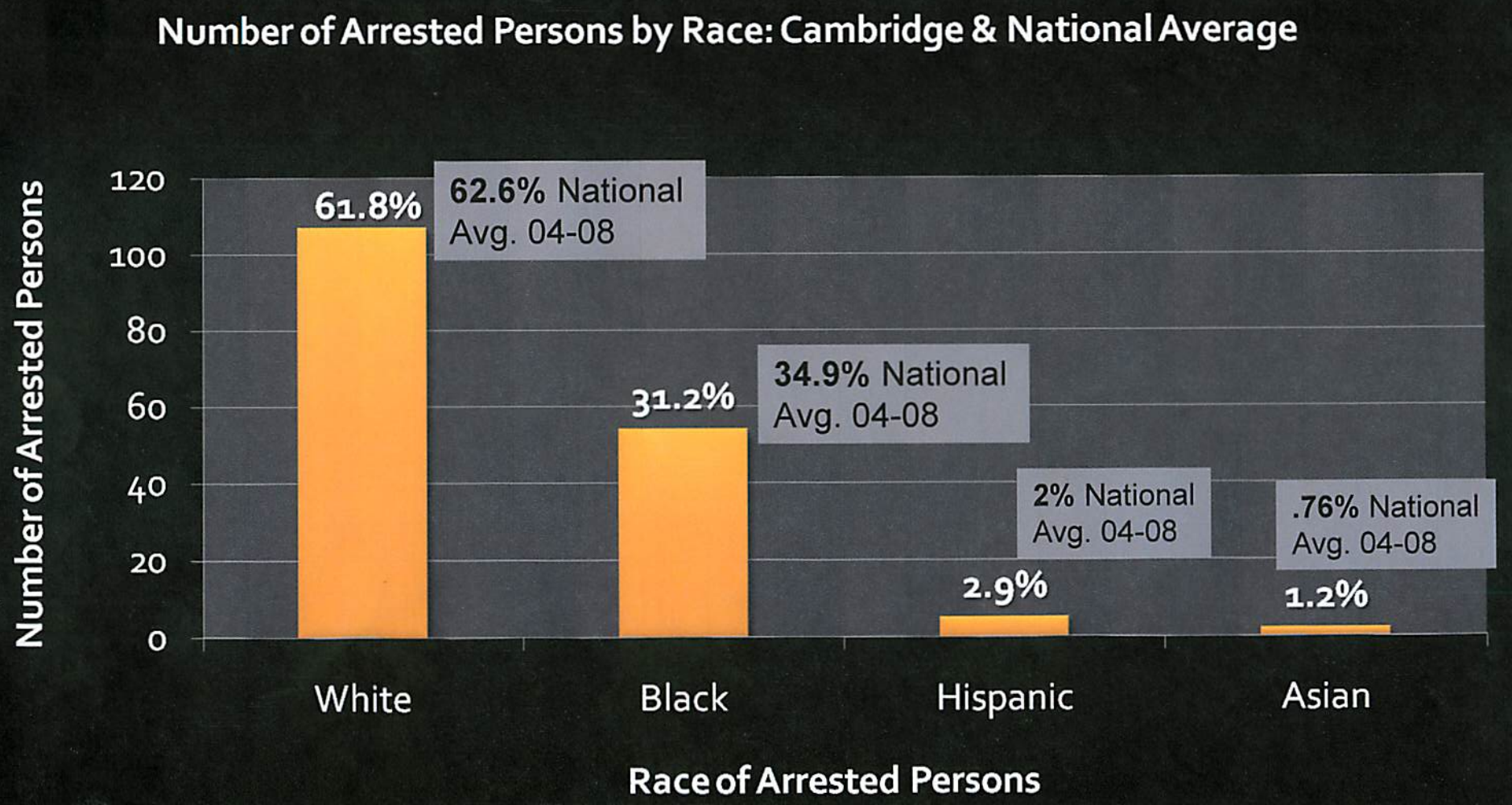
Breakdown by Business District of Disorderly Conduct Incidents that Resulted in Arrests, 2004 - 2008



1500-1900 Mass Ave	2%
Alewife/West Cambridge	1%
Bay Square	5%
Cambridgeport/Riverside	2%
Central Sq	51%
Galleria/East	8%
Harvard Sq	16%
Inman Sq	9%
Kendall/MIT	4%
Porter Sq	2%

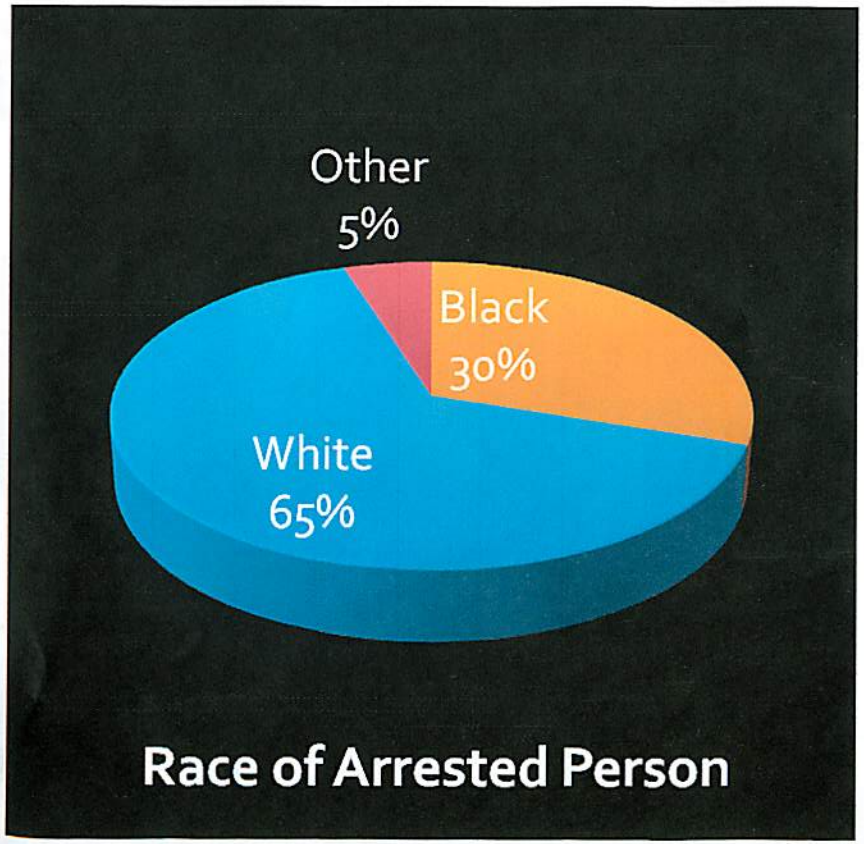
As the previous slide eluded to based on the distribution of Disorderly Conduct incidents by neighborhood, by analyzing these incidents by business district, it shows that the vast majority of Disorderly Conduct incidents occur in Central Square.

Disorderly Conduct Arrests in Cambridge by Race: 2004 - 2008

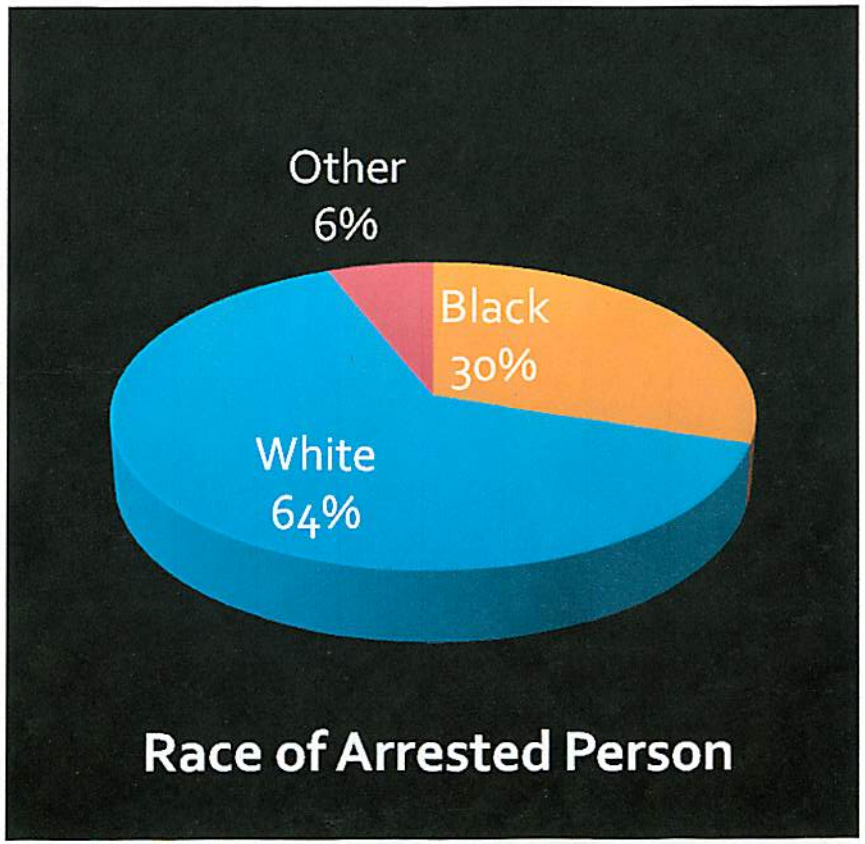


Percentage of Arrests by Race of Arrested Person and Race of Arresting Officer: 2004-2008

BLACK ARRESTING OFFICER



WHITE ARRESTING OFFICER

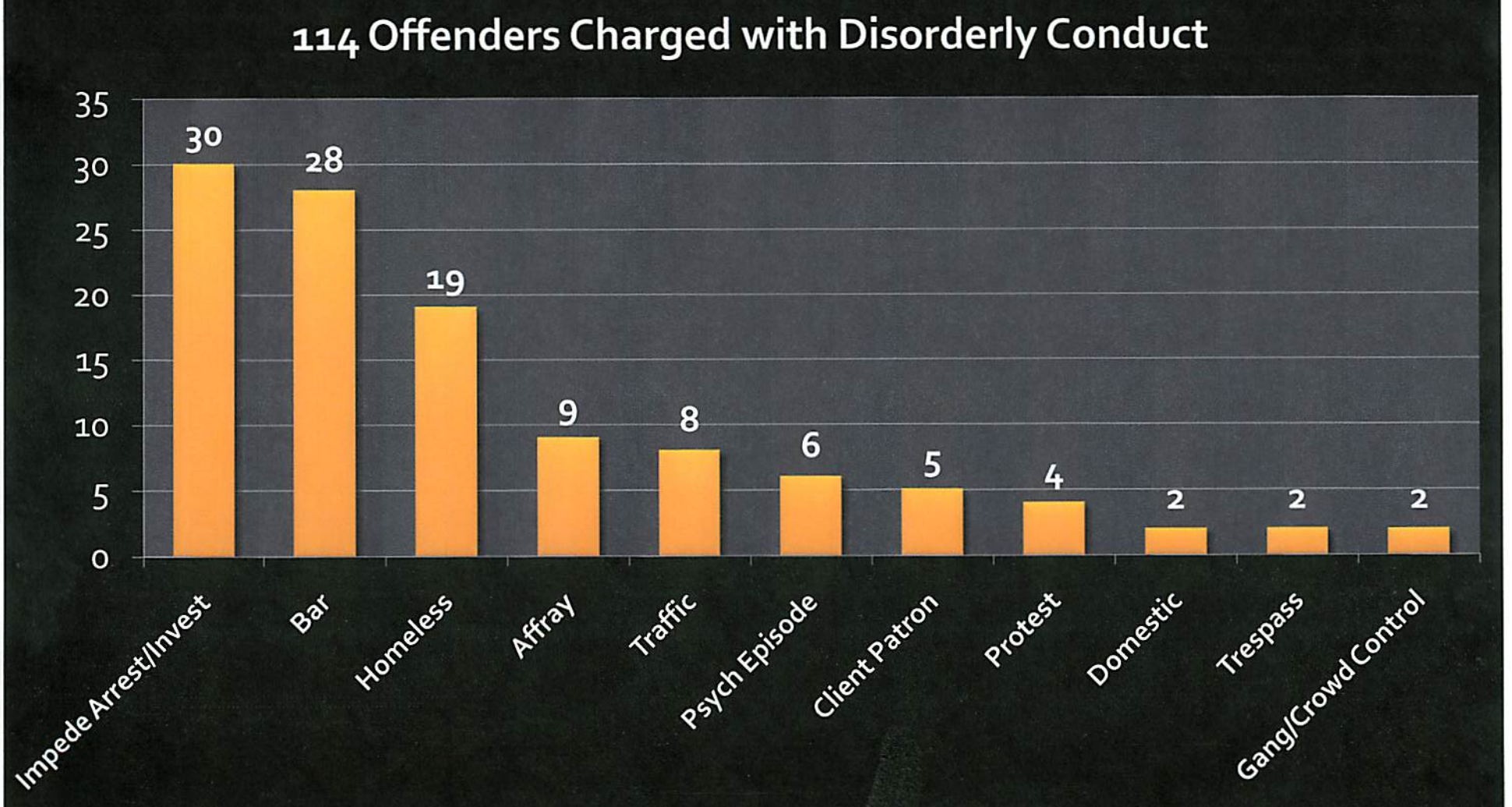


Analysis of Disorderly Conduct Incidents in Cambridge: 2008

All Incidents Resulting in Disorderly Conduct Charges by Cambridge Police in 2008

- **CPD chose one year (2008) of data for an in-depth analysis and review.**
- **CPD categorized all Disorderly Conduct incidents into three types of scenarios officers are faced with:**
  - Charges for Other Offenses
  - Aggravated Disorderly
  - Simple Disorderly

Incident Scenarios Resulting in Disorderly Conduct Charges in Cambridge: 2008



Factors Common to Disorderly Conduct Charges in Cambridge: 2008

Known / Frequent Offenders	43%
Multiple Offenders Involved in Incident	38%
Homeless	21%
Drug or Alcohol Use / Possession at Time of Incident*	49%
Officer Documented Attempt(s) to De-escalate and/or Warn Offender of Impending Incident*	61%

**Factors derived from reading incident report narrative only – actual numbers likely higher*

Classification of Charges Resulting from Disorderly Conduct in Cambridge: 2008

- **Charges for Other Offense (60%)** – offender charged for more significant offense(s) and also charged with Disorderly Conduct

- **Aggravated Disorderly (17%)** – conduct was so egregious that incident included additional charges
  (Typically Assault & Battery on Police Officer and/or Resisting Arrest)

- **Simple Disorderly (23%)** –charged solely for Disorderly Conduct

Focus of Offenders Disorderly Conduct: 2008

- **General Public (51%)** – offender's conduct was not focused at a single individual, but rather was general in nature and affected a larger group of people.
  (examples: smashing a store window for no apparent reason; running through the streets knocking over newspaper boxes).

- **Victim (16%)** – offender's conduct focused at a single person/victim.
  (typically domestic arguments or disagreements with store clerks).

- **Officer / Police (33%)** – offender's conduct was focused more specifically at the police or an individual officer.

Assessing Police Conduct

Disorderly Conduct & The Use of Discretionary Police Authority

- As we evaluated how officers apply their use of discretionary police authority, we examined situations where the police have the greatest amount of discretion.
- In the context of Disorderly Conduct arrests specifically, discretion changes based on the focus of offender behavior and degree of criminal conduct:
  - **Less discretion:** as the focus of an offender's behavior is more broad, and they engage in more criminal conduct, officers have *less* discretion.
  - **More Discretion:** conversely, as the focus of an offender's behavior is more narrow, and they engage in less criminal conduct, officers have *more* discretion.

Assessing Police Conduct

Disorderly Conduct & The Use of Discretionary Police Authority

- **Police as focus of Offender's behavior** – as an offender's behavior narrows and is focused on the police there exists greater potential for police bias and/or emotions to effect their decision making and discretion.

- **Simple Disorderly Conduct** – as an offender's criminal conduct lessens and the only charge is Disorderly Conduct there exists greater potential for infringement on First Amendment free speech rights.

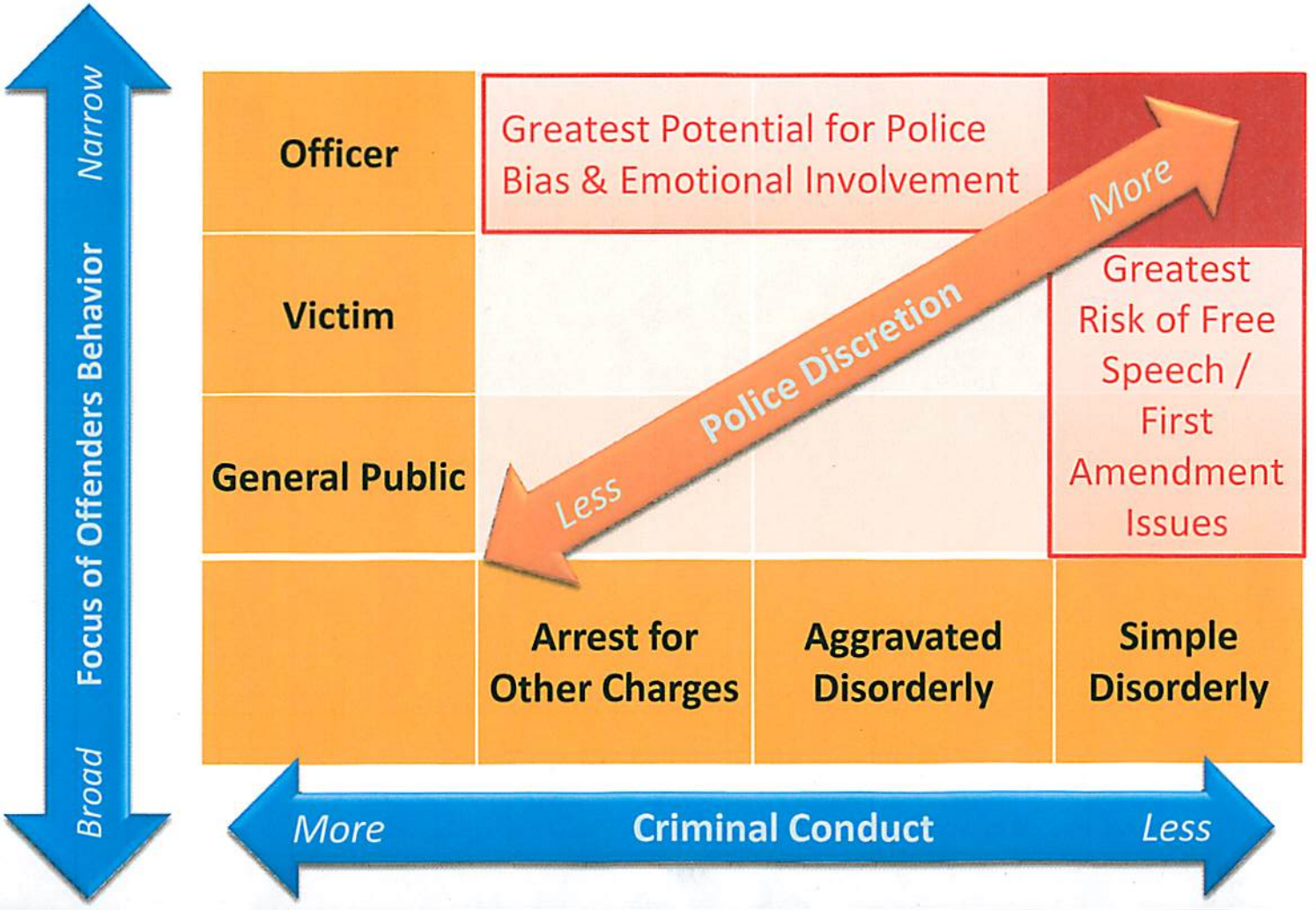
Assessing Police Conduct

Disorderly Conduct & The Use of Discretionary Police Authority

- The scenario with the greatest potential for misuse, or public perception of misuse, of discretionary police authority is when a person is charged with Simple Disorderly Conduct and the target of their disorder was the officer / police.
- This scenario resulted in a very small number of arrests (9 – less than 1%)
- Simple Disorderly Conduct charges accounted for less then ¼ (22%) of all Disorderly Conduct charges in Cambridge in 2008.

Assessing Police Conduct – New Model

Disorderly Conduct & The Use of Discretionary Police Authority



Assessing Police Conduct – New Model

Disorderly Conduct & The Use of Discretionary Police Authority

Distribution of 114 Disorderly Conduct Charges in 2008

	Arrest for Other Charges	Aggravated Disorderly	Simple Disorderly
Officer	24	5	9
Victim	11	5	2
General Public	33	10	15

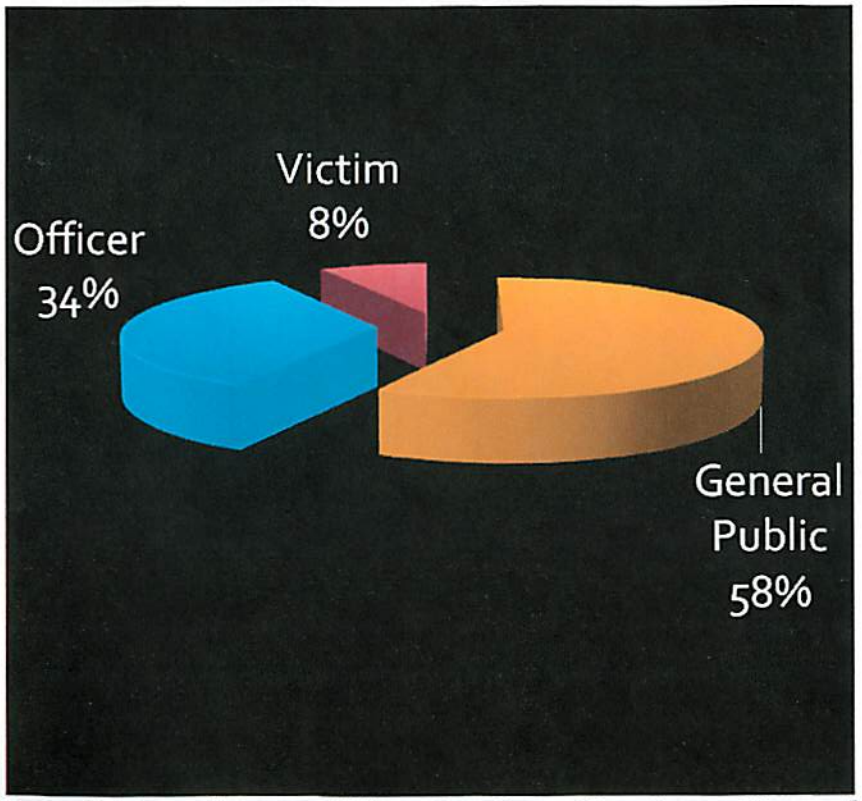
Less Police Discretion More

Narrow Focus of Offenders Behavior Broad

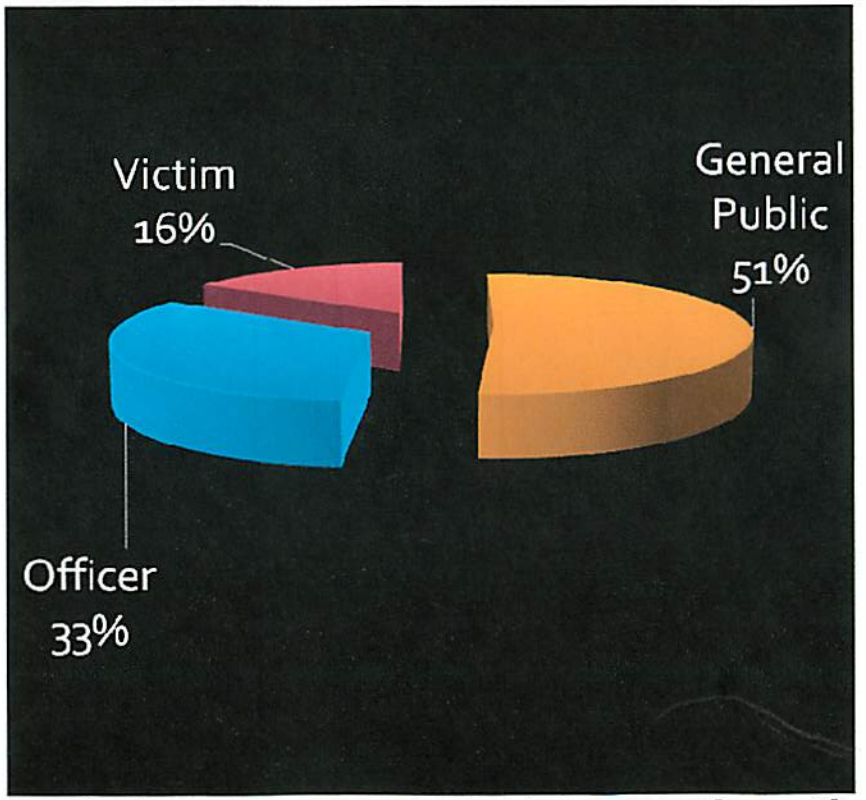
More Criminal Conduct Less

Target of Disorderly Conduct

26 CHARGES FOR DISORDERLY CONDUCT ONLY



ALL 114 INCIDENTS OF DISORDERLY CONDUCT



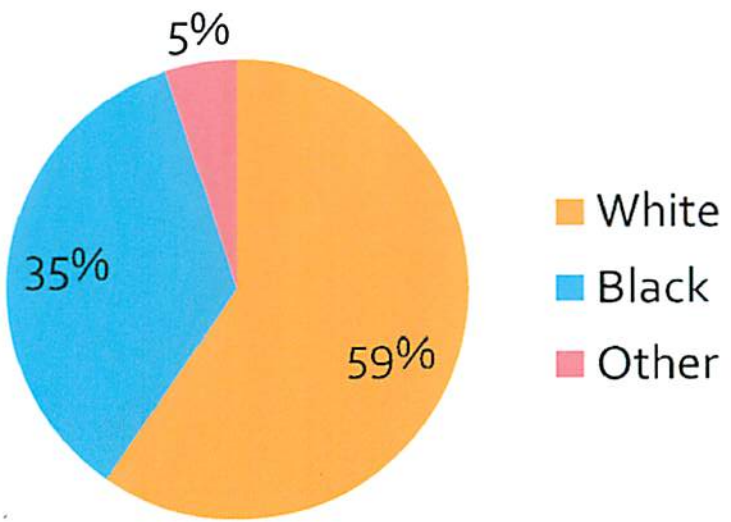
The data above illustrates that police do not change arrest decisions when the police themselves are the target of an offender's disorderly conduct.

All Disorderly Conduct Arrests by Target

ALL OFFENDERS (114 TOTAL)

	Charged for Other Incident	Aggravated Disorderly	Simple Disorderly
Officer	24	5	9
Victim	11	5	2
General Public	33	10	15

PERCENT BY RACE

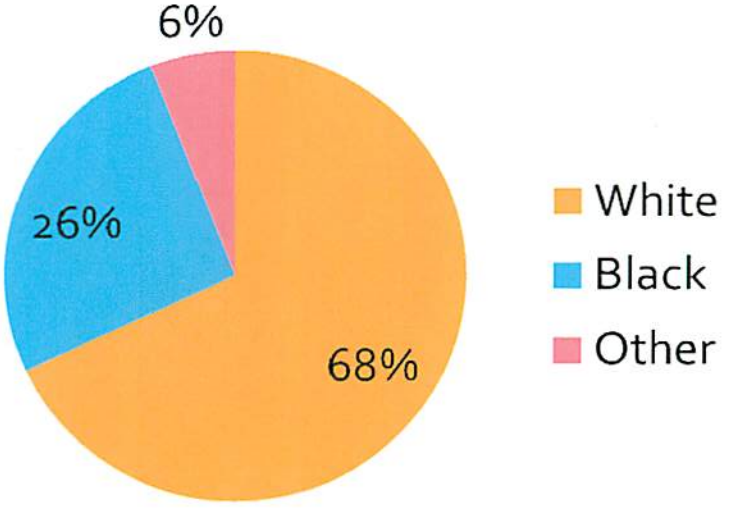


Aggravated Disorderly Conduct Arrests by Target

DISORDERLY OFFENDERS (46 TOTAL)

	Charged for Other Incident	Aggravated Disorderly	Simple Disorderly
Officer	24	5	9
Victim	11	5	2
General Public	33	10	15

PERCENT BY RACE

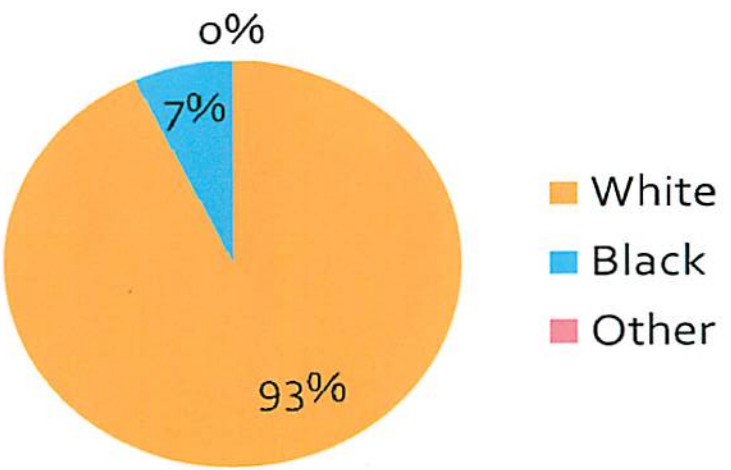


Aggravated Disorderly Conduct Arrests by Target: Officer

DISORDERLY OFFENDERS (14 TOTAL)

Officer	24	**5**	**9**
Victim	11	5	2
General Public	33	10	15
	Charged for Other Incident	**Aggravated Disorderly**	**Simple Disorderly**

PERCENT BY RACE

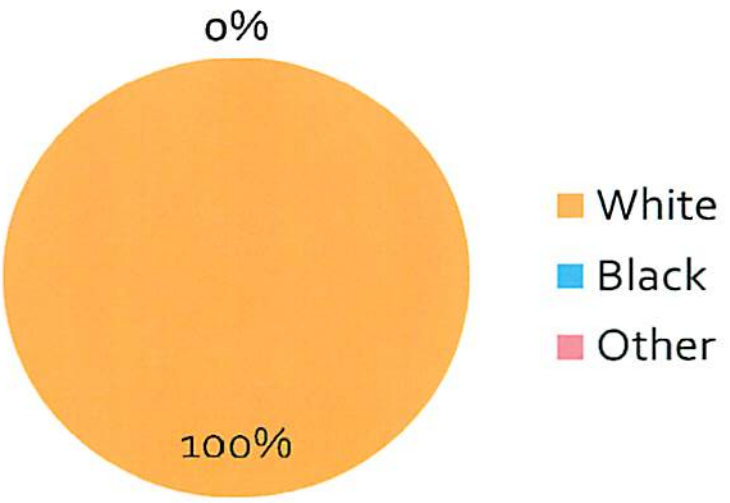


Simple Disorderly Arrests by Target: Officer

DISORDERLY OFFENDERS (9 TOTAL)

Officer	24	5	***9**
Victim	11	5	2
General Public	33	10	15
	Charged for Other Incident	Aggravated Disorderly	**Simple Disorderly**

PERCENT BY RACE



Summary of Findings

- CPD charges for Disorderly Conduct are well below national and local averages.
- Charges by race are in line with national average.
  - Charges by race are equal regardless of the race of officer.
- Charges do not increase where police are the target of Disorderly Conduct.
- Analysis of charges, particularly highest risk category (Simple Disorderly where officer is target of conduct) does not indicate abuse of police power.

Independent Analysis

- **"A review of the Cambridge department's handling of disorderly conduct cases from 2004 to 2009 finds no evidence of racial profiling"** – *The Boston Globe*, June 17th, 2010

- Review by Maggie Mulvihill, New England Center For Investigative Reporting

New England Center for Investigative Reporting Independent Analysis

- **Review finds no links to race, arrests** Boston Globe – June 17, 2010
- "...[T]he arrest, for some, raised the question of whether officers disproportionately arrest blacks for disorderly conduct, considered one of the most discretionary – and most abused – charges in the nation's criminal justice system.
- **But a review of the Cambridge department's handling of disorderly conduct cases from 2004 to 2009 finds no evidence of racial profiling."**
- "Of the 392 adults arrested for disorderly conduct, 57 percent were white and 34 percent were black. That racial breakdown almost exactly mirrored the racial composition of the population that Cambridge police investigated for disorderly conduct, the NECIR analysis shows.
- Cambridge is 68 percent white and 12 percent black, the latest U.S. Census data shows.
- **But multiple racial profiling experts said the fairest way to analyze the Cambridge police department's conduct was to compare the racial makeup of those charged to that of those investigated, and not to the racial makeup of the overall population."**

Further Application of Discretionary Authority Indicator

- Disorderly Conduct incidents will be used to help assess the use of discretionary police authority.
- In use as a new tool:
  - to help shape how officers think about discretion and conflict resolution.
  - Offer supervisors insight to better guide officers in the field (tactical disengagement).
  - heighten officer awareness of their own potential to allow emotions and bias, sub-conscious or otherwise, to affect their decision making.
    - There is a significant difference between discretion and poor judgment
- CPD will continually monitor disorderly conduct arrest data against internal and external benchmarks to identify and address outliers.
- Findings will be incorporated into policy
  - Specific criteria will be added to every police report for Disorderly Conduct arrests (attempts to de-escalate, public impact of offender's conduct, failure of other efforts to resolve behavior that necessitated arrest)

Questions?

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