

CONSTRUCTING A BETTER ESTIMATE OF POLICE MISCONDUCT

ADAM DUNN AND PATRICK J. CACERES

RYAN HUNTER, EDITOR

Police misconduct erodes the legitimacy of local police departments and harms their relationship with the public. Though most public-police interactions are positive, limited data on the incidence of police misconduct makes it difficult to estimate local rates of misconduct. The authors create an estimate of complaints of police misconduct in Oakland, California, using agency data, and compare it to nationally-collected data to highlight shortfalls in national data collection. Based on their calculations, the authors argue that the National Police Misconduct Statistics and Reporting Project (NPMSRP) is undercounting misconduct rates by between two and twenty times. Greater emphasis on collection of data on local police misconduct can help police departments evaluate and improve their interactions with the public.

FEATURE

INTRODUCTION

Police misconduct negatively impacts the legitimacy of local police departments and creates tension between the public and police.[1,2] This tension is heightened among racial and ethnic groups that may feel unfairly victimized or targeted by police. Typical manifestations of police misconduct include violations of criminal statutes by sworn officers, corruption, and abuse of authority.[3] The last is perhaps the most visible type of misconduct because it often occurs during interactions with the public in situations such as traffic stops. Examples of abuse of authority include excessive use of force, bias toward certain groups, and improper search.

In general in the United States the vast majority of public-police interactions are positive. In a large national survey administered by the US Department of Justice (USDOJ), nine out of ten citizens who had contact with a police officer in 2005 said that the officer acted properly.[4] Available data suggests that most police officers conduct their day-to-day work without engaging in misconduct.[3]

Yet efforts by both citizens and police departments to respond to police misconduct are hindered by the lack of reliable national data. Limited national data collection on police misconduct makes it difficult to determine the rate of misconduct allegations and incidents at the local level, to compare misconduct rates across communities, or to estimate with any certainty national rates of allegations or incidents of misconduct.[3] Greater emphasis on collection of national data on police misconduct, disaggregated to the local level, can help police departments evaluate and improve their interactions with the public and reduce legal exposure to victims of misconduct.

In this paper, we examine the shortfall of data collection on police misconduct by using Oakland, California, as a case study. Agency data collected in Oakland demonstrates how the limited data that is collected nationally may be seriously undercounting rates of misconduct allegations and incidents in American communities. This undercounting is a result of both the data collection strategy employed (i.e., counts of media stories of misconduct as proxy for incidence rates) and underreporting of police misconduct by citizens in the community. We will estimate the rate of complaints of police misconduct in Oakland using local agency data, and we will also use data from a community survey to estimate the extent of underreporting of complaints by different racial and ethnic groups.[5] Estimating the relationship between complaints of misconduct and the true misconduct rate is beyond the scope of this paper, but we assume that there is some positive relationship between the two.[6]

Finally, we will recommend policy to help police departments and cities improve data collection on police misconduct, strengthen transparency in the reporting of statistics, and build in-program evaluation strategies that lead police and cities to take action in response to that data.

CURRENT SOURCES OF MISCONDUCT DATA FALL SHORT

The National Police Misconduct Statistics and Reporting Project (NPMSRP), a non-profit organization, gathers the largest collection of police misconduct data for communities across the United States.[7] NPMSRP produces misconduct allegation counts and rates by state and metropolitan area. This local-level data allows users to compare misconduct complaints between communities using a common metric. In a review of

the literature on misconduct, NPMSRP was the only organization collecting such data. Unlike most efforts to gather data on police misconduct, which generally rely on citizen surveys or complaint data from police departments, NPMSRP gathers its data on allegations of misconduct through published media reports of police incidents. The organization finds articles on incidents of alleged misconduct using manual keyword searches of news databases on the internet; these articles and reports are tracked via a Twitter news feed that feeds into a centralized database. NPMSRP publishes data abstracts at quarterly, semi-annual, and annual intervals.

NPMSRP reports an average of 0.2 incidents of alleged police misconduct per 10,000 people in the US.[8] NPMSRP did not publish a misconduct rate per 10,000 Oakland residents; however, its 2009 Annual Report lists 24 cases of alleged misconduct in Oakland. These cases were collected over 8.5 months between April and mid-December 2009. A linear extrapolation of this statistic yields 33.9 cases per year. Using 2000 Census data, the corresponding rate would be 1.1 complaints per 10,000 adults in Oakland, five times higher than the national average.[9]

Two other sources of national data fail to provide meaningful information on rates of misconduct at the local level. The USDOJ Bureau of Justice Statistics (BJS) publishes data on public-police contacts based on a nationwide survey of citizens completed every three years. The most recently published data is from 2005.[4] The BJS survey only asks respondents about two types of misconduct: improper use of force and improper search by an officer. The bureau's narrow focus likely leads to a substantial undercounting of incidents of police misconduct. For example, these two types of incidents account for less than half the complaints received by an Oakland agency responsible for reviewing citizen complaints of misconduct.[10] Another limitation of the BJS data is that it cannot be disaggregated to the community level, making it impossible to draw meaningful comparisons of the complaint rates faced by different police departments. A much richer dataset is needed to quantify the full range of officer misconduct in the community.

Another noteworthy effort to gather national data on police misconduct was conducted by the International Association of Chiefs of Police (IACP), but this data also fell short of what is needed to gain a comprehensive understanding of rates of police misconduct. The IACP database project asked police departments to provide information on the number of complaints of use of force filed against their own officers. Agencies reported data voluntarily and anonymously, but the response rate was quite low. Of the over 18,000 state, county, and local police agencies in the United States, less than 150 reported data into the IACP database.[11] Data reported to the

IACP gives an incomplete picture of the use of force, which is itself only one component of police misconduct.

In the analysis below, we develop our own estimates of misconduct complaint rates in Oakland using local agency data. We then compare this data to the best current estimates, the NPMSRP data.

LOCAL AGENCY DATA YIELDS A HIGHER MISCONDUCT RATE

Data and Methods

We obtained primary data from the Oakland Citizens' Police Review Board (OCPRB) for 710 citizen complaints of police misconduct occurring between 2000 and 2008. Each individual making a complaint to OCPRB can report multiple allegations of misconduct. For the purposes of this analysis, all allegations by one individual were treated as a single complaint.

Written citizen complaints were received by OCPRB investigators and entered into a Microsoft Access database. The main data elements captured incident type, location, date, and time, as well as the race and ethnicity of the complainant.

To construct the count of police misconduct allegations, we used the average number of misconduct complaints within each City Council district from 2000 to 2008. Taking an average of complaints reduces the impact of an inflated complaint count in a single year. Citizen complaints missing either the race of the complainant or the City Council district in which the incident occurred (51 cases out of 710) were imputed.[12]

We standardized these counts as rates per 10,000 adults in Oakland and by racial and ethnic group. We chose to standardize by adult Census counts, instead of total population, because more than 95 percent of complaints in the OCPRB database were made by adults. We used Oakland City Council districts as the geographic variable because these locations were coded in the OCPRB database and because Census data was readily available for these districts.[13]

Weighting Samples by Racial and Ethnic Groups Corrects for Systematic Underreporting

The OCPRB data reflects only formal citizen reports of police misconduct. Gauging a more accurate rate of misconduct requires an estimate of public underreporting of misconduct. In order to construct such an estimate, we used survey results from the September 2005 City of Oakland Survey on Police Services and the Filing of Complaints (City of Oakland Survey),[14] a survey of one thousand randomly selected residents of Oakland who had contact with an Oakland Police Department (OPD) officer in the five years prior to the

**The City of Oakland Survey
indicates that the vast majority of
negative interactions with OPD are
never formally reported.**

survey. We used the results to estimate how many complaints we would expect to see if everyone who had experienced a negative interaction with the police filed a formal complaint. It is worth emphasizing that both the City of Oakland Survey and the OCPRB data show allegations of police misconduct rather than verified incidents of misconduct.

Almost one-third (32 percent) of City of Oakland Survey respondents reported a negative interaction with an OPD officer, and the majority of those respondents rated the interaction as “very negative.” Only 11 percent of respondents reporting a negative interaction made a formal report of the event to one of Oakland’s police review agencies (the Internal Affairs Division or OCPRB). In this survey, 59 percent of interactions were initiated by the respondent (for example, through a call for service) while 22 percent were initiated by an officer through a traffic stop or investigation and 19 percent were initiated by a third party. Given that respondents tended to report more positive interactions when they initiated contact, this survey data may be biased towards positive police-public interactions.

The City of Oakland Survey indicates that the vast majority of negative interactions with OPD are never formally reported. Chief reasons cited by respondents for not filing a complaint were lack of knowledge of the formal complaint process or a feeling that the process would take too much time or fail to result in remedial action. Only 16 percent of respondents indicated that they did not file a formal complaint because the “experience was not that bad or serious.”

The City of Oakland Survey shows substantially different formal complaint rates by race and ethnicity. Blacks with negative police interactions were the most likely to file a formal complaint (15 percent). Less likely to file a complaint were whites (10 percent), Asian-Americans (8 percent), and Latinos (4 percent). We used these different rates of formal reporting

to weight the reported complaints in the OCPRB dataset to compensate for underreporting of police misconduct by racial and ethnic group. For example, if ten whites in a given geographic area in the OCPRB database filed a formal complaint, then the hypothesized total number of misconduct events would be one hundred (given a 10 percent reporting rate for whites). If ten Latinos filed a formal complaint, however, the hypothesized total number of events would be 250 (to adjust for a hypothesized 4 percent reporting rate). In other words, for every white resident filing a formal complaint, we expect that nine others fail to do so. For every Latino resident filing a formal complaint, however, twenty-four others fail to do so.

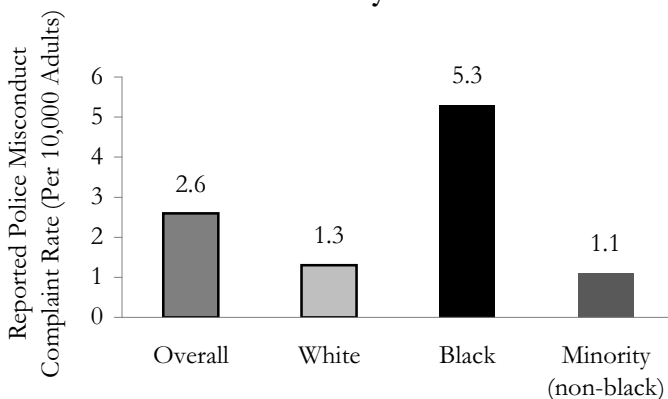
We validated these weights using the 2005 BJS Public-Police Contact Survey (PPCS) and found a comparable underreporting rate.[15] Among the one in ten respondents who reported improper behavior by an officer in the PPCS, only 8 percent made a complaint. This rate was found to differ by race and ethnicity: blacks had the highest reporting rate (9 percent), followed by whites (8 percent), Asian-Americans (5 percent), and Latinos (4 percent). While the rate-order of this data was aligned with the City of Oakland Survey, the latter had a higher formal complaint rate among blacks (15 percent). It is possible that the weights used in the City of Oakland Survey are overstating the misconduct complaint rate among blacks. However, applying the weight from the City of Oakland Survey does not change the relative complaint rate position of blacks as compared to other racial and ethnic groups.

Results

In the results below we present the rate of formal complaints to the OCPRB (see Figure 1) and contrast that data with our own estimates of misconduct incidents in Oakland, which we calculate by weighting the OCPRB data to compensate for underreporting of events (see Figures 2 and 3). In all sets of data we show differences in complaint rates based on race and ethnicity. We argue that the weighted estimates in Figures 2 and 3 are a better estimate of the true community rate of police misconduct complaints because they take into account public underreporting of misconduct. We also acknowledge that our estimates represent the rate of alleged, not proven, incidents of police misconduct, so our weighted estimates are likely higher than the rate of actual police misconduct. All three sets of data present substantially higher estimates of police misconduct incidents in Oakland than the largest national data source of police misconduct allegations, the NPMSRP.

Figure 1 shows the overall reported misconduct rate of 2.6 per 10,000 adults in Oakland. NPMSRP had estimated a rate of 1.1 complaints per 10,000 adults in Oakland. NPMSRP, therefore, is underestimating the misconduct complaint rate by a factor of more than two. While NPMSRP does not categorize incidents by

Figure 1: Police Misconduct Complaints Differ Greatly by Complainant Race and Ethnicity



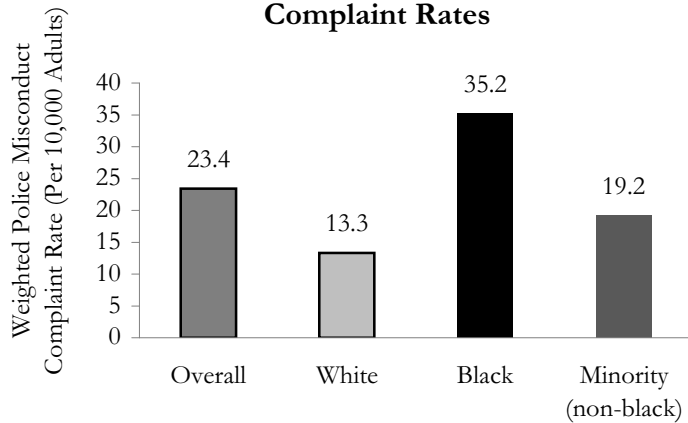
Data: Oakland Citizens' Police Review Board 2009

the race or ethnicity of the alleged victim, the OCPRB data shows a substantial disparity in the rate of formal complaints along race and ethnicity. The OCPRB data suggests that NPMSRP is underestimating police misconduct and that rates vary strongly based on race.

NPMSRP used 2009 media reports (and interpolation to “annualize” the estimates), while OCPRB data is averaged over the years 2000 to 2008. The difference in time frame suggests a possibility that this is an unfair comparison. This would only be the case, however, if 2009 data from OCPRB showed a much lower volume of complaints than in previous years. The aggregate number of complaints received in 2009 by OCPRB, however, was 20 percent higher than the average for the previous four years (ninety-six complaints were received in 2009 versus less than eighty received in each of the previous four years). This suggests that NPMSRP is truly undercounting the rate of misconduct by using media stories as a proxy for misconduct events.

Figure 2 shows our combined estimates of reported and unreported incidents of alleged police misconduct, weighting the OCPRB data using the weights we created based on the City of Oakland Survey. The rate of 23.4 misconduct events per 10,000 adults is almost twenty times greater than the estimate provided by NPMSRP. When taking into account the race of the complainant, we see that black citizens face a community rate of alleged officer misconduct more than twice as high as whites and almost twice as high as non-black minorities. Because black respondents were found to have a higher rate of formal reporting in the City of Oakland Survey, the difference between the true community rate of misconduct against black

Figure 2: Accounting for Systematic Underreporting of Police Misconduct Shows Changes in Misconduct Complaint Rates



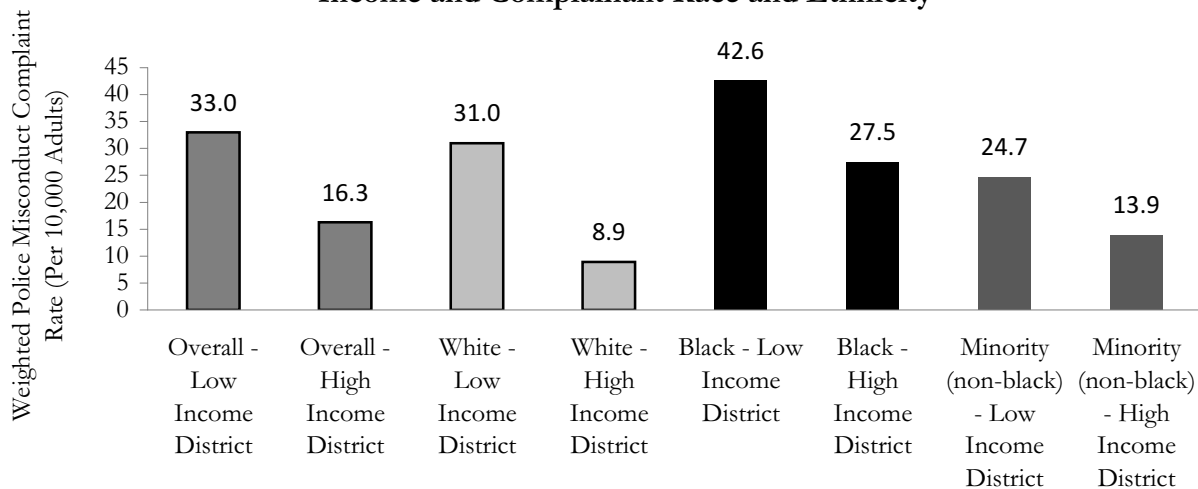
Data: Oakland Citizens' Police Review Board 2009

citizens as compared to other racial groups is reduced somewhat from the reported rate in Figure 1.

The opposite is true, however, of non-black minorities. When underreporting is taken into account, the rate of alleged misconduct faced by non-black minorities is 40 percent higher than among whites, suggesting that the true rate of police misconduct may be higher in non-black minority communities as compared to whites, but that cultural, language, or other barriers may cause the number of formal complaints to be lower.

In order to determine the role of neighborhood income demographics in police misconduct rates, we stratified Oakland City Council districts by average household income. This analysis (see Figure 3) shows that misconduct allegation rates differ greatly between high-income and low-income City Council districts.[16]

Figure 3: Misconduct Complaints Differ Greatly by District Household Income and Complainant Race and Ethnicity



Data: Oakland Citizens' Police Review Board 2009

On average, citizens in low-income districts in Oakland faced alleged police misconduct twice as often as citizens in high-income districts. The largest disparity is between white residents of high- and low-income districts. Whites in low-income districts on average face a rate of alleged police misconduct more than three times as high as whites in high-income districts. Among blacks and non-black minorities, the disparity of incident rates between high- and low-income districts was not as great (a difference of about 1.5 times). Across racial groups, citizens in high-income districts tend to face lower incident rates.

These differences may reflect very different rates of police service calls to these districts. For example, there may be a higher rate of service calls to low-income districts, a larger number of police-public interactions in these districts, and a correspondingly larger sample of interactions from which officer misconduct may occur. The data may also reflect a disparity in quality of service between high- and low-income districts: if low-income districts receive a poorer quality of police service, this may be reflected in the higher rate of complaints of misconduct in these districts.

Overall, the agency data on police misconduct in Oakland show that community reports of misconduct are much higher than that reported by NPMSRP. When formal complaints are weighted to account for underreporting, the estimated rate of incidents alleged to represent misconduct is twenty times higher than that reported by NPMSRP. Because NPMSRP is the only organization collecting nationwide data on misconduct that allows comparisons between different localities, its shortcomings show that better collection methods are needed to accurately measure police misconduct.

DISCUSSION & POLICY RECOMMENDATIONS

Cities have a vested interest in heading off police misconduct in order to prevent costly court settlements with victims of officer misconduct.[17] In addition, local elected officials have strong political incentives to avoid both the negative media attention that police misconduct creates and the feelings of mistrust among groups that feel targeted by misconduct. Improving data collection on misconduct is an important step cities can take to reduce rates of misconduct and improve relations between the police and the community. Higher-quality data collection would allow cities to factor rates of police misconduct into performance evaluations of their police departments as a measure of the quality of public safety services provided.

Most police departments do not publish data on misconduct, and estimating it using agency complainant data (as in this analysis) is only a preliminary step towards devising valid, unbiased estimates of community occurrence of misconduct. We make the following policy recommendations to strengthen data collection on local police misconduct. These recommendations will allow agencies to target problem areas, identify

problem officers, track progress over time, and reward improvement.

Recommendation 1: Police Departments Should Collect and Publish Data on Misconduct

The first step a community can take to evaluate police misconduct is to collect data on the local rate of occurrence. A simple strategy to estimate the local rate of police misconduct is to survey residents who have had interactions with police officers in their jurisdiction. Police departments maintain contact information for citizens who have had an interaction with officers through service calls, traffic stops, or interviews. A survey sample could be drawn from this database with surveys sent to citizens to measure rates of negative interactions and formal reporting of complaints. Repeat surveys would allow a department to track changes over time. The City of Oakland Survey is an example of this type of survey data collection.

In lieu of a survey strategy, data from formal complaints filed with city agencies, review boards, or police divisions responsible for investigating misconduct can be used to build estimates of local rates of misconduct, as in our analysis. This strategy should be used with caution, however, as the volume of formal complaints can fluctuate from year to year independently of the true rate of misconduct.

Recommendation 2: Local Rates of Police Misconduct Should Steer Corrective Action

Data collected on local police misconduct is valuable only in as much as it is used by decision-makers to steer corrective action. Much of the literature on police misconduct focuses on factors that should be used to screen potential police officers (education, personality, history of criminal activity, or employment disciplinary action)[18] or on organizational environments that discourage misconduct.[19] Equally as important is using a community metric of police misconduct to steer agency corrective action. In short, collecting misconduct data should push the agency to take control of misconduct. A focus on outcomes, as opposed to inputs or organizational factors, addresses what is most important to the public: how police misconduct impacts the community. Focusing on outcomes also follows from recent innovations in policing—such as CompStat—which create goal-oriented organizational environments focused on outcomes in the community.[20]

In cities that use the CompStat model, crime statistics are evaluated frequently in a forum which places pressure on police commanders to reduce crime rates. CompStat is instructive because it shows how disaggregating crime statistics to police “beats” in a city puts pressure on beat commanders to improve policing. The CompStat model holds police commanders accountable for crime rates in their service area. Beat commanders who have improving crime indices can take pride in

their work, while those that have worsening indices must answer to command staff.[21]

Police misconduct data could be evaluated in a system very similar to CompStat: the departments would collect data on police misconduct complaints and tag those complaints with officer serial number and incident location. Districts in which incidence of misconduct is large relative to the number of service calls could be flagged and discussed by executive staff. The threat of managerial rebuke might prompt commanders to be creative and diligent in curtailing officer misconduct. The CompStat model, while not the only way that misconduct data could be acted upon in a police department, is perhaps the way to make the response to the data the most immediate.

Another example of using police misconduct data to control incidents of misconduct is Oakland's Internal Personnel Assessment System (iPAS). iPAS tracks all complaints of misconduct against an officer over a period of thirty months. If an officer receives three or more complaints in this time period, the officer is flagged for corrective action. This system also monitors outliers, or officers that receive a large share of complaints compared to fellow officers. A system like iPAS allows the city to find and take corrective action with problem officers.

CONCLUSION

Police departments must recognize that incidents of officer misconduct erode the trust between the police and the public that they serve. Though most public-police interactions are positive, data on the extent of misconduct is limited, making it difficult to estimate local rates of misconduct. This analysis creates an estimate of complaints of police misconduct in Oakland in order to compare against nationally collected data. In so doing, we have attempted to point out the shortfalls in data collection by other organizations. Within Oakland we found that the rate of misconduct published by one organization, NPMSRP, may be undercounting the true rate of complaints by between two and twenty times. Greater emphasis on collection of data on local police misconduct can help police departments evaluate and improve their interactions with the public.

Adam Dunn is a student at the Goldman School of Public Policy.

Patrick J. Caceres, a graduate of the Kennedy School of Government at Harvard University, is policy analyst and acting manager of the Oakland Citizens' Police Review Board.

ENDNOTES

[1] J. Frank, "Conceptual, methodological, and policy considerations in the study of police misconduct," *Criminology & Public Policy* 8(4)(2009): 733-736.

[2] S.K. Ivkovic, "Rotten apples, rotten branches, and rotten orchards: A cautionary tale of police misconduct," *Criminology & Public Policy* 8(4)(2009): 777-785.

[3] Robert J. Kane and Michael D. White, "Bad cops: A study of career-ending misconduct among New York City police officers," *Criminology & Public Policy* 8(4)(2009): 737-769.

[4] M.R. Durose, E.L. Smith, and P.A. Langan, *Contacts between police and the public, 2005*, (Washington, DC: US Department of Justice, 2007), Bureau of Justice Statistics, Office of Justice Programs Special Report.

[5] For the purposes of this analysis, police misconduct complaints are limited largely to on-duty misconduct which has elicited a citizen complaint. A broader definition would include

police corruption and violation of criminal statutes. Because of available data, this broader definition is excluded.

[6] In the Oakland Citizens' Police Review Board Database (years 2000 to 2008), only 30 percent of misconduct complaints moved to an evidentiary hearing where evidence of misconduct was reviewed based on the preponderance standard. The overall misconduct sustained rate was 11 percent of cases presented at hearing; however, this is only about 3 percent of all complaints received by OCPRB. Therefore, using sustained cases of misconduct as a proxy for actual police misconduct would likely underestimate misconduct while using complaints would likely overestimate it.

[7] National Police Misconduct Statistics and Reporting Project (NPMSRP), official website, www.injusticeeverywhere.com, and Twitter news feed, <http://twitter.com/InjusticeNews>.

[8] NPMSRP, *2009 Semi-Annual Report*, http://www.injusticeeverywhere.com/?page_id=1076. This report includes rates of misconduct per 100,000 persons. In this paper, the rate was standardized to 10,000 persons for sake of

comparison. Their more recent *2009 Annual Report* uses a less useful metric of incidents per 100,000 police officers. The rest of this analysis will focus on rates based on population size affected, not on the number of officers in the jurisdiction.

[9] Census counts for adults are used here and throughout the rest of this paper; analysis of Oakland misconduct reports found that almost all reports were made by complainants eighteen and older.

[10] Oakland Citizens' Police Review Board Database, Oakland, CA (accessed November 2009).

[11] J. Travis, J.M. Chaiken, and R.J. Kaminski, *Use of force by police: overview of national and local data* (Washington, DC: National Institute of Justice Research Report, jointly published with Bureau of Justice Statistics, 1999), Report #NCJ 176330.

[12] Missing data were imputed by using the known proportion of complaints in each city council district by race. Imputation was done to avoid creating a negative bias in the rate estimates of misconduct. For example, a white complainant

with a missing city council district code was assigned in share to multiple districts based on the known proportion of white complainants in each district (one complainant record was therefore split between districts). This was done similarly for missing complainant race. A complainant in District 1 with missing race code was assigned in share to multiple races in that district based on the racial makeup of the complainants in the district. Records missing both race and city council district were assigned purely on the proportion of complainants by race in each district.

[13] We obtained 2000 US Census data for Oakland City Council districts by race and ethnicity from the Institute of Governmental Studies (IGS) at the University of California, Berkeley. We used this data to standardize the counts of misconduct into rates per 10,000 adults.

[14] City of Oakland, CA, and People United for a Better Oakland (PUEBLO), *City of Oakland survey on police services and the filing of complaints* (McGuire Research Services, 2005).

[15] Bureau of Justice Statistics, *Public-Police Contact Survey, 2005 [United States]* [Computer file] (Washington, DC: US Department of Justice, distributed by Inter-University Consortium for Political and Social Research, Ann Arbor, MI, 2008), ICPSR20020-v2, doi:10.3886/ICPSR20020.

[16] High-income districts are defined as having average household income greater than 90 percent of the average for the city as a whole. City average household income is about \$57,000. Low income districts have average household income less than 90 percent of the citywide average. The percent of city average household income for the three poor districts is 69.0, 74.9 and 89.6 respectively. For the four wealthy districts it is 95.5, 98.2, 125.9 and 146.9.

[17] For example, Oakland paid over \$2.5 million to settle an infamous misconduct case (the “Riders” case) plus an additional estimated \$2 million per year over five years to implement the settlement agreement. Oakland City Attorney, “Riders’ case: Monetary settlement and cost to City of Oakland,” <http://www.oaklandcity>

[attorney.org/PDFS/Riders/Riders%20\\$\\$\\$%20fact%20sheet.pdf](http://attorney.org/PDFS/Riders/Riders%20$$$%20fact%20sheet.pdf).

[18] J.D. Grant and J. Grant, “Officer selection and the prevention of abuse of force,” in *Police violence: Understanding and controlling police abuse of force*, William Geller and Hans Toch, eds. (New Haven: Yale University Press, 1996).

[19] W.R. King, “Police officer misconduct as normal accidents: An organizational perspective,” *Criminology & Public Policy* 8(4)(2009): 771-776.

[20] W.F. Walsh and G.F. Vitto, “The meaning of CompStat: Analysis and response,” *Journal of Contemporary Criminal Justice* 20(1)(2004): 51-69.

[21] J.S. Magers, “CompStat: A new paradigm for policing or a repudiation of community policing?” *Journal of Contemporary Criminal Justice* 20(1)(2004): 70-79.