

## **FINAL ANALYSIS AND CONCLUSIONS**

The aim and purpose of the President's Task Force on 21<sup>st</sup> Century Police is to improve the profession of law enforcement in the United States and improve the confidence and trust of our citizens that our nation's policing tactics and strategies are fair, just and constitutionally sound.

The FOP endorsed the concept of the Task Force, but were disappointed and keenly frustrated that it had no rank-and-file representative amongst its members. While the co-chairs of the Task Force, Philadelphia Police Commissioner Charles H. Ramsey and former Assistant Attorney General Laurie O. Robinson, did work with us to ensure that the FOP's voice was clearly heard by affording us the opportunity to testify before each of the Listening Sessions, the Task Force suffered without any member who possessed the line officer's experience and knowledge.

One of the issues throughout the Interim Report is that many of its recommendations would result in significant expenditures, both at the Federal and local levels. In many cases, the objectives are indeed laudable, but in reality most jurisdictions as well as the Federal government are facing reductions in funding for law enforcement. In fact, many facets of the Interim Report are very academic in their approach and urge closer working relationships with universities and other academic institutions. There is an "ivory tower" approach reflected in many of the suggestions proffered by the Task Force because they call on greater investment of Federal funds into State and local law enforcement at a time when such assistance has declined annually.

While the FOP acknowledges that there are benefits to increased partnerships with academic institutions, private foundations and other public-private partnership, the Task Force often ignored the potential role of the union or representative organization, especially with respect to issues related to community outreach. This is one of the most visible demonstrations of how the absence of a rank-and-file member of the Task Force affected its work.

Government at every level is forced to prioritize and make smart decisions with the funds available and the public safety mission must be given the foremost priority. The FOP would certainly support grant programs, which incentivize changes at the local level by providing more grant funding opportunities. However, we would vigorously oppose the coercive or punitive use of existing grant programs which may penalize local agencies as in many cases it is local elected officials, not the police department, that has the final say in setting policies.

The FOP was also very disappointed that the Task Force did not acknowledge, much less take a position on, our call to expand Federal hate crimes law to protect police officers. In her written responses to the Senate Committee on the Judiciary, U.S. Attorney Loretta E. Lynch, who has been nominated to serve as the nation's next Attorney General, stated:

*[The Task Force] will consider the proposal by the Fraternal Order of Police to expand the existing federal hate crimes statute to include law enforcement officers who have been targeted for violence because of their official position and duties.*

The Task Force received significant input from the FOP on our hate crimes expansion proposal, but the Interim Report makes no mention of it despite the assurance—or perhaps assumption—that this issue would be addressed.

The Task Force also makes no mention of the sharp rise in assaults on law enforcement officers—particularly the increase in ambush attacks. The FOP is very disappointed that the Task Force did not address this critical officer safety issue.

The FOP takes strong exception to the suggestion made by the Task Force that local and State law enforcement agencies should never enforce civil immigration law and that Federal enforcement of civil immigration law should be “de-coupled” from local and State efforts. To begin with, this counteracts every other law enforcement model of cooperation between local, State and Federal governments. The multi-level task force approach is effective in combating a host of criminal activity, which does not respect jurisdictional borders. It makes no sense to compartmentalize law enforcement operations on this issue. The decision as to whether or not civil immigration law should be enforced should be made at the local level.

The FOP also strongly objects to the recommendation that the Federal Bureau of Investigation (FBI) remove from the National Criminal Information Center (NCIC) database all civil immigration information. Such action may compromise officer safety as well as public safety. The NCIC information available to local and State law enforcement should be as complete and comprehensive as possible and not be “cherry-picked” to exclude certain information.

The FOP supports the full and complete investigation of use of force incidents but we reject as unrealistic and needlessly costly the Task Force’s recommendation that every use of force incident be subject to review by an “external and independent” entity. In practice, departmental investigations usually do involve other agencies to assure that there is no appearance of impropriety. We likewise reject the Task Force’s suggestion that officer-involved shootings require the appointment of a special prosecutor as there is no credible evidence presented that local prosecutors are incapable of filing charges and successfully convicting law enforcement officers who have committed illegal acts.

The FOP has endorsed the collection of data on use of force incidents, officer-involved shootings, and in-custody deaths. In addition, we recommended to the Task Force that data also be collected on assaults, injuries and line of duty deaths of law enforcement officers as the current database is not comprehensive. All of this data would help to improve community-police relations as well as officer safety.

The Task Force insufficiently addresses the issue of due process for law enforcement officers. The FOP has argued that one of the most important things we can do to strengthen the bonds of trust and mutual respect between government and our communities is to restore our public confidence in and commitment to due process. Law enforcement officers acknowledge that individual officers will have their actions scrutinized. Sadly, the media and public figures often engage in a rush to judgment and make statements about an event without all the relevant facts. This will sometimes inflame public passions and exacerbate the community situation, especially in cases where the initial opinions offered turn out to have been mistaken. This undermines trust

and does damage to the concept of due process—which must be unaffected by negative media coverage, threats of criminal activity, mass violence or other retribution by the public.

Law enforcement officers, as public employees, have the right to due process just as anyone else in our nation. Until such time as greater uniformity in the recognition of the due process rights of law enforcement is achieved, the FOP will continue to oppose efforts to establish or expand existing “de-certification” indexes. Such databases are of dubious value in any case, as law enforcement executives who perform rigorous background checks should learn this information prior to making any hiring decisions.

The FOP continues to oppose the establishment of “civilian review boards” at any level of government. Historically speaking, these entities have been used as weapons against individual law enforcement officers and/or departments and do little to contribute to the improvement or professionalization of local law enforcement agencies. The FOP particularly objects to the suggestion that the Office of Community Oriented Policing Services (COPS), which has a special relationship with the law enforcement community, administer a grant program to help local governments establish such entities. The role of the COPS Office is to promote and support law enforcement and setting an agenda at odds with that goal would jeopardize the partnership between the COPS Office and our nation’s police officers.

The FOP has, however, been supportive of civilian advisory boards and other community groups, which work collaboratively with their local departments.

The majority of law enforcement agencies (and other public and private employers) have formal non-discrimination policies and the Task Forces calls on all agencies to adopted such policies and practices. The FOP condemns all forms of discrimination. This includes how officers treat the public they protect and how elected officials and law enforcement executives treat the rank-and-file officer. The FOP has specifically condemned racial profiling, which is unconstitutional and unlawful. It is also a completely inefficient policing approach. Racial profiling cannot exist in a well-managed department and, for this reason; the FOP has urged that law enforcement executives receive appropriate, recurring training in this important area. We further urge that such training be offered to elected officials with executive hiring authority.

The FOP does, however, reject the recommendation that officers collect racial and gender data from every interaction with a citizen. When you add to the list of things that police officers have to do, you are necessarily subtracting from the law enforcement mission. Secondly, the FOP has repeatedly expressed that an officer should not have to inquire or be forced to subjectively guess as to the race or gender of a citizen with whom he is interacting. In addition, the FOP has argued that forcing officers to collect this data would *emphasize* racial and gender differences and make police officers much more aware of race and gender when our objective should be to de-emphasize the race and gender of the suspect. Officers who know this information is to be collected and analyzed may see a need to diversify the racial and gender identity of those they stop, yielding a result that is the exact opposite of the intent of this recommendation.

The Task Force makes several recommendations with respect to searches and other citizen interactions. The first is that officers receive specific, written consent to execute a search after advising the citizen of their right to refuse such a request. This is needlessly burdensome. Officers must rely on their judgment and discretion when seeking to execute a search. In cases of arrest and loss of liberty, the suspect is mirandized, but there should be no such requirement for a simple search.

The Task Force recommends that all law enforcement agencies adopt policies and procedures to police mass demonstrations and other large-scale events. The FOP agrees that it is appropriate for many agencies to do so, but not all agencies--especially those in rural areas or those with just a handful of officers that would not handle or be expected to handle a large-scale event. In those cases, outside resources and expertise would need to be called in. That said, the FOP has supported improving command decision-making when policing large-scale events or mass demonstrations.

The Task Force did not address specifically the issue of “militarization” but did recommend the Federal government to create a mechanism to investigate complaints and issue sanctions regarding the inappropriate use of equipment and tactics during mass demonstrations. The FOP disagrees and is confident that there are sufficient procedures in place to address the misuse of equipment obtained through Federal government programs—a conclusion also reached by the review of these programs ordered by the President. Similarly, we believe that the U.S. Department of Justice has sufficient resources and authority to investigate civil and criminal complaints arising from police conduct in response to a large-scale event. The FOP is very concerned with the Task Force’s use of the phrase “inappropriate use” of equipment. Investigations should be reserved for allegations of administrative or criminal misconduct.

The Task Force recommended that Federal law enforcement agencies implement all of their recommendations immediately, while suggesting that the U.S. Department of Justice begin to form public-private partnerships with local, State and national foundations to explore how its recommendations might be implemented and funded. The FOP believes it is extremely premature to enact these changes and suggestions until the law enforcement community has an opportunity to consider in greater detail the recommendations and their potential impact. To implement widely now is decidedly unwise.

Finally, the Task Force identifies a list of action items, which it recommends the COPS Office implement immediately. As above, many of the suggestions and action items identified by the Task Force should not be put into place until the law enforcement community has ample opportunity to review and consider them. This is especially true in the case of the COPS Office, which enjoys a special relationship with law enforcement. Some of the recommendations, if followed, would jeopardize that partnership.

In conclusion, the work of the Task Force and its 59 recommendations have been largely positive

and represents a good first step in the national conversation with regard to improving our profession and restoring all citizens' trust in their local departments. However, this is the beginning of that dialogue. The Task Force has amassed an incredible amount of data and put considerable thought into its Interim Report and recommendations, but that is the work of 90 days only. There is more work to be done and the FOP urges that the law enforcement community have ample opportunity, before any changes are implemented at the Federal level, to provide feedback on the work of the Task Force.