

#25 (DANNY MURPHY)

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Jerry Ratcliffe:

This is Jerry Ratcliffe with reducing crime, a podcast featuring influential thinkers in the police service and leading crime and policing researchers. Danny Murphy is Deputy Commissioner over the Compliance Bureau at the Baltimore Police Department in Maryland. We chat about his experiences working with the Baltimore and New Orleans police departments on their consent decrees.

Jerry Ratcliffe:

Okay. That intro was far too exciting for this podcast or anything for that matter.

In keeping with my plan to keep changing up the theme, last episode, we had the theme to Barney Miller. What you just heard was from a 1970s era police drama that frankly couldn't live up to that kind of overenthusiastic intro, but let's face it, what could? Are you old enough to remember what that program was that you just heard? Showing your age if you are. Anyway, to this month's episode.

Jerry Ratcliffe:

This episode was recorded in early May 2020, just a few days after the awful death of George Floyd at the hands of Minneapolis police officer Derek Chauvin. So it seemed unfortunately timely to be discussing consent decrees. And there's no one better to talk to about the policing implications that these court-imposed decrees than Danny Murphy. Danny is the deputy commissioner over the Compliance Bureau at the Baltimore Police Department in Maryland. Yes. If you've seen "The Wire" - and if not, why not? - that Baltimore Police Department. He was previously the deputy superintendent over the Compliance Bureau at the New Orleans Police Department, where he led the implementation of sweeping criminal justice reforms as part of their extensive federal consent decree.

Jerry Ratcliffe:

Those reforms led to increased public trust and significant reductions in serious use of force alongside substantial decreases in violent crime. He's received awards for his work from both the New Orleans city and police department. He's achieved quite a bit, considering the bloated looks to be about 12 years old. It's not for nothing, I've heard him referred to as Commissioner Harry Potter. He has a degree in political economy and English and an MBA from the University of

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New Orleans. We caught up at his house in Baltimore and started off chatting at a socially appropriate distance on his roof deck, which worked out fine for the first few minutes, at least until nearby builders came back from their break.

Danny Murphy:

I'm glad the weather cooperated and we caught these guys on their lunch break over there.

Jerry Ratcliffe:

Yeah. If the building work starts again, we'll have to dive inside, then.

Danny Murphy:

Yeah. And it's certainly quite a moment for police reform in general.

Jerry Ratcliffe:

This episode won't come out for a couple of months because I put them out once a month. But yeah, are we really making progress? I suppose is the awfully tricky question.

Danny Murphy:

Yeah.

Jerry Ratcliffe:

Because it feels like the good work of hundreds of thousands of officers is undone by Derek Chauvin and then in the subsequent riots, a few officers demonstrate a lack of control, and in many cases a clear lack of training. And for the sake of a few officers, it feels like progress in terms of how America is moving in terms of policing has just been put back 20 years, maybe 30 years, Rodney King, right?

Danny Murphy:

Yeah. 1991.

Jerry Ratcliffe:

And that's where consent decree started. Wasn't it?

Danny Murphy:

There was momentum towards the 1414 section, that is the legal basis for consent decrees that Rodney King accelerated.

Jerry Ratcliffe:

So 141 ... 1144 ... What the hell is that?

Danny Murphy:

So, Section 14141 is the legal basis for [crosstalk 00:03:30].

Jerry Ratcliffe:

Okay. You're making shit up now.

Danny Murphy:

No, no. I'm not kidding. It's actually a part of the 1994 crime bill.

Jerry Ratcliffe:

So section 14-

Danny Murphy:

... 4141.

Jerry Ratcliffe:

Okay. That's easy to remember, right?

Danny Murphy:

Yeah. But essentially it establishes authority for the Department of Justice to initiate an investigation into whether a department is demonstrating a pattern or practice of unconstitutional policing. And if they believe they've identified that, they can Sue the city at that point, and often the cities at that point come to an agreement, a consent decree to change practices across the department.

Jerry Ratcliffe:

It's a legal kind of situation, but the city is consenting to decree to make changes? Is that what the consent decree is?

Danny Murphy:

Yeah. There's some language to that point always in these consent decrees that I'm familiar with. Los Angeles was the first major city to have a consent decree, and that was on the heels of the Rodney King incident and the Rampart scandal, which was truly horrendous.

Jerry Ratcliffe:

You are the master of understatements, aren't you?

Danny Murphy:

That [inaudible 00:04:31]. Yeah. Oh, bad. Rampart was truly a horrendous scandal in policing, and it was some time ago at this point. And now you flash forward to Gun Trace Task Force scandal in Baltimore and you can certainly-

Jerry Ratcliffe:

Which first, when now?

Danny Murphy:

I mean, that was over the course of the past few years and cases keep coming up even recently in the consent decree era, but I think generally, 2014 ish areas when a lot of that was happening. And so you're seeing these echoes of the need for police reform going back a long time at this point. So LA was one of the first departments to undergo these kinds of reforms. It was an extensive set of reforms. These consent decrees kind of take what has been done before and grow. Over time, so you'll see that there are a lot of similarities between the different reform mandates in the different cities.

Jerry Ratcliffe:

Yeah. I mean, there were nearly 500 in New Orleans, weren't they?

Danny Murphy:

Yeah, there were 492 paragraphs in New Orleans and 511 in Baltimore. They are very similar. The sections are very similar. Focus on use of force, stop search and arrest, de-escalation, misconduct systems. It's really a comprehensive set of reforms aimed at fixing systematic problems.

Jerry Ratcliffe:

Because you started in New Orleans.

Danny Murphy:

Yes.

Jerry Ratcliffe:

Did you know anything about compliance situations and consent decrees before you got into this?

Danny Murphy:

No, everyone always asks me, how did you get into this, especially because I look like I'm 12, too many people.

Jerry Ratcliffe:

I was going to give 15 and [crosstalk 00:05:59].

Danny Murphy:

Thank you. It has been a few years since that time.

Jerry Ratcliffe:

Where did you leave the skateboard?

Danny Murphy:

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Actually never had a skateboard, but that's a relevant question. See, I'm from New Orleans, love New Orleans. Obviously there were a ton of problems after Katrina and I just had a desire to help in whatever way I could.

Jerry Ratcliffe:

So what were you doing at the time?

Danny Murphy:

The day the levees broke for Katrina was my freshman orientation of college actually. I was in Washington DC going to school and then on the other side of college, I wanted to come back and help New Orleans in whatever way I could. So I started off working at a community foundation down there, working on grant programs and organizational effectiveness, and then got asked to come work at a state agency that turned around failing schools.

Jerry Ratcliffe:

Oh, blimey. Good luck with that.

Danny Murphy:

Yes. So then I got asked from there to go to the New Orleans Police Department and work on the consent decree as a compliance manager. Now we've got the guys revving up in the background.

Jerry Ratcliffe:

Yeah. That breaks over. They're going to go back to building a desk-

Danny Murphy:

Yeah. This is probably going to be a problem.

Jerry Ratcliffe:

They're going to have to make [inaudible 00:06:57].

Danny Murphy:

Yeah.

Jerry Ratcliffe:

Oh yeah, there we go. Oh, okay. Let's reconvene [crosstalk 00:07:03].

Danny Murphy:

[crosstalk 00:07:04] start over [inaudible 00:07:05].

Jerry Ratcliffe:

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It's still going to be annoying for people driving in the car, listening to this podcast with that going on in the background. The builders had a surprisingly admirable work ethic. So we retreated inside to Danny's dining room, which had just enough space to be socially distant. Unfortunately, it also had a bit of an echo, but I'm afraid there isn't much that we could do about that.

Jerry Ratcliffe:

Oh man, it seems like an ideal time for a consent decree, but they seem to have fallen out of favor.

Danny Murphy:

They definitely ebb and flow with the political tides, but at this kind of incident certainly would have attracted the attention of the department of justice under the Obama administration and quite possibly would have led to a consent decree like what I've dealt with in Baltimore and New Orleans and have happened in many other cities, especially when you know that Chauvin was a field training officer.

Jerry Ratcliffe:

Which is just fucking nuts.

Danny Murphy:

It's horrifying. It speaks to the great probability that there's some terrible systemic problem there.

Jerry Ratcliffe:

Is that part of how you get into a consent decree? Is it just one incident that can do it, or if we were in a different administration that were a bit more enthusiastic about consent decrees, how do you go from that incident, like Freddie Gray in Baltimore, so ending up in a consent decree?

Danny Murphy:

So high profile misconduct or scandals like that often attracted the attention of a Department of Justice Civil Rights Division, like the one under president Obama. And they would launch an investigation to determine whether there was a pattern or practice of unconstitutional policing.

Jerry Ratcliffe:

Is that what's kind of needed? It's not just one isolated incident with a kind of road cop or a bad apple-

Danny Murphy:

Yeah.

Jerry Ratcliffe:

... as they might say, but it's indicative of something more systemic.

Danny Murphy:

The DOJ could launch a criminal investigation into an issue like that possibly, but the consent decree is about a pattern or practice of unconstitutional policing. So one single event does not produce a consent decree, but it can shine a light on what appears to be systemic issues. Quite possibly, that would prompt a department of justice investigation to see if there is a pattern or practice of unconstitutional policing. And if they do indeed identify that, the result is typically a consent decree negotiated between the department of justice in the city to rectify the systemic issues identified by the consent decree.

Jerry Ratcliffe:

And this consent decree is like illegal thing?

Danny Murphy:

A consent decree is very much a legal document itself, but the process of implementing it is an organizational change process. The city and the department of justice at the outset spend a considerable amount of time negotiating the set of reforms that they will agree to and consent to.

Jerry Ratcliffe:

How do they get there?

Danny Murphy:

They often pick up where the last consent decree stopped. So you will see New Orleans and Baltimore's consent decree is a very similar. New Orleans predates Baltimore's. The department of justice's authority comes from the 1994 crime bill.

Jerry Ratcliffe:

So that's back in the Clinton era. Isn't it? I mean, you were in kindergarten, all right?

Danny Murphy:

I was probably four and a half at that point.

Jerry Ratcliffe:

Oh God, I had you.

Danny Murphy:

It was somewhere around there. Five or something. So yeah. So the Rodney King incident generates this conversation on national police reform. And out of that comes this 14141 statute that enables the DOJ to launch these investigations and come to these consent decrees.

Jerry Ratcliffe:

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So why would a city or a police department agree to a consent decree? It seems really onerous. There are hundreds of requirements. They seem spectacularly unpopular with rank and file officers. Why would anybody or what kind of stick would be wielded if you didn't agree to end up in a consent decree?

Danny Murphy:

The alternative to a consent decree would be to fight it in court. And I think cities typically fear that fight because of the potential outcomes of it in a variety of ways. But it also can put the city in a position of defending police practices that have come under tremendous scrutiny.

Jerry Ratcliffe:

So a kind of pivotal incident can spark these things and actually also drive the momentum for people to sort of become more enthusiastic about embracing them.

Danny Murphy:

Absolutely. And I mean, for a mayor of a city where one of these terrible incidents happens-

Jerry Ratcliffe:

It will be seen to be doing something.

Danny Murphy:

Yes. And the DOJ investigation typically outlines extensive problems that require systemic change. And it's difficult to imagine those changes happening in the very near term without some type of significant intervention with the benefit of the department of justice. So some cities have actually asked DOJ to come in and do these investigations because they know they have problems and they know they need help solving those problems.

Jerry Ratcliffe:

Does a consent decree come with assistance then? Because I've seen in the Baltimore press recently complaints about how much the monitors were costing-

Danny Murphy:

Mm-hmm (affirmative).

Jerry Ratcliffe:

... arguing that the consent decree is an expensive business. Do you get something for that?

Danny Murphy:

The mechanism of consent decree is not cheap, but the arguments for them is it's typically a lot cheaper than the astronomical liability the cities are facing from misconduct cases.

Jerry Ratcliffe:

Yeah.

Danny Murphy:

And that has born out in Los Angeles. I believe in New Orleans you were seeing cases fall off a cliff at a certain point. So it pays for itself.

Jerry Ratcliffe:

So what is it you actually do?

Danny Murphy:

That's another good question that I get frequently, because consent decree is a dense operation. What I oversee is reformed management, policy training, technology, and auditing, and they're all the pillars of reform to make sure that in the end we were actually implementing the policy and training. Those are working hand in hand and having the impacts that consent decree requires for on the streets.

Jerry Ratcliffe:

I get the sense that consent decree is not popular, certain with the rank and file. Where does that stem from?

Danny Murphy:

I understand the frustration about consent decrees from officers to some degree when they come in, because it's an outside entity of the department of justice coming in and looking at the work of the department. It's really looking at a systemic level, and when they conclude that there's a pattern or practice of unconstitutional policing, I understand receiving the message that I've always been doing it wrong and who are these people to tell me that I'm doing it wrong?

Jerry Ratcliffe:

Right. I can see it, I mean, cops on the street just kind of feeling that they're being told, you guys suck.

Danny Murphy:

Yeah.

Jerry Ratcliffe:

And all the hard work that you're trying to do to get the community safe is all wrong.

Danny Murphy:

Yeah. And with the consent decrees are really saying, is that the system within which these officers has been operating-

Jerry Ratcliffe:

And they're trying to do that best within the system?

Danny Murphy:

Yes. That system has been wholly inadequate. You haven't had the appropriate policies. You haven't had impactful training. You don't have the technology you need to do police reports electronically.

Jerry Ratcliffe:

Right.

Danny Murphy:

And there aren't the accountability mechanisms and the supervision mechanisms to ensure that officers have from beginning to end support they need to succeed on the levels that consent decree is requiring. So it's certainly a difficult messaging issue that comes up of feeling, well, I've been doing it all wrong, but it's really about fixing the system to help everyone succeed and better serve the community.

Jerry Ratcliffe:

So you see it very positively as something that can benefit police department?

Danny Murphy:

Absolutely. And I mean, some jurisdictions have called for the DOJ to come in to help intervene and fix the police department, and what you see in New Orleans and some of the other cities that are deeper into consent decrees is that there's an increase in public trust. You see significant decreases in lethal uses of force and New Orleans the other year had a 47 year low in homicides and in Los Angeles during the period of their consent decree, they had a historic drop in crime. So there's this notion that you can't reform and fight crime at the same time. But in fact, I think they're inextricably linked. How do you say a Thomas Abt's name? Did I get that right?

Jerry Ratcliffe:

Yeah, you did.

Danny Murphy:

Okay. I think that's a point very eloquently express by Thomas Abt, one of your former guests in his book, Bleeding Out. The intersection and importance of both police legitimacy and effective crime fighting mechanisms.

Jerry Ratcliffe:

But it's seen as hugely onerous. I mean, as soon as cities get into consent decree, most of the time all I see is talk about how do we get out to the consent decree? Because it seems to be seen as this massive burden.

Danny Murphy:

There are certainly voices that are very loud about how do we get out of the consent decree. There are other voices that are saying, we need to keep the consent decree around longer. There are multiple different groups who look at these consent decrees and part of it is about how do we deliver this change in the most efficient and effective way

possible. And something we worked on a lot in New Orleans is looking at the way the police department operated, and there were things that had just been ingrained decisions.

Jerry Ratcliffe:

We've always done it that way.

Danny Murphy:

We've always done it that way, and an important question is, why and does it work? Does it mean anything?

Jerry Ratcliffe:

[inaudible 00:16:29] it tell us why.

Danny Murphy:

I do a lot of-

Jerry Ratcliffe:

Just follow all of this, young man?

Danny Murphy:

I do a lot of asking why which generates a lot of love and popularity. But yeah, I mean, so a consent decree is as in New Orleans presented an opportunity to rethink, why do we operate the way we operate across the board, whether it's a consent decree requirement or not. There certainly are more documentation requirements in these consent decrees. But in the end, I think they have very positive outcomes of better uses of force, more trust that is so critical to helping solve crime in the end and protecting and serving. And so when we see these outcomes in Los Angeles and New Orleans and other places, the reporting that happens in the interim, maybe that's a critical part to delivering the end goal.

Jerry Ratcliffe:

Then some of those measures go up initially in New Orleans?

Danny Murphy:

Absolutely. And so what something you frequently see in some of these consent degrees, cities from my experience is that use of forces go up. Complaints can go up. The number of reported stamps can go up, but that really can come back to higher reporting requirements or higher integrity of those systems. So over time in New Orleans, we did see on misconducts and on use of force reporting go up and then go down after time.

Jerry Ratcliffe:

You and somebody else in the judge, I believe in New Orleans, wrote an article together and justice quarterly, and I'll make it available on the podcast page at reducingcrime.com, but what I found was interesting is that it seemed very focused on counting and measuring and accountability-driven in terms of making sure paperwork was filled out. There

was compliance in terms of switching on body-worn cameras, there was compliance in terms of filling out forms about critical incident activity. It seemed very focused on the kind of metrics.

Danny Murphy:

Mm-hmm (affirmative). We've found that data-driven management is absolutely paramount to implementing these reforms. One of my biggest pet peeves about the police reform discussion is we focus on policy and training and then it kind of trails off after that. Really it's got to be focused on performing according to the policy and training and having accountability if the performance is not meeting those standards.

Jerry Ratcliffe:

I mean, how many officers are trained and something is only a measure of an output, but it's not a measure an outcome?

Danny Murphy:

It doesn't mean-

Jerry Ratcliffe:

Does that actually improve what they do on the streets?

Danny Murphy:

These reform efforts through consent decrees is all about, you can't satisfy the consent decree simply by having a policy that says everything in the consent.

Jerry Ratcliffe:

All right. I mean, the joke that's across many points in the country is the minimum required kind of annual police officer standards and training, the post requirements, which is two days worth of work. In some places it's two days of legal updates. Did you read the legal update? Did you read this policy sign here? There you go. And then officers in court are saying, no, I wasn't aware of the policy.

Danny Murphy:

Yeah. What does that accomplish in the end? It accomplishes nothing. And so policy and training are very necessary pillars for reform, but we need to make sure that we're performing according to those policies and training, and that is what we found really accelerated. The reforms in New Orleans was taking this data-driven management approach where we first made sure we were turning on the body-worn cameras. And then we really started assessing how are we performing on that footage, and how does it accord with the reports that are associated with that footage.

Jerry Ratcliffe:

Considering how much money body-worn cameras cost for whole police department, it's like, guys, press the damn button where-

Danny Murphy:

Yeah. Yeah, you'd think you'd want to have it on and turn it on routinely if you're going to spend millions of dollars on it. And we found in New Orleans that the body-worn cameras were integral to the reforms. And so we do these frequent precise performance audits that we didn't amass in some 70 page report that would gather dust in some closet somewhere.

Jerry Ratcliffe:

I mean, even if it's 15 pages that look out the dust, right?

Danny Murphy:

I mean, really I've found you need to be able to sum up a tremendous amount of data on one page per topic of, this is how you're doing on use of force as a district and here are the components of how we're grading you on that, and where you're green, you're good, where you're red, you need to improve, you need to focus your attention there. And we would put these kind of digestible, actionable performance reviews right in the heart of our CompStat meeting. So we talk about crime and we'd move on to some other administrative things and reform. And so every week the leadership of the police department would have to come in and talk about what they are doing to actually implement the reforms in practice, taking it from the policy, taking it from the training and demonstrating it on the streets.

Jerry Ratcliffe:

You must've run into a whole pile of resistance.

Danny Murphy:

There certainly is resistance that you encounter, but the beauty of these performance audits and putting them in the heart of our management meetings was the numbers don't lie.

Jerry Ratcliffe:

So I've worked with a number of police departments and there are always those people on the side that are going to have some other officer has been around a while and they say, "Oh, part of the B team. We'd be here when you get here, we'd be here when you leave." How difficult is it to just implement change with the B team who just figure, eventually you guys will go, this thing will go away and we can slide back to how we've always done it?

Danny Murphy:

So as we already discussed, I look like I'm 12, and when I started in New Orleans-

Jerry Ratcliffe:

Yeah, you are going to outlast everybody on this at least, right?

Danny Murphy:

Yeah. But to that point, when I started in New Orleans, I had a Sergeant tell me, "You will retire before you implemented these reforms effectively." Flash forward a few years, and according to what the monitors were seeing and the department of justice was seeing, they were seeing dramatic improvements in performance. For instance, in use of force they said it was like a totally different department. And the data-driven management approach was really central to that, but also committed to leadership from then chief Harrison down there, setting the tone of we aren't doing this because we have to do this, but we do have to do it. We're doing this because it's the best thing to do and we need to rebuild trust with our community to become a more effective police department.

Jerry Ratcliffe:

So chunk of that is about changing the culture.

Danny Murphy:

Mm-hmm (affirmative).

Jerry Ratcliffe:

One of the things that I was interested in was that you've talked a lot about the data, what the data says, but how do you then translate that into a change in the underlying culture that can outlast the consent decree so things don't slip back?

Danny Murphy:

Yeah. In the end it's all about culture change that can sustain the performance improvements that you're seeing. So we put a ton of thought into that, because one of our monitors in New Orleans was Bob McNeely who oversaw the implementation of the entire consent decree in Pittsburgh, I believe. And then after his departure, he saw precipitous drops, a drop offs in performance there. And so we had to think about how do we sustain this beyond the consent decree, because the way you conclude a consent decree is you demonstrate compliance for two years and we can get into how that is defined, but we actually created a city ordinance basically that was intended to continue those for forms after the conclusion of the consent decree, because that's one of the criticisms of the consent decree sometimes is you do all this work to get to this point and then DOJ leaves and there's this risk of it sliding backwards.

Jerry Ratcliffe:

That's like training for a marathon and then three years later being 200 pounds overweight.

Danny Murphy:

Absolutely. And so there's so many things that go into that. In New Orleans, we were very big on transparency and posting public data, posting body-worn camera footage after a critical incident, or CompStat dashboard, which we called MAX was available to the public, which included our performance audits of whether we were following the reforms or not. Unfortunately, there's a cyber attack down there that has kind of hit that at the knees, but a focus of ours was to publicly enshrine the best practices in whatever way we could so that should someone down the line want

to roll something back or just not give it the proper attention, there would be sufficient visibility in the community to see, huh, this isn't the way it used to be.

Jerry Ratcliffe:

One of the pillars that you talked about is supervision.

Danny Murphy:

Mm-hmm (affirmative).

Jerry Ratcliffe:

And I think that sergeant, I think is pretty much the most important role in any police departments, because they're the ones that can translate the message from the headquarters wing to the guys and the men and women that work on the street. I like to go and ride along as the native police departments, because I learned a great deal from that, but I also learned a great deal from watching roll call, and I've seen roll calls in departments where the sergeants have said, we've got this new mandate. We're going to be doing this. We can change in the forms, everybody understand, if you're not sure, check with me. That seems to be buy-in.

Jerry Ratcliffe:

And then I've seen departments where the sergeant said, this has just come bullshit, and just throw their hands up in the air. And at that point, all the good effort that somebody put to thinking about a better way or a different way of doing things just gets destroyed. How do you work with supervisors to make sure that things from a consent decree that are already unpopular, just because their change get cemented? How do you change that? How do you get their buy-in? Because without the supervisors, you've got nothing.

Danny Murphy:

Absolutely.

Jerry Ratcliffe:

At least I feel that way.

Danny Murphy:

Yeah. No, supervision is critical to this because supervisors are on the frontline of ensuring that the new policies and training are having the desired impact and there's a growth process to this. It's not like you flip a switch and all the supervision is perfect. So I think one of the things that's very important is trying to explain what the reforms are.

Jerry Ratcliffe:

Right.

Danny Murphy:

And-

Jerry Ratcliffe:

Getting the message out.

Danny Murphy:

... getting the message out and how they aren't going to be the end of the world. And you can still do your job.

Jerry Ratcliffe:

Right, because it strikes me that a lot of it, especially in terms of the technology and the data and the dashboards is telling people, it's flagging up in red or [Rambo 00:26:38] where they're not performing as well as they should, but it's also getting that message, this is why it's important.

Danny Murphy:

And rolling out the comprehensive trainings that you have to do through the consent decree, we've already done use of force, we're in the middle of stop searching arrests. I think that can help explain a lot of the myths or concerns that can be about out there about the consent decree, and in general, I think departments typically really struggle with communicating what it is, why it is and what is our destination.

Jerry Ratcliffe:

Right.

Danny Murphy:

What does this mean for you? And that's something that has been a complaint in Baltimore and basically every other department. And we're working on kind of doing a consent decree 101 of, here's what this section means to you. Here is why it will help to an individual officer in more obvious ways, officer wellness programs, technology programs, technology modernization, et cetera. So we've got to do a better job getting the message out and we're working on that right now.

Jerry Ratcliffe:

Do these reforms come with additional money or does the consent decree force the city to spend more money on training? Because training for mid-level supervisors seems to be the one area where America in particular seems particularly weakest. You get good training at the academy or okay, training academy, and if you make it to the executive level, there are seminars from Perth and you go to the FBI National Academy, but it's the people that do that work in the middle that seemed to get absolutely shafted on zero training.

Danny Murphy:

There are specific projects we're working on, for instance, for use of force to stop searching arrests, the supervisor's role on that. So I think to get supervisor buy-in, it's certainly a challenging element of it, but it's explaining why and in

a better way it's providing performance feedback to them, specifically on how they're performing and where they need to improve, helping translate the policies which can be lengthy and the consent decree which is rather dense into actionable items for them to act on. And by providing that performance feedback over time, they're responsive. Meaning what you measure is very true in a consent decree.

Jerry Ratcliffe:

You've seen this?

Danny Murphy:

Absolutely. With the body-worn camera and performance audits we did in New Orleans routinely, they would start off in the red non-compliance and go to green compliant over time by providing precise performance feedback to the supervisors and officers on a frequent basis to communicate how they're doing and help them get to where they need to be. I think another part of buy-in is time, in that the reforms being in place for some period of time and not seeing catastrophic impacts the way it is sometimes feared, is really a critical part of it. And one of the stories that emphasize that further to me was when I met a New Orleans Police Department homicide detective in Baltimore, when I first got up here. We happened to run into each other and we hung out-

Jerry Ratcliffe:

How does that happen?

Danny Murphy:

That is just a very New Orleans and I think a very Baltimore thing to happen. They were rolling by their scooters. Two people from NOPD ran into my wife and me and we ended up hanging out for a while and it was really interesting. It was someone I really hadn't interacted with much. Homicide doesn't have a huge role in the consent decree, but she said, "I hated you when you worked for the police department."

Jerry Ratcliffe:

Oh, I get that all the time.

Danny Murphy:

Yeah. Yeah. I get a lot. But now I'm so thankful for the reforms, because I can feel the greater trust. And that helps with my investigations of homicides. People are more willing to talk to me.

Jerry Ratcliffe:

How do you get out of a consent decree?

Danny Murphy:

To the way you get out of the Baltimore consent decree, for example, is that you have to do two things. One, you have to comply with all of the material requirements of the consent decree, all 511 paragraphs.

Jerry Ratcliffe:

Okay. That sounds like lawyer talk, but do you have to do all of them? Are they goals? Does this consent decree set goals for each one?

Danny Murphy:

It does not. The terms that use this are legal, full and effective compliance material requirements for two years and there are not individual percentage goals for each paragraph. So there is not one formula to get out of the consent or to calculate when it is appropriate to come out of the consent decree. So there is some level of subjectivity in it, but yeah, you have to comply with the whole thing.

Jerry Ratcliffe:

Yeah.

Danny Murphy:

But it's not just based on the requirements and saying you've done them. You can't just implement the policy and training for those requirements. You have to be able to prove that you are doing them systematically throughout your operations.

Jerry Ratcliffe:

And the second thing.

Danny Murphy:

And then number two is that the implementation of those reforms have to deliver the outcomes desired by the reform project. So for example, some of the outcome measures paragraph 459, if you'd like to look at them.

Jerry Ratcliffe:

You know somebody just crashed a car with-

Danny Murphy:

Oh yeah, no, no. I'm so sorry. You come to memorize the paragraphs and it's a sign of-

Jerry Ratcliffe:

Somebody listening to this, just nodded and just stuffed into [crosstalk 00:31:51].

Danny Murphy:

I apologize. I apologize, everyone out there. But some of these things you'd be looking for in a reform project, has public trust increased per community surveys? Have we seen use of force better handled over time?

Jerry Ratcliffe:

So are they mainly focused on constitutional policing and trust? Do they also include things like reducing crime or reducing 911 calls or community homes?

Danny Murphy:

It's very much focused on the constitutional policing element of it. There are not specific outcome assessments related to crime or the number of 911 calls. They focus on the quality of stops, searches and arrests, the quality of uses of force, supervision, public trust, how internal affairs cases are handled and things like that.

Jerry Ratcliffe:

What are the benefits to a department of coming out of a consent decree then? And then the reason I'm asking is because if all of these things are generally good after a while, why wouldn't you just want to, from a kind of policy perspective, just perpetually maintain the consent decree?

Danny Murphy:

Having external oversight?

Jerry Ratcliffe:

Yeah.

Danny Murphy:

Well, the goal of the consent decree is definitely to-

Jerry Ratcliffe:

I mean, isn't that what a lot of communities actually want? They want external oversight of the police department.

Danny Murphy:

Yeah. You have diverging opinions on consent decrees in communities. Some want it to be gone immediately. Some want it to never leave. And one of the things that is required in the consent decree is to at least sustain all of the improvements for two years with an eye towards sustainability after the consent decree. And there have been issues with that, of the reforms rolling back in various jurisdictions and there needs to be real effort towards enshrining the reforms in the culture and oversight mechanisms extending beyond the consent decree.

Jerry Ratcliffe:

Are there any real success stories?

Danny Murphy:

I would say absolutely, yes. Los Angeles was one of the first ones and big major agencies that implemented the reforms. And during that time period, they saw a historic drop in crime alongside increases in public trusts. In New

Orleans, we found so many of the outcomes that we wanted from the reforms making positive progress, public trust, decrease of serious uses of force alongside a 47 year low in homicides and year after year reductions in robberies.

Jerry Ratcliffe:

So one of the things that's interesting about this horrific situation in Minneapolis with Derek Chauvin is he's in a field training situation with two very new officers and they all just stand by and watch what happens. You see it when you do ride alongs, everybody just kind of defers to the most senior officer present in terms of length of service or rank or they defer to the officer that's dealing with the incident and like the on-scene officer as the person who is pretty much first on scene. How do we change that so it's easier for the culture changes, so it's easier for officers to step in and prevent like George Floyd? I know you've done some work on this in New Orleans. What did you do there?

Danny Murphy:

In New Orleans is part of our reforms. We developed a peer intervention training to help officers transition from being passive bystanders, what you see in the Minneapolis video and do active bystanders that can prevent misconduct or prevent it from going further. And if there were an active bystander in that situation that intervened, Mr. Floyd would be alive today and you wouldn't have the shattered trust of not just the Minneapolis community, but communities across the nation. It's called the EPIC, Ethical Policing Is Courageous. It's an eight hour training that teaches officers how to recognize the inhibitors to acting in that situation and then provides them tools and practice on intervening in these situations, regardless of rank, regardless of how many years someone's had on the job.

Jerry Ratcliffe:

Right, because that time served is such an important thing. It is a measure of experience in policing. Have you seen it changing practice on the street?

Danny Murphy:

EPIC presents some particularly interesting research challenges.

Jerry Ratcliffe:

There's so many dynamics taking place with just on the street, dealing with an incident.

Danny Murphy:

There are so many dynamics in place. There are so many reforms going at the same time as EPIC. You've got body-worn cameras, you've got use of four steps or [inaudible 00:36:29], all these different new policies and trainings, and there's no reporting requirement to EPIC. There's a requirement to report misconduct, but if you prevent misconduct from happening by intervening, you don't have to report that. If you had to report that, it would become what officers can fear it as they read out your partner program.

Jerry Ratcliffe:

Yes. Don't give it a name because that's going to catch on.

Danny Murphy:

Yeah. EPIC is all upside. We have each other's back to intervene and prevent problems from happening on a scene or at a bar, someone driving home drunk. It's really an officer wellness and community wellness program.

Jerry Ratcliffe:

I feel for officers nowadays because when I was a police officer for a decade in London, we didn't have body-worn cameras. The idea that you can maintain perfect composure in the face of absolutely everything that officers face for 30 years seems like an impossible ask. So they're going to have to be times when other colleagues are going to have to go, "Whoa, slow your roll a little bit. Just bring the temperature down as a moment."

Danny Murphy:

Absolutely. And that's-

Jerry Ratcliffe:

And you're actually helping the other officer.

Danny Murphy:

Yes. That's exactly it. And what you just said of like, "Hey, slow your roll. I got this." Interventions can be that simple. Primarily in New Orleans what we saw was anecdotal at this point, but some of them were truly remarkable instances of something that very likely would not have happened in the prior New Orleans police department. One of them was on-scene of an arrest where a sergeant for the New Orleans Police Department is arresting someone. Someone from another agency comes up and kicks the guy in the face.

Jerry Ratcliffe:

That's that. Thanks for your contribution. Thanks for turning up and not helping in the fucking slightest.

Danny Murphy:

Not helping at all. The New Orleans sergeant tells him we don't roll that way anymore-

Jerry Ratcliffe:

Nice [crosstalk 00:38:17].

Danny Murphy:

... and arrest the guy.

Jerry Ratcliffe:

Well.

Danny Murphy:

And that symbolizes in some way the power of EPIC and really making it a central part of policing, that it is our duty to protect and serve. And sometimes that requires us to intervene when our officers may be having a bad day. And if one of those officers on scene in Minneapolis had, had impactful training.

Jerry Ratcliffe:

We could have had a different outcome.

Danny Murphy:

In New Orleans when we developed EPIC, it was the first time peer intervention had been applied in policing. It's proven in other industries and the time is high for that to be national training on peer intervention.

Jerry Ratcliffe:

I mean, it would be nice to get some firmer evidence, but it's great that there's a starting point. You're getting some good anecdotal feedback.

Danny Murphy:

Absolutely.

Jerry Ratcliffe:

That's a good starting point. Consent decrees seem to be spectacularly unpopular with police officers rank and file the frontline. Do you measure things like their morale?

Danny Murphy:

In these consent decrees, the surveys that are required by the consent decrees to [inaudible 00:39:21] now look at three different groups. One, the community. Two, officers, and three, detainees, to see how they've been treated in the process. In the biggest improvement from 2014 to 2016 on the officer survey was belief that the department leadership was going in the right direction.

Jerry Ratcliffe:

Oh, wow.

Danny Murphy:

Yeah.

Jerry Ratcliffe:

You also measure perceptions of detainees?

Danny Murphy:

Yes.

Jerry Ratcliffe:

You get qualitative feedback saying I really appreciated the fresh pine smell in the back of the police car?

Danny Murphy:

Yes. Your pal, Jeff Alpert conducted the one in New Orleans.

Jerry Ratcliffe:

He's no friend of mine.

Danny Murphy:

Yeah. Fair point. But they would actually go to the jail receiving center and do a sample of the detainees coming in and interview them.

Jerry Ratcliffe:

The consent decree is bringing money with them?

Danny Murphy:

They typically do not.

Jerry Ratcliffe:

So the city has to shoulder all of the burden of the monitors, all the additional changes, the technology changes, because you talked about technology and that's a huge cost.

Danny Murphy:

Yes. So the city bears the cost for the monitoring team that oversees whether the reforms are being implemented or not and provides technical assistance as well to help the city improve. And on the monitoring front, that can get criticism sometimes for the level of expense there, but I think what you'll find in Los Angeles and New Orleans and some other places is that the reforms can drive down misconduct payouts for cities and these kinds of reform projects much more than break even in the end in terms of that type of cost.

Jerry Ratcliffe:

At the moment, the Trump administration hasn't initiated, I don't think any consent decrees.

Danny Murphy:

Mm-hmm (affirmative).

Jerry Ratcliffe:

Do you think that's just a political thing, or do you think that there is some ... I mean, is there a consent decree 2.0, how do we drive change in for example places like Minneapolis now?

Danny Murphy:

Consent decrees, definitely ebb and flow based on the politics at play in that moment. And what you've seen in Minneapolis is definitely consistent with the type of misconduct that the Department of Justice Civil Rights Division under the Obama administration would look at, and conduct a pattern or practice investigation and perhaps initiate a consent decree. It does not seem to be that, that is going to happen in the current moment in time, but the consent decrees are an essential tool for police reform, but they're very focused on individual municipalities.

Jerry Ratcliffe:

So that's the challenge, isn't it? I mean, you're fixing Baltimore, but yeah, how do we extend this level of reforms to other departments?

Danny Murphy:

And I think that is an absolutely critical question for a long time. You're seeing communities across the nation call for more. Even under an Obama DOJ, they're only able to initiate about three consent decrees a year.

Jerry Ratcliffe:

And they're nearly 18,000-

Danny Murphy:

18,000 police department.

Jerry Ratcliffe:

... state, local police departments in the United States, yeah.

Danny Murphy:

And many of those are very small departments and not to diminish any misconduct there. Consent decrees typically have been focused on these bigger police departments, which perhaps can have a greater impact on elevating best practices for the rest of the nation, but that does not in any way ensure accountability for the departments not under a consent decree. And so this is a moment in time where we very much need to look at the whole system.

Jerry Ratcliffe:

There's a lot of work to be done.

Danny Murphy:

But New Orleans for example was considered by the department of justice to be the worst police department in the country.

Jerry Ratcliffe:

We're number one.

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Danny Murphy:

Unfortunately, Louisiana and New Orleans are number one in many things that are not good, but what you've seen there, according to the department of justice, the federal judge and the monitors is significant positive change and that's reflected in community surveys as well. So there is hope in this moment, but we need to be able to expand that hope.

Jerry Ratcliffe:

Stuff to think about.

Danny Murphy:

Absolutely.

Jerry Ratcliffe:

Danny Murphy, thank you very much.

Danny Murphy:

Thank you very much, Jerry. It's been a pleasure and this is a big moment for policing.

Jerry Ratcliffe:

Yes, it is.

Jerry Ratcliffe:

You've been listening to episode 25 of reducing crime recorded in Baltimore in May 2020. Other episodes lurk at reducingcrime.com, or pretty much anywhere else. New episodes are announced on Twitter at [@_reducingcrime](https://twitter.com/_reducingcrime).

Be safe and best of luck.