

UNIVERSITY OF HOUSTON
PHILOSOPHY & PUBLIC POLICY

Racial Injustice
U.S. Police Reform & the National
Police Agency

Author
Kristingail Robinson

Professors
Daniel Engster

December 7, 2020

Contents

Introduction.....	1
Background.....	2
Overview	2
Effects of Poor Policing	3
Policing Practices.....	3
Police Protections	5
Contemporary American Support.....	7
Contemporary Reform Efforts	8
Policy Proposal	10
National Standards.....	11
Auditing Police.....	12
Special Appeals Board	14
Value Trade offs	14
Counterevidence	16
Conclusion	18
Bibliography.....	21

Introduction

Police reform in the United States is one of the most salient topics in modern times. It is certainly more prominent now that it has been in the past 15 years since the LA riots after the brutal police beating of Rodney King. After Trayvon Martin was fatally shot in 2012, the Black Lives Matter (BLM) Movement started and began calling for more gun control. Just two years later, Michael Brown, an 18-year old kid was as fatally shot by a police officer in the back. The BLM Movement also called for the end of police brutality, but mainstream police reforms, at that time, did not include extensive restructuring to police practices and protections in the United States with multi-racial and bi-partisan support. However, after the death of George Floyd in May 2020 was captured on film and was heavily publicized, masses of people called for police reform and even the complete abolishment of police.

Police Reform in the United States is important enough that 17 states (over a third of states) have introduced, enacted, or amended police reform bills since George Floyd died in May 2020. Even international police reform spurred by police brutality against African-French residents inspired rallies in France garnering almost 133,000 protesters which prompted the French Interior Minister Gérald Darmanin to redraft Article 24, a police reform proposal which made sharing images of the police a criminal act (Franch 24 2020). These actions demonstrate the importance of reform with numerous governments endeavoring to address the same issues which are shared across the nation and globe.

A poll taken in the Summer of 2020 showed that about 74% of Americans supported the summer protests for police reform, and the Summer 2020 demonstrations have growing bipartisan appeal and cross-racial support, as well. If there was ever a time to reimagine policing practices and

protections, that time is now so what steps should America take to reform U.S. policing practices and protections and, thusly, all of America's inhabitants feel safe from police, especially in minority communities? This paper discusses police reform from a slightly non-popular viewpoint and considers national improvements to police practices and protections.

Background

Overview

Resurfacing with the shooting of unarmed 17-year old Trayvon Martin in 2012, the disproportionate treatment of Black Americans by the legal system and police has spurred racial tension and heighten racial injustice awareness in the United States. The BLM Movement was bred out of the Trayvon Martin case, focusing on racial injustice in the legal system. In the past few years, the BLM Movement has focused on police brutality because of relentless killings of unarmed black men and women by police officers alleged under the color of law.

Police brutality, particularly by white police officers, is a critical issue, and police administration and professionalism should be part of the focus when discussing police reform (Walker 1977). Some scholars argue that past police management was instituted to serve the needs of the government rather than the people they are meant to serve and their needs (Summerhays 1979). Summerhays called for the increase in police effectiveness in his 1979 article, asserting that policing in a capitalistic society has acted a social control rather than a crime control (Summerhays 1979).

These improper behaviors have been encouraged by carceral mentality, which is a form of white supremacy that "uses coercive and punitive practices" to control African Americans and other minority populations (Jacobs, et al. 2020, 3). It is a form of social control that impede people from leading

a self-actualizing lifestyle because they are fearful and outraged, most concerned with reinstituting safety in their lives (Jacobs, et al. 2020, 13).

More recently, civil rights activists are demanding the defunding of police. Some have even called for the complete dismantling of police departments (Kaba 2020, Miah 2020). The claim rests on the ideas that that and “overinvestment in policing” are a force in driving police misconduct and over criminalization in minority communities (Rushin and Michalski 2020, 277).

Effects of Poor Policing

Policing Practices

Many police practices have a disparate impact on racial/ethnic groups (Urban Institute 2020). African Americans are 2.5 times more likely to die by police killings than Whites, and Hispanics are 1.8 times more likely to die by police killings than Whites (Washington Post 2020). Major Cities in America spend about 30% of their General Fund budgets on police (The Center for Popular Democracy (CPD), Law for Black Lives, Black Youth Project 100 2020). Despite spending \$115 Billion annually on policing in the United States, 31% of these decedents of the 5,284 on-duty firearm killings by police officers since 2015 were armed (Wentzlof and Stinson Sr. 2019, Washington Post 2020, Urban Institute 2020). That’s 70% of police-induced homicides of unarmed people showing that police forces that spending considerable amounts of funding are ill-equipped to de-escalate incidents with unarmed individuals. And yet, these statistics do not include other police killings that do not involve firearms, like the killing of George Floyd (MacDonald 2020). Adding to these dismal statistics, of those police-officer fatal shootings of unarmed people, less than 1% (or 0.36%) of officers involved in these shootings were convicted of some crime, and even

less are convicted of murder or another form of homicide like involuntary or voluntary manslaughter (Urban Institute 2020, Wentzlof and Stinson Sr. 2019).

Outside of using deadly force on unarmed people, police use other dissolute practices like terry traffic stops for alleged “furtive movements” (Champion 2001, 54). The terry stops often lead to unreasonable search and seizures and self-incrimination tactics (American Bar Association 2018). No-knock warrants are frequently used to search for drug crime suspects even though there is not much data on how many successful raids have been completed without deaths because the federal government does not require this information to be collected (Sklansky 2020). There are documented cases in which the no-knock warrant was found to be based on erroneous information and the execution of that warrant resulted in a death, like the infamous case of Breonna Taylor in 2019 (Sklansky 2020). Additionally, about 95% of police arrests are for non-violent crimes, which means we are using more resources towards people who are not committing violent acts (U.S. Department of Justice: FBI Fall 2018). These kinds of policing practices severely reduce the sense of safety and increases distrust, chiefly in minority communities, creating the perfect ground for police estrangement.

Both police estrangement and the lack of police professionalism effect the behaviors of police in minority communities (Bell 2017). The theory of legal estrangement suggests that some communities are detached and eventually alienated from police officers (Bell 2017, 2054). Because ethical policing practices are not equitably implemented in all communities, this lends to the idea that the law and its enforcers operate to exclude or socially control communities of color as to preserve existing wealth and class structure (Bell 2017, 2054-

55). The exclusion of minority groups from experiencing protective benefits creates a “dividing line between the valued and the valueless”, which speaks to Summerhays point on maintaining capitalistic social order in America (Bell 2017, 2066 & 2149, Summerhays 1979). This, in turn, breeds more distrust and legal cynicism in communities of color. Police estrangement helps to explain the police reform movement and the methodologies proposed for reformation that seek to better train officers and build a relationship between police officers and the people they should be protecting (Bell 2017, 2054). Even back in 2008, the U.S. Commission on Civil Rights has determined that there is a:

“Lack of training and lack of funding for training leav[ing] officers and the public at risk. Critical training areas include tactical training, de-escalation techniques, understanding cultural differences and anti-bias mechanisms, as well as strategies for encounters with individuals with physical and mental disabilities” (U.S. Commission on Civil Rights 2008).

Yet the federal government has not taken significant steps to institute these notions nation-wide and has generally left policing up to the state’s prerogative, with very means for oversight.

Police Protections

Aside for policing practices, there are police protections that prevent criminal prosecution and civil liability from falling on the shoulders of police forces and police officers, themselves. According to the Texas A&M University Professor Dean Champion, sometimes police officers commit perjury or destroy evidence to protect themselves or other fellow police officers from being convicted of misconduct (Champion 2001, 55). Police officers become increasingly uncooperative during internal investigations against their peers, which is known as the “blue wall” (Bobb October 2005, 6).

Even more, police discretion to use internal controls like disciplinary actions or internal reviews also tends to deter civilians from taking legal actions because they believe that the powers-that-be will not adequately address their concerns. Pressure to have outcomes in favor of police many times come from elected officials, the police union, or other leadership entities (Bobb October 2005, 5). Therefore, these kinds of internal controls “will necessarily and unavoidably produce a biased result” because the people who are conducting them have a vested interest in seeing results that do not reflect negatively on the police force (Bobb October 2005, 5).

In the case of deadly force, Police officers are usually under fire in public opinion even though deadly force is permissible under many state laws when it “reasonably appears necessary to protect” an officer who believes himself or someone else to be in imminent danger of death or serious bodily harm (American Bar Association 2018). The problem with this is that reasonable belief is highly subjective, and deadly force is used too often on unarmed people (Kinports March 2010). This legal permissibility provides a very loose protection of police officer improper behaviors.

Even if a police officer has improperly used deadly force, he or she may still be protected under Qualified Immunity laws. These laws protect police officers from lawsuits that allege that a plaintiff’s rights have been violated unless the violations was of a “clearly established” right (Cornell Legal Information Institute n.d.). Once a person even develops the courage to bring a lawsuit against a police officers, the burden of proof falls on them to demonstrate their highly-burdened case (Cornell Legal Information Institute n.d.), and even if, the plaintiff proves the

“clearly established” constitutional rights violation, the police officer is still not personally liable for the violation of that persons rights (Schwartz June 2014).

District Attorneys also help protect police officers amidst police misconduct allegations because of their discretionary power (Champion 2001, 55). According to a technical report that was commissioned by the U.S. Department of Justice, prosecuting district attorneys have broad discretion in deciding whether a police other will even be formally charged with a crime (Stemen and Frederick 2012, ii). This gives them great power to influence the American Justice System with “little or no public scrutiny suggest[ing] questions about justice and fairness”, and these prosecutors have not enjoyed the same level of scientific scrutiny as police officers (Stemen and Frederick 2012, 1).

Insufficient Data could be listed as a dissolute practice; however, for the sake of this paper, it is listed as at protection because the insufficient data on police practices keeps police forces from being scrutinized further to expose inadequacies. With the lack of data, there are distortions of what police observe and report (Ferguson 2015). Even more recent surveys do not have low sample sizes (Geller, Fagan and Tyler 2018, 28, Pew Reseach Center 2020, 20). This makes it harder to determine meaningful causal relationships with respect to bad policing practices and protections.

Contemporary American Support

In a recent survey of Americans by the Pew Research Center, ninety-two percent of respondents agreed on police being required to be trained in non-violent alternatives to deadly force, and 90% also favored creating a federal government database to track officers accused of misconduct (Pew

Research Center 2020, 4). Two-thirds of respondents said that civilians need to have the power to sue police officers to hold them accountable for misconduct and excessive use of force, even if that makes the officers' jobs more difficult (Pew Research Center 2020, 1).

While there is definite buy-in for police reform from all racial/ethnic groups, blacks and Hispanics see a greater need for change (Pew Research Center 2020, 5). Even more the research also showed that police support without reformation measures comes from white republicans, but age matters because the same report shows that younger populations favor police reform, irrespective of political affiliation (Pew Research Center 2020, 5-6).

Younger populations are more concerned with bringing more safety measures to protect all people primarily because they realize that some populations have more difficulties thriving as their basic human needs, like safety, go unmet. Safety from bodily harm is an absolute right that belongs to all humans. Some policing practices and protections negate the basic human need of safety (Geller, Fagan and Tyler 2018). In addition to the physical harm suffered, these negative police encounters tend to breed invasions on "dignity and privacy that for many can produce mental health symptoms including trauma, anxiety and stigma" (Geller, Fagan and Tyler 2018, 4-5). People want real safety and equitable treatment from all police (Pew Research Center 2020), and therefore, should reform policing practices and protections on a national level.

Contemporary Reform Efforts

In July of 2020, a Washington, D.C. suburb has reinstituted a police reform panel (Mettler 2020). The same county implemented several police reform policies in the early 2000s after it was investigated for several complaints of excessive force (Mettler 2020). Some states have created

Citizen Review Boards that provide a level of oversight, and there are about nine major different Citizen Review Board Systems (Finn 2001). On December 1, 2020, the Massachusetts' legislature agreed on a police reform bill, which will be voted on later in December 2020. The bill establishes a new and permanent commission to address justice, equity and accountability in law enforcement within the state. (191st General Court 2020). By the end of December 2020, at least 17 other states have instituted, enacted, or amended some sort of police reform since the beginning of 2020 (Roper 2020). This information suggests that there are many reforms taking place, but they do not necessitate consistency or a national conformity and may be insufficient in providing healthy police reform.

While 18 U.S.C. § 242 gives some federal oversight of federal, state, and local police to prosecute officers criminally for violations of civil rights, the federal government will not have any jurisdiction to step in unless a suit is filed, and it also means the federal government is not actively working to dispel police misconduct and discriminatory behavior (18 U.S.C. §§ 241, 242 1996). This law was established in 1866 but has had some revisions, albeit not as noteworthy as latest reform proposals. However, a new national effort to reform policing practices was formally instituted with H.R. 7120 on June 8, 2020. H.R. 7120 is also known as the George Floyd Justice in Policing Act of 2020. The act was passed in the U.S. House of Representatives just seventeen days later, yet the bill has sat in the Senate since July 20, 2020 with no approval. The bill allocates \$750,000,000 over a period of three years to address policing practices and accountability through national data collection and the eradication of discriminatory policing practices. This bill also seeks to

- (1) limit qualified immunity defenses;
- (2) lower criminal intent standards to convict police officers for misconduct; and
- (3) give the DOJ (Department of Justice) subpoena power in investigations of police departments for discriminatory policies or patterns (116th Congress 2020).

While this bill is a good start to reforming policing practices and protections, it falls short in the oversight of these reforms because there is no permanent agency that holds police forces and Attorney Generals accountable in their data collection processes. It also limits the funding abilities of the Attorney General to only 5 contracts to accomplish this task. Additionally, the lowered criminal standard only applies in civil cases for deprivation of rights under the color of law cases (18 U.S.C. §§ 241, 242 1996). This does not bring any meaningful changes to civil implications under the Police Misconduct Provision, Title VI of the Civil Rights Act of 1964, Title II of the Americans with Disabilities Act of 1990 and Section 504 of the Rehabilitation Act of 1973 (116th Congress 2020).

Policy Proposal

While the George Floyd Justice in Policing Act of 2020 seeks to provide some level of justice and equity, it does not take a permanent stance on monitoring police reform. This is a crucial mistake in providing safety from unsanctioned policing practices which is a fundamental right and providing monitored equity in protection benefits from police officers. Not only should we not defund police forces, but we should increase the money we spend on policing nationally. We do this by establishing the Fair Policing Act which will serve as a federal regulatory agency.

The Fair Policing Act will grant formal external controls, impacting police governance and police protections and establish the National Police Agency. It will behave similarly to the Fair Housing Act in that it will provide a means for reviewing police misconduct or discriminatory practices. It will also set guidelines for how police should behave to protect all people from undue harm, ensuring that the basic human need of safety is met. This will also help to provide a sense of

community and esteem to minority communities so that their psychological needs are met, catapulting them to self-actualization in Maslow's Hierarchy of needs.

The Fair Policing Act will establish the National Police Agency, which will have three main functions. The Agency will set national policing standards for police certification and policing powers. This agency will also have the power to audit police agency spending records, certifications and annual fitness records, as well as internal controls for complaints or insubordinate behaviors. It seeks to monitor police performance and assess effectiveness, especially with recommended police reforms. This agency would be a permanent comprehensive agency in which federal funding would be given on the basis of compliance with police reforms and maintenance of those changes over time. The National Police Agency will also establish a special appeals board that has subpoena power that will review and investigate police misconduct, civilly, and recommend criminal prosecution to DAs, removing DA discretionary power in prosecuting police for misconduct. The overarching goals are to providing meaningful considerations for (1) demilitarizing the police through federally funded programs; (2) providing a comprehensive means that allows the prosecution of police who abuse their authority through the use of excessive force and other misconducts; (3) improve community building, reducing police estrangement cynicism; and most importantly, (4) providing fair, equitable, and accountable policing to all people.

National Standards

National standards will provide consistency in practices across the United States, and the only way to oversee these standards are upheld are by instituting a national agency to oversee state and local police forces. This would establish a minimum standard for police training, administration, and weapon usage. While the U.S. Department of Justice established the NCP (National Certified

Program) for police trainers starting in 2015 designed to improve national police certification standard, only two states require the NCP training (U.S. Department of Justice 2020). That means within the last five years there have been no formal requirements to set national standards for training so this national agency work towards this goal and implementing them as requirements, and these initiatives are also not tied to the federal funding from this agency as to nudge police training reform. Training standards as set by the proposed National Police Agency would actually go further to set national standards in the information disseminated to police officers with respect to how they carry out their daily duties and attaching federally funding as a means to nudge these kinds of reforms. The national standards would apply to the states' and cities' standards that include but are not limited to the following:

- criminalization of non-violent “crimes”;
- qualified immunity;
- terry stop arrests;
- no-knock warrants;
- use of deescalation tactics;
- firearm discharge and accuracy;
- annual physical and psychological fitness evaluations;
- police professionalism;
- strategic planning; and
- internal control policies on police misconduct.

This promotes a level of consistency in how police officers are required to perform, irrespective of state lines. This will also help with national data collection that will be used to evaluate police performance and effectiveness.

Auditing Police

The audit agency would review the states' and cities' standards, as mentioned above, such as the decriminalization of non-violent “crimes”; non-violent policing practices and firearm standards,

amongst other things. However, the police reform discussion would be remised without a prudently reviewing qualified immunity protections that shield police officers from personal liability (Schwartz June 2014). Perhaps even more prudent would be the incorporation of an explicit definition in the proposed Fair Housing Act that repeals all previous enumerations and interpretations of the law, with no retroactive penalties on police officers who have not been previously held personally liable for constitutional violations.

This agency will also have the power to audit police agency spending records, certifications and annual fitness records, as well as, internal controls for complaints or insubordinate behaviors. National data collection is a crucial element in hopefully reducing cost in the long-run, but it also provides a measure for rewarding states and local governments to make reform (Harmon 2012). Without this kind of data, the national agency will not be able to effectively evaluate reforms down to the state and local level, which would undermine the purpose of instituting national standards that are meant to be implemented nation-wide at all levels of policing. This auditing function would be replete with a strategic planning process that incorporates the same Key Performance Indicators (KPIs) for every jurisdiction. Even though goal numbers may be different, the measure of those goals will remain consistent for all jurisdictions, so that the agency can fairly assess the police performance levels and make recommendations for improvement. Additionally, this strategic planning process will require police forces to tie specific outcomes to specific budgeted resources, which adds another layer of transparency to track projected spending based on goals and actual spending on the outcomes.

Special Appeals Board

The National Police Agency will also establish a special appeals board that has subpoena power. This entity will review & investigate police misconduct, civilly, and recommend criminal prosecution to District Attorneys. This removes the discretionary power of district attorneys in prosecuting police for misconduct. Because district attorneys have a unique ability to influence the American Justice System, they play a key role in providing a level of checks and balances on police who abuse their power. These prosecution powers should be checked, as well, and the proposed regulatory agency can provide a direct means of appealing a district attorney's failure to prosecute a police officer after the prosecution was recommended by the National Police Agency. Mazzone and Rushin proposed that State Attorney should be given "explicit statutory authority to seek equitable relief against local police departments" (Mazzone and Rushin 2020). However, these additional powers should also be given to the national agency to seek equitable relief against local police departments who have patterns of discriminatory behavior. This would maintain state sovereignty empowering states to hold police forces accountable, but it also allows the federal government to provide a consistent ruling on the matter which will apply to all states who seek its funding.

Value Trade offs

There no real value trade-off for requesting equity in policing practices outside of those who trust the police are not concerned with how police continually infringe on civil liberties in the interest of crime control, irrespective of "the abrasiveness of police contact and the extent and type of the intrusions on privacy and liberty". (Amanda 2018).

Defunding police reforms, garnering increased support since May 2020, will yield an “alleged trade-off between the law enforcement objectives of ‘effectiveness’ in combating crime and human rights goals of ‘accountability’” (Call 2003). Some might believe that the effectiveness of police would be diminished because of money reallocated within police forces or to other city services outside police forces. The effectiveness of crime control would therefore be compromised. However, people in communities of color might argue that police are not currently effective, and it is fiscally irresponsible to continue to fund such police.

Yet slightly unpopular policies, as suggested in this proposal, will actually require additional funding to effectively manage and monitor police. It will also require agencies dedicated to governance, judicial/ legal reform, and development. This will also include social trade-offs during transitions. There may be a limitation in police powers, yet citizen rights and citizen security would be better preserved in historically underserved communities.

Additionally, this is a new concept on a national-level for the United States so the success rate is unknown. Police officers and entire forces and states might be reluctant in acquiescing to the changes proposed under this Fair Policing Act; this would make the capture of data and true police reform more difficult. However, other countries have instituted similar agencies like the National Police Agency since the mid-90s (Bajramspahić February 2015). To enhance the function of the National Police Agency, the strategic planning process would be responsible for setting SMART (Specific, Measurable, Achievable, Relevant and Time-based) goals that have specific key performance indicators that will help to establish the level of expected success, and the outcomes of these goals will be easy to capture and to evaluate performance. This process would outline all of the metrics that would be used for data collection, and the process would be electronic to

provide as much support as necessary to police forces in implementing these changes, although this may be more costly.

However, the benefits to establishing this act outweigh the costs. Saving the lives of humans is much more valuable than the cost of the spending or bureaucratic red tape. National standards will help produce better trained police forces and consistency in expectations across state-lines, especially in terms of accountability. Most importantly, the sense of safety and community are important to meeting the rudimentary needs of safety and belongingness as imposed by Maslow's hierarchy of needs. Even more, the U.S. should be open to trying something rather than have a carceral mentality before drastic measures are taken to completely dismantle all police forces (Miah 2020, Kaba 2020, Rushin and Michalski 2020, Jacobs, et al. 2020).

Counterevidence

Some objectors will say that no reform is needed. Heather MacDonald, a conservative political commentator, says that there is no epidemic of fatal shootings of blacks by police officers. MacDonald says that the reason police officers heavily police African Americans is because of community requests where people are more disproportionately harmed by street crime, yet she cites no data supporting this claim (MacDonald 2020). In any case, most statistics support otherwise that there is significant racial profiling and discriminatory behaviors that trigger police officers to shoot at African Americans when they would not do so in similar circumstances with other racial/ethnic groups.

Some writers have cautioned that demonizing police behaviors will cost more black lives, inevitably (Robinson 2020). The argument is that the demonizing the police reduces their credibility and

legitimacy and therefore, “less people will be inclined to comply with and internalize its norms” (Robinson 2020). However, these systematic “norms” are the very cause of many deaths. Certain behaviors must be demonized in order to make those negative behaviors less prevalent and less of the “norm”.

Other objectors to this proposed policy will be on the other end of the spectrum in that they call for the complete abolishment or defunding all police (Kaba 2020, Miah 2020, Rushin and Michalski 2020). How long should African Americans put faith in the American System? Maybe another 400 years? There might be some stock in dismantling the systematically racist police forces because miniscule meaningful police reform has been achieved since before the Civil Rights Movement (Kaba 2020). There has yet to be a time in U.S. History where police force against African Americans was not disproportionate to other groups (Kaba 2020). How much time is enough? These questions are completely valid. However, it would be imprudent to totally disband the police when there is a need for safety from violent criminal offenses. Troubled students require a tutor, and tutors cost money meaning that the police are in need of additional support and funding to improve their practices.

There also some weaknesses within this proposal. For instance, the 10th Amendment grants states the right to police its jurisdiction, so the implications of the 10th Amendment have not fully been considered. The Tenth Amendment confers state sovereignty for all powers not enumerated as federal powers in the United States Constitution. These state powers give states the right to “establish and enforce laws which protect the welfare, safety, and health of the public” which includes the power to police (Cornell Legal Information Institute n.d.). However, where

fundamental human rights, like safety and equality, are infringed upon by state and local policing practices, the federal government should, rightly, establish and enforce laws that protect these fundamental rights. Therefore, federal actions have merit in the conversation of police reform. Additionally, many local police jurisdictions within states overlap which may be inefficient, but not much information is available on what is being spent in very specific areas like census tract or block groups, making police spending very difficult to track (Auxier 2020). This is why we need national reporting and auditing systems to find out specific spending information by census block.

Also, the funding scheme has not fully been addressed. This policy proposal will definitely necessitate more spending on police forces, and creating this new agency also entails adding staff, possibly in every state and major city. That signifies more bureaucratic limitations, as well. This will generally require either more taxes or re-appropriation of federal funding. Realistically to achieve significant success across states, the National Police Agency would have to have a multi-billion-dollar budget. However, some guidance for this issue is in the George Floyd Justice in Policing Act of 2020. At minimum to provide some of these services, an estimated \$750,000,000 is required. More indepth research would have to be completed assess the actual cost of instituting a federal agency of this scale.

Conclusion

With basic human needs unmet like safety and belongingness, police reform is crucial for many Americans. There are many considerations in addressing discriminatory policing practices and protections. The George Floyd Justice in Policing Act of 2020 grants some sort of police reform, but it falls short in providing national standards for policing and gives considerable discretion to

State General Attorneys to collect accurate information, with very limited resources. The George Floyd Justice in Policing Act of 2020 also fails to provide a permanent monitoring basis and instead institutes an optional citizen review board. However, the United States requires more permanent monitoring to correct the many years of injustice through mal-mannered policing practices and protections.

A more national approach to creating consistent standards throughout the United States should be instituted under the proposed Fair Policing Act. This would provide external controls over police agencies at the federal, state, and local level as a sort of checks and balances, ensuring that each police forces uses similar standards under like conditions. Within this proposed act, there are three of the main functions of the National Police Agency. The Fair Police Act will grant formal external controls, impacting police governance and police protections and establish the National Police Agency. The Agency will set national policing standards for police certification and policing powers. The National Police Agency will also establish a special appeals board that has subpoena power that will review & investigate police misconduct, civilly, and recommend criminal prosecution to District Attorney, removing their discretionary power in prosecuting police for misconduct. This agency will also have the power to audit police agency spending records, certifications and annual fitness records, as well as internal controls for complaints or insubordinate behaviors.

In providing a means to create a national standard in dealing with policing discrimination, the Fair Policing Act will have a symbiotic function with the Fair Housing Act. Having a permanent agency that will regulate misconduct and discriminatory practices, along with the collection of data on these efforts, is crucial to effective police reform. This kind of reform will help to create not just

accountability standards, but also equity in justiciable standards that reduce police behaviors causing undue harm and ensuring that the basic human need of safety is met. A modicum of basic needs and psychological needs will be addressed, allowing African Americans and other minority to further their self-actualizing goals without having to be as concerned with rudimentary needs. Given the need to improve policing in the United States, there is a need a to increase funding rather than defunding or completely dismantling police forces.

Bibliography

- 116th Congress. 2020. "H.R.7120 - George Floyd Justice in Policing Act of 2020." Washington, DC, June 8. <https://www.congress.gov/bill/116th-congress/house-bill/7120>.
1996. "18 U.S.C. §§ 241, 242."
- 191st General Court. 2020. "Massachusetts lawmakers announce agreement on long-stalled police reform." *Senate Bill No. 2963*. The Commonwealth of Massachusetts, December 1. Accessed December 1, 2020. <https://malegislature.gov/Bills/191/S2963>.
- American Bar Association. 2018. *Legal Fact Check: What is the legal standard for deadly force in a shooting by police?* November. Accessed December 6, 2020. <https://www.americanbar.org/news/abanews/publications/youraba/2018/november-2018/legal-fact-check--what-is-the-legal-standard-for-deadly-force-in/>.
- Auxier, Richard C. 2020. *What Police Spending Data Can (and Cannot) Explain amid Calls to Defund the Police*. June 9. Accessed December 6, 2020. <https://www.urban.org/urban-wire/what-police-spending-data-can-and-cannot-explain-amid-calls-defund-police>.
- Bajramspahić, Dina. February 2015. *Internal Control of Police Comparative Models*. Argrafika, Podgorica: Institut Alternativa. <http://media.institut-alternativa.org/2015/02/internal-control-of-police-comparative-models.pdf>.
- Bell, Monical C. 2017. "Police Reform and the Dismantling of Legal Estrangement." *Yale Law Review* 165 (7): 205. https://law.yale.edu/sites/default/files/area/center/liman/document/b.2054.bell.2150_rbbnaxd9.pdf.
- Bobb, Merrick. October 2005. *Internal and External Police Oversight in the United States*. National PREA Resources Center. <https://www.prearesourcecenter.org/sites/default/files/library/internalandexternalpoliceoversightintheunitedstates.pdf>.
- Call, Charles T. 2003. *Challenges in Police Reform: Promoting Effectiveness and Accountability*. IPA Policy Report, New York: International Peace Academy. https://www.ipinst.org/wp-content/uploads/publications/challenges_in_police.pdf.
- Champion, Dean J. 2001. *Police Misconduct in America: A Reference Handbook*. United Kingdom: ABC-CLIO.
- Cornell Legal Information Institute. n.d. *Qualified immunity*. Accessed December 6, 2020. https://www.law.cornell.edu/wex/qualified_immunity.

- Cornell Legal Information Institute. n.d. *Police Powers*. Accessed December 7, 2020. https://www.law.cornell.edu/wex/police_powers#:~:text=In%20the%20United%20States%2C%20state,and%20health%20of%20the%20public.
- Ferguson, Andrew Guthrie. 2015. "Big Data and Predictive Reasonable Suspicion." *University of Pennsylvania Law Review* 163 (2): 327-410. https://scholarship.law.upenn.edu/cgi/viewcontent.cgi?referer=&httpsredir=1&article=9464&context=penn_law_review.
- Finn, Peter. 2001. *Citizen Review of Police: Approaches and Implementation*. Office of Justice Programs, Washington, DC: U.S. Department of Justice. <https://www.ncjrs.gov/pdffiles1/nij/184430.pdf>.
- Franch 24. 2020. *French interior minister outlines proposals for police reform amid outcry*. January 1. Accessed December 1, 2020. <https://www.france24.com/en/europe/20201201-french-interior-minister-outlines-proposals-for-police-reform-amid-outcry>.
- Geller, Amanda, Jeffrey Fagan, and Tom R. Tyler. 2018. *Do the Ends Justify the Means? Policing and Rights Tradeoffs in New York City*. Paper No. 14-581, New York City: Columbia Public Law. https://scholarship.law.columbia.edu/faculty_scholarship/2092.
- Harmon, Rachel. 2012. "Limited Leverage: Federal Remedies and Policing Reform." *St. Louis University Public Law Review* 32 (1): 33-56.
- Jacobs, Leah, Mimi Kim, Darren Whitfield, Rachel Gartner, Meg Panichelli, Shanna Kattari, Margaret Mary Downey, Shanté McQueen, and Sarah Mountz. 2020. *Defund the Police: Moving Towards an Anti-Carceral Social Work*. Pittsburgh: University of Pittsburgh. http://d-scholarship.pitt.edu/39769/1/JPHS_Defund%20the%20Police_092520_dscholarship.pdf.
- Kaba, Mariame. 2020. *Yes, We Mean Literally Abolish the Police*. June 12. Accessed November 30, 2020. <https://www.nytimes.com/2020/06/12/opinion/sunday/floyd-abolish-defund-police.html>.
- Kinports, Kit. March 2010. "Veteran Police Officers and Three-Dollar Steaks: the Subjective/Objective Dimensions of Probable Cause and Reasonable Suspicion." *Journal of Constitutional Law* 12 (3): 751-784. Accessed December 6, 2020. <https://scholarship.law.upenn.edu/cgi/viewcontent.cgi?article=1129&context=jcl>.
- MacDonald, Heather. 2020. *There Is No Epidemic of Fatal Police Shootings Against Unarmed Black Americans*. June 3. Accessed November 30, 2020. <https://www.manhattan-institute.org/police-black-killings-homicide-rates-race-injustice>.
- Mazzone, Jason, and Stephen Rushin. 2020. "State General Attorneys as Agents of Police Reform." *Duke Law Review* 69 (5): 999-1073. <https://scholarship.law.duke.edu/cgi/viewcontent.cgi?article=4012&context=dlj>.

- Mettler, Katie. 2020. *This majority-Black D.C. suburb instituted police reforms years ago. It's trying again.* September 9. Accessed November 30, 2020. https://www.washingtonpost.com/local/public-safety/this-majority-black-dc-suburb-instituted-police-reforms-years-ago-its-trying-again/2020/09/08/7cee3318-edf6-11ea-ab4e-581edb849379_story.html.
- Miah, Malik. 2020. "United States: Black Lives Matter Movement Demands defund, dismantle, reimagine police." *Green Left Weekly*, June 16. Accessed November 30, 2020. <https://www.greenleft.org.au/content/black-lives-matter-movement-demands-defund-dismantle-reimagine-policing>.
- Pew Research Center. 2020. "Majority of Public Favors Giving Civilians the Power to Sue Police Officers for Misconduct." Washington, DC. https://www.pewresearch.org/politics/wp-content/uploads/sites/4/2020/07/PP_2020.07.09_Qualified-Immunity_FINAL.pdf.
- Robinson, Paul H. 2020. *Demonizing Police Costs Black Lives*. June 28. Accessed November 30, 2020. <https://www.newsweek.com/demonizing-police-costs-black-lives-opinion-1513510>.
- Roper, William. 2020. *Which States Have Acted on Police Reform*. July 28. Accessed November 30, 2020. <https://www.statista.com/chart/22172/legislation-on-police-reform-by-state/>.
- Rushin, Stephen, and Roger Michalski. 2020. "Police Funding." *Florida Law Review* 72 (277): 277-330. http://www.floridalawreview.com/wp-content/uploads/3_Rushin_Michalski7098.pdf.
- Schwartz, Joan C. June 2014. "Police Indemnification." *New York University Law Review* 885-1004. https://www.chapman.edu/law/_files/events/SchwartzPaperIndemnification.pdf.
- Sklansky, David Alan, interview by Sharon Driscoll. 2020. "The Breonna Taylor Case, No-Knock Warrants, and Reform." *Stanford Law School: Legal Aggregate*. (September 28). Accessed December 16, 2020. <https://law.stanford.edu/2020/09/28/stanfords-david-sklansky-on-the-breonna-taylor-case-no-knock-warrants-and-reform/>.
- Stemen, Don, and Bruce Frederick. 2012. "The Anatomy of Discretion: An Analysis of Prosecutorial." Technical Report, National Institute of Justice, U.S. Department of Justice, Washington, D.C. <https://www.ncjrs.gov/pdffiles1/nij/grants/240334.pdf>.
- Summerhays, J.J. 1979. *American Police Reform- An Alternative Perspective*. Dissertation, Ann Harbor: National Criminal Justice Reference Service. <http://www.ncjrs.gov/App/publications/abstract.aspx?ID=667499>.
- The Center for Popular Democracy (CPD), Law for Black Lives, Black Youth Project 100. 2020. "Freedom to Thrive: Reimagining Safety & Security in Our Communities." Research Report. <https://static1.squarespace.com/static/5500a55ae4b05a69b3350e23/t/595cf69b1b631b031e0542a5/1499264677929/Freedom+to+Thrive+Web.pdf>.

- U.S. Commission on Civil Rights. 2008. "Police Use of Force: An Examination of Modern Policing Practices." Briefing Report, Washington, DC. <https://www.usccr.gov/pubs/2018/11-15-Police-Force.pdf>.
- U.S. Department of Justice. 2020. "New Standards Improve the Quality and Accessibility of Law Enforcement Training." *Community Policing Dispatch*. April. https://cops.usdoj.gov/html/dispatch/04-2020/new_standards.html.
- U.S. Department of Justice: FBI. Fall 2018. "Uniform Crime Report: 2017 Crime in the United States." Annual Report. <https://ucr.fbi.gov/crime-in-the-u.s/2017/crime-in-the-u.s.-2017/topic-pages/persons-arrested.pdf>.
- Urban Institute. 2020. *Criminal Justice Expenditures: Police, Corrections, and Courts*. June 18. Accessed November 30, 2020. <https://www.urban.org/policy-centers/cross-center-initiatives/state-and-local-finance-initiative/state-and-local-backgrounders/criminal-justice-police-corrections-courts-expenditures>.
- Walker, Samuel. 1977. *A Critical History of Police Reform: The Emergence of Professionalism*. Omaha, Nebraska: Lexington Books. <https://www.ncjrs.gov/App/Publications/abstract.aspx?ID=42802>.
- Washington Post. 2020. *Police shootings database 2015-2020*. November 30. Accessed November 30, 2020. <https://www.washingtonpost.com/graphics/investigations/police-shootings-database/>.
- Wentzlof, Chloe A., and Philip M. Stinson Sr. 2019. *On-Duty Shootings: Police Officers Charged with Murder or Manslaughter, 2005-2019*. Research Brief One-Sheet – No. 9, Bowling Green, OH: Bowling Green State University. <https://www.bgsu.edu/content/dam/BGSU/health-and-human-services/document/Criminal-Justice-Program/policeintegritylostresearch/-9-On-Duty-Shootings-Police-Officers-Charged-with-Murder-or-Manslaughter.pdf>.