

# Police Under Scrutiny

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***Can law enforcement restore public trust?***

By Christina L. Lyons



Police watch after tear gas is fired into a crowd of Black Lives Matter demonstrators on May 31 in Santa Monica, Calif. The nation experienced a summer of protests over the killings of Black Americans by police. (Getty Images/Mario Tama)

Police officers fatally shoot an average of nearly 1,000 people annually in the United States, and Blacks, Hispanics, the mentally ill and the poor are more likely to be stopped by police than whites. Increasingly, violent encounters with minorities are being captured on camera and igniting racial justice protests across the country. Many police unions and defense lawyers caution those viral images distort reality and say that the vast majority

of officers behave ethically. Lawmakers, criminal justice experts and civil rights leaders disagree on whether laws should restrict police use of force, or if some law enforcement funding should be diverted to other community resources that could better handle citizens' disagreements or emergencies. Many Americans want police officers to be held more accountable — particularly in court — when they injure or kill a suspect. But officers and legal experts say officers must assess threats quickly in order to protect themselves and others, and courts should give them the benefit of the doubt.



A memorial in Minneapolis honors George Floyd, who died at the hands of police on May 25. Experts say Minneapolis provides an example of how hard it is to achieve police reform. (AFP/Getty Images/Kerem Yucel)

## The Issues

In Minneapolis, police reforms seemingly came fast.

Beginning in 2016, the city revised officer training; promoted Assistant Chief Medaria Arradondo to be the city's first Black police chief; held community meetings; toughened department policy on the use of body cameras; and took other steps to address allegations that officers targeted minority groups and used excessive force when making arrests. <sup>1</sup>

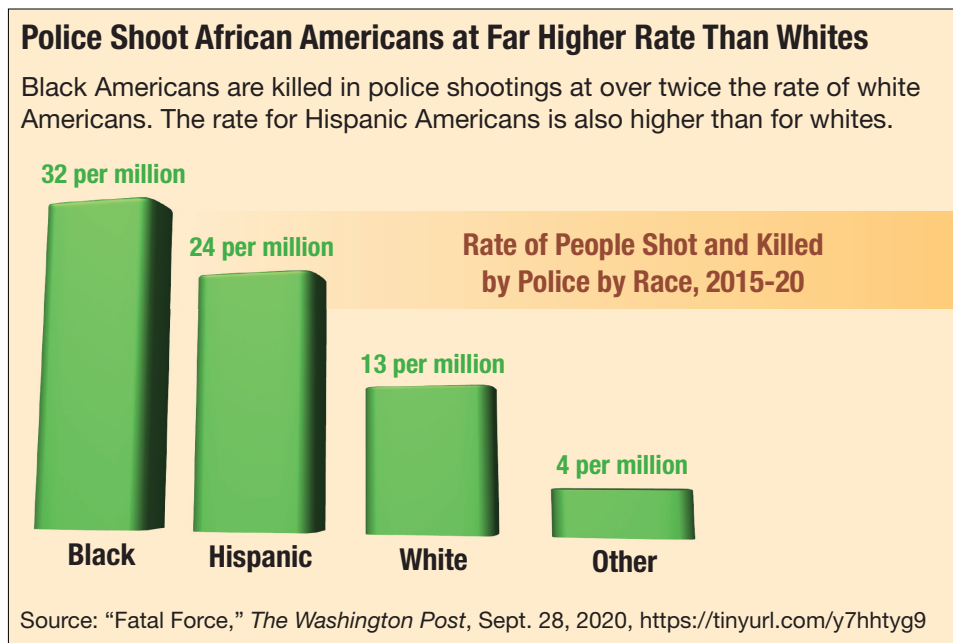
"They were held up as a model of reform," says David Muhammed, executive director of the National Institute for Criminal Justice Reform, a research group based in Oakland, Calif.

Then came the killing of George Floyd on May 25 and the national uproar that followed. On that day, four Minneapolis police officers attempted to arrest Floyd, an unarmed 46-year-old African American, after a market owner complained Floyd had used a counterfeit \$20 bill to buy cigarettes. Pinning him to the ground, officer Derek Chauvin, a 19-year veteran of the police force, pressed his knee onto Floyd's neck for more than eight minutes as three other officers watched.

“Please, I can’t breathe,” Floyd cried out repeatedly. He died at the scene. An autopsy attributed his death to asphyxia, and the four officers, who said Floyd had resisted arrest, were fired and face criminal charges. <sup>2</sup>

Floyd’s death at the hands of Chauvin, a white officer who had faced at least 22 complaints or investigations during his time on the Minneapolis force, shows how difficult it is to effect change, according to Muhammed and other criminal justice experts. Minneapolis’ experience “gives credence to the idea that reform hasn’t worked,” Muhammed says. <sup>3</sup>

The debate over how to improve policing has gained new urgency as racial justice protests by Black Lives Matter and other activist groups have spread nationwide along with outrage over officers’ use of force against Blacks and Hispanics, especially those in poor communities, and against citizens with mental illness.



Since July alone, protests — some violent — have erupted over police fatally shooting a Latino man in a parked car in Phoenix (July 4); pointing guns at Black women and girls mistakenly suspected of riding in a stolen vehicle in Aurora, Colo. (Aug. 2); and shooting a Black man in the back in Kenosha, Wis. (Aug. 23). In September, hundreds took to the streets in protest after a grand jury did not charge two white officers involved in the fatal shooting of Breonna Taylor, a 26-year-old African American. The

officers, with a warrant in hand, used a battering ram to enter her Louisville, Ky., home to search for drugs on March 13. <sup>4</sup>

Authorities' sometimes violent response to protests in Portland, Ore., and other cities has further enraged many Americans.

Officers have fatally shot an average of nearly 1,000 citizens annually since 2015, according to a *Washington Post* database built with the help of Geoffrey Alpert, a criminology professor at the University of South Carolina, Columbia. About half of the victims were white, but Blacks, who account for less than 13 percent of the U.S. population, were killed at more than twice the rate of whites. Hispanics also were killed at a higher rate than whites. <sup>5</sup>

"The number is so robust over the period of time they have been collecting data, it scares me," Alpert says. Only about 1.8 percent of all police interactions become violent, he says. Yet "any time police have to shoot a citizen, it is a huge problem."

Alpert attributes much of the problem to officers' poor ability to assess threats. His studies have found that "cops were more afraid of Black and brown suspects because in their experience most of their arrests had been for Black or brown people." Those officers tend to shoot because they fear their lives are in jeopardy, Alpert says.

At the same time, many Black people have a deep, historical distrust of police, and this distrust is helping to fuel the Black Lives Matter movement. "As a result of decades of brutality and harassment, minority communities often don't look at the police in the same way white communities do," wrote Emanuel Cleaver III, senior pastor at St. James United Methodist Church in Kansas City, Mo. "African Americans view police officers with suspicion, seeing them as dangerous." <sup>6</sup>

For decades, researchers have called for a national database on police use of force to study trends and practices, but none yet exists. Still, since a Chicago commission on race relations in 1922 found that police systemically targeted Blacks with undue force, many commissions have documented similar behavior in other cities. <sup>7</sup>

"The vast majority of interactions don't end up on camera, and can be the everyday harassment of citizens," says Cardozo School of Law professor Ekow N. Yankah. The encounters "can be humiliating, truly build resentment and fray the bonds between citizens and police."



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Defenders of law enforcement say that officers are not racist or uncaring. “Racial profiling is not happening,” says John Lutz, a retired 30-year veteran of the California Highway Patrol in Los Angeles. Highway officers typically cannot see the skin color of a speeding driver in a car with tinted windows, for example, he says.

Larry James, general counsel for the National Fraternal Order of Police, and other experts say viral images mistakenly lead citizens to believe that all police abuse their powers, rather than just a few. James, a former director of public safety who is Black, says many officers recognize that Chauvin’s behavior in the Floyd case was “just inhumane, to say the least.”

Many protesters and legal experts say law enforcement is over-policing, particularly in minority and poor neighborhoods, thereby increasing the chances for violent encounters. Studies have found that police killings, as a percentage of the population, are greater among higher-poverty individuals and that people with untreated mental illness are 16 times more likely than other citizens to be killed by police during a law enforcement stop. <sup>8</sup>

Since Floyd’s death, many protesters have campaigned to “defund” the police. The term has different meanings to different people. Some activists advocate totally disbanding police departments, while others want to divert a portion of police budgets to other community resources that they say can better address social or mental health problems.

“We’ve added . . . to police officers’ plates and asked them to become social workers,” says David MacMain, a defense attorney in West Chester, Pa., who was a police officer. He chairs the governmental liability committee of the Defense Research Institute, an organization of civil defense attorneys headquartered in Chicago. He supports moving resources to other services to ease police workloads.

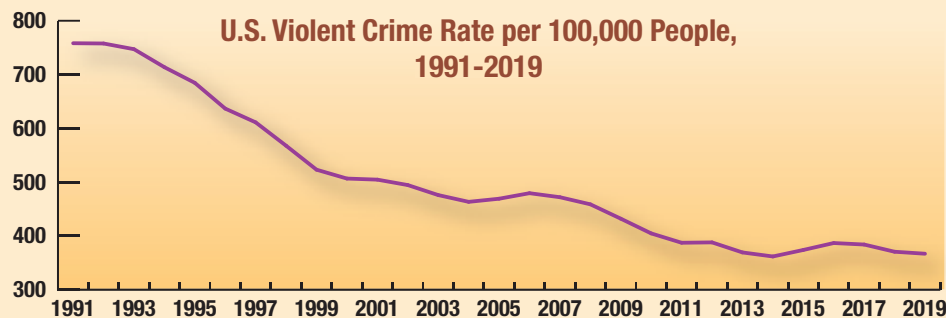
President Trump has defended the police, denounced defunding proposals and denied that systemic racism is a problem. On July 22, he vowed “we will never defund the police,” adding that well-funded departments are necessary because communities are “plagued by violent crime.” <sup>9</sup>

According to the FBI, violent crime dropped 51 percent between 1993 and 2018, and preliminary statistics released in January show violent crime decreased between the first half of 2018 and

the first half of 2019. A *New York Times* analysis, however, found that murder is up about 21.8 percent in 36 cities this year from a year earlier, while other violent crimes have dropped. <sup>10</sup>

### Violent Crime Rate Plunges in U.S.

Violent crime — including murder, rape, robbery and aggravated assault — has fallen from a rate of 758 crimes per 100,000 people in 1991 to 367 crimes in 2019, according to the FBI.



Sources: “Crime in the United States,” FBI, 2011, <https://tinyurl.com/y2n7m4c2>; “Crime in the United States,” FBI, 2020, <https://tinyurl.com/y5rmhyu2>

Some experts blame law enforcement for escalating violence, particularly during recent protests. Police, National Guard units and federal agents in some cities beat protesters, used tear gas and pepper spray, or fired rubber bullets or other nonlethal projectiles. The human rights group Amnesty International found 125 incidents of police violence against protesters in 40 U.S. states and the District of Columbia, between May 26 and June 5.

“The unnecessary and sometimes excessive use of force by police against protesters exhibits the very systemic racism and impunity they had taken to the streets to protest,” said Ernest Coverson, manager for Amnesty’s End Gun Violence Campaign. <sup>11</sup>

Protesters and some criminal justice experts believe lawmakers need to restrain police officers’ use of aggressive tactics, such as using chokeholds, obtaining warrants to break into a home without warning to search for drugs or other contraband (“no-knock warrants”) and detaining and searching any citizen (“stop and frisk”). Many of those tactics are unnecessary, experts say, particularly if police learn how to de-escalate conflict and work to gain trust within the community.

In recent years, communities have spent millions of dollars to equip officers with body cameras, to help provide accountability, but

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studies have not found a major effect on police behavior. Rashawn Ray, a fellow with the Brookings Institution, a Washington think tank, said the introduction of body cameras and other changes over the years has “fallen short of holding police officers accountable.” <sup>12</sup>

Since January 2005, 119 nonfederal law enforcement officers have been arrested on murder or manslaughter charges as the result of an on-duty shooting, says Philip Matthew Stinson, criminal justice professor at Bowling Green State University in Ohio, who manages a database of criminal cases against police. As of the end of August, just seven of those officers have been convicted of murder. Twelve were convicted of manslaughter (an unlawful killing that did not involve serious intent to harm or kill); five of voluntary manslaughter (a “heat of passion” crime when someone was provoked into acting); and six of involuntary manslaughter (unintentional homicide resulting from criminally negligent or reckless conduct), according to Stinson. Appeals courts overturned four of the murder convictions.



At a pro-police rally outside the Minnesota governor's mansion in St. Paul on June 27 organized by Bikers for 45, a woman holds a sign expressing her support for officers. Law enforcement's defenders point out that police have one of the most difficult and dangerous jobs in the United States. (Getty Images/Stephen Maturen)

Those asserting they are victims of police brutality often do not win when they go to court to seek damages. Some legal scholars say Congress should restrict the practice, under a doctrine called qualified immunity, of protecting police officers from liability in citizen lawsuits. The Supreme Court has frequently used the

doctrine to rule that aggressive police behavior did not violate suspects' constitutional rights.

Other experts warn that it is hard to judge police officers' actions when they fear suspects can turn violent in seconds. "Part of the problem officers face is that bad actors are more violent than they used to be," says Chris Balch, an attorney in Atlanta who often represents police.

Police officers have one of the country's most dangerous jobs: 108 died in 2018, up 14 percent from 2017, according to government statistics. Of those 108, 49 died as a result of homicide and six as a result of suicide while on the job. <sup>13</sup>

Given the dangers, police unions work hard to protect their officers from investigations and complaints. Unions "should not be faulted for excelling in their duty to vigorously defend their membership," said Allison Schaber, president of the Ramsey County Deputy Sheriff's Union in Minnesota. She added that police departments — not unions — are at fault for "keeping 'bad apples.' " <sup>14</sup>

But many scholars say unions block efforts to reform policing practices.

"Police unions are fundamentally different from other kinds of unions because a threat of a strike is so devastating for the political leadership that they wield a tremendous amount of power," says Michelle Phelps, a sociology professor at University of Minnesota in Minneapolis and co-author of *Breaking the Pendulum: The Long Struggle Over Criminal Justice*.

Some criminal justice experts say policing practices will not change until the nation addresses racism embedded in American culture. "We need to reckon with our history of racial injustice," said civil rights lawyer Bryan Stevenson. <sup>15</sup>

As tensions rise over aggressive policing tactics and Black Lives Matter protests, here are some questions that activists, civil libertarians, police union officials and others are debating:

### Should local governments reduce police funding?

Amid protesters' demands to defund the police, the Minneapolis City Council moved this summer to disband its police force and create a Department of Community Safety and Violence that, legally, would not have to include police officers. The city's charter commission, however, said the plan was flawed and needed further study. <sup>16</sup>



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The University of Minnesota's Phelps says disbanding police departments is a compelling option. "The slow, piecemeal change that is vigorously resisted by the police unions is not going to get us in any reasonable time frame to the place where we want to be," she says.

Many defunding advocates cite Camden, N.J., as a success story. The city disbanded its police department and fired all officers in 2013 amid a budget shortfall and rising homicides. A newly created county department instructed its officers to decrease tickets and arrests and build relationships with citizens in Camden, where 40 percent of residents live below the poverty line. Violent crimes decreased 38 percent by 2018. <sup>17</sup>



Protesters urge cities to defund the police during a Sept. 23 march in Chicago. Reformers disagree on what defunding means: Some advocate disbanding police departments, while others want to reduce police budgets. (Getty Images/Natasha Moustache)

But Phelps and others say Camden's approach is not an ideal model. Initially the new force practiced aggressive policing strategies that resulted in high numbers of citations and more excessive-force complaints, said Brendan McQuade, assistant professor of criminology at the University of Southern Maine. Intervention from the NAACP and local activists ultimately helped resolve the problems, but it took years of work. <sup>18</sup>

Many experts also say an entire police force should not be blamed for the actions of a few officers. "Probably less than 1 percent of

officers I represent are bad people,” says defense attorney MacMain. “Fundamentally, most people who go into law enforcement are decent and want to do well.”

Many activists want to divert some police funding to other agencies or community groups that they say could better address noncriminal calls or issues involving the mentally ill. A reduced law enforcement footprint would also mean fewer police interactions with the public and fewer opportunities for violent encounters, they say.

Local spending on police has increased an average of 1.2 percent annually over the past 40 years, according to data collected by the Lincoln Institute of Land Policy, a nonprofit based in Cambridge, Mass. <sup>19</sup>

A recent review by *The Associated Press* found that the defunding campaign has had only a modest effect on police budgets. The Portland City Council in June cut its police budget by 30 percent, or \$15 million, by eliminating officers who work in schools, investigate gun violence or patrol the public transit system. Activists wanted \$50 million cut. <sup>20</sup>

New York City Mayor Bill de Blasio slashed \$1 billion from the city’s 2020 \$6 billion operating budget for the police department, which has about 36,000 uniformed officers. Critics of the department said the city should have reduced the budget further in order to end “excessive policing.” <sup>21</sup>

But Muhammed of the National Institute for Criminal Justice Reform says he worries some cities are cutting budgets too rashly. “There must be much more thoughtful, structured reallocation and thoughtful, structured reduction of the law footprints,” he says.

Muhammed says an “obvious first step” would be to not respond to nonviolent, noncriminal calls, which account for about 30 percent of all calls to the police department. In Oakland, 2,000 calls are made to 911 daily. Many of the callers “just want a resolution to a problem,” such as screaming or a neighbor’s late-night party, he says.

In recent decades, the number of police officers rose as law enforcement duties expanded to include responding to mental health crises and monitoring schools, criminal justice experts say. Local police departments employed about 470,000 officers in 2016, an 11 percent increase since 1997. National data on how police spend their time is scarce, but a 2019 survey found about

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one-fifth of law enforcement staff time and 10 percent of agencies' budgets in 2017 were spent responding to and transporting people with mental illness. <sup>22</sup>

Many experts agree cities should spend more time and money on the root causes of crime, such as poverty, homelessness and substance abuse.

Phelps says police funds could be diverted to house people, provide a stipend to young men at risk of becoming perpetrators or victims of crime, or hire "violence interrupters" who can intervene in conflicts between citizens and avoid deadly encounters.

Aqeela Sherrills, an activist who helped negotiate a peace treaty between rival Los Angeles gangs in 1992 and has launched several criminal justice reform groups, says George Floyd's alleged use of counterfeit money "was a low-level nonviolent offense that police shouldn't even be called for. Community-based intervention should be called."

But some officers and experts warn about the dangers of insufficient staff to handle crime. Retired California Highway Patrol officer Lutz questions whether communities have sufficient resources to handle the mentally ill. With few mental health hospitals, the only place to bring the mentally ill is often jail, he says.

Attorney Balch raises similar concerns. "I don't know that social workers could help in drug cases," he says, adding that perhaps they could help officers calm an individual with mental illness. "But we don't have data on that point," he says.

MacMain says officers' responsibilities should be reduced, but adds that jurisdictions should consider increasing police salaries in order to recruit and retain good candidates. Lutz agrees. "I didn't get paid enough to get shot at," he says.

Patrick Yoes, president of the National Fraternal Order of Police, said reforms need to be made, but that some local agencies "truly get it" and already "have the correct mixture of services in support in the community because they built that trust." He did not specify which. <sup>23</sup>

The evidence "does not support the charge that biased police are systematically killing Black Americans in fatal shootings," said Heather Mac Donald, a fellow at the conservative Manhattan

Institute and author of *The War on Cops: How the New Attack on Law and Order Makes Everyone Less Safe*. “Ideally officers would never need to take anyone’s life. But the data on police killings doesn’t support reducing or abolishing law enforcement.” <sup>24</sup>

### Would bans on aggressive police tactics reduce the use of deadly force?

In 2019, a California law set a tougher standard on police use of deadly force. Previously, under an 1872 law, officers could use deadly force if it was deemed “reasonable.” The new law says officers can use such force only if it is “necessary” to protect against an imminent threat. The law also requires courts to consider how an officer behaved before he or she used deadly force. <sup>25</sup>

The law came in the wake of protests over the Sacramento County district attorney’s decision not to pursue criminal charges against two Sacramento police officers who in 2018 fatally shot Stephon Clark, a 22-year-old unarmed Black man. The district attorney said her decision was based on the existing state law. <sup>26</sup>

Many experts believe California’s new law will help reduce deadly police shootings, of which the state had 146 in 2018. Seattle had earlier changed its use of force policy, which resembles California’s, to comply with a 2012 consent decree it signed after the U.S. Department of Justice found “a pattern or practice of constitutional violations regarding the use of force that result from structural problems, as well as serious concerns about biased policing.” Seattle police have since reduced the use of moderate and lethal force by 60 percent, according to a court-appointed monitor of the department. <sup>27</sup>

But DeWitt Lacy, a civil rights attorney in Los Angeles, said that under the 2019 California law, police can still argue their behavior was necessary and that the law does not require police to “engage in de-escalating tactics and operate more prudently.” <sup>28</sup>

Former police officer MacMain says many statutes, as well as police department policies, can be vague. And current federal law, interpreted according to the constitutional protection for citizens against “unreasonable searches and seizures,” still says officers may use force that is “reasonable.” But what is “reasonable is a gut feel,” he says. “It’s subjective, based on life experiences.” So lawyers still will have difficulty proving excessive force.



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Several jurisdictions are moving to bar specific policing tactics, in hopes of preventing fatal encounters. In Louisville, officials banned the use of “no-knock warrants” like the one police used to charge into Breonna Taylor’s home. Taylor was killed when police opened fire after her boyfriend fired one shot at the officers. Her boyfriend later told police he thought he was shooting at an intruder. <sup>29</sup>

The Oregon Legislature in August passed a measure barring the police use of chokeholds except for self-defense. “It’s long past time we disallowed officers from using chokeholds,” said the bill’s sponsor, state Democratic Sen. James Manning. “It’s wrong and it can be lethal. It is not a tool to de-escalate. It’s a tool to take a life.” <sup>30</sup>

But some experts argue that laws or department policies by themselves are not effective in preventing officers from using aggressive techniques. In 1993, the New York City Police Department banned the use of chokeholds by officers except when an officer’s life is in danger. More than two decades later, in July 2014, an officer put Eric Garner, an African American suspected of selling untaxed cigarettes, in a chokehold, killing him. A grand jury did not indict the officer. <sup>31</sup>

“In the end, not any one rule” is going to change police behavior, law professor Yankah says. Instead, not only should training improve but so should recruitment. “We know we are getting people who are predisposed to be aggressive,” he says.



A New York City police officer put Eric Garner in a chokehold in 2014, leading to his death. Some experts say bans against such aggressive police tactics are ineffective without other changes, such as improved training. (Screenshot)

The University of South Carolina’s Alpert says the idea that stronger use of force statutes will improve police behavior is “a pipe dream . . . because it’s going to take years to filter down to cops and their behavior.”

“There are 18,000 police departments in America and not everyone gets the same quality training,” particularly on how to assess threats, he says.

James, the National Fraternal Order of Police counsel, says policies that restrict certain tactics can be effective if they are enforced and officers are trained. “If you tell police officers the rules, you consistently and indiscriminately enforce them, then I think you begin to change behavior,” he says.

Some say police unions block changes to officers’ behavior, regardless of the rules. At the start of its reform process, Minneapolis hired as its police chief Arradondo, a well-respected Black officer, the University of Minnesota’s Phelps says. But the “police union fought tooth and nail” against reforms, she says. When the mayor banned warrior-style training — a tactic that teaches officers to believe threats are always present — union President Bob Kroll announced the union would form its own class for anyone who wanted the training. <sup>32</sup>

### Baltimore Topped Major Cities in Police Spending

Police spending varies widely in U.S. municipalities. Of 10 cities studied in fiscal 2017, Baltimore spent the most on policing per capita (\$772), while Los Angeles spent the least (\$381). Overall, police funding consumed about one-third of general budgets in the 10 cities.

#### Police Spending in 10 Select U.S. Cities, Fiscal 2017

City	Total Police Spending (total budget)	Per Capita Police Spending (total budget)	General Fund Expenditures on Police Department
Atlanta	\$218,300,000	\$486	29.7%
Baltimore	\$480,700,000	\$772	25.6%
Chicago	\$1,460,000,000	\$537	38.6%
Detroit	\$310,200,000	\$450	30.0%
Houston	\$850,400,000	\$383	35.0%
Los Angeles	\$1,485,600,000	\$381	25.7%
Minneapolis	\$163,200,000	\$408	35.8%
New York City	\$4,891,900,000	\$581	8.2%*
Oakland, Calif.	\$242,500,000	\$594	41.2%
Orlando, Fla.	\$153,800,000	\$599	32.3%

Note: New York City’s general fund expenditures total includes the Department of Education; its inclusion makes the police share of the budget far lower than in other cities.

Source: “Freedom to Thrive,” Center for Popular Democracy, July 2017, p. 2, <https://tinyurl.com/ybfshmq9>

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In Maryland, the Legislature in 1973 passed a Law Enforcement Officers Bill of Rights that, for a set time period, shields officers from questioning before they must cooperate with investigators. In 2015, then-Baltimore Mayor Stephanie Rawlings-Blake said the bill of rights impeded investigations of officers blamed for Freddie Gray's death. Gray, a 25-year-old Black man, died in the officers' custody after they arrested him for carrying an illegal switchblade. <sup>33</sup>

Still, many in law enforcement say certain tactics are necessary to control a suspect.

"I'm not a proponent of taking all the tools away. You have to remember there are still bad people in the world," says Shelby Moffatt, a criminal justice professor at Sacramento State University in California and a former Sacramento police officer who is Black. "But we also have some [police officers] who don't know how to respond when they see somebody like me."

#### **Should Congress make it easier for police officers to be held accountable in court?**

U.S. District Judge Carlton W. Reeves said in August that he believed the only crime that Clarence Jamison committed was "driving a Mercedes convertible" while Black.

But the judge said he had to dismiss the civil lawsuit in which Jamison argued the police had violated his rights when a white Mississippi officer stopped him in 2013 and detained him for two hours while he searched the car for drugs. The Supreme Court's application of its qualified immunity doctrine had made it impossible to hold officers accountable in court, Reeves said. <sup>34</sup>

The Civil Rights Act of 1871 gave Americans the right to sue public officials for violation of their rights, including for police brutality, an illegal search or unlawful arrest. Citizens also have the U.S. Constitution's Fourth Amendment protections against "unreasonable searches and seizures."

But in 1967, the Supreme Court protected public officials, including police officers, from legal action if they acted in "good faith" and believed their conduct was legal. In two rulings in the 1980s, the court said officers could be granted immunity if they "reasonably" thought the suspect posed a threat, and that officers must not be evaluated "with the 20/20 vision of hindsight." <sup>35</sup>

Further, the court has required victims to identify successful previous cases, with the exact same circumstances, to prove their rights had been “clearly established” in law. <sup>36</sup>

Many protesters and criminal justice experts want Congress to end that qualified immunity doctrine and make it easier for citizens to successfully sue police who violate their rights.

“Officers and citizens will have more clarity and certainty as to what conduct is unconstitutional [if qualified immunity were ended], and hopefully, that knowledge will prevent some officers from engaging in that conduct,” said Karen Blum, a professor at Suffolk University Law School in Boston. <sup>37</sup>

Two-thirds of Americans believe it should be easier for citizens to sue police officers in court for using excessive force, according to a June survey by the Pew Research Center, a nonpartisan think tank in Washington. <sup>38</sup>

U.S. Reps. Ayanna Pressley, D-Mass., and Justin Amash, a libertarian from Michigan, said the doctrine is a “barrier to accountability and healing.” They introduced legislation that would amend civil rights law to state that officers could be held liable for violating an individual’s rights. <sup>39</sup>

Congressional Republicans have been divided on the issue. Sen. Mike Braun of Indiana said he wants to ensure police are held accountable but does not want to hamper “the toughest job out there with frivolous lawsuits,” so he wants to amend but not eliminate qualified immunity. <sup>40</sup>

Some criminal justice experts say that altering the qualified immunity doctrine will not change police behavior. Cardozo’s Yankah says “the idea that it will end misconduct . . . is unlikely.”

Many experts say lawsuits often do not make it to trial because cities pay to settle such cases and often do not fire the officers. In February, Chicago city officials agreed to a \$10 million settlement for a man who was left a paraplegic after an officer, believing the man had a gun, shot him during a chase in 2012. In September, Prince George’s County, Md., a Washington suburb, agreed to pay \$20 million to the family of William Green, 43, who was fatally shot six times by an officer while handcuffed in the front seat of a police cruiser. <sup>41</sup>

Yankah and others say the only way to institute change is to reform the police departments. “We need to change policing



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culture, change who we hire” and improve officer accountability, he says. He and other experts also say officers need to be better trained on how to de-escalate conflicts without force or how to do a chokehold without killing a suspect, for instance.

Defense attorneys, police and other experts strongly defend the immunity protections, saying the doctrine was instituted to shield public officials from frivolous, time-consuming lawsuits.

“It’s an important defense, and applied uniformly and fairly, it’s a necessary defense,” former police officer MacMain says. “Officers are making decisions sometimes in split seconds. . . . If we are going to expect them to do that, then we should afford them the benefit of doubt.”


A 2017 study by UCLA law professor Joanna C. Schwartz found only 3.2 percent of cases brought against law enforcement defendants were dismissed on grounds of qualified immunity. She said her findings show the doctrine is not achieving the high court’s goal to protect “all but the plainly incompetent or those who knowingly violate the law.” <sup>42</sup>

Some victims whose cases make it to jury trial are successful. In 2018, for instance, a jury awarded \$33.5 million in damages to the parents of a 29-year-old man who had been fatally shot three years earlier by a San Bernardino County, Calif., deputy for suspected trespassing. <sup>43</sup>

But many experts say citizens typically lose such lawsuits. Cardoza School of Law professor Alex Reinert identified 211 cases between 2013 and 2015 that proceeded to jury trials and found plaintiffs won slightly more than 25 percent of the cases. <sup>44</sup>

Defense attorney James says many citizens do not understand that the doctrine of qualified immunity “does not mean that police officers cannot be terminated, cannot be disciplined, cannot be criminally charged.” And if the protection is removed, officers may face greater dangers when confronting suspects if they pause to consider whether their actions could lead to a lawsuit, he says.

Retired officer Lutz opposes eliminating qualified immunity for officers. “You have protections as citizens you now aren’t going to give to police?” he asks, pointing to the “castle doctrine” in which a homeowner has legal immunities in certain cases to use force against an intruder. “All those things then have to be looked at it.”



### Background

#### Early Law Enforcement

Law enforcement was a volunteer effort in the nation's earliest years, with informal watch groups warning neighbors of impending danger. Beginning in South Carolina in the early 1700s, white Southerners formed patrols to track down escaped African slaves, crush uprisings by enslaved people and punish those who violated plantation rules. <sup>45</sup>

In the Texas Republic in the 1830s, a provisional government authorized the Texas Rangers to protect settlers from Native Americans. <sup>46</sup>

Boston in 1838 established the first municipal police force with full-time, paid employees. New York City followed suit in 1845 and Chicago in 1851. The police were not supplied with guns until 1858, after a New York officer, using a personal firearm, shot and killed an unarmed Irish immigrant. The officer was exonerated from any wrongdoing. Shortly after, police departments began arming their officers. <sup>47</sup>

The Union victory in the Civil War in 1865 ushered in a series of changes that saw slavery abolished, a Northern effort to help Black Southerners and a white Southern backlash that led to harsh treatment of former slaves by police and others. In late 1865, a group of Confederate army veterans in Tennessee founded the Ku Klux Klan to resist government policies intended to provide economic and political equality to African Americans. The Klan soon expanded into almost every Southern state. <sup>48</sup>

In April 1866, Congress passed the Civil Rights Act, invalidating the former Confederate states' "Black Codes" that governed the behavior of African Americans. Congress also required the Southern states to ratify the 13th Amendment that abolished slavery, but those states continued to enforce codes that barred Blacks from voting, bearing arms or gathering in groups. <sup>49</sup>

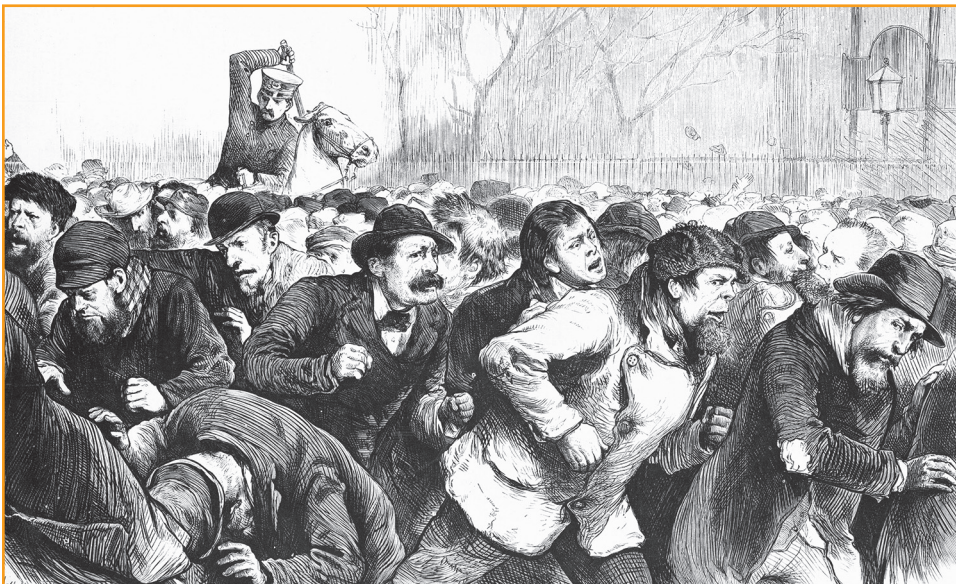
Under the Reconstruction Act of 1867, Congress imposed military rule on the South and required states in the region to ratify the 14th Amendment granting the protection of citizenship to all people born or naturalized in the United States, including recently

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freed slaves. After the amendment was ratified in 1868, Southern states in the 1870s began replacing the Black Codes with “Jim Crow” laws that mandated separate public spaces based on skin color. African Americans who violated the laws often faced harsh retaliation from the police and the Klan.

In 1871, Congress passed a law allowing individuals to sue government officials for civil rights violations. Enacted as a section of the 1871 Ku Klux Klan Act, it became known as the “Section 1983” law after its location in the U.S. Code. <sup>50</sup>

In the North in the late 19th century, union organizing and labor unrest spread and local officials called on municipal police departments to break strikes. New York City had 5,090 strikes involving nearly 1 million workers between 1880 and 1900, while Chicago had 1,737 strikes. Police used violence to disperse workers or arrested them on charges of violating public order. <sup>51</sup>



A newspaper illustration shows a mounted police officer swinging a baton at unemployed workers in New York City in 1874. Labor unrest in the late 19th and early 20th centuries led to numerous clashes with police. (Getty Images/InterimArchives/Contributor)

By the 1880s, all major U.S. cities had created police departments to deal with increased crime that accompanied rapid population growth. Poor and working-class whites in Northern cities soon complained of discriminatory policing, as did Jewish, Italian and other immigrants from southern and eastern Europe. <sup>52</sup>

### Advancements in Policing

In the early 1900s, labor disputes continued to roil industrial areas, particularly in Pennsylvania's coal fields, iron mills and timber forests. In 1902, the five-month "Great Anthracite Strike" caused a nationwide coal shortage until President Theodore Roosevelt intervened. Recognizing local law enforcement could not control such disputes, Pennsylvania Gov. Samuel W. Pennypacker in 1905 signed a law creating the nation's first state police department. <sup>53</sup>

Black civil rights activist W.E.B. Du Bois helped found the NAACP in 1909 to respond to the threat of lynching, and the group soon turned its attention to police brutality. <sup>54</sup>

Upset with their own job conditions, including working for long hours with low pay, Pittsburgh patrol officers Martin Toole and Delbert Nagle in 1915 organized the Fraternal Order of Police, the nation's first police union. <sup>55</sup>

Tensions between minority groups and police grew during this period. "African Americans themselves start to resist policing and . . . demand police reform," said historian Khalil Muhammad, a professor of race and public policy at Harvard University. On July 28, 1917, nearly 10,000 African Americans silently marched down New York City's Fifth Avenue to protest racial violence. <sup>56</sup>

Meanwhile, in Berkeley, Calif., Police Chief August Vollmer founded a school of criminology at the University of California with police training and tests modeled on the U.S. Army. As chief of the Los Angeles Police Department in the early 1920s, he used early computers to identify high-crime neighborhoods where he then sent his officers. Many police departments followed his example. <sup>57</sup>

Relations between police officers and communities worsened with the rise of organized crime after a 1920 federal prohibition on the manufacture and sale of alcohol. In large cities such as New York and Chicago, police enforcing the ban used force against members of Italian immigrant communities.

In 1931, the Wickersham Commission, appointed by President Herbert Hoover to investigate enforcement of Prohibition-era laws, outlined more than 100 cases in which police deprived suspects of sleep, beat them or tear-gassed them to extract confessions. The commission suggested the adoption of a new constitutional amendment to bar "police brutality." <sup>58</sup> The findings resulted in limited efforts toward reform, experts say.



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In the 1950s and '60s, protests against racism swelled, and white police officers and citizens often reacted with violence. Civil rights activist Martin Luther King Jr. faced death threats and physical assaults from police and citizens; in 1968, he was assassinated in Memphis by James Earl Ray, a white felon. <sup>59</sup>

Increasing unemployment among Blacks was exacerbating segregation and poverty. In 1940, 11 percent of African Americans and 9 percent of whites were unemployed, said Elizabeth Hinton, a Harvard University professor of history. By the 1960s, Blacks' unemployment rates were double that of whites. <sup>60</sup>

In 1963, more than 700 young African Americans were arrested and brutalized with police dogs and high-pressure fire hoses when they protested racial segregation in Birmingham, Ala. Many activists celebrated when Congress passed the Civil Rights Act of 1964 to bar racial discrimination in public accommodations, education and employment. But the measure did not address criminal justice. <sup>61</sup>

On March 7, 1965, more than 600 people tried to march from Selma, Ala., to the state Capitol in Montgomery to commemorate the death of Jimmie Lee Jackson, a Black man shot the previous month by a state trooper, and to demand voting rights for African Americans. White state troopers stopped the march and attacked participants. The march resumed later that month with many more participants, under the protection of National Guard troops, after a federal judge ruled the demonstrators had a right to march. <sup>62</sup>

Amid the tumults, crime rates were rising — ultimately by 126 percent by 1970 — and Democratic President Lyndon Johnson urged action. On March 8, 1965, he told Congress to begin a “thorough, intelligent and effective war against crime,” and pushed for a bill creating a greater federal role in local law enforcement. One week later, he urged Congress to pass the Voting Rights Act to ensure Black Americans the opportunity to vote in the South. <sup>63</sup>

In August, widespread rioting broke out in the Black neighborhood of Watts in Los Angeles after highway patrol officers pulled over two stepbrothers for suspected drunken driving and roughed them up when the officers said they resisted arrest. A state-appointed commission examining the cause of the disorder advised city officials to improve schools, housing, employment, health care and community relations with the police, but there was little follow up. <sup>64</sup>

Congress passed Johnson's law enforcement bill in September 1965, creating a grant-making agency to disburse \$30 million for police departments to purchase bulletproof vests, helicopters, tanks, rifles, gas masks and other military-grade hardware. <sup>65</sup>

Anger over racism, poverty and police treatment of minorities led to an explosion of violence in urban areas in the mid- to late-1960s. On Feb. 29, 1968, the Kerner Commission, formed to examine the violence, concluded that "bad policing practices" were among the "culturally embedded forms of racial discrimination" that "converged to propel violent upheaval on the streets of African American neighborhoods." It added that, when protests arose, "inadequately trained police officers and National Guard troops entered affected neighborhoods, often worsening the violence." <sup>66</sup>

But the commission also said the demands on the police were great and that they needed community trust and support. <sup>67</sup>

The Supreme Court in 1968 upheld police authority to stop and frisk any individual based on a "reasonable suspicion that a crime had been committed." Previously, police had to have a "probable cause," a stricter standard, to stop a citizen. <sup>68</sup>

### Law and Order Policies

After Republican President Richard Nixon called for a "war on drugs," Congress in 1970 passed a broad crime bill that, among other things, authorized police to conduct "no-knock" searches.

Four years later, Congress repealed that authorization after a series of drug raids. But many states still allowed warrants for no-knock searches, and the Supreme Court upheld the practice in the 1980s and 1990s. <sup>69</sup>

High-profile cases of police brutality against African Americans continued, and riots ensued when prosecutors or juries did not hold police accountable. In May 1980 an all-white Florida jury acquitted four white officers accused of beating to death a Black businessman, Arthur McDuffie, after a high-speed chase through Miami. Riots that followed were partially blamed on high unemployment rates among Blacks. <sup>70</sup>

In 1982, the Supreme Court ruled a government official could be protected from a civil lawsuit unless the official violated a citizen's

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statutory or constitutional rights “of which a reasonable person would have known.” But the court said the standard did not provide a “license to lawless conduct.” <sup>71</sup>

As the nation’s war on drugs continued, lawmakers set harsher penalties and police increased their enforcement activities. Congress in 1986 passed a law setting mandatory minimum prison sentences for certain drug offenses, then increased the Defense Department’s role in monitoring illegal drug trafficking. <sup>72</sup>

In March 1991, four Los Angeles officers beat Rodney King, an African American who had led police on a high-speed chase. Four months after the King beating, a commission reported that a “significant number of LAPD officers . . . repetitively use excessive force against the public” and that race “continues to play a central role.” The commission blamed poor department management. <sup>73</sup>

On April 29, 1992, all four officers involved — three of them white — were acquitted by a jury, and widespread violence erupted. A task force subsequently reported the city’s poverty rate had climbed to almost 33 percent and gangs, crack cocaine, poverty and racial and ethnic tension made the city a “tinderbox, ready to explode.” <sup>74</sup>

The police department entered into a federal consent decree in which it pledged to make reforms, which many experts later said improved the agency’s reputation and officer conduct, although problems remained. <sup>75</sup>

The 1994 federal Violent Crime Control Act authorized \$8.8 billion in grants for localities to create community policing programs that aimed to boost collaboration between police and community leaders. It also provided funding for 100,000 more officers. <sup>76</sup>

At the same time, New York City Police Commissioner William J. Bratton began a strategy known as “broken windows policing,” encouraging officers to crack down on minor offenses to prevent greater crimes. In 1996, the Supreme Court again ruled police officers could stop citizens for any reason or pretext, allowing the so-called stop-and-frisk tactic. <sup>77</sup>

In 2012, Sanford, Fla., resident George Zimmerman, a neighborhood watch coordinator, called police and then followed Trayvon Martin, a Black teenager who was walking in the neighborhood and who Zimmerman suspected of plotting a crime. During an altercation,

Zimmerman fatally shot Martin, who was unarmed, and later said he had acted in self-defense. A jury acquitted Zimmerman of murder charges. The killing inspired the phrase “Black Lives Matter” and launched a national, decentralized political and social movement aimed at ending violence against Black people. <sup>78</sup>



George Zimmerman (standing), a neighborhood watch coordinator, was found not guilty of second-degree murder after he shot and killed a Black teenager, Trayvon Martin, during an altercation in 2012 in Sanford, Fla. Martin's death spurred the Black Lives Matter movement aimed at ending violence against Black people by police and others. (Getty Images/Joe Burbank)

Two years later, a police officer fatally shot Michael Brown, an unarmed 18-year-old Black man, in Ferguson, Mo. Protests erupted. After a grand jury decided not to indict the officer, Brown's family undertook a campaign “to ensure that every police officer working the streets in this country wears a body camera.” <sup>79</sup>

The next year, the Justice Department awarded \$22.5 million in grants to help supply 73 local and tribal law enforcement agencies in 32 states with the cameras and to study their impact. <sup>80</sup>

President Barack Obama's Task Force on 21st Century Policing recommended in May 2015 that police agencies work closer with communities to reduce the causes of crime, opt for modernized “less than lethal” technology and improve recruitment and training of officers. <sup>81</sup>

The Trump administration, however, reversed course on several police reform initiatives. Then-Attorney General Jeff Sessions on Nov. 7, 2018, limited the use of court-enforced agreements to reform police departments accused of violating citizens' rights. A week later, the U.S. Commission on Civil Rights reported

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a high rate of racially targeted use of force by police and called for consent decrees to uphold constitutional standards, but the Justice Department did not act on the commission's recommendation. <sup>82</sup>

## Current Situation

### In Cities and States

Protests, primarily led by Black Lives Matter participants, continue in cities nationwide in response to law enforcement's aggressive and sometimes fatal use of force involving African Americans.

On Aug. 30, Trump called the protesters "agitators and thugs" and again called for federal intervention in Portland, where he had sent in federal agents in July. The night before, one man died when pro-Trump and liberal groups clashed in downtown Portland. On Sept. 2, Trump issued an executive order threatening to withhold federal funding from cities where officials had cut police funding or were unable to rein in violence. The Justice Department said on Sept. 21 that Portland, New York City and Seattle were "anarchist jurisdictions" because they had allowed months of civil demonstrations and violence to continue. <sup>83</sup>

Democratic presidential nominee Joe Biden accused Trump of "fanning the flames of hate and division in our society" and "recklessly encouraging violence." <sup>84</sup>

Protests resumed Sept. 23 after a Louisville, Ky., grand jury did not indict officers involved with Breonna Taylor's killing on the grounds that they had acted to protect themselves. One officer was indicted on wanton endangerment charges for firing shots that could have hit Taylor's neighbors. The officer pleaded not guilty to the charges. <sup>85</sup>

Taylor's family and many supporters criticized police and the justice system for failing to protect people of color. The case reinforced "why I had no faith in the legal system, in the police, in the law," Tamika Palmer, Taylor's mother, said after the grand jury announcement. "The system as a whole has failed [Breonna]." Meanwhile, hundreds of people began marching through



downtown Louisville while demonstrations were held in Atlanta, Chicago, New York, Washington, Philadelphia and other cities across the country. <sup>86</sup>



Protesters outside the White House in Washington carry pictures of Breonna Taylor on Sept. 23. People took to the streets across the country after a grand jury in Louisville, Ky., decided not to charge police in Taylor's death, which occurred during a police raid at her house. (Getty Images/Drew Angerer)

The toll from the coronavirus pandemic is heightening racial tensions, experts say. Barbara Ransby, a historian at the University of Illinois, Chicago, and author of *Making All Black Lives Matter*, said the disparate impact of the pandemic had highlighted longstanding racial inequities, and then the images of police violence deepened the resentments. "People are seething about all kinds of things," she said. <sup>87</sup>

### State Legislation

Lawmakers in 29 states began considering more than 200 bills addressing police use of force this year, according to the National Conference of State Legislatures. While some measures would refine the definition of a crime to include the use of excessive force by a police officer, others would bar specific techniques or the use of chemical agents. <sup>88</sup>

Some cities and states are considering creating civilian review boards that would investigate citizen complaints about use of

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force. In Newark, N.J., city officials are considering legislation that would strengthen the authority of a civilian review board so it could closely investigate internal police affairs. The local police union has blocked the creation of the board since it was authorized by a 2016 city ordinance. The state Supreme Court in August said a civilian board could provide police oversight, but with limited powers. <sup>89</sup>

Meanwhile, law enforcement agencies are struggling to recruit officers. Thirty-six percent of agencies surveyed said applications dropped significantly over the past five years, while rising numbers of officers are retiring, according to the Police Executive Research Forum, a nonprofit in Washington that supports law enforcement agencies. <sup>90</sup>

Some experts are analyzing how communities could improve recruitment. Moffatt of Sacramento State University wants to expand his program that prepares students to enter the police academy by teaching them about the basic responsibilities of a police officer.

About 70 percent of the program's students are minorities, and 78 percent are women, although not all students want to enter a police training academy. Among those who have applied, 25 percent — or 28 graduates of the program — have enrolled in a law enforcement academy. Typically, the average acceptance rate of academy applicants is 1 percent, Moffatt says.

Moffatt says he hopes to expand the program to other California State University campuses.

Some researchers are studying why reform efforts have failed. Jesse Jannetta, a senior policy fellow at the Urban Institute, helped monitor six cities that implemented reforms suggested by President Obama's task force. But despite efforts to enhance community trust of police, he said, "cities across the country are on fire. I am trying to reckon with the meaning of the failure of that trust-building work." <sup>91</sup>

Phelps in Minneapolis is completing a study with a team of students that in part focuses on the effects of violence, including police violence, on women.

"Women, mostly from North Minneapolis, feel stuck between multiple types of violence," she says. They face international, domestic and gender-based violence. But they do not want to

call the police because they fear the police will not take their concerns seriously, Phelps says, “or that police will harm the person they interacted with.” And many of the women want to protect their sons from police violence.

### Legal Action

Federal authorities are investigating possible criminal civil rights charges against the four officers involved in George Floyd’s death in Minneapolis. Officer Chauvin already is facing state charges of second- and third-degree murder and manslaughter. The other former officers, J. Alexander Kueng, Thomas Lane and Tou Thao, are facing charges as accomplices. All four officers are scheduled to face trial in March. <sup>92</sup>

Garrett Rolfe, a former Atlanta police officer accused in the June 12 shooting of Rayshard Brooks, a 27-year-old African American, in a Wendy’s restaurant parking lot, faces felony murder charges.

Legal experts say the case could go either way. Rolfe’s attorney said Brooks “chose to violently attack two uniformed police officers,” and that Rolfe fired at Brooks because he feared for his own safety and the safety of those around him.

Fulton County District Attorney Paul Howard said Brooks “never presented himself as a threat” and was running away when he was shot. Videos posted online show a physical altercation between Brooks and the officers before Brooks grabbed one of the officer’s tasers and ran away. Alpert of the University of South Carolina said many questions in the case remain unanswered. <sup>93</sup>

Around the country, in the wake of the protests, local prosecutors are beginning to re-examine old cases to determine whether a different legal outcome may have been warranted. <sup>94</sup>

### In Washington

Bills to reform policing practices are stalled in Congress as Republicans and Democrats remain at odds. In June, Senate Democrats blocked debate on a Republican police reform bill that would set federal reporting requirements, call for training to diminish the use of chokeholds and no-knock warrants and boost the use of body cameras, among other things. Democrats said the bill did not go far enough. <sup>95</sup>

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A day later, the Democratic-controlled House passed a measure that would ban chokeholds, abolish the qualified immunity doctrine, enforce transparency standards and create a national database on police misconduct. All Democratic House members and three Republicans voted for the bill. The Senate refuses to take it up. <sup>96</sup>

Trump says he has addressed the matter. In June, he issued an executive order calling on local police departments to boost training, create a national database to track officers with multiple complaints of misconduct and encourage departments to work with social workers and mental health professionals on certain calls. The order also calls for police departments to ban the use of chokeholds except in life-threatening situations. <sup>97</sup>

Many Democrats and activists criticized the order for not taking a stronger stand against police use of force and for not calling for an end to qualified immunity. The push to end qualified immunity began after the Supreme Court in June refused to take up seven cases involving police accused of using excessive force. <sup>98</sup>

Trump refuses to consider reducing or eliminating immunity for police officers, while Democratic nominee Biden has said he supports reforming the doctrine. <sup>99</sup>

In January, Trump and Attorney General William Barr convened an 18-member panel of law enforcement officials to study policing concerns. Barr said a “wave of social problems” demanded solutions beyond police expertise, but added that protesters and others are showing “a disturbing pattern of cynicism and disrespect” to police. The commission sent a draft report to Barr for release in late October. However, U.S. District Judge John D. Bates said on Oct. 1 that the commission broke federal law by not including defense lawyers, civil rights activists and mental health professionals. The judge ordered the commission to stop its work and prohibited Barr from releasing a report. <sup>100</sup>

Police reform is a growing issue in the presidential race as the November vote draws near. At a Sept. 29 debate, Trump and Biden sparred over racial issues and policing. Trump accused his opponent of abandoning the police. “We believe in law and order and you can’t even say the words because if you say those words, you’re going to lose all of your radical supporters,” Trump said. Biden responded that he supports law enforcement, saying “the vast majority of police officers are good, honorable, decent people.” <sup>101</sup>

Many police unions and law enforcement groups support Trump. The National Association of Police Officers, a lobbying group representing 241,000 officers, praised Trump in July. “Our endorsement recognizes your steadfast and very public support for our men and women on the front lines, especially during this time of unfair and inaccurate opprobrium being directed at our members by so many,” the group’s president, Michael McHale, said in a letter to Trump. <sup>102</sup>

Biden has called for increased funding for community policing, bans on tactics such as chokeholds, ending the transfer of military equipment to local police and creating a national police oversight commission. But some liberals and activists criticize Biden for supporting the 1994 crime bill, which they say resulted in increased incarceration rates for African Americans, when he was a senator and for speaking out against the “defund police” movement following Floyd’s death. <sup>103</sup> ■

## Outlook

### “Decades-Long Process”

Many experts are cautiously optimistic change is possible.

Yankah of Cardozo University says “nobody is under the delusion police are going away tomorrow. . . . We think this is a decades-long process to change.”

Change will happen, he says, when Americans recognize “we are in this for the long haul . . . so that policing is less racist and less violent and less needed.”

Yankah says the ideas for reform already exist in President Obama’s 2015 task force report, and he hopes public officials do not simply decide to form yet another commission to study the same problem.

To find solutions, defense attorney MacMain says, dialogue among all stakeholders — police, mental health professionals, minority communities and others — must continue. “We need to better understand one another and work toward better policing and better community involvement that is better for everybody,” he says.



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James of the Fraternal Order of Police worries about the toll the current controversies are taking on officers and on recruitment. “The good that these officers do [is lost] when all they hear is, they are racist, they are zealots, they are storm troopers. That is not what they signed up for.”

Moffatt in Sacramento hopes the next generation of police officers will propel change. “You are never going to change things in a day, so if over the next 10 to 20 years I can get my students [into law enforcement positions] . . . then they can change the outcome,” he says.

Sherrills of Newark, who has launched a series of community network groups focused on policing and who works closely with researchers at Rutgers University, says he believes technology could help solve problems related to policing.

For example, he says, technology might make traffic stops safer. Under one concept, both motorists and officers would stay in their vehicles and use their smartphones to communicate with each other while also looping in other observers. Further, motorists could exchange driver’s license and vehicle registration information with the officer, who also could electronically send them a ticket, if warranted. The entire exchange would not require face-to-face contact that could escalate tensions.

“The future of public safety is a shared public strategy,” Sherrills says. “We will see more community-based safety initiatives partnering with police. You will see police departments shrink. . . . No longer will we be looking to law enforcement to be the totality of our public safety infrastructure. We are going to be putting public safety back in the hands of the public where it belongs.” ■

## Notes

<sup>1</sup> “Minneapolis police chief struggles to change the department’s culture,” *The Associated Press, Los Angeles Times*, June 5, 2020, <https://tinyurl.com/y4r8fwjv>; Andy Mannix, “Killing of George Floyd shows that years of police reform fall far short,” *Star Tribune*, June 20, 2020, <https://tinyurl.com/y6j4oz54>; Daniel S. Lawrence *et al.*, “Impact of the National Initiative for Building Community Trust and Justice on Police Administrative Outcomes,” Urban Institute, August 2019, pp. 19-22, <https://tinyurl.com/y6n3hxbc>; and “Final Report of the President’s Task

Force on 21st Century Policing,” President’s Task Force on 21st Century Policing, May 2015, <https://tinyurl.com/grj29zx>.

<sup>2</sup> Richard A. Oppel Jr. and Kim Barker, “New Transcripts Detail Last Moments for George Floyd,” *The New York Times*, July 8, 2020, <https://tinyurl.com/yd6w5mtl>; Scottie Andrew, “Derek Chauvin: What we know about the former officer charged in George Floyd’s death,” *CNN*, June 1, 2020, <https://tinyurl.com/yamg8udt>.

<sup>3</sup> Kim Barker and Serge F. Kovalski, “Officer Who Pressed His Knee on Floyd’s Neck Drew Scrutiny Long Before,” *The New York Times*, July 18, 2020, <https://tinyurl.com/y56m99tw>.

<sup>4</sup> Simon Romero and Lauren Messman, “Phoenix Police Kill Man in Parked Car, Igniting New Protests,” *The New York Times*, July 6, 2020, <https://tinyurl.com/y46p4unk>; Ben Kessler, “Black women and girls ordered to ground, handcuffed in mistaken stolen-car stop,” *NBC News*, Aug. 3, 2020, <https://tinyurl.com/y48jre8x>; Elliott C. McLaughlin and Amir Vera, “Wisconsin police shoot a Black man as his children watch from a vehicle, attorney says,” *CNN*, Aug. 24, 2020, <https://tinyurl.com/yy4g342z>; and “Breonna Taylor: Kentucky attorney general agrees to release grand jury recordings,” *The Associated Press*, *The Guardian*, Sep. 29, 2020, <https://tinyurl.com/y2sl3qny>.

<sup>5</sup> “Fatal Force,” *The Washington Post*, 2020, <https://tinyurl.com/y7hhtyg9>.

<sup>6</sup> Emanuel Cleaver III, “The uneasy relationship between Black people and the police is rooted in our history,” *Kansas City Star*, July 25, 2020, <https://tinyurl.com/y8eok9o5>.

<sup>7</sup> *The Negro in Chicago: The Chicago Commission on Race Relations* (1922), <https://tinyurl.com/yxee44fl>.

<sup>8</sup> “Fatal Force,” *op. cit.*; Justin M. Feldman *et al.*, “Police-Related Deaths and Neighborhood Economic and Racial/Ethnic Polarization, United States, 2015-2016,” *American Journal of Public Health*, Feb. 6, 2019, <https://tinyurl.com/yyp7zhjh>; Jeffrey Fagan and Alexis D. Campbell, “Race and Reasonableness in Police Killings,” *Boston University Law Review*, 2020, <https://tinyurl.com/y2xy5cs>; and “People with Untreated Mental Illness 16 Times More Likely to Be Killed By Law Enforcement,” Treatment Advocacy Center, <https://tinyurl.com/y9w8n4rp>.

<sup>9</sup> “Remarks by President Trump on Operation LeGend: Combatting Violent Crime in American Cities,” The White House, July 22, 2020, <https://tinyurl.com/y3ouy8th>.

<sup>10</sup> John Gramlich, “5 facts about crime in the U.S.,” Pew Research Center, Oct. 17, 2019, <https://tinyurl.com/y4ubf6ro>; “2019 Preliminary Semiannual Uniform Crime Report Released,” FBI, Jan. 21, 2020, <https://tinyurl.com/ybtge38f>; and Jeff Asher and Ben Horwitz, “It’s Been ‘Such a Weird Year.’ That’s Also Reflected in Crime Statistics,” *The New York Times*, July 6, 2020, <https://tinyurl.com/y8twwk34>.

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<sup>11</sup> “USA: Law enforcement violated Black Lives Matter protesters’ human rights, documents acts of police violence and excessive force,” Amnesty International, Aug. 4, 2020, <https://tinyurl.com/yyzfckom>.

<sup>12</sup> Lindsey Van Ness, “Body Cameras May Not Be the Easy Answer Everyone Was Looking For,” Pew Stateline, Jan. 14, 2020, <https://tinyurl.com/y6juhc3p>; Rashawn Ray, “How can we enhance police accountability in the United States,” Brookings Institution, Aug. 25, 2020, <https://tinyurl.com/y4f2dpg5>.

<sup>13</sup> “Census of Fatal Occupational Injuries Summary, 2018,” news release, Bureau of Labor Statistics, Dec. 17, 2019, <https://tinyurl.com/vekv6uz>; “Face Sheet: Police Officers 2018,” Bureau of Labor Statistics, April 2020, <https://tinyurl.com/ya9swyyn>.

<sup>14</sup> Allison Schaber, “In defense of police unions, which, after all, have a job to do,” *Star Tribune*, Sept. 11, 2020, <https://tinyurl.com/yxv5xatt>.

<sup>15</sup> Isaac Chotiner, “Q&A: Bryan Stevenson on the Frustration Behind the George Floyd Protests,” *The New Yorker*, June 1, 2020, <https://tinyurl.com/y9sug2lm>.

<sup>16</sup> Karen Robinson-Jacobs, “Minneapolis Board Blocks Police Reform Measure From November Ballot,” *Forbes*, Aug. 5, 2020, <https://tinyurl.com/y5yy9xk4>.

<sup>17</sup> Perry Chiaramonte, “Gritty N.J. city of Camden to scrap police department amid budget woes,” *Fox News*, Aug. 26, 2012, <https://tinyurl.com/yymcp6om>; Joseph Goldstein, “Changes in Policing Take Hold in One of the Nation’s Most Dangerous Cities,” *The New York Times*, April 2, 2017, <https://tinyurl.com/y4s8xwfp>.

<sup>18</sup> Brendan McQuade, “The Camden Police Department Is Not a Model for Policing in the Post-George Floyd Era,” *The Appeal*, June 12, 2020, <https://tinyurl.com/yccza596>.

<sup>19</sup> Emily Badger and Quoc Trung Bui, “Cities Grew Safer. Police Budgets Kept Growing,” *The New York Times*, June 12, 2020, <https://tinyurl.com/yyuyoqn7>; Aaron Mak, “What Three Cities Are Spending on Police Compared With Everything Else,” *Slate*, June 19, 2020, <https://tinyurl.com/y3xqjeqo>.

<sup>20</sup> Geoff Mulvihill, “Police departments seeing modest cuts, but not ‘defunding,’ ” *The Associated Press*, Oct. 1, 2020, <https://tinyurl.com/y5letktz>; Everton Bailey Jr., “Portland approves budget with millions in cuts to police, but short of public demand for \$50 million reduction,” *The Oregonian*, June 18, 2020, <https://tinyurl.com/y6eofvtp>.

<sup>21</sup> Leslie Brody and Katie Homan, “De Blasio Faces Calls for Deeper NYPD Change After \$1 Billion Budget Shift,” *The Wall Street Journal*, July 2, 2020, <https://tinyurl.com/y243opug>; Dana Rubinstein and Jeffery C. Mays, “Nearly \$1 Billion Is Shifted From Police in Budget That Pleases No One,” *The New York Times*, Aug. 10, 2020, <https://tinyurl.com/y8xmblu4>.

- <sup>22</sup> Shelley S. Hyland and Elizabeth Davis, “Local Police Departments, 2016: Personnel,” U.S. Department of Justice, October 2019, pp. 1-2, <https://tinyurl.com/y8b5cklr>; “Road Runners: The Role and Impact of Law Enforcement in Transporting Individuals with Severe Mental Illness, A National Survey,” Treatment Advocacy Center, May 2019, <https://tinyurl.com/y4eoo464>.
- <sup>23</sup> Christianna Silva, “Fraternal Order of Police President: ‘We All Agree That We Need To Have Some Reform,’ ” *NPR*, June 10, 2020, <https://tinyurl.com/y552xvne>.
- <sup>24</sup> Heather Mac Donald, “There is no epidemic of fatal police shootings against unarmed Black Americans,” *USA Today*, July 3, 2020, <https://tinyurl.com/y6aj9v23>.
- <sup>25</sup> Nick Cahill, “Newsom Signs Use-of-Force Reform Into Law in California,” *Courthouse News Service*, Aug. 19, 2019, <https://tinyurl.com/yybujlyt>.
- <sup>26</sup> Chris Hagan *et al.*, “No Criminal Charges For Sacramento Police Officers Who Fatally Shot Stephon Clark,” *NPR*, March 2, 2019, <https://tinyurl.com/y66jqp8n>.
- <sup>27</sup> “Fatal Force,” *op. cit.*; “United States v. City of Seattle,” U.S. District Court, Western District of Washington at Seattle, Dec. 16, 2011, p. 2, <https://tinyurl.com/y28q2v4v>; and Jorge L. Ortiz, “California’s new police use-of-force law marks a ‘significant’ change in law enforcement. Here’s why,” *USA Today*, Aug. 20, 2019, <https://tinyurl.com/yxo2gtge>.
- <sup>28</sup> Ortiz, *ibid.*
- <sup>29</sup> Richard A. Oppel Jr., Derrick Bryson Taylor and Nicholas Bogel-Burroughs, “What We Know About Breonna Taylor’s Death,” *The New York Times*, Aug. 13, 2020, <https://tinyurl.com/ybtdf7ab>.
- <sup>30</sup> “Oregon lawmakers wrap special session in one day, restrict choke holds,” *The Associated Press*, Aug. 20, 2020, <https://tinyurl.com/y5ybtw3v>.
- <sup>31</sup> Michael A. Foster, “Police Use of Force: Overview and Considerations for Congress,” Congressional Research Service, July 10, 2020, p. 5, <https://tinyurl.com/y6a4pvaq>; Al Baker, J. David Goodman and Benjamin Muller, “Beyond the Chokehold: The Path to Eric Garner’s Death,” *The New York Times*, June 13, 2015, <https://tinyurl.com/yxs8vol9>; and Monka Evstatieva, “How Decades of Bans on Police Chokeholds Have Fallen Short,” *NPR*, June 16, 2020, <https://tinyurl.com/y3fzsh9e>.
- <sup>32</sup> Libor Jany, “Minneapolis police union offers free ‘warrior’ training, in defiance of mayor’s ban,” *Star Tribune*, April 14, 2019, <https://tinyurl.com/y8hc2nbn>.
- <sup>33</sup> Jessica Anderson, “Maryland laws that have long protected police face scrutiny as public demands more accountability,” *The Baltimore Sun*, June 12, 2020, <https://tinyurl.com/y4sg6ojf>; Rebecca Tan, “There’s a reason it’s hard to discipline police. It starts with a bill of rights 47 years

---

ago,” *The Washington Post*, Aug. 29, 2020, <https://tinyurl.com/y4zkbfv5>; and Amelia McDonnell-Parry and Justine Barron, “Death of Freddie Gray: 5 Things You Didn’t Know,” *Rolling Stone*, April 12, 2017, <https://tinyurl.com/ycn5j8np>.

<sup>34</sup> Carlton W. Reeves, “Order Granting Qualified Immunity in Clarence Jamison v. Nick McClendon,” U.S. District Court, Aug. 4, 2020, <https://tinyurl.com/yynoqxcq>; Whitney K. Novak, “Policing the Police: Qualified Immunity Considerations for Congress,” Congressional Research Service, June 25, 2020, <https://tinyurl.com/y3vlwdtf>.

<sup>35</sup> *Pierson et al. v. Ray et al.*, 386 U.S. 547 (1967), <https://tinyurl.com/y62o3nf7>; *Tennessee v. Garner*, 471 U.S. 1 (1985), <https://tinyurl.com/y6fqyy9e>; *Graham v. Connor*, 490 U.S. 386 (1989), <https://tinyurl.com/y4q5xzjx>.

<sup>36</sup> Novak, *ibid.*; Andrew Chung *et al.*, “For cops who kill, special Supreme Court protection,” *Reuters*, May 8, 2020, <https://tinyurl.com/y8r6rs1b>.

<sup>37</sup> Charles Davis, “More than 300 law professors urge Congress to address police impunity,” *Business Insider*, July 2, 2020, <https://tinyurl.com/y5zgbs2w>.

<sup>38</sup> “Majority of Public Favors Giving Civilians the Power to Sue Police Officers for Misconduct,” Pew Research Center, July 9, 2020, <https://tinyurl.com/y32kjmgu>.

<sup>39</sup> “Ending Qualified Immunity Act,” news release, Office of Congresswoman Ayanna Pressley, <https://tinyurl.com/y8cjepvj>; “Statement from Rep. Pressley on MA Senate Bill that Addresses Qualified Immunity,” news release, Office of Congresswoman Ayanna Pressley, July 11, 2020, <https://tinyurl.com/y24ncavu>.

<sup>40</sup> Jordain Carney, “Republican rift opens over qualified immunity for police,” *The Hill*, June 19, 2020, <https://tinyurl.com/yxrllydrn>.

<sup>41</sup> Todd Feurer, “City Council Finance Committee Signs Off on \$10.7 Million In Settlements For Lawsuits Against Police Officers,” *CBS Chicago*, Feb. 18, 2020, <https://tinyurl.com/yy8j9okv>; Graham Rayman, “NYPD’s most-sued officers: 87 lawsuits filed against 14 cops in just two years,” *New York Daily News*, Feb. 28, 2020, <https://tinyurl.com/yxuo6jbm>; and Keith L. Alexander and Rachel Chason, “Family of Man Slain by Prince George’s police officer reaches \$20 million settlement with county,” *The Washington Post*, Sept. 28, 2020, <https://tinyurl.com/y6aedppb>.

<sup>42</sup> Joanna C. Schwartz, “How Qualified Immunity Fails,” *Yale Law Journal*, October 2017, <https://tinyurl.com/yce62h76>.

<sup>43</sup> Alene Tchekmedyan, “Jury awards \$33.5 million to parents of 29-year-old man killed by San Bernardino County deputy,” *Los Angeles Times*, March 15, 2019, <https://tinyurl.com/y3ojyb5h>.



- <sup>44</sup> Alexander A. Reinert, "Qualified Immunity at Trial," *Notre Dame Law Review*, 2018, <https://tinyurl.com/y3exv8f9>.
- <sup>45</sup> Gray Potter, "The History of Policing in the United States," *Eastern Kentucky University Police Studies Online*, June 25, 2013, <https://tinyurl.com/y9t9553v>; Connie Hassett-Walker, "The racist roots of American policing: From slave patrols to traffic stops," *The Conversation*, June 2, 2020, <https://tinyurl.com/yaj6efja>; and Michael Robinson, "Black Bodies on the Ground: Policing Disparities in the African American Community — An analysis of Newsprint From January 1, 2015, Through December 31, 2015," *Journal of Black Studies*, 2017, p. 552, <https://tinyurl.com/y5mu6bx6>.
- <sup>46</sup> "Texas Rangers," Bullock Museum, <https://tinyurl.com/y52y67wr>.
- <sup>47</sup> Potter, *op. cit.*; Robert J. Lundman, *Police and Policing: an Introduction* (1980), p. 554; and Robinson, p. 555.
- <sup>48</sup> "Klu Klux Klan," *History*, <https://tinyurl.com/ya3d6wej>.
- <sup>49</sup> Angela J. Davis, ed., *Policing the Black Man: Arrest, Prosecution, and Imprisonment* (2017), p. 10.
- <sup>50</sup> "42 U.S. Code §1983. Civil action for deprivation of rights," Cornell Law School Legal Information Institute, <https://tinyurl.com/orvrrja>; William Baude, "Is Qualified Immunity Unlawful?" *California Law Review*, 2018, p. 49, <https://tinyurl.com/ybqjdkkj>.
- <sup>51</sup> Potter, *op. cit.*
- <sup>52</sup> *Ibid.*; Lundman, *op. cit.*, p. 554; Leonard Moore, "Police brutality in the United States," *Britannica*, updated July 27, 2020, <https://tinyurl.com/y9fths9g>; and Willard Oliver, *August Vollmer: The Father of American Policing* (2017).
- <sup>53</sup> "About PSP," Pennsylvania State Police, <https://tinyurl.com/y6sve85k>; "Pennsylvania State Police History," Pennsylvania State Police, <https://tinyurl.com/y5tgmfru>.
- <sup>54</sup> "NAACP History: W.E.B. Dubois," NAACP, <https://tinyurl.com/y3ho7mp3>.
- <sup>55</sup> "History of the Fraternal Order of Police," Fraternal Order of Police of New Orleans, <https://tinyurl.com/y24znr8u>.
- <sup>56</sup> Anna North, "How racist policing took over American cities, explained by a historian," *Vox*, June 6, 2020, <https://tinyurl.com/yazqzock>; Chad Williams, "100 years ago African-Americans marched down 5th Avenue to declare that black lives matter," *The Conversation*, July 25, 2017, <https://tinyurl.com/y3fapa6b>.
- <sup>57</sup> Gretchen Kell, "August Vollmer biography explores famous police chief's UC Berkeley ties," *Berkeley News*, April 19, 2017, <https://tinyurl.com/y44u9h97>; Willard M. Oliver, *August Vollmer: The Father of American Policing* (2017).

- 
- <sup>58</sup> “Wickersham Report Recalled,” *The Associated Press*, *The New York Times*, Nov. 27, 1934, <https://tinyurl.com/y2q78y6u>; “Wickersham Commission,” Law Library-American Law and Legal Information, 2020, <https://tinyurl.com/ydazzgvj>.
- <sup>59</sup> Bryan Stevenson, “A Presumption of Guilt: The Legacy of America’s History of Racial Injustice,” in Davis, ed., *op. cit.*, p. 22.
- <sup>60</sup> Elizabeth Hinton, *From the War on Poverty to the War on Crime* (2016), ch. 1.
- <sup>61</sup> “On this day — May 02, 1963: Black Children Begin Movement Protesting Segregation; Face Police Brutality,” Equal Justice Initiative, <https://tinyurl.com/y52vmnl8>; Stevenson, *op. cit.*, p. 23.
- <sup>62</sup> Andrew Glass, “Civil Rights march ends as ‘Bloody Sunday,’ March 7, 1965,” *Politico*, March 7, 2018, <https://tinyurl.com/y2wq9gl7>.
- <sup>63</sup> Hinton, *op. cit.*
- <sup>64</sup> “Watts Rebellion,” *History*, <https://tinyurl.com/y3be5qll>.
- <sup>65</sup> “Statement by the President Following the Signing of Law Enforcement Assistance Bills,” The American Presidency Project, Sept. 22, 1965, <https://tinyurl.com/yxc7mhe8>; Elizabeth Hinton, “Why We Should Reconsider the War on Crime,” *Time*, March 20, 2015, <https://tinyurl.com/y249nkou>.
- <sup>66</sup> Alice George, “The 1968 Kerner Commission Got It Right, But Nobody Listened,” *Smithsonian Magazine*, March 1, 2018, <https://tinyurl.com/yb8mebzc>.
- <sup>67</sup> “The Kerner Report,” National Advisory Commission on Civil Disorders, 2016 reprint, p. 303, <https://tinyurl.com/y5yn7wln>.
- <sup>68</sup> *Terry v. Ohio*, 392, U.S. 1 (1968), <https://tinyurl.com/y6lk3wtp>.
- <sup>69</sup> “Public Law 91-513-Oct. 27, 1970,” Sec. 509, p. 1274, <https://tinyurl.com/y2q5cg4f>; Radley Balko, *Rise of the Warrior Cop: The Militarization of America’s Police Forces* (2014), pp. 81-134; and Radley Balko, “Senator Ervin, ‘No-Knock’ Warrants, and the Fight to Stop Cops from Smashing into Homes the Way Burglars Do,” American Civil Liberties Union, July 10, 2013, <https://tinyurl.com/y2m74sgy>.
- <sup>70</sup> “Overtown Violence Worst Since Liberty City,” *UPI*, Dec. 29, 1982, <https://tinyurl.com/y2wj5bcv>.
- <sup>71</sup> *Harlow v. Fitzgerald* 457, U.S. 800 (1982), <https://tinyurl.com/yxhnpfae>; Nathaniel Sobel, “What Is Qualified Immunity, and What Does It Have to Do With Police Reform?” *Lawfare*, June 5, 2020, <https://tinyurl.com/ydzb2gt7>.
- <sup>72</sup> Candice Norwood, “The war on drugs gave rise to ‘no-knock’ warrants. Breonna Taylor’s death could end them,” *PBS*, June 12, 2020, <https://tinyurl.com/y6gsxh49>; Daniel H. Else, “The ‘1033 Program,’ Department of Defense Support to Law Enforcement,” Congressional Research Service, Aug. 28, 2014, <https://tinyurl.com/y343xfsr>.

- <sup>73</sup> “Report of the Independent Commission on the Los Angeles Police Department,” 1991, pp. ix, 69-92, <https://tinyurl.com/y5cknb54>.
- <sup>74</sup> Anjuli Sastry and Karen Grigsby Bates, “When LA Erupted In Anger: A Look Back At The Rodney King Riots,” *NPR*, April 27, 2017, <https://tinyurl.com/yylgw5mo>; “The City in Crisis: A Report by the Special Advisor to the Board of Police Commissioners on the Civil Disorder in Los Angeles,” Scribd, Oct. 21, 1992, pp. 3, 4, <https://tinyurl.com/y4bnhk4y>.
- <sup>75</sup> Rachel Wells, “Lessons from the LA riots: How a consent decree helped a troubled police department change,” *CNN*, May 1, 2017, <https://tinyurl.com/y6qnme9c>.
- <sup>76</sup> Robert Vargas and Philip McHarris, “Race and State in City Police Spending Growth: 1980 to 2010,” *Sociology of Race and Ethnicity*, 2016, <https://tinyurl.com/yboojkw6>.
- <sup>77</sup> Annika Neklason, “The ‘Broken Windows’ Debate Survives Its Creators,” *The Atlantic*, May 16, 2019, <https://tinyurl.com/y33tdg8w>; Ekow N. Yankah, “Pretext and Justification: Republicanism, Policing, and Race,” *Cardozo Law Review*, April 2019, <https://tinyurl.com/y3n6sfqb>.
- <sup>78</sup> Davis, ed., *op. cit.*, pp. xii-xiii.
- <sup>79</sup> Monica Volante, “Michael Brown’s family releases statement on grand jury decision,” *Fox News*, Nov. 24, 2014, <https://tinyurl.com/y5jsd2hs>.
- <sup>80</sup> “Body-Worn Camera Program Fact Sheet,” U.S. Department of Justice, <https://tinyurl.com/yxw6xo2g>.
- <sup>81</sup> “Final Report of The President’s Task Force on 21st Century Policing,” May 2015, <https://tinyurl.com/y9bj9wks>.
- <sup>82</sup> Katie Benner, “Sessions, in Last-Minute Act, Sharply Limits Use of Consent Decrees to Curtail Police Abuses,” *The New York Times*, Nov. 8, 2018, <https://tinyurl.com/yarulc2l>; “Police Use of Force: An Examination of Modern Policing Practices,” U.S. Commission on Civil Rights, Nov. 15, 2018, <https://tinyurl.com/ya7yskl4>.
- <sup>83</sup> Kristine Phillips and Ryan W. Miller, “DOJ names New York City, Portland, Seattle ‘anarchist jurisdictions’ that could lose federal funding,” *USA Today*, Sept. 21, 2020, <https://tinyurl.com/y2v7dtrr>.
- <sup>84</sup> Elise Viebeck, “Biden accuses Trump of ‘recklessly encouraging violence’ in response to shooting,” *The Washington Post*, Aug. 30, 2020, <https://tinyurl.com/y3o6kxcf>.
- <sup>85</sup> “Breonna Taylor: Kentucky attorney general agrees to release grand jury recordings,” *op. cit.*
- <sup>86</sup> Mark Berman and Maria Sacchetti, “Breonna Taylor’s family assails Kentucky attorney general, demands grand jury information,” *The Washington Post*, Sept. 25, 2020, <https://tinyurl.com/y2rosm4t>; Griff Witte and Mark Berman, “With Breonna Taylor decision, summer’s

---

anguished protests get fresh impetus for the fall,” *The Washington Post*, Sept. 23, 2020, <https://tinyurl.com/ydlsyfp>.

<sup>87</sup> Matt Zapotsky and Isaac Stanley-Becker, “Gripped by disease, unemployment and outrage at the police, America plunges into crisis,” *The Washington Post*, May 29, 2020, <https://tinyurl.com/y4cxkeux>.

<sup>88</sup> “Legislative Responses for Policing — State Bill Tracking Database,” National Conference of State Legislatures, <https://tinyurl.com/yywssc56>.

<sup>89</sup> Katie Sobko, “NJ Supreme Court rules Newark civilian board can provide police oversight — with limits,” *NorthJersey.com*, Aug. 19, 2020, <https://tinyurl.com/y3u6evws>.

<sup>90</sup> “The Workforce Crisis, and What Police Agencies Are Doing About It,” Police Executive Research Forum, September 2019, <https://tinyurl.com/yxjuph5g>.

<sup>91</sup> Jesse Jannetta, “It Wasn’t Enough: The Limits of Police-Community Trust-Building Reform in Minneapolis,” Urban Institute, June 4, 2020, <https://tinyurl.com/y4rjy9aa>.

<sup>92</sup> Stephen Montemayor, “Federal Grand Jury Investigating Civil Rights Charges in Killing of George Floyd,” *Star Tribune*, Aug. 24, 2020, <https://tinyurl.com/yydy6yce>.

<sup>93</sup> Sabrina Siddiqui and Jacob Gershman, “Atlanta Police Officers’ Prosecution Expected to Be ‘Tough Case on Both Sides,’ ” *The Wall Street Journal*, June 18, 2020, <https://tinyurl.com/y2jzj4lt>.

<sup>94</sup> Laura Kusisto and Dan Frosch, “George Floyd Protests Prompt Looks at Older Cases of Police Violence,” *The Wall Street Journal*, July 7, 2020, <https://tinyurl.com/yxfhk5l2>.

<sup>95</sup> Claudia Grisales, Kelsey Snell and Susan Davis, “Senate Democrats Block GOP Police Reform Bill,” *NPR*, June 24, 2020, <https://tinyurl.com/y2gxrrws7>.

<sup>96</sup> Sarah Ferris, Heather Caygle and John Bresnahan, “House passes sweeping police reform bill,” *Politico*, June 25, 2020, <https://tinyurl.com/y7duwuoo>.

<sup>97</sup> Amita Kelly and Brian Naylor, “Trump, Hailing Law Enforcement, Signs Executive Order Calling For Police Reform,” *NPR*, June 16, 2020, <https://tinyurl.com/y2v3xylm>.

<sup>98</sup> Lawrence Hurley and Andrew Chung, “Supreme Court rejects cases over ‘qualified immunity’ for police,” *Reuters*, June 15, 2020, <https://tinyurl.com/ycumdhr7>.

<sup>99</sup> Francesca Chambers, “Trump considers Democratic police reform proposals, draws line at immunity reduction,” *McClatchy*, June 12, 2020, <https://tinyurl.com/yyhn3hzy>; Trevor Hunnicutt and Jeff Mason, “Factbox:

Trump and Biden divided on race, criminal justice policies,” *Reuters*, July 13, 2020, <https://tinyurl.com/y39mg37k>.

<sup>100</sup> Tom Jackman, “Attorney general launches presidential commission on law enforcement,” *The Washington Post*, Jan. 22, 2020, <https://tinyurl.com/r8r2x86>; Tom Jackman, “Judge rules federal law enforcement commission violates law, orders work stopped as attorney general prepares to issue report,” *The Washington Post*, Oct. 1, 2020, <https://tinyurl.com/yxoxjyaz>.

<sup>101</sup> Ebony Bowden, “Trump says Biden is too afraid to support police at first presidential debate,” *New York Post*, Sept. 29, 2020, <https://tinyurl.com/yy6g8fn3>.

<sup>102</sup> Jason Silverstein, “National Association of Police Organizations endorses Trump,” *CBS News*, July 16, 2020, <https://tinyurl.com/y6f42ouv>.

<sup>103</sup> Reid J. Epstein and John Eligon, “Biden Said, ‘Most Cops Are Good.’ But Progressives Want Systemic Change,” *The New York Times*, Aug. 19, 2020, <https://tinyurl.com/y4u63l79>.

# Bibliography

## Books

**Davis, Angela J., ed., *Policing the Black Man: Arrest, Prosecution, and Imprisonment*, Pantheon Books, 2017.**

Fourteen criminal justice experts explore how policing and other aspects of the criminal justice system harm African American boys and men.

**Hinton, Elizabeth, *From the War on Poverty to the War on Crime: The Making of Mass Incarceration in America*, Harvard University Press, 2016.**

A Harvard University professor of history and African American studies describes historical events and decisions that led to a racially biased and punitive criminal justice system.

**Mac Donald, Heather, *The War on Cops: How the New Attack on Law and Order Makes Everyone Less Safe*, Encounter Books, 2016.**

A fellow at the Manhattan Institute for Policy Research, a conservative think tank, says race-based attacks on policing have made law enforcement officers more reluctant to engage directly with the public and have contributed to rising crime rates.



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**Muhammad, Khalil Gibran, *The Condemnation of Blackness: Race, Crime, and the Making of a Modern Urban America*, Harvard University Press, 2010.**

A professor of history, race and public policy at the Harvard Kennedy School of Government describes how America's history of slavery and racism led to biased policing practices.

## Articles

**Berman, Mark, et al., "Protests spread over police shootings. Police promised reforms. Every year, they still shoot and kill nearly 1,000 people," *The Washington Post*, June 8, 2020, <https://tinyurl.com/y4ev28ps>.**

A newspaper database created in 2015 tracks the numbers of citizens fatally shot by police every year, finding an average of 1,000 police shootings annually.

**Evstatieva, Monika, and Tim Mak, "How Decades Of Bans On Police Chokeholds Have Fallen Short," *NPR*, June 16, 2020, <https://tinyurl.com/y6wblnt6>.**

A media organization reviews prohibitions on the police use of neck restraints and says they are ineffective and rarely enforced.

**Guarino, Ben, "Few Americans want to abolish police, Gallup survey finds," *The Washington Post*, July 22, 2020, <https://tinyurl.com/y6bxo322>.**

A survey of more than 36,000 adults finds that only 15 percent support eliminating police forces, but a majority favor "major changes" in how police do their jobs.

**Jagannathan, Meera, "As activists call to defund the police, mental-health advocates say 'the time is now' to rethink public safety," *MarketWatch*, June 19, 2020, <https://tinyurl.com/y63teyn4>.**

Advocates for the mentally ill say trained mental health professionals, rather than police, should respond to some emergency calls.

**Scheiber, Noam, Farah Stockman and J. David Goodman, "How Police Unions Became Such Powerful Opponents to Reform Efforts," *The New York Times*, June 20, 2020, <https://tinyurl.com/yd7af4a5>.**

Police unions wield considerable political and financial power in resisting attempts to hold individual officers accountable for misconduct.

**Thomson-DeVeaux, Amelia, Nathaniel Rakich and Likhitha Butchireddygar, “Why It’s So Rare For Police Officers To Face Legal Consequences,” *FiveThirtyEight*, June 4, 2020, <https://tinyurl.com/y9s49mqu>.**

Police who fatally shoot a suspect are rarely convicted of murder, sometimes because prosecutors must work with police officers and may be reluctant to charge them, or because juries tend to believe officers who say they feared for their lives when they fired their gun.

### Studies and Reports

**“Final Report of the President’s Task Force on 21st Century Policing,” Office of Community Oriented Policing Services, May 2015, <https://tinyurl.com/grj29zx>.**

Academics, law enforcement officials and civil rights experts recommend that police departments strengthen their community ties, encourage officers to be more accountable, establish standards for adopting new technologies and take other steps to improve their practices and reduce misconduct by officers.

**“The Workforce Crisis, and What Police Agencies Are Doing About It,” Police Executive Research Forum, September 2019, <https://tinyurl.com/yxjuph5g>.**

An association of police executives finds that local police departments are struggling to recruit and retain officers due to growing workloads.

**Auxier, Richard C., “What Police Spending Data Can (and Cannot) Explain amid Calls to Defund the Police,” Urban Institute, June 9, 2020, <https://tinyurl.com/yce7kar6>.**

A think tank details how some local and state governments divide their funds among law enforcement and other services.

**Gottlieb, Aaron, and Robert Wilson, “The Effect of Direct and Vicarious Police Contact on the Educational Achievement of Urban Teens,” *Child Youth Service Review*, June 10, 2019, <https://tinyurl.com/y6ngfxyb>.**

Two professors of social work at the University of Illinois, Chicago, find that youths who are arrested or stopped by police — or even just know someone who was stopped or arrested — have weaker academic records than other youths.

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# The Next Step

## Police Funding

**Goldstein, Jake, “ ‘A start’ — Durkan 2021 budget proposal cuts police funding by 12%, adds record homelessness spending, and makes brutal decisions for the next year under COVID-19,” *Capitol Hill Seattle Blog*, Sept. 29, 2020, <https://tinyurl.com/y5f5zbjv>.**

Seattle Mayor Jenny Durkan’s proposed 2021 budget seeks a 12 percent cut in police funding — Black Lives Matter protesters wanted 50 percent or more — by laying off officers and curbing overtime.

**Mulvihill, Geoff, “Police departments seeing modest cuts, but not ‘defunding,’ ” *The Associated Press*, Oct. 1, 2020, <https://tinyurl.com/y5letktz>.**

Minneapolis, Portland, Ore., and other cities have made small cuts to their police budgets, an indication that the movement to defund law enforcement agencies is having a minimal impact so far, according to an *Associated Press* review of urban budgets.

**Schuppe, Jon, “How a debate over police funding escalated in Norman, Oklahoma — and divided the town,” *NBC News*, Sept. 22, 2020, <https://tinyurl.com/y422l84v>.**

An Oklahoma college town council redirected 4 percent of the police budget to other programs after protests by racial justice advocates, but the police union and conservative residents are pushing back.

## Protests

**Brown, Erin, “Protesters leave Burlington park after monthlong occupation,” *WCAX*, Sept. 30, 2020, <https://tinyurl.com/y6r4po6c>.**

Protesters, demanding the firing of police officers who they said used excessive force, vowed to continue their campaign after camping out in a Burlington, Vt., park for five weeks.

**Flaccus, Gillian, “Portland mayor spars with US on deputized police officers,” *The Associated Press*, Sept. 30, 2020, <https://tinyurl.com/y2qqfnby>.**

The U.S. attorney for Oregon rejected a request from Portland’s mayor to end the federal deputation of police officers in the city as part of a response to ongoing racial justice protests.

**Torres-Cortez, Ricardo, “Lawsuit challenges Metro Police arrests, tactics at Las Vegas protests,” *Las Vegas Sun*, Sept. 29, 2020, <https://tinyurl.com/yxc3yrsy>.**

Protesters and legal observers are suing the Las Vegas police, saying the department used tear gas indiscriminately and made unnecessary arrests during Black Lives Matter-inspired protests.

### Qualified Immunity

**Leary, Kevin, “MI House Dems propose stripping qualified immunity for ‘bad actor’ police,” *Michigan Radio*, Sept. 24, 2020, <https://tinyurl.com/y68nj8bt>.**

Four members of the Michigan Black Legislative Caucus proposed legislation that would allow police to be held civilly liable for serious injury or death.

**Sullum, Jacob, “Amy Coney Barrett Demolishes the Qualified Immunity Claim of a Detective Accused of Framing a Man for Murder,” *Reason*, Sept. 23, 2020, <https://tinyurl.com/y4bnwxhh>.**

President Trump’s nominee to the Supreme Court ruled that qualified immunity — a doctrine that offers broad protections to police and other officials accused of misconduct — did not apply to a detective in a murder case.

**Tillman, Zoe, “Judges Confirmed Under Trump Are Splitting With Other Republican Appointees In Cases Against Police,” *BuzzFeed*, Sept. 8, 2020, <https://tinyurl.com/y3frcbpb>.**

Judges appointed by President Trump rule that police should get immunity against lawsuits more often than judges appointed by other Republican presidents.

### State and Federal Legislation

**“Virginia implements new police reform policies,” *WVNS-TV*, Sept. 26, 2020, <https://tinyurl.com/y6726q8h>.**

The Virginia state Senate passed bills prohibiting no-knock warrants and the use of chokeholds, but a bill limiting qualified immunity for police officers failed.

**Caygle, Heather, and Sarah Ferris, “One last push for police reform,” *Politico*, Sept. 3, 2020, <https://tinyurl.com/y6e7t6jn>.**

Congressional Black Caucus Chairwoman Karen Bass, D-Calif., is leading bipartisan negotiations on a potential police reform bill, but a plan to introduce legislation has not materialized.

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**Nives, Alexander, “California to ban chokeholds, independently review police shootings under newly signed laws,” *Politico*, Sept. 30, 2020, <https://tinyurl.com/y5y87u9c>.**

Democratic California Gov. Gavin Newsom signed legislation that bans police chokeholds and allows the state Department of Justice to investigate police shootings.

## At Issue:

Should Congress abolish qualified immunity for police officers?

**Yes**



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The substance of constitutional rights is meaningless if state actors can violate those rights with impunity. Accountability must therefore be a top priority for anyone interested in criminal justice reform.

But accountability for public officials — especially members of law enforcement — has been severely undermined by a judicial doctrine called “qualified immunity,” which shields state actors from liability for their misconduct, even when they break the law.

One of our primary federal civil rights statutes — generally called Section 1983 after its place in the U.S. Code — says that any state actor who violates someone’s constitutional rights “shall be liable” to the party injured. But under the doctrine of qualified immunity, the Supreme Court has held that such defendants cannot be sued unless they violated “clearly established law.”

In practice, this is an incredibly demanding standard, as it generally requires civil rights plaintiffs to show not just a clear legal *rule*, but also a prior case with functionally identical *facts*. In other words, it is entirely possible — and quite common — for courts to hold that government agents *did* violate someone’s rights, but that the victim has no legal remedy, simply because that precise sort of misconduct had not occurred in past cases.

Qualified immunity thus routinely permits egregious unconstitutional misconduct to go unaddressed. That obviously hurts the victims of police misconduct, but it also hurts the law enforcement community by depriving officers of the public trust and confidence that is necessary to do their jobs safely and effectively.



When the judiciary routinely permits police officers to get away with unconscionable constitutional violations, members of the public can hardly be expected to have much trust or respect for officers in their community. And that diminished trust and respect makes the job of policing far more difficult and dangerous, even for officers who strive to act in a lawful, professional manner.

For all the many complex problems this doctrine creates, the solution is quite simple — abolish qualified immunity. Congress could easily pass legislation clarifying that Section 1983 means what it says — that when a state actor violates someone’s constitutional rights, they “shall be liable to the party injured.”

Ensuring real accountability is an indispensable component of meaningful policing reform, and there is no greater barrier to police accountability than qualified immunity. The time has come for Congress to abolish this pernicious doctrine.

### No



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The Supreme Court created qualified immunity to do two things: to ensure that local government officials and police officers know that what they are doing violates the law, and to provide a defense that would not unnecessarily detract from the important work that public officials do. The importance or frivolity of the second policy basis for qualified immunity can be debated. The first reason should not be subject to debate under our Constitution.

It is a fundamental aspect of due process of law (the protection from any government taking one’s property or liberty), enshrined in the Fifth Amendment to the U.S. Constitution, that people ought to know what they can and cannot do before they are held accountable for their actions. This is true everywhere in the law. The law does not lock people up if a statute was unclear about what the bad conduct was, nor do we impose money damages on wrongdoers if their conduct was not proscribed by clear rules.

Qualified immunity established the requirement of fair notice in the common law of civil rights litigation because it does not exist in the statute’s text. The statute merely provides that individuals can receive damages if their rights are violated. What are those? Do they change over time? They certainly have, because, for instance, in the 1920s you could be arrested and jailed for having protested World War I, but in the 2020s our republic has embraced the concept of the marketplace of ideas championed by Justice Oliver Wendell Holmes in a 1919 dissent.

Where then are local officials, including police, to understand what they can do and cannot do? Qualified immunity ensures that public officials understand

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that what they are doing in the circumstances violates the law. Officials then have the opportunity to make a different decision, or if they proceed, the court can be confident that the choice was intentional and liability appropriate. In the words of the Supreme Court, qualified immunity protects “all but the plainly incompetent or those who knowingly violate the law.”

For Congress to repeal qualified immunity would fundamentally alter the constitutional notice afforded to local officials. Those officials ought to be allowed and encouraged to understand, when they act, they could face liability for that decision. If they do not know what is allowed or disallowed, they cannot know whether their choice will cost them. Qualified immunity, therefore, furthers the important due process rights of public officials that would be lost if it were eliminated by Congress.

## Street Team Works to Ease Burdens on Law Enforcement

*“It’s unfair to expect officers to be all things.”*

Fifteen years ago, when two men from different neighborhoods in Newark, N.J., argued and one shot the other, Aqeela Sherrills was not around to intervene. But recently, as tensions between the two men threatened to escalate again, Sherrills tried to act as a peacemaker, talking to the men to clear up misunderstandings and prevent another violent encounter.

Sherrills leads the Newark Community Street Team, an outreach group formed in 2015 by Mayor Ras J. Baraka to help resolve potentially violent conflicts. The group handles disputes that would otherwise add to the burden on the police department, which is under a 2016 court order to end racial profiling and excessive use of force. <sup>1</sup>

“We’re not the police, so we don’t show up carrying decades of history in uniform that triggers people,” says Sherrills, who played a key role in negotiating a truce between the warring Crips and Bloods gangs in Los Angeles in 1992.

The Newark Community Street Team is one of several groups that have formed across the nation over the past 30 years to help reduce crime and prevent conflicts between police and citizens,

## POLICE UNDER SCRUTINY

Sherrills says. Similar groups include LIFE Camp, a New York City-based group that helps young people avoid gun violence, and the H.E.L.P.E.R. Foundation in Los Angeles County that focuses on violence prevention.<sup>2</sup>



A Newark, N. J., police officer patrols in March. The Newark Community Street Team is working with police in an effort to create more trust between officers and citizens. (AP Photo/Seth Wenig)

The Newark team, which has 46 members and works alongside other community groups, has a \$2.5 million budget, raised through donations, foundation grants, government contracts and private investment, according to Sherrills. The team aims to ease law enforcement's workload and create more trusting relationships between officers and citizens — particularly in minority and low-income neighborhoods.

Law enforcement officers “are running from emergency to crisis situation to crisis situation,” says Larry James, general counsel for the National Fraternal Order of Police and a former police officer. “They don’t have time to get to know the folks in the community,” so they do need the community’s help and trust, he says.

In a 2019 survey by the nonpartisan Pew Research Center in Washington, 84 percent of Black adults said police treated African Americans less fairly than whites.<sup>3</sup>

But some experts say that police do not treat Blacks unfairly. According to one academic study of police stops, a suspect’s behavior determined whether they were pulled over and what

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happened next — and race did not factor in. “Officers were equally likely to stop individuals whether they were male or female, African American or white, low or high socioeconomic status,” the authors said. <sup>4</sup>

Members of the Newark street team, most of them Black, work to help police understand the issues endemic to disadvantaged neighborhoods. They are guided in part by a model created by the Equal Justice Initiative in Montgomery, Ala., a group that provides legal representation to people who have been unfairly imprisoned. The Newark group enlists residents of low-income, minority neighborhoods to help educate officers on the types of trauma people in such neighborhoods experience. Police “get a contextual framework of what communities are dealing with all the time,” Sherrills says.

The group also uses a “high-risk” intervention team that responds to crime scenes alongside police to talk with neighbors, family members and friends to gather intelligence. “We begin to support the victim and the victim’s family,” Sherrills says, in order to stem potential retaliation for a crime or halt the spread of rumors.

Members of the team cannot respond to every crisis, so they follow a detailed protocol to determine the level of threat and how much information is available — “the who, the what, the when, the where and the how,” Sherrills says. “If you can connect those kinds of pieces, and you have the support staff with you, you approach the situation to mediate, de-escalate, or connect the victim to support to help them in their healing journey.”

“We have the same goal” as the police, “but we are not snitches for them,” Sherrills says. “We just provide a complementary strategy to take some of the pressure off of them . . . and shift how the public views them.”



Aqeela Sherrills leads the Newark Community Street Team. “We’re not the police, so we don’t show up carrying decades of history in uniform that triggers people,” he says. (Getty Images/Tibrina Hobson)



Newark's crime statistics are improving in a development that mirrors national trends. In 2019, the city's homicide rate was the lowest since 1961. Murder dropped 20 percent compared with 2018, shootings were down 14 percent and robberies dropped 6 percent. <sup>5</sup>

Newark Public Safety Director Anthony Ambrose gives some of the credit to Sherrills and his team.

"The Newark Street Team has a trust from people that will never trust us. They'll never trust the police. Or not right now," Ambrose said in July. <sup>6</sup>

Sherrills helped persuade city officials in June to transfer 5 percent, or \$11.4 million, of the police department's \$230 million budget to create a new city department called the Office of Violence Prevention and Trauma Recovery. The department will allocate 65 to 75 percent of those funds to community groups to help support the city's public safety strategy, Sherrills says, and he expects his group will receive some of the money. <sup>7</sup>

Anecdotally, community leaders say trust in the police is growing and misconduct complaints are falling. But the department's data show that police stops doubled between 2016 and 2019. Use-of-force incidents also increased from 294 to 431 over the same period, although the department says that may reflect improved reporting and data collection. <sup>8</sup>

"Police are only one aspect of the public safety process," Sherrills says. "We put all this pressure on cops to be counselors, teachers, therapists. It's unfair to expect officers to be all things. So our strategy has been to expand and change the narrative around how people view public safety. It's the infrastructure to support victims and survivors."

### — Christina L. Lyons

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<sup>1</sup> Dax-Devlon Ross, "One City's Struggle to Police the Police," *The Washington Post Magazine*, Dec. 4, 2019, <https://tinyurl.com/y49vo6cq>.

<sup>2</sup> Dylan Matthews, "A criminal justice expert's guide to donating effectively right now," *Vox*, June 9, 2020, <https://tinyurl.com/ya8h8wun>.

<sup>3</sup> Juliana Menasce Horowitz, Anna Brown and Kiana Cox, "Race in America 2019," Pew Research Center, April 9, 2019, <https://tinyurl.com/y3jdjh45>.

<sup>4</sup> Geoffrey P. Alpert et al., "Police Officers' Decision Making and Discretion: Forming Suspicion and Making a Stop," report prepared for the U.S. Department of Justice, February 2006, <https://tinyurl.com/y6sp6fcc>.



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<sup>5</sup> Anthony Johnson, “Newark touts lowest murder rate in nearly 6 decades,” *ABC News*, Dec. 19, 2019, <https://tinyurl.com/y577shfy>.

<sup>6</sup> “Community Street Team, Deescalation Training Credited For Newark’s Decreasing Homicide, Violent Crime Rates,” *CBS*, July 1, 2020, <https://tinyurl.com/yxo44mwz>.

<sup>7</sup> Rebecca Panico, “ ‘We can be a model.’ Newark shifts money to turn police precinct into social services HQ,” *NJ.com*, June 24, 2020, <https://tinyurl.com/yy23qurn>.

<sup>8</sup> Jon Schuppe, “Newark, N.J., want to be a model for police reform. But Black people are still stopped more often,” *NBC News*, July 18, 2020, <https://tinyurl.com/y6fkucdg>.

## K-12 Schools Drawn Into Police Funding Debate

***“We don’t need extra people out here bringing the message of force to our children.”***

Many activists and lawmakers seeking to curtail police activity nationwide say a good place to start is in the schools.

Rather than making schools safer, they say, school resource officers — members of a local police department assigned to a school building — hurt students’ mental health and hamper academic success, particularly among minority students. They can affect pupils just by their presence, some say, but also by escalating incidents and punishing students rather than seeking peaceful resolutions.

“This is supposed to be a place to educate our children, not police them,” says Majyck Dee, a representative of Michigan Liberation, an activist group campaigning to reduce police violence, in part by removing police officers from schools.

But the National Association of School Resource Officers, the National Association of School Psychologists and other advocates for policing schools say that officers who are trained to work with children and are carefully selected can make a difference. They say that school districts should decide for themselves whether to continue placing officers in their facilities.

“It is critically important to recognize that carefully selected and specially trained [resource officers] differ from other law enforcement officers and security personnel assigned to schools who have not received adequate preparation to work with children, adolescents, and in a school environment,” the groups said in a joint August statement. <sup>1</sup>

Since the 1999 mass shooting at Columbine High School in Littleton, Colo., federal and state governments have spent about \$2 billion paying police officers to patrol public schools. <sup>2</sup> In 2018, school resource officers were in 72 percent of all public high schools, nearly 68 percent of middle schools and 36 percent of elementary schools, according to the National Center for Education Statistics. <sup>3</sup>

The push to eliminate school resource officers has accelerated during the coronavirus pandemic, when most schools have turned to remote learning and are facing severe budget cuts. In May, school superintendents in 62 cities asked Congress for billions of dollars in education assistance. Congressional negotiations over aid are ongoing. <sup>4</sup>

The move to do away with police in schools also is part of a larger campaign to reduce police funding following several high-profile incidents in which officers killed unarmed African Americans. Many activists blame aggressive policing tactics for worsening violence and say the harmful effects of law enforcement are evident even in schools.

Some studies show that school resource officers do not have the deterrent effect that lawmakers had expected when they approved funds to help school districts hire officers. A 2018 study of North Carolina middle schools by a Howard University education professor found that officers’ presence did not reduce the number of reported crimes. National Center for Education Statistics data show that while the number of shootings and other violent crime at schools has fluctuated since 1992, such incidents remain rare. <sup>5</sup>

But officers also have been praised for saving lives. A school resource officer at Dixon High School in Dixon, Ill., in May 2018 chased and apprehended an armed 19-year-old who had fired several shots near the school gym. The teenager was injured in an exchange of shots with the officer, but no students or staff were hurt. “We should all be very thankful to school resource officer Mark Dallas for his bravery and quick action to immediately defuse a dangerous situation,” former Illinois Gov. Bruce Rauner said. <sup>6</sup>

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Even as many schools emphasize the need to hire resource officers, they are paying less attention to students' mental health, some experts say. Millions of students attend schools that have law enforcement officers on site but no counselors, nurses, psychologists or social workers, according to a 2019 report by the American Civil Liberties Union. <sup>7</sup>

A number of civil rights, human rights, education and other groups in Virginia wrote to Gov. Ralph Northam in July asking that \$9.4 million in funding for school resource officers be diverted to mental health resources at schools, mostly to help students experiencing stress related to the coronavirus pandemic.

“We don’t need extra people out here bringing the message of force to our children,” said Michelle Thomas, president of the Loudoun County, Va., chapter of the NAACP. “It changes the entire environment. . . . It literally puts you in a mindset of war versus learning.” <sup>8</sup>



School resource officer Bernard Henry, a police officer, greets students at Montbello Career and Technical High School in Denver. In 2018, 72 percent of public high schools had a resource officer in their buildings. (Getty Images/*The Denver Post*/Joe Amon)

Some viral videos show school resource officers using excessive force against young children, particularly Blacks and Hispanics. In December, an officer assigned to a North Carolina middle school was fired after repeatedly slamming an 11-year-old boy to the ground. <sup>9</sup>

Dee, the Michigan activist, says the presence of police officers in schools “does not create a nurturing environment. And teachers, because they don’t have the resources, are forced to use [school resource officers] as a means of disciplining.”

In Kalamazoo, Mich., Promise Advocacy for Children and Community Transformation, a group of parents, students, educators and community leaders, is circulating a petition to remove police officers from schools and divert funds to counseling services for students.<sup>10</sup>

As an alternative to using police officers, schools could seek help from students’ parents, who know their children and can help resolve behavioral issues and deter conflicts, says Dee, a member of the group. “We don’t need to have police in schools,” she says.

Even aggressive policing in neighborhoods affects the academic performance of minority students, according to researchers who conducted a 2019 study of a New York City policing program that focused on pedestrian stops and making arrests for low-level crimes. “We find that exposure to police . . . significantly reduced test scores for African American boys, consistent with their greater exposure to policing,” said Harvard University sociologist Joscha Legewie and Columbia University law professor Jeffrey Fagan.<sup>11</sup>

Dee says members of the predominantly white board of trustees at her local high school, where most students are Black, believe school resource officers make the campus safer. “But they aren’t looking at the historical harm that policing has had on black and brown students,” she says.

### — Christina L. Lyons

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<sup>1</sup> “National Organizations Call for Rigorous Training and Appropriate Use of School Resource Officers,” National Association of School Psychologists, August 2020, <https://tinyurl.com/y2rs5gec>.

<sup>2</sup> Lisa H. Thureau and Lany W. Or, “Two Billion Dollars Later,” Strategies for Youth, 2019, <https://tinyurl.com/y5cfef4f>.

<sup>3</sup> “Digest of Education Statistics,” Table 233.70, National Center for Education Statistics, 2019, <https://tinyurl.com/y3fob2xp>.

<sup>4</sup> Valerie Strauss, “K-12 school leaders warn of ‘disaster’ from huge coronavirus-related budget cuts as layoffs and furloughs begin,” *The Washington Post*, May 8, 2020, <https://tinyurl.com/yc2lrztj>; Phyllis W. Jordan, “What Congressional Covid Funding Means for K-12 Schools,” *FutureEd*, Sept. 28, 2020, <https://tinyurl.com/y8m2g4vd>.

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- <sup>5</sup> T. Keung Hui, “Do more cops in schools make them safer? New study looking at NC schools says no,” *News Observer*, Nov. 23, 2018, <https://tinyurl.com/yxo4f29q>; “Indicators of School Crime and Safety, Indicator 1,” National Center for Education Statistics, updated July 2020, <https://tinyurl.com/y6om9aub>.
- <sup>6</sup> Emily Shapiro, “‘Heroic’ resource officer hailed for stopping armed teen at high school, saving lives,” *ABC News*, May 16, 2018, <https://tinyurl.com/ya9yur6g>.
- <sup>7</sup> Amir Whitaker *et al.*, “Cops and No Counselors: How the Lack of School Mental Health Is Harming Students,” American Civil Liberties Union, March 4, 2019, <https://tinyurl.com/y6jwquck>.
- <sup>8</sup> Tom Dempsey, “Virginia groups want funding for school resource officers reallocated,” *WUSA9*, July 9, 2020, <https://tinyurl.com/y4bstan7>.
- <sup>9</sup> Julia Reinstein, “A Police Officer Who Slammed An 11-Year-Old To The Ground Has Reportedly Been Fired,” *BuzzFeed*, Dec. 16, 2019, <https://tinyurl.com/y6plggsx>.
- <sup>10</sup> “End Police Presence in Kalamazoo Public Schools,” online petition, Change.org, <https://tinyurl.com/y4bcu9mo>.
- <sup>11</sup> Joscha Legewie and Jeffrey Fagan, “Aggressive Policing and the Educational Performance of Minority Youth,” Columbia Law School working paper, 2018, <https://tinyurl.com/y24hm9d5>.

## Chronology

**1700s-1900s** The origins of policing predate the Civil War; Congress passes civil rights measures.

### 1704

South Carolina creates the first patrol to capture enslaved Black people who escape.

### 1830s

The Texas Rangers begin patrolling the frontier to protect white settlers against Native American attacks.

### 1838

Boston establishes the nation’s first full-time police force.

### 1865

The 13th Amendment to the U.S. Constitution abolishing slavery except as criminal punishment is ratified. . . . Confederate army veterans found the Ku Klux Klan in Tennessee to oppose Reconstruction-era enfranchisement of African Americans.



### 1866

Congress passes a Civil Rights Act affirming citizenship for anyone born in the U.S., regardless of race.

### 1871

Congress allows citizens to sue public officials for violating their civil rights.

### 1880-1900

Local and state police break up labor strikes in Pittsburgh, Chicago and other cities; poor and working-class whites and immigrants complain of discriminatory policing practices.

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### 1902-1968

Unrest grows over racism, police brutality.

### 1902

A strike by Pennsylvania coal mine workers causes a nationwide shortage of the fuel.

### 1905

Pennsylvania Gov. Samuel W. Pennypacker forms the nation's first state police department in response to strikes.

### 1909

Black and white social reformers, including African American activist W.E.B. DuBois, found the NAACP to fight for equal treatment of Blacks in criminal justice and other areas.

### 1915

Two Pittsburgh officers organize the first police union.

### 1920s

Berkeley, Calif., Police Chief August Vollmer develops new police training and education techniques, also institutes a call box network.

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## 1931

A presidential commission documents police brutality across the nation.

## 1963

Police in Birmingham, Ala., use high-pressure fire hoses and dogs to attack Black civil rights protesters.

## 1965

Alabama state troopers beat civil rights activists marching in Selma.

## 1968

The Kerner Commission, appointed by President Lyndon Johnson, blames “bad policing practices” and racism for triggering urban riots. . . . U.S. Supreme Court rules police may stop and search any citizen.

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**1970-Present** Protests against police use of force continue.

## 1970

Congress passes a broad anti-crime bill authorizing police to enter homes without warning to search for drugs.

## 1980

Riots erupt in Miami after an all-white jury acquits four white Miami-Dade police officers on charges stemming from the fatal beating of Black insurance agent Arthur McDuffie.

## 1982

The Supreme Court creates the modern “qualified immunity” standard, ruling that police are not liable for civil damages if they reasonably believed their conduct was lawful.

### 1991

Four Los Angeles police officers — three of them white — beat Rodney King, a Black man, after a high-speed chase. The Christopher Commission, formed in response to King's beating, faults Los Angeles police for racial profiling and using excessive force.

### 1992

A jury acquits officers accused of beating King, prompting riots.

### 1994

Congress passes another anti-crime bill authorizing \$8.8 billion to help expand local police departments.

### 1999

Four white New York City officers shoot and kill unarmed West African immigrant Amadou Diallo.

### 2002

In the wake of the Sept. 11 terrorist attacks, Congress creates the U.S. Department of Homeland Security, which includes 55,000 armed officers responsible for enforcing immigration laws.

### 2012

George Zimmerman, a neighborhood watch volunteer in Sanford, Fla., fatally shoots unarmed Black teenager Trayvon Martin during an altercation.

### 2013

The Black Lives Matter movement begins after Zimmerman is acquitted of second-degree murder in Martin's death.

### 2015

A national task force proposes policing reforms to limit officers' use of excessive force. . . . President Barack Obama curtails the Pentagon's practice of sending surplus military equipment to local police agencies.

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## 2017

President Trump rescinds Obama's order on surplus military equipment.

## 2018

The U.S. Commission on Civil Rights reports police use force disproportionately against minority suspects.

## 2020

Attorney General William Barr announces creation of a presidential commission to study concerns about use of force by police (January). . . . Four Minneapolis police officers are charged in the death of George Floyd, an unarmed Black man who dies after officer Derek Chauvin kneels on his neck (June). . . . Protests erupt across the country in response to Floyd's killing and police killings of other Black men and women. . . . Trump sends federal troops to quell outbreaks of violence amid protests in Portland, Ore., and threatens similar action in other cities (July). . . . A U.S. District judge orders work stopped on a national policing commission because it is breaking federal law by not including defense lawyers, civil rights activists and mental health professionals (October).

# For More Information

**American Association for Justice**, 777 6th St., N.W., Suite 200, Washington, DC 20001; 800-424-2725; [justice.org](http://justice.org). Lobbying group for plaintiffs in civil cases that backs efforts to curb qualified immunity for police and other public officials.

**Cato Institute**, 1000 Massachusetts Ave., N.W., Washington, DC 20001; 202-842-0200; [cato.org](http://cato.org). Libertarian think tank working to end the Supreme Court's doctrine of qualified immunity.

**Center for Policing Equity**, 1925 Century Park East, Suite 1700, Los Angeles, CA 90067; 347-948-9953; [policingequity.org](http://policingequity.org). Think tank that researches racial disparities in law enforcement.

**Defense Research Institute**, 222 S. Riverside Plaza, Suite 1870, Chicago, IL 60606; 312-795-1101; [dri.org](http://dri.org). Organization of defense attorneys that helps defend police officers charged with civil rights violations and other crimes.

**Equal Justice Initiative**, 122 Commerce St., Montgomery, AL 36104; 334-269-1803; [ejl.org](http://ejl.org). Group that provides legal services to victims of unfair or illegal treatment by police, correctional facilities or courts.

**National Conference of State Legislatures**, 444 N. Capitol St., N.W., Suite 515, Washington, DC 20001; 202-624-5400; [ncsl.org](http://ncsl.org). Association of state lawmakers that tracks and researches bills and laws that address, among other issues, policing practices.

**National Institute for Criminal Justice Reform**, 303 Hegenberger Road, Oakland, CA 94621; [nicjr.org](http://nicjr.org). Research organization that studies policing practices and outlines recommendations for reform.

**National Police Foundation**, 2550 S. Clark St., Suite 1130, Arlington, VA 22202; 202-833-1460; [policefoundation.org](http://policefoundation.org). Organization that advocates for local law enforcement agencies.

**Urban Institute**, 500 L'Enfant Plaza, S.W., Washington, DC 20024; 202-833-7200; [urban.org](http://urban.org). Nonpartisan think tank that conducts research into police reforms, as well as other issues.

## About the Author



**Christina L. Lyons**, a freelance journalist in the Washington, D.C., area, writes primarily about U.S. government and politics. She is a contributing author for CQ Press reference books, including CQ's *Guide to Congress*, and was a contributing editor for Bloomberg BNA's *International Trade Daily*. A former editor for Congressional Quarterly, she also was co-author of CQ's *Politics in America 2010*. She has a master's degree in political science from American University.