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POLICING REQUIRES AN 'EPIC' SHIFT

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INTRODUCTION

The 1991 beating of Rodney King and the subsequent acquittal of the Los Angeles police officers responsible for the attack sparked massive riots and protests across the nation. Following an investigation by the Department of Justice's (DOJ) Civil Rights Division, Congress granted the attorney general the power to investigate "a pattern or practice of conduct by law enforcement officers that violates Constitutional or federal rights."[1] In cases of a proven pattern or practice of police misconduct, the court may use a federal, court-enforced order, known as a consent decree, as a mechanism to force police departments to address institutional failures.

Under such orders, a law enforcement agency and the Justice Department, overseen by an independent monitor, negotiate and establish concrete benchmarks to determine which reforms will constitute the successful end of the decree.

Since the first consent decree in 1994, the Civil Rights Division of the Justice Department has conducted over 65 investigations and entered into 40 reform agreements with police departments across the country.[2] According to the Division, these negotiations are most effective when they can "ensure accountability, transparency and the flexibility to accomplish complex institutional reforms."[3] Indeed, a number of studies have now confirmed that consent decrees helped resolve management and oversight issues in cities such as Pittsburgh, Los Angeles and Cincinnati.[4]

However, while federal consent decrees have their place in promoting systemic policy change, they consistently fail to effect local and cultural change within departments. Several factors contribute to this phenomenon. For starters, as is often the case, centralized models like federal consent decrees cannot adequately adjust to localized systems of knowledge and regional distinctions between departments. Because they target local governments rather than individuals, the reform agreements reached by the DOJ and local law enforcement agencies often fail to sustain cultural change.[5]

Moreover, within some police departments, consent decrees lack the very thing that is perhaps most important to their success—the support of officers. Without buy-in from individual officers, police departments often disregard best practices that they view as externally forced upon them. And because policing is a profession that allows substantial discretion, in some departments officers openly ignore state and federal policies.[6] Given the localized nature of police-citizen interactions, a top-down approach to police reform is virtually guaranteed to be unsuccessful.

In light of these failures, the New Orleans Police Department's Ethical Policing is Courageous (EPIC) program provides an alternative structure that begins with officers' localized knowledge level and ends with systemic change. By allowing officers to police themselves, EPIC utilizes them and their experiences as resources to promote meaningful change.

WHAT IS EPIC?

Created internally by members of the New Orleans Police Department, EPIC is a peer-intervention training program that seeks to change the culture of police departments by transforming officers' perceptions of permissible intervention and encouraging officer wellness. EPIC is premised on the idea that most officers strive to do good, but they often fail to intervene and report their colleagues' misconduct due to concerns that inhibit active bystandership. EPIC's peer-intervention model centers on the work of Dr. Ervin Staub, an emeritus professor of psychology at the University of Massachusetts-Amherst, on active and passive bystanders.

By studying historical genocides and the failure of bystanders to prevent them, Dr. Staub's research identifies a common thread of psychological inhibitions that prevent intervention.[7] Two of these inhibitors, fears of retaliation and isolation, stem from insecurities related to one's physical or

emotional wellbeing. A secondary category includes inhibitors like the lack of skills and diffusion of responsibility, which distort perceptions of an individual's responsibility or limitations when deciding to intervene in an incident. Dr. Straub's model of active bystandership provides tactics for overcoming personal inhibitors regardless of category, and these strategies are employed by EPIC to encourage officer intervention.

EPIC incorporates the approaches of existing active bystander programs from universities, medical care facilities and airlines. In these settings, active bystander training reinforces intervention practices by fostering a culture of expected participation and vigilance among onlookers. Training typically concentrates on changing an individual's thinking to reduce inhibition and encourage action. Modeled on these programs, the EPIC curriculum includes compassion and situational awareness education that helps individual officers understand and effectively respond to situations. Using this framework, NOPD's training program empowers officers to effectively police one another.[8]

But NOPD leaders describe EPIC as more than just obligatory active bystander training. While helpful for preventing misconduct, EPIC also improves officer wellness. Notions of heroism and mental fortitude often dominate policing narratives and overshadow conversations related to mental health.[9] The strong influence of such rhetoric on enduring emotional struggles in police culture has been detrimental to officers who seek treatment for mental health problems.[10] Not only are law enforcement officers embarrassed to speak openly about their emotional struggles, they often fear that speaking out could negatively affect their career advancement.[11] Worse, the shame and stigma attached to mental health crises create incentives to hide the true causes of death in cases of officer suicide.[12] The creators of EPIC recognized that while physical concern for an officer's partner plays an essential role in policing, many police department programs have overlooked or outright disregarded mental health.

EPIC actively challenges the stigma attached to mental wellness and empowers officers to acknowledge how their mental states influence their work. Rather than simply addressing issues of physical safety, EPIC trainers reorient notions of safety to include the impact of an officer's misconduct on their personal mental health and career stability. EPIC opens the space for honest conversations in the force by training officers to recognize and report potential mental health issues. The ability to identify the warning signs of mental illness in other officers provides another avenue to prevent officer misconduct before it occurs.

EPIC relies on a combination of lectures and role-playing of real-world scenarios to embed principles of active intervention into the daily behavior of officers. By requiring officers to play the role of observer, these training scenarios force them to reconsider challenges they may face on the streets.[13] Instead of conducting role-play for major instances of abuse, EPIC instructors showcase more innocuous instances of misconduct to show officers the small ways in which they contribute to the ethical decision-making of other officers.[14] In this way, EPIC utilizes experiential learning to provide officers the opportunity to challenge their core beliefs, and to teach and learn from one another. While the concepts of active and passive bystandership are not new, this application to the practice of policing is unique.

EPIC avoids the traps of traditional policy approaches by focusing on the impact of officer misconduct on individual officers, their partners and the profession more generally. This internal focus supplements, rather than replaces, traditional disciplinary processes and internal investigations. By equipping officers with the skills to police each other's misconduct, trainers hope to avoid it altogether.

BENEFITS TO POLICE

Supports Mental Health and Wellness

Our society depends upon the decision-making abilities and good judgement of our first responders, and untreated mental illness takes a toll on these capacities. Law enforcement officers face unique and challenging demands that expose them to traumatic events on a daily basis. Within this stressful environment, officers work tirelessly to protect the safety of their partners, and while instances of high stress are unavoidable, decreasing their frequency is helpful for maintaining officers' mental well-being.

As EPIC rightfully acknowledges, peer support is vital to the mental well-being of officers. Intimacy and closeness in police partnerships play an essential role in officers' capacities to recognize and address changes in behavior. Indeed, studies have connected social support such as this with increased capacities to cope with traumatic stress.[15]

If officers are provided a mentally and emotionally supportive work environment, they will turn to their partners to discuss their stressors. EPIC assists with this process by teaching officers to identify potential stress triggers and signs of mental illness. In addition, by addressing the stigmas that surround mental illness and emotional vulnerability within police departments, EPIC acknowledges that law enforcement officers are human beings, too. By fostering a culture of mental health awareness, EPIC challenges the status quo that ostracizes officers who report these issues.

Current police training emphasizes the physical safety of law enforcement officers, but it often fails to prepare officers to identify or effectively respond to emotional trauma, mental

illness and suicidal behavior.[16] Active bystandership shifts this paradigm. In order for cultural change to occur, police departments must become environments in which active bystandership is the status quo and not the exception.

Minimizes Legal and Professional Risk

EPIC stresses the ways in which misconduct negatively influences police officers. In their presentations, trainers illuminate the fact that courts usually hold officers criminally or civilly liable for failing to act in instances of egregious misconduct. Specifically, EPIC highlights *Anderson v. Branen* (1994) and *Torres v. Allentown Police* (2014) as evidence for court recognition of an "affirmative duty to intervene" and uphold the constitutional rights of citizens against transgressions.[17] In conjunction with *Putman v. Gerloff* (1981), a case that enforced joint liability in misconduct cases, EPIC clearly delineates a tangible disincentive for passive bystandership amongst officers.[18]

Mistakes and instances of misconduct compound officers' existing work and home stressors. The threat of termination or suspension can take an emotional toll and, by extension, trickle into their family lives. Some officers cope with these stressors by adopting maladaptive, self-destructive strategies including excessive use of alcohol or drugs.[19] One study of deaths among law enforcement attributed a majority of officer suicides to personal problems and legal disputes associated with work.[20]

Clearly, instances of misconduct pose a danger to the livelihood of otherwise excellent and professional police. EPIC directly addresses these issues by redefining notions of loyalty, officer wellness and policing philosophy. For officers, the program offers a "bulletproof vest" for their career, saving them from career-ending legal disputes.

By training officers to recognize common emotional triggers of misconduct in the field, EPIC equips officers to protect themselves from career-damaging actions. This emphasis on mental health also reorients officer thinking toward understanding and protecting the holistic personhood of their partners.[21] Where consent decrees can fail to acknowledge the motivations and incentives of police officers, EPIC empowers individual participation by teaching the skills necessary to identify warning signs of misconduct and techniques for effective intervention.

BENEFITS FOR DEPARTMENTS AND COMMUNITIES

Decreases Levels of Misconduct

Failure to address problematic behavior only emboldens it. In fact, the National Institute of Justice has reported that officers often gauge the seriousness of a rule violation by observing the department's response to it and the resulting disciplinary action.[22] Ineffective policy enforcement offers tacit consent and encourages misbehavior. Ultimately, the enforcement of an official order determines the efficacy of a policy change.

However, officers on the ground can undermine policy changes. Veteran officers teach trainees the standards of professionalism in policing. Unfortunately, for some young officers, the oft-quoted maxim "forget what you learned in the academy" replaces formal practices and procedures with an irresponsible notion of "real" policing. The fear of ostracization and retaliation for reporting misconduct thus alienates would-be active bystanders and stifles potential corrections of wrongdoing. The resulting threat of isolation can force officers into silence. EPIC fights this silence by offering options to address misconduct in a direct and discreet manner. Rather than relying on reports of misconduct or the use of suspensions, EPIC helps change notions of "real" policing by providing an alternative framework for conversation and resources for mental health services.

Saves Money

Officer misconduct comes with significant monetary costs. Investigations into police misconduct and out-of-court settlements related to officer violence are extremely costly for departments. In New York City, misconduct-related settlements cost over $600 million from 2010 to 2014.[23] These avoidable cases put an unnecessary burden on taxpayers.

Settlements generally require police departments to suspend or entirely remove members of their force. Removing an officer, whether temporarily or permanently, creates a personnel void that diminishes the capacity of the department as a whole. Open positions require officers to cover for missing personnel by working more overtime hours, a decision that negatively affects officer performance and overall morale. Excessive overtime leads to increased stress and fatigue among officers.[24] While limited, studies suggest a connection between officer fatigue and instances of police officer accidents, injuries and citizen complaints.[25] For work shifts of around 12 hours, the risk for accidents is twice that of an eight-hour shift.[26] In line with this, a review of four studies on occupational injuries found that the risk of injury at work is 41 percent higher when individuals work ten or more hours.[27] In a profession prone to high rates of stress-related problems, police departments must look for ways to decrease overwork.[28]

Moreover, the hiring process for replacement officers is not easy. Prospective candidates require recruiting, interviewing and training before they can become new officers. In some police departments, the entire process, from recruiting to

vetting, reportedly costs anywhere from $65,000 to upwards of $98,000.[29] Furthermore, new hires lack the practical experience of the officers they replace. Therefore, when an officer is suspended or terminated, departments sustain a loss to their localized policing expertise that cannot be easily or affordably regained.

Finally, reports of misconduct and lawsuits over excessive uses of force have occasionally resulted in the closing of entire police departments. For example, in 2010, mounting settlement costs for the city led to the disbanding of Maywood, California's police department.[30] The loss of a police department obviously decreases public safety for community members.

EPIC's goal to prevent incidents of misconduct limits the chance of departments accruing these costs. A proactive culture attunes officers' perceptions and mitigates damaging situations. Instead of blindly applying a policy structure, EPIC aligns an officer's individual incentives with the goals of their colleagues and department. This focus on prevention means that departments lose fewer experienced officers to misconduct and face fewer lawsuits from citizens. Retention of veteran officers allows police departments to maintain a consistent and competent workforce able to sustain a culture of active bystandership.

BENEFITS TO THE PUBLIC

Police Legitimacy and Community Policing

Law enforcement organizations largely acknowledge the systemic damage to the policing profession caused by misconduct. Specifically, the New Orleans Police Department recognizes that the influence of a small group of aberrant officers is "often significantly more pervasive than their mere numbers."[31] In some departments, this small percentage of bad officers accounts for a large percentage of instances of police brutality.[32] In the same way the NOPD believes that active bystandership is contagious, so too is the use of excessive force. As police departments attempt to strengthen relationships with communities, existing attitudes about police intervention fail to capture these dynamic relations.

Tensions between law enforcement and the public are immensely destructive, and the impact of police violence is equally damaging whether personally or vicariously experienced.[33] Community members often view neighborhood tragedies through a historical lens characterized by tense relations between the police force and minorities. In these situations, members of the public expect surrounding officers to intervene and right the wrong. An officer's failure to intervene or condemn an action is viewed as tacit acceptance of wrongdoing. This could account for the fact that of the 10 most destructive riots in U.S. history, over half were reactions

to perceived police abuses.[34] If police departments want to build trust in their communities, addressing misconduct is an essential component.

Accordingly, departments that empower and encourage active intervention create space to address excessive force and misconduct. EPIC achieves this goal by training officers to overcome inhibitions that prevent successful intervention and by explicitly condemning misconduct while teaching officers acceptable alternative responses. While not an absolute or immediate fix, active bystandership serves as an effective tool to restore trust within communities.

CONCLUSION

Effective and lasting reform requires a closer connection between officers and policymakers. If this disconnect is to be resolved, each stakeholder, including officers, must recognize that they are working toward the same goals of public safety and police well-being. EPIC provides departments a sense of peer responsibility, and outlines proper training methods to recognize and react to indicators of mental illness. Peer intervention in policing is far from unpopular. In 2017, PEW reported that 84 percent of officers would support a requirement to intervene when they believe another officer is about to use unnecessary force.[35] And since the program's establishment, several other departments have requested training from EPIC trainers.[36] Integrating active bystandership into officer training is essential to the resolution of issues of mental health and strained relationships between officers and communities of color. With EPIC, New Orleans has provided a model solution that the rest of the country would be well-advised to follow.

ABOUT THE AUTHOR

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