



# ALL SAFE:

TRANSFORMING  
PUBLIC SAFETY



Following the nationwide protests that erupted in response to the police killings of Breonna Taylor, George Floyd, Tony McDade, and Rayshard Brooks, in late 2020 People For the American Way, Covington & Burling LLP, and the Avalan Institute for Applied Research partnered to develop a blueprint for reducing police violence. While systemic overhaul will also require action at the state and federal levels, at the local level, executive, legislative, and judicial authorities can take steps immediately to reduce police violence.

The goal of *All Safe: Transforming Public Safety* is to provide concrete policy proposals for the transformation and implementation of public safety programs at the local level. Our research focused particularly on the 20 US cities or metro areas with the largest proportion of Black residents. Most of the research in this report was updated as of early 2022. Newer developments in data or policy may not be reflected.

This report provides a range of policy options, recognizing that not every locality will be able to move immediately to the most aggressive approach. Our expectation is that, as localities begin adopting these proposals and gather and develop additional evidence of their effectiveness, these confirmations will strengthen the political case for going further.

### **People For the American Way**

People For the American Way and its affiliate, People For the American Way Foundation, are progressive advocacy organizations founded to fight right-wing extremism and build a democratic society that implements the ideals of freedom, equality, opportunity, and justice for all. We encourage civic participation, defend fundamental rights, and fight to dismantle systemic barriers to equitable opportunity.

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### **Avalan Institute for Applied Research**

The mission of the Avalan Institute is to connect just and objective data, research and strategy with organizations and campaigns to impact change as it relates to social justice, with a heightened focus on criminal justice, juvenile justice, and racial justice.

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# Table of Abbreviations

ACLU	American Civil Liberties Union
BJS	Bureau of Justice Statistics
BWC	Body-Worn Cameras
CAHOOTS	Crisis Assistance Helping Out On the Streets
CJRA	Criminal Justice Reform Act
CPI	California Personality Inventory
CRT	Co-Response Teams
DCRA	Death in Custody Reporting Act
DOD	Department of Defense
DOJ	Department of Justice
GAO	Government Accountability Office
IACP	International Association of Chiefs of Police
IADLES	International Association of Directors of Law Enforcement Standards and Training
IPI	Inwald Personality Inventory
LEA	Law Enforcement Agency
LEOBR	Law Enforcement Officer's Bill of Rights
MRAP	Mine-Resistant Ambush Protected Multi-Wheeled Vehicles
NDI	National Decertification Index
POST	Peace Officer Standards and Training
SMART	Systemwide Mental Assessment Response Teams
SWAT	Special Weapons and Tactics

# About People For the American Way

People For the American Way and its affiliate, People For the American Way Foundation, are progressive advocacy organizations founded to fight right-wing extremism and build a democratic society that implements the ideals of freedom, equality, opportunity, and justice for all. We encourage civic participation, defend fundamental rights, and fight to dismantle systemic barriers to equitable opportunity.



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# Executive Summary

The United States faces a decades-long epidemic of police misconduct and violence. Black Americans are the victims of this misconduct and violence at vastly disproportionate rates. In 2021 alone, police killed at least 1,134 people, with Black people making up at least 23 percent of those killed, despite being only 13 percent of the US population. Racism is at the core of policing in this country, from colonial-era slave patrols to the post-Reconstruction vigilantism of the Ku Klux Klan to “order maintenance” policing of the late 20th century. While racism may not be a new problem in American policing, it is one that must be urgently addressed. Without action from every level of government, police will continue murdering those living in the United States —particularly Black residents—without consequence.

Following the nationwide protests that erupted in response to the police killings of Breonna Taylor, George Floyd, Tony McDade, and Rayshard Brooks, in late 2020 People For the American Way, Covington & Burling LLP, and the Avalan Institute for Applied Research partnered to develop a blueprint for reducing police violence. While systemic overhaul will also require action at the state and federal levels, at the local level, executive, legislative, and judicial authorities can take steps immediately to reduce police violence.



The goal of *All Safe: Transforming Public Safety* is to provide concrete policy proposals for the transformation and implementation of public safety programs at the local level. Our research focused particularly on the 20 US cities or metro areas with the largest proportion of Black residents. This report provides a range of policy options, recognizing that not every locality will be able to move immediately to the most aggressive approach. Our expectation is that, as

localities begin adopting these proposals and gather and develop additional evidence of their effectiveness, these confirmations will strengthen the political case for going further.

*All Safe: Transforming Public Safety* proposes a four-pronged approach to reducing police violence: **Restructure, Hold Responsible, Remove, and Recruit**. We address the underlying issues and concerns that shape our public safety programs and make specific suggestions for transforming both how we think of public safety and our public safety programs. In the first chapter, **Restructure**, we look at the entire structure of public safety, across several domains and issues. We draw upon a broad range of research as well as programs implemented across the United States. Our collective vision for what is possible is based on what we have already been doing.



In Chapter 2, **Hold Responsible**, we suggest how to hold our current public safety systems accountable, at the structural, institutional, and individual levels. In Chapter 3, **Remove**, we clarify that even after restructuring public safety, and holding responsible the current system, we must also have an adequate process for removing problematic personnel. Lastly, removing corrupt law enforcement must be accompanied by a robust and creative structures for bringing in new staff who provide leadership for the transformation of public safety, reduce police violence, and also carry out these strategies at the local level. Chapter 4, **Recruit** contains myriad suggestions for doing so. The last chapter concludes with details of the policy recommendations made throughout the report.

The recommendations presented in *All Safe: Transforming Public Safety* fall under the four categories of : **Restructure, Hold Responsible, Remove, and Recruit**.

*First*, restructure public safety systems to meet communities' safety and social needs.

1. Restructure traditional police forces into new departments of public safety that deploy first responders who are trained and specialize in responding to nonviolent service calls such as traffic enforcement and welfare checks, led by civilian superintendents with a social work background, and audited by an independent civilian review board with investigative and enforcement powers.
2. Respond to social services issues with mental health instead of law enforcement professionals.

Police officers spend a huge amount of time interacting with persons experiencing homelessness, mental illness, and/or substance abuse. The largest inpatient



psychiatric facilities in the US today are the Los Angeles County Jail, New York City's Rikers Island, and Chicago's Cook County Jail.

Police are particularly likely to resort to violence in interactions with persons experiencing mental illness: 25 percent or more of fatal police encounters involve a person with a mental illness.

3. Remove police officers from schools.

Police officers in schools make students less safe, not more. Analyses of the prevalence of crime in schools before and after police officers were introduced show that schools that add officers report no fewer incidents of violent, nonviolent, or property-related crimes than schools that remain officer-free.

Instead, school police officers serve largely to fuel the school-to-prison pipeline that feeds the mass incarceration of Black and Latinx Americans. School policing also hinders academic achievement for Black and Latinx students, draining resources that could otherwise be spent on educating students.

4. Eliminate unnecessary misdemeanors and fines and fees.

Local officials can reduce police contact by eliminating low-level misdemeanors and citable offenses. And prosecutors can exercise discretion to not charge certain types of offenses, removing the incentive for police to arrest based on those offenses.

Police discretion and over-policing are core causes of police misconduct. The US legal system criminalizes vast quantities of victimless "quality-of-life" offenses that accomplish little more than encouraging officers to arrest Black people and other people of color. The US legal system provides even more opportunities for interactions between police and marginalized communities by imposing burdensome fines and fees that criminal defendants are often unable to pay.

5. Eliminate use of "excess" military equipment by law enforcement.

State and local law enforcement entities have access to "excess" military equipment—including armored trucks, body armor, assault rifles, tear gas, and other weapons—through the federal 1033 Program. Since its inception in 1997, the 1033 Program has channeled over \$7.6 billion worth of equipment to more than 8,000 law enforcement agencies. The 1033 Program has thus only fueled the continued militarization of the police.

*Second*, hold violent officers responsible and accountable.

1. Use the police union contract negotiation process as an opportunity for accountability and oversight.

Police unions' resistance to oversight and accountability leads to increased police violence. Unions' demands protect officers at the expense of residents, with deadly results. For example, the police union contract in Chicago provided officers the opportunity to conspire to falsify their reports about the 2014 killing of Laquan McDonald. And unions are often successful in obtaining preferential policies because the contracts are negotiated in secret, with little oversight by elected officials.

2. Eliminate state-level qualified immunity.

The judicial doctrine of qualified immunity prevents officers from being held accountable for their violent misconduct. Although much of the focus on qualified immunity is at the federal level, many states have analogous laws. Eliminating state-level qualified immunity will allow victims of police misconduct to seek civil money damages and hold officers accountable.

3. Require full compliance with the federal Death in Custody Reporting Act, which requires the United States Department of Justice to collect and report all data on deaths occurring during police custody in all states and US territories.

The dearth of available and accurate data on deaths resulting from arrests is a barrier to developing policy changes that hold officers accountable and reduce senseless police killings and unnecessary police contact with vulnerable communities.

4. Improve policies surrounding body-worn cameras to combat excessive use of force and reduce the cost of investigating complaints.

Body-worn cameras are only as useful as their implementation—simply purchasing cameras is not sufficient to reduce police violence. An officer's ability to turn off cameras plays a significant role in determining the effectiveness of body-worn cameras. Restricting who has access to and control of any body-worn camera footage plays a key role in how events are portrayed and whether any footage is manipulated.

*Third*, remove unfit officers.

1. Decertify police officers who commit violent acts or are otherwise unfit.

Three states (New Jersey, Rhode Island, and Hawaii) and Washington, DC currently lack processes for revoking police officers' licenses (decertification). Many states have barriers that make decertification difficult to impose, for example, requiring a final criminal conviction. Only a small number of states allow decertification if an officer simply lacks mental or physical fitness to retain their certification—for example, due to alcohol or substance abuse.

2. Utilize the National Decertification Index (NDI) or another national database to prevent officers decertified in one state from obtaining employment in another state.

While most states report officer decertification actions to the NDI, many police departments are not required to check the NDI prior to hiring an officer.

3. Implement alternative measures for officer performance evaluations, such as eliminating quotas as a performance measure for police officers.

Many jurisdictions evaluate officer performance based on the number of tickets issued or number of arrests made. Such performance measures incentivize officers to over-police the communities they are supposed to “serve.” Eliminating quotas will reduce interactions between police and residents, thus reducing opportunities for violence.

*Fourth*, recruit officers who are less likely to use violence or commit misconduct.

1. Change police recruiting advertising to focus on community orientation over aggression and violence.

Many police departments in the Key Metro Areas focus their recruitment advertising on violent and aggressive interactions with the public. Such advertising influences applicants’ expectations about the purpose of the job.

2. Create and implement psychological screenings that select stable and less violence-prone candidates.

Reviews of psychological assessments currently in use by police departments have repeatedly found shortcomings in assessment structure. For example, many tests focus on identifying “abnormal” personality traits rather than testing for positive traits such as sociability and integrity. Other departments fail to use tests that are designed to test specifically for a candidate’s suitability for service in law enforcement.

3. Offer educational incentives, both in recruiting and for existing officers.

Officers with higher educational attainment are less likely to use violence on the job, yet many police departments either don’t provide educational incentives or fail to adequately advertise them.

# Introduction

Communities across our nation are facing simultaneous public safety crises. Crime is rising in ways that leave many people feeling more unsafe than they have in a very long time. Police killings of unarmed civilians continue at a frightening rate. The solution to both crises is for public officials to take the same three steps: get smarter about the policy choices they face, have the courage to do what works, and implement public safety strategies that make us *all* safer.

As we face the daunting challenges of making transformative change, let us remember that establishing justice is the first purpose of the US Constitution. Ensuring domestic tranquility is the second. Achieving each of these goals has been a struggle from the very beginning of the American experiment.

Years before the Constitution was written, Americans' resolve to resist the King's authoritarian rule was heightened by the Boston Massacre. In that confrontation, Crispus Attucks, a Black man with Native American ancestry, was the first person shot and killed by the British soldiers who were charged with enforcing the monarchy's dictates.

Unfortunately, the kind of heavy-handed authoritarianism that the founders rebelled against 250 years ago persists in the culture of modern American police forces, a variation on the familiar contradiction between the noble ideals of our nation's founding documents and the immoral treatment of Native Americans and enslaved people.

In fact, modern policing has deep roots in the slave patrols that used brutality as a means of control, as well as in law enforcement complicity in the terror used to enforce segregation and subjugation under Jim Crow.

This system of authoritarian policing that we have inherited is not aligned with our national ideals, and it is not working to keep our communities safe. We must rethink and restructure our public safety systems, hold these systems responsible for the damage they have done, get rid of authoritarian policing, and find new ways, systems, and people that reimagine public safety as justice and tranquility for all.

The problem of authoritarian policing is even broader than recent headlines would suggest. To put it simply, there are two truths about authoritarian policing that do not contradict each other.

One truth is that Black Americans, Native Americans, and other people of color continue to pay a disproportionate price under authoritarian policing. Black people are more than twice as likely as White people to be shot and killed by police officers. Moreover, the problem of racial profiling is experienced broadly by communities of color throughout the United States.

A second truth is that people of color are not the only victims of authoritarian policing. As with so many other issues, such as lending practices that sent us into the recession in 2008, Black and Brown communities are the canaries in a much larger American coal mine. The mistreatment faced by immigrants of color today echoes the treatment of southern and eastern European, Jewish, and Irish Catholic immigrants a century ago. People with disabilities are at more at risk from police violence. The LGBTQ community has its own history of being targeted for police violence. And it is worth noting that White people make up the second largest group in our prisons, disproportionately those with low income, and that they also make up a majority of people killed by police each year.

Four years before George Floyd died under the knee of Minneapolis police officer Derek Chauvin, a White man named Tony Timpa called Dallas police to ask for help during a mental health crisis. He was handcuffed and zip-tied and killed by an officer who pressed his knee into Timpa's back for 14 minutes while Timpa cried, "You're gonna kill me!" He was right.

The bottom line is that every community is put at risk by authoritarian policing that promotes and tolerates an aggressive "warrior" mentality among law enforcement officers and by political systems that resist accountability for those who abuse their power. Implementing successful police reforms will not only make Black and Brown communities safer; it will make everyone safer.



Authoritarian policing is compounded by our communities' over-reliance on the police. Over the decades we have added additional burdens to our police officers that distract them from their primary purpose. Overreliance on the police ultimately leaves all of us underserved and less safe.

But what kind of policy changes will move us in the direction of safety and justice for all? How do we deliver transformative reform while keeping communities safe from violence? These are the questions addressed by this report.

The research and recommendations offered by People For the American Way in this report challenge the false narrative that public safety reform is incompatible with effective crime fighting. We offer models for system change that can enhance public safety for all.

*All Safe: Transforming Public Safety* draws on the expertise of criminologists and prosecutors as well as the on-the-ground experience of members of People For the American Way's Young Elected Officials network and religious leaders in the African American Ministers Leadership Council.

The information presented in this report includes research on barriers to holding police accountable, data on the use of force and the rationales law enforcement lean on to justify it, current standards and practices in policing, and demographic data on the victims of police violence. The report further analyzes the policing landscape in 20 Key Metro Areas in the United States, along with research on effective and promising models and best practices. Most of the research for this report was updated as of early 2022; newer developments in data or policy may not be reflected.

We provide concrete policy recommendations to guide public officials in ensuring public safety and tackling the systemic problem of police violence in their communities. We focus on policy recommendations in four key areas:

**Restructuring** the systems of public safety to ensure communities' underlying safety and social needs are met;

**Holding** unfit officers responsible and accountable for their actions;

**Removing** unfit officers from the job, particularly those with a demonstrated history of violence, aggression, or other misconduct from police departments; and

**Recruiting** well-trained public safety personnel committed to serving and protecting their communities.

While we recognize that policy change alone cannot begin to repair the fractures and breakdown of the public's trust in law enforcement, these concrete actions provide a roadmap for public officials seeking to enhance public safety and take meaningful action against police violence in their communities.



**CHAPTER ONE:**

# **Restructuring Public Safety**

# **Restructuring Public Safety Systems**

In order to address the issue of effective policing in general, as well as the specific systemic unequal treatment of Black people and people of color in our policing system, requires rethinking public safety and the roles that armed police serve in our communities. Police across the nation are currently asked to address a myriad of social harms and problems that are more suited for personnel in other governmental agencies and nonprofits. For example, police are asked to ensure the safety of our children in schools, respond to disputes involving individuals dealing with mental health or substance abuse issues, and enforce misdemeanor offenses that are socially undesirable but not particularly harmful or dangerous. Many of these roles do not require an armed police response, are better filled by professional social workers or other trained professionals, and can be addressed more effectively by treatment-oriented approaches rather than a law enforcement approach. Asking police to take on these problems serves neither the police themselves nor the communities they are sworn to protect.

The increasing militarization of the police exacerbates matters, creating a toxic mix that engenders police violence and erodes public trust, even when the police are involved in roles that legitimately call for a police response.

Addressing these issues requires transforming policing and restructuring public safety in a manner that appropriately delineates the role of police in society; deploys other resources to deal with social problems that do not require nor benefit from an armed police response; and demilitarizes the police in order to repair the relationship between the police and the communities they serve.

This chapter identifies broad systemic reforms that have been developed to restructure public safety as well as incremental reforms that can be achieved either within the current system or as part of a more comprehensive approach to restructuring public safety.

## **Section I: Models for Systemic Restructuring**

Three recent initiatives help illuminate the path forward for efforts to systemically restructure public safety. Efforts to restructure police departments in Ithaca, New York, and Brooklyn Center, Minnesota identify key pillars that should be pursued in any restructuring. A failed ballot initiative in Minneapolis is a useful model as it provides lessons on tactics and approaches to build on in pursuing public safety reform.



## The Ithaca Public Safety Model

After the murder of George Floyd in 2020, Ithaca, the county seat of Tompkins County, New York emerged from the national conversation on policing reform with an innovative model for restructuring public safety. Then-Mayor Svante Myrick—and current People For the American Way Executive Director—started an ambitious project to fundamentally restructure the city’s approach to policing. Under the Ithaca Public Safety Model, the current police department could be restructured into a broader Community Safety Department that is overseen by a civilian commissioner and that deploys two types of public safety responders. Community Safety Officers will be armed, uniformed first responders and Community Solutions Officers are unarmed first responders trained to respond to the types of calls traditionally responded to by police, but for which arrests are rarely made.



The Ithaca Public Safety Model arose out of an executive order signed in June 2020 by then-Governor Andrew Cuomo. As part of EO 203, the New York State Police Reform and Reinvention Collaborative required local governments to “perform a comprehensive review” of current policing and develop plans to improve. In the report on reimagining public safety, Myrick notes that as of 2021, the Ithaca Police Department “currently spends one-third of its time responding to calls for service that essentially never lead to arrests.” The report proposes that such calls, and a majority of patrol activity, should be handled by unarmed first responders “well trained in de-escalation and service delivery.”<sup>1</sup>

Core to the Ithaca Public Safety Model are provisions intended to enhance police accountability and transparency. Such measures include:

- *Mandating data collection on all traffic and pedestrian patrols and use of force.* The data collection should include information on race, gender, ethnicity, nationality, and religion for routine and spontaneous law enforcement encounters.
- *Implementing oversight and frequent audits of body-worn camera footage by a partner college or university to be determined.*

<sup>1</sup> State of New York, Executive Order 203, New York State Police Reform and Reinvention Collaborative, retrieved December 21, 2021 from [https://www.governor.ny.gov/sites/default/files/atoms/files/EO\\_203.pdf](https://www.governor.ny.gov/sites/default/files/atoms/files/EO_203.pdf) and Reimagining Public Safety and Center for Policing Equity, *Implementing the City of Ithaca’s New Public Safety Agency: Suggestions from the City of Ithaca’s Reimagining Public Safety Working Group*, (Ithaca: Ithaca & Tompkins County, NY, 2022), [https://www.cityofithaca.org/DocumentCenter/View/13725/WG\\_IthacaReport\\_Final..](https://www.cityofithaca.org/DocumentCenter/View/13725/WG_IthacaReport_Final..)

- *Creating a real-time public safety dashboard that allows the public to view calls for service in real time.* Community members would be able to view information about calls for service across the county or in their particular municipality or neighborhood. This would lead to greater information sharing and transparency and offer the public information about how law enforcement time is being spent as well as community trends over time. To implement this measure, technology improvements are necessary, including those that will enable real-time data integration and that give the public the opportunity to provide input.
- *Granting the City of Ithaca Community Police Board increased oversight authority.* The Ithaca Public Safety Model proposes vesting the city's already-existing Community Police Board with the power to conduct internal investigations, issue subpoenas, and retain external investigators. An effective civilian review body must be completely independent with separate/independent offices, have adequate funding, reflect community diversity, require mandatory police cooperation, have investigatory powers, be able to hold hearings, issue public statistical reports, make policy recommendations, and determine disciplinary action.
- *Requiring public disclosure of District Attorney and Assigned Counsel Office statistics on a quarterly and annual basis.* The data should be comprehensive and include informative statistics such as the number and nature of cases dismissed and prosecuted with corresponding demographic statistics.
- *Urging the New York State governor and the New York State Legislature to reform disciplinary procedures for law enforcement personnel under Civil Service Law Section 75, which provides for removal of public employees.<sup>2</sup>*

## THE CITY OF ITHACA'S DEPARTMENT OF COMMUNITY SAFETY

- **A new Department of Community Safety** led by a civilian leader with a background in racial justice, social work, public health, administration, and knowledge of the intersections of race, public health, and public safety.
- **A new Division of Community Solutions** consisting of unarmed civilian first responders to respond to non-violent emergencies.
- **The Division of Police** continuing to respond to calls that represent serious threats to public safety.
- **All first responders from both divisions receiving training** in de-escalation tactics, alternatives to use of force, trauma-informed approaches, and mental health awareness.
- **Better records and data** management.

<sup>2</sup> Reimagining Public Safety and Center for Policing Equity, *Implementing the City of Ithaca's New Public Safety Agency* and City of Ithaca, Common Council Agenda Items, June 1, 2022, [https://www.cityofithaca.org/AgendaCenter/ViewFile/Agenda/\\_06012022-2504](https://www.cityofithaca.org/AgendaCenter/ViewFile/Agenda/_06012022-2504).

In June of 2022, the Ithaca Common Council, the legislative branch of Ithaca, began the process of codifying implementation of five unarmed Community Solutions Workers, a civilian commissioner overseeing two separate divisions within a new public safety department, and better accountability and training measures.<sup>3</sup>

## **Mandating Police and Public Safety Reform in Brooklyn Center, MN**

On April 11, 2021, a 20-year-old Black man, Daunte Wright, was shot and killed during a traffic stop in Brooklyn Center, Minnesota, by what was claimed to be an “accidental discharge” of a firearm. The officer could allegedly be heard yelling, “Taser, Taser, Taser,” before firing the shot that killed the young man.<sup>4</sup> The officer, Kimberly Potter, was recently convicted of manslaughter and sentenced to two years in prison, far less than the standard seven years for such a crime.<sup>5</sup>

Shortly after the killing of Daunte Wright, community members began demanding that the city government commit to police reform to better protect and provide transparency for its residents. US Representative Ilhan Omar, who represents Minneapolis and several surrounding cities including Brooklyn Center, helped to advocate for such reform.<sup>6</sup>

The resolutions resemble programs initiated in other cities, including Eugene, Oregon (establishing a community responder program for mental health response); Denver, Colorado (directing emergency calls to a two-person team staffed by a medic and a clinician); and Berkeley, California (creating a new department of transportation to employ unarmed traffic monitors for low-level traffic offenses).

In response to community demands, the city quickly put together a resolution for mandating police and public safety reform. As in Ithaca, Brooklyn Center proposed the creation of a new Department of Community Safety and Violence Prevention, with the Brooklyn Center Police Department, Fire Department, Traffic Enforcement Department, and the Community Response Department all reporting directly to the Department of Community Safety and Violence Prevention. In addition, the resolution called for the creation of a permanent Community Safety and Violence Prevention Committee; part of the committee mandate will be to create a civilian oversight committee for the Department of Community Safety and Violence Prevention.

<sup>3</sup> City of Ithaca, Common Council Agenda Items, June 1, 2022, [https://www.cityofithaca.org/AgendaCenter/ViewFile/Agenda/\\_06012022-2504](https://www.cityofithaca.org/AgendaCenter/ViewFile/Agenda/_06012022-2504)

<sup>4</sup> “Brooklyn Center Chief: Black Man Shot, Killed by Police Appears to Be ‘Accidental Discharge,’” *CCX Media*, April 12, 2021, <https://ccxmedia.org/news/brooklyn-center-officer-involved-shooting-sparks-unrest/>.

<sup>5</sup> Nicholas Bogel-Burroughs, “Kim Potter Sentenced to 2 Years in Prison for Killing Daunte Wright,” *New York Times*, Feb. 18, 2022, <https://www.nytimes.com/2022/02/18/us/kim-potter-sentence-manslaughter.html>.

<sup>6</sup> Alexa Mencia, “Brooklyn Center Neighbors Recommend Reforms After Daunte Wright Shooting,” April 20, 2021, <https://www.kare11.com/article/news/local/daunte-wright/brooklyn-center-community-police-reform-mayor-mike-elliott-rep-ilhan-omar/89-eee209da-be9d-4762-b746-06d2da3a78ae>

On May 15, 2021, city councilors passed the Daunte Wright and Kobe Dimock-Heisler Community Safety and Violence Prevention Resolution Act.<sup>7</sup> Significant reforms will include:

- Creating an unarmed Community Department that “responds to all incidents where a city resident is primarily experiencing a medical, mental health, disability-related, or other behavioral or social need.”
- Establishing “an unarmed civilian Traffic Enforcement Department [that] has the responsibility for enforcing all non-moving traffic violations in the City, including by creating the civilian Traffic Enforcement Department and by any other appropriate changes in ordinance, practices or policies, including restricting or eliminating the types of traffic infractions enforced by the City’s armed law enforcement officers.”
- Creating a new Department of Community Safety and Violence Prevention, with the Police Department, Fire Department, Traffic Enforcement Department, and the Community Response Department all reporting directly to the Department of Community Safety and Violence Prevention.
- Putting together a Community Safety and Violence Prevention Committee, stipulating that a majority of committee members “must be City residents with direct experience being arrested, detained, or having other similar contact with Brooklyn Center Police.”

In December 2021, the city passed a budget for 2022 allocating \$1.07 million to implementing the reforms laid out in the referendum, paid for in part by leaving open three police officer vacancies.<sup>8</sup>



<sup>7</sup> City of Brooklyn Center, *The Daunte Wright and Kobe Dimock-Heisler Community Safety and Violence Prevention Resolution*, <http://www.mediaaccess.info/brooklyncenter/wp-content/uploads/2021/05/Community-Safety-and-Violence-Prevention-Resolution.pdf>.

<sup>8</sup> WCCO-TV Staff, “Brooklyn Center Passes New Policing Plan for 2022,” *CBS Minnesota*, Dec. 7, 2021, <https://minnesota.cbslocal.com/2021/12/07/brooklyn-center-passes-new-1-3m-policing-plan-for-2022/>.

## The Minneapolis Ballot Referendum on a Department of Public Safety

In the wake of the 2020 murder of George Floyd, nine out of thirteen Minneapolis city councilors stood before demonstrators and committed to defunding the Minneapolis Police Department.<sup>9</sup> This commitment—opposed from the beginning by Minneapolis Mayor Jacob Frey—ultimately led to a ballot referendum, called Question 2, that called for the replacement of the Minneapolis Police Department with a new Department of Public Safety. After a highly charged campaign that attracted national attention, the measure was rejected in the November 2021 municipal elections with 56 percent of voters opposing Question 2.<sup>10</sup>

The failed ballot referendum came after a nearly 18-month campaign sparked by the murder of George Floyd. A series of major events occurred in 2020 and 2021 leading up to the referendum.

### *Timeline of Events*

- May 25, 2020: George Floyd is murdered in Minneapolis, sparking nationwide protests.
- June 6, 2020: Minneapolis Mayor Jacob Frey, speaking to protesters massed at his house, says that he does not support full abolition of the police. The crowd boos him, yelling “Go home, Jacob, go home!” and “Shame! Shame!”<sup>11</sup>
- June 7, 2020: Nine of the thirteen members of the Minneapolis City Council pledged to dismantle the Minneapolis Police Department.<sup>12</sup>
- June 27, 2020: The Minneapolis City Council unanimously votes to advance a proposal that would replace the Minneapolis Police Department with a new Department of Community Safety and Violence Prevention.<sup>13</sup>
- September 2021: After several court challenges, language for the referendum on police reform to be voted on in the November 2021 municipal elections is finalized. The final text of the referendum, listed on the ballot as Question 2, reads:

Shall the Minneapolis City Charter be amended to remove the Police Department and replace it with a Department of Public Safety that employs a comprehensive public health approach to the delivery of functions by the Department of Public Safety, with those specific functions to be determined by the mayor and city

9 Astead W. Herndon, “How A Pledge to Dismantle the Minneapolis Police Collapsed,” *New York Times*, Nov. 3, 2021, <https://www.nytimes.com/2020/09/26/us/politics/minneapolis-defund-police.html>

10 Ballotpedia, “Minneapolis, Minnesota, Question 2, Replace Police Department with Department of Public Safety Initiative, November 2021,” [https://ballotpedia.org/Minneapolis,\\_Minnesota,\\_Question\\_2,\\_Replace\\_Police\\_Department\\_with\\_Department\\_of\\_Public\\_Safety\\_Initiative\\_\(November\\_2021\)](https://ballotpedia.org/Minneapolis,_Minnesota,_Question_2,_Replace_Police_Department_with_Department_of_Public_Safety_Initiative_(November_2021))

11 Justin Wise, “Protesters chant ‘Go home, Jacob’ after Minneapolis mayor refuses to commit to defunding police,” *The Hill*, June 7, 2020, <https://thehill.com/homenews/state-watch/501530-protestors-boo-chant-go-home-jacob-after-minneapolis-mayor-says-he>.

12 Dionne Searcey and John Eligon, “Minneapolis Will Dismantle Its Police Force, Council Members Pledge,” *New York Times*, June 7, 2020, <https://www.nytimes.com/2020/06/07/us/minneapolis-police-abolish.html>.

13 Liz Navratil, “Minneapolis City Council Votes Unanimously for Proposal That Could Replace Police Department,” *Minneapolis Star-Tribune*, June 27, 2020, <https://www.startribune.com/minneapolis-city-council-votes-unanimously-for-proposal-that-could-replace-police-department/571504662/>.



council by ordinance; which will not be subject to exclusive mayoral power over its establishment, maintenance, and command; and which could include licensed peace officers (police officers), if necessary, to fulfill its responsibilities for public safety, with the general nature of the amendments being briefly indicated in the explanatory note below, which is made a part of this ballot?

- November 2, 2021: Question 2 fails, with 56 percent of voters voting against the measure.<sup>14</sup>

The rejection of Question 2 was undoubtedly a setback for the police reform movement in Minnesota and nationwide. However, the intense scrutiny focused on the referendum allows for reflection on what went wrong, and how police reform advocates can address concerns held by critics.

Question 2 faced an uphill battle in part because, prior to the referendum vote, the Minneapolis City Council was unable to develop a complete plan for what the Department of Public Service would look like.<sup>15</sup> In this vacuum of information, opponents were able to successfully define support for the referendum as support for abolishing or defunding the police. This gave voters the misleading impression that there would be no law enforcement officers to provide public safety services. In today's charged political climate, such attacks are unavoidable, and must be countered with clearly defined messaging on what a replacement for a traditional police department will look like.

In addition, the fight to replace the Minneapolis Police Department with a new Department of Public Safety served as a public battle between the city council, which generally supported Question 2, and Mayor Frey, who opposed the measure and staked, in part, his reelection campaign on his opposition to Question 2. This power struggle between the mayor and city council further polarized the debate over Question 2 and demonstrated that any future municipal reform efforts must have buy-in from mayors or other city executives, who generally have larger platforms to shape public opinion.

Finally, to address community concerns often amplified in the media, the Minneapolis reform efforts might have ensured community buy-in through early engagement of community and members of law enforcement and other stakeholders in dialogue using surveys and community and other public forums where stakeholders could ask questions and discuss concerns.

Most importantly, the Minneapolis referendum showed that barriers to success are not insurmountable.<sup>16</sup> Having a clear plan, aligning key stakeholders from the beginning of the

<sup>14</sup> Zak Cheney-Rice, "Minneapolis Kept Its Police Department. But We'll Be Here Again," *New York Magazine*, Nov. 5, 2021, <https://nymag.com/intelligencer/2021/11/minneapolis-police-department-survives-ballot-question-2.html>.

<sup>15</sup> Zak Cheney-Rice, "Minneapolis Kept Its Police Department. But We'll Be Here Again."

<sup>16</sup> Stephen Puntis, et al., "A Systematic Review of Co-Responder Models of Police Mental Health 'Street' Triage" *BMC Psychiatry* (2018); Watson, et al, *Crisis Response Services for People with Mental Illnesses or Intellectual and Developmental Disabilities: A Review of the Literature on Police-based and Other First Response Models*, (NY: Vera Institute for Justice, 2019), 9.

process, and engaging community and law enforcement in discussions via community and other public forums can lead to significant and substantial reform.

## Recommendations

The successful reform efforts in Ithaca and Brooklyn Center show what can be accomplished, while the Minneapolis effort sheds light on ways to help advance implementation of reforms. By looking at both what was done and what was *not* done, observers can identify the key pillars of any systemic reform effort. A successful systemic reform effort must:

1. *Develop a clear plan for the new Department of Public Safety.*
2. *Secure buy-in from community stakeholders.*

Support from critical community stakeholders such as the mayor or city council can eliminate potential power struggles that can severely undermine and destroy public safety reform efforts.

3. *Provide for civilian leadership and oversight of Department of Public Safety.*

The new Department of Public Safety should be led by a civilian superintendent who—instead of simply rising through the ranks of a traditional police force—should bring a background in social work, public health, public or business administration and demonstrate in-depth knowledge of the intersections of race, public health, and public safety. This will provide more objective oversight, and help ensure that unarmed and armed first responders are actually treated as coequals.

4. *Restructure a traditional police force into new departments of public safety that feature coequal armed and unarmed first responders.*

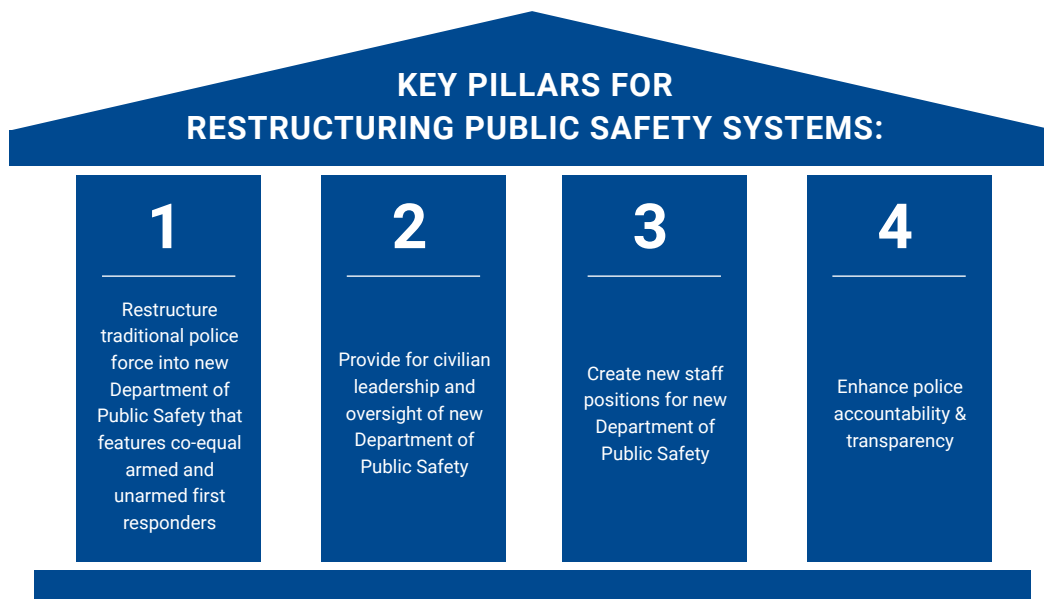
Traditional policing models involve sending armed officers to address a myriad of day-to-day incidents that do not lead to arrests. A restructured Department of Public Safety should include unarmed first responders that are trained and specialized in responding to nonviolent service calls such as traffic enforcement and welfare checks. The deployment of these unarmed units will reduce the risk of violence in police interactions and will allow remaining armed officers to focus their attention on violent crimes. Deciding which calls for service should be responded to by unarmed versus armed officers should be data-driven; unarmed officers should be used for the types of calls that rarely result in arrests.

5. *Create new staff positions for a new department*

A reimagined Department of Public Safety should also include new positions and position descriptions and require all members, including police officers, to apply for these new roles. The process of renaming positions, and requiring personnel to apply for them serves to underline that systemic reform has taken place and to sever the connection with failed models from the past.

6. *Enhance police accountability and transparency*

Like the Ithaca Public Safety Model, this includes, among other concerns: (1) mandating data collection on all traffic and pedestrian patrols and use of force; (2) implementing oversight and frequent audits of body-worn camera footage by a partner college or university to be determined; (3) creating a real-time public safety dashboard that allows the public to view calls for service in real time; (4) establishing a civilian review body with independent and investigatory powers; and (5) requiring public disclosure of district attorneys and/or any assigned counsel office statistics on a quarterly and annual basis.





## Targeted Areas for Change

Recognizing that systemic restructuring of police departments will take time, we have identified several specific targeted areas for change that advance the general restructuring goal. Each of the areas targeted for change— alternatives to armed 911 responses; school safety; the reduction of unnecessary interactions with law enforcement through decriminalization; and building public trust and reducing violence through demilitarization— reduce police interactions with vulnerable community members. The recommended reforms can be implemented either as part of broader systemic changes, or within a current system to make positive incremental changes while laying the groundwork for more sweeping reforms in the future.

## Section II: Alternatives to Armed 911 Responses

### The Victims of Over-Policing

Daniel Prude was mentally ill and had substance abuse problems—conditions that left him prone to erratic behavior and in need of professional care. On the night of March 23, 2020, his brother took him to a hospital for evaluation, but he was released within hours and returned to his brother’s home. A few hours later, Prude ran into the street in a state of undress, prompting his brother to call 911 for help.

When police officers arrived, they ordered Prude to lie on his stomach and handcuffed him. Then, as Prude grew agitated and began spitting, the officers covered his head with a “spit hood,” causing Prude to roll in the road asking for the hood to be removed. Three police officers pinned Prude’s body to the ground, with one holding his head to the pavement. Prude began to have trouble breathing, and his words turned to “gurgles.” By the time paramedics arrived a few minutes later, Prude had no heartbeat. Although the paramedics successfully resuscitated Prude, he died a week later in the hospital due to complications from being restrained and asphyxiated by police.<sup>17</sup>

\* \* \*

Alfred Olango had a paranoid personality disorder and was having a mental breakdown. His sister wanted to take him to a hospital but could not effectively communicate with him, so she called 911. After three different calls to 911, officers finally arrived and cornered Olango on a street outside his sister’s home.

A police officer shouted at Olango to remove his hand from his pants pockets. Olango responded by pulling out a vaping device and pointing it at the officer, at which point, the officer fired four shots. Olango was pronounced dead at a nearby hospital later that day.

<sup>17</sup> Michael Gold, “What We Know About Daniel Prude’s Case and Death,” *New York Times*, Dec. 4, 2020, <https://www.nytimes.com/article/what-happened-daniel-prude.html>.

Ten minutes after he was shot, a Psychiatric Emergency Response Team arrived, too late to be of assistance.<sup>18</sup>

\* \* \*

Golda Barton, a single mother of a 13-year-old autistic boy, was out of options. Her son Linden Cameron, who had recently lost his father in a police shooting, was experiencing a mental health crisis. Barton was going back to work for the first time in nearly a year, and Cameron, who had bad separation anxiety, was not handling it well. Barton called 911 and asked for a crisis intervention team to come help. When police arrived, she told them that Cameron needed to go to the hospital and that he was scared of the police. She explained that he “sees the badge and he automatically thinks like, you’re going to kill him, or he has to defend himself in some way. He freaks out. And he’s got a sensory disorder.”

The police fretted about what to do. One officer suggested that they call their sergeant “and tell him the situation because I’m not about to get in a shooting because he’s upset.”

“Yeah, especially when he hates cops,” another officer replied. “It’s going to end in a shooting.”

Moments later, Cameron ran out of his house and jumped a fence. An officer chased Cameron and shot him 11 times from behind. Cameron survived, but suffered paralysis in his left arm, internal organ damage, and permanent disfigurement. Bullets remain in his body today.<sup>19</sup>

\* \* \*

These three tragic stories are just a few of the many examples of the excessive use of force that can result from depending on armed police officers to manage social problems such as mental health issues and substance abuse disorders. This unnecessary and excessive policing of social problems—sometimes referred to as “over-policing”—is a national epidemic that is the result of massive policy failures. Communities across the country have deinstitutionalized the mentally ill without offering effective alternative forms of treatment, and neglected other glaring social problems such as substance abuse and homelessness. Because of a societal “unwillingness to invest in solving major social problems,” communities

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18 Kimberly Kindy, Julie Tate, Jennifer Jenkins and Ted Mellnik, “Fatal police shootings of mentally ill people are 39 percent more likely to take place in small and midsized areas,” *The Washington Post*, Oct. 14, 2020, [https://www.washingtonpost.com/national/police-mentally-ill-deaths/2020/10/17/8dd5bcf6-0245-11eb-b7ed-141dd88560ea\\_story.html](https://www.washingtonpost.com/national/police-mentally-ill-deaths/2020/10/17/8dd5bcf6-0245-11eb-b7ed-141dd88560ea_story.html).

19 Jessica Miller, “Bodycam shows Salt Lake City police shooting 13-year-old boy with autism,” *The Salt Lake Tribune*, Sept. 21, 2020, <https://www.sltrib.com/news/2020/09/21/bodycam-shows-salt-lake/>; Mark Klekas, “Mother Of Autistic Boy Shot By Police Speaks Out: ‘Why Didn’t You Just Tackle Him?’,” *KUTV*, Sept. 6, 2020; Theresa Seiger, “Body camera footage shows officer shooting 13-year-old boy with Asperger’s after mom calls 911 for help,” *FOX23 News*, Sept. 23, 2020, <https://www.fox23.com/news/trending/body-camera-footage-shows-officer-shooting-13-year-old-boy-with-aspergers-after-mom-calls-911-help/DJVVRHDWS5DRPFQ5RRVNOAUOTE/>; Harmeet Kaur and Konstantin Toropin, “A 13-year-old boy with autism was shot by police after his mother called for help managing a ‘mental breakdown,’” *CNN*, Sept. 9, 2020, <https://www.cnn.com/2020/09/08/us/salt-lake-city-police-shoot-boy-autism-trnd/index.html>; Pat Reavy, “‘This tragic shooting should not have happened’: Family of 13-year-old shot by police files lawsuit,” *Desert News*, Nov. 24, 2020, <https://www.deseret.com/utah/2020/11/24/21612920/this-tragic-shooting-should-not-have-happened-family-of-13-year-old-shot-by-police-files-lawsuit>.

turn to the police to manage these issues, often with disastrous consequences including unnecessary arrest, excessive use of force, and even preventable death.<sup>20</sup>

It is clear that the current system is untenable and demands a different approach. One solution is to change the way in which certain 911 calls are handled. Of the estimated 240 million calls made to 911 each year, studies have found that 90 percent of calls involve situations that are nonviolent before police are called.<sup>21</sup> Many of these calls involve individuals who are mentally ill, homeless, or suffering from a substance abuse disorder that can more appropriately be addressed through social services.<sup>22</sup> Instead of giving the responsibility to “handle” these individuals exclusively to the police, communities are increasingly experimenting with alternative models that rely on first responders other than police officers in specific situations.

In the next sections we provide background on the policy choices that have created this situation; discuss the alternative models that have been deployed, with a particular focus on the state of play in the Key Metro Areas; and make policy recommendations for investing in these alternatives.

## **Over-Policing Disproportionately Affects People with Mental Illness and Substance Abuse Problems**

### *Over-Policing of People with Mental Illness*

Since the 1960s, the United States has shifted away from institutionalizing people with behavioral and mental health issues.<sup>23</sup> In the absence of widespread alternatives to institutionalization, police and the criminal justice system have increasingly been expected to manage persons with mental illness, who are perceived as disorderly and unwanted “problems” that need to be addressed. In effect, society is “re-institutionalising” people

20 Mychal Denzel Smith, “Mental Illness, Homelessness, Drug Addiction: Do These Sound Like Crimes?” *The Nation*, Oct. 9, 2014, <https://www.thenation.com/article/archive/mental-illness-homelessness-drug-addiction-do-these-sound-crimes/>; Anna Sciacca, “Cops didn’t have to kill mentally ill Bay Area man, lawsuit says,” *Times Herald Online*, Sep. 13, 2019, <https://www.timesheraldonline.com/2019/09/13/family-of-young-walnut-creek-man-killed-by-police-file-federal-lawsuit-against-department/>.

Miles Hall was killed by police officers while he was having a mental health emergency after family members called 911. In September of this year his family, the city of Walnut Creek, California reached a \$4 million settlement with Mr. Hall’s family. Johnny Diaz and Maria Cramer, “City in California Reaches \$4 Million Settlement in Fatal Police Shooting,” *New York Times*, Sept. 22, 2020, <https://www.nytimes.com/2020/09/22/us/miles-hall-shooting-walnut-creek.html>.

21 9-1-1 Statistics, NENA, The 9-1-1 Association, <https://www.nena.org/page/911Statistics> (last visited Nov. 19, 2020); “Understanding Police Enforcement: A 911 Data Analysis,” *Vera Institute*, <https://www.vera.org/projects/understanding-police-enforcement> (last visited Nov. 19, 2020); Rashawn Ray, “What does ‘Defund the Police Mean and does it have Merit?’” *Brookings Institute*, June 19, 2020, <https://www.brookings.edu/blog/fixgov/2020/06/19/what-does-defund-the-police-mean-and-does-it-have-merit/>; Jeff Asher and Ben Horwitz, “How Do the Police Actually Spend Their Time?” *New York Times*, June 19, 2020, <https://www.nytimes.com/2020/06/19/upshot/unrest-police-time-violent-crime.html>.

22 National League of Cities, “Spreading And Scaling Innovative City Approaches To Address Mental Health, Substance Use And Homelessness, Executive Summary,” Dec. 2019, <https://www.nlc.org/wp-content/uploads/2019/10/Mental-Illness-Substance-Use-Disorder-and-Homelessness-Executive-Summary.pdf>

23 Jennifer D. Wood and Amy C. Watson, “Improving police interventions during mental health-related encounters: past, present and future,” *Policing and Society* 27, no. 3 (2017); Scott Akins, Brett C. Burkhardt, and Charles Lanfear, “Law Enforcement Responses to ‘Frequent Flyers’: An Examination of High-Frequency Contacts Between Police and Justice-Involved Persons with Mental Illness,” *Criminal Justice Policy Review*, 27 no.1 (2016): 97–114.



with mental illnesses in the criminal justice system.”<sup>24</sup> And as a 2017 Chicago study notes, “With deinstitutionalization from state psychiatric hospitals all but complete, the health intervention role of police is both salient and controversial, especially given a series of high profile tragedies involving fatal shootings by officers.”<sup>25</sup>

A 2015 study by the Treatment Advocacy Center found that approximately 10 percent of all police contacts involve a person with a mental illness. The same study notes that an estimated one in three individuals transported to hospital emergency rooms for a behavioral health crisis are taken there by police rather than family members, mental health professionals, or other social service providers.<sup>26</sup> Often, interactions with the police lead to an arrest, with the result that significant percentages of people in pre-trial detention have a serious mental illness, such as schizophrenia or bipolar disorder (14.5 percent of males, and 31 percent of females).<sup>27</sup> Perhaps unsurprising, given the role of police in responding to mental health issues, the largest inpatient psychiatric facilities in the US are now the Los Angeles County Jail, New York City’s Rikers Island, and Chicago’s Cook County Jail.<sup>28</sup> According to one study by the *New York Times*, Rikers Island alone houses approximately the same number of people with mental illnesses as all 24 psychiatric hospitals in New York State combined.<sup>29</sup>

Despite the mass incarceration of the mentally ill, most encounters between individuals with mental illness and police neither involve violent crimes nor otherwise rise to the level of emergencies that necessitate an arrest.<sup>30</sup> Nor is violence an inevitable byproduct of mental illness. Despite public opinion and media depictions to the contrary, studies have shown that, while people with mental illness are slightly more likely to engage in violence, a “large majority are not violent toward others.” Most calls to police involving the mentally ill simply involve individuals acting in a way that made people uncomfortable or was seen as disruptive.<sup>31</sup> In these situations, arrests may result from the absence of other readily available resources for handling a mental health problem. In the absence of other readily available mental health resources, some officers, when faced with a person with a mental illness, are inclined to

24 Wood and Watson, “Improving police interventions during mental health-related encounters.”

25 Wood, Watson, and Fulambarker, “The ‘Gray Zone’ of Police Work During Mental Health Encounters.”

26 Doris Fuller, H. Richard Lamb, Michael Biasotti and John Snook, *Overlooked in the Undercounted: The Role of Mental Illness in Fatal Law Enforcement Encounters*. (New York: Treatment Advocacy Center, 2015), <https://www.treatmentadvocacycenter.org/storage/documents/overlooked-in-the-undercounted.pdf>.

27 Policy Statement 59: Responding to Behavioral Health Crisis, Mental Health America, adopted March 3, 2017, <https://www.mhanational.org/issues/position-statement-59-responding-behavioral-health-crises>.

28 Alex Vitale, *The End of Policing*, (New York: Verso, 2018).

29 Michael Winerip and Michael Schwartz, “Rikers: Where Mental Illness Meets Brutality in Jail,” *New York Times*, July 14, 2014, <https://www.nytimes.com/2014/07/14/nyregion/rikers-study-finds-prisoners-injured-by-employees.html>.

30 Wood, Watson, and Fulambarker, “The ‘Gray Zone’ of Police Work During Mental Health Encounters.”

31 Jeffrey Swanson, et al., “Mental illness and reduction of gun violence and suicide: Bringing epidemiologic research to policy,” *Annals of Epidemiology*, 25 no. 5, (2015), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4211925/>.

charge them with a misdemeanor in an effort to get them treatment—a so-called “mercy booking.” This is seen especially in communities where there are limited inpatient psychiatric beds and a lack of mental health resources in the community. Such bookings can be seen by law enforcement as effective because criminal justice facilities “can’t say no” to taking in such people. But the net effect is to criminalize persons with mental illness.<sup>32</sup>

Further, the practice of dispatching police to deal with mental health problems often leads to the use of excessive force and unnecessary and preventable injury or death. Reports have consistently found that 25 percent or more of fatal police encounters involve a person with a mental illness. Even more, people of color with mental illness suffer disproportionately. Black and Latinx people suffer “higher rates of psychological distress for which they are far less likely to receive treatment.”<sup>33</sup> Generally, Black people are “2.5 times more likely to be shot and killed by the police than their White counterparts. For a Black person with a mental health issue, the risk could be even higher.”<sup>34</sup>

### *Over-Policing of People with Substance Abuse Problems and Homelessness*

Police are also often called upon to manage other societal problems, such as substance abuse and homelessness. While it is beyond the scope of this report to make policy recommendations about the social programs necessary to manage these problems generally, it is clear that armed police officers should not always be the first responders to behavioral crises caused by such societal issues.<sup>35</sup> As with police responses to persons with mental illness, the results of such an approach can be tragic and unwarranted—arrests, excessive use of force, and the criminalization of social problems that would be more appropriately addressed outside the criminal justice system.<sup>36</sup> Based on data from the National Violent Death Reporting System from 2009-2012, for 21.7 percent of fatalities caused by law enforcement, a “victim’s mental/behavioral health, including behavior attributed to mental illness or substance use, was directly related to [law enforcement] contact or use of force.”<sup>37</sup>

32 H. Richard Lamb, Linda E. Weinberger, and Walter J. DeCuir Jr, “The Police and Mental Health,” *Psychiatric Services* (Oct. 2002), <https://ps.psychiatryonline.org/doi/pdf/10.1176/appi.ps.53.10.1266>.

33 Denise Herd, “Cycles of Threat: Graham v. Connor, Police Violence, and African American Health Inequities,” *100 Boston University Law Review*, (2020).

34 Divya Chhabra, “How Sending Mental Health Responders Instead Of Police Could Save Black Lives,” *ABC News*, November 15, 2020, <https://abcnews.go.com/US/sending-mental-health-responders-police-save-black-lives/story?id=74210488>; Fuller, Lamb, Biasotti, and Snook, *Overlooked in the Undercounted*.

35 The problems of substance abuse and homelessness often arise out of or are exacerbated by mental illness. For example, studies estimate that 20-50 percent of homeless adults also have a severe mental illness. Laurence Roy, Anne G. Crocker, Tonia L. Nicholls, Eric A. Latimer, and Andrea Reyes Ayllon, “Criminal Behavior and Victimization Among Homeless Individuals with Severe Mental Illness: A Systematic Review,” *Psychiatric Services*, Jun 1, 2014, <https://doi.org/10.1176/appi.ps.201200515>. Additionally, over 70 percent of people in jails with serious mental illness also have a co-occurring substance-use disorder. David Cloud and Chelsea Davis, *Treatment Alternatives to Incarceration for People with Mental Health Needs in the Criminal Justice System: The Cost-Savings Implications*, (NY: Vera Institute, 2013).

36 Section IV of this chapter discusses in detail decriminalizing drug offenses.

37 Sarah DeGue, Katherine A. Fowler, Cynthia Calkins, “Deaths Due to Use of Lethal Force by Law Enforcement: Findings from the National Violent Death Reporting System, 17 U.S. States, 2009–2012,” *American Journal of Preventative Medicine*, (2016) <https://www.ajpmonline.org/action/showPdf?pii=S0749-3797%2816%2930384-1>.





## Models for Reducing Over-Policing of Social Problems in Key Metro Areas

Communities have explored different models for reducing the over-policing of social problems such as mental illness, substance abuse, and homelessness. While early efforts to address the issue focused on additional training of police,<sup>38</sup> there is a growing recognition that addressing the problem meaningfully will necessitate redirecting certain 911 calls, in whole or in part, to non-police responders such as mental health professionals.

Broadly speaking, there are currently two models for making this happen: co-responder programs, under which 911 calls are routed, either directly or by the first responding officer to multi-disciplinary teams composed of police and mental health professionals; and non-police models, under which 911 calls are directed outside of the police system entirely.

Co-responder programs are being employed in many of the Key Metro Areas, with varying degrees of success depending on how they are implemented and the level of resources devoted to them. Co-responder programs have generally not shown to be effective in managing mental health crises. If nonviolent in nature, these incidents are much more effectively handled by non-police teams. In areas where some success has been seen with managing mental health calls with the co-responder models, investment in community resources has been key,<sup>39</sup> non-police models have not been widely deployed.

<sup>38</sup> For example, beginning in the 1980s, many police departments adopted Crisis Intervention Training (CIT), which trains certain police officers in how to respond to people experiencing a mental health crisis.

<sup>39</sup> Interview with Alex Vitale, April 25, 2022.

## Co-Responder Programs

Co-responder programs refer to crisis response teams that pair mental health professionals with police officers to respond to calls regarding an “emotionally disturbed person” or a person experiencing another behavioral health crisis in the community. While such teams are most commonly used to respond to incidents involving individuals with acute mental health disorders, co-responder teams in certain areas also respond to calls regarding substance abuse, homelessness, and domestic disputes.<sup>40</sup>

The primary goals of co-responder programs are to reduce unnecessary arrests and incarceration, to reduce unnecessary emergency department visits and psychiatric hospitalizations, and to provide necessary care and support to members of the community. Additional potential benefits include reduced costs from unnecessary arrests/hospital transports and better resolutions for people having a crisis.<sup>41</sup>

Co-responder models have been implemented in cities and towns across the United States, as well as many countries abroad, including the United Kingdom, Australia and Canada.<sup>42</sup> Programs tend to be implemented locally and cities and towns usually have a degree of control over how the program works.<sup>43</sup> This allows a police department to adapt the program to best suit its community.<sup>44</sup>

Common variations include different approaches in how co-responder teams are dispatched (directly through the 911 system, through a call to a hotline, or other methods) and in the role of mental health professionals (riding along with the officer or as “control room” support). The type of co-responder also varies across jurisdictions and may include a psychologist, psychiatric nurse, or licensed clinical social worker. A common choice is a mental health professional with a Master’s degree.<sup>45</sup> These Master’s-level clinicians have significant clinical experience and are perceived as better equipped to accurately assess risk and determine course of action. In addition, such clinicians are accountable to a licensing board, which could be used as a “counter balance to any pressure they experience to deliver services in a manner that is expedient to law enforcement.” Some programs incorporate a psychiatrist, which facilitates integrating persons with mental illness into the mental health care system from the start, because psychiatrists understand and are able to navigate the system in a way that police officers and other responders cannot.<sup>46</sup>

40 Stephen Puntis, et al. “A Systematic Review of Co-Responder Models of Police Mental Health ‘Street’ Triage;” Watson, et al, *Crisis Response Services for People with Mental Illnesses or Intellectual and Developmental Disabilities*.

41 Watson, et al., “Crisis Response Services for People with Mental Illnesses or Intellectual and Developmental Disabilities,” 15.

42 Watson, et al., “Crisis Response Services for People with Mental Illnesses or Intellectual and Developmental Disabilities,” 14.

43 Co-Responder Programs, Colorado Department of Human Services, <https://www.colorado.gov/pacific/cdhs/co-responder-programs>; Puntis, et al. “A Systematic Review of Co-Responder Models of Police Mental Health ‘Street’ Triage, n.67.

44 Puntis, et al. “A Systematic Review of Co-Responder Models of Police Mental Health ‘Street’ Triage,” 8–9.

45 Christie Gardiner, *Policing around the Nation*. Gardiner notes, “Slightly more than half (51.8%) of sworn officers in the United States have at least a two-year degree, 30.2% have at least a four-year degree, and 5.4% have a graduate degree. This varies considerably by state, region, agency size, CEO education level, union presence, and department type.”

46 Governor’s Task Force on Mental Health, Crisis Formulation Group, Minnesota, Oct. 2017, [https://mn.gov/dhs/assets/formulation\\_oct7\\_tcm1053-259165.pdf](https://mn.gov/dhs/assets/formulation_oct7_tcm1053-259165.pdf).

### *Utilization in the Key Metro Areas*

A majority of the Key Metro Areas have implemented or taken steps to implement co-responder programs.<sup>47</sup>

There is limited information available on the design and efficacy of many of these programs. It stands to reason, however, that, by minimizing interactions with armed police officers, these programs can reduce the frequency of police killings and other excessive uses of force by police.

The experience of Boston, Los Angeles, and New York offer lessons about what the programs can accomplish, how to optimize them, and how to avoid mistakes that compromise their effectiveness. Los Angeles and Boston demonstrate that co-responder programs can meaningfully reduce unnecessary police interactions, particularly when deployed at scale and supported by adequate resources. New York's program demonstrates how poor implementation can undermine the effectiveness of a co-responder program. You can find additional information about the state of play and implementation of co-responder programs in Key Metro Areas in Appendix A on page 149.

**Boston** Boston's co-responder program was implemented in 2011<sup>48</sup> and consists of a typical ride-along model in which a Master's-level clinician from the Boston Emergency Services Team (BEST) of the Boston Medical Center accompanies officers when they respond to mental health-related calls for service.<sup>49</sup> Ride-along teams can be dispatched directly in response to 911 calls.

According to one study, the most common type of incidents handled by BEST arose from a mental health crisis experienced by a child between seven and 17 years of age (16 percent of incidents), suicidal ideation (15.4 percent) or family disputes (13.7 percent). Just 9.8 percent of calls involving BEST teams involved criminal activity.<sup>50</sup> Incidents where BEST responded rarely result in arrest (just 0.8 percent of all incidents) or evaluation in a holding cell (6.4 percent). Transport to an emergency room (28.7 percent) or a behavioral urgent care center (14 percent) were far more common outcomes.<sup>51</sup>

While successful in certain respects in diverting mental health problems from the criminal justice system, Boston's experience illustrates two significant problems that metro areas may experience in implementing co-response models: lack of adequate resources and imperfect integration into the 911 system.

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47 Diane Pathieu and Mark Rivera, "Lightfoot's CPD reform strategy includes the 'co-responder' model, replacing officers in some situations," *ABC7*, August 13, 2020, <https://abc7chicago.com/chicago-police-lori-lightfoot-cpd-reform/6368984/>.

48 Riding Shotgun, "Why American departments are sending social workers to answer 911 calls," *The Economist*, May 11, 2019, <https://www.economist.com/united-states/2019/05/11/why-american-departments-are-sending-social-workers-to-answer-911-calls>.

49 Morabito, et al., "Police Response to People with Mental Illnesses in a Major U.S. City."

50 Morabito, et al., "Police Response to People with Mental Illnesses in a Major U.S. City."

51 Morabito, et al., "Police Response to People with Mental Illnesses in a Major U.S. City."



Between 2011–2016, BEST was significantly under-resourced, with only two long-term co-responding physicians on staff and only one shift per day when co-responders were available. During this period, the funding for the program came from a mix of federal and state grants, a less-than-stable funding source that required Boston to cut one of its clinicians when one of the grants expired.<sup>52</sup> In 2017, Boston’s City Council finally set aside permanent funding and new clinicians were hired. The program remains small, however, for a city of Boston’s size.<sup>53</sup> although it is currently in the middle of an expansion. The BEST program currently employs only four Master’s-level clinicians, three full time and one part time, providing 24/7 coverage.<sup>54</sup> The city’s FY 2021 budget called for an increase to 19 clinicians.<sup>55</sup>

A study of Boston’s co-responder program also found that, although the program was linked to the 911 system, there were issues with data collection and coding of calls to identify when a co-responder team should be sent.<sup>56</sup> To be effective, appropriate training must be provided to 911 operators<sup>57</sup> and co-responder models need to be integrated properly into the 911 system.<sup>58</sup>



52 Morabito, et al., “Police Response to People with Mental Illnesses in a Major U.S. City.”

53 Boston itself has a population of just under 700,000, and the Greater Boston metropolitan statistical area has a population of 4.8 million.

54 Boston Emergency Services Team, North Suffolk Mental Health Association, <https://northsuffolk.org/services/emergency-services/boston-emergency-services-team/>.

55 Anne Jonas, “BPD to hire 15 more mental health clinicians,” *The Daily Free Press*, Sept. 10, 2020, <https://dailyfreepress.com/2020/09/10/bpd-to-hire-15-more-mental-health-clinicians/>.

56 Morabito, et al., “Police Response to People with Mental Illnesses in a Major U.S. City.” While there is a code for EDP, emotionally disturbed person, and JUMPER, there are other calls where the primary label may be domestic disturbance, and the secondary mental health issue is not coded and can only be identified through the narrative, if one is written. For example, “Root [a mentally ill man who was killed outside of a hospital by police] could have been a perfect test case for the approach, but the BEST team wasn’t engaged the morning he showed up at the medical center. It wouldn’t have been easy for a responding officer to figure out that he had been flagged in BEST’s database.” Fola Akinnibi and Sarah Holder, “All the Systems Failed: Inside America’s Mental Health Crisis,” *Bloomberg US Edition*, <https://www.bloomberg.com/news/features/2021-03-09/the-intersection-of-mental-health-and-police-killings>

57 Morabito, et al., “Police Response to People with Mental Illnesses in a Major U.S. City.”

58 Riding Shotgun, “Why American departments are sending social workers to answer 911 calls.”

**Los Angeles** The Los Angeles co-responder program uses front-line teams called Systemwide Mental Assessment Response Teams (SMART), which are dispatched and supported by a 24-hour triage desk in response to calls from officers in the field. The LAPD requires that officers who encounter a person in a mental health crisis call the triage desk and provide a detailed incident report. When a call is received, the triage officer, assisted by a triage nurse, makes a decision as to whether a SMART team should be dispatched or if the patrol officer should take the person directly to a mental health facility. The triage desk has a variety of resources available to assist in making this decision and managing the situation, including the ability to search the Mental Evaluation Unit's (MEU) database to see if the person has a history of police contacts, and the ability to consult the Los Angeles County Department of Mental Health database to find the person's case manager, psychiatrist or treatment center.<sup>59</sup>

A 2016 study on the SMART program found that, while calls involving a person experiencing mental health crises handled by ordinary police resulted in arrests 13.3 percent of the time, calls handled by SMART co-responder teams resulted in arrest only 1.4 percent of the time.<sup>60</sup> The stark difference in arrest percentages suggests that deploying co-responder teams in lieu of a police-only response may meaningfully reduce arrests of persons with mental illness.

Even in Los Angeles, which has a relatively well-funded and well-designed co-responder program, police continue to respond to most incidents involving mentally ill persons. Despite having 17 co-responder teams and co-responder coverage 24 hours a day, a majority of cases involving mentally ill persons are handled by police-only teams (64.6 percent) as opposed to SMART teams (31.5 percent), in part because there are insufficient resources for the SMART program to address all mental health incidents.<sup>61</sup> These statistics suggest that additional funding and scale may be necessary to further ensure that mental health issues are dealt with outside the criminal justice system.

The design of the SMART program in Los Angeles, with SMART teams generally dispatched only after a police officer has called a triage desk, may also limit the scope and effectiveness of the program. The city is exploring the possibility of routing certain 911 calls directly to mental health professionals, rather than dispatching a police officer in the first instance.<sup>62</sup>

59 Mental Evaluation Unit, LAPD [https://www.lapdonline.org/detective\\_bureau/content\\_basic\\_view/51704](https://www.lapdonline.org/detective_bureau/content_basic_view/51704)

60 Hector Lopez, "A Descriptive Study of LAPD's Co-Response Model for Individuals with Mental Illness," Master of Social Work Thesis, California State University, Long Beach, (May 2016). In lieu of arrest, 43 percent were taken to a private hospital; 34.1 percent went to a county hospital; 10.3 percent received a referral, and 7.1 percent were transported to urgent care.

61 Lopez, "A Descriptive Study of LAPD's Co-Response Model."

62 Leila Miller, "Reformers want police to step back from mental health calls. The LAPD says it's been trying," *Los Angeles Times*, June 24, 2020, <https://www.latimes.com/california/story/2020-06-24/protests-spur-bid-for-lapd-to-move-back-from-mental-health-calls>.

**New York** New York started a co-responder program in 2016.<sup>63</sup> New York’s Co-Response Teams (CRT) include two officers who are paired with a mental health professional. Until recently, however, the CRTs were only dispatched through a triage desk based on referrals from local police precincts, limited to non-emergency calls, and not available around the clock.<sup>64</sup>

As a result of these limitations, only 1,612 people were assisted by CRTs from March 10, 2016 through December 31, 2019,<sup>65</sup> and only 498 in fiscal year 2020 and 661 in fiscal year 2021.<sup>66</sup> Compared to the estimated 180,000 calls to 911 during the same period involving an “emotionally disturbed person”—defined by the city as “[a] person who appears to be mentally ill or temporarily deranged and is conducting himself in a manner which a police officer reasonably believes is likely to result in serious injury to himself or others”<sup>67</sup>—the size and scope of the program falls far short of what is required to make a meaningful impact.

The city has since taken steps to increase the number of CRTs it employs.<sup>68</sup> Critics, including New York City Public Advocate Jumaane Williams, have asserted that further investment in CRTs “is not the direction the city should be going toward in the long term.” Instead, he believes the city needs to invest in “a non-police first response to mental health crises . . . .”<sup>69</sup>



63 Greg B. Smith, “No More EDPs: NYPD’s Emergency Plan to Deal with Mentally Ill New Yorkers,” *The City*, Oct. 21, 2019, <https://www.thecity.nyc.gov/health/2019/10/21/21210751/no-more-edps-nypd-s-emergency-plan-to-deal-with-mentally-ill-new-yorkers>.

64 The City of New York Mayor’s Management Report, Preliminary Fiscal 2020, January 2020, [https://www1.nyc.gov/assets/operations/downloads/pdf/pmmr2020/2020\\_pmmr.pdf](https://www1.nyc.gov/assets/operations/downloads/pdf/pmmr2020/2020_pmmr.pdf).

65 Co-Response Teams, NYC Mayor’s Office of ThriveNYC, (last visited Nov. 20, 2020), <https://thrivenyc.cityofnewyork.us/program/co-response-teams>.

66 The City of New York Mayor’s Management Report, Preliminary Fiscal 2022, February 2020, [https://www1.nyc.gov/assets/operations/downloads/pdf/pmmr2022/2022\\_pmmr.pdf](https://www1.nyc.gov/assets/operations/downloads/pdf/pmmr2022/2022_pmmr.pdf).

67 Caroline Lewis, “NYC Experiments with Routing 911 Calls to Mental Health Experts,” *The Gothamist*, Sept. 23, 2019, <https://gothamist.com/news/nyc-experiments-routing-911-calls-mental-health-experts>. P.G. 216-05 *Mentally Ill or Emotionally Disturbed Persons* (August 2013), <http://www.nyc.gov/html/ccrb/downloads/pdf/pg216-05-mentally-ill-emotionally-disturbed-persons.pdf#:~:text=DEFINITIONS%20EMOTIONALLY%20DISTURBED%20PERSON%20%28EDP%29%20-%20A%20person,result%20in%20serious%20injury%20to%20himself%20or%20others>.

68 Mayor de Blasio, First Lady McCray and City Council Members Announce \$37 Million Annual Investment in New Strategies to Address Serious Mental Illness,” press release, Oct. 21, 2019, <https://www1.nyc.gov/office-of-the-mayor/news/496-19/mayor-de-blasio-first-lady-mccray-city-council-members-37-million-annual-investment>; “Williams Responds To The De Blasio Administration’s Mental Health Crisis Response Recommendations, Public Advocate For The City Of New York Jumaane D. Williams,” press release, Oct. 21, 2019, <https://pubadvocate.nyc.gov/press/williams-responds-de-blasio-administrations-mental-health-crisis-response-recommendations/>.

69 Williams Responds To The De Blasio Administration’s Mental Health Crisis Response Recommendations, Public Advocate For The City Of New York Jumaane D. Williams, press release, Oct. 21, 2019, <https://pubadvocate.nyc.gov/press/williams-responds-de-blasio-administrations-mental-health-crisis-response-recommendations/>.



## Non-Police Models

The New York City Public Advocate’s criticism of co-responder programs reflects a view that such programs do not go far enough in reducing police involvement in responding to certain crises that are more appropriately managed without police involvement. Mental health advocates, community organizations, and political leaders are increasingly calling for alternatives where mental health problems, substance abuse, or other non-criminal activity can be addressed through a nonpolice first response. While none of the Key Metro Areas have thus far implemented such a model and tied it to the 911 system, the experiences of smaller cities—including Eugene, Oregon, which pioneered this approach with the CAHOOTS (Crisis Assistance Helping Out On the Streets) program—indicate that a non-police model may be a highly promising way of reducing excessive and unnecessary policing.



### The Non-Police Model Pioneered by CAHOOTS

CAHOOTS was launched in 1989 in Eugene, Oregon by the White Bird Clinic, a nonprofit organization, in partnership with the City of Eugene, and currently covers the cities of Eugene and Springfield.<sup>70</sup>

<sup>70</sup> *Crisis Assistance: Helping Out on the Streets*, White Bird Clinic/CAHOOTS, <https://whitebirdclinic.org/wp-content/uploads/2020/07/CAHOOTS-Consulting.pdf>.

CAHOOTS provides an alternative emergency response solution in cases where law enforcement is not necessary, primarily in mental health-related crises. This includes conflict resolution, welfare checks, substance abuse, as well as suicide threats. CAHOOTS teams, which consist of a medic and a crisis worker, are dispatched by Eugene’s 911 system or a police non-emergency number. Dispatchers are trained to recognize calls involving nonviolent situations where police intervention is not required and redirect those calls to CAHOOTS. According to 2014–2019 CAHOOTS response data, around 60 percent of CAHOOTS’ “clients” are homeless and 30 percent live with severe and persistent mental illness.<sup>71</sup>

In 2019, CAHOOTS responded to more than 24,000 calls for service, or about 18 percent of 911 calls in the area. Out of those 24,000 interventions, only 250 required police backup.<sup>72</sup> CAHOOTS operates on a budget of about \$2 million, funded by the Eugene and Springfield city governments, a coordinated care organization, and donors.<sup>73</sup> CAHOOTS claims that the program saves the City of Eugene—which has approximately 170,000 inhabitants—an estimated \$8.5 million annually by diverting more than 10,000 calls per year from the police.<sup>74</sup>

## PROGRAM SPOTLIGHT: CAHOOTS

Launched in 1989 in Eugene, CAHOOTS (Crisis Assistance Helping Out On The Streets) provides alternative emergency response in cases where law enforcement is not necessary.

Response teams consist of a medic and a crisis worker, responding to situations such as conflict resolution, welfare checks, substance abuse, suicide threats and other mental health crises.

In 2019, CAHOOTS responded to 24,000+ calls (or roughly 18% of 911 calls in Eugene and Springfield). Only 250 of those required police backup. The programs saves the city of Eugene an estimated \$8.5 million annually, diverting 10,000+ calls per year from the police.



Responded to  
**24,000+** calls



Only **250** required  
police backup



Saves **\$8.5M**  
annually



Diverts **10,000+**  
calls per year

71 *Crisis Assistance: Helping Out on the Streets*, White Bird Clinic/CAHOOTS.

72 *Crisis Assistance: Helping Out on the Streets*, White Bird Clinic/CAHOOTS.

73 Farah Stockman, “Cities Ask if It’s Time to Defund Police and ‘Reimagine’ Public Safety,” *The New York Times*, June 5, 2020, <https://www.nytimes.com/2020/06/05/us/defund-police-floyd-protests.html>; *Crisis Assistance: Helping Out on the Streets*, White Bird Clinic/CAHOOTS.

74 This number was calculated using the number of calls that would otherwise be handled by police and using a \$800 estimate per police response. *Crisis Assistance: Helping Out on the Streets*, White Bird Clinic/CAHOOTS.

## *Moves Toward Adopting Non-Police Models in Other Cities*

Other municipalities have since adopted different non-police models. In 2019, for example, Olympia, Washington created a partnership between the Olympia Police Department and Recovery Innovations International, a private organization, to provide free, confidential, voluntary crisis response assistance. Olympia's Crisis Response Unit focuses on issues of mental health, substance abuse, and homelessness, and it is dispatched through the 911 system.<sup>75</sup>

In June 2020, the city of Albuquerque, New Mexico, established a new Albuquerque Community Safety Department (ACS) that will serve alongside the Albuquerque Police and Fire Departments to deliver a civilian-staffed, public health approach to safety. The department was established to divert calls on homelessness, addiction, and mental health issues from the police to trained professionals such as social workers, housing and homelessness specialists, and violence prevention and diversion program experts. These non-police first responders will be dispatched through the existing 911 system in situations that do not present an immediate threat to public safety.<sup>76</sup>

Also in June 2020, Denver, Colorado announced a pilot program called Support Team Assisted Response (STAR) that is modeled in part on CAHOOTS. The program goes "one step further" than Denver's co-responder program, by dispatching a non-police team of first responders composed of mental health professionals in response to certain 911 calls.<sup>77</sup>

The Ithaca Public Safety Model proposes calls for service being responded to by unarmed Community Solution Workers who are "well trained in de-escalation and service delivery." The model's proposed structure for the new Department of Public Safety would result in up to one third of calls being responded to by unarmed officers alone, and up to half of calls responded to by unarmed responders either alone or alongside an armed responder. Indeed, allowing 911 operators to dispatch personnel from other agencies was a solution that emerged from focus group sessions with law enforcement in Ithaca,<sup>78</sup> suggesting that there is a level of support within law enforcement for non-police responses to certain 911 calls.

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75 Crisis Response & Peer Navigators, City of Olympia, <http://olympiawa.gov/city-services/police-department/Crisis-Response-Peer-Navigator.aspx>; Abby Spegman, "Olympia's crisis response team had nearly 700 calls in its first two months," *The Olympian*, June 1, 2019, <https://www.theolympian.com/news/local/article230718039.html>; Christie Thompson, "This City Stopped Sending Police to Every 911 Call," *The Marshall Project*, July 24, 2020, <https://www.themarshallproject.org/2020/07/24/crisisresponders>. Olympia's program, however, appears to be less comprehensive than Eugene's CAHOOTS or Albuquerque's ACS Department, as it is limited to daytime hours: "The Crisis Response Unit works from 7 am–9 pm, 7 days a week."

76 "Mayor Tim Keller to Refocus Millions in Public Safety Resources with First-of-Its-Kind Civilian Response Department," news release, City of Albuquerque, June 15, 2020, <https://www.cabq.gov/mayor/news/mayor-tim-keller-to-refocus-millions-in-public-safety-resources-with-first-of-its-kind-civilian-response-department/>.

Given the novelty of this program, the city of Albuquerque is currently conducting a survey to better understand public opinion concerning the ACS Department. In particular, members of the Albuquerque community are being asked to indicate the categories of issues that they consider would be most appropriately reserved for ACS responders without law enforcement, or in conjunction with the police. As of this writing the results from the survey have not been published.

77 Denver Justice Project, "Denverite: A long-planned program to remove police from some 911 calls launched as Denver's streets erupted in police brutality protests," *Denver Justice Project*, June 8, 2020, <http://www.denverjusticeproject.org/2020/06/08/a-long-planned-program-to-remove-police-from-some-911-calls-launched-as-denvers-streets-erupted-in-police-brutality-protests/> and Elise Schmelzer, "Call police for a woman who is changing clothes in an alley? A new program in Denver sends mental health professionals instead," *The Denver Post*, Sept. 6, 2020, <https://www.denverpost.com/2020/09/06/denver-star-program-mental-health-police/>.

78 Reimagining Public Safety and Center for Policing Equity, *Implementing the City of Ithaca's New Public Safety Agency* and City of Ithaca, Common Council Agenda Items, June 1, 2022, [https://www.cityofithaca.org/AgendaCenter/ViewFile/Agenda/\\_06012022-2504](https://www.cityofithaca.org/AgendaCenter/ViewFile/Agenda/_06012022-2504).



## State of Play for Non-Police Models in Key Metro Areas

Although smaller cities have been at the forefront of efforts to deploy non-police models integrated into the 911 system, the idea is beginning to take hold in the Key Metro Areas. In October 2020, the Los Angeles City Council voted unanimously to move forward with a new emergency response model that would use unarmed teams, including mental health workers, homeless outreach workers, medical professionals and others to respond to calls to 911 for assistance in situations where there is no threat of violence.<sup>79</sup> Notably, the LAPD fully supported the city council's unanimous vote, stating that “[f]or far too long the men and women of the department have been asked to respond to calls from our community that would be more effectively addressed by others.” An LAPD pilot program implementing the city council's resolution, which began in February 2021, transferred nonviolent 911 mental health calls to crisis counselors at Didi Hirsch Mental Health Services, which runs the National Suicide Prevention Hotline.<sup>80</sup> In June 2021, the Los Angeles Police Commission recommended doubling the budget for the program and extended the one-year pilot program, which had responded to more than 1,400 calls by the end of 2021.<sup>81</sup> Indeed, the pilot program did so well that the city council launched another pilot program with Urban Alchemy, a Los Angeles-based organization that runs the city's mobile shower and restroom program and several of its interim housing facilities, to divert some nonviolent 9-1-1 calls related to homelessness.<sup>82</sup>



On November 10, 2020, New York City announced that it was developing Mental Health Teams, comprising of a mental health professional and an EMS crisis worker, to respond to 911 calls for mental health emergencies—a program also modeled on CAHOOTS.<sup>83</sup> The program, called the Behavioral Health Emergency Assistance Response Division, or B-HEARD, was piloted in

79 ABC7.com staff, “LA City Council approves plan to revamp LAPD with unarmed crisis response team,” *ABC7 Eyewitness News*, Oct. 15, 2020, <https://abc7.com/lapd-la-city-council-defund-the-police-nonviolent-911-calls/7027406/>.

80 CBS Los Angeles, “LAPD ‘Fully Supports’ City Council’s Vote To Move Forward With Plan To Use Unarmed Crisis Teams For Nonviolent 911 Calls,” CBS Los Angeles, October 14, 2020, <https://losangeles.cbslocal.com/2020/10/14/la-city-council-to-vote-wednesday-on-using-unarmed-crisis-teams-for-nonviolent-911-calls/>.

81 Josh Cain, “Suicide hotline replacing armed LAPD officers on some calls could expand to 24 hours,” *Los Angeles Daily News*, June 29, 2021, <https://www.dailynews.com/2021/06/29/suicide-hotline-replacing-armed-lapd-officers-on-some-calls-could-expand-to-24-hours/>; ABC7.com staff, “LA sees 12% spike in homicides: ‘Los Angeles is not alone in this trend,’ Mayor Garcetti says,” *ABC7 Eyewitness News*, Jan. 16, 2022, <https://abc7.com/lapd-crime-homicides-statistics/11476915/>.

82 ABC7.com staff, “LA sees 12% spike in homicides”; “Pilot Program in Venice Diverts Nonviolent Homeless Related 9-1-1 Calls to Outreach Teams,” *Westside Current*, Jan 11, 2022, [https://www.westsidecurrent.com/venice/pilot-program-in-venice-diverts-nonviolent-homeless-related-9-1-1-calls-to-outreach-teams/article\\_8192f112-7264-11ec-8ea6-4b32ce0f4037.html](https://www.westsidecurrent.com/venice/pilot-program-in-venice-diverts-nonviolent-homeless-related-9-1-1-calls-to-outreach-teams/article_8192f112-7264-11ec-8ea6-4b32ce0f4037.html).

83 “New York City Announces New Mental Health Teams to Respond to Mental Health Crises,” press release, Nov. 10, 2020, <https://www1.nyc.gov/office-of-the-mayor/news/773-20/new-york-city-new-mental-health-teams-respond-mental-health-crises>.

parts of Harlem in June 2021.<sup>84</sup> In the first month of the pilot, B-HEARD teams responded to 138 calls (approximately 25 percent of mental health emergency calls in that time period) and showed lower hospitalization rates and lower rates of instances of people refusing medical assistance as compared with traditional 911 responses.<sup>85</sup> Mayor de Blasio's proposed budget for FY 2022 included \$112 million in funding to expand the pilot citywide, but only \$2.8 million was allocated to the B-HEARD program in the final budget.<sup>86</sup> Although this program appears to be quite limited in scope, the city has additional non-police resources that could be integrated into the 911 system. The city currently operates 24 Mobile Crisis Teams composed of health professionals such as nurses, social workers, and psychiatrists who can provide a variety of mental health services.<sup>87</sup> The New York City Public Advocate has called for the city to integrate these teams into the 911 system and to improve their response time, so that they can respond to emergency calls.<sup>88</sup>

Some of these non-police models are framed as diversionary programs and used alongside co-responder programs. For example, in St. Louis, funding was approved for a 911 Diversion and Co-Responder program in October 2020, and the program took effect in 2021. This 911 diversion program trains 911 operators to identify calls that are better suited for behavioral health professionals and crisis intervention experts and field those calls to Behavioral Health Response, a nonprofit organization that provides 24-hour access to mental health services in St. Louis.<sup>89</sup> Police offices are dispatched only where there is a risk to public safety.<sup>90</sup>

Baltimore similarly plans to have some of its 911 calls diverted away from police.<sup>91</sup> The Baltimore 911 Diversion pilot program will dispatch mental health specialists for some 911 calls to help those in mental crises. This program relies on 911 dispatchers to determine whether police are needed or if behavioral health professionals can be sent instead.<sup>92</sup>

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84 Thomas Tracy, "NYPD still called in to help with police-free emergency mental health response teams," *New York Daily News*, June 24, 2021, <https://www.nydailynews.com/new-york/nyc-crime/ny-first-responders-pilot-program-call-police-20210624-w3n7z5v7tfhrno5t5vqfiwk4ty-story.html>.

85 New York City Mayor's Office of Community Mental Health, *B-HEARD, Transforming NYC's Response to Mental Health Crises: First Month of Operations*, flyer, <https://mentalhealth.cityofnewyork.us/wp-content/uploads/2021/07/B-HEARD-First-Month-Data.pdf> (last accessed September 20, 2021).

86 Cal Hedigan and Carla Rabinowitz, "De Blasio is on Right Track, But Mental Health Response Teams Need Crucial Changes to Really Work," *Gotham Gazette*, June 4, 2021, <https://www.gothamgazette.com/games-archive/130-opinion/10537-de-blasio-right-track-mental-health-response-police>; New York City Mayor's Office of Community Mental Health Budget, <https://mentalhealth.cityofnewyork.us/wp-content/uploads/2021/08/OCMH-Budget-Adopt-FY22.pdf> (last accessed September 20, 2021).

87 Jumaane Williams, *Improving New York City's Response to Individuals in Mental Health Crisis*, (NY: Public Advocate for the City of New York, 2019), <https://www.pubadvocate.nyc.gov/reports/improving-new-york-citys-responses-to-individuals-in-mental-health-crisis/>.

88 Williams, *Improving New York City's Response to Individuals in Mental Health Crisis*.

89 Brittany Nieto et al., "Addressing Community Violence in the City of St. Louis," *Giffords Law Center to Prevent Gun Violence*, Feb. 17, 2022, <https://giffords.org/lawcenter/articles/addressing-community-violence-in-the-city-of-st-louis-existing-strategies-gaps-and-funding-opportunities/>.

90 Christine Byers, "Calling 911 in St. Louis about to change for some in crisis," *KSDK*, Oct. 28, 2020, <https://www.ksdk.com/article/news/local/calling-911-in-st-louis-about-to-change-for-some-in-crisis/63-9276f898-8562-428d-8461-bbdb317cc43c>.

91 Joshua Skovlund, "Baltimore's New 911 Call Diversion Pilot Program: How It Will Work," *Coffee or Die Magazine*, May 20, 2021, <https://coffeedie.com/baltimore-911-call-diversion/>.

92 Phil Yacoboski, "Mayor Scott announces 911 diversion pilot program," *WBAL*, May 7, 2021, <https://www.wbal.com/article/513106/3/mayor-scott-announces-911-diversion-pilot-program>.

Other cities are taking a different approach. Rather than sending mental health professionals, they are dispatching trained civilians for minor, nonviolent offenses. For example, Fort Worth recently implemented a Civilian Response Unit, which currently consists of 10 civilians who are trained at the police academy and are tasked with responding to nonviolent calls such as those relating to abandoned cars, loose cattle, burglaries and credit card fraud, as well as other tasks traditionally done by police officers. The Civilian Response Unit is unarmed, and its members wear collared shirts with the city's logo rather than police uniforms and operate Civilian Response cars instead of patrol cars.<sup>93</sup>



While the non-police models show promise, and coordination between the alternative response units and existing emergency dispatch systems may increase their effectiveness, there is a need for independent, peer-reviewed studies on existing programs. Our research has not identified independent studies of the CAHOOTS program or other non-police models that quantify the benefits of the program or analyze their benefits relative to other models, including co-responder models. As cities deploy new programs, it will be important to devote the resources necessary to study and refine them.

<sup>93</sup> Scott Gordon, "Fort Worth Police to start Dispatching Civilians to some low-risk calls," *NBCDFW*, March 11, 2021, <https://www.nbcdfw.com/news/local/fort-worth-police-to-start-dispatching-civilians-to-some-low-risk-calls/2577292/>; Kim Roberts, "Fort Worth Police Department Forming Civilian Response Unit," *The Texan News*, October 5, 2020, <https://thetexan.news/fort-worth-police-department-forming-civilian-response-unit/>

## Recommendations

There are a range of policy options that can be implemented to help reduce incidents of force, brutality, and killing at the hands of law enforcement. Of these options, the development of non-police models are the ideal solution, but other alternatives, including the development of co-responder programs, can serve as a first step. Notably, these recommendations can be developed and implemented under the current system of policing, as the examples we have discussed show, or in a restructured Department of Public Safety:

1. Develop and deploy non-police models.

Where politically feasible, cities should consider developing and implementing a CAHOOTS-like model linked to the 911 system, where non-police teams serve as first responders. In certain cities, teams of qualified non-police responders like New York's Mobile Crisis Teams may already exist. In such situations, cities should consider integrating these teams into the 911 system, so that they serve a first response function in appropriate cases.

2. Develop new co-responder programs.

Co-responder models can meaningfully reduce unnecessary police interactions, helping to prevent the excessive use of force by police, reducing unnecessary incarceration, and ultimately offering fiscal savings. For these reasons, cities that have not yet implement co-responder models should consider developing and deploying them.

3. Optimize existing co-responder programs.

Co-responder models are most effective when they are supported by adequate resources and integrated effectively into the 911 system. Cities with co-responder models should optimize them by:

- a. adequately scaling co-responder programs, by ensuring that the number of teams in place is sufficient to meet community needs;
- b. ensuring that co-responder programs are available 24/7 and not just during certain shifts;
- c. integrating co-responder programs into the 911 system, and properly training 911 operators, so that calls are quickly and appropriately directed to CRTs; and
- d. developing appropriate support for CRTs, including triage desks with access to mental health records and other resources.

4. Study the efficacy of new models.

Limited data exists on the efficacy of co-responder programs and non-police models for responding to emergency calls. As jurisdictions implement and optimize these programs, it is essential that they set aside funds to collect data in order to refine and improve the programs. A particular focus should be the impact of co-responder programs and non-police models on communities that suffer disproportionately from police violence today, including Black Americans.

5. Augment social services to support community needs.

Any model for responding to emergency calls will ultimately fail if there are insufficient social services for people in need. Whether first responders are police officers or medical or mental health professionals, they cannot provide an effective response if they are not able to refer people appropriately to inpatient and outpatient clinics and other social services. For this reason, jurisdictions must take steps to augment the social services available to the mentally ill, substance abusers, the homeless, and others in need. Augmenting these services may have the added benefit of avoiding an emergency call to 911 altogether. As the New York City Public Advocate has observed, by investing in social services such as “respite care centers, mental health urgent care centers, drop-in centers for those with mental health concerns, and safe havens for people with concerns” it is possible to address issues “before they become crises that require a 911 call.”<sup>94</sup>



94 Jumaane Williams, *Improving New York City's Response to Individuals in Mental Health Crisis*.



## Section III: School Safety

Every day across the country, millions of students—disproportionately students of color—confront the specter of attending school in a quasi-police state. In 2016, police officers were present in 48 percent of America’s public and charter schools.<sup>95</sup> Two years later in 2018, it is estimated that 58 percent of schools have a police presence.<sup>96</sup> In some Southern and Mid-Atlantic states, over 90 percent of students attend a school patrolled by police officers. In the Midwest, Black and Latinx students are 20 percent more likely than their White peers to attend a policed school.<sup>97</sup>

The presence of an armed police presence among the nation’s children has had real and devastating consequences: between 2010 and 2018, there were 62 violent assaults on students by school police, including three students who were shot and killed.<sup>98</sup> Generations of Black and Latinx students must confront daily the reality that those nominally responsible for their protection might harm them in the institutions charged with their education.

School police officers have responded with outsized force to a broad range of routine student conduct, as mundane as using a cell phone in class,<sup>99</sup> attempting to use a bathroom without a pass,<sup>100</sup> attempting to break up a fight between other students,<sup>101</sup> and wearing a hood indoors.<sup>102</sup> In response to such minor infractions, students as young as six years old have been handcuffed and arrested,<sup>103</sup> choked to the point of



95 Lauren Musu-Gillette, et al., *Indicators of School Crime and Safety: 2017*, (Washington, DC: National Center for Education Statistics, 2017), 8, <https://nces.ed.gov/pubs2018/2018036.pdf>. Throughout this chapter, we use the term “school police officer” to reference any sworn officer stationed in a school setting. Also known as school resource officers, police in schools may be armed or unarmed. Some districts contract with the city or county police department, others have their own internal police department. Many school districts have police officers and additional security guards stationed in schools.

96 Chelsea Connery, “The Prevalence and the Price of Police in Schools,” UCONN Center for Educational Policy Analysis, August 27, 2020, <https://education.uconn.edu/2020/10/27/the-prevalence-and-the-price-of-police-in-schools/>.

97 Constance A. Lindsay, Victoria Lee & Tracey Lloyd, “The prevalence of police officers in US schools,” *Urban Institute*, June 21, 2018, <https://www.urban.org/urban-wire/prevalence-police-officers-us-schools>.

98 The Advancement Project, “We Came to Learn: A Call to action for Police-Free Schools,” slideshow, 2019, <https://advancementproject.org/wp-content/uploads/WCTLweb/index.html>.

99 Associated Press, “Deputy Who Tossed a S.C. High School Student Won’t Be Charged,” *New York Times*, Sept. 2, 2016, <https://www.nytimes.com/2016/09/03/afternoonupdate/deputy-who-tossed-a-sc-high-school-student-wont-be-charged.html>

100 Victor Fiorillo, “Video Captures Violent Encounter Between School Cop and Ben Franklin Senior,” *Philadelphia Magazine*, May 10, 2016, <https://www.phillymag.com/news/2016/05/10/video-ben-franklin-high-school-cop/>.

101 Martha Waggoner, “Student: Girl Slammed to Ground was Trying to Break Up Fight,” *APNews*, Jan. 4, 2017, <https://apnews.com/article/4bc1aadf31db4d4c9cb97892bbeaf77e>.

102 Stacy Jacobson, “Craigmont Resource Officer Resigns after Excessive Force Complaint,” January 13, 2020, <https://wreg.com/news/craigmont-resource-officer-resigns-after-excessive-force-complaint>.

103 Mihir Zaveri, “Body Camera Footage Shows Arrest by Orlando Police of 6-Year Old at School,” *New York Times*, Feb. 27, 2020, <https://www.nytimes.com/2020/02/27/us/orlando-6-year-old-arrested.html>.



unconsciousness,<sup>104</sup> beaten with batons,<sup>105</sup> punched in the head,<sup>106</sup> tased,<sup>107</sup> slammed into walls and on the ground,<sup>108</sup> cursed at and called names,<sup>109</sup> pepper sprayed,<sup>110</sup> kicked in the face, and threatened to be shot by police officers patrolling schools.<sup>111</sup> Parents and school principals attempting to intervene in officer misconduct have themselves, in some cases, been handcuffed, arrested, and placed in chokeholds.<sup>112</sup>

The scope of the problem is nationwide.

- In the 2019–2020 school year, Chicagoans filed 2,354 abuse of force complaints against officers assigned to Chicago public schools. One officer alone received 57 abuse of force complaints.<sup>113</sup>
- In an Orlando elementary school, a school police officer arrested a six-year-old girl, while she was listening to a teacher read a story, for kicking a staff member earlier in the day during a tantrum. Although the girl pleaded for help, the officer transported her to a juvenile assessment center for processing.<sup>114</sup>
- In South Carolina, a school police officer was called when a student refused to leave the classroom. He responded by grabbing the seated student, flipping her desk backward, dragging her out of her chair, and throwing her across the floor.<sup>115</sup>
- In California, a school police officer handcuffed and slammed a high school student to the ground after the student did not leave the school voluntarily when asked to do so.<sup>116</sup>

The data confirms that school police officers are, at best, ineffective in preventing violence in schools and, at worst, pose a grave threat to students—particularly students of color. There is little to no credible evidence that school police officers actually ensure school

104 Matthew Glowicki, "Video: Officer Hardin Chokes Child for 6 Seconds," *Courier Journal*, March 12, 2015, <https://www.courier-journal.com/story/news/crime/2015/03/12/video-officer-hardin-chokes-child-seconds/70228932/>.

105 Christopher Spata, "Video: Shows Police Officer Beating Middle School Student with Baton," *Complex*, Jan. 30, 2015, <https://www.complex.com/pop-culture/2015/01/watch-police-officer-beats-girl-baton-middle-school>.

106 Justin Fenton, "Jury Acquits Baltimore School Police Officer in Student Assault Caught on Tape," *Baltimore Sun*, Feb. 15, 2017, <https://www.baltimoresun.com/news/crime/bs-md-ci-school-officer-acquitted-20170215-story.html>.

107 E.A. Crunden, "Dallas School Police Tased a 7-year old, and then Body Slammed a 12 Year Old the Next Day," *Think Progress*, May 18, 2017, <https://archive.thinkprogress.org/dallas-police-schools-violence-kids-fd6cd565a8c0/>.

108 Julia Reinstein, "A Police Officer Who Slammed an 11-Year-Old to the Ground has Reportedly Been Fired," *Buzzfeed*, Dec. 16, 2019, <https://www.buzzfeednews.com/article/juliareinstein/school-resource-officer-slammed-middle-school-north-vance>.

109 The Advancement Project, "We Came to Learn."

110 Holly Ford, "Students Pepper-Sprayed During Fight at School: Dallas ISD Police," *NBC Dallas Fort Worth*, May 11, 2015, <https://www.nbcdfw.com/news/local/students-pepper-sprayed-during-fight-at-school-dallas-isd-police/1977604/>.

111 Daniel Figueroa, "Video of Pasco Deputy Threatening to Shoot a Student is Going Viral," *Tampa Bay Times*, Feb. 7, 2020, <https://www.tampabay.com/news/pasco/2020/02/07/video-of-pasco-deputy-threatening-to-shoot-a-student-is-going-viral/>.

112 Jennifer Medina, "Police Arrest a Student, then Her Principal too," *New York Times*, Oct. 10, 2007, <https://www.nytimes.com/2007/10/10/nyregion/10school.html>.

113 E.A. Crunden, "Dallas School Police Tased a 7-year old."

114 Mariel Padilla, Officer Under Investigation After Arresting 6-Year-Olds, Chief Says," *New York Times*, Sept. 22, 2019, <https://www.nytimes.com/2019/09/22/us/6-year-old-arrested-orlando-florida.html>.

115 Richard Fausset and Ashley Southall, "Video Shows Officer Flipping Student in South Carolina, Prompting Inquiry," *New York Times*, Oct. 26, 2015, <https://www.nytimes.com/2015/10/27/us/officers-classroom-fight-with-student-is-caught-on-video.html>.

116 Lyndsay Winkley, "Video of La Mesa Police Officer Throwing Handcuffed Teen to Ground Sparks Outrage," *Los Angeles Times*, Jan. 21, 2018, <https://www.latimes.com/local/lanow/la-me-ln-sd-la-mesa-officer-20180121-story.html>.

safety or stop the types of mass shootings which are often cited to justify their presence. At the same time, police violence against students in schools is well-documented, as are other detrimental effects of school police on student wellbeing, including facilitating the school-to-prison pipeline.

Police officers should be removed from schools and this investment should be reallocated to other proven resources that support the core educational mission of schools across the country.

## The Myth of School Policing as a Public Safety Tool

Fear, not evidence, has driven the increased presence of police in our schools. Proponents claim that officers are needed to prevent school shootings and suppress “rising” levels of crime. With every new school shooting, calls for additional police officers in schools increase. Yet, little attention is paid to the fact that school police officers have largely failed to prevent or stop deadly shootings at many schools.<sup>117</sup>

In its analysis of the 197 school shootings in the United States between 1999 and 2018, *The Washington Post* identified only two instances where a school officer intervened in a shooting<sup>118</sup>—only about 1 percent of school shootings. And there are stunning accounts of school police officers standing by while violence rampages. In 1999, six police officers, including one school police officer, waited for backup outside of Columbine High School in Denver, Colorado, as 34 children were killed or seriously injured.<sup>119</sup> In 2018, the school police officer assigned to Marjory Stoneman Douglas High School in Parkland, Florida remained outside the building during the entirety of a shooting that ultimately killed 17 students and staff.<sup>120</sup>

Beyond the threat of shootings, the notion of widespread violent activity and egregious misconduct by students are also cited to justify school police officers. But rates of violence committed by students (including assaults and other incidents without weapons) are at historic lows.<sup>121</sup> Several studies have analyzed the prevalence of crime in schools before and after school police officers were introduced. These studies found that schools that introduced police officers reported no fewer incidents of violent, nonviolent, or property-related crimes than schools that remained officer-free.<sup>122</sup> Students in schools with police officers also were not less likely than students in schools without officers to report

117 John Woodrow Cox and Steven Rich, “Armored School Doors, Bulletproof Whiteboard and Secret Snipers,” *Washington Post*, Nov. 13, 2018, <https://www.washingtonpost.com/graphics/2018/local/school-shootings-and-campus-safety-industry/>.

118 John Woodrow Cox and Steven Rich, “Scarred by School Shootings,” *Washington Post*, March 25, 2018, [https://www.washingtonpost.com/graphics/2018/local/us-school-shootings-history/?itid=ik\\_inline\\_manual\\_47](https://www.washingtonpost.com/graphics/2018/local/us-school-shootings-history/?itid=ik_inline_manual_47).

119 Mark Obmascik and David Olinger, “Two killers rampaged as 6 officers awaited aid,” *Denver Post*, May 16, 2000, <https://www.denverpost.com/news/col0516a.htm>.

120 Richard A. Oppel Jr. and Shreeya Sinha, “What Officials Say Scot Peterson Did Not Do During the Parkland School Shooting,” *New York Times*, June 4, 2019, <https://www.nytimes.com/2019/06/04/us/scot-peterson-video-footage-parkland-shooting.html>.

121 The National Center for Education Statistics reported an 80% decrease in victimizations at school between 1992 and 2018. “Fast Facts School Crime,” *National Center of Education Statistics*, <https://nces.ed.gov/fastfacts/display.asp?id=49#:~:text=The%20total%20victimization%20rate%20away,school%20than%20away%20from%20school>.

122 Nathan James and Gail McCallion, *School resource officers: Law enforcement officers in schools*, (Washington, DC: Congressional Research Service, 2013), 9; [www.fas.org/sqp/crs/misc/R43126.pdf](http://www.fas.org/sqp/crs/misc/R43126.pdf)

“that they were victims of a serious violent offense, believe they were at risk of being victimized, or were afraid of being victimized.”<sup>123</sup>

## Studies show that placing police in schools has no impact on incidents of violent, non-violent, or property-related crimes.

Further, as in many other facets of American life, race is often the best predictor of school police presence. Schools with a predominantly White student body are significantly more likely to experience a school shooting during school hours and have suffered more shootings and deadlier shootings than schools that are majority-minority. Yet, Black and Latinx students are more likely to attend schools with an armed police presence.<sup>124</sup> Most often, school districts affected by school shootings do not add more police after an incident. Rather it is school districts that “weren’t affected by mass shootings, but broadly believe in the criminality of students of color” that increase the presence of school police.<sup>125</sup>

### **School Police Officers Fuel the School-to-Prison Pipeline**

The prevalence of police officers in America’s schools has effects well beyond the violent assaults to which school children have been subject. More police in schools also results in the criminalization of student misbehavior, which data reveals “might result in more children either being suspended or expelled or entering the criminal justice system for relatively minor offenses.”<sup>126</sup> This premature interaction between students and law enforcement, often based on modest infractions, speeds the move of students into ever more consequential levels of the criminal justice system.

Black and Latinx children disproportionately suffer the harshest treatment from school police officers, driven in part by school police officers’ perception of their roles relative to these students: studies show that officers in predominantly Black schools perceive their roles as

<sup>123</sup> James and McCallion, “School resource officers,” 10.

<sup>124</sup> Christina Walker, “10 Years. 180 School Shootings. 356 Victims,” *CNN*, last visited Nov. 2, 2020, <https://www.cnn.com/interactive/2019/07/us/ten-years-of-school-shootings-trnd/>.

<sup>125</sup> Jack Denton, “When Schools Increase Police Presence, Minority Students are Harmed Disproportionately,” *Pacific Standard*, Feb. 15, 2019, <https://psmag.com/education/after-parkland-schools-upped-police-presence-has-it-made-students-safer>.

<sup>126</sup> Nathan James and Kyrie E. Dragoo, *School resource officers: issues for Congress*, (Washington, DC: Congressional Research Service, 2018), 12

protecting themselves and the school from internal threats, that is, the students; by contrast, officers in predominantly White schools want to protect students from external threats.<sup>127</sup>

Even worse, officers target students for minor infractions that results in arrests. Several studies have shown that school-based arrests “frequently are based on behaviors that, if not for the police presence, would not normally result in an arrest.”<sup>128</sup> In some districts, more than half of the students arrested are charged with “public order offenses, such as ‘disorderly conduct,’ disturbing lawful assembly and ‘violating codes of conduct.’”<sup>129</sup> The Oakland-based Black Organization Project found that most requests for police response were for “non-criminal conduct” or “other service calls,” rather than for serious or violent behavior. The data also showed that Black and Latinx youth were arrested and disciplined at disproportionate rates, with Black male students six times more likely to be arrested than any other male student.<sup>130</sup> Moreover, the United States Department of Education found that Black students are “2.2 times as likely to receive a referral to law enforcement or be subject to a

## DISPARITY IN SCHOOL DISCIPLINE & ARRESTS



Black male students are 6X more likely to be arrested than other male students.

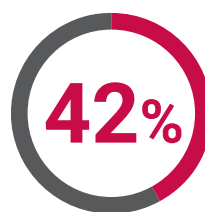


Black students are 2.2X more likely to be referred to law enforcement or subject to school-based arrests in comparison to White students.

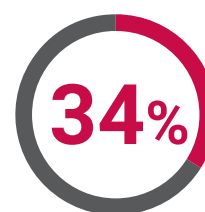
In 2011–2021, Black students were 16% of the U.S. school population, but 32% of those who received in-school suspensions, 42% of those who received out-of-school suspensions, and 34% of expelled students.



IN-SCHOOL  
SUSPENSIONS



OUT-OF-SCHOOL  
SUSPENSIONS



EXPULSED  
STUDENTS

127 Benjamin W. Fisher et al., “Protecting the Flock or Policing the Sheep? Differences in School Resource Officers’ Perceptions of Threats by School Racial Composition,” *Societal Problems* (forthcoming), <https://bloximages.newyork1.vip.townnews.com/wdrb.com/content/tncms/assets/v3/editorial/3/f7/3f747220-a799-11ea-8fa3-530325843586/5edaf8b93b572.pdf.pdf>.

128 Robin L. Dahlberg, *Arrested futures: The Criminalization of School Discipline in Massachusetts’ Three Largest School Districts*, (Boston: ACLU Massachusetts, 2012), <https://www.aclum.org/sites/default/files/wp-content/uploads/2015/06/reports-arrested-futures.pdf>.

129 Dahlberg, *Arrested Futures*.

130 Jacquelyn Byers et al., *From Report Card to Criminal Record: The impact of Policing Oakland Youth*, (Oakland: Black Organizing Project and ACLU of Northern California, 2013), 17, <http://www.blackorganizingproject.org/wp-content/uploads/2013/11/FromReportCardtoCriminalRecordImpactofPolicingOaklandYouthFinalVer.pdf>.

school-related arrest as White students,” even controlling for other variables such as neighborhood crime rates and socioeconomic status.<sup>131</sup>

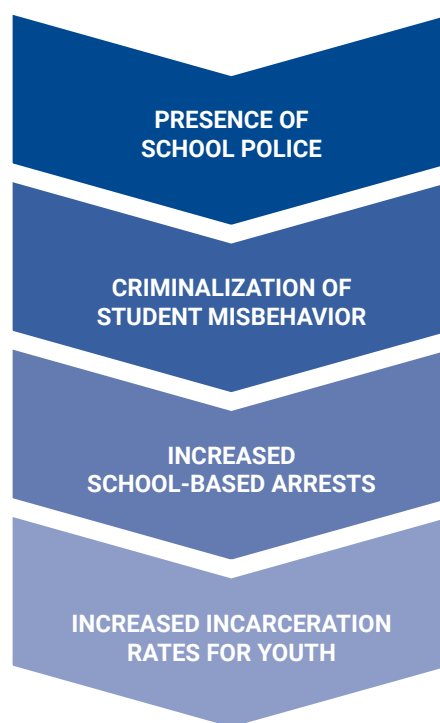
Arrests are not the only disproportionate disciplinary response Black and Latinx students suffer from interacting with school police officers. During the 2011-2012 school year, Black students were 16 percent of the total school population in the United States. Yet, Black students comprised 32 percent of students who received an in-school suspension, 42 percent of those who received out-of-school suspensions, and 34 percent of expelled students.<sup>132</sup> These disciplinary trends

are also associated with school police presence. For example, a 2018 study of Texas schools found that schools which received federal funding to support police saw a 6 percent rise in discipline rates, with a disproportionate impact on low-income Black and Latinx students.<sup>133</sup>

It is well documented that students who are suspended from school are less likely to graduate and more likely to be incarcerated as adults.<sup>134</sup> Moreover, researchers from Boston University, Harvard University, and the University of Colorado found that a student who attends a school that suspends students just 1 percent more than the average rate of suspensions is 15 to 20 percent more likely to be incarcerated as an adult, even if the student was not suspended from school.<sup>135</sup> Therefore, while police officers contribute to an already overly punitive disciplinary system in our schools, they also contribute to the school-to-prison pipeline.

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**Presence of police in schools feeds the  
SCHOOL TO PRISON PIPELINE**



131 US Department of Education, “2013-2014 Civil Rights Data Collection: A First Look,” Oct. 28, 2016, <https://www2.ed.gov/about/offices/list/ocr/docs/2013-14-first-look.pdf>. A study by the American Bar Association also found that Black students constituted 27% of students referred to law enforcement, and 31% of students arrested in school. ABA Coalition on Racial & Ethnic Justice, “ABA Task Force on Reversing the School-to-Prison Pipeline: Report, Recommendations and Preliminary Report,” *American Bar Association*, Jan. 2018, <https://scholarship.law.ufl.edu/facultypub/750/>

132 ABA Coalition on Racial & Ethnic Justice, “ABA Task Force on Reversing the School-to-Prison Pipeline.”

133 Emily K. Weisburst, “Patrolling Public Schools: The Impact of Funding for School Police on Student Discipline and Long-term Educational Outcomes,” *Journal of Analysis and Management*, February 2019, <https://doi.org/10.1002/pam.22116>

134 D. Mark Anderson, “In school and out of trouble? The minimum dropout age and juvenile crime.” 96 no. 2 *Review of Economics and Statistics*, (2014).

135 Andrew Bacher-Hicks, Stephen B. Billings, and David J. Deming, “The School to Prison Pipeline: Long-Run Impacts of School Suspensions on Adult Crime,” *National Bureau of Economic Research*, (June 2020), [http://conference.nber.org/conf\\_papers/f143527.pdf](http://conference.nber.org/conf_papers/f143527.pdf).

## *Policing in Schools Hinders Achievement for Black and Latinx Students*

Even if students manage to avoid being targeted for minor misbehavior, the presence of police officers in schools may negatively affect student achievement. A study published in the *American Sociological Review* found a causal relationship between increased police presence and significantly lower test scores among African American boys, with the size of the disparity increasing with the student's age.<sup>136</sup> A 2018 study of Texas schools similarly found that a school's receipt of a federal grant for school police for just three years "reduces the likelihood of [students] ultimately enrolling in college by 4 percent and the likelihood of [students] enrolling in a four-year college by 7 percent" and is associated with a 2.5 percent decrease in high school graduation rates.<sup>137</sup>

Although officers may view their role as "educators, legal resources, security, law enforcers, disciplinarians, counselors, role models and mentors," students hold a vastly different view.<sup>138</sup> A 2017 study of several large California school districts assessed students' perception of the police, including police in schools. The survey asked, among other things, whether students trust the police, whether police make students feel safer, and whether the police "help to reduce crime and improve safety." Nearly 60 percent of Black students and 46 percent of Latinx students reported that officers either do not make them feel safe at all or only make them feel "a little" safer. Strikingly, only 16 percent of Black students reported that the statement "I feel safer with the officer at school" was "very much true" compared to 34 percent of White students.<sup>139</sup> In other surveys, students responded that police are "looking for any little reason to send [students] to juvie," that police harass students, and that they "always assume [students] are doing something [wrong]."<sup>140</sup>

The presence of police officers in schools may also activate a phenomenon Stanford psychologist Claude Steele termed "stereotype threat."<sup>141</sup> In one of many replicated experiments, Steele administered complicated verbal tests to two groups of students. The first group simply received the test. The second group received the test along with a prompt that Blacks generally underperform on these types of tests. Black students in the first group scored comparably with Whites in the group and the results showed no evidence of the racial achievement gap. The test scores of Black people in the second group were significantly lower than the scores of White people. Steele found that, when prompted to consider societal expectations, the student experiences anxiety and their performance is negatively impacted,

136 Joscha Legewie and Jeffrey A. Fagan, "Aggressive Policing and the Education Performance of Minority Youth," 84 no. 220. *American Sociological Review*, (2018). [https://scholarship.law.columbia.edu/cgi/viewcontent.cgi?article=3319&context=faculty\\_scholarship](https://scholarship.law.columbia.edu/cgi/viewcontent.cgi?article=3319&context=faculty_scholarship).

137 Weisburst, "Patrolling Public Schools."

138 Lawrence F. Travis III and Julie K. Coon, *The Role of Law Enforcement in Public School Safety: A National Survey*, (Washington, DC: US Department of Justice, 2005), 9.

139 Jonathan Nakamoto, Rebeca Cerna, and Alexis Stern, "High School Students Perceptions of Police Vary by Student Race and Ethnicity," *West Ed*, <https://www.wested.org/wp-content/uploads/2019/05/resource-high-school-students-perceptions-of-police.pdf>.

140 Byers et al., *From Report Card to Criminal Record*.

141 C.M. Steele and J. Aronson, "Stereotype Threat and the Intellectual Test Performance of African Americans," no. 69 *Journal of Personality and Social Psychology*, (Nov. 1995), 797, <https://pubmed.ncbi.nlm.nih.gov/7473032/>.



even if the student does not believe the stereotypes.<sup>142</sup> The mere presence of school police officers can serve as a reminder for minority students, especially Black boys, that society perceives them as guilty until proven innocent or as hostile threats.<sup>143</sup>

### **School Policing Is a Costly Mistake that Drains Resources**

Schools across the country continue to invest disproportionately in police and security at the expense of important school services, despite evidence that school police do not reduce violence in schools.<sup>144</sup> At the same time, students lack access to resources, including mental health services, which are known to improve school safety. As of 2020, 1.6 million students attend a school with a police officer but no counselor; six million are in a school with police and no psychologist; and 10 million are in schools with police but no social worker.<sup>145</sup>

This tradeoff has real-world consequences for students. A 2019 American Civil Liberties Union (ACLU) report on mental health resources in schools notes that “school-based mental health providers improve school climate and other positive outcomes for students,” including health outcomes and school safety.<sup>146</sup> Schools with mental health providers also see “improved attendance rates, lower rates of suspension and other disciplinary incidents, lower rates of expulsion, improved academic achievement and career preparation, and improved graduation rates.”<sup>147</sup> Yet 52 percent of public schools cited lack of funding as a significant limiting factor in their ability to provide mental health services.<sup>148</sup> While federal grant money has incentivized spending on school police for decades,<sup>149</sup> these funding priorities are also set at the local level, where city councils and school boards have agency to reallocate spending

142 Steele and Aronson, “Stereotype Threat and the Intellectual Test Performance of African Americans.”

143 Melissa Gomez, “Pomona School District Defunds Police, Reimagines School Safety,” *Los Angeles Times*, July 2, 2021, <https://www.latimes.com/california/story/2021-07-02/pomona-unified-defund-school-police>. Gomez quotes one student expressing that “[s]tudents become conditioned to believe that they’re doing something wrong or in a place where something bad is happening” when they see an officer on campus.” See also Kate Hamaji and Kate Terenzi, *Arrested Learning: A survey of youth experience of police and security at school*, (Brooklyn: Center for Popular Democracy, 2021), [https://www.populardemocracy.org/sites/default/files/Police-Free+Schools+Final+V4+\(1\).pdf](https://www.populardemocracy.org/sites/default/files/Police-Free+Schools+Final+V4+(1).pdf).

144 This is discussed in the earlier section, *The Myth of School Policing as a Public Safety Tool*, on page 40.

145 Amir Whitaker et al., *Cops and No Counselors: How the Lack of School Mental Health Staff is Harming Students*, (New York: ACLU, 2019), [https://www.aclu.org/sites/default/files/field\\_document/030419-acluschooldisciplinereport.pdf](https://www.aclu.org/sites/default/files/field_document/030419-acluschooldisciplinereport.pdf).

146 Whitaker et al., *Cops and No Counselors*, citing Richard E. Cleveland and Christopher A. Sink, “Student Happiness, School Climate, and School Improvement Plans: Implications for School Counseling Practice,” *Professional School Counseling* (2018), <https://doi.org/10.1177/2156759X18761898>

147 Whitaker et al., *Cops and No Counselors*, citing Kevin Tan, et al., “The Impact of School Social Workers on High School Freshman Graduation Among the One Hundred Largest School Districts in the United States,” *School Social Work Journal*, (2015), <https://eric.ed.gov/?id=EJ1207098>.

148 National Center for Education Statistics, U.S. Department of Education, and Bureau of Justice Statistics, Office of Justice Programs, U.S. Department of Justice, *Indicators of School Crime and Safety: 2019*.

149 Megan French-Marcelin et al., *Bullies in Blue: The Origins and Consequences of School Policing*, (New York: ACLU, 2017), [https://www.aclu.org/sites/default/files/field\\_document/aclu\\_bullies\\_in\\_blue\\_4\\_11\\_17\\_final.pdf](https://www.aclu.org/sites/default/files/field_document/aclu_bullies_in_blue_4_11_17_final.pdf). “The 160 awards announced today can be used for coordination with law enforcement; training for local law enforcement officers to prevent student violence; metal detectors, locks, lighting, and other deterrent measures; technology for expedited notification of local law enforcement during an emergency; and other measures that provide a significant improvement in security;” Department of Justice, “Department of Justice Awards Nearly \$50 Million in Grants to Improve School Safety,” press release, Sept. 10, 2020, <https://www.justice.gov/opa/pr/departments-justice-awards-nearly-50-million-grants-improve-school-safety>. Department of Justice, “Department of Justice Awards Hiring Grants for Law Enforcement and School Safety Officers,” press release, Sept. 27, 2013, <https://www.justice.gov/opa/pr/departments-justice-awards-hiring-grants-law-enforcement-and-school-safety-officers> (including \$45 million to fund new school police positions); Lawrence L. Knutson, “Clinton Pledges Funds to Add Police to Schools,” *Los Angeles Times*, April 16, 2000, <https://www.latimes.com/archives/la-xpm-2000-apr-16-mn-20323-story.html>.

in the annual budget to other services for students but continue to allocate considerable resources to policing.<sup>150</sup>

Many of the school districts with the largest Black populations spend millions more on police officers than they do on student support services. For example, over 84 percent of the student body population in Houston Public Schools is Black and/or Latinx.<sup>151</sup> The Houston School District maintains its own police department with a force of more than 200 officers (roughly one officer per 1,000 students), at a cost of nearly \$10 million in the 2019–2020 school year. Meanwhile, as of 2018, the district had one school counselor per 1,100 students.<sup>152</sup> Indeed, no state containing one of the Key Metro Areas meets the American School Counselor Association recommended ratio of one counselor per 250 students.<sup>153</sup>



Schools also fail to provide other critical mental health and support services for students. In Chicago, where the public school system maintains a \$33 million contract with the police department, the district fell far short of the recommended number of psychologists and social workers.<sup>154</sup> While the National Association of School Psychologists recommends a 1 to 700 ratio for school psychologists, during the 2017–2018 school year, Chicago schools had

150 For example, the Mayor of Portland, Oregon's decision to disband the school officer program in Portland Public Schools and reallocating the \$1 million spent on that program using a "community-driven process." Blair Stenvick, "Update: Portland School District to End Regular Police Presence in Schools," *Portland Mercury*, June 4, 2020, <https://www.portlandmercury.com/blogtown/2020/06/04/28506054/portland-school-district-to-end-regular-police-presence-in-schools>.

151 *HISD at a Glance*, HISD, <https://www.houstonisd.org/domain/7908> (last visited March 4, 2022).

152 Laura Isensee, "Advocates Urge HISD to Disband School Police Force," *Houston Public Media*, June 8, 2020, <https://www.houstonpublicmedia.org/articles/news/education-news/2020/06/08/375369/advocates-urge-houston-school-district-to-disband-school-police-force>.

153 Only two states, Vermont and New Hampshire achieved that goal in 2019. Emily Tate, "Student-to-Counselor Ratios are Dangerously High. Here's How Two Districts Are Tackling It," *EdSurge*, Sep. 19, 2019, <https://www.edsurge.com/news/2019-09-19-counselor-to-student-ratios-are-dangerously-high-here-s-how-two-districts-are-tackling-it>.

154 This does not include allocation of resources to settle police misconduct on school grounds, which totaled over \$2 million in 2017 alone. The Advancement Project, "We Came to Learn," 49.

one psychologist per 1,760 students.<sup>155</sup> Similarly, the National Association of Social Workers recommends a one to 250 ratio generally, and a one to 50 ratio for students with intensive needs.<sup>156</sup> Chicago public school students, 78 percent of which come from low-income families and 89 percent of which are people of color, had to make do with one social worker per 1,238 students. Moreover, that same school year, there were only 128 librarians district-wide in a system of 360,000 students. The majority of schools without librarians were located in the areas with majority-minority populations. On average, each public school in Chicago had a nurse on site only one day a week. All of these failings have been blamed on budget shortfalls.<sup>157</sup>

\* \* \*

The concept of school safety needs reimagining. Removing officers from schools is a starting point to reconstruct the model of school safety so that students feel safe and supported. Harsh disciplinary policies must be replaced with student-centered programs which have been shown to reduce suspensions and the number of students arrested or referred to law enforcement. Reallocating resources spent on school policing programs to mental health resources and proven behavioral intervention programs like restorative justice programs should work to strengthen community bonds in schools, boost academic achievement, help address disciplinary issues, and reduce the frequency of interactions between students and law enforcement.

## Addressing Policing in Schools

Currently, there is a police presence in every public school district in the Key Metro Areas. These districts either have their own school district police department, a contract with the city or county's police department, or both. As a result, students in these metro areas (like many other students across the country) are subject to multiple layers of policing: the armed city or county police, school police officers, and often school security guards. These added layers of policing have not only led to increased rates of suspensions and expulsions, particularly among students of color, but have also caused physical harm to students, including death. Although a number school districts in the Key Metro Areas and beyond have begun to experiment with proposals that stop short of removing police from schools, none have fully removed police presence in schools.<sup>158</sup>

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155 CTU Education Policy Department, "Schools Chicago's Students Deserve 2018: PSRPs, Clinicians, Counselors and Librarians," Chicago Teachers Union, Oct. 18, 2018, <https://www.ctulocal1.org/chicago-union-teacher/2018/10/schools-chicagos-students-deserve-2018-psrps-clinicians-counselors-and-librarians/>

On the discussion of the National Association of School Psychologists' recommendation, see Amir Whitaker, et al, *Cops and No Counselors: How the Lack of School Mental Health Staff is Harming Students* (New York: ACLU, 2019), <https://www.aclu.org/issues/juvenile-justice/school-prison-pipeline/cops-and-no-counselors>.

156 National Association of Social Workers, NASW Standards for School Social Work Services, 2012, <https://www.socialworkers.org/LinkClick.aspx?fileticket=1Ze4-9-0s7E%3D&portalid=0>.

157 CTU Education Policy Department, "Schools Chicago's Students Deserve 2018."

158 Dana Goldstein, "Do Police Officers Make Schools Safer or More Dangerous?" *New York Times*, June 20, 2020, <https://www.nytimes.com/2020/06/12/us/schools-police-resource-officers.html> (discussing efforts to remove officers from schools in Minneapolis, Seattle, Portland, Oakland, and Denver).

Outside of the Key Metro Areas, however, a limited number of school districts have removed school police officers and moved toward approaches to school safety that emphasize community participation, student health services, and conflict resolution programs.

Below, we describe the varying approaches to addressing the issues arising from the presence of police in schools: (1) complete removal of police and refocusing on other tools for school discipline; (2) reducing budgets for school policing; and (3) the creation of separate school district police departments. Additional information about the presence of police officers, school resource officer (SROs), and/or security guards in public school systems located in Key Metro Areas can be found in Appendix B on page 157.

### *Remove Police and Refocus Resources*

Only one of the 20 Key Metro Areas has made substantial progress toward complete removal of police officers from schools. In June 2020, the Oakland School Board voted to remove the so-called Oakland Schools Police.<sup>159</sup> The Black Organizing Project, which had a prominent role in the effort to make Oakland Schools police-free, articulated a number of proposals for alternatives to school policing, many of which are at the vanguard of the initiatives to end police in schools, including:

### *Elimination of Zero-Tolerance Disciplinary Policies*

- Implementation of evidence-based alternative disciplinary models including positive behavior interventions and restorative justice programs, both found to decrease “incidents of violence, assault, and disorderly conduct” in schools more effectively than law enforcement.<sup>160</sup>
- Emphasis on the importance of retaining unarmed security personnel, who often hail from the community, and repurposing the security office into a Climate and Culture Unit, which would train employees in “culturally relevant de-escalation, alongside restorative justice principles and transformative policies.”
- Increasing collaboration between the Climate and Culture Unit and behavioral and mental health staff in order to address mental health needs with appropriate resources rather than criminal or disciplinary responses.

Although such programs are relatively new, the data suggests that removing school police officers and replacing them with non-law enforcement personnel, including unarmed safety monitors, result in no detrimental impacts on school safety.<sup>161</sup> For example, a case study of restorative justice programs in Pennsylvania schools found that one school—which had been

<sup>159</sup> Katie Reilly, “Oakland is Disbanding its School Police Force as George Floyd’s Death Drives the Push for Police-Free Schools,” *Time*, June 25, 2020, <https://time.com/5859452/oakland-school-police/>.

<sup>160</sup> Jacquelyn Byers et al., *From Report Card to Criminal Record*.

<sup>161</sup> Mark Blinch, “Activists Applaud Decision to Remove Police Officers from Toronto Schools,” *The Globe & Mail*, Nov. 23, 2017, <https://www.theglobeandmail.com/news/toronto/activists-applaud-decision-to-remove-police-officers-from-toronto-schools/article37066737/>.

considered “persistently dangerous”—experienced a “60 percent decrease in assaults on students and a 72 percent decrease in incidents of disorderly conduct” after implementing restorative justice practices.<sup>162</sup> In Toronto, Canada, despite initial concerns with the board’s decision to remove police, a representative from the district’s teachers union reported that the removal of officers did not lead to an increase in “negative” behavior. Instead, school officials reported that suspensions decreased by 25 percent and expulsions were cut in half.<sup>163</sup>

The ability to collect data on police activity in schools has served as an important factor in those districts that have successfully removed police from schools. In Oakland, activists worked for years to gather evidence of troubling police activity in schools. Activists reported that the inclusion of data helped bolster the accounts that students were already sharing, but which did not receive attention from the city’s board of education.<sup>164</sup>

### *Reducing Budgets for School Policing*

Some school districts have stopped short of removing police officers from schools, but have responded to criticism of school police programs by reducing the budget for school police and reserving those funds for other student services. For example, in July 2020, the Los Angeles Board of Education voted to cut the police department’s funding by 35 percent, or about \$25 million, and vowed to divert those funds to a newly established task force to reexamine school safety and hire supporting staff.<sup>165</sup> Similar measures have been proposed in other districts across the country, amid assertions by community members and teachers that funds would be better spent on counselors, health resources for students, and educational needs.<sup>166</sup>

### *School Police Departments and Kinder, Gentler School Policing*

Some districts have created their own district police departments as a specialized force intended to be more responsive to student issues and needs. Proponents of creating school-specific police forces argue that this structure permits officers to focus on the unique nature of the school setting and youth issues and, by extension, is preferable to relying on city or local police.<sup>167</sup>

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<sup>162</sup> Justice Policy Institute, *Education Under Arrest: The Case Against Police in Schools* (Washington, DC: Justice Policy Institute, 2011), 28, citing a 2009 International Institute for Restorative Practices study, [http://www.justicepolicy.org/uploads/justicepolicy/documents/educationunderarrest\\_fullreport.pdf](http://www.justicepolicy.org/uploads/justicepolicy/documents/educationunderarrest_fullreport.pdf) (citing a 2009 International Institute for Restorative Practices study).

<sup>163</sup> Kalyn Belsha, “Canada’s Largest School District Ended Its Police Program. Now Toronto May Be an Example for U.S. Districts Considering the Same,” *Chalkbeat*, June 19, 2020, <https://www.chalkbeat.org/2020/6/19/21297248/toronto-canada-ended-school-police-program-example-for-united-states-school-districts>.

<sup>164</sup> Interview with Black Organizing Project, Oct. 6, 2020.

<sup>165</sup> Brendan O’Brien, “L.A. School Board Cuts Police Department’s Budget,” *Reuters*, July 1, 2020, <https://www.reuters.com/article/us-usa-losangeles-schools-police/l-a-school-board-cuts-police-departments-budget-idUSKBN2427JQ>.

<sup>166</sup> Vernal Coleman, “Protesters Call for City to Reallocate Police Funding, Remove Officers from Schools,” *Boston Globe*, June 10, 2010, <https://www.bostonglobe.com/2020/06/10/metro/protesters-call-city-reallocate-police-funding-remove-police-schools/>.

<sup>167</sup> The article quotes the former president of the Massachusetts Association of Law Enforcement Officers as stating, “If you got rid of the school police, [you’re] always going to dial 911 when there’s a problem at the school...Would you rather have someone respond who has a working relationship with that school? Or someone with very limited resources and time to deal with that particular situation?” Milton J. Valencia and Meghan E. Irons, “Amid Nationwide Movement to Reform Policing, Some Call on Boston to Remove Officers from Schools,” *Boston Globe*, June 16, 2020, <https://www.bostonglobe.com/2020/06/16/metro/amid-protests-focus-turns-police-boston-schools>.

Notwithstanding their adoption in school districts across the country, these school district police departments often present similar opportunities for abuse. “Specialization” has not prevented many of the most egregious instances of misconduct against students.<sup>168</sup>

There is also reason to be concerned about the types of officers who make up school district police departments and those from local departments who are assigned to schools. For example, in 2017 journalists reported that a number of officers hired by the Cleveland Metropolitan School District had previously resigned from other law enforcement positions to avoid termination for serious charges, such as harassment, sexual battery, kidnapping, and felonious assault with a firearm.<sup>169</sup> Reporters in Chicago documented similar concerns—two police officers assigned to the city’s schools had killed teenagers off duty and one had been sued for beating a minor.<sup>170</sup> An investigation by the *Atlanta Journal Constitution* into the Atlanta Public Schools Police Department found that 17 percent of school district police officers had been fired or investigated at prior jobs, more than twice the rate of officers working in city and county police departments.<sup>171</sup> In 2018, investigations found that one-quarter of Atlanta school police officers cheated on a mandatory open-book test, school police dispatchers were sleeping on the job,<sup>172</sup> and that school police missed four recent break-ins at schools.<sup>173</sup> In 2019, a public feud erupted between school police and the city police force over the alleged attempted abduction of a child on school property. The Atlanta Police Department called the school police’s response “laughable” and “grossly inadequate.”<sup>174</sup>

## Recommendations

### Long-Term Policy Recommendations

The following are *long-term* policy recommendations for complete removal of police from schools.

1. Remove police officers (both local police and/or school district officers) from schools.

The precise mechanism for doing so will vary from district to district, but considerations should include: (1) whether there is a contract with local police or an internal department; (2) whether laws mandate police presence in schools; and (3)

168 E.A. Crunden, “Dallas School Police Tased a 7 Year Old, and then Body Slammed a 12 Year Old the Next Day,” *Think Progress*, May 18, 2017, <https://archive.thinkprogress.org/dallas-police-schools-violence-kids-fd6cd565a8c0/>

169 Carl Monday, “Criminals, Questionable Cops Hired by Public School to Protect Students,” *19 NEWS*, Feb. 14, 2017, <https://www.cleveland19.com/story/34504936/criminals-questionable-cops-hired-by-public-school-to-protect-students-a-carl-monday-investigation>.

170 Uana Kunichoff, “Police in Chicago Public Schools Operate with No Special Training and Little Oversight,” *Chicago Reader*, Feb. 1, 2017, <https://www.chicagoreader.com/chicago/police-public-schools-cpd-cps-misconduct-training/Content?oid=25347810>.

171 Patti DiVincenzo, “1 in 6 school district officers in Georgia have troubled pasts,” *WSB-TV*, May 22, 2017, <https://www.wsbtv.com/news/2-investigates/2-investigates-15-of-school-district-officers-in-georgia-have-troubled-pasts/524380270/>.

172 Richard Belcher, “Another cheating scandal: APS police chief disciplines 17 officers, dispatcher,” *WSB-TV*, Jan. 3, 2018, <https://www.wsbtv.com/news/2-investigates/another-cheating-scandal-aps-police-chief-disciplines-17-officers-dispatcher/648783488/>.

173 “Investigation finds APS missed 4 recent break-ins,” *WSB-TV*, Feb. 23, 2018, [https://www.wsbtv.com/2018/02/23/investigation-finds-aps-police-missed-4-recent-break-ins/?\\_website=cmg-tv-10010](https://www.wsbtv.com/2018/02/23/investigation-finds-aps-police-missed-4-recent-break-ins/?_website=cmg-tv-10010).

174 Jonathan Carlson, APD calls APS police response to attempted abduction “laughable,” *CBS 46*, Oct. 10, 2019, [https://www.cbs46.com/investigations/exclusive-apd-calls-aps-police-response-to-attempted-abduction-laughable/article\\_cd31137a-eba6-11e9-b4aa-8fe2ecd5134a.html](https://www.cbs46.com/investigations/exclusive-apd-calls-aps-police-response-to-attempted-abduction-laughable/article_cd31137a-eba6-11e9-b4aa-8fe2ecd5134a.html).



who holds decision-making power with respect to stationing police officers in schools within the district.

2. Replace police officers with unarmed peacekeeping personnel, who hail from the community.

This entails restructuring the security apparatus within schools and retraining security personnel (unarmed security guards rather than police officers) on conflict resolution, de-escalation, and mental health. Community members, students (or parents, if students are too young), and educators should be included in the hiring process and hold votes on each school's hiring committee. This restructuring mirrors the broader restructuring of municipalities' approaches to public safety contemplated in cities like Ithaca and Brooklyn Center described elsewhere in this report.

3. Replace zero-tolerance disciplinary policies with community- and student-based programs, positive behavior intervention practices, and restorative justice programs.
4. Shift school safety culture from the practice of involving police in response to common student behaviors to alternative methods of solving conflicts. School administrators and teachers must also be trained on new policies, disciplinary changes, and expectations around police involvement.
5. Redirect funding from employing officers to peacekeeping personnel, restorative justice programs, and other student services and programs.

## HOW TO REMOVE POLICE FROM SCHOOLS

- **Remove police officers** (both local police and/or school district officers) from schools.
- **Replace police officers** with unarmed peacekeeping personnel from the community.
- **Replace zero-tolerance disciplinary policies** with community and student-based programs, positive behavior intervention practices, and restorative justice programs.
- **Redirect funding** from employing officers to peacekeeping personnel, restorative justice programs, and other student services and programs.

## ***Interim Goals on the Path to Removal***

The following are *interim solutions* to mitigate the harms of school policing as efforts are made to completely remove officers from schools. Although we have termed these policies interim goals, many of these policies should continue to be employed even if school police officers are removed from schools.

1. Implement school board policies governing the district's disciplinary policies and relationship with law enforcement.

Policies should limit the circumstances under which teachers or administrators can call police, such as prohibiting police calls due to "disorderly conduct" and requiring school officials to exhaust other alternatives prior to calling the police for less serious school-based offenses, such as possession of alcohol or more minor physical altercations. Alternatives can include referrals to counseling, restorative justice programs, or mediation.

2. Create district-wide guidelines to limit the circumstances under which arrests can be made on campus.

Guidelines should take into account whether: (1) the arrest relates to prior conduct that occurred off school property and does not; (2) there is an imminent threat to public safety; and (3) the officer can use other means.

3. Create a process for reviewing a school's compliance with new policies.

When evaluating compliance, consider: (1) whether the school offered any training to teachers and staff regarding the new policies, (2) what types of situations for which teachers/administrators in fact called the police, to identify actions contrary to policy or patterns indicating circumvention of the policy, and (3) whether police are called for "policing" needs or simply as additional adult intervention.

4. Require mandatory data collection on police in schools.

Make public the number of times police are called to a school, the reasons for the calls, the number of arrests, and complaints regarding school police officer conduct.

5. Repeal legislation that criminalizes nonviolent student behavior.

State and local laws vary; some mandate that teachers call police when students possess a controlled substance or, vaguely, for conduct "that constitutes a substantial interference with school purposes." The "substantial interference" test is particularly concerning because it is inherently subjective and leaves room for biases. Jurisdictions should repeal legislation that criminalizes nonviolent offenses such as dress-code violations, disruptive behavior, and vandalism.

## Section IV: Reducing Unnecessary Interactions with Police through Decriminalization

### Over-Policing Leads to Police Killings

Misdemeanors are over-policed. Every year, approximately 13 million Americans are charged with misdemeanor offenses, representing nearly 80 percent of all arrests and 80 percent of all state criminal dockets. These offenses, however, mostly criminalize low-level conduct that is perceived as socially undesirable, rather than harmful or dangerous conduct.<sup>175</sup> More importantly, these offenses have led to excessive and unnecessary contact by police with marginalized communities, and avoidable police killings.

Since 2013, police officers in the United States have killed approximately 1,000 people every year.<sup>176</sup> Many of these killings occurred following police responses to alleged misdemeanors or other minor infractions, and most who died were unarmed.<sup>177</sup> Among the estimated 1,129 people killed by police in 2017, 631 were killed after police responded to a report of a nonviolent offense or during police/civilian encounters where no crime had been reported at all. Eighty-seven others were killed following a traffic stop.<sup>178</sup> In all of 2019, there were only 18 days when the police did not kill someone.<sup>179</sup> In 2020, an estimated 1,127 people were killed by the police, with 620 of such killings based on suspicion for nonviolent offenses or had no reported crime, and 120 of which occurred after a traffic violation.<sup>180</sup> And in 2021, an estimated 1,134 people were killed by the police, with 550 of those killings based on suspicion for nonviolent offenses or no reported crime and 117 of which occurred after a traffic violation.<sup>181</sup> While these statistics are jarring, they obscure how disproportionate, senseless, and brutal many of these killings are.

- In 2014, a police officer in New York choked to death Eric Garner, an unarmed Black man who was suspected of selling loose cigarettes.<sup>182</sup>

175 Alexandra Natapoff, *Punishment Without Crime: How Our Massive Misdemeanor System Traps the Innocent and Makes America More Unequal* (New York: Basic Books, 2018).

176 Mark Berman et al., "Police Shoot, Kill Nearly 1,000 Yearly," *Investigative Reporting Workshop*, June 8, 2020, <https://investigativereportingworkshop.org/investigation/police-shoot-kill-nearly-1000-yearly/>.

177 Mapping Police Violence, "Police Violence Map," (last visited Feb. 10, 2020), <https://mappingpoliceviolence.org/>. For example, in 2020, of 1,127 people killed by police, police were responding to suspected non-violent offenses or there was no reported crime in 658 instances (58% of cases); another 121 killings occurred after traffic violations (11% of cases); only 277 killings (25%) occurred when police were responding to suspected violent offenses; in the remaining 71 cases, the reason for police involvement is unknown.

178 Kaitlyn D'Onofrio, "The Data Is In: Police Disproportionately Killed Black People in 2017," *DiversityInc.*, Jan. 3, 2018, <https://www.diversityinc.com/data-police-disproportionately-killed-black-people-2017/>; see also Mapping Police Violence, 2017 Police Violence Report, (last visited Jan. 4, 2020), <https://policeviolencereport.org/>.

179 Mapping Police Violence, "Police Violence Map," (last visited Jan. 5, 2020), <https://mappingpoliceviolence.org/>.

180 Mapping Police Violence, "2020 Police Violence Report," (last visited September 18, 2020), <https://policeviolencereport.org/>.

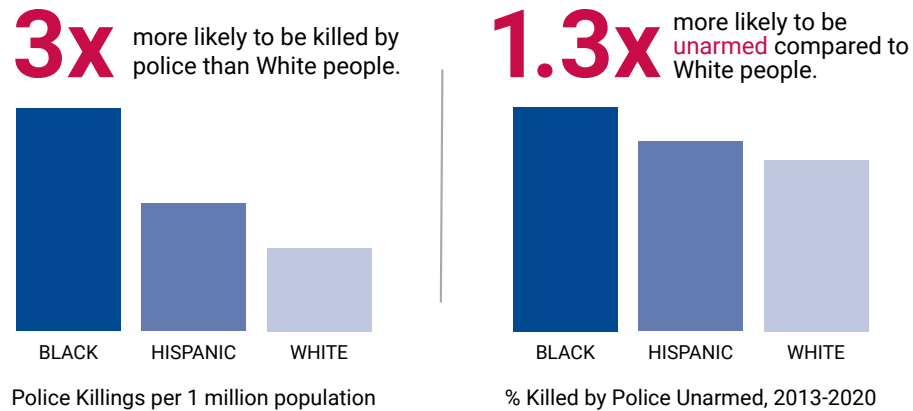
181 Mapping Police Violence, "2021 Police Violence Report," (last visited March 4, 2022), <https://policeviolencereport.org/>.

182 Michael R. Sisak, "NYPD officer says he inflated charge against Eric Garner," *Associated Press*, May 21, 2019, <https://apnews.com/article/ce589240fb884ecea7eaba2bdf9e2>.

- In 2014, a police officer in Missouri shot and killed Michael Brown, an unarmed Black teenager who was suspected of stealing cigars from a convenience store.<sup>183</sup>
- In 2015, a police officer in South Carolina shot and killed Walter Scott, an unarmed Black man, whom the officer stopped for driving with a broken brake light. At the time of his death, there was an outstanding bench warrant for Mr. Scott’s arrest for failure to pay child support.<sup>184</sup>
- In 2016, a police officer in Minnesota shot and killed Philando Castile, a lawfully armed Black man, during a traffic stop. The officers stopped Mr. Castile to check his identification because they thought he resembled a robbery suspect.<sup>185</sup>
- In 2020, a police officer in Minnesota killed George Floyd, an unarmed Black man, by pressing his knee into Mr. Floyd’s neck for more than eight minutes, during an arrest for passing a counterfeit \$20 bill.<sup>186</sup>

Each killing was entirely out of proportion to the law enforcement interest in arresting someone for such minor, entirely nonviolent, offenses. Each of these deaths could have been prevented by smarter, less draconian policies. As such, any discussion regarding eliminating or decreasing the footprint of policing in vulnerable communities of color and other marginalized communities must include rethinking of the role misdemeanors play on those who live in disproportionately criminalized communities.

## Black people are most likely to be killed by police



183 “Ferguson police: Michael Brown was robbery suspect,” *BBC News*, Aug. 15, 2014, <https://www.bbc.com/news/world-us-canada-28806313>.

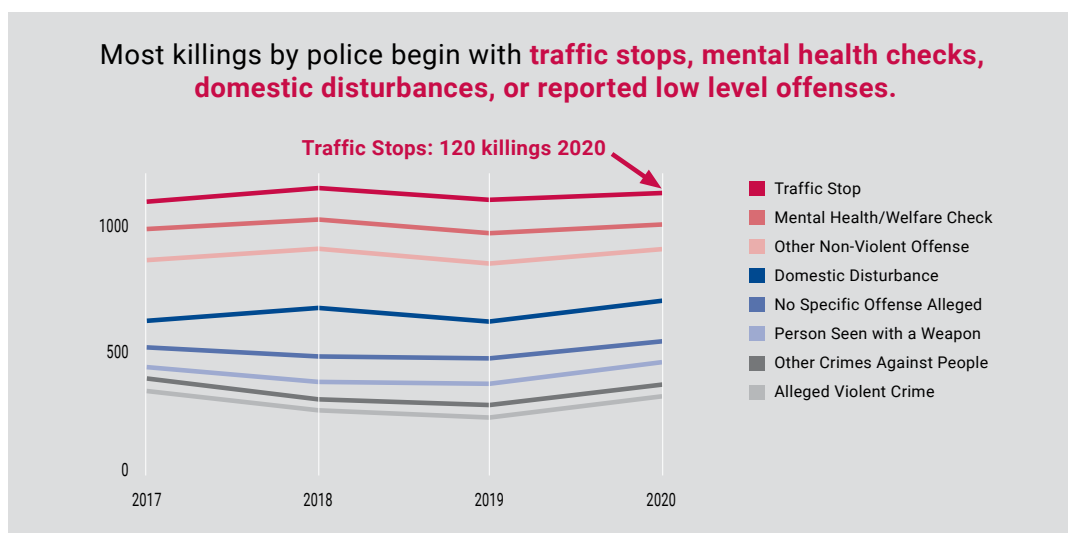
184 NBC News, Walter Scott Had Bench Warrant for His Arrest, Court Documents Show, *NBC News*, updated April 10, 2015, <https://www.nbcnews.com/storyline/walter-scott-shooting/walter-scott-shooting-warrant-over-child-support-court-records-show-n339151>.

185 Jay Croft, “Philando Castile shooting: Dashcam video shows rapid event,” *CNN*, updated June 21, 2017, <https://www.cnn.com/2017/06/20/us/philando-castile-shooting-dashcam/index.html>.

186 BBC News, “George Floyd: What happened in the final moments of his life,” July 16, 2020, <https://www.bbc.com/news/world-us-canada-52861726>.

## Impacts of Over-Policing Misdemeanors

The over-policing of misdemeanors has largely and disproportionately affected communities of color, introducing minorities by volumes into the criminal justice system and the related long-lasting economic and social effects. The results of a 2015 survey of police departments in the 60 largest US cities illuminate this disparity. Although Black people represented only 20 percent of the population living in these cities, they represented 41 percent of the victims of police violence.<sup>187</sup> Likewise, in 2021, while Black people accounted for only 13 percent of the US population, 28 percent of the people killed by the police were Black. Another 19 percent were Latinx.<sup>188</sup>



In 2017, the FBI reported an estimated 353,151 arrests for disorderly conduct, 366,824 for drunkenness, 23,321 for vagrancy, 30,131 arrests for curfew and loitering offenses, 885 arrests for “suspicion,” 188,350 arrests for vandalism, 55,604 arrests for forgery and counterfeiting, and 36,247 arrests for prostitution.<sup>189</sup> In 2019, the FBI reported an estimated 310,331 arrests for disorderly conduct, 316,032 for drunkenness, 21,896 for vagrancy, 14,653 arrests for curfew and loitering offenses, 579 arrests for “suspicion,” 180,501 arrests for vandalism, 45,183 arrests for forgery and counterfeiting, and 26,713 arrests for prostitution.<sup>190</sup> While the numbers for misdemeanor arrests appear to be declining annually, the total number remains staggering, especially because the underlying conduct rarely seems to warrant a criminal punishment.<sup>191</sup>

187 Mapping Police Violence, “2015 Police Violence Report,” (last visited Dec. 19, 2020), <https://mappingpoliceviolence.org/2015>.

188 Mapping Police Violence, “2021 Police Violence Report,” (last visited March 4, 2022), <https://policeviolencereport.org/>.

189 FBI: UCR, “2017 Crime in the United States, Table 29, Estimated Number of Arrests,” (last visited Dec. 19, 2020), <https://ucr.fbi.gov/crime-in-the-u.s/2017/crime-in-the-u.s.-2017/topic-pages/tables/table-29>.

190 FBI: UCR, “2019 Crime in the United States, Table 29, Estimated Number of Arrests,” (last visited March 4, 2022), <https://ucr.fbi.gov/crime-in-the-u.s/2019/crime-in-the-u.s.-2019/topic-pages/tables/table-29>.

191 Angie Schmitt and Charles T. Brown, “9 Reasons to Eliminate Jaywalking Laws Now,” *Bloomberg CityLab*, Oct. 16, 2020, <https://www.bloomberg.com/news/articles/2020-10-16/jaywalking-laws-don-t-make-streets-safer>.

Since its inception, policing in the United States has always been used as a mechanism to exercise social control over marginalized communities. The misdemeanor system, which criminalizes conduct that is not deserving of criminal punishment, is no exception. There is no evidence that suggests that Black or Latinx people are more likely to commit misdemeanor criminal activity: minorities are not high offenders, they are over-targeted.<sup>192</sup> Through the enforcement of “order maintenance” or “quality-of-life” offenses, police officers are often overrepresented in, and disproportionately target, Black and Brown neighborhoods, causing disproportionate levels of contact between police and hundreds of thousands of African Americans, Latinx, and other minorities to interact with the police on a daily basis. Based in part on the frequency of these interactions, approximately 44 percent of Latino men and 50 percent of African American men can expect to be arrested at least once by age twenty-three, while only 38 percent of White men can expect the same.<sup>193</sup>



In 2016, the Data Collaborative for Justice at John Jay College initiated the Research Network on Misdemeanor Justice (the Research Network), which partnered with local researchers, criminal justice practitioners, and policymakers from eight jurisdictions across the country engaged in criminal justice policy reforms, particularly focusing on misdemeanor offenses. The Research Network focused on misdemeanor trends across seven of those jurisdictions and analyzed data available from 2000 to 2018, including the Key Metro Areas of Los Angeles, California, St. Louis, Missouri, and New York City, New York. The analysis revealed a number of trends, including that misdemeanor arrests in general were on the decline. But, even

<sup>192</sup> Eponine Howarth, “Overrepresentation in criminal justice systems,” *LSE Undergraduate Political Review* (January, 2018), <https://blogs.lse.ac.uk/lseupr/2018/01/25/overrepresentation-in-criminal-justice-systems/>.

<sup>193</sup> Alexandra Natapoff, *Punishment Without Crime*.



with that decrease, racial disparities persisted. And even though those disparities varied by jurisdiction, they nonetheless existed in each jurisdiction. The disparity “rang[ed] from approximately three to seven arrests of Black people for one arrest of a White person.”<sup>194</sup>

The substantial racial disparity is further seen with police enforcement of traffic offenses, which is one of the most common ways the police interact with the public. Each year, more than 20 million Americans are stopped for traffic violations. In July 2020, the science journal *Nature Human Behavior* (NHB) published an article detailing its review of nearly 100 million traffic stops conducted across the country and its finding that “police stops and search decisions suffer from persistent racial bias.” To reach this conclusion, NHB employed a “veil of darkness” test, which “is based on a simple observation: because the sun sets at different times throughout the year, one can examine the racial composition of stopped drivers as a function of sunlight while controlling for time of day.” NHB found that Black drivers accounted for a smaller percentage of drivers stopped when it was dark outside and more difficult for a police officer to assess a driver’s race, “suggest[ing that] Black drivers were stopped during daylight hours in part because of their race.”<sup>195</sup>

Other studies support this conclusion as well. The Stanford Open Policing Project has collected and analyzed over 200 million records of traffic stop and search data from across the country from 2015 until the present. The project also concluded that there were significant racial disparities in policing of traffic offenses, as the data showed that Black drivers were stopped and searched for contraband at higher rates than White drivers, even though White drivers were more likely to have contraband.<sup>196</sup>

In 2014, the legislature in Vermont enacted a law mandating all Vermont law enforcement agencies to collect traffic stop data in an effort to assess and track racial disparities in policing. Four years later, in 2018, professors at the University of Vermont and Cornell University conducted a review of the state-wide data available and concluded that Black and Latinx drivers were more likely to be stopped, searched for contraband, and arrested than White or Asian Drivers.<sup>197</sup> Similarly, a 2016 study conducted by Seton Hall University School of Law Center for Policy and Research revealed that the Bloomfield Police Department in Bloomfield, New Jersey, targeted Black and Latinx drivers and had a pervasive pattern of racial ticketing, issuing tickets regardless of whether the individual resided in Bloomfield.<sup>198</sup>

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194 Becca Cadoff, et al., *Misdemeanor Enforcement Trends Across Seven U.S. Jurisdictions*, (New York: Data Collaborative for Justice at John Jay College, 2020), [https://datacollaborativeforjustice.org/wp-content/uploads/2020/10/2020\\_20\\_10\\_Crosssite-Draft-Final.pdf](https://datacollaborativeforjustice.org/wp-content/uploads/2020/10/2020_20_10_Crosssite-Draft-Final.pdf).

195 Emma Pierson, et al., “A large-scale analysis of racial disparities in police stops across the United States,” *Nature Human Behavior*, (July 2020), [https://5harad.com/papers/100M-stops.pdf?utm\\_source=The+Appeal&utm\\_campaign=3a050d7014-EMAIL-CAMPAIGN\\_2018\\_08\\_09\\_04\\_14\\_COPY\\_01&utm\\_medium=email&utm\\_term=0\\_72df992d84-3a050d7014-58394763](https://5harad.com/papers/100M-stops.pdf?utm_source=The+Appeal&utm_campaign=3a050d7014-EMAIL-CAMPAIGN_2018_08_09_04_14_COPY_01&utm_medium=email&utm_term=0_72df992d84-3a050d7014-58394763).

196 The Stanford Open Policing Project, “Findings,” <https://openpolicing.stanford.edu/findings/>, (last visited Dec. 16, 2020).

197 Stephanie Seguino and Nancy Brooks, “A Deeper Dive into Racial Disparities in Policing in Vermont,” March 26, 2018, [http://mediad.publicbroadcasting.net/p/vpr/files/201803/a\\_deeper\\_dive\\_into\\_racial\\_disparities\\_in\\_policing\\_in\\_vermont\\_3.26\\_final.pdf](http://mediad.publicbroadcasting.net/p/vpr/files/201803/a_deeper_dive_into_racial_disparities_in_policing_in_vermont_3.26_final.pdf).

198 Mark P. Denbeaux et al., *Racial Profiling Report: Bloomfield Police and Bloomfield Municipal Court*, (New Jersey: Seton Hall University School of Law Center for Policy & Research, 2016) [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=2760382](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2760382)

## Potential Solutions to Mitigate Racial Disparity

**Decriminalization** One key solution to mitigate the racial disparity in the enforcement of low-level offenses is to decriminalize such misdemeanors. Some states and localities have recognized the disparate effects that their laws and ordinances, which criminalize conduct that is not particularly harmful, have on marginalized communities. In light of highly publicized injustices and the public's outcry for reform, officials in these localities have acknowledged the need to decriminalize low-level misdemeanor conduct to mitigate the effects of disproportionate policing on minorities.<sup>199</sup> They have recognized that changes to the criminal justice system such as decriminalization will ensure public safety for all communities, including the communities of color that for decades have consistently borne the brunt of the over-policing of low-level misdemeanors, including lost lives.

For instance, in 2014, under pressure for the state to rethink public safety, California passed Proposition 47, which in part made certain serious property and drug offenses that could have been charged as either a felony or a misdemeanor chargeable solely as misdemeanor offenses. The offenses covered by the proposition included simple drug possession and petty theft, shoplifting, writing a bad check, forgery, and receipt of stolen property, if the offense involves less than \$950.<sup>200</sup> A recent report by the Public Policy Institute of California shows that the proposition resulted in a significant decrease in arrests for these offenses, but also revealed that racial disparities in arrests remained. While the racial disparity between arrests of Black and White people decreased, there has been no meaningful change in the disparity between White and Latinx people, and as such, racial disparities remain.<sup>201</sup> It should be noted that, in addition to decreasing arrests and narrowing the gap in racial disparities, Proposition 47 has shown no causative link to a measurable increase in violent crime rates in California. Following Proposition 47, property crime rates in California continued to decline, although at a slower rate than in other states.<sup>202</sup>

In 2014, the Philadelphia City Council decriminalized marijuana possession and relegated possessions of 30 grams or less of marijuana to citations warranting a \$25 fine. It took a step further in 2016 when it decriminalized disorderly conduct and misdemeanor offenses such as obstruction of a highway, public drunkenness, and failure to disperse. And in 2018, Philadelphia District Attorney Larry Krasner instructed his office not to charge minor marijuana possession or sex work. These decriminalization efforts led to a 46 percent reduction in arrests. Despite this decline, racial disparities remained, as Black people

199 Ryan Murphy, "Norfolk wipes out laws against fornication and adultery, the latest in a push to modernize city code," *The Virginia Pilot*, Nov. 26, 2020, 2:31 PM, <https://www.pilotonline.com/government/local/vp-nw-fz20-norfolk-adultery-fornication-law-change-20201126-hg5y6paa2rggvhgnmshgqoedu-story.html>; ARLnow.com, "State Repeals Cussing Law, But Ordinance Remains on the Books in Arlington," (March 6, 2020, <https://www.arlnow.com/2020/03/06/state-repeals-cussing-law-but-ordinance-remains-on-the-books-in-arlington/>).

200 Californians for Safety and Justice, "About Proposition 47," (last visited, Dec. 16, 2020), <https://myprop47.org/about/>.

201 Magnus Lofstrom et al., *Proposition 47's Impact on Racial Disparity in Criminal Justice Outcomes* (San Francisco: The Public Policy Institute of California, June 2020), <https://www.ppic.org/wp-content/uploads/proposition-47s-impact-on-racial-disparity-in-criminal-justice-outcomes-june-2020.pdf>.

202 Patricio Dominguez-Rivera, Magnus Lofstrom, and Steven Raphael, *The Effect of Sentencing Reform on Crime Rates: Evidence from California's Proposition 47*, (Bonn: IZA Institute of Labor Economics, 2019), 31–33, <http://ftp.iza.org/dp12652.pdf>.

represented 73 percent of those arrested for disorderly conduct in 2018 and 80 percent of those arrested for marijuana-related offenses.<sup>203</sup>

To reverse the impact of “broken-windows” policing on its Black and Latinx communities, the New York City Council passed the Criminal Justice Reform Act (CJRA) in 2016. The CJRA downgraded some of the most common low-level misdemeanors, including public drinking, littering, excessive noise, and public urination, to infractions or citable violations.<sup>204</sup> The Council, which had backing from the New York Police Department, created a civil process for adjudicating roughly 300,000 criminal summonses issued by officers yearly, many in minority neighborhoods. The civil process required the city’s Office of Administrative Trials and Hearings to conduct hearings for alleged offenses and impose proportional fines and judgments. For instance, public urination offenses carried fines that increased on a sliding scale: \$75 for a first offense; \$250 to \$350 for a second offense within a year; and \$350 to \$450 for a third offense over that same period. Additionally, a failure to pay a ticket would result in a civil judgment rather than a criminal court warrant, and indigent offenders could be given community service in lieu of a fine.

In the span of the year, New York City saw its criminal summonses and warrants for these related offenses plummet significantly, dropping 89 and 94 percent respectively.<sup>205</sup> Prior to the CJRA, it would be no surprise for there to be nearly 5,000 warrants issued for failure to appear in a court for drinking in public, entering a park after dark, excessive noise, and public urination. A year after the CJRA, that figure is now down to roughly a few hundred. This success has continued. In 2018, the New York Police Department (NYPD) issued 89,908 criminal summonses, far less than the 424,883 issued in 2013.<sup>206</sup> In 2021, the trend continued with the NYPD issuing only 45,661 criminal summonses. The NYPD even experienced a decrease in the number of civil summonses issued, handing out 11,300 civil summonses in 2021 and 10,312 in 2020 compared to 54,774 in 2018 and 31,718 in 2019.<sup>207</sup>

Although the CJRA significantly reduced police contact with the public (and thereby indirectly decreased unnecessary contact that could escalate and lead to an unnecessary police killing), racial disparities in police enforcement remained.<sup>208</sup> In 2021, individuals for whom there is data on their race received 22,175 criminal summonses, 92 percent of whom were people of color. Of the 10,196 civil summonses issued to individuals in that same year, 29.4 percent

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203 Mary Fleck and Aaron Stagoff-Belfort, *Reducing Policing’s Footprint? Racial Disparities and Arrest Trends After Misdemeanor Decriminalization and Legislation in Denver and Philadelphia*, (New York: Vera Institute, May 2021), <https://www.vera.org/downloads/publications/reducing-policings-footprint.pdf>.

204 The Editorial Board, *The Legacy of Zero Tolerance Policing*, *New York Times*, Feb. 20, 2017, <https://www.nytimes.com/2017/02/20/opinion/the-legacy-of-zero-tolerance-policing.html>.

205 Elizabeth Glazer, “New Approach to Low-Level Offenses is Working,” *Gotham Gazette*, Sept. 5, 2018, <https://www.gothamgazette.com/opinion/7911-new-approach-to-low-level-offenses-is-working>.

206 Samar Khurshid, “NYPD Continues Move Away from Criminal Penalties for Low-Level Offenses, But Racial Disparities Remain,” *Gotham Gazette*, Sept. 4, 2019, <https://www.gothamgazette.com/city/8768-nypd-fewer-criminal-penalties-for-low-level-offenses-racial-differences-remain>.

207 Civil Summons Reports, NY Police Dept., (last accessed March 7, 2022), <https://www1.nyc.gov/site/nypd/stats/reports-analysis/c-summons.page>.

208 Khurshid, “NYPD Continues Move Away from Criminal Penalties for Low-Level Offenses.”

were to Black people, 35.5 percent were to Latinx people, and 8.2 percent were to Asians and Pacific Islanders.<sup>209</sup> While decriminalizing misdemeanor conduct by creating a civil process for the enforcement of such offenses is a first step, on its own it will likely not be enough to eliminate racial disparities in the criminal justice system.

California and New York City are not alone in using decriminalization as a tool to address over-policing. But while some states and localities are seeking to address over-policing, some states such as Arizona<sup>210</sup> and some cities including Los Angeles, California,<sup>211</sup> have passed laws that increase restrictions on sitting, sleeping, or laying in public spaces, and the storage of personal property in any area where sitting, lying, or sleeping is banned.



It is important to note that the enforcement of low-level offenses is often not about the law being enforced as much as it is about police using these laws to manage public, political, and administrative pressures. In order to respond to “quality-of-life issues”—such as homeless encampments, loitering, loud music, street level drug dealing, etc.—law enforcement rely on the tools available to them. Until we develop new interventions to address the underlying issues that motivate

the large number of low-level arrests, even if decriminalization of these offenses happens, law enforcement will often find other tools to respond to demands to these scenarios.<sup>212</sup>

Looking beyond the US, Portugal and Switzerland attempted to address heroin epidemics through decriminalization. Portugal’s effort followed decades of harsh criminal policies that led only to a public health crisis with the highest rate of HIV infection in the European Union and a prison population where over half of the inmates were addicted to drugs. In 2001, Portugal became the first country in the world to decriminalize the consumption of all drugs. People caught with less than a 10-day supply of any drug no longer face criminal punishment, but are taken to a local commission for treatment and available medical services. By focusing on the individual’s relationship with the drug and treating addiction as a public health issue rather than a criminal issue, Portugal has been able to turn its drug epidemic around. Portugal’s rates for drug-induced deaths, HIV infection, and drug use among 15-to 24-year-olds all plummeted.<sup>213</sup>

209 Civil Summons Reports, NY Police Dept., (last accessed March 7, 2022), <https://www1.nyc.gov/site/nypd/stats/reports-analysis/c-summons.page>.

210 Jessica Boehm, “Bill would establish homeless camping areas, make it illegal for people to sleep on the street in Arizona,” *Arizona Republic*, April 1, 2021, <https://www.azcentral.com/story/news/politics/legislature/2021/04/01/arizona-bill-would-ban-street-camping-create-sanctioned-homeless-camps/4837941001/>.

211 Mark Mester and Lauren Lyster, “L.A. City Council passes measure restricting homeless encampments,” *Associated Press*, updated July 2, 2021, <https://ktla.com/news/local-news/l-a-city-council-passes-measure-restricting-homeless-encampments/>.

212 Interview with Alex Vitale, April 25, 2022.

213 Naina Bajekal, “Want to Win the War on Drugs? Portugal Might Have the Answer,” *TIME*, Aug. 1, 2018, <https://time.com/longform/portugal-drug-use-decriminalization/>.

**Reallocating Enforcement of Traffic Violations** Reevaluating the role police officers play in traffic enforcement is critical to reducing police violence. Traffic stops provide police officers broad discretion to interact with the public; discretion that police often deploy with racial bias, with fatal results.<sup>214</sup>

In July 2020, Berkeley, California became the first city in the United States to reallocate traffic enforcement away from the police. Berkeley officials passed regulations directing the city to establish a department of transportation to oversee traffic enforcement and deploy unarmed civil servants to carry out routine traffic stops. Berkeley officials acknowledged that “nonviolent minor traffic violations don’t warrant an armed response and can escalate into violent encounters that disproportionately affect Black motorists, who are more likely than White drivers to be pulled over in the first place.”<sup>215</sup>

Berkeley’s move is prompting change in other localities. For instance, the Police Reform Work Group in Prince George’s County, Maryland recently issued a report detailing recommendations for how the county’s police department could “establish fair practices” and “restore public trust in law enforcement.” Among its recommendations was a proposal to shift traffic enforcement authority from the police department to the county’s revenue authority.<sup>216</sup>

Similarly, in March 2021, Virginia passed laws prohibiting police officers from conducting traffic enforcement stops based on brake and tail light failure, a broken or loud exhaust system, tinted windows, objects dangling from a rearview mirror, someone smoking in a car with a minor present, or a state inspection that is less than four months past its expiration date.<sup>217</sup> Individuals could be cited for these offenses only if they were stopped for a serious traffic violation such as reckless driving or speeding, and police officers would also be precluded from conducting searches based on the smell of marijuana. These laws are aimed at eliminating racial profiling and



214 Emily Riley, “Do We Really Need Traffic Cops?” *The Crime Report*, Nov. 12, 2020, <https://thecrimereport.org/2020/11/12/do-we-really-need-traffic-cops/>.

215 Rachel Sander, “Berkeley Will Become 1st U.S. City to Remove Police From Traffic Stops,” *Forbes*, July 14, 2020, <https://www.forbes.com/sites/rachelsandler/2020/07/14/berkeley-may-become-1st-us-city-to-remove-police-from-traffic-stops/?sh=61a3772170fa>.

216 Prince George’s County, Maryland Police Reform Work Group, *Re-Imagining Policing in Prince George’s County Report and Recommendations*, Dec. 4, 2020, <https://www.princegeorgescountymd.gov/DocumentCenter/View/33304/Police-Reform-Work-Group-Final-Report-and-Recommendations>.

217 K. Winters, “New law bans police from pulling over drivers solely for certain car safety violations like busted brake lights,” *Law Enforcement Today*, March 2, 2021, <https://www.lawenforcementtoday.com/new-law-bans-police-from-pulling-over-some-virginia-drivers/>; Ned Oliver, “Virginia lawmakers pass bill limiting pretextual traffic stops, barring searches based on smell of marijuana,” *Virginia Mercury*, Oct. 2, 2020, <https://www.virginiamercury.com/2020/10/02/virginia-lawmakers-pass-bill-banning-pretextual-traffic-stops-and-searches-based-on-the-smell-of-marijuana/>.



reducing officers' ability to rely on pretext to stop and search people.<sup>218</sup> Other cities<sup>219</sup> where council members are seeking to shift traffic enforcement authority include New York City<sup>220</sup> and Philadelphia.<sup>221</sup>

The reimagining public safety report by the city of Ithaca calls for the Tompkins County Sheriff's Office—Ithaca is the county seat—to “collect and evaluate the current results of officer-initiated traffic enforcement.” The report notes that traffic stops are the most frequent way people come into contact with police, and that the county currently does not collect demographic data on such stops. The report calls for an evaluation of the benefits of issuing warnings rather than citations, or discontinuing “proactive” traffic enforcement altogether.<sup>222</sup>

**Alternatives to Arrest** To mitigate effects of disparate policing resulting from the broad discretion given to police officers, some localities are taking steps to drastically reduce or eliminate an officer's discretion to arrest for nonviolent misdemeanors. For example, in 2018, the Austin, Texas City Council passed Freedom City resolutions “aimed at reducing racial disparity in arrests” by “call[ing] on police to end most discretionary arrests” related to the enforcement of certain misdemeanors. The Austin Police Department responded by reforming its departmental policies to make individuals charged with driving with an invalid license, graffiti, and some drug possession offenses eligible for a citation rather than an arrest.<sup>223</sup> These departmental changes led to a 57 percent decrease in arrest in the first three months of 2019. And, although racial disparities persist, there was a decline in racial inequities in arrests: within a year, arrests of Latinx people dropped from roughly 36 percent to 29 percent of all discretionary arrests, and arrests for Black people (only 8 percent of Austin's total population) reduced from 31 percent to 27 percent.<sup>224</sup>

In September 2020, the mayor of Houston, Texas signed an executive order ratifying a cite-and-release program whereby police officers are now authorized to issue tickets instead of making an arrest for certain low-level misdemeanors, including possession of four ounces or less of a controlled substance, graffiti, theft of property and services if less than \$750, and

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218 Winters, “New law bans police from pulling over drivers solely for certain car safety violations.”

219 Cailin Crowe, “Cities consider taking police out of traffic stops,” *SmartCitiesDive*, June 3, 2021, <https://www.smartcitiesdive.com/news/cities-consider-taking-police-out-of-traffic-stops/600912/>; Laura Bliss, “The Road to Removing Police from Traffic Enforcement,” *CityLab*, April 14, 2021, <https://www.bloomberg.com/news/articles/2021-04-14/how-to-get-safer-streets-minus-the-police>

220 Danielle Muoio, “Lander plan to cut NYPD traffic authority earns him Cabán's backing,” *Politico New York*, Nov. 14, 2020, <https://www.politico.com/states/new-york/albany/story/2020/11/14/lander-plan-to-cut-nypd-traffic-authority-earns-him-cabans-backing-1336491>; Marsha Mercer, “Police ‘Pretext’ Traffic Stops Need to End, Some Lawmakers Say,” *Stateline*, Sept. 3, 2020, <https://www.pewtrusts.org/en/research-and-analysis/blogs/stateline/2020/09/03/police-pretext-traffic-stops-need-to-end-some-lawmakers-say>.

221 Aaron Moselle, “Philly City Council bill would ban police traffic stops for minor violations,” *WHYY*, Oct. 27, 2020, <https://whyy.org/articles/philly-city-council-bill-would-ban-police-traffic-stops-for-minor-violations/>; Lawrence Hodge, “Philadelphia Could Ban Certain Traffic Stops to Curb Racial Disparities,” *Jalopnik*, July 19, 2021, <https://jalopnik.com/philadelphia-could-ban-certain-traffic-stops-to-curb-ra-1847319748>.

222 Reimagining Public Safety and Center for Policing Equity, *Implementing the City of Ithaca's New Public Safety Agency: Suggestions from the City of Ithaca's Reimagining Public Safety Working Group*.

223 Mark D. Wilson, “Freedom City' policies yield drop in misdemeanor arrests, Austin police say,” *Statesman*, updated April 19, 2019, <https://www.statesman.com/news/20190419/freedom-city-policies-lead-drop-in-misdemeanor-arrests-austin-police-say>.

224 “After One Year of Freedom City Policies, Community Groups Call on Austin Police Department to Fully Comply,” *Workers Defense Project*, Nov. 19, 2020, <https://workersdefense.org/en/2020/11/19/after-one-year-of-freedom-city-policies-community-groups-call-on-austin-police-department-to-fully-comply/> (last visited March 7, 2022).



driving with an invalid license. The Houston mayor believed the cite-and-release program, which had been successfully implemented by other cities to reduce mass incarceration, was the “more humane method of dealing with low-level offenders because the program gives them an opportunity to make changes in their lives and face responsibility for their actions without having the stain of an arrest or jail time on their record.”<sup>225</sup>



Other police departments have shifted enforcement philosophy and decided to forgo the enforcement of certain low-level misdemeanors. The San Diego Police Department has decided not to enforce a law that forbids “seditious language,” which officers appeared to be using to punish people who personally offended them.<sup>226</sup> Even though in recent years officers were using the law as a citation-worthy infraction, the law criminalizes the

conduct as a misdemeanor. Data suggested that San Diego police officers used the law to disproportionately target Black and Latinx people, even citing individuals for singing rap lyrics. Although the ordinance remains law, the police department will no longer rely on it as a source to charge people. More recently, the NYPD announced that it would no longer enforce street-vending laws, which targeted immigrants and people of color and served as a form of consistent police harassment and needless ticketing.<sup>227</sup> The department is transferring oversight responsibility to civilian agencies.

Limiting or removing officers’ broad discretion in the enforcement of misdemeanors can quickly reduce the amount of police contact with vulnerable communities. But, as discussed above, racial profiling continues to be a factor in the decision to arrest or cite and in the issuance of citation. For instance, in 2016, the Durham Police Department instituted policy reforms that directed its officers to cite rather than arrest for misdemeanor marijuana offenses when “there is no danger to person or property, the suspect has valid identification and address, isn’t wanted on other charges, and has no previous charges other than traffic citations.”<sup>228</sup> That policy led to a nearly 50 percent reduction in arrests for misdemeanor marijuana possession or possession of drug paraphernalia between 2013 and 2016. However,

225 Brandon Walker, “These low-level offenses will now be a part of the city of Houston’s new cite-and-release program, mayor says,” *KPRC*, updated Sept. 28, 2020, <https://www.click2houston.com/news/local/2020/09/28/turner-to-discuss-use-of-cite-and-release-program-by-houston-police/>.

226 Kate Nucci, “SDPD Says it Will Stop Enforcing Seditious Language Law,” *Voice of San Diego*, Aug. 17, 2020, [https://www.voiceofsandiego.org/topics/public-safety/sdpd-says-it-will-stop-enforcing-seditious-language-law/?utm\\_source=dlvr.it&utm\\_medium=facebook](https://www.voiceofsandiego.org/topics/public-safety/sdpd-says-it-will-stop-enforcing-seditious-language-law/?utm_source=dlvr.it&utm_medium=facebook).

227 Chris Crowley, “Bill de Blasio Says NYPD Won’t Be Involved in Street Vendor Enforcement Anymore,” *Grub Street*, June 8, 2020, <https://www.grubstreet.com/2020/06/street-vendor-enforcement-police.html>.

228 S. Rebecca Neusteter et al., *Gatekeepers: The Role of Police in Ending Mass Incarceration*, (New York: Vera Institute of Justice, 2019), <https://www.vera.org/downloads/publications/gatekeepers-police-and-mass-incarceration.pdf>.

there was still an increase in the racial disparity: in 2015, Black people accounted for 80 percent of the charges filed, and in 2016 they accounted for 84 percent.<sup>229</sup>

This phenomenon has been seen across the country. In 2020, the American Civil Liberties Union (ACLU) issued a report and analysis of racially targeted arrests in the era of marijuana reform.<sup>230</sup> The study concluded that racial disparities in arrests persist nationwide despite efforts by a number of states to reform marijuana laws that are disproportionately used to criminalize Black and Latinx people. Indeed, racial disparities remained even in the states and jurisdictions that have either legalized or decriminalized marijuana possession. Limits on police discretion must be coupled with other policy changes to effectively reduce racial disparities in policing.

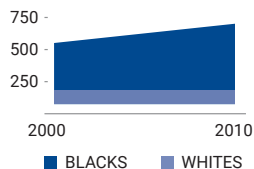
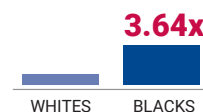
## RACIAL DISPARITIES IN MARIJUANA ARRESTS



**\$6.1M**  
pot arrests

Between 2010 and 2018 there were more than **6.1 million marijuana arrests**. In 2018 police made more marijuana arrests than for all violent crimes combined.

Marijuana use is roughly equal among Blacks and Whites, yet Black people are **3.64 times more likely to be arrested** for marijuana possession.



Due to legalization, national arrest rates for marijuana possession decreased from 2010 - 2018 for both Black and White individuals, yet **racial disparities in arrests have not improved**, and in some areas, they have worsened.

*Prosecutorial Discretion.*

Source: Ezekiel Edwards, et al., *A Tale of Two Countries: Racially Targeted Arrests in the Era of Marijuana Reform*, (New York: ACLU Foundation, 2020), 7-8.

**Prosecutorial Discretion** Prosecutors and district attorneys play a vital role in reducing police killings and the disproportionate police contact with Black and Latinx communities. While police dictate the start of the criminal justice process, prosecutors and district attorneys decide whether the criminal justice process continues. Policy reforms that provide that prosecutors and district attorneys will decline to prosecute certain misdemeanor offenses directly impact a police department's decision to arrest individuals for those same offenses.

Across the nation, many prosecutors have decided to utilize their discretionary authority to effectuate criminal justice reform and have implemented policies declining to prosecute certain low-level misdemeanor offenses. For example, in Chicago, Cook County State's Attorney Kim Foxx has spearheaded reform to a criminal justice system that has

229 Sarah Willets, "In Durham, Fewer Stops and Searches and Pot Arrests, But Still Racial Disparities," *INDYWeek*, April 11, 2018, <https://perma.cc/E8XV-PKRX>.

230 "Racial Disparity in Marijuana Arrests," *NORML*, <https://norml.org/marijuana/fact-sheets/racial-disparity-in-marijuana-arrests/>

disproportionately affected communities of color and other marginalized communities. Since her election in 2016, she sought greater accountability for shootings by police and the reduction of unnecessary prosecutions for low-level, nonviolent crimes.<sup>231</sup> To do so, Foxx released six years of data outlining the outcome of every felony that was brought to the Cook County State's Attorney's Office.

In 2019, Dallas County District Attorney John Creuzot announced policy reforms in an effort to end mass incarceration in Dallas.<sup>232</sup> Creuzot's office will decline to prosecute theft cases where the value is under \$750 unless the theft occurred for economic gain; dismiss all misdemeanor criminal trespass cases not involving a residence or a physical intrusion into property; and will institute a diversion program for those charged with driving with a suspended license to preclude the prosecution of "a person for being too poor to pay off their fines and fees."<sup>233</sup>

In San Francisco, District Attorney Chesa Boudin announced that his office will not prosecute quality-of-life crimes such as public camping, offering or soliciting sex, public urination, or blocking a sidewalk, among others. Boudin implemented this policy change as part of efforts to decriminalize poverty and homelessness.<sup>234</sup>

In October 2020, in Florida, former Florida state attorney Aramis Ayala implemented a new policy giving prosecutors in her office more discretion to decline prosecution of resisting-arrest charges in light of "data that shows Black people are disproportionately arrested on such charges." She further explained, "We have consistently heard that some members of law enforcement use this charge as a weapon when people don't immediately respond to their commands, or if they ask too many questions before complying, or simply if they make an encounter more difficult for the officer."<sup>235</sup>

In December 2020, Los Angeles District Attorney George Gascon followed suit. He announced that his office will decline to prosecute misdemeanor offenses for trespassing, disturbing the peace, a minor in possession of alcohol, driving without a license, loitering to commit prosecution and resisting arrest.<sup>236</sup>

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231 Matt Daniels, "The Kim Foxx Effect: How Prosecutions Have Changed in Cook County," *The Marshall Project*, Oct. 24, 2019, <https://www.themarshallproject.org/2019/10/24/the-kim-foxx-effect-how-prosecutions-have-changed-in-cook-county>.

232 Catherine Marfin, "Texas prosecutors want to keep low-level criminals out of overcrowded jails. Top Republicans and police aren't happy," *The Texas Tribune*, May 21, 2019, <https://www.texastribune.org/2019/05/21/dallas-district-attorney-john-cruezot-not-prosecuting-minor-crimes/>.

233 "Frank Heinz, Dallas County District Attorney's Office to Dismiss Many Misdemeanor, State Jail Felony Cases," *NBCDFW*, updated April 12, 2019, <https://www.nbcdfw.com/news/local/dallas-county-district-attorneys-office-to-dismiss-many-misdemeanor-state-jail-felony-cases/252792/>.

234 Matt Charnock, "Boudin Will Not Prosecute Prostitution, Public Camping, and Other 'Quality-of-Life Crimes' Once Sworn In," *SF News*, Nov. 16, 2019, <https://sfist.com/2019/11/16/boudin-will-not-prosecute-prostitution-public-camping-and-other-quality-of-life-crimes-once-sworn-in/>.

235 Monivette Cordeiro, "Policy gives prosecutors leeway to drop resisting-arrest charges; Orange sheriff 'extremely concerned,'" *Orlando Sentinel*, Oct. 6, 2020, <https://www.orlandosentinel.com/news/crime/os-ne-state-attorney-resisting-officer-without-violence-20201006-zbdqxmweyvhjddc7hs3ltdggnm-story.html>.

236 Louis Casiano, "Here's a list of crimes on LA's new DA's do-no-prosecute list," *Fox News*, December 8, 2020, <https://www.foxnews.com/politics/crimes-las-prosecute>.

In addition, to prevent the spread of COVID-19 in local jails, some prosecutors have implemented policy reforms declining to prosecute low-level, nonviolent offenses. For instance, in April 2021, in response to temporary measures enacted to halt the spread of COVID-19 in jails and prisons, Baltimore State's Attorney Marilyn Mosby announced her office would permanently stop prosecuting minor drug possession, sex work, trespassing, and traffic violations.<sup>237</sup> According to Mosby, "there's no public safety value in prosecuting these low-level offenses."<sup>238</sup>

Prosecuting low-level misdemeanors is often costly and consumes inordinate resources. Declining to prosecute low-level misdemeanor offenses allows prosecutors to reallocate those resources to prosecuting more serious crimes, and to divert individuals from the criminal justice system to social service or public health alternatives that can actually provide individuals meaningful assistance. More importantly, when district attorneys take a firm stance against prosecuting certain offenses, police departments become aware that their efforts to police such conduct will not result in charges, incentivizing departments to deploy resources elsewhere.



**Fines and Fees** Even the most minor misdemeanor offenses can lead to serious consequences. While many people arrested for misdemeanor offenses will not serve time in police custody, others will be detained until the final disposition of their cases. They may be assessed criminal and civil fines, obligated to pay court fees, and left with criminal records that can cause them to lose their jobs, face difficulty in gaining employment, and be deprived of critical resources and assistance such as food stamps, housing, or educational support. Fines and fees can lead to increased contact with the police, offering opportunities for encounters to turn violent or deadly. These contacts can be reduced by eliminating fines and

237 Mary Fleck and Aaron Stagoff-Belfort, *Reducing Policing's Footprint? Racial Disparities and Arrest Trends After Misdemeanor Decriminalization and Legislation in Denver and Philadelphia*, (New York: Vera Institute for Justice, 2021), <https://www.vera.org/downloads/publications/reducing-policings-footprint.pdf>.

238 The Equal Justice Initiative, "Baltimore Ends Prosecution of Drug Possession and Other Low-level Offenses," April 2, 2021, <https://eji.org/news/baltimore-ends-prosecution-of-drug-possession-and-other-low-level-offenses/>.

fees, conditioning fines on an ability-to-pay determination, and changing the way outstanding fines and fees are enforced.

Fines refer to criminal sanctions imposed following a conviction that are intended both as deterrence and as punishment. Fees, on the other hand, are intended to raise revenue by shifting costs of the criminal justice system from taxpayers to “users” of the system (that is, criminal defendants). Notably, fees are not imposed equally: cities with the largest Black populations collect more than three times the criminal justice revenues per resident than do cities with the smallest Black populations.<sup>239</sup> Over-emphasis on fees has also been shown to reduce police effectiveness in solving violent crime by distorting departmental incentives and priorities. One study found that a 1 percent increase in share of revenues from fees, fines, and forfeitures was associated with a 3.7 percent *decrease* in the rate at which departments cleared violent crime cases.<sup>240</sup> Fees are also a profoundly inefficient way to generate revenue. An analysis of counties in Texas, Florida, and New Mexico, found that the jurisdictions spent, on average, \$0.41 for every dollar collected in fines and fees.<sup>241</sup>

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A recent analysis of unpaid criminal fines and fees in North Carolina found that over 650,000 North Carolinians—one in twelve adults in the state—currently have unpaid criminal court debt. As these individuals fail to pay their outstanding court debt, additional fees for failure to pay are imposed and an order for arrest can ultimately result. For traffic offenses—the vast majority of these cases—failing to pay outstanding fines and fees can lead to indefinite suspension of a driver’s license.<sup>242</sup> The outstanding criminal debt in North Carolina falls disproportionately on Black persons. Over half (roughly 324,000) of the individuals with unpaid debt were Black and one-third (roughly 240,000) were White, whereas the population of North Carolina as a whole is two-thirds White.<sup>243</sup> Some local officials in North Carolina

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239 Patrick Liu, Ryan Nunn, and Jay Shambaugh, “Nine Facts about Monetary Sanctions in the Criminal Justice System,” *Hamilton Project*, March 2019, 9; Alexandra Bastien, “Ending the Debt Trap: Strategies to Stop the Abuse of Court-Imposed Fines and Fees,” *PolicyLink*, March 2017, 5, <https://www.policylink.org/sites/default/files/ending-the-debt-trap-03-28-17.pdf>

240 Liu, Nunn, and Shambaugh, “Nine Facts about Monetary Sanctions.”

241 Matthew Menendez, et al., *The Steep Costs of Criminal Justice Fees and Fines*, (New York: Brennan Center for Justice, 2019), 9

242 William Crozier, Brandon Garrett, and Thomas Maher, *The Explosion of Unpaid Criminal Fines and Fees in North Carolina*, (Durham: Duke Law Center for Science and Justice, 2020), 6-7.

243 Crozier, Garrett, and Maher, *The Explosion of Unpaid Criminal Fines and Fees in North Carolina*, 10.



have tried to resolve the massive quantities of unpaid criminal debt. For example, in 2018 and 2019 roughly 70,000 cases in Durham were dismissed by the district attorney.<sup>244</sup> District attorneys can also exercise charging discretion to reduce the number of new fines and fees imposed and can proactively request that judges hold ability-to-pay hearings.

While fines may serve a legitimate criminal justice purpose in some cases, they are too often imposed without consideration of the defendant's ability to pay. Most jurisdictions in the United States use "formally equal punishment, imposing the same amount on everyone regardless of their ability to pay." "[F]ormally equal sentences are substantially unequal because they are experienced differently by people with different financial circumstances."

For a person living in extreme poverty, a \$50 fine may as well be a significant and unpayable fine. Some jurisdictions have successfully made fines more fair by requiring or encouraging "ability-to-pay" determinations before fines can be imposed. Taking into account the defendant's ability to pay allows courts to fashion fines that are proportionate, decreasing inequality in the criminal justice system.



The Criminal Justice Policy Program (CJPP) at Harvard Law School has recently worked with a number of states and counties to require or encourage ability-to-pay determinations at sentencing. For example, CJPP developed a reference tool (a bench card) for judges in Charlotte-Mecklenburg County, North Carolina to help them conduct ability-to-pay determinations.<sup>245</sup> Following implementation of the bench card, judges issued fewer warrants for nonpayment.<sup>246</sup> Similarly, in 2017, Texas started requiring ability-to-pay determinations at sentencing, which resulted in a decrease in the use of warrants for nonpayment.<sup>247</sup> CJPP and others have issued policy proposals for implementing ability-to-pay determinations and improving proportionality in criminal fines.<sup>248</sup> Ability-to-pay determinations will decrease the likelihood of interactions with police, and therefore decrease opportunities for police violence, by ensuring that criminal defendants can pay fines that are imposed and will not be swept into aggressive enforcement efforts.

It is not enough, however, to just change how fines are imposed. Even if fines are set properly at the outset, individuals may still be unable to pay the fine for one reason or another.

<sup>244</sup> Crozier, Garrett, and Maher, *The Explosion of Unpaid Criminal Fines and Fees in North Carolina*, 14.

<sup>245</sup> Sharon Brett and Mitali Nagrecha, "Proportionate Financial Sanctions: Policy Prescriptions for Judicial Reform, *Criminal Justice Policy Program, Harvard Law School*, (Sept. 2019), 8.

<sup>246</sup> Brett and Nagrecha, "Proportionate Financial Sanctions," 6.

<sup>247</sup> Brett and Nagrecha, "Proportionate Financial Sanctions," 6.

<sup>248</sup> Sharon Brett and Mitali Nagrecha, *Proportionate Financial Sanctions: Policy Prescriptions for Judicial Reform*, Brett and Nagrecha, "Proportionate Financial Sanctions," 6; Bastien, "Ending the Debt Trap: Strategies to Stop the Abuse of Court-Imposed Fines and Fees," 8–10; Menendez, et al., *The Steep Costs of Criminal Justice Fees and Fines*, 11–12.



Policymakers therefore must also reexamine how courts enforce nonpayment of fines. Many jurisdictions use probation to ensure that court debts are paid.<sup>249</sup> This means that poor individuals, who must pay their fines over time, are subject to severe restrictions—and, often, additional punishment—while wealthier individuals can pay their fines up front and avoid additional punishment. Jurisdictions should stop making payment of financial sanctions a condition of probation.<sup>250</sup>

In addition to eliminating probation, CJPP proposes that courts “provide opportunities to seek adjustments to and relief from payment,” “send reminders and give proper notice to facilitate payment, rather than ordering people back to court, requiring check-ins, issuing arrest warrants, or imposing frequent summonses,” and “take the opportunity to reevaluate the case and waive or reduce fines when there is a demonstrated inability to pay.”<sup>251</sup> These efforts, as with upfront ability-to-pay determinations, will reduce interactions between people, particularly Black and Brown communities and the police. Crucially, eliminating warrants for nonpayment will give police one less reason to initiate arrests, reducing opportunities for the police to use excessive or deadly force.

## Recommendations

1. Drastically reduce the number of misdemeanor offenses.

Jurisdictions should repeal ordinances and laws that regulate low-level, nonviolent conduct such as loitering, littering, sleeping in public places, driving with a suspended license, and disorderly conduct—all of which are disproportionately enforced against communities that have historically been marginalized, including communities of color.

Eliminating these offenses will reduce the frequency of police contact with vulnerable communities and direct people to the proper community resources that they need without those individuals being entangled with the criminal justice system.

2. Implement policies that constrain the discretion of police officers to arrest.

Local governments and states should collaborate with their respective police departments and sheriff offices to implement internal guidance that shifts the focus from arresting individuals for low-level misdemeanors to utilizing other options.

Police officers should be encouraged to arrest as the last resort, and to divert individuals to appropriate community-based resources that will provide assistance without the harsh consequences and stigma associated with being tangled with the criminal justice system.

Police departments should implement cite-and-release programs, avoiding the potential for arrests and treating misdemeanors as a civil offense instead of a criminal offense.

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249 Brett and Nagrecha, “Proportionate Financial Sanctions,” 26.

250 Brett and Nagrecha, “Proportionate Financial Sanctions,” 26–29.

251 Brett and Nagrecha, “Proportionate Financial Sanctions,” 31–32.

3. Adopt policies that decrease or eliminate prosecutions of misdemeanors and particularly nonviolent offenses.
4. Shift traffic enforcement duties from the police to a civil agency that deploys unarmed staff to address low-level traffic infractions.

We further recommend reducing or eliminating enforcement for certain traffic offenses, including failure to signal, driving with a broken tail light, tinted windows, broken or loud exhaust system, and objects dangling from a rearview mirror.

5. Eliminate or reduce fines and fees:
  - a. Eliminate all criminal justice fees, including but not limited to those associated with low-level misdemeanor offenses and traffic violations.
  - b. Require proportionality when imposing fines, including by requiring an ability-to-pay determination at the time of sentencing.
  - c. Refocus failure to pay on ensuring that the fine imposed remains fair. Discontinue punitive measures, such as probation or issuing warrants, to enforce payment requirements.

## Section V: Building Public Trust and Reducing Violence through Demilitarization

### Militarization of Police

Military action and local law enforcement are intended to inhabit separate spheres in the United States.<sup>252</sup> Protests in recent years, however, with their combat zone-like images of civilian police forces clad in military gear and calls by the former Defense Secretary to “dominate the battlespace,” have illustrated the increasing militarization of local law enforcement agencies (LEAs).<sup>253</sup> Military equipment, along with militarized training and ethos (such as “war on drugs”), create a toxic mix that ultimately leads to police violence and erodes public trust without any public safety benefits. Public safety restructuring requires elimination of this militarized



<sup>252</sup> Arthur Rizer, “Trading Police for Soldiers: Has the Posse Comitatus Act Helped Militarize Our Police and Set the Stage for More Fergusons?” 16 no. 467, *Nevada Law Journal* (2016).

<sup>253</sup> While the PCA exceptions include serious civil unrest, they also provide guarantees against excessive military use in protest settings; Rizer, “Trading Police for Soldiers.”

approach to policing, which in turn requires decommissioning the use of military equipment by police.

Created under Section 1033 of the National Defense Authorization Act of 1997, the 1033 Program is emblematic of the many federal programs that help foster the militarization of police departments.<sup>254</sup> The 1033 Program allows the Department of Defense (DOD) to dispose of excess DOD inventory—including military equipment—to local law enforcement agencies at no cost.<sup>255</sup> The range of LEAs participating in the 1033 Program is alarmingly broad: even K-12 public schools have received military equipment under the 1033 Program.<sup>256</sup>



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1033 equipment falls within two categories: uncontrolled (such as furniture and office supplies) and controlled (such as firearms, armored personnel carriers, and night-vision goggles).<sup>257</sup> Since its inception, the 1033 Program has become an effective budgetary workaround for LEAs, providing quick access to over \$7.7 billion worth of equipment to over 8,000 LEAs across 49 states and four US territories.<sup>258</sup>

254 For instance, Department of Homeland Security also has a terrorism grant program that has given tens of billions of taxpayer dollars to local police forces to purchase military equipment directly.

255 None of the property transferred to LEAs is sold, but rather provided without cost in an “as is” condition. The only expenses LEAs are responsible for include costs related for travel to inspect property they are considering, transporting the items to their facility after their requisition is approved and maintenance or conversion costs. DLA Disposition Services Public Affairs, “Then and Now: A 2020 look into LESO, Def. Logistics Agency,” June 10, 2020, <https://www.dla.mil/AboutDLA/News/NewsArticleView/Article/2214350/then-and-now-a-2020-look-into-leso/>.

256 Letter from ACLU Texas et al., to Mark D. Harnitcheck, Director, Defense Logistics Agency, Sept. 15, 2014, <https://www.naacpldf.org/wp-content/uploads/LDF-Texas-Appleseed-1033-Letter-4.pdf>. “After those acquisitions were made public, many school police agencies opted to return the equipment to the Department of Defense.” Evie Blad, “Senator Aims to End Military Equipment Program Used by School Police,” *Education Week*, June 1, 2020, <https://www.edweek.org/policy-politics/senator-aims-to-end-military-equipment-program-used-by-school-police/2020/06>.

257 Controlled property means they are provided as a conditional transfer or “loan” basis where title remains with the Defense Department. If LEAs do not use them, they are returned to the DOD; DLA Disposition Services Public Affairs, “Then and Now.”

258 “Law Enforcement Support Office,” Defense Logistics Agency, (last visited March 8, 2022). <https://www.dla.mil/DispositionServices/Offers/Reutilization/LawEnforcement/>; Aaron C. Davenport, et al., *An Evaluation of the Department of Defense’s Excess Property Program*, (California: Rand, 2018), [https://www.rand.org/content/dam/rand/pubs/research\\_reports/RR2400/RR2464/RAND\\_RR2464.pdf](https://www.rand.org/content/dam/rand/pubs/research_reports/RR2400/RR2464/RAND_RR2464.pdf); “1033 Program FAQs,” Defense Logistics Agency, (last visited Feb. 12, 2021). <https://www.dla.mil/DispositionServices/Offers/Reutilization/LawEnforcement/ProgramFAQs.aspx>.

In 2014, the 1033 Program—and the militarization of police—drew national scrutiny in the wake of the Black Lives Matter protests in Ferguson, Missouri, following the fatal police shooting of Michael Brown. In response to those protests, local police forces confronted unarmed protesters with armored trucks, body armor, tear gas, assault rifles, and other weapons of war.<sup>259</sup> In light of the extreme responses to protests by local police forces, in January 2015, President Obama issued Executive Order 13688 to provide oversight of the then-unchecked 1033 Program. This oversight in part banned the transfer of certain equipment and resulted in the return of 126 tracked armored vehicles, 138 grenade launchers, and 1,623 bayonets to the DOD.<sup>260</sup>

With the change in the administration, however, President Trump rescinded the restrictions in 2017, claiming that LEAs' use of military equipment was necessary for public safety.<sup>261</sup> The 1033 Program reared its head again when officers drove military-surplus mine-resistant vehicles in response to various protests in 2020, including the protests in Kenosha, Wisconsin, following the police shooting of Jacob Blake on August 23, 2020.<sup>262</sup>

In overriding President Trump's veto of the National Defense Authorization Act in January 2021, Congress made its first signal toward 1033 Program reform by including a provision restricting the transfer of the more severe forms of military equipment (e.g., bayonets, grenades, weaponized tracked combat vehicles, and weaponized drones) and requiring 1033 Program participants to receive training on de-escalation of force and the rights of residents under the Constitution.<sup>263</sup> More recently, multiple House and Senate Democrats sent a letter to President Biden pressing him to issue an executive order to demilitarize LEAs by banning the transfer of military-grade weapons.<sup>264</sup>



259 Shirley Li, "The Evolution of Police Militarization in Ferguson and Beyond," *The Atlantic*, Aug. 15, 2014, <https://www.theatlantic.com/national/archive/2014/08/the-evolution-of-police-militarization-in-ferguson-and-beyond/376107/>.

260 Catie Edmondson, "Lawmakers Begin Bipartisan Push to Cut Off Police Access to Military-Style Gear," *New York Times*, June 1, 2020, <https://www.nytimes.com/2020/06/01/us/politics/police-military-gear.html>.

261 Edmondson, "Lawmakers Begin Bipartisan Push."

262 Andrea Fuller, "Lawmakers, Law Enforcement Clash Over Military Gear Program," *Wall Street Journal*, Aug. 7, 2013, <https://www.wsj.com/articles/lawmakers-law-enforcement-clash-over-military-gear-program-11600266188>.

263 Press Release, Brian Schatz United States Senator for Hawai'i, following calls for reform from Schatz, "Key Provision In NDAA To Begin Improving 1033 Program Becomes Law," Jan. 1, 2021, (<https://www.schatz.senate.gov/press-releases/following-calls-for-reform-from-schatz-key-provision-in-ndaa-to-begin-improving-1033-program-becomes-law>).

264 Henry C. Hank, Jr., et al., Letter to President Joseph R. Biden, April 6, 2021, [https://hankjohnson.house.gov/sites/hankjohnson.house.gov/files/documents/SMLEA\\_EO\\_H.Johnson.pdf](https://hankjohnson.house.gov/sites/hankjohnson.house.gov/files/documents/SMLEA_EO_H.Johnson.pdf); Brian Schatz, et al., Letter to President Joseph R. Biden, (Feb. 9, 2022, [https://www.schatz.senate.gov/imo/media/doc/biden\\_letter\\_on\\_police\\_demilitarization.pdf](https://www.schatz.senate.gov/imo/media/doc/biden_letter_on_police_demilitarization.pdf)).

While these measures offer a substantial first step, further restrictions and oversight are needed to meaningfully remove the threat of militarization, as discussed below. And as the federal flip-flopping shows, meaningful, long-term restrictions on militarization must be rooted in the state and local levels. For example, Connecticut had considered banning its police departments from receiving most types of 1033 military equipment after the shooting of Michael Brown in 2015, but decided not to push for such state reform in light of President Obama’s executive order.<sup>265</sup> State and local governments should move toward demilitarization regardless of federal action.

**Insufficient Oversight** There are few meaningful checks on the transfer of military equipment. Generally, to participate in the 1033 Program, LEAs must obtain approval from the Law Enforcement Support Office (LESO) and their state’s 1033 Program coordinator. Once approval has been granted, the LEA may request specific equipment and items, which must also be approved by the state coordinator and LESO.<sup>266</sup>

In 2017, the Government Accountability Office (GAO) created a fictitious LEA that was able to obtain over \$1 million in excess military equipment, including simulated pipe bombs and rifles, through the 1033 Program.<sup>267</sup> The GAO report showed that the program had little oversight and did not have a comprehensive system for preventing or detecting fraud. Nor did the federal government assess how the equipment is used once it is distributed. As summarized by Zina Merritt, director of the GAO’s defense capabilities and management team that ran the operation, “[i]t was like getting stuff off of eBay.”<sup>268</sup>

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**In 2017, the Government Accountability Office (GAO) created a fictitious law enforcement agency that was able to obtain over \$1 million in excess military equipment, including simulated pipe bombs and rifles through the 1033 program... Zina Merritt, the director of the GAO’s team that ran the operation stated, “[i]t was like getting stuff off of Ebay.”**

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265 Ana Radelat and Gregory B. Hladky, “Connecticut police receive millions of dollars in military equipment from program that’s under fire,” *The CT Mirror*, June 12, 2020, <https://ctmirror.org/2020/06/12/connecticut-police-receive-millions-of-dollars-in-military-equipment-from-program-thats-under-fire/>.

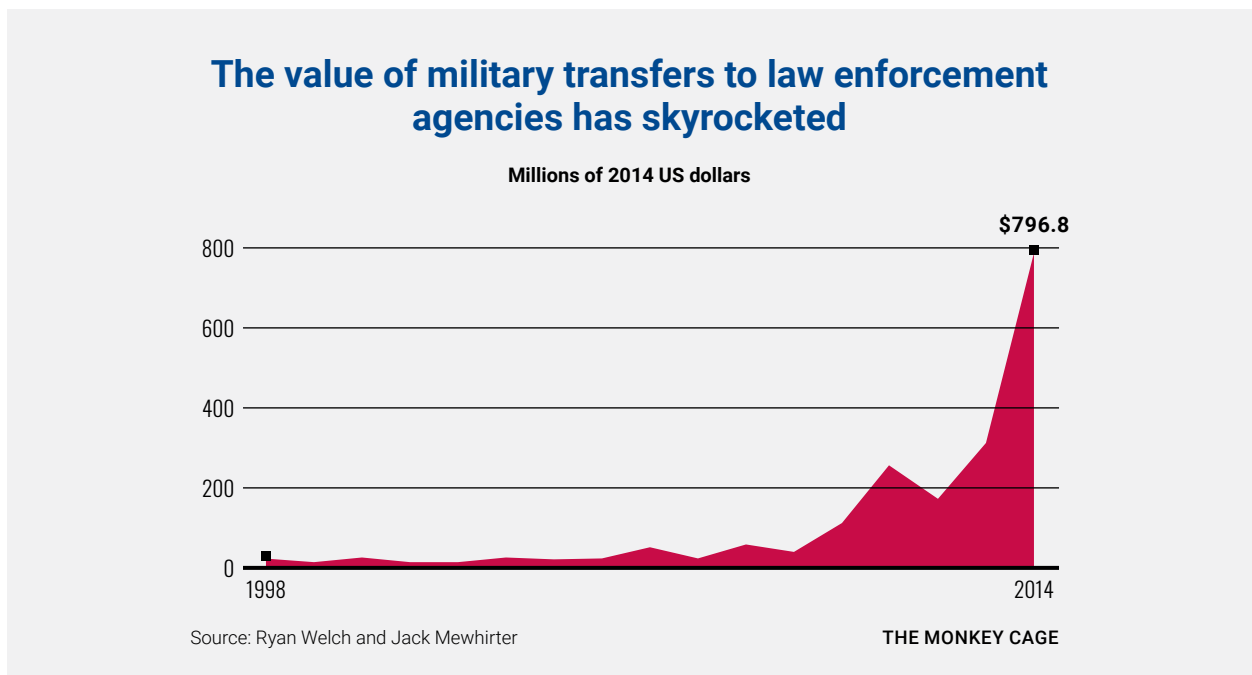
266 Daniel H. Else, *The “1033 Program,” Department of Defense Support to Law Enforcement*, (Washington, DC: Congressional Research Service, Aug. 28, 2014), <https://fas.org/sgp/crs/natsec/R43701.pdf>.

267 “DOD Excess Property: Enhanced Controls Needed for Access to Excess Controlled Property,” (Washington, DC, July 18, 2017), <https://www.gao.gov/assets/690/685916.pdf>.

268 Eli Hager, “How Fake Cops Got \$1.2 Million in Real Weapons,” *Wired* July 21, 2017, <https://www.wired.com/story/gao-sting-defense-department-weapons/>



**Growth of Militarization** The 1033 Program has long been a mainstay of the federal defense strategy. Shifts in congressional priorities and “tough-on-crime” rhetoric, however, have evolved and expanded the 1033 Program typically under the guise of various agendas such as the war on drugs, war on terror, and border security.<sup>269</sup> For example, in 1998, the DOD transferred about \$9.4 million in equipment to 290 LEAs. Post-9/11, there was a dramatic jump in equipment transfers, with LEAs receiving military equipment worth over \$1.5 billion. Between 2006 and 2014, the DOD transferred over 6,000 mine-resistant, ambush-protected vehicles, 79,288 assault rifles, 205 grenade launchers, 11,959 bayonets, 50 airplanes, 422 helicopters, and \$3.6 million in camouflage and other “deception equipment.”<sup>270</sup> The graph below illustrates this transfer trend from 1998 to 2014.<sup>271</sup>



Special Weapons and Tactics (SWAT) teams are the primary consumers of these military-grade equipment. The first official SWAT unit formed in the late 1960s in Los Angeles as “quasi-militaristic” squads deployed to handle emergencies such as hostage or barricade situations.<sup>272</sup> By 1975, there were about 500 SWAT units. Today, there are thousands of SWAT teams, and they are rarely deployed for genuine emergencies. Instead, there has been an unnecessary expansion in the use of heavily-armed specialized forces like SWAT teams to execute search warrants in low-level domestic drug raids in people’s homes—usually in

<sup>269</sup> Defense Logistics Agency, *Then and Now*.

<sup>270</sup> Ryan Welch and Jack Mewhirter, “Does military equipment lead police officers to be more violent? We did the research,” *Washington Post*, June 30, 2017, <https://www.washingtonpost.com/news/monkey-cage/wp/2017/06/30/does-military-equipment-lead-police-officers-to-be-more-violent-we-did-the-research/>.

<sup>271</sup> Welch and Mewhirter, “Does military equipment lead police officers to be more violent?”

<sup>272</sup> ACLU, *War Comes Home the Excessive Militarization of American Policing*, (New York: ACLU Foundation, 2014), <https://www.aclu.org/sites/default/files/assets/jus14-warcomeshome-report-web-rel1.pdf>.



the middle of the night, when no one's life is at immediate risk—all of which often result in needless bloodshed.<sup>273</sup>

One has to look no further than the police killing of Breonna Taylor in 2020, which occurred during the disproportionately militarized execution of a “no-knock” search warrant: three narcotics officers, dressed in street clothes, broke down the residence’s door with a battering ram in the middle of the night and shot Breonna Taylor—who was not the target of the warrant—eight times.<sup>274</sup> Worse, these officers were part of the Criminal Interdiction Division, not the more specialized and trained SWAT team—illustrating the pervasiveness of the military mindset among LEAs.<sup>275</sup>

The Ithaca Public Safety Model has identified the use of military-grade weapons and a SWAT Mobile Command Vehicle as a particular source of strain between law enforcement and the local community, which wants the police to be demilitarized. Ithaca’s report on reimagining public safety calls for rebranding the vehicle and giving it to Tompkins County Department of Emergency Response to be used for such purposes. However, the Tompkins County Legislature stymied those efforts, causing the city to look into developing a task force to “review the use” of the SWAT truck and “explore alternative or expanded functions.”<sup>276</sup> In 2021, the city announced the SWAT truck would be repainted and have new lettering and a new decal design, pending input from the community, and all weapons would be removed from the truck. Further, the Ithaca SWAT team, renamed the Ithaca-Tompkins Specialized Response Team in 2021, will no longer serve no-knock warrants.<sup>277</sup>

**Militarization’s Harmful Effects** Though the 1033 Program continues to expand, recent scholarship indicates that, at a minimum, the program is not only ineffective in reducing crime or improving police safety—it is in fact harmful to the community. Ultimately, the costs of the 1033 Program outweigh any perceived benefit.

For example, Jonathan Mummolo, an assistant professor of politics and political affairs at Princeton University, reviewed records of all Maryland SWAT deployments (an alternate measure of militarization), among other things, and found that SWAT teams were deployed 90 percent of the time to serve search warrants rather than violent emergency situations; most

273 Radley Balko, *Rise of the Warrior Cop*, *Wall Street Journal*, August 7, 2013, <https://www.wsj.com/articles/rise-of-the-warrior-cop-1375908008>.

274 Wayne McElrath & Sarah Turberville, “Poisoning Our Police: How the Militarization Mindset Threatens Constitutional Rights and Public Safety,” *Project on Government Oversight*, June 9, 2020, <https://www.pogo.org/analysis/2020/06/poisoning-our-police-how-the-militarization-mindset-threatens-constitutional-rights-and-public-safety/>; Interview with Radley Balko, *NPR.ORG*, July 1, 2020, <https://www.npr.org/2020/07/01/885942130/militarization-of-police-means-u-s-protesters-face-weapons-designed-for-war>.

275 Darcy Costello, et al., “Louisville SWAT team condemned raid on Breonna Taylor’s home as ‘just an egregious act,’” *USA Today*, Oct. 6, 2020, <https://www.usatoday.com/story/news/nation/2020/10/06/breonna-taylor-case-louisville-swat-condemned-raid/3637497001/>.

276 John Yoon, “Mayor Svante Myrick’s ‘09 Police Overhaul Proposal, Explained,” *Cornell Daily Sun*, April 2, 2020, <https://cornellsun.com/202104/02/mayor-svante-myricks-09-police-overhaul-proposal-explained/>.

277 Matt Steecker, “IPD announces new SWAT name, operational changes, repaints truck, removes weapons storage,” *Ithaca Journal*, May 4, 2021, <https://www.ithacajournal.com/story/news/public-safety/2021/05/04/ithaca-police-sheriffs-office-announce-changes-swat-team/4927454001/>.

of the deployments were in communities of color,<sup>278</sup> and the units neither increased officer safety nor reduced violent crimes.<sup>279</sup> Instead, the SWAT units' militarized image eroded public opinion toward law enforcement.<sup>280</sup>



Other studies suggest that increased LEA access to military equipment leads to more LEA violence. Casey Delehanty, *et al.*, for example, looked at county-level data on police killings and data on 1033 Program transfers available in four states (Connecticut, Maine, Nevada, and New Hampshire) to study the effects of militarization. They found that more-militarized LEAs—indicated by 1033 Program transfers—corresponded with more civilians killed each year by police.<sup>281</sup> As

summarized by one of the study's authors, “[w]hen a county goes from receiving no military equipment to \$2,539,767 worth (the largest figure that went to one agency in [their] data), more than twice as many civilians are likely to die in that county the following year.”<sup>282</sup>

Political scientist Edward Lawson, Jr. found the same correlation using data from all 50 states: as an LEA's militarization increased, so did the number of civilians who are killed. Lawson reached this conclusion by reviewing data on police receipt of surplus military equipment to measure militarization and data on suspect deaths in all 50 states between 2014 to 2016. This comparison revealed a correlation between militarization and the number of individuals killed during police encounters.<sup>283</sup> Lawson further observed that “[m]ilitarized police departments see themselves not as public servants upholding the law, but as an army fighting a war against a dangerous and invisible enemy and occupying territory that is hostile to them.”<sup>284</sup>

These studies suggest that demilitarizing the police is not merely a matter of “optics,” as the 1033 Program proponents argue—it is an important step in ending police violence and restoring public trust. Moreover, acquisition of military equipment creates “budgetary and organizational pressure to use” military equipment in order to justify the expenditures, in turn

278 Jonathan Mummolo, “Militarization Fails to Enhance Police Safety or Reduce Crime but may Harm Police Reputation,” 115 no. 9181, *Proceedings of the B+ National Academy of Science*, (2018).

279 Mummolo, “Militarization Fails to Enhance Police Safety or Reduce Crime; Michael Leo Owens, et al., “Where do police departments get their military-style gear? Here's what we don't know,” *Washington Post*, July 20, 2020, <https://www.washingtonpost.com/politics/2020/07/20/where-do-police-departments-get-their-military-style-gear-heres-what-we-dont-know/>

280 Owens, et al., “Where do police departments get their military-style gear?”

281 Casey Delehanty, et al., “Militarization and Police Violence: The Case of the 1033 Program,” 4 no. 2, *Research and Politics* 2 (2017).

282 Welch and Mewhirter, “Does military equipment lead police officers to be more violent?”

283 Lawson Jr., “TRENDS.”

284 Edward Lawson Jr., “Evidence suggests the militarization of police forces leads to more civilian deaths,” *LSE US Centre*, July 5, 2018, <https://blogs.lse.ac.uk/usappblog/2018/07/05/evidence-suggests-the-militarization-of-police-forces-leads-to-more-civilian-deaths/>.

normalizing its use.<sup>285</sup> And the paramilitary culture of police departments, exacerbated by the presence of military equipment, encourages problems to be “seen as acts of war,” enables botched raids and excessive use of force, and renders “[t]he person on the other side of the equipment . . . less visible.”<sup>286</sup> As one police chief explained,

Good police work has nothing to do with dressing up in black and breaking into houses in the middle of the night. And the mentality changes when they get put on the SWAT team. I remember a guy I was good friends with; it just completely changed him. The us-versus-them mentality takes over. You see that mentality in regular patrol officers too. But it’s much, much worse on the SWAT team. They’re more concerned with the drugs than they are with innocent bystanders. Because when you get into that mentality, there are no innocent people. There’s us and there’s the enemy.<sup>287</sup>

Stopping the militarization of police—and police violence—requires ending access to military equipment through programs such as the 1033 Program.

## Demilitarization Efforts in Key Metro Areas

Certain states and metro areas have proactively taken steps to restrict possession and/or use of military and military-like equipment by their LEAs. For example, in December 2020, Virginia passed a law prohibiting state and local LEAs from acquiring or purchasing military equipment such as MRAP (Mine-Resistant Ambush Protected) armored multi-wheeled vehicles that are configured for combat, grenades, and bayonets.<sup>288</sup> In March 2015, New Jersey began requiring approval from local legislative bodies before municipalities and counties could obtain military equipment.<sup>289</sup> And in Georgia, the City Council of Atlanta introduced an ordinance that prohibits the use of military-style vehicles and rubber bullets and stun guns to disperse protesters or for other purposes.<sup>290</sup>



285 Testimony of Chief Jim Bueerman, Ret., President, Police Foundation, Washington, DC, Sept. 9, 2014, [https://archive.org/stream/gov.gpo.fdsys.CHRG-113shrg92902/CHRG-113shrg92902\\_djvu.txt](https://archive.org/stream/gov.gpo.fdsys.CHRG-113shrg92902/CHRG-113shrg92902_djvu.txt).

286 David Brooks, “The Culture of Policing is Broken,” *The Atlantic*, June 16, 2020, <https://www.theatlantic.com/ideas/archive/2020/06/how-police-brutality-gets-made/613030/>.

287 Radley Balko, “How did America’s police become a military force on the streets?” *ABA Journal*, July 1, 2013. [https://www.abajournal.com/magazine/article/how\\_did\\_americas\\_police\\_become\\_a\\_military\\_force\\_on\\_the\\_streets](https://www.abajournal.com/magazine/article/how_did_americas_police_become_a_military_force_on_the_streets).

288 Mike Maharrey, “Signed as Law: Virginia Limits Federal Militarization of Police,” *Tenth Amendment Center*, Dec. 1, 2020, <https://blog.tenthamentendmentcenter.com/2020/12/signed-as-law-virginia-limits-federal-militarization-of-police/>.

289 ACLU New Jersey, “ACLU-NJ Lauds NJ’S First-in-the-Nation Police Militarization Law,” *ACLU New Jersey*, March 19, 2015, <https://www.aclu-nj.org/news/2015/03/19/aclu-nj-lauds-njs-first-nation-police-militarization-law>

290 Atlanta City Council, “Council presents, adopts legislation for police reform and community building,” *Medium*, June 27, 2020, <https://atlantacitycouncil.medium.com/council-presents-adopts-legislation-for-police-reform-and-community-building-6bb17c9e907f>.

Other states, however, have resisted calls for restrictions on militarization. For example, in 2018, former California Governor Jerry Brown vetoed Assembly Bill 3131, which would have required LEAs to obtain local governmental approval before acquiring or using military equipment. In vetoing the bill, Governor Brown repeated debunked claims about the supposed public safety benefits of LEA access to military equipment, stating that the bill “creates an unnecessary bureaucratic hurdle without commensurate public benefit.”<sup>291</sup> And although Virginia imposed restrictions on the acquisition of certain military equipment, it still refused to impose transparency measures that would have required LEAs to publish public notice within 14 days of requesting military equipment from a federal program.<sup>292</sup>

Additional information about the steps that certain states—corresponding to the Key Metro Areas and the District of Columbia—have taken to reduce possession and/or use of military and military-like equipment by their LEAs can be found in Appendix C on page 159.

## Recommendations

1. Ban LEA 1033 Program participation with respect to controlled equipment.

For example, in June 2020, Connecticut Governor Ned Lamont signed an executive order that, inter alia, bars state police from participating in the 1033 Program. “Local departments were excluded from the executive order but the Connecticut Police Chief’s Association voluntarily agreed to stop taking in military equipment for 90 days.”<sup>293</sup>

2. While LEAs claim that the military equipment can be an asset for law enforcement for various nonviolent reasons, such as rescuing people from natural disasters, at least one former member of the Connecticut State Police has stated that he “do[esn’t] think it would be terribly detrimental to [LEAs] if that resource wasn’t available.”<sup>294</sup>
3. Mandate return of all distributed controlled military equipment to the federal government.
4. Bar the use of military-grade equipment against unarmed civilians.

For example, San Francisco Mayor London Breed directed the San Francisco Police Department “to establish an explicit policy barring the use of military-grade weapons against unarmed civilians.”<sup>295</sup>

5. Ban K-12 school police departments from enrolling in the 1033 Program.
6. Where LEA 1033 Programs still exist, require data collection and tracking of controlled equipment and incidents to better understand the civic consequences of possession.

291 Assem. Bill 445, 2017-2018 Reg. Sess. (Cal. 2018).

292 Maharrey, “Signed as Law.”

293 Matt Caron, “Local police push back against Lamont’s military equipment ban,” *Fox61*, June 16, 2020, <https://www.fox61.com/article/news/local/connecticut-police-chiefs-push-back-on-military-equipment-ban/520-00f3c971-3d8e-4d5e-9ee6-e0e03e088303>.

294 Caron, “Local police push back against Lamont’s military equipment ban.”

295 City and County of San Francisco, Office of the Mayor, “Mayor London Breed Announces Roadmap for New Police Reforms, press release, June 11, 2020, <https://sfmayor.org/article/mayor-london-breed-announces-roadmap-new-police-reforms>.



**CHAPTER TWO:**

# **Hold Responsible**

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# Hold Responsible

As a threshold issue, there remain numerous challenges to holding officers responsible and achieving the ultimate goal of ending police violence. It must be noted that accountability alone will undoubtedly not solve the problem of police violence. Current systems of policing rely heavily on law enforcement to deal with situations for which they are not equipped and which can be more effectively handled by social workers and other public health professionals—such as nonviolent situations and incidents involving mental health or homelessness issues, as we analyzed in more detail in the first chapter of this report. These types of incidents can and have easily led to incidents of brutality and killings at the hands of police, and thus must be handled by trained professionals who can better address the needs of those experiencing them. Regardless, breaking down barriers to accountability and implementing effective measures that hold officers accountable are important steps in the fight to end police abuse of power.

As an example, police unions and the contracts between unions and local governments make it much more difficult to effectively investigate police misconduct and hold accountable officers who have committed misconduct. Additionally, qualified immunity prevents courts from holding unfit officers responsible for their actions. And data on police killings may be unreliable, which renders certain policy reforms incomplete or even ineffective. The barriers these challenges present must be addressed for greater police accountability and the possibility of ending unnecessary police violence.

## Section I: Police Union Contracts

### Police Union Contracts Are a Barrier to Reducing Police Violence

For much of American history, police officers were not unionized. Indeed, five states still prohibit police unionization entirely: Georgia, North Carolina, South Carolina, Tennessee, and Virginia.<sup>1</sup> From early in their history, police unions have resisted accountability measures. In fact, unionized police forces were rare prior to the 1960s, when officers unionized in reaction to the civil rights movement's focus on police brutality and racism.<sup>2</sup> And to this day, unions continue to resist measures designed to increase police accountability and to reduce police violence.

Compounding the problem is the fact that police officer union leadership is often substantially less diverse than the officers they represent and the communities those

1 Milla Sanes and John Schmitt, "Regulation of Public Sector Collective Bargaining in the States," (Washington, DC: Center for Economic and Policy Research, 2014), <https://cepr.net/documents/state-public-cb-2014-03.pdf>

2 Catherine L. Fisk and L. Song Richardson, "Police Unions," 85 no. 3, *George Washington Law Review*, (2017): 712, 736



officers serve.<sup>3</sup> Of the 15 largest police departments in which a majority of officers are people of color, only one, Memphis, has a union leader who is Black. The trend of White union leadership of diverse police departments exists in Atlanta, Chicago, Houston, Los Angeles, Miami, New Orleans, and Washington DC.<sup>4</sup> But White officers are substantially less likely to view police violence as related to systemic racism; as a damaging consequence, White union leadership does not prioritize the reduction of police violence against communities of color.

Further, police unions impose barriers to removing officers accused of misconduct. For example, at the state level, unions are powerful political forces and have succeeded in passing police officer “bills of rights,” which provide burdensome procedural protections for officers accused of wrongdoing, making it difficult to hold officers accountable when necessary and appropriate. At the local level, unions bargain for further procedural protections in discipline proceedings, again making it that much harder to hold officers accountable. Often, these collective bargaining agreements are negotiated outside of the public view, and frequently the agreement itself is not widely available.

In general, there are six primary ways in which union contracts can be a barrier to holding police officers accountable for misconduct.<sup>5</sup> Union contracts often:

- *Impose delays and restrictions on investigating officers accused of misconduct.* For example, a police union contract may prevent officers from being interrogated until 48 hours after the incident, which may allow officers time to review evidence and coordinate their testimony. These “interrogation buffers” obstruct investigations, diminish the likelihood that culpable officers are subject to effective internal investigations, and protect potential repeat offenders.<sup>6</sup>
- *Prevent complaints from being investigated.* This includes limits on the types of complaints that can be investigated, such as anonymous complaints. It also includes time limitations on when a complaint can be filed and on the duration of an investigation. For example, contracts may bar investigations brought more than a year after an incident or may require that investigations be finished within six months.
- *Provide accused officers access to information that might bias the outcome of the investigation.* For instance, accused officers may be allowed access to witness statements in advance of testifying. This may affect officers’ testimony, for example by introducing confirmation bias, e.g., the officer recalls something because witnesses saw it.

3 Eli Hager and Weihua Li, “A Major Obstacle to Police Reform: The Whiteness of Their Union Bosses,” *The Marshall Project*, June 10, 2020, <https://www.themarshallproject.org/2020/06/10/a-major-obstacle-to-police-reform-the-whiteness-of-their-union-bosses>. In a Pew survey, 92 percent of White officers, but only 29 percent of Black officers, say that the country has made the changes needed to assure equal rights for Black people. A majority of Black officers surveyed viewed fatal police shootings as evidence of a broader problem between police and Black people and yet only 27% of White officers agreed. Similarly, only 27 percent of White officers felt that protests against police violence were a sincere effort at accountability. Rich Morin, Kim Parker, Renee Stepler, and Andrew Mercer, “Behind the Badge,” *Pew Research Center*, Jan. 11, 2017, <https://www.pewsocialtrends.org/2017/01/11/behind-the-badge/>.

4 Hager and Li, “A Major Obstacle to Police Reform.”

5 Fair Police Contracts, Campaign Zero, <https://www.joincampaignzero.org/contracts>

6 Aziz Z. Huq and Richard H. McAdams, “Litigating the Blue Wall of Silence,” *University of Chicago Legal Forum*, (2016): 213, 220.

- *Limit the power of civilian oversight/discipline.* Civilian oversight boards were once thought of as a check on the police discipline process, but union contracts often weaken the power of review boards. For example, a union contract might specify that civilian oversight board determinations are not final or binding on a police chief, who makes the ultimate discipline decision. Internal appeals procedures can force departments to rehire officers who have engaged in even serious misconduct. Moreover, these appeals are often conducted by arbitrators selected in part by the police, and are non-public, which further decreases police oversight and accountability. As a consequence, appellate review by a private arbitrator can have substantial effects on the ability to hold officers accountable. In Washington DC, for example, the appeals process led to 45 percent of terminated officers being rehired. In Boston, 29 percent of terminated officers are rehired following appeal.<sup>7</sup>

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**Derek Chauvin, the officer primarily responsible for killing George Floyd, was the subject of at least 17 misconduct complaints, but because the police union contract prohibits recording complaints that do not lead to discipline, his personnel file contained just a single letter of reprimand.**

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- *Purge misconduct records.* Police union contracts may require the destruction of misconduct records after some period of time, making it difficult to monitor whether officers are repeat offenders. This has predictable consequences for tracking repeat offenders. For example in the case of Derek Chauvin, despite the fact that Chauvin was the subject of at least 17 misconduct complaints, his personnel file contained just a single letter of reprimand because the union contract prohibits recording in personnel files any complaints that do not lead to discipline.<sup>8</sup> In 2016, the *Guardian* reviewed police union contracts leaked by hackers and found that one-third contained clauses requiring the destruction of misconduct records after a negotiated period of time. In addition, many police union contracts contain provisions that prevent public access to disciplinary records or departmental investigations, which undermines democratic accountability and effective public oversight.<sup>9</sup>

<sup>7</sup> Stephen Rushin, "Police Disciplinary Appeals", 167 *University of Pennsylvania Law Review*, (2019): 545, 580.

<sup>8</sup> MPD Internal Affairs Public Summary, <http://www2.minneapolismn.gov/www/groups/public/@mpd/documents/webcontent/wcmstp-224705.pdf>; City of Minneapolis and Police Officers' Federation of Minneapolis Labor Agreement for Police Unit (2012–2014), [https://www.lris.com/wp-content/uploads/contracts/minneapolis\\_mn\\_police.pdf](https://www.lris.com/wp-content/uploads/contracts/minneapolis_mn_police.pdf).

<sup>9</sup> George Joseph, "Leaked police files contain guarantees disciplinary records will be kept secret," *The Guardian*, Feb. 7, 2016, <https://www.theguardian.com/us-news/2016/feb/07/leaked-police-files-contain-guarantees-disciplinary-records-will-be-kept-secret>

- *Require the public to pay for officers' misconduct.* Many police union contracts effectively shift the cost of misconduct proceedings to the public. For example, contracts can require that accused officers are given paid leave even when they are charged with a criminal offense.

## POLICE UNION CONTRACTS CAN PREVENT ACCOUNTABILITY BY:

### 1 Delaying & restricting misconduct investigations

e.g. delaying officer interrogations after incident/allegation

### 2 Preventing investigations of misconduct complaints

e.g. limiting types of complaints; imposing time limits on filing of complaints

### 3 Providing officers unfair access to information

e.g. access to witness statements before officer testimony

### 4 Limiting power of civilian oversight bodies & discipline measures

e.g. making civilian oversight recommendations non-binding; allowing a police selected arbitrator to decide appeals of discipline recommendations by oversight bodies

\* \* \*

Police union contracts are a barrier to holding officers accountable, but they also provide a leverage point for change. For unions, a primary goal of contract negotiation is increased pay. Unions therefore have substantial incentives to agree to a new contract and may be willing to negotiate on the contract's terms. In other words, contract negotiations provide an opportunity for advocates to push for increased accountability. Because contracts are often negotiated in private between the union and a designated negotiator, advocates must gain access to contract negotiations, directly or through elected officials. They must then ensure that additional accountability measures are a prerequisite for new union contracts.<sup>10</sup>

The recent social and political focus on reducing police violence makes this environment a prime opportunity to renegotiate union contracts, and in some communities has already resulted in changes to the union contract or the negotiating process.<sup>11</sup> At the same time, the COVID-19 pandemic and its economic effects may create a budget crunch at the state and local level. Unions are likely to be focused on the effect of reduced budgets—including layoffs and pay cuts—and may be less resistant to increased accountability measures.<sup>12</sup>

<sup>10</sup> Interview with Dr. Tracie Keese, Co-Founder and Senior Vice President of the Center for Policing Equity, Oct. 8, 2020.

<sup>11</sup> Interview with Dr. Tracie Keese, Oct. 8, 2020.

<sup>12</sup> Interview with Dr. Tracie Keese, Oct. 8, 2020.

## The Effect of Unions in Key Metro Areas

### Police Officers' Bill of Rights

A police officers' bill of rights, also known as a law enforcement officer's bill of rights or LEOBR, forms the background against which union contracts are negotiated, and can stymie efforts at reform. A strong bill of rights, codified in state law, makes it much easier for unions to have leverage in their contract negotiations with cities.<sup>13</sup>

Baltimore is a prime example of how a strong officers' bill of rights can negatively affect police discipline and removal proceedings.<sup>14</sup> As recently as 2021, in Maryland, the bill of rights applied to all such proceedings and provided substantial procedural protections, applicable from the complaint process through handling of discipline records. At the beginning of the process, the bill of rights required that any allegation of police brutality be accompanied by a signed sworn statement by either the victim, a member of the victim's family, or a direct witness.<sup>15</sup> Without a sworn statement, allegations of police brutality could not have even been investigated. This was a high standard with a deterrent effect. And even if an investigation resulted in any punitive actions against the officer—loss of pay, reassignment, demotion, or dismissal—the officer was entitled to a hearing in front of a hearing board selected by the police chief that can be composed entirely of other officers. If the hearing board determined the officer was guilty, the hearing board could have made a recommendation, but except in rare circumstances, the recommendation was not binding and the police chief made an independent decision on the punishment. Finally, if the officer received some discipline, any records of that adverse action could have been expunged after three years. In cases where the charges were determined to be unfounded, the record could have been immediately expunged. In 2021, Maryland became the first state to repeal its existing LEOBR and reduce the special protections offered to police officers facing misconduct allegations. For instance, discipline will now largely be determined by a civilian panel, though the police chief still plays a role in the process.<sup>16</sup>

### Union Contracts

Almost all of the Key Metro Areas have police union contracts that hinder efforts at increasing police accountability and reducing police violence. Only Atlanta, Charlotte, Norfolk-Virginia Beach-Newport News, and Richmond are in states that prohibit police union contracts. For more information on police union contracts and related state law in the Key Metro Areas, see Appendix D on page 163.

<sup>13</sup> Interview with Major Neill Franklin, Ret., former Executive Director, Executive Board Member, Law Enforcement Action Partnership, Oct. 26, 2020.

<sup>14</sup> Interview with Major Neill Franklin, Ret., Oct. 26, 2020.

<sup>15</sup> Maryland Police Law Enforcement Officers Bill of Rights, April 2017, <https://mcp.maryland.gov/Directive%20Manual/5-104.pdf>.

<sup>16</sup> Ovetta Wiggins and Erin Cox, "Maryland enacts landmark police overhaul, first state to repeal bill of rights," *Washington Post*, April, 20 2021, [https://www.washingtonpost.com/local/md-politics/hogan-vetoes-police-accountability/2021/04/09/c0ac4096-9967-11eb-962b-78c1d8228819\\_story.html](https://www.washingtonpost.com/local/md-politics/hogan-vetoes-police-accountability/2021/04/09/c0ac4096-9967-11eb-962b-78c1d8228819_story.html)

Chicago suffers from major barriers to police accountability in part due to its union contract. In 2017, the Department of Justice Civil Rights Division and United State Attorney's Office for the Northern District of Illinois released the DOJ Chicago report following a yearlong investigation, which found that, over a five-year period, 98 percent of the 30,000 complaints of misconduct resulted in no action.<sup>17</sup> The inaction on misconduct complaints was due to procedural hurdles provided under police union contracts.<sup>18</sup>

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## Police Union Contracts Create Procedural Hurdles to Accountability

**98% NO ACTION**

Chicago - A report released in 2017 by the Department of Justice Civil Rights Division & US Attorney's Office for Northern Illinois found that **between 2011–2016, 98% of the 30,000 misconduct complaints against Chicago police resulted in no action.**

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Of the cases that Chicago did investigate, the DOJ found that there were “serious investigative flaws that obstruct objective fact finding.”<sup>19</sup> One flaw is the gatekeeping requirement that requires a supporting affidavit, which victims are often reluctant to provide. The DOJ Chicago report found that in “most of the lawsuits in which police misconduct victims received significant settlements or verdicts, [the] parallel misconduct investigation was closed for lack of an affidavit. In other words, the City routinely *pays large sums* in civil litigation to victims of police misconduct who have filed non-verified complaints describing the misconduct in question, but fails to *investigate* these same officers for disciplinary purposes because their administrative complaints are not verified.” At the same time, union contracts do not allow the investigation of anonymous complaints, which makes it much less likely that officers will report misconduct in their ranks.<sup>20</sup>

Once a complaint reaches the investigation stage, the Chicago union contracts present additional barriers. They require that a complainant's name is disclosed to the accused officer

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17 US Department of Justice Civil Rights Division and United State Attorney's Office for the Northern District of Illinois, “Investigation of the Chicago Police Department,” (Chicago: US JCRD, 2017), 7, <https://www.justice.gov/opa/file/925846/download>.

18 US Department of Justice Civil Rights Division and United State Attorney's Office for the Northern District of Illinois, *Investigation of the Chicago Police Department*, 18. Prior to 2016, the Independent Police Review Authority handled allegations of excessive force. As of 2017, that role is managed by the Civilian Office of Police Accountability.

19 US Department of Justice Civil Rights Division and United State Attorney's Office for the Northern District of Illinois, *Investigation of the Chicago Police Department*.

20 US Department of Justice Civil Rights Division and United State Attorney's Office for the Northern District of Illinois, *Investigation of the Chicago Police Department*.

prior to questioning, which causes “significant fear of police retaliation by many complainants” and chills reporting of misconduct. In shootings by police officers, no interview can occur until 24 hours after the incident, and during that time the officer may talk with their commander, supervisors, detectives, or union staff. These procedures are “highly troubling,” because “[t]he possibility of officer collusion in this setting is more than theoretical.” For example, in the 2014 killing of Laquan McDonald, seven officers falsified their reports about the shooting, stating that McDonald was advancing and threatening officers with a knife, when video of the shooting showed that he was not.<sup>21</sup>



As a final barrier, “even when . . . incidents may include serious misconduct,” the union contracts specify that Chicago will not investigate cases that are more than five years old and will destroy most disciplinary records after five years. This practice, in light of police officers’ “code of silence,” which discourages and prevents timely disclosure of misconduct, “not only may impair the investigation of older misconduct, but also deprives [the police] of important discipline and personnel documentation that will assist in monitoring historical patterns of misconduct.”<sup>22</sup>

## Recommendations

Cities should use the union contract negotiation process as an opportunity for reform, considering the following goals:

1. Eliminate police union contract provisions that shield officers from being immediately interviewed after misconduct incidents.

Investigation procedures can respect an accused officer’s right to counsel while guarding against collusion and fading memories. Contracts should not require a delay prior to an interview.

2. Make Collective Bargaining Agreements negotiations public.

The union contract negotiation process should be publicly visible and democratically accountable. Finalized agreements should be public and easily available.

<sup>21</sup> US Department of Justice Civil Rights Division and United State Attorney’s Office for the Northern District of Illinois, *Investigation of the Chicago Police Department*.

<sup>22</sup> US Department of Justice Civil Rights Division and United State Attorney’s Office for the Northern District of Illinois, *Investigation of the Chicago Police Department*.



3. Allow for the investigation of anonymous complaints.

Police unions contracts should not limit investigations to only those complaints in which a witness makes a sworn statement.

4. Extend statutes of limitations, time bars, and time constraints on the length of an investigation.

In states where a police officers' bill of rights contains a statute of limitations, reform is needed at the state level. Otherwise, union contracts should permit investigation of complaints within a reasonable period of time, and preferably longer than five years. There should be no artificial limit on the length of an investigation, particularly where disciplinary investigations may be substantially delayed pending a criminal investigation.

5. Restrict accused officers' access to information during the investigation.

Access to the complaint and other witness statements should be restricted at least until after the officer has been interviewed. Alternatively, access to information can be restricted until the investigation is complete and the officer is preparing for a discipline hearing. This should also apply to officers and supervisors who order others to deactivate body-worn cameras.

6. Remove binding private arbitration.

While each city has a different disciplinary hearing process, no union contract should permit an officer to be able to overturn the finding of a publicly accountable hearing board or the police chief through an appeal conducted in private by an arbitrator selected in whole or in part by the police.

7. Make officer records public and permanent.

Complaints and investigations should remain part of an officer's record for a reasonable period of time, but not less than three years. Disciplinary action should be recorded permanently.

8. Encourage diverse union leadership.

Union leadership must reflect a union's members and the community those members serve. In all unions, and particularly those with diverse memberships, emphasis must be placed on promoting Black, Latinx, and other candidates of color to leadership positions.

## Section II: Qualified Immunity

Officers must bear the costs of their violence and victims of police violence deserve to be made whole for their injuries, and should be able to look to the courts to enforce their rights and seek relief. Civil liability is one tool to ensure that officers are financially responsible for their conduct, and that victims and their families receive compensation. Civil liability can function as a deterrent and reduce bad conduct by officers.<sup>23</sup> But the judicial doctrine of qualified immunity protects officers from lawsuits even when officers violate victims' civil rights and prevents these victims from seeking entitled relief.

### Qualified Immunity Prevents Courts from Holding Unfit Officers Responsible

In theory, victims of excessive police force have a civil remedy for the violation of their Fourth Amendment rights. Under federal law, 42 U.S.C. § 1983 (Section 1983), a person acting on behalf of the state, such as a police officer, is liable for violations of individuals' constitutional rights. But courts have sharply limited civil liability under Section 1983. The Supreme Court has held that police officers possess *qualified immunity*: an officer cannot be personally liable for civil damages under Section 1983 unless the officer violated “clearly established law.”

In practice, qualified immunity is routinely used by courts to prevent officers from being held accountable. Courts have an impossibly high bar for what constitutes “clearly established law”: there must be a preexisting court case or law, with similar factual circumstances, that clearly tells officers their conduct was wrong. But there is often not a perfect factual match, and as a result, officers accused of excessive force often escape liability by pointing to small differences between prior cases and the allegedly excessive force used in their case. Put simply, a court can determine that officers used unconstitutional force in killing a victim, but that because the law was not “clearly established”—there was no prior case stating that exact conduct in similar factual circumstances was unconstitutional—there is no remedy for the victim.

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**Qualified immunity sets an impossibly high bar preventing police accountability. Pre-existing court or case law with similar factual circumstances is required. Since no two cases are exactly alike, officers can use small differences to escape accountability.**

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<sup>23</sup> On the function of tort law to deter wrongdoing, see Gary T. Schwartz, “Mixed Theories of Tort Law: Affirming Both Deterrence and Corrective Justice,” 75 *Texas Law Review*, (1997): 1801.

This perverse result has led to a momentum to end qualified immunity. For example, the Cato Institute stated that ending qualified immunity “is crucial not just to secure relief for individuals whose rights are violated, but also to ensure accountability for government agents.”<sup>24</sup> The ACLU also strongly supports ending qualified immunity, and has called it a free pass for officers to violate constitutional rights.<sup>25</sup> In 2020, the American Bar Association House of Delegates passed a resolution urging state and federal governments to eliminate or substantially curtail the defense.<sup>26</sup> And Justice Thomas has expressed strong doubts about the Supreme Court’s qualified immunity doctrine.<sup>27</sup>

The doctrine of qualified immunity has critics even among former members of law enforcement. Major Neill Franklin, executive director of the Law Enforcement Action Partnership, blames qualified immunity for “exacerbating deep mistrust between communities and law enforcement” and teaching communities “to see police departments not as public institutions designed to protect them, but as forces to be feared and distrusted.”<sup>28</sup>

**Qualified immunity exacerbates deep mistrust between communities and law enforcement by teaching communities to see police departments not as public institutions designed to protect them, but as forces to be feared and distrusted.**

**—Major Neill Franklin Ret., Former Executive Director, Law Enforcement Action Partnership (LEAP)**

There is also evidence that qualified immunity does not serve some of its intended purposes. For example, one goal of qualified immunity is to reduce the burden of litigation for police officers. Qualified immunity, however, rarely shields officers from the burden of discovery and trial.<sup>29</sup> Given all these failures, there is little reason for its continued existence.

24 Jay Schweikert, “Qualified Immunity: The Supreme Court’s Unlawful Assault on Civil Rights and Police Accountability,” *CATO Institute*, March 5, 2018, <https://www.cato.org/blog/qualified-immunity-supreme-courts-unlawful-assault-civil-rights-police-accountability>.

25 American Civil Liberties Union, “ACLU Statement on Supreme Court Qualified Immunity Denial,” press release, June 15, 2020, <https://www.aclu.org/press-releases/aclu-statement-supreme-court-qualified-immunity-denial>; Hailey Fuchs, “Qualified Immunity Protection for Police Emerges as Flash Point Amid Protests,” *New York Times*, June 23, 2020, <https://www.nytimes.com/2020/06/23/us/politics/qualified-immunity.html>.

26 American Bar Association, “Annual Meeting 2020 –House of Delegates Resolution 301A,” 2020, [https://www.americanbar.org/news/reporter\\_resources/annual-meeting-2020/house-of-delegates-resolutions/301a/](https://www.americanbar.org/news/reporter_resources/annual-meeting-2020/house-of-delegates-resolutions/301a/).

27 *Baxter v. Bracey*, 140 S. Ct. 1862, 1865 (2020).

28 Neill Franklin, “Qualified Immunity is Bad for Communities & Police,” *Just Solutions*, Sept. 10, 2020, <https://medium.com/@JustSolutions/qualified-immunity-is-bad-for-communities-police-f9ccbb061039>.

29 Joanna C. Schwartz, “How Qualified Immunity Fails,” *127 Yale Law Journal*, (2017): 2.

## Qualified Immunity at the Federal and State Level

Qualified immunity is most often an issue of federal law. But state law can often grant officers qualified immunity from state law claims. Ultimately, for practical political reasons, state law may be a more promising route to end qualified immunity.

### Federal Qualified Immunity

The path to ending qualified immunity at the federal level is both straightforward and politically challenging. Congress could eliminate the defense by amending Section 1983. However, a recent bipartisan political effort to enact such reform has stalled.<sup>30</sup> In June 2020, and again in March 2021, the House of Representatives passed the George Floyd Justice in Policing Act, H.R. 7120 and H.R. 1280, which would end qualified immunity as a defense under Section 1983.<sup>31</sup> In the Senate, the Ending Qualified Immunity Act, S. 492, has not made it out of the Committee on the Judiciary.<sup>32</sup> As of September 2021, negotiations over reform ended in a stalemate, even after Democratic lawmakers agreed to remove provisions related to qualified immunity.<sup>33</sup> With an evenly divided Senate and the potential for filibuster, there is little near-term hope for any other congressional action on qualified immunity.

### State Immunity

Action at the state level is a more promising avenue for qualified immunity reform, with some notable recent successes. Some states have a state-law analogue to Section 1983, as well as developed qualified immunity doctrines. In those states, legislatures can eliminate qualified immunity as a defense to state lawsuits against officers. In other states where there is no state-law Section 1983 analogue, state legislatures would need to create a new cause of action for victims of excessive force.<sup>34</sup> For a summary of qualified immunity in the Key Metro Areas, see Appendix E on page 168.

Colorado is the bellwether in adopting broader civil liability for officers, becoming the first state to enact new legislation allowing victims to sue officers. In June 2020, the state passed the Enhance Law Enforcement Integrity Act, which allows victims to sue officers for civil rights violations, including the right to be free from unreasonable seizures, and does not

30 Felicia Sonmez & Mike DeBonis, "No deal on bill to overhaul policing in aftermath of protests over killing of Black Americans," *Washington Post*, Sept. 22, 2021, [https://www.washingtonpost.com/powerpost/policing-george-floyd-congress-legislation/2021/09/22/36324a34-1bc9-11ec-a99a-5fea2b2da34b\\_story.html](https://www.washingtonpost.com/powerpost/policing-george-floyd-congress-legislation/2021/09/22/36324a34-1bc9-11ec-a99a-5fea2b2da34b_story.html). H.R. 7120, 116th Cong. (2020) received support from three Republican representatives; <https://clerk.house.gov/Votes/2020119>. Both liberal (ACLU) and conservative (Cato) think tanks support abolishing qualified immunity.

31 H.R. 7120, 116th Cong. (2020, <https://www.congress.gov/bill/116th-congress/house-bill/7120/text>

32 S.492, 117th Cong. (2021, <https://www.congress.gov/bill/117th-congress/senate-bill/492>.

33 Sonmez and DeBonis, "No deal on bill to overhaul policing."

34 Though it's important to enact laws that allow for individuals to bring lawsuits against officers, it should be noted that state-based rights to sue police may not be an effective tool on their own in ending police misconduct. Studies have questioned the effectiveness of section 1983 as an effective tool as such lawsuits are enormously difficult and costly, and the vast majority of victims lack the financial resources to pursue them. Additionally, the Supreme Court has implemented barriers that prevent successful lawsuits of this kind, and juries are less likely to believe law enforcement over victims. Allison L. Patton, "The Endless Cycle of Abuse: Why 42 U.S.C. 1983 Is Ineffective in Deterring Police Brutality," *Hastings Law Journal*, 44, no. 3, (1993). [https://repository.uchastings.edu/cgi/viewcontent.cgi?article=3108&context=hastings\\_law\\_journal](https://repository.uchastings.edu/cgi/viewcontent.cgi?article=3108&context=hastings_law_journal)

permit officers to rely on a defense of qualified immunity.<sup>35</sup> Representative Leslie Herod spearheaded passage of the law, and had previously introduced narrower legislation, which prohibited choke holds and other use of force, but expanded its scope after the killings of George Floyd and Elijah McClain. Following the law's passage, Herod said that “[i]f officers are rethinking [their career] because of a law of integrity and accountability, then they shouldn’t be in the profession as a police officer.”<sup>36</sup>

While Colorado’s reform passed with broad support, it unfortunately is an outlier. Massachusetts, for example, tried taking action in 2020 with respect to qualified immunity. Massachusetts has a Civil Rights Act which imposes civil liability for violations of state constitutional rights, but Massachusetts courts interpret the Act to provide qualified immunity to officers.<sup>37</sup> In 2020, the Massachusetts Senate passed a bill to explicitly remove qualified immunity as a defense to the Civil Rights Act.<sup>38</sup> The Boston police union opposed the effort to eliminate qualified immunity and ultimately succeeded in having the House pass a narrower bill that would remove qualified immunity as a defense only for officers decertified at the state level for the underlying conduct. That narrower Act was signed into law in December 2020.<sup>39</sup>

“[i]f officers are rethinking [their career] because of a law of integrity and accountability, then they shouldn’t be in the profession as a police officer.”

—Rep. Leslie Herod, after Colorado became the first state to end qualified immunity

## Recommendations

For states *without* a civil rights cause of action:

1. Create a law providing a right to bring a lawsuit (i.e., a cause of action), similar to Section 1983 of the US Code, which by its terms excludes the defense of qualified immunity and provides for monetary damages. The law should:

35 Co. Rev. Stat. 13-21-131 (2020); Co. Const. art. II, § 7.

36 Russell Berman, “The State Where Protests Have Already Forced Major Police Reform,” *Atlantic*, July 17, 2020, <https://www.theatlantic.com/politics/archive/2020/07/police-reform-law-colorado/614269/>

37 *Duarte v. Healy*, 537 NE 2d 1230 (1989).

38 S. 2800, 191st Gen. Ct. (Mass. 2020, <https://malegislature.gov/bills/191/s2800>). The Senate bill would preserve some immunity for officers, but with a much higher standard than the federal qualified immunity standard. “In an action under this section, qualified immunity shall not apply to claims for monetary damages except upon a finding that, at the time the conduct complained of occurred, no reasonable defendant could have had reason to believe that such conduct would violate the law.”

39 Order H.5213, 191st Gen. Ct. (Mass. 2020, <https://malegislature.gov/Bills/191/H5213>). At the same time, the new law created a Special Commission on Qualified Immunity tasked with providing the Massachusetts legislature “an analysis of the origins of qualified immunity and its present interpretation by the courts of the commonwealth, and the legal and policy rationale for, and the legal and policy impact of, the qualified immunity doctrine in the commonwealth.” Chapter 253, Section 116 (2020).

- a) Explicitly provide that lawsuits can be brought against police officers and other law enforcement officials including sheriffs; and
- b) At least apply in the context of any deprivation of state constitutional rights.

For states *with* a civil rights cause of action:

1. Pass new legislation clarifying that qualified immunity is not a defense to civil liability for police officers.

## Section III: Largely Unreliable or Unavailable Data on Police Killings

Attempts to end policing killings must account for the absence of reliable data on police killings. While certain police killings receive national attention, many do not, and unfortunately, reliable data recording police killings is scarce. As a result, we do not know how many people the police kill every year.

### The Death in Custody Reporting Act

Despite being legally required to report each police killing, police departments often do not, and even if they do, they generally provide incomplete or inaccurate data. In 2000, Congress unanimously passed the Death in Custody Reporting Act (DCRA), which required states to report to the Department of Justice every death of a person that occurred during arrest, or while the person was in custody at a municipal or county jail, state prison, or other local or state correctional facility. The Bureau of Justice Statistics (BJS), which is the primary statistical agency for the Department of Justice, began collecting data that same year and reported nearly 5,000 arrest-related deaths from 2003 to 2009. Because of a lack of congressional funding to execute the mandate and an enforcement mechanism to guarantee that states actually reported the data, BJS had to rely on data voluntarily produced by law enforcement agencies. This led to incomplete and insufficient reporting of data, ultimately forcing BJS to suspend its data collection program in 2014.<sup>40</sup>

In 2014, Congress again unanimously passed the Death in Custody Reporting Act of 2013, revamping the prior act by imposing fines and penalties on states that did not comply with DCRA's reporting requirements. Nonetheless, the available data regarding police killings remains incomplete. The Obama administration sought to require the BJS to use public records as a verification mechanism to ensure that arrest-related deaths did not go unreported. However, the Trump administration halted those efforts, perceiving such verification efforts to be overly burdensome and beyond the scope of the DCRA.<sup>41</sup>

<sup>40</sup> Ethan Corey, "How the Federal Government Lost Track of Deaths in Custody," *The Appeal*, June 24, 2020, <https://theappeal.org/police-prison-deaths-data/>.

<sup>41</sup> Corey, "How the Federal Government Lost Track of Deaths in Custody."



In light of the lack of accurate data surrounding arrest-related deaths, various outlets, including *The Washington Post*, have created databases that report the number of police killings annually. In explaining the urgent need for better data collection, Samuel Sinyangwe, founder of Mapping Police Violence (another organization that compiles data on police killings), stated, “We cannot wait to know the true scale of police violence against our communities. In a country where at least three people are killed by police every day, we cannot wait for police departments to provide us with these answers.”

The data that does exist underscores the immediate need to reduce police killings across the country. But more comprehensive data would allow politicians, advocates, and researchers to develop and craft critical policy reforms that could more effectively prevent or, at minimum, reduce the number of police killings. In January 2020, the DOJ began taking steps to comply with the DCRA by collecting data, and in January 2022, the BJS issued guidance on the collection of such data and compliance with the DCRA.<sup>42</sup> However, it is unclear whether DOJ will force states to comply and report. More needs to be done to ensure that accurate and complete data on arrest-related deaths are available to the public and to policy makers.



## Recommendations

1. Require the DOJ to collect and report data on deaths in custody in all states and US territories.

The DOJ should be required to comply with the DCRA and collect and report all data on deaths arising from arrests or occurring during police custody in all states and US territories. The lack of available data on arrest-related deaths impedes the crafting of essential policy reforms as it relates to reducing senseless police killings and unnecessary police contact with vulnerable communities.

<sup>42</sup> Bureau of Justice Assistance, U.S. Department of Justice, “Death in Custody Reporting Act: Reporting Guidance and Frequently Asked Questions,” (Version 3.0, revised March 2022), [Death in Custody Reporting Act: Reporting Guidance and Frequently Asked Questions - DCRA-Reporting-Guidance-FAQs.pdf](#).

## Section IV: Body Camera Footage

### Police Accountability

Law enforcement agencies have long explored the use of body-worn cameras as a way to reduce police violence by increasing police accountability and improving police-community relations.<sup>43</sup> The fatal police shooting of Michael Brown in 2014 in Ferguson, Missouri, however, sharpened public focus on the use of BWCs and their effectiveness in reducing excessive use of force by police.<sup>44</sup> Recent studies show mixed results regarding the effectiveness of BWCs. One study of over 2,000 police officers in Washington, DC, for example, found that BWCs had a minimal impact on officer behavior.<sup>45</sup> But another recent study found that the use of BWCs reduced the use of police force, decreased the number of civilian complaints filed against police officers, and were cost-effective.<sup>46</sup>

In light of these studies, one overarching consensus has emerged: BWCs are a tool—not a silver bullet—to help eliminate police violence in marginalized communities.<sup>47</sup> But while early hopes placed on BWCs in deterring police violence have been tempered, BWCs can still serve as a useful response to combating excessive use of force. They can also serve other purposes, such as reducing the cost of investigating complaints.<sup>48</sup>

### Improving Existing BWC Policies

BWCs can only be as useful as the manner in which they are implemented. For those jurisdictions already using BWCs, close attention to how BWCs are implemented and the collateral challenges they bring is crucial. The effectiveness of BWCs will turn on when they are required to record, whether officers can review footage, and how the footage will be released.<sup>49</sup>

**Continuous Recording** A police officer's ability to turn off their body cameras during police interactions greatly impacts the effectiveness of BWCs.<sup>50</sup> If officers have the discretion to

43 Candice Norwood, *Body cameras are seen as key to police reform. But do they increase accountability?*, PBS NEWS HOUR, Jun. 25, 2020, <https://www.pbs.org/newshour/politics/body-cameras-are-seen-as-key-to-police-reform-but-do-they-increase-accountability>.

44 Seth W. Stoughton, *Police Body-Worn Cameras*, 96 *North Carolina Law Review*, (2018): 1363, 1364–65. <https://scholarship.law.unc.edu/cgi/viewcontent.cgi?article=6681&context=nclr>.

45 David Yokum, Anita Ravishankar, and Alexander Coppock, "Evaluating the Effects of Police Body-Worn Camera: A Randomized Controlled Trial," *The Lab@DC*, October 20, 2017, <https://bwc.thelab.dc.gov/#home>.

46 Cheryl Corley, "Study: Body-Worn Camera Research Shows Drop in Police Use of Force," NPR, April 26, 2021, <https://www.npr.org/2021/04/26/982391187/study-body-worn-camera-research-shows-drop-in-police-use-of-force>.

47 Corley, "Study"; Seth W. Stoughton, "Police Body-Worn Cameras," 96 *North Carolina Law Review*, (2018): 1363, 1378. <https://scholarship.law.unc.edu/cgi/viewcontent.cgi?article=6681&context=nclr>.

48 Pennsylvania Coalition Against Rape, "The Use of Body-Worn Cameras with Victims of Sexual Violence," Factsheet, (2017, [https://pcar.org/sites/default/files/resource-pdfs/body\\_worn\\_cameras\\_factsheet.pdf](https://pcar.org/sites/default/files/resource-pdfs/body_worn_cameras_factsheet.pdf)); Morgan C. Williams Jr., et al., *Body-Worn Cameras in Policing: Benefits and Costs*, (Chicago: Becker Friedman Institute, 2021, [https://bfi.uchicago.edu/wp-content/uploads/2021/04/BFL\\_WP\\_2021-38.pdf](https://bfi.uchicago.edu/wp-content/uploads/2021/04/BFL_WP_2021-38.pdf)

49 Lindsey Van Ness, "Body Cameras May Not Be the Easy Answer Everyone Was Looking For," *Pew Research Center*, Jan. 14, 2020, <https://www.pewtrusts.org/en/research-and-analysis/blogs/stateline/2020/01/14/body-cameras-may-not-be-the-easy-answer-everyone-was-looking-for>.

50 Bob Chiarito, "Why Were Police Told to Turn Off Body Cameras Minutes After Adam Toledo Shooting? It's Standard Policy, Department Says," *Block Club Chicago*, April 12, 2021, <https://blockclubchicago.org/2021/04/12/why-were-police-told-to-turn-off-body-cameras-minutes-after-shooting-adam-toledo-its-standard-policy-police-sergeant-says>.

turn off their BWCs, they might obstruct an investigation's ability to determine whether the officer followed proper procedures during an incident. Therefore, in order to maximize transparency and reduce police use of force,<sup>51</sup> it is important to restrict an officer's discretion in turning BWCs off and on and mandate continuous recording at least during all police encounters with the public without exception.

This mandate should come with teeth: when an officer manually turns off their BWC recording without good cause, disciplinary action should be taken. Continuous recording, however, raises privacy issues for both the officers and victims, as well as the specter of civilian surveillance.<sup>52</sup> Careful attention to the precise implementation of BWCs will therefore be crucial to avoid potential privacy pitfalls.<sup>53</sup> With nuanced policies in place, such as the prohibition of facial recognition technology for footage recorded at protests and demonstrations, continuous recording can play an important role in police oversight and accountability.



**Control of BWC Footage** Because officers have the ability to control the footage collected, they can easily manipulate the BWC footage to support their narrative of an incident. During a 2014 drug arrest, for example, police officers in Florida chased and beat Derrick Price by “repeatedly str[iking], kneel[ing] and kick[ing] [Price] in the head, neck, and shoulder area, causing bodily injury.”<sup>54</sup> The officers' incident reports blamed Price for resisting arrest, which their BWC footage seemed to support. Footage from a nearby private surveillance camera, however, revealed that Price clearly surrendered voluntarily, yet was still violently beaten by the officers.<sup>55</sup>

BWC policies should ensure that officers are using BWCs to record incidents as objectively as possible, rather than angling the camera in a way that skews the footage to the officer's advantage.<sup>56</sup> Policies should also avoid the possibility of an officer destroying evidence of

51 Cynthia Lum, et al., “Body-worn cameras' effects on police officers and citizen behavior: A systematic review,” *Campbell Systematic Reviews*, 16 no. 3 (September, 2020), <https://onlinelibrary.wiley.com/doi/10.1002/cl2.1112> The review concludes, “Analysis suggests that restricting officer discretion in turning on and off BWCs may reduce police use of force, but more assessment is needed.”

52 <https://www.cnet.com/news/police-body-cameras-at-protests-raise-privacy-concerns/>.

53 Pennsylvania Coalition Against Rape, *The Use of Body-Worn Cameras with Victims of Sexual Violence*.

54 <https://www.ocala.com/news/20160127/ex-marion-deputy-indicted-in-police-beating-four-others-already-pleaded-guilty>.

55 Conor Freidersdorf, “The Conspiracy to Brutalize Derrick Price,” *The Atlantic*, (February 1, 2016, <https://www.theatlantic.com/politics/archive/2016/02/the-conspiracy-to-brutalize-derrick-price/457134/>)

56 Cynthia Lum, et al., “Body-worn cameras' effects on police officers and citizen behavior.”

police misconduct.<sup>57</sup> Further, because officers may alter their narrative to match existing BWC footage to their advantage, they should be prohibited from reviewing footage before submitting written reports or speaking with investigators.<sup>58</sup>

**Release of Footage** If BWC footage displays excessive or fatal uses of force, then the victim(s) of these incidents should be entitled to a copy of the footage. In order to promote accountability and transparency, departments should release a copy of this type of footage to the victim(s) or victim's family. This policy would hold not only the officer(s) involved, but also the department, accountable for any policies or procedures that were not followed in the footage.<sup>59</sup> Release of such footage to the victim and/or victim's family would be beneficial, as it would allow such parties to decide whether to file a complaint or take legal action.<sup>60</sup> Further, footage should be released to the public without undue hindrance in order to promote greater transparency.<sup>61</sup>



## Recommendations

Research on the effectiveness of body-worn cameras in promoting greater accountability and reducing police violence is mixed. But while early hopes placed on body-worn cameras in deterring police violence have been tempered, body-worn cameras can still serve as a useful response to combating excessive use of force. In particular, places that already use body-worn cameras should adopt policies that promote greater accountability. These policies should include the following:

57 "Body-Worn Cameras," *Electronic Frontier Foundation*, <https://www.eff.org/pages/body-worn-cameras>, (last visited Mar. 21, 2022). As noted, "Some body-worn camera systems allow police to edit or delete stored footage. This feature allegedly has been used to destroy evidence of police misconduct. For example, surveillance video in which police officers were accused of beating a University of Maryland student in 2010 was not immediately turned over to attorneys in response to a subpoena, and a portion of the video was later discovered missing."

58 "Body Cams/Films the Police," Campaign Zero, <https://www.joincampaignzero.org/film-the-police> (last visited Jul. 14, 2021); "Street-Level Surveillance," *Electronic Frontier Foundation*, <https://www.eff.org/pages/body-worn-cameras> (last visited Mar. 21, 2022).

59 Chris Pagliarella, "Police Body-Worn Camera Footage: A Question of Access," 34 *Yale Law and Policy Review*, (2016): . 533, 541.

60 Jay Stanley, "Police Body-Mounted Cameras: With Right Policies in Place, a Win for All," (New York: ACLU, 2015), [https://www.aclu.org/sites/default/files/assets/police\\_body-mounted\\_cameras-v2.pdf](https://www.aclu.org/sites/default/files/assets/police_body-mounted_cameras-v2.pdf).

61 "Body Cameras must be used with strong policies," *ACLU Iowa*, January 6, 2021, <https://www.aclu-ia.org/en/news/body-cameras-must-be-used-strong-policies>

1. Officers should be required to continuously record and leave their BWCs on during all police interactions.
2. Officers should be required to continuously record all police interactions to promote accountability and provide a level of transparency for residents.
3. Disciplinary action should be taken toward any police officer who turns off their BWC recording during police interactions.

Each department should establish policies and procedures to determine consequences for turning off BWC recordings and whether BWCs can be turned on manually or automatically. Disciplinary action should be taken against any officer that does not follow their department's procedures on BWCs. This should also apply to any officers and supervisors who order others to deactivate BWCs.

4. Officers should allow victims of rape, abuse, and other sensitive crimes to choose whether they should be recorded. And officers should obtain their informed consent.

To incorporate trauma-informed and victim-centered approaches, officers should allow victims to choose whether they should be recorded. In addition, officers should be required to explain to victims the pros and cons of recording, while obtaining their informed consent.

5. Officers should not be allowed to access BWC footage prior to giving initial statements and reports to their supervisors.

To ensure that footage is not being manipulated, officers should not be allowed to review BWC footage before completing their initial reports, statements, or interviews about an incident. Implementing this policy would hold officers accountable, particularly when excessive use of force is present, and provide a sense of transparency for the public.

6. Where BWC footage displays excessive or fatal use of force, the victim(s) or victim's family should be entitled to a copy of the footage.

In order to promote accountability and transparency, departments should release a copy of the footage to the victim(s) or victim's family.

7. When excessive force is present in BWC footage, the public should have access to it.

Sharing this footage provides transparency between the department and the public.



**CHAPTER THREE:**

**Remove  
Unfit Officers**



## Remove Unfit Officers

Derek Chauvin, the officer who killed George Floyd in Minneapolis on May 25, 2020, had previously been involved in multiple events involving serious force. In 2006, he was one of six officers on the scene when officers shot and killed Wayne Reyes, a stabbing suspect. Two years later, Chauvin, while responding to a domestic disturbance call, shot 21-year old Ira Latrell Toles twice in the abdomen. And in 2011, Chauvin was on scene when officers shot and wounded an assault suspect. But after each of these violent incidents, Chauvin faced no effective disciplinary measure—he was merely placed on temporary leave during an investigation and was subsequently cleared of wrongdoing each time. Chauvin had also been the subject of at least 17 complaints filed against him with the police department’s internal affairs unit.<sup>1</sup> Sixteen of the complaints were closed without discipline, and the remaining complaint resulted in two letters of reprimand.<sup>2</sup>

In fact, despite the long record of complaints against him and his involvement in multiple instances of excessive force, Chauvin was never meaningfully disciplined.<sup>3</sup> Like Chauvin, many unfit officers remain on the force, and at times, relocate to other states to avoid discipline, termination, or decertification. Here, we focus on how to permanently remove an officer like Chauvin, and how to prevent that officer from gaining employment in another state or police force.

### Section I: Decertification: Revocation of Police Licenses

Decertification—the process of revoking a law enforcement officer’s police license—can be an effective tool in removing officers involved in wrongdoing. But its value and effectiveness depends on the specific contours of applicable state decertification laws. A decertification process that permits the revocation of officers’ licenses for a broad range of wrongdoing can increase the likelihood that officers involved in instances of excessive force do not continue serving in these positions of power.<sup>4</sup> Otherwise, state decertification laws that are limited—such as laws that decertify an officer only if the officer has a criminal conviction—allows those tasked with protecting communities to instead retain the power to continue committing abuse.

1 Derek Hawkins, “Officer charged in George Floyd’s death used fatal force before and had history of complaints,” *Washington Post*, May 29, 2020, <https://www.washingtonpost.com/nation/2020/05/29/officer-charged-george-floyds-death-used-fatal-force-before-had-history-complaints/>.

2 While complaints against police range from issues such as showing up late to duty and excessive force, the number of complaints Chauvin had “appeared to be higher than average,” according to Ronal Sepras, a former head of police in New Orleans, Nashville, and Washington state. Derek Hawkins, “Officer charged in George Floyd’s death used fatal force before.”

3 Derek Hawkins, “Officer charged in George Floyd’s death used fatal force before.” Dakin Andone, Hollie Silverman, and Melissa Alonso, “The Minneapolis police officer who knelt on George Floyd’s neck had 18 previous complaints against him, police department says,” *CNN*, May 29, 2020, <https://www.cnn.com/2020/05/28/us/minneapolis-officer-complaints-george-floyd/index.html>.

4 For coordination and information-sharing between states, see the discussion in Section II on page 109 regarding the National Decertification Index as well as information in Appendices G and H.

## Decertification Laws Are Often Limiting

Recent events further reinforce the gravity of a decertification law that limits conduct that is decertifiable. Tou Thao, another officer involved in George Floyd’s killing, was part of a 2017 excessive force lawsuit that settled.<sup>5</sup> Jeronimo Yanez, the police officer who killed Philando Castile in July 2016 in Minnesota, was acquitted of second-degree manslaughter in that killing and left the department pursuant to a settlement agreement. He was never required to leave the force, but chose to do so voluntarily.<sup>6</sup> Importantly, even if Chauvin, Thao, and Yanez were fired from their departments, they could still go on to commit additional misconduct as officers by joining another police department. Under Minnesota law, an officer can lose his licenses only if he has been convicted of a crime.<sup>7</sup> Otherwise, police officers—like Chauvin, Thao, and Yanez—who have been accused of wrongdoing, been fired, or have resigned (while under investigation) can go from one police department to another—the so-called “wandering officer.”<sup>8</sup>

To further illustrate the problem of the “wandering officer,” consider Timothy Loehmann, the Cleveland Police Department officer who killed Tamir Rice in 2014. Loehmann joined the Cleveland Police Department after resigning from another police department. His earlier personnel file noted that he showed a “dangerous loss of composure” during firearms training. Loehmann was fired from the Cleveland Police Department after killing Tamir Rice, but was subsequently hired by yet another police department in a small town in Ohio.<sup>9</sup> Like Minnesota, Ohio only revokes an officer’s police license if the officer has a felony criminal conviction.<sup>10</sup>

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**Officers are allowed to obtain jobs at other law enforcement agencies despite clear records of misconduct or problematic/aggressive behavior. For example, Timothy Loehmann, the Cleveland Ohio police officer who killed 12-year-old Tamir Rice in 2014 had an earlier personnel file noting a “dangerous loss of composure during firearms training.” Though Loehmann was fired from the Cleveland Police Department after killing Rice, he was hired by another department in a small Ohio town.**

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5 Andone, Silverman, and Alonso, “The Minneapolis police officer who knelt on George Floyd’s neck had 18 previous complaints against him.”

6 Nomann Merchant, “US police registry would fail without changes in states,” *AP News*, June 26, 2020, <https://apnews.com/article/2015003554eade8968b74272d141ea80>.

7 Minn. Stat. Ann. § 626.8432 (2020).

8 Ben Grunwald and John Rappaport, “The Wandering Officer,” 129 *Yale Law Journal*, (2020): 1676–782.

9 Matthew Haag, “Cleveland Officer Who Killed Tamir Rice Is Hired by an Ohio Police Department,” *New York Times*, Oct. 8, 2018, <https://www.nytimes.com/2018/10/08/us/timothy-loehmann-tamir-rice-shooting.html>.

10 Ohio Rev. Code Ann. § 109.77 (2016).

## Decertification Laws in Key Metro Areas

### State Decertification Laws

Policing in the United States is organized on a state and local level, and police departments are subject to byzantine state, county, and city laws and regulations. Police training, certifying or licensing, and hiring standards vary state by state, although in almost all states, minimum standards are established by a Peace Officer Standards and Training Commission (POST), or another comparable state agency; the typical composition and mandate of POST is discussed below.<sup>11</sup> While POST sets minimum standards on a state level, police departments may choose to require additional training or impose heightened requirements for hiring.<sup>12</sup>

The power and authority of POST varies from state to state.<sup>13</sup> All POST commissions currently have the authority to *certify* police officers, i.e., grant police officers a license subject to established requirements.<sup>14</sup> New Jersey, Rhode Island, Hawaii, and Washington, DC do not have a state decertification process.<sup>15</sup> And until 2021, Massachusetts and California also did not have a decertification process. This is a problem: without a decertification process, there is no way to permanently remove police officers who are alleged or found to have been engaged in violent acts, such as using excessive force.

The first step must be to pass laws permitting decertification of officers. The second is to ensure those laws have teeth and are effective. While decertification laws vary greatly by state, studies suggest that the following considerations play a critical role in ensuring their effectiveness:

- Broadening conduct that constitutes a decertifying event;
- Providing for ongoing certification requirements relating to both mental and physical fitness; and
- Requiring reporting to POST, broadening the authority of POST, and ensuring members of the community are represented in the process.

11 For purposes of this report, POST will refer to the POST-equivalents for each state. "Community Relations Services Toolkit: Policing 101," *United States Department of Justice*, <https://www.justice.gov/crs/file/836401/download>; Matthew J. Hickman, "POST Agency Certification Practices."

12 "Community Relations Services Toolkit: Policing 101," *United States Department of Justice*, <https://www.justice.gov/crs/file/836401/download>.

13 POST agencies in 49 states have the authority to certify law enforcement officers. Hawaii is the only state that does not, because Hawaii does not have a state police agency—law enforcement is within the jurisdiction of individual county governments. Though Hawaii recently passed a law to create a POST agency, it has not been implemented. Interview with Roger L. Goldman, Callis Family Professor Law Emeritus at Saint Louis University School of Law (Sept. 5, 2020); Blaze Lovell, "Hawaii Ignores Deadline to Create New Standards for Cops," *Civil Beat*, July 8, 2019, <https://www.civilbeat.org/2019/07/hawaii-ignores-deadline-to-create-new-standards-for-cops/>.

14 Matthew J. Hickman, "POST Agency Certification Practices." The District of Columbia's POST does not have the authority to certify police officers; Lovell, "Hawaii Ignores Deadline."

15 Lovell, "Hawaii Ignored Deadline" and Nomann Merchant and Reese Dunklin, "Police officer decertification by state," *The Morning Call*, Nov. 1, 2015, <https://www.mcall.com/mc-a-50state-look-at-officer-decertification-for-sex-incidents-20151031-story,amp.html>

As reflected in Appendix G on page 176, the number of decertified police officers per state ranges widely, with Maryland decertifying just one officer between 2015 to 2019, and Georgia decertifying over 3,000 officers from 2015 to 2019. Appendix H on page 178 details the current state of decertification laws for the Key Metro Areas.

**Conduct that Triggers the Decertification Process** As the police violence and consequences described above indicate, without a mechanism to decertify law enforcement officials who engage in violent behavior, it is likely that there will be more instances of repeated violent conduct.<sup>16</sup> But many state laws make it difficult to permanently remove offenders like Chauvin from the police force. Twenty states require a criminal conviction before an officer can be decertified.<sup>17</sup> This means that whether police officers have their licenses revoked depends completely on the criminal justice system, a system that tends to favor police officers, as prosecutors may be unlikely to bring criminal charges against police officers with whom they have prior professional relationships or from whom they (directly or indirectly) receive political donations.<sup>18</sup>

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**Many states require criminal convictions before an officer can be decertified. Prosecutors may be unlikely to bring criminal charges against police officers with whom they often have prior professional relationships, and from whom they (directly or indirectly) receive political donations.**

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Those states with the fewest number of decertified officers all require criminal convictions to trigger the decertification process. Maryland, which will only decertify an officer upon conviction of a felony or a misdemeanor for which the potential sentence is imprisonment of more than one year,<sup>19</sup> has decertified just *one* officer in the last five years, and only *four* officers in the last decade.<sup>20</sup> Those numbers are appalling. Rather than pursuing decertification, police departments often fire officers or allow them to resign before they are decertified. In Maryland, once an officer resigns, frequently the investigation is immediately

<sup>16</sup> Roger L. Goldman, "A Model Decertification Law," 32 *St. Louis University Public Law Review*, (2012); Grunwald and Rappaport, "The Wandering Officer."

<sup>17</sup> Grunwald and Rappaport, "The Wandering Officer."

<sup>18</sup> Eric Westervelt, "Prosecutors Call to End Conflict of Interest Between Police Unions and Attorneys," *NPR*, June 22, 2020, <https://www.npr.org/2020/06/22/881826930/prosecutors-call-to-end-conflict-of-interest-between-police-unions-and-attorneys>.

<sup>19</sup> Md. Code, Pub. Safety § 3-213 (2005).

<sup>20</sup> John Kelley and Mark Nichols, "Search the list of more than 30,000 police officers banned by 44 states," *USA Today*, updated Dec. 16, 2019, <https://www.usatoday.com/in-depth/news/investigations/2019/04/24/biggest-collection-police-accountability-records-ever-assembled/2299127002/>. <https://source.opennews.org/articles/our-database-troubled-cops-and-how-you-can-help/>.

closed.<sup>21</sup> This allows officers to evade punishment and decertification and move to a different police department.<sup>22</sup>

Virginia, which has decertified just 33 police officers since 2000,<sup>23</sup> until March 1, 2021 (recent changes discussed below) also decertified only for criminal convictions—specifically convictions of a felony, misdemeanors “involving moral turpitude,” misdemeanor sex offense, or domestic assault.<sup>24</sup> Further, the criminal conviction had to be final (i.e., exhausted the appeals process).<sup>25</sup> If a conviction is not final, the POST commission “may decline to decertify the officer until the conviction becomes final, after considering the likelihood of irreparable damage to the officer.”<sup>26</sup> And after five years, the officer may petition the POST commission for reinstatement.<sup>27</sup> As in Maryland, requiring criminal convictions to trigger decertification creates the loophole where an officer may resign in the middle of the decertification process to avoid an unfavorable result.<sup>28</sup>



As noted, an additional escape clause exists for officers where decertification laws require a *final* criminal conviction, as an officer may leave the department before the conviction. Indeed, recent legislation in Virginia was passed to remediate this very issue, as journalists discovered several dozen officers who had been convicted of abduction, assault, battery, sexual assault, and drug offenses, but were never decertified or removed from the force.<sup>29</sup> The new legislation, effective March 1, 2021 expanded the grounds for decertification, and requires a sheriff, chief of police, or agency administrator to notify the POST board within 48 hours of becoming aware that an officer has *been terminated or resigned*: in advance of being convicted of a crime; while the officer is the subject of a pending internal investigation “involving serious misconduct”; for engaging

21 Interview with Neill Franklin, Oct. 26, 2020.

22 Glynis Kazanjian, “State Officials Decertify Cop Involved in Anton Black Case,” *Maryland Matters*, Aug. 4, 2019, <https://www.marylandmatters.org/2019/08/04/state-officials-decertify-cop-in-anton-black-case/>.

23 Kelley and Nichols, “Search the list of more than 30,000 police officers.”

24 VA. Code Ann. § 15.2-1707 (2017).

25 VA. Code Ann. § 15.2-1707 (2017).

26 VA. Code Ann. § 15.2-1707 (2017).

27 VA. Code Ann. § 15.2-1707 (2017).

28 Denise Lavoie, “Virginia lawmakers push to expand police decertification law,” *AP News*, Sept. 11, 2020, <https://apnews.com/article/police-virginia-crime-racial-injustice-archive-0fb4a717262249668fecee4d84894c50>.

29 Gary A. Harki, “Failure of oversight: How dozens of officers kept their police certification despite convictions,” *The Virginian Pilot*, Aug. 13, 2020, <https://www.pilotonline.com/news/crime/vp-nw-certification-20200813-wp2i326dgbewhed6axpu3plmxu-story.html>.

in “serious misconduct”; or for an act committed that “compromises an officer’s credibility, integrity, honesty, or other characteristics.”<sup>30</sup>

In contrast to Maryland and Virginia (pre-March 2021), Georgia and Florida, the two states with the greatest numbers of decertified officers,<sup>31</sup> include both specified misconduct as a basis for decertification, and also broad, decertifiable conduct, such as instances where the officer fails to have “good moral character.”<sup>32</sup> This hybrid approach allows states to decertify officers found to have violated specific enumerated guidelines, while also allowing for the possibility of decertification if an officer engages in excessive force but is not convicted.<sup>33</sup> Georgia, which has decertified more officers than any other state (over 10,000)<sup>34</sup> and has decertified over 3,000 officers in the last five years,<sup>35</sup> permits revocation for the following conduct: “crime involving moral turpitude, without regard to conviction”; “unprofessional, unethical, deceptive, or deleterious conduct or practice harmful to the public”; an attempt to violate a law, rule, or regulation; a suspension or discharge; or felony conviction.<sup>36</sup> In Florida, which has decertified over 8,000 officers since 1976,<sup>37</sup> officers may be decertified if they have a felony or misdemeanor conviction or fail to have “good moral character.”<sup>38</sup>

In addition to broadening decertifiable conduct to include instances where an officer fails to have “good moral character” or engages in a “crime involving moral turpitude, regardless of conviction,” experts have stated officers should be required to be of appropriate mental and physical fitness to retain their certification.<sup>39</sup> Missouri follows this logic and decertifies an officer if the commission finds that an officer cannot perform his or her functions “with reasonable competency or reasonable safety as a result of a mental condition, including alcohol or substance abuse.”<sup>40</sup> Missouri also decertifies if an officer commits any criminal offense, even if a criminal charge has not been filed, or commits “any act while on active duty or under color of law that involves moral turpitude or a reckless disregard for the safety of the public or any person.”<sup>41</sup> And Arizona, which has the fourth highest number of decertified officers, permits revocation if an officer is not of “physical, mental and moral fitness.”<sup>42</sup>

30 VA. Code Ann. § 15.2-1707 (2017); Lavoie, “Virginia lawmakers push to expand police decertification law.”

31 A broad decertification law is just one factor in reducing police violence. Georgia and Florida have decertified the most officers, though that may not necessarily mean they have the lowest rate of police violence when compared to all the other states. That said, without broad decertification laws, rates of police violence are likely to be even higher than the current rates in Georgia and Florida.

32 Fla. Stat. § 943.1395 (2019).

33 Goldman, “A Model Decertification Law.”

34 Sarah Childress, “How States Are Moving to Police Bad Cops,” *Frontline*, April 8, 2016, <https://www.pbs.org/wgbh/frontline/article/how-states-are-moving-to-police-bad-cops/>; Kelley and Nichols, “Search the list of more than 30,000 police officers banned by 44 states.”

35 Associated Press, “A national registry of problem police officers would require major changes by states,” *Los Angeles Times*, June 26, 2020, <https://www.latimes.com/world-nation/story/2020-06-26/us-police-registry-would-fail-without-changes-in-states>

36 GA Code. Ann. § 35-8-7.1 (2019); Associated Press, “A national registry of problem police officers would require major changes by states.”

37 Kelley and Nichols, “Search the list of more than 30,000 police officers banned by 44 states.”

38 Fla. Stat. § 943.1395 (2019).

39 Interview with Dr. Tracie Keese, Co-Founder and Senior Vice President of the Center for Policing Equity, Oct. 8, 2020.

40 Mo. Rev. Stat. § 590.080 (2019).

41 Mo. Rev. Stat. § 590.080 (2019).

42 Ariz. Rev. Stat. Ann. § 41-1822 (2018).



This general language has allowed Arizona to decertify officers for lying, sexually harassing or assaulting others, using drugs or drinking on the job, and committing crimes such as assault and theft—even without a conviction.<sup>43</sup>

**POST Authority** POST commissions have the authority to decertify police officers, which generally occurs after a hearing. In order to trigger a decertification hearing, POST must be aware of misconduct in the first instance. But in many instances, the POST commission is not made aware of decertifiable conduct. In fact, only half of states require police departments to report to POST any conduct that could lead to decertification. This disclosure to POST is separate and apart from any disclosure potentially made available to the public or any disclosure that would be recorded in the national database (Chapter Three, Section II, page 109).<sup>44</sup> Police chiefs have reported that even when required to do so, departments may not report improprieties in order to limit their liability, and because it is cheaper and quicker to let the officer resign than go through the decertification process (which, including the appeals process, may take years).<sup>45</sup> This lack of participation in the POST reporting process by local police departments is the “single biggest roadblock to an effective decertification program.”<sup>46</sup>

To remediate the lack of information sharing between police departments and POST, POST commissions must have the statutory authority to independently initiate and conduct investigations. To illustrate this point: police departments in Pennsylvania are required to investigate alleged misconduct by their officers, and then report the officers to POST.<sup>47</sup> POST does not have the authority to receive complaints by civilians and independently investigate officers, meaning the Pennsylvania POST relies on notification by local law enforcement agencies when officers are eligible for decertification.<sup>48</sup> The Pennsylvania POST commission has decertified only one officer since 2014.<sup>49</sup> By contrast, the POST commission in Arizona has statutory authority to receive complaints from individuals, request an investigation, and conduct independent investigations, without needing to rely on law enforcement officials to report misconduct.<sup>50</sup> Further, if POST discovers that the law enforcement agency refused to investigate, the commission can also investigate the chief.<sup>51</sup> Arizona has decertified 129 officers since 2014.<sup>52</sup>

43 Meg O'Connor, “Sex, Crime, and Lies: Hundreds of Arizona Cops Banned for Misconduct,” *Phoenix New Times* April 26, 2019, <https://www.phoenixnewtimes.com/news/hundreds-of-arizona-cops-decertified-over-misconduct-11276647>.

44 Matthew J. Hickman, “POST Agency Certification Practices.”

45 Matt Sedensky and Nomaan Merchant, “Hundreds of officers lose licenses over sex misconduct,” *Associated Press*, Nov. 1, 2015, <https://apnews.com/fd1d4d05e561462a85abe50e7eae4ec/ap-hundreds-officers-lose-licenses-over-sex-misconduct>; Roger L. Goldman, “A Model Decertification Law,” 32 no. 147m *St. Louis Public Law Review*, (2012).

46 Goldman, “A Model Decertification Law.” See also Interview with Roger L. Goldman, Callis Family Professor Law Emeritus at Saint Louis University School of Law, Sept. 5, 2020.

47 Elizabeth Hardison, “How police accountability works in Pennsylvania,” *Pennsylvania Capital-Star*, June 14, 2020, <https://www.penncapital-star.com/civil-rights-social-justice/how-police-accountability-works-in-pennsylvania/>.

48 Merchant and Dunklin, “Police officer decertification by state.”

49 Jeffrey Benzing, “In disciplining cops, Pennsylvania’s standards trail other states,” *Public Source*, Nov. 19, 2018, <https://www.publicsource.org/in-disciplining-cops-pennsylvanias-standards-trail-other-states/>.

50 Ariz. Rev. Stat. Ann. § 41-1822 (2018).

51 Ariz. Rev. Stat. Ann. § 41-1822 (2018).

52 Kelley and Nichols, “Search the list of more than 30,000 police officers.”

**POST Composition** State law determines the composition and appointment of the commission members. In most cases, the state governor appoints POST commission members, and the majority of POST commission members are law enforcement officers. State law may require that a smaller subset of POST members oversee the decertification hearing (e.g., a review panel or board), or it may require that all members oversee decertification hearings. Some statutory schemes permit or require POST to refer hearings to administrative law judges.<sup>53</sup>

POST composition—and that of any reviewing panel or board—is critical to effective oversight. Currently, many states only provide for a few civilian members—for example, in Pennsylvania, the law requires only that one member of the 20-member POST commission represents the “public at large.”<sup>54</sup> But if the commissions are comprised mostly of law enforcement officers, then the board will likely be less inclined to independently investigate their peers, and less inclined to pursue decertification.<sup>55</sup> Former law enforcement officials agree that civilian members must be involved in the process for effective oversight, and POST composition must include a meaningful number of civilian members.<sup>56</sup> Otherwise, it is unlikely that the lone individual will be able to convince a board full of law enforcement peers to investigate their own.<sup>57</sup>

In short, an effective decertification law must grant POST the authority to independently investigate officers suspected of engaging in decertifiable conduct and require reporting of decertifiable conduct to POST (with consequences for failure to report). To make this authority meaningful, a significant number of POST members must represent the community at large.



## Successful Efforts to Pass Decertification Laws

As noted earlier, California and Massachusetts did not have decertification laws until 2021.<sup>58</sup> In 2019, various California newsrooms discovered that 630 officers had been convicted of a crime in the preceding decade—crimes ranging from animal cruelty to manslaughter—but 20 percent of those officers with criminal convictions were still working or retained their officer

53 Matthew J. Hickman, “POST Agency Certification Practices.”

54 53 Pa. Cons. Stat. § 2163 (1996).

55 Interview with Dr. Tracie Keese, Oct. 26, 2020.

56 Interview with Neill Franklin, Oct. 26, 2020.

57 Interview with Neill Franklin, Oct. 26, 2020.

58 California is unique in that it is the only state that previously had a decertification process, but no longer does because of police union efforts. This legislative change was implemented in 2004. Loren T. Atherley and Matthew J. Hickman, “Officer Decertification and the National Decertification Index,”<sup>16</sup> *Police Quarterly* (2013): 420–437.

positions more than a year after sentencing.<sup>59</sup> A similar finding was made in Massachusetts: 20 percent of officers in the Massachusetts State Police Department has at least one sustained misconduct record, including officers at the rank of captain or higher.<sup>60</sup> These convicted officers, whose convictions include assault and battery, remain on active duty.

Opponents of a state decertification process argue that regulation of law enforcement officers is unnecessary, and the state should only have the authority to oversee education and training.<sup>61</sup> Yet this logic is flawed: states regulate a plethora of other professions including lawyers, doctors, nail technicians, and beauticians. Professor Roger L. Goldman, a leading expert on police licensing and decertification, notes that law enforcement should be the profession most (or among the most) seriously regulated given officers have the power to arrest, search, and use deadly force.<sup>62</sup>

In light of high profile killings by police in 2020, California and Massachusetts both introduced policing bills providing for a decertification process, which would implement many of the considerations discussed above. The California bill would allow for a broad range of conduct that could qualify as a decertifying event, and a POST reviewing panel with a meaningful number of members from the public and the ability to independently investigate complaints. However, California's bill initially failed to pass in 2020, due to "vehement" objections from law enforcement organizations arguing that the proposed system was biased and lacked due process protections. For example, opponents argued that the composition of the nine-member POST reviewing panel, with a requirement that over half the members have experience with police misconduct, would be "inherently biased against officers."<sup>63</sup> California lawmakers reintroduced this bill in December 2020, with more success the second round.<sup>64</sup> The bill passed the California Senate in May 2021, and was ultimately signed into law on September 30, 2021.<sup>65</sup>

Massachusetts is another example of a recent effort to implement a decertification process. In Massachusetts, lawmakers approved a police reform bill that requires mandatory decertification of officers terminated for misconduct, criminal convictions, and sustained internal affairs complaints for excessive force or for conduct constituting a hate crime. The bill also required police departments to report convictions of police officers for felonies and

59 Robert Lewis et al., "California's Criminal Cops: Who they are, what they did, why some are still working," *Mercury News*, Nov. 10, 2019, <https://mercurynews.com/2019/11/10/criminal-cops-overview/>.

60 Matt Rocheleau, "Dozens of State Police trooper remain on the force despite past illegal conduct," *The Boston Globe*, Oct. 17, 2020, <https://www.bostonglobe.com/2020/10/17/metro/dozens-state-police-troopers-remain-force-despite-past-illegal-conduct/>.

61 Policing the Police: Licensing and Decertification for Police Officers," podcast, *The National Law Review*, May 23, 2016, <https://www.natlawreview.com/article/policing-police-licensing-and-decertification-police-officers-podcast>.

62 "Policing the Police: Licensing and Decertification for Police Officers," podcast.

63 Associated Press, "California bill to strip police badges from 'bad officers' fails to pass state legislature," *ABC7*, Sept. 1, 2020, <https://abc7.com/sb-731-police-decertify-california/6398745/>.

64 SB2, 2020–2021 Reg. Sess. (Cal. 2020, [https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill\\_id=202120220SB2](https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=202120220SB2)).

65 Robert Lewis, "Bill to decertify police for serious misconduct clears Legislature," *CalMatters*, Sept. 10, 2021, <https://calmatters.org/justice/2021/09/decertify-police-california-bill-legislature/>; "Governor Newsom Signs Policing Reform Legislation," press release, *Office of Governor Newsom*, Sept. 30, 2021, <https://www.gov.ca.gov/2021/09/30/governor-newsom-signs-policing-reform-legislation/>.

misdeemeanors, a separation from service, and sustained internal affairs charges to POST.<sup>66</sup> The POST commission has the authority to receive and investigate misconduct complaints about officers. It will be comprised of nine members, and only three members can be from law enforcement.<sup>67</sup> Governor Charlie Baker signed the bill into law on December 31, 2020.<sup>68</sup>

## Recommendations

To ensure that decertification laws<sup>69</sup> are successful in removing officers who commit violent acts, elected officials should:

1. Broaden Conduct Triggering Decertification.

Conduct triggering decertification cannot be limited to criminal convictions. Decertification should be permitted if an officer: (1) commits an act while on active duty or under color of law that involves moral turpitude or a reckless disregard for the safety of the public or any person, without regard to conviction; (2) has not maintained good moral character; (3) engages in any unprofessional, unethical, deceptive, or deleterious conduct or practice harmful to the public; (4) violates or attempts to violate a law, rule, or regulation of this state, any other state, or the United States; or (5) is not of physical, mental and moral fitness.<sup>70</sup>

2. Broaden POST Authority.

POST must have the statutory authority and power to initiate and conduct independent investigations. This should include the ability to receive complaints from individuals and to initiate and conduct its own investigations into officers.

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<sup>66</sup> Overview of Police Officer Standards and Accreditation Legislation, [https://41g41s33vxd2vc05w415s1e-wpengine.netdna-ssl.com/wp-content/uploads/2020/06/Baker-Polito\\_Overview\\_PoliceOfficerStandardsAndAccreditationLegislation\\_6.17.pdf](https://41g41s33vxd2vc05w415s1e-wpengine.netdna-ssl.com/wp-content/uploads/2020/06/Baker-Polito_Overview_PoliceOfficerStandardsAndAccreditationLegislation_6.17.pdf); Nate Raymond, "Massachusetts lawmakers approve major police reform bill," *Reuters*, Dec. 1, 2020, <https://www.reuters.com/article/us-massachusetts-police/massachusetts-lawmakers-approve-major-police-reform-bill-idUSKBN28C06K>; Steve Brown and Ally Jarmanning, "Here's What's in the Police Reform Law Proposed for Massachusetts," *WBUR*, Dec. 10, 2020, <https://www.wbur.org/news/2020/12/01/massachusetts-police-reform-legislation-explainer>.

<sup>67</sup> Raymond, "Massachusetts lawmakers approve major police reform bill," Brown and Jarmanning, "Here's What's in the Police Reform Law Proposed for Massachusetts."

<sup>68</sup> Nick Sibilla, "New Massachusetts Law Will Decertify Rogue Cops, Revoke Their Immunity," *Forbes*, Jan. 9, 2020, <https://www.forbes.com/sites/nicksibilla/2021/01/09/new-massachusetts-law-will-decertify-rogue-cops-revoke-their-immunity/?sh=5f95bf185297>.

<sup>69</sup> These recommendations highlight considerations officials should prioritize when pushing for stronger decertification laws. This list is non-exhaustive; other considerations include, but are not limited to: the scope of criminal justice officers who should be subject to decertification; powers and authority of an administrative law judge when one is appointed to oversee a decertification hearing; and a federal decertification process for the estimated 130,000 federal law enforcement officers (FBI, ICE, CBP); Interview with Roger L. Goldman, Sept. 5, 2020.

<sup>70</sup> In examining the state laws in the Key Metro Areas, states with broader decertification language generally have higher numbers of decertified officers.

### 3. Ensure POST Composition Reflects Community.

At most, only half the members on POST commission can be from law enforcement. POST commissions must draw at least half of their membership from underrepresented communities, such as persons who identify as Black, Latinx, Native American, Asian American, Pacific Islander, Native Hawaiian, or Alaska Natives, or other racial or ethnic minorities.

## Section II: National Decertification Index: Interstate Reporting

While state decertification prevents intrastate rehiring of officers whose licenses have been revoked, hiring of those officers in other states remains a possibility. An officer decertified in one state can obtain employment as a law enforcement officer in another state unless there is a way for hiring agencies to report and check an officer's certification status. This section addresses the only current database available for hiring agencies: the National Decertification Index (NDI).

### Without National Database, Decertified Officers Can Be Hired in Another State

Sean Sullivan, an officer in Oregon, was convicted of two counts of harassment and decertified in Oregon. He moved to Kansas and was hired as a police chief. On his Kansas job application, he stated that he had never been convicted or decertified. But because Oregon reported his decertification to the NDI, and because Kansas eventually checked the NDI, the hiring department discovered Sullivan's prior decertification and he was not allowed on the force.<sup>71</sup>

As demonstrated with Sullivan, the NDI is a way to alert hiring agencies in one state to the facts that an applicant has engaged in bad conduct and can no longer serve as a police officer in the notifying state. But the effectiveness of a national database index depends on whether state hiring agencies contribute to the index and check the database. Still, not all departments report decertified officers to the national database, and not all agencies inspect the database when making hiring decisions. In Sullivan's case, if Oregon had not reported and Kansas had not checked the database, then a convicted, decertified officer would have been serving as police chief.

### Utilization of NDI

In 1999, the International Association of Directors of Law Enforcement Standards and Training (IADLEST), a nonprofit organization dedicated to transforming policing, created the NDI to solve this interstate rehiring problem.<sup>72</sup> The NDI is a private national database of officers who have been decertified. It is only available to law enforcement and POST

<sup>71</sup> Roger L. Goldman, "NDI: Tracking Interstate Movement of Decertified Police Officers," *Police Chief Magazine* (Sept. 12, 2018), <http://policechiefmagazine.org/ndi-tracking-decertified-police-officers/>.

<sup>72</sup> "IADLEST Fact Sheet," International Association of Directors of Law Enforcement, last updated May 2020, <https://www.iadlest.org/Portals/0/IADLEST%20Fact%20Sheet%205-11-20.pdf>; Goldman, "NDI."

commissions—it is not available to the public.<sup>73</sup> The index was created and updated with funding from the Department of Justice.<sup>74</sup> Mike Becar, the director of IADLEST and former Executive Director of the Idaho POST, runs the database on roughly \$1,000/month.<sup>75</sup> As of March 2022, the NDI contained approximately 31,791 instances of decertified officers.<sup>76</sup>

**Reporting to and Querying the NDI** As currently set up, a POST may report the names of decertified officers to the NDI, and the POST or a hiring agency in one state should be able to query the NDI to check whether an applicant has been decertified in another state and request the records detailing the reasons for decertification.<sup>77</sup> Most (but not all) states with a decertification process contribute to the database. As of 2018, 43 of the 46 states permitting decertification submit actions to the NDI.<sup>78</sup> However, Georgia, the state with the highest number of decertified officers, does not report to the NDI because it is “not a government institution,” according to the deputy director of Georgia’s POST.<sup>79</sup>

And while most POST commissions contribute to the NDI, not all POST commissions or law enforcement departments check the NDI when making hiring decisions. Only around 3,500 of the 18,000 local law enforcement agencies in the United States regularly query the index when they are considering hiring new officers, even though the NDI makes the database available to police departments for free.<sup>80</sup>



In the absence of state or local legislation or department regulations requiring law enforcement departments to query the NDI when conducting background checks for new hires, police departments may not do so, and police departments may still hire officers listed on the NDI.<sup>81</sup> POST directors have acknowledged that federal pressure—e.g., withholding grant money depending on “the presence, strength, and level of compliance with decertification

73 “Request NDI Access,” International Association of Directors of Law Enforcement Standards and Training, <https://www.iadlest.org/our-services/ndi/request-ndi-access> (last accessed Nov. 9, 2020).

74 Associated Press, “A national registry of problem police officers would require major changes by states,” *Los Angeles Times*, June 26, 2020, <https://www.latimes.com/world-nation/story/2020-06-26/us-police-registry-would-fail-without-changes-in-states>.

75 Associated Press, “A national registry of problem police officers would require major changes by states.”

76 “About NDI,” International Association of Directors of Law Enforcement Standards and Training, <https://www.iadlest.org/our-services/ndi/about-ndi> (last accessed Mar. 8, 2022).

77 Loren T. Atherley and Matthew J. Hickman, “Officer Decertification and the National Decertification Index,” *16 Police Quarterly* (2013): 420–437.

78 Goldman, “NDI.”

79 Associated Press, “A national registry of problem police officers would require major changes by states.”

80 David Ingram, “Politicians have expressed interest in a national police database. One already exists,” *NBC News*, Oct. 9, 2020, <https://www.nbcnews.com/tech/tech-news/politicians-have-expressed-interest-national-police-database-one-already-exists-n1242696>.

81 Hickman, “POST Agency Certification Practices.” Hickman notes: “[F]our POSTs reported that law enforcement agencies in their state have hired individuals as officers who had been decertified in another state.”



laws in a state when issuing grants”—would be effective in incentivizing states to query the NDI when making hiring decisions.<sup>82</sup>

**Information in NDI** The NDI provides the names of decertified officers and the reasons for the officers’ decertification, and it also refers those seeking additional information to the state POST that decertified the officer.<sup>83</sup> Because decertifiable conduct varies by state, experts note that the NDI would prove more useful for POST and hiring agencies in making hiring determinations if the NDI provided additional detail such as the nature of the disqualifying conduct.<sup>84</sup>

## Recommendations

Local and state officials should implement the following elements in encouraging NDI reporting:

1. Require that state POST commissions report decertified officers to the NDI.
2. Require that POST and hiring agencies query the NDI when conducting background checks.
3. Make the NDI more robust and integral to hiring decisions will require federal involvement as well. Accordingly, the federal government should:
  - a. Provide federal funding for the NDI and oversight to standardize and expand the information contained in the NDI (including details of why an officer was decertified).<sup>85</sup>
  - b. Tie federal funding and grant money to POST and hiring agencies’ compliance with reporting decertified officers to the NDI and querying the NDI when making hiring decisions.

## Section III: Alternative Measures for Officer Performance Evaluations

### Incentivizing Over-Policing

The emphasis on statistics in police work has led to a focus on quantitative measurements, such as quotas, in evaluating officer performance. This aspect of organizational culture skews motivations and encourages unnecessarily aggressive police conduct—particularly

<sup>82</sup> Hickman, “POST Agency Certification Practices.” See also interview with Roger L. Goldman, Sept. 5, 2020; interview with Neill Franklin, Oct. 26, 2020.

<sup>83</sup> Goldman, “A Model Decertification Law”; Amir Vera, “There’s a database whose mission is to stop problematic police officers from hopping between departments. But many agencies don’t know it exists,” *CNN*, May 16, 2021, <https://www.cnn.com/2021/05/16/us/police-national-decertification-index-database/index.html>.

<sup>84</sup> Grunwald and Rappaport, “The Wandering Officer.”

<sup>85</sup> Indeed, the federal government is capable of overseeing such a database—the National Practitioner Databank is a federal database which tracks employment separations, medical malpractice payments, and adverse action reports on health care professionals. Grunwald and Rappaport, “The Wandering Officer.”

in marginalized communities—and further deteriorates community–police relations. Enforcement efforts should be focused on quality of policing, not quantity, and organizational culture must shift from “warrior cop” to “guardian” to better promote public safety.

Many jurisdictions routinely evaluate and reward officer performance based on the number of tickets they issue and arrests they make over a set period of time. While some states have banned formal quota systems, unofficial quota policies persist through managerial practices, with supervisors tracking stats to ensure that their units are “productive” and raise fine money for the county. A 2017 Pew national study found that while only 3 percent of the officers surveyed said they were formally held to a quota system, 34 percent were informally expected to meet quotas—particularly front-line officers who regularly monitor an area, make arrests, and issue tickets. About 36 percent of front-line officers, 29 percent of sergeants, and 23 percent of administrators said they were informally expected to meet a set number of tickets or arrests.<sup>86</sup>

These measurements, however, fail to capture other important aspects of policing such as their ability to work with communities, resolve conflict, and other ways of increasing public safety.<sup>87</sup> To illustrate, one officer has commented, “If I break up a fight between two boys and send them home, I don’t get credit. If I help deliver a baby in an emergency, I get no credit. But I score points if I issue a seat belt summons or record two stops-and-frisks.”<sup>88</sup> To advance within the ranks or ensure job security, officers must tailor their job performance to these numerical standards.

**Quota systems encourage over-policing:  
“If I break up a fight between two boys and I send them home,  
I don’t get credit. If I help deliver a baby in an emergency, I don’t  
get credit. But I score points if I issue a seat belt summons or  
record two stops-and-frisks.”**

Worse, quotas foster a sense of arbitrariness and harassment by police within marginalized communities who have little political capital. For example, quotas contributed to disproportionately high ticketing and arrests of Black residents in Ferguson, Missouri.

86 Rich Morin et al., “Behind the Badge 2. Inside America’s Police Departments,” *Pew Research Center*, Jan. 11, 2017, <https://www.pewsocialtrends.org/2017/01/11/inside-americas-police-departments/>.

87 The Leadership Conference Education Fund & The Leadership Conference on Human and Civil Rights, *New Era of Public Safety: An Advocacy Toolkit for Fair, Safe and Effective Community Policing*, (Washington, DC: Leadership Conference on Human and Civil Rights, 2019, <https://civilrights.org/wp-content/uploads/Toolkit.pdf>).

88 Police Reform Organizing Project, *Working Towards a More Safe and Fair City: Abolishing Quotas and Involving Communities* (New York: Police Reform Organizing Project, 2014, [https://gallery.mailchimp.com/f6b63e2555a5fd40610a66a67/files/Working\\_Towards\\_a\\_More\\_Safe\\_and\\_Fair\\_City.pdf](https://gallery.mailchimp.com/f6b63e2555a5fd40610a66a67/files/Working_Towards_a_More_Safe_and_Fair_City.pdf)).

Supervisors within the Ferguson Police Department reportedly “insisted that officers hit ticket quotas and reorganized the shift schedules to help hit them.” And while Black residents comprise 67 percent of the city’s population, they accounted for 85 percent of all traffic stops, 95 percent of charges for jaywalking, 90 percent of tickets, and 93 percent of arrests over a two-year period, according to a Department of Justice civil rights investigation.<sup>89</sup> This discriminatory practice imposes financial hardship and results in debt, jail time, and the loss of driver’s licenses, housing, and employment.<sup>90</sup> Quotas incentivize officers to use these heavy-handed approaches for low-level violations such as quality-of-life crimes and traffic violations in marginalized communities.<sup>91</sup>

Incentives for targeting marginalized communities may be particularly salient where traffic tickets and fines are tied to a city’s revenue. In 2015, then-Missouri State Senator Eric Schmitt sponsored bills (since passed<sup>92</sup>) to cap municipalities’ revenue stemming from traffic fines, among other things. In the wake of unrest in Ferguson, Senator Schmitt observed that “there were some cities in St. Louis County in particular that were getting 40, 50, 60 percent of their revenue from traffic tickets and fines.” He cited examples “that were undeniably extreme and abusive,” such as “cities dramatically increasing ticketing over the course of a year, towns having arrest and citation quotas, and one city, Edmonston, where the mayor wrote a letter to the police chief to remind him that the officers’ salaries were paid for by revenue generated from tickets.” The main refrain he heard from the community was that “there had been this breakdown of trust between people and their government and people and their courts.”<sup>93</sup>

## Quota Systems in Key Metro Areas

While many states have passed laws formally banning quota systems (such as ticket quotas, arrest quotas, or a combination of both), accusations of informal quota systems persist in most jurisdictions. In New York, for example, New York State Labor Law Section 215-a, enacted in 2010, makes it illegal for an employer to “transfer or in any other manner penalize or threaten, expressly or impliedly” a police officer “based in whole or in part on such employee’s failure to meet a quota,” defining a quota as “a specific number of . . . tickets or summonses[,] . . . arrests[, or] . . . stops . . . within a specified period of time.”

Reports of informal quota systems, however, persist. In 2014, with the quota system “firmly ingrained in the police department during the past decade,” NYPD officers stated

89 Matt Apuzzo and John Eligon, “Ferguson Police Tainted by Bias, Justice Department Says,” *New York Times*, March 4, 2015, <https://www.nytimes.com/2015/03/05/us/us-calls-on-ferguson-to-overhaul-criminal-justice-system.html>; The Leadership Conference Education Fund & The Leadership Conference on Human and Civil Rights, *New Era of Public Safety*.

90 The Leadership Conference Education Fund & The Leadership Conference on Human and Civil Rights, *New Era of Public Safety*.

91 George Joseph, “NYPD Commander’s Text Messages Show How the Quota System Persists,” *The Appeal*, Dec. 12, 2018, <https://theappeal.org/nypd-commanders-text-messages-show-how-the-quota-system-persists/>.

92 One of those bills, SB 5, was ruled unconstitutional by the Missouri Supreme Court in 2017. The Missouri Court has since then seemingly reversed itself in an unrelated matter, and lower court effectively ruled the legislation constitutional in December 2020. Rachel Lippman, “Court Ruling Revives Limits On Fines And Fees, Police Standards In St. Louis County,” *St. Louis Public Radio*, Dec. 20, 2020, <https://news.stlpublicradio.org/government-politics-issues/2020-12-02/court-ruling-revives-limits-on-fines-and-fees-police-standards-in-st-louis-county>.

93 Tim Curtis, “Schmitt reflects on SB 5 and SB 572,” *The Missouri Times*, May 19, 2016 <https://themissouritimes.com/schmitt-reflects-on-sb-5-and-sb-572/>.

that the department operated under an “unwritten” quota system.<sup>94</sup> What the NYPD styles as “performance goals” amounted to a de facto quota system, as “[i]t is difficult to see any difference between a performance goal and quota.”<sup>95</sup> And as one federal district court has already observed, “[i]mposing numerical performance goals for enforcement activities, without providing effective safeguards to ensure the activities are legally justified, could result in an officer taking enforcement action for the purpose of meeting a ‘performance goal’ rather than because a violation of the law has occurred.”<sup>96</sup> Further, officers may be incentivized to issue summonses or make arrests to leave a paper trail of their active duty.<sup>97</sup> Nor is there deterrence against unsubstantiated arrests: officers still get “credit” for arrests later deemed improper, such as a finding of lack of probable cause.

Moreover, NYPD’s “invasive targeting of vulnerable communities” is “linked to its quota system.”<sup>98</sup> As one officer put it, “[t]he problem is, when you go hunting, when you put any type of numbers on a police officer to perform, we are going to go for the most vulnerable. Of course, we’re going to go for the LGBTQ community, we’re going to the Black community, we’re going to those that have no vote, that have no power.”<sup>99</sup> The cumulative effect of the de facto quota system and perceived disparate enforcement exacerbates mistrust between police and communities of color.<sup>100</sup>



Therefore, while anti-quota legislation is an important start to removing incentives for racially-biased policing, it is far from a silver bullet. Implementing alternative measurements to the quota system, both official and de facto, that can better capture and reward community-oriented policing by officers—and thus shift organizational pressures—is also necessary to improve the quality of police-civilian interactions. Appendix I on page 191 outlines those states—corresponding to the Key Metro Areas—where formal quota systems have been banned.

94 Christopher Mathias, “Police Quotas are Terrible, and the NYPD Still Seems to Be Using Them,” *HuffPost*, Oct.02, 2014, [https://www.huffpost.com/entry/nypd-quotas\\_n\\_5916596?guccounter=1](https://www.huffpost.com/entry/nypd-quotas_n_5916596?guccounter=1).

95 *Floyd v. City of New York*, 959 F. Supp. 2d 540 (S.D.N.Y. 2013).

96 *Floyd v. City of New York*, 959 F. Supp. 2d 540 (S.D.N.Y. 2013).

97 New York Advisory Committee, *The Civil Rights Implications of “Broken Windows” Policing in NYC and General NYPD Accountability to the Public* (Washington, DC: United States Commission on Civil Rights, 2018), <https://www.usccr.gov/pubs/2018/03-22-NYSAC.pdf>.

98 Police Reform Organizing Project, *Working Towards a More Safe and Fair City: Abolishing Quotas and Involving Communities* (New York: Police Reform Organizing Project 2014, [https://gallery.mailchimp.com/f6b63e2555a5fd40610a66a67/files/Working\\_Towards\\_a\\_More\\_Safe\\_and\\_Fair\\_City.pdf](https://gallery.mailchimp.com/f6b63e2555a5fd40610a66a67/files/Working_Towards_a_More_Safe_and_Fair_City.pdf)).

99 Sarah Wallace, “I-Team: More NYPD Officers Say There’s Proof of Quota-Driven Arrests,” *NBC NY*, March 30, 2016, <https://www.nbcnewyork.com/news/local/nypd-officers-arrest-quota-exclusive-interview-pressure-numbers/748594/>.

100 New York Advisory, *The Civil Rights Implications of “Broken Windows”*.

## Recommendations

1. Prohibit all forms of formal and informal quota systems.

Number of stops, arrests, citations, or any other form of quotas should never be used in evaluating the performance of law enforcement officers. Other factors that should be used instead include: attendance, complaints by civilians, commendations, demeanor, work safety, trainings, professionalism, and other criteria that do not increase the potential of abuse or unnecessary contact with civilians.

2. Establish real consequences for use of any form of quota systems.

Such enforcement can include implementing uniform application of policies across the board, adding penalties for violations, and establishing requirements for traffic safety revenue disclosure (for added transparency).<sup>101</sup>

3. Incorporate specific community member feedback in officer and unit assessment protocols.

This can include tracking attendance of community engagement events or creating other measures to track community engagement.<sup>102</sup>

4. Emphasize enforcement focus on promoting public safety.

This must entail redefining success and developing procedurally just principles to maximize positive community engagement.<sup>103</sup>

5. Reward officers who seek solutions besides arrests.

This can include providing officers with goals and objectives, and encouraging problem solving for specific identified issues in the community.<sup>104</sup>

6. Establish and promote transparency.

Collect and publish information about arrests and tickets issued, including specific information about the facts that led to an arrest or ticket.

7. Decouple revenue from arrests.

Eliminate minimums for annual revenue generated from traffic fines.

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101 Associated Press, "Florida Senate passes 'Waldo bill' banning traffic ticket quotas," *The Florida Times-Union*, April 8, 2015, <https://www.jacksonville.com/article/20150408/NEWS/801242744>; Lauren Kates, "Florida Traffic Ticket Quotas: New 'Waldo Bill,'" *American Safety Council*, April 2015, <https://blog.americansafetycouncil.com/florida-traffic-ticket-quotas/>.

102 The Leadership Conference Education Fund & The Leadership Conference on Human and Civil Rights, *New Era of Public Safety*.

103 Megan Quattlebaum, et al., *Principles of Procedurally Just Policing* (New Haven: The Justice Collaboratory at Yale Law School, 2018), [https://policingequity.org/images/pdfs-doc/reports/principles\\_of\\_procedurally\\_just\\_policing\\_report.pdf](https://policingequity.org/images/pdfs-doc/reports/principles_of_procedurally_just_policing_report.pdf).

104 Adam Stone, "Community Policing Can Mean Dialog Instead of Rioting," *Government Technology*, May 4, 2017, <https://www.govtech.com/em/safety/Community-policing-can-mean-dialog-instead-of-rioting.html>.

8. Specify the conditions that must be met before enforcement (e.g., arrests, ticket issuance) is appropriate. Such a process can include ensuring:
  - a. A specific pattern of crime is being addressed;
  - b. The problem has been properly analyzed;
  - c. All the intervention options have been given full and open-minded consideration;
  - d. An action plan has been chosen that requires a period of intensive enforcement attention to specific violations (which we might call an enforcement campaign);
  - e. Instructions to front-line officers have been provided to make it clear that, despite the context, every enforcement action must, given the circumstances of the case, be legally justifiable and appropriate; and
  - f. During the implementation of the plan, management constantly and carefully monitors the legality, reasonableness, relevance, impact and side effects of the enforcement activities so that operations can wind down or change course as soon as is appropriate.<sup>105</sup>

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<sup>105</sup> Malcolm K. Sparrow, *Measuring Performance in a Modern Police Organization*, (Cambridge: New Perspectives in Policing, 2015), <https://www.ncjrs.gov/pdffiles1/nij/248476.pdf>.





**CHAPTER FOUR:**

# **Officer Recruitment**

## **Officer Recruitment**

Fundamental to reducing and preventing police violence—and a critical step in preventing the types of interactions that lead to police killings—is the hiring of officers who are less likely to engage in hostile interactions with the public. To be effective, changes in recruiting priorities must come from, and indeed be fully embraced by, the highest levels of each police department.

There are many areas in which police departments can improve their recruiting practices. Here, we identify three actionable areas where recruiting practices can be improved immediately:

- Create and deploy recruiting materials that convey and promote the values of community-oriented policing (i.e., building community relationships to identify and respond to local crime problems in nonviolent ways) instead of aggressive and violent practices;
- Create and implement psychological screenings geared toward both screening out potentially aggressive officers and selecting-in psychologically stable and less violence-prone candidates; and
- Provide incentives to officer candidates based on levels of educational achievement.

It is vital to recognize that none of these recommendations should be viewed as sufficient on their own to end police killings. But if implemented in conjunction with other accountability and reform measures, they can be effective in reducing violent interactions with the public and decreasing the likelihood of preventable deaths in the future.

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## Section I: Recruiting Materials

Potential applicants in the early stages of job hunting are influenced by advertisements, including online video advertisements, which can set the trajectory for the development of an organization's values later on.<sup>1</sup> This means that recruiting materials theoretically provide police departments with their first opportunity to attract officers with the positive traits needed to create a community-oriented police force that is less likely to result in police violence. But instead, many departments use online recruiting materials that focus on violent and aggressive interactions with the public and display officers resorting to the use of force. This type of recruiting is dangerous, as it is likely to attract officers who are drawn to the perceived aggressive aspects of policing.

### Recruiting Materials Are Not Aligned with Community-Oriented Values

A comprehensive study analyzing the recruiting materials used by the 200 largest police departments in the United States compared "militarization" and "community policing" themes in video advertisements, and found that while many contained community policing themes, a large number of advertisements relied on militaristic images to attract candidates.<sup>2</sup>

With respect to militarization themes, the study found that, of all advertisements surveyed:

- 42.7 percent contained some display of drawn firearms;
- 34 percent depicted military-style weapons;
- 32 percent depicted officers in tactical vests;
- 27.7 percent depicted paramilitary policing units;
- 20.4 percent depicted civilians in handcuffs;
- 13.1 percent depicted active pursuits; and
- 4.4 percent contained depictions of military-style vehicles.

1 D.G. Allen, J.R. Van Scotter, and R.F. Otondo, 2004; H.J. Walker, et al., "Displaying employee testimonials on recruitment websites: effects of communication media, employee race, and job seeker race on organizational attraction and information credibility," 94 no. 5 *Journal of Applied Psychology*, (2009): 1354–1364; H.J. Walker and A. S. Hinojosa, "Recruitment: the role of job advertisements," in K.Y.T. Yu and D.M. Cable, eds., *The Oxford handbook of recruitment*, (New York: Oxford University Press, 2014), 269–283, 278.

2 Wendy M. Koslicki "Recruiting warriors or guardians? A content analysis of police recruitment videos," *Policing and Society*, (2020), doi: 10.1080/10439463.2020.1765778.

The Koslicki study defined "militarization" to include the depiction of military and paramilitary equipment (including military-style vehicles, weaponry, tactical vests, martial language (including aggressive statements, active pursuit, handcuffed individuals, and statements emphasizing danger, hypermasculinity (including drawn firearms and gender imbalances, and military operational patterns (including active deployment of paramilitary policing units).

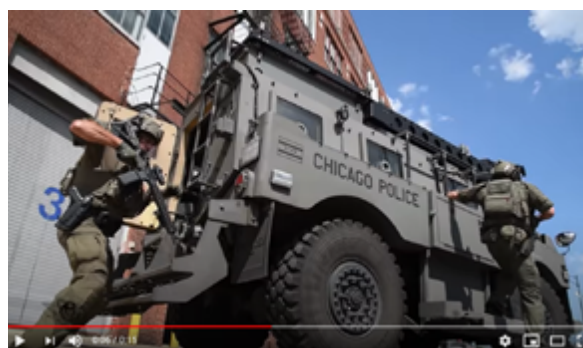
The study defined "community policing measures" to include the depiction of personal service-oriented policing (i.e., community engagement and empathetic statements) face-to-face interactions with social welfare orientations, positive public interactions, problem solving, and community-oriented mission statements.

Police-specific recruiting studies found that video advertisements are effective to convey agency values to recruits.<sup>3</sup> Eliminating militaristic themes in recruiting—and replacing them with images of nonviolent community policing—is a plain opportunity for departments to attract officers more interested in community engagement and less interested in the aggressive aspects of the job. Indeed, research has demonstrated that job seekers prefer organizations that match their own personalities and values.<sup>4</sup> Because recruiting materials are seen to represent an organization’s values, matching an organization and applicant’s values may increase the chances of the organization’s values persisting through future employees.<sup>5</sup>

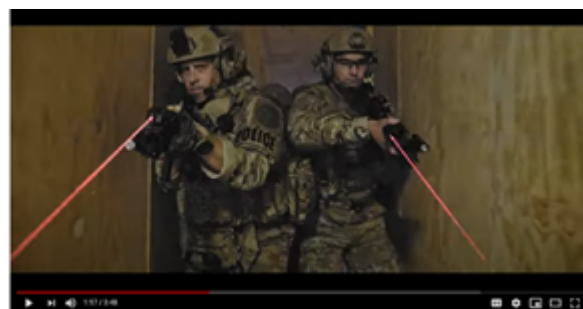
## Militaristic Recruiting Materials Used in Key Metro Areas

The recruiting materials used by many departments in the Key Metro Areas are replete with action sequences, suspect chases, and drawn weapons that look like scenes from military recruiting advertisements. Appendix J provides a snapshot of those images currently available through department websites and social media platforms.<sup>6</sup>

For example, a recent recruiting video used by the Chicago Police Department depicted officers in military gear carrying assault weapons<sup>7</sup>:



Similarly, a video used by the Orlando Police Department titled “Cop Life” depicted officers in military uniforms pointing their assault weapons down a dark hallway<sup>8</sup>:



Obviously, these advertisements risk attracting applicants more interested in the aggressive aspects of the job than peaceful community engagement.

In contrast, several departments, including Washington, DC,<sup>9</sup> and Baltimore,<sup>10</sup> currently

3 J.M. Wilson, et al., *Police recruitment and retention for the new millennium: the state of knowledge*, (Santa Monica: RAND Corporation, 2010), 77. Wilson notes: “The message transmitted through advertising media constitutes the ‘brand’ that applicants see and the identity that agencies give themselves. These and other branding images attempt to foster a deep, emotional attachment to the department and its supposed values. Aside from marketing a department image or philosophy, branding also sells the profession of policing by aligning positive impressions of police work with applicants who might feel a “calling” to human-service careers.”

4 Walker and Hinojosa, “Recruitment: the role of job advertisements.”

5 P. Herriot, “Social identities and applicant reactions.” *International Journal of Selection and Assessment*, 12 no. 1-2, (2004): 75–83; H.J. Walker, et al., “Displaying employee testimonials on recruitment websites. Walker and Hinojosa, “Recruitment: the role of job advertisements.”.

6 Many of the departments’ recruiting materials also contain non-violent images focused on community-oriented policing. The purpose of this chart is to highlight the portions of those materials reflecting militaristic or aggressive behavior.

7 Chicago Police, *Chicago Police Department is Hiring*, YouTube, Oct. 11, 2018, <https://www.youtube.com/watch?v=U8fx2SWJ1Xo>

8 City of Orlando, *Orlando Police - Cop Life*, YouTube, Feb. 13, 2020, <https://www.youtube.com/watch?v=un14lh-4Uo>

9 District of Columbia Police Department, <https://joinmpd.dc.gov/>

10 Baltimore Police Department, <https://bpdrecruit.org/>

promote nonviolent interactions and community-oriented policing themes in their recruiting materials without relying on militaristic images, providing models for other police departments to follow.

## Recommendations

Adjustments to department recruiting materials will help align applicant values with the nonviolent community-oriented traits that departments should focus on attracting. This is more than merely eliminating visualizations of military weapons and tactical units. The visuals must be humanizing, showing officers in and out of uniform in the neighborhood. Inclusivity must also be shown, versus depicting primarily White male officers. This may result in recruiting officers who are less likely to resort to the use of force when interacting with the public. Department leaders at all levels—especially those who have the authority to implement change—should:

1. Remove recruiting materials that portray officers in military uniforms or engaging in violent interactions with the public.
2. Remove images of officers with weapons drawn or in active pursuit.
3. Refocus recruiting materials to include community engagement statements and replace violent images with depictions of officers in positive, nonviolent adult and juvenile interactions.
4. Promote the values of public service and community policing in recruiting materials where possible.

## Section II: Psychological Screenings

Departments must effectively screen out officer candidates displaying psychological traits associated with aggressive policing tactics and bias, while screening in candidates more likely to show compassion and empathy. Several key initiatives should be embraced by the highest levels of a department to ensure such measures are in place.

### The Importance of Robust Psychological Screenings of Officer Candidates

Most major police departments administer some form of a psychological screening for applicants,<sup>11</sup> which generally focuses on ensuring that candidates are psychologically suited for the demands of the job and do not suffer from any conditions that could adversely affect their job performance.<sup>12</sup> Many of the larger police departments focus on screening out

11 Under the federal Americans with Disabilities Act, psychological screening examinations are deemed medical evaluations and therefore may only be administered to police officer candidates after they receive conditional offers of employment.

12 Katherine Barrett and Richard Greene, "To Find More 'Good Cops,' a Few Big Cities Change Their Hiring Process," *Governing.com*, June 24, 2019, <https://www.governing.com/topics/public-justice-safety/gov-police-hiring-test-recruit-interpersonal-emotional-intelligence.html>; Ben Stickle, "A National Examination of the Effect of Education, Training and Pre-Employment Screening on Law Enforcement Use of Force," 13 no. 1 *Justice Policy Journal* (2016), [http://www.cjcr.org/uploads/cjcr/documents/jpj\\_education\\_use\\_of\\_force.pdf](http://www.cjcr.org/uploads/cjcr/documents/jpj_education_use_of_force.pdf).

potentially violent traits—such as tendencies toward aggression and impulsiveness—but have not implemented tests that screen in nonviolent traits, such as compassion and empathy. Furthermore, because departments do not clearly publish their current screening procedures, it is often difficult for outside observers to determine whether departments are using one or more tests to screen officers and if any of the tests used are specially designed to identify the psychological traits needed for effective policing. A department's failure to effectively administer psychological screenings is often revealed too late.

As an illustrative example, consider the Minneapolis Police Department. Three years before George Floyd was killed by Minneapolis police officers, Justine Damond Ruzsczyk was shot and killed by a Minneapolis officer after she called 911 to report a suspected assault near her home. In the wake of her killing, a review of the department's psychological assessment of the officer who shot Ms. Ruzsczyk revealed how woefully deficient the department's



psychological tests were. Beginning in 2012, Minneapolis actually eliminated four of the five psychological tests it once used to screen applicants—even after a federally funded study of the department determined that some of those tests were effective at identifying problem officers.<sup>13</sup> The only remaining test administered was the MMPI-II, which is a standard psychological screening test focused on mental stability and not designed specifically for police officers. But while the MMPI-II is designed to test “abnormal ranges” of personality, such as anxiousness, hostility, and rebelliousness, “normal range” tests, like the California Personality Inventory (CPI), are designed to test for positive traits like sociability and integrity. And, other tests—like the Inwald Personality Inventory (IPI)— are specifically developed for law enforcement screening to test for personality predictors related to absenteeism and disciplinary reviews. What is problematic is that neither of these latter two types of tests had been used in Minneapolis after 2012.<sup>14</sup> However, as noted by experts, not only is the MMPI-II outdated, all of these tests are designed primarily on the reactions of White men, highlighting the need for better, more inclusive psychological screenings.<sup>15</sup>

The Minneapolis City Council also discovered that the psychiatrist employed by Minneapolis to lead the screenings—who made the choice to reduce the number of tests being administered—had no specialized experience in the psychological screening of police officers. But it is unusual for psychiatrists to conduct psychological screenings, because such tests are not usually a part of their practices, which focus on diagnosing mental illnesses and

13 Curtis Gilbert, “Minimizing Mental Fitness,” *APM Reports*, Dec. 14, 2017, <https://www.apmreports.org/story/2017/12/14/minneapolis-police-recruits-psychological-testing>

14 Curtis Gilbert, “Minimizing Mental Fitness.”

15 Interview with Tracie Keese, Oct. 8, 2020.



prescribing medication.<sup>16</sup> And the choice to employ a psychiatrist in the first place to conduct these screenings violated a state law that permitted only licensed psychologists to approve officers for duty.

## The Need for Rigorous Psychological Screenings

Police officers are subject to unique psychological demands due to the high-stress interactions they encounter. It is therefore critical for departments to effectively screen candidates at the hiring stage to identify officers who can effectively deal with those intense demands and are less likely to resort to violence while on the job.

### Peace Officer Psychological Job Demands

- Discretionary use of force
- Verbal abuse from suspects, victims, bystanders, etc.
- Willingness to use force
- Constant exposure to the worst elements of society; easy to become very jaded/cynical
- Discretionary use of police powers (arrest)
- Access to money and property seized at crime scenes
- Securing public trust (life and property)
- Decision Dash making under extreme pressure/stress
- Access to sensitive information
- Periods of quiet/boredom interrupted by sudden emergency response
- Responding to tragedies, emergencies, disasters and highly stressful situation
- Need to respond to a series of diverse calls and adapt responses (“shift gears” from routine to emergency calls)
- Unpleasant/repugnant persons and situations
- Public contact; communicate with the entire gamut of society; adapt effectively
- Threats to personal safety, physical attacks
- Serve a diverse community, regardless of culture or socioeconomic status
- Risk of personal injury, including mortal injury

Source: California Peace Officer Screening Manual, [http://post.ca.gov/portals/0/post\\_docs/publications/psychological-screening-manual/Peace\\_Officer\\_Psychological\\_Screening\\_Manual.pdf](http://post.ca.gov/portals/0/post_docs/publications/psychological-screening-manual/Peace_Officer_Psychological_Screening_Manual.pdf)

A 2004 study of the Minneapolis Police Department<sup>17</sup> found that several psychological variables were predictive of sustained officer complaints.<sup>18</sup> Importantly, officers who were observed during psychological testing to be more rule-questioning, impulsive, cynical, antisocial, argumentative, and who exhibited greater tendencies toward alcohol misuse were more likely to have sustained complaints. Officers who were eventually involuntarily terminated for work performance problems had tested for substantially different personality characteristics than non-terminated officers, including tendencies toward being suspicious and intolerant of others—a finding consistent with evidence that individuals demonstrating strong work performance are more likely to be conscientious, agreeable, and emotionally stable.

<sup>16</sup> Gilbert, “Minimizing Mental Fitness.”

<sup>17</sup> The sample for the study consisted of 511 officer candidates who were psychologically examined between 1995 and 2002. Of the 349 officers who were hired, cases were analyzed for their relationship to later integrity-related problems.

<sup>18</sup> Gary L. Fischler, “Identifying Psychological Predictors of Police Officer Integrity Problems,” (draft dated 2004).

The 2004 study also found that officers who think less rationally are also more likely to receive sustained complaints. This indicated that the role of a police officer demands heightened logical reasoning skills and an ability to “think between the lines.” Officers who solve problems in structured and rule-bound manners are therefore thought to have fewer difficulties responding to unique situations than officers who interpret facts through intuition, reaction, and past experiences.<sup>19</sup>

Although most police departments across the country require some form of a pre-employment psychological screening, varying weight is placed on the importance of the screening in the hiring process. The most commonly used test is the MMPI-II—a test not specifically designed for screening police officers.<sup>20</sup> Relying on the MMPI-II alone is not as effective as using police-specific screening tests, such as the IPI, which is a better predictor of on-the-job performance and better at identifying officers who may eventually be terminated.<sup>21</sup>

Of course, there is no one-size-fits-all method to screen out problematic officers. Some cities, such as Baltimore and Washington, DC, rely not only on written tests, but also focus on early testing of interpersonal skills using screenings that pose questions to candidates



after they watch videos of officers interacting with the public.<sup>22</sup> And whatever form of test is ultimately used, it is critical that they are administered by appropriate professionals. Some departments, in order to save costs, hire psychologists or psychiatrists not specifically trained in police psychology, who are less equipped to assess the psychological demands and issues unique to policing.<sup>23</sup> Departments must scrutinize the psychologists they hire to ensure they are using standardized and validated tests designed to assess police psychology issues.

19 Gary L. Fischler, “Identifying Psychological Predictors of Police Officer Integrity Problems,” 7.

20 Robert E. Cochrane, Robert P. Tett, and Leon Vandecreek, “Psychological Testing and the Selection of Police Officers,” *Criminal Justice and Behavior*, 30, no. 5 (2003).

21 Kimberly D. Simmers, Thomas G. Bowers, and James M. Ruiz, “Pre-employment psychological testing of police officers: the MMPI and the IPI as predictors of performance,” *International Journal of Police Science and Management*, 5 no. 4, (2003): 277-294; Bruce A. Arrigo, and Natalie Claussen, “Police corruption and psychological testing: A strategy for pre-employment screening,” *International Journal of Offender Therapy and Comparative Criminology*, 47 no.3 (2003): 272-290, 278. Koepfler, et al. explain that “considerable research suggests that for various reasons, the MMPI may not be the most suitable tool to use when assessing police officers,” and note that “the MMPI’s normative sample data for police officers underrepresent females and minorities. . . . The absence of such data can ultimately lead to unfairness in the employment decision-making process.” James Koepfler, JoAnne Brewster, Michael Stoloff, and Bryan Saville, “Predicting police aggression: Comparing traditional and non-traditional prediction models,” *Journal of Police and Criminal Psychology*, 27 no. 2 (2012): 141–149

22 Katherine Barrett and Richard Greene, “To Find More ‘Good Cops,’ a Few Big Cities Change Their Hiring Process,” *Governing*, June 24, 2019, <https://www.governing.com/topics/public-justice-safety/gov-police-hiring-test-recruit-interpersonal-emotional-intelligence.html>.

23 Kevin P. Morrison, *Hiring for the 21st Century Law Enforcement Officer*, Office of Community Oriented Policing Services (2017), <https://cops.usdoj.gov/RIC/Publications/cops-w0831-pub.pdf>

## Recommendations

To ensure that psychological screenings are most effective in identifying the strongest candidates, police departments should guarantee that all guidelines developed by the International Association of Chiefs of Police (IACP) are being followed,<sup>24</sup> including:

1. Evaluations must be conducted by a licensed, PhD-level psychologist, or other mental health professionals where permitted by law.

This must include provisions to evaluate the evaluators. A director or supervisor must conduct regular audits of the work of evaluators to ensure checking for and eliminating bias by them.

2. Departments should provide examiners with all information about required job duties and working conditions in the relevant jurisdiction, and should provide examiners with any agency-specific risk management concerns.
3. Departments should collect relevant work, school, interpersonal, family, legal, financial, mental health, and substance abuse history, and provide that information to the examiners for analysis and integration into findings of screenings.
4. Departments should administer a battery of written psychological tests relevant to job duties.
  - a. Tests should have documented reliability, validity, and evidence supporting their use in law enforcement candidate selection. Any psychological assessment instruments not validated for use in police screening should not be used.
5. One-on-one, face-to-face interviews should be conducted after evaluators review screening test results.
  - a. During screening interviews, examiners should also pay close attention to whether applicants exhibit any tendencies toward racial biases or stereotypical views.
  - b. The interview should be used to confirm and clarify test scores, obtain more relevant information about mental health status and interpersonal qualities, learn about the candidate's personal history, and collect any other information deemed relevant by the agency with respect to specific working conditions in the relevant jurisdiction.

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24 "The IACP Police Psychological Services Section (PPSS) developed these guidelines for use by public safety agencies, agency executives, and psychologists as well as other professionals who are charged with the responsibility of conducting, overseeing, and managing defensible Preemployment Psychological Evaluation (PPE) programs." The full set of IACP guidelines are available at [https://www.theiacp.org/sites/default/files/2018-08/Psych-PreemploymentPsychEval\\_L0.pdf](https://www.theiacp.org/sites/default/files/2018-08/Psych-PreemploymentPsychEval_L0.pdf)

6. Examiners should provide hiring administrators with a written report of the examiner's evaluation.
  - a. Reports should contain a determination of the candidate's suitability based on an analysis of psychological assessment materials and all background information and interview results.
7. In addition to implementing the IACP guidelines, departments should develop and use tests that focus not only on screening out (deselecting candidates who do not meet minimum requirements and therefore are at higher risk of engaging in ineffective or counterproductive job behavior), but also on selecting-in (identifying the best candidates from among those who are qualified).
8. Departments should use multiple screening tests, at least one of which should be designed specifically for law enforcement psychological suitability, such as the IPI test.<sup>25</sup>

## Section III: Educational Incentives

Hiring, developing, and retaining a more educated workforce can lead to significant improvements in how officers interact with the public. As set forth below, researchers find that college-educated officers are less likely to use force. They are also more likely to be effective at community-oriented and problem-oriented policing, to relate to the communities they serve, and to identify best practices to use when interacting with the public.<sup>26</sup>

But most police departments do not require officers to have college degrees. A 2017 survey of 958 departments across the country revealed that 81.5 percent of agencies require only a high school diploma,<sup>27</sup> 30.2 percent of officers had four-year college degrees, and 51.8 percent had two-year degrees.<sup>28</sup> In light of the findings outlined below, department leaders should implement recruiting incentives that attract officer candidates who have achieved higher levels of academic training.

At the same time, it is critical that departments fully recognize and acknowledge the racial disparities in access to higher education. Any education-focused solution to reducing police violence should be carefully crafted so it does not lead to a less diverse police force. Although we do not make express recommendations regarding diversity measures here with respect to recruiting, diversity is an important goal of recruiting in all professions, including policing, and measures to attract a diverse police force should be fully implemented.

<sup>25</sup> As stated above, these tests were not designed for a diverse population and are mainly based on the reaction of White males, signifying the need for more inclusive tests to be developed and utilized.

<sup>26</sup> Leana Bouffard and Gaylene Armstrong, "5 reasons police officers should have college degrees," *The Conversation*, June 18, 2020, <https://theconversation.com/5-reasons-police-officers-should-have-college-degrees-140523>

<sup>27</sup> Christie Gardiner, *Policing around the Nation: Education, Philosophy, and Practice*, (Fullerton: The Police Foundation and California State University, 2017), 2, <https://www.policefoundation.org/publication/policing-around-the-nation-education-philosophy-and-practice/>.

<sup>28</sup> Gardiner, *Policing around the Nation*.

One additional cautionary note: hiring more educated officers should not be viewed as a simple solution to ending preventable police killings. Indeed, educational incentives are just one of many policy changes that should be used in conjunction with other recommendations in this paper to set the course for large-scale change across the Key Metro Areas. We would be remiss not to acknowledge that officers with college degrees—including the officer who killed George Floyd—often engage in preventable, violent interactions with the public. Still, as set forth below, the correlation between officer education and improved interactions with the public suggests that educational incentives are one of many important tools that can be used to reduce the likelihood of police killings.

## **Better Educated Officers Have Less Violent Interactions with the Public**

**Less Likely to Resort to the Use of Force** When controlling for other relevant factors, such as age and experience, officers with some college exposure or a four-year degree appear to be significantly less likely to use force—both verbal and physical—than officers without any college training.

For example, in a study analyzing police interactions in Indianapolis, Indiana and St. Petersburg, Florida, “[a]pproximately 56 percent of the encounters involving officers with some college or a four-year degree resorted to force, whereas nearly 68 percent of encounters involving officers with no college experience used force.”<sup>29</sup> Similarly, a study of the Riverside County Sheriff’s Department between 1990 and 2004 found that college-educated officers were much less likely to fire their weapons in the line of duty.<sup>30</sup> Another study of a nationally representative sample of local law enforcement agencies found that departments requiring a two-year degree had lower rates of complaints of use of force—and lower rates of officers assaulted by civilians—than those departments that did not require degrees.<sup>31</sup> And one study analyzing a large police department in the Northeast<sup>32</sup> found that while only a small percent of officers create the majority of complaints, officers with degrees were roughly half as likely to be in that high-rate complaint group.<sup>33</sup> Officers with higher levels of education may possess a higher aptitude to manage or de-escalate encounters, thus reducing the need to resort to deadly force.<sup>34</sup>

29 Jason Rydberg and William Terrill, “The Effect of Higher Education on Police Behavior,” *Police Quarterly* 13 no. 11 (2010): 105.

30 James P. McElvain and Augustine J. Kposowa, “Police Officer Characteristics and the Likelihood of Using Deadly Force,” *Criminal Justice and Behavior*, 35 no.4, (2008): 515.

31 John A. Shjarback and Michael D. White, “Departmental Professionalism and Its Impact on Indicators of Violence in Police–Citizen Encounters,” *Police Quarterly* 19, no. 1, (2016): 46–48.

32 The agreement between the research team and the studied police department did not permit the researchers to identify the name of the department.

33 Christopher Harris, “Problem officers? Analyzing problem behavior patterns from a large cohort,” 38 *Journal of Criminal Justice* 38 no. 2, (March, 2010): 222.

34 McElvain and Kposowa, “Police Officer Characteristics.”



**More Receptive to Community and Problem-Oriented Policing Strategies** Officers with higher levels of academic achievement may also be more receptive to supporting community and problem-oriented policing, which can improve officer interactions with the public.<sup>35</sup> Problem-oriented policing focuses on identifying the causes of crimes in the local community and developing appropriate responses, and community-oriented policing builds community relationships to identify and respond to those problems.<sup>36</sup> The opportunities afforded to college students can increase critical thinking, moral reasoning, and intercultural awareness, which are critical skills for effective community policing.<sup>37</sup> Because college students “are likely to interact with others who look and act differently and who adhere to different belief systems” while in school, the “exposure to other cultures and customs may lead to greater tolerance and understanding among police officers when they interact with people who are different from themselves.”<sup>38</sup>



**Builds Skills to Lead and Implement Change** Officers with more education are also more likely to become leaders who will identify and implement best practices for improving encounters with the public. For example, officers with criminal justice degrees report that

35 Jacinta M. Gau and Nicholas Paul, “Police officers’ role orientations: Endorsement of community policing, order maintenance, and traditional law enforcement,” *Policing: An International Journal* 42 no. 5, (2019): 952

36 Bouffard and Armstrong, “5 reasons police officers should have college degrees,”

37 Sarah H. Moon, “The Need for Intercultural Competence Assessment and Training Among Police Officers,” *Journal of Forensic Psychology Research and Practice*, 18 no. 5 (2018); Laura Huey, Hina Kalyal, and Hillary Peladeau, “Preparing Police Recruits of the Future: An Educational Needs Assessment,” *Western University Sociology Publications* 37 (2017); Christopher R. Huber and Nathan R. Kuncel, “Does College Teach Critical Thinking? A Meta-Analysis,” *Review of Educational Research*, 86 no. 2, (June 2016).

38 Shjarback and White, “Departmental Professionalism.” The authors note that “[C]ollege education requirements can be viewed as a mechanism to ‘raise the bar’ while ensuring that agencies are obtaining a higher caliber of recruits from the very beginning of the selection and hiring process.”



their degrees substantially improved their knowledge of the criminal justice system and their conceptual and management skills,<sup>39</sup> and officers with exposure to some college level coursework are often more focused on being promoted to a higher rank.<sup>40</sup> Officer leaders with graduate degrees are also twice as likely to be aware of and more receptive to evidence-based policing practices that guide effective policymaking,<sup>41</sup> and college degrees encourage and foster the critical thinking skills that may help officers better understand and evaluate the policies adopted by departments.<sup>42</sup> Policies intended to reduce the use of force, such as crisis intervention and de-escalation, may therefore become more effective when implemented by a workforce with additional years of higher education.<sup>43</sup>

## Current Education-Based Salary Incentives in Key Metro Areas

Although many departments in the Key Metro Areas currently offer various educational incentives for officers with higher levels of academic achievement,<sup>44</sup> the details of such incentives are not always readily apparent.<sup>45</sup> Other departments' online materials, including the Miami, Philadelphia, and Boston Police Departments, do not clearly reference education benefits. But several departments do publicize that educational benefits are available to candidates with higher levels of education. The Houston Police Department offers annual educational incentives, amounting to \$3,640 for a BA, \$6,240 for an MA, and \$8,840 for a PhD. New Orleans and Los Angeles also offer tiered benefits, while Memphis offers an extra 5 percent pay for 85 or more semester hours and an extra 7.5 percent pay for a four-year degree. Charlotte pays incentives at an additional 5 percent of starting salary for candidates with associate degrees, and an additional 10 percent for bachelor's degrees. Additional information about educational-based salary incentives in the Key Metro Areas can be found in Appendix K on page 197.

39 Philip E. Carlan, "The criminal justice degree and policing: Conceptual development or occupational primer?" *Policing: An International Journal*, 30 no. 4, (2007).

40 Jacinta M. Gau, William Terrill, and Eugene A. Paoline, "Looking Up: Explaining Police Promotional Aspirations," *Criminal Justice and Behavior* 40 no. 3, (2012).

41 Cody W. Telep, "Police Officer Receptivity to Research and Evidence-Based Policing: Examining Variability Within and Across Agencies," 63 no. 8 *Crime & Delinquency*, April 10, 2016.

42 Rodney M. Schmaltz, Erik Jansen, and Nicole Wenckowski, "Redefining Critical Thinking: Teaching Students to Think like Scientists," *Frontiers in Psychology*, March 29, 2017, <https://www.frontiersin.org/articles/10.3389/fpsyg.2017.00459/full>; David H. Bayley, "The Complexities of 21st Century Policing," *Policing: A Journal of Policy and Practice*, 10 no. 3, (Sept. 2016), <https://doi.org/10.1093/police/paw019>.

43 Bouffard and Armstrong, "5 reasons police officers should have college degrees."

44 The 2017 survey of 958 departments referenced above found that "[a]lmost three-quarters (73.5%) of agencies pay officers an extra 1%- 7.49% for having a bachelor's degree" and that "[m]ost (37.2%) agencies pay officers 1%-2.49% more for a four-year degree than an AA or high school diploma (whichever is the agency's minimum)." Christie Gardiner, *Policing around the Nation*.

45 For example, the New York City Police Department website only notes that officers may "earn up to 29 college credits from academy training that can go toward a degree" and that "several institutions offer full or partial scholarships to NYPD members," but provides no further information. New York City Police Department, <https://www1.nyc.gov/site/nypd/careers/police-officers/po-benefits.page>

## Recommendations

As discussed, higher levels of academic achievement are correlated with improved policing outcomes—both in terms of reduced use of force incidents and effective community policing. Yet police departments take inconsistent approaches to incentivizing degree holders to join the force or to incentivizing those who wish to join the force to obtain degrees. We recommend that department leaders embrace and implement the following policy changes to recruit, develop, and retain a more educated work force:

1. Departments should offer educational incentives to attract officers with college and advanced degrees.
2. Departments should make their educational benefit policies explicit on their websites and online recruiting materials.

Candidates with higher levels of academic achievement must be aware of the specific benefits tied to their degrees.

Although offering financial assistance to pursue a degree while on the job will partially alleviate the burdens associated with higher education, taking college courses while remaining an active officer presents its own personal challenges.

3. Departments should employ a dual-focus on both assisting current officers with their academic goals, as well as incentivizing degree holders to apply.

For current degree holders, departments should offer both supplemental student loan payments<sup>46</sup> and a four-tiered salary incentive based on the highest degree obtained.

This can either be a lump sum amount or a percentage-based increase to be paid annually or with each paycheck. The four tiers should provide increased benefits for candidates with an Associate's Degree, Bachelor's Degree, Master's Degree, and Doctorate Degree.

4. Departments must fully acknowledge the racial disparities that exist in access to higher education, and should carefully craft their policies so they do not lead to a less diverse police force.

Diversity is an important goal of recruiting, and measures to attract a diverse force should be fully implemented.

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<sup>46</sup> The City of Memphis makes monthly contributions to officers' student loans.



# Conclusion

# Conclusion

The quest to reimagine public safety in America is neither new nor revolutionary. In 1963, then-Attorney General Robert F. Kennedy met with Black writers and academics. Playwright Lorraine Hansberry told him, “I am very worried about the state of the civilization which produced that photograph of the white cop standing on that Negro woman’s neck in Birmingham.” Fifty-seven years later, in 2020, a Black man was murdered by a White police officer who knelt on his neck for more than nine minutes in front of what would eventually become a global audience. More have been killed since then.

Calls for change over more than half a century have far too often been ignored, sidelined, or stymied by resistance from police unions and their political allies, who seek to undermine public support and political will for needed changes by promoting a false narrative that police reform is incompatible with public safety. Meanwhile, the list of people killed unnecessarily during “routine” interactions with police continues to grow. As this report was being finalized, Patrick Lyoya was killed by a Grand Rapids, Michigan, police officer who shot him execution-style in the back of his head.

Through rigorous research, interviews, case studies, and analysis, this report highlights barriers to effective law enforcement accountability and public safety transformation, and offers a range of policy recommendations to combat authoritarian and violent policing and help enhance community safety. The boldest and most expansive reform involves the systemic restructuring of public safety resources and infrastructure as exemplified by initiatives under way in communities like Ithaca, New York, Brooklyn Center, Minnesota, and Berkeley, California.

To spotlight just one of these, during his tenure, former Ithaca Mayor Svante Myrick led the fight to transform public safety and built the foundation for one of the most ambitious public safety programs in America. The Ithaca Public Safety Model replaces the former police department with a new Department of Public Safety, overseen by a civilian superintendent and divided into two co-equal forces of public safety responder: armed community safety officers responsible for addressing situations that involve violence, and unarmed community solution officers dispatched to deal with non-violent situations such as homelessness, mental health, and substance abuse. It also includes extensive police accountability and transparency measures, such as mandates for data collection and sharing, as well as more effective civilian oversight. To do this, Myrick ensured public input and support by collecting engagement surveys, hosting town halls and public forums, and convening focus groups that included members of law enforcement, the formerly incarcerated, and homeless residents. In April 2021, the city released a report on reimagining public safety, which is now Myrick’s visionary model to transform Ithaca.<sup>1</sup>

<sup>1</sup> Reimagining Public Safety and Center for Policing Equity, *Implementing the City of Ithaca’s New Public Safety Agency: Suggestions from the City of Ithaca’s Reimagining Public Safety Working Group*, (Ithaca: Ithaca & Tompkins County, NY, 2022), [https://www.cityofithaca.org/DocumentCenter/View/13725/WG\\_IthacaReport\\_Final](https://www.cityofithaca.org/DocumentCenter/View/13725/WG_IthacaReport_Final).

Beyond presenting promising models to transform public safety, *All Safe: Transforming Public Safety* also makes a range of recommendations that generally fall into four broad categories, including measures to:

- Restructure the systems of public safety to ensure communities' underlying safety and social needs are met;
- Hold unfit officers responsible and accountable for their actions;
- Remove unfit officers from the job, particularly those with a demonstrated history of violence, aggression, or other misconduct from police departments; and
- Recruit well-trained public safety personnel committed to serving and protecting their communities.

At People For the American Way, we believe in and work toward a democratic society in which the values of freedom, equality, opportunity, and justice are a reality for all people. Creating lasting transformation in the US public safety system, including mechanisms to hold officers accountable for unjustified killings and other excessive use of force, is one essential step to advancing toward that goal. Another necessary step in building “a more perfect union” is to address the root causes of criminal activity and violence, including unjust laws, discriminatory enforcement, and insufficient effective investments in individual and community wellbeing. Addressing that set of policy questions is beyond the scope of this paper but must be a priority for public officials and for all Americans who want to build a country that is fairer, safer, and more just.

Transforming public safety for all people and confronting systemic maltreatment and abuse of Black people and other people of color are urgent challenges. Our hope is that the research and recommendations in this report will aid public officials who are committed to taking on this challenge.

If you are interested in helping to transform public safety in your community and around the country, please visit our resource page at [www.pfaw.org/publicsafety](http://www.pfaw.org/publicsafety).



# **Policy Recommendations**



# Policy Recommendations

Based on the information presented in this report, People For the American Way offers a range of recommendations to help end racial discrimination and police violence and create greater police accountability. Due to jurisdictional variances concerning which official or body has the power to implement these recommendations, and whether such actions must be taken using legislative, administrative, or other measures, we generally do not direct the recommendation to specific officials or bodies. We ask that the authorized individuals, departments, and elected officials take action to help end the long-standing problem of police violence in the United States.

## RESTRUCTURE

### Restructure Public Safety Systems

1. Restructure traditional police force into new departments of public safety that feature coequal armed and unarmed first responders.

A restructured Department of Public Safety should include unarmed first responders that are trained and specialized in responding to nonviolent service calls such as traffic enforcement and welfare checks, reducing the risk of violence in police interactions and permitting armed officers to focus their attention on violent crimes.

2. Provide for civilian leadership and oversight of Department of Public Safety.

The new Department of Public Safety should be led by a civilian superintendent who should bring a background in social work, public health, public or business administration and demonstrate in-depth knowledge of the intersections of race, public health, and public safety.

3. Create new staff positions for the new department.

A reimagined Department of Public Safety should also include new positions and position descriptions and require all members, including police officers, to apply for these new roles, a process that signals that systemic reform has taken place and severs the connection with failed models from the past.

4. Enhance police accountability and transparency.

Like the Ithaca Public Safety Model, this includes, among others: (1) mandating data collection on all traffic and pedestrian patrols and use of force; (2) implementing oversight and frequent audits of body-worn camera footage by a partner college or university to be determined; (3) creating a real-time public safety dashboard that allows the public to view calls for service in real time; (4) establishing a civilian review

body with independent and investigatory powers; and (5) requiring public disclosure of district attorneys and/or any assigned counsel office statistics on a quarterly and annual basis.

5. Develop a clear plan for the new Department of Public Safety.
6. Secure buy-in from community stakeholders.

Support from critical community stakeholders such as the mayor or city council can eliminate potential power struggles that can severely undermine and destroy public safety reform efforts.

## **Develop Alternatives to Armed 911 Responses**

The following are a range of policy options that can be implemented to help reduce incidents of force, brutality, and killing at the hands of law enforcement. Of these options, the development of non-police models may be the ideal solution, but other alternatives, including the development of co-responder programs, can offer initial steps toward building a non-police response model.

1. Develop and deploy non-police models.

Where politically feasible, cities should consider developing and implementing a CAHOOTS-like model (program in Eugene, Oregon) linked to the 911 system, where non-police teams serve as first responders. In certain cities, teams of qualified non-police responders may already exist (e.g., New York's Mobile Crisis Teams). In such situations, cities should consider integrating these teams into the 911 system, so that the non-police responders serve a first response function in appropriate cases.

2. Develop new co-responder programs.

Co-responder models—where law enforcement are accompanied by mental health counselor, social worker, or other treatment professional—can meaningfully reduce unnecessary police interactions, helping to prevent the excessive use of force by police, reducing unnecessary incarceration, and ultimately offering fiscal savings.

3. Optimize existing co-responder programs.

Co-responder models are most effective when they are supported by adequate resources and integrated effectively into the 911 system. Cities with co-responder models should optimize them by:

- a. Adequately scaling co-responder programs, by ensuring that the number of teams in place is sufficient to meet community needs;
- b. ensuring that co-responder programs are available 24/7 and not just during certain shifts;

- c. integrating co-responder programs into the 911 system, and properly training 911 operators, so that calls are quickly and appropriately directed to CRTs; and
  - d. developing appropriate support CRTs, including triage desks with access to mental health records and other resources.
4. Augment social services to support community needs.

Any model for responding to emergency calls will ultimately fail if there are not adequate social services for people in need. Whether the first responders are police officers or medical or mental health professionals, they cannot provide an effective response if they are not able to refer people appropriately to inpatient and outpatient clinics and other social services. For this reason, jurisdictions must take steps to augment the social services available to the mentally ill, substance abusers, the homeless, and others in need. Augmenting these services may have the added benefit of avoiding an emergency call to 911 altogether.

5. Study the Efficacy of New Models.

Limited data exists on the efficacy of co-responder programs and non-police models for responding to emergency calls. As jurisdictions implement and optimize these programs, it is essential that funds are set aside to collect data in order to refine and improve the programs. A particular focus should be the impact of co-responder programs and non-police models on communities that suffer disproportionately from police violence today, including Black Americans.

## **Redefine School Safety**

*Below are **long-term policy recommendations** for complete removal of police from schools.*

1. Remove police officers (both local police and/or school district officers) from schools.

Consider: (1) whether there is a contract with local police or an internal department; (2) whether laws mandate police involvement; and (3) who holds decision-making power.

2. Replace police officers with unarmed peacekeeping personnel, who hail from the community.

Restructure the security apparatus within the school and retrain security personnel (unarmed security guards not police officers) on conflict resolution, de-escalation, and mental health. Include community members, students (or parents, if students are too young), and educators in the hiring process. Grant these stakeholders votes on each school's hiring committee.

Replace zero-tolerance disciplinary policies with community and student-based programs, positive behavior intervention practices, and restorative justice programs.

Shift school safety culture away from police involvement in response to common student behaviors and toward alternative methods of resolving conflicts. Train school administrators and teachers on new policies, disciplinary changes, and expectations around police involvement.

3. Redirect funding from employing officers to peacekeeping personnel, restorative justice programs, and other student services and programs.

*Below are **interim solutions** to mitigate the harms of school policing as efforts are made to completely remove officers from schools. Although we have termed these policies as interim goals, many of these policies should continue to be employed even if school police officers are removed from schools.*

1. Implement school board policies that govern the district's disciplinary policies and relationship with law enforcement.

Policies should limit the circumstances under which teachers or administrators can call police, such as prohibiting police calls due to "disorderly conduct" and requiring school officials to exhaust other alternatives prior to calling the police for less serious school-based offenses, such as possession of alcohol or physical altercations. Alternatives can include referrals to counseling, restorative justice, or mediation.

2. Create district-wide guidelines that limit the circumstances under which arrests can be made on campus.

Guidelines should take into account whether: (1) the arrest relates to school-based conduct; (2) there is an imminent threat to public safety; and (3) the officer can use means other than arrest.

3. Create a process for reviewing a school's compliance with new policies.

Evaluate the training as to which types of situations teachers and administrators call police, and whether police are called for "policing" needs or simply as additional adult intervention.

4. Require mandatory data collection on police in schools.

Make public the number of times police are called to a school, the reasons for the calls, the number of arrests, and complaints against officer conduct.

5. Repeal legislation that criminalizes nonviolent student behavior.

Jurisdictions should repeal legislation that criminalizes nonviolent offenses such as dress-code violations, disruptive behavior, and vandalism.

## Decriminalize Nonviolent, Misdemeanor Offenses

1. Drastically reduce the number of misdemeanor offenses.

Jurisdictions should repeal ordinances and laws that regulate low-level, nonviolent conduct such as loitering, littering, sleeping in public places, driving with a suspended license, and disorderly conduct—all of which are disproportionately enforced against communities that have historically been marginalized, including communities of color.

2. Implement policies that constrain the discretion of police officers to make arrests. This can be accomplished by:

- a. Shifting focus within police departments and sheriff's offices from arresting individuals for low-level misdemeanors to utilizing other options.
- b. Encouraging police officers to view arrest as the last resort, and to divert individuals to appropriate community-based resources that will provide valuable assistance without the harsh consequences and stigma associated with being tangled in the criminal justice system.
- c. Implementing cite-and-release programs, avoiding the potential for arrests and treating misdemeanors as a civil offense instead of a criminal offense.

3. Adopt policies that decrease or eliminate prosecutions of misdemeanors and particularly nonviolent offenses.

- a. Shift traffic enforcement duties from the police to a civil agency that deploys unarmed staff to address low-level traffic infractions.
- b. Further, reduce or eliminate enforcement for certain traffic offenses, including failure to signal, driving with a broken tail light, tinted windows, broken or loud exhaust system, and objects dangling from a rearview mirror.

4. Eliminate or reduce fines and fees. This may include:

- a. Eliminating all criminal justice fees, including but not limited to those associated with low-level misdemeanor offenses and traffic violations.
- b. Requiring proportionality when imposing fines, including by requiring an ability-to-pay determination at the time of sentencing.
- c. Refocusing failure to pay on ensuring that the fine imposed remains fair. Discontinue punitive measures, such as probation or issuing warrants, to enforce payment requirements.

## **Ban Local Law Enforcement Agencies' Participation in 1033 Program**

1. End the practice of police departments acquiring controlled military weapons from the federal government, including by:
  - a. Mandating the return of all distributed controlled military equipment to the federal government.
  - b. Barring the use of military-grade equipment against unarmed civilians.
  - c. Banning K-12 school police departments from enrolling in the LEA 1033 Program.
2. Where LEA 1033 Programs still exist, require data collection and tracking of controlled equipment and incidents to better understand the civic consequences of possession.

## **HOLD RESPONSIBLE**

### **Require Accountability in Police Union Contracts**

1. Eliminate police union contract provisions that shield officers from being immediately interviewed after misconduct incidents.

Investigation procedures can respect an accused officer's right to counsel while guarding against collusion and fading memories. Such contracts should not require a delay in advance of an interview.

2. Make Collective Bargaining Agreement negotiations public.

The union contract negotiation process should be publicly visible and democratically accountable. Finalized agreements should be public and easily available.

3. Allow for the investigation of anonymous complaints.

Police union contracts should not limit investigations to only those complaints in which a witness makes a sworn statement.

4. Extend statutes of limitations, time bars, and time constraints on the length of an investigation.

In states where a police officers' bill of rights contains a statute of limitations, reform is needed at the state level. Otherwise, union contracts should permit investigation of complaints within a reasonable period of time, and preferably longer than five years. There should be no artificial limit on the length of an investigation, particularly where disciplinary investigations may be substantially delayed pending a criminal investigation.



5. Restrict accused officers' access to information during the investigation.

Access to the complaint and other witness statements should be restricted at least until after the officer has been interviewed. Alternatively, access to information can be restricted until the investigation is complete and the officer is preparing for a discipline hearing.

6. Remove binding private arbitration.

While each city has a different disciplinary hearing process, no union contract should permit an officer to be able to overturn the finding of a publicly accountable hearing board or the police chief through an appeal conducted in private by an arbitrator selected in whole or in part by the police.

7. Make officer records public and permanent.

Complaints and investigations should remain part of an officer's record for a reasonable period of time, but not less than three years. Disciplinary action should be recorded permanently.

8. Require diverse union leadership.

Union leadership must reflect a union's members and the community those members serve. In all unions, and particularly those with diverse memberships, emphasis must be placed on promoting Black, Latinx, and other candidates of color to leadership positions.

## **End Qualified Immunity**

States *without* a civil rights cause of action should:

1. Create a law providing a right to bring a lawsuit (i.e., a cause of action), similar to Section 1983 of the US Code (allows individuals to bring civil rights suits against the government or its employees), which by its terms excludes the defense of qualified immunity and provides for monetary damages.

The law should:

- a. Explicitly provide that lawsuits can be brought against police officers and other law enforcement officials including sheriffs; and
- b. At least apply in the context of any deprivation of state constitutional rights.

States *with* a civil rights cause of action should:

1. Pass new legislation to clarify that qualified immunity is not a defense to civil liability for police officers.

## **Require the DOJ to Collect Data on Deaths in Custody in All States and US Territories**

1. The DOJ should be required to comply with the DCRA and collect and report all data on deaths arising from arrests or occurring during police custody in all states and US territories. The lack of available data on arrest-related deaths impedes the crafting of essential policy reforms as it relates to reducing senseless police killings and unnecessary police contact with vulnerable communities.

## **Adopt Policies to Regulate Body-Worn Cameras**

1. Where body-worn cameras are utilized, adopt policies to regulate their use and promote accountability.
  - a. Research on the effectiveness of body-worn cameras in promoting greater accountability and reducing police violence is mixed. But while early hopes placed on body-worn cameras in deterring police violence have been tempered, body-worn cameras can still serve as a useful response to combating excessive use of force. In particular, places that already use body-worn cameras should adopt policies that promote greater accountability.
  - b. Officers should be required to continuously record and leave their BWCs on during all police interactions.
  - c. Disciplinary action should be taken toward any police officer who turns off their BWC recording during police interactions.
  - d. Officers should allow victims of rape, abuse, and other sensitive crimes to choose whether they should be recorded. And officers should obtain their informed consent.
  - e. Officers should not be allowed to access BWC footage prior to giving their initial statement and report to their supervisors.
  - f. Where BWC footage displays excessive or fatal uses of force, the victim or victim's family should be entitled to a copy of the footage.
  - g. When excessive force is present in BWC footage, the public should have access to it.

# REMOVE

## Revoke Licenses for Officers who Engage in Abusive Misconduct

To ensure that decertification laws are successful in removing officers who abuse their power, officials should:

1. Broaden scope of conduct giving rise to decertification.

Conduct triggering decertification of police officers cannot be limited to criminal convictions, as it currently is in many states. Decertification should be permitted if an officer:

- a. Commits an act while on active duty or under color of law that involves moral turpitude or a reckless disregard for the safety of the public or any person, without regard to conviction;
  - b. Has not maintained good moral character;
  - c. Engages in any unprofessional, unethical, deceptive, or deleterious conduct or practice harmful to the public;
  - d. Violates or attempts to violate a law, rule, or regulation of this state, any other state, or the United States; or
  - e. Is not of mental and moral fitness.<sup>1</sup>
2. Broaden the authority of Peace Officer Standards and Training (POST)—the bodies responsible for licensing officers, discipline, and ensuring compliance with standards.

POST commissions must have the statutory authority and power to initiate and conduct independent investigations, including the ability to receive complaints from individuals and to initiate and conduct its own investigations into officers.

3. Ensure composition of POST Commission reflects community.

At most, only half the members on any POST commission should be from law enforcement. POST commissions must draw at least half its membership from underrepresented communities, such as persons who identify as Black, Latinx, Native American, Asian American, Pacific Islander, Native Hawaiian, Alaska Natives, or other racial or ethnic minorities.

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<sup>1</sup> In examining the state laws in the Key Metro Areas, states with broader decertification language generally have higher numbers of decertified officers. See additional information in Appendices G and H.

## Require Interstate Reporting to the National Decertification Index (NDI)

Local and state officials should implement the following elements to mandate reporting decertified officer to the NDI:

1. Require that state POST commissions report decertified officers to the NDI.
2. Require that POST and hiring agencies query the NDI when conducting background checks.

The federal government should:

1. Provide federal funding for the NDI and oversight to standardize and expand the information contained in the NDI (including details of why an officer was decertified).
2. Tie federal funding and grant money to POST and hiring agencies' compliance with reporting decertified officers to the NDI and querying the NDI when making hiring decisions.

## Implement Alternative Measures for Officer Performance Evaluations

Policies should be implemented to do the following:

1. Prohibit all forms of formal or informal quota systems.
  - a. Number of stops, arrests, citations, or any other form of formal or informal quotas should never be used in evaluating the performance of law enforcement officers. Other factors that may be used instead include: attendance, complaints by civilians, commendations, demeanor, work safety, trainings, professionalism, and other criteria that do not increase the potential of abuse or unnecessary contact with civilians.
2. Establish real consequences for use of any form of quota systems.
  - a. Such enforcement can include adding penalties for violations and establishing requirements for traffic safety revenue disclosure (for added transparency).
3. Incorporate specific community member feedback in officer and unit assessment protocols.
  - a. This can include tracking attendance at community engagement events or creating other measures to track community engagement.
4. Emphasize enforcement focus on promoting public safety.

This must entail redefining success and developing procedurally just principles to maximize positive community engagement.<sup>2</sup>

<sup>2</sup> Megan Quattlebaum, et al., *Principles of Procedurally Just Policing* (New Haven: The Justice Collaboratory at Yale Law School), 2018, [https://policingequity.org/images/pdfs-doc/reports/principles\\_of\\_procedurally\\_just\\_policing\\_report.pdf](https://policingequity.org/images/pdfs-doc/reports/principles_of_procedurally_just_policing_report.pdf).

5. Reward officers who seek solutions besides arrests.
  - a. This can include providing officers with goals and objectives, and encouraging problem solving for specific identified issues in the community.<sup>3</sup>
6. Establish and promote transparency.
  - a. Collect and publish information about arrests and tickets issued, including specific information about the facts that led to an arrest or ticket.
7. Decouple revenue from arrests.
  - a. Eliminate minimums for annual revenue generated from traffic fines.
8. Specify the conditions that must be met and process that must be engaged before enforcement (e.g., arrests, ticket issuance) is appropriate. Such a process can include ensuring:
  - a. A specific pattern of crime is being addressed.
  - b. The problem has been properly analyzed.
  - c. All the intervention options have been given full and open-minded consideration.
  - d. An action plan has been chosen that requires a period of intensive enforcement attention to specific violations (which we might call an enforcement campaign).
  - e. Instructions to front-line officers have been provided to make it clear that, despite the context, every enforcement action must, given the circumstances of the case, be legally justifiable and appropriate.
9. During the implementation of the plan, management constantly and carefully monitors the legality, reasonableness, relevance, impact and side effects of the enforcement activities so that operations can wind down or change course as soon as is appropriate.<sup>4</sup>

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<sup>3</sup> Adam Stone, "Community Policing Can Mean Dialog Instead of Rioting," *Government Technology*, May 4, 2017, <https://www.govtech.com/em/safety/Community-policing-can-mean-dialog-instead-of-rioting.html>.

<sup>4</sup> Malcolm K. Sparrow, *Measuring Performance in a Modern Police Organization*, (Cambridge: New Perspectives in Policing, 2015), <https://www.ncjrs.gov/pdffiles1/nij/248476.pdf>.

## RECRUIT

Modifying department recruiting materials and hiring processes will help align applicant values with the nonviolent community-oriented traits that departments should focus on attracting. This may result in recruiting officers who are less likely to resort to the use of force when interacting with the public. These adjustments should include:

### Alignment of Recruiting Materials with Community-Oriented Values

1. Removing recruiting materials that portray officers in military uniforms or engaging in violent interactions with the public.
2. Removing images of officers with weapons drawn or in active pursuit.
3. Refocusing recruiting materials to include community engagement statements and replace violent images with depictions of officers in positive, nonviolent adult and juvenile interactions.
4. Promoting the values of public service and community policing in recruiting materials where possible.

### Conduct Robust Psychological Screenings

1. Guarantee all guidelines developed by the IACP are being followed, to ensure that psychological screenings are most effective in identifying the strongest candidates.<sup>5</sup> This includes the following:
  - a. Evaluations must be conducted by a licensed, PhD-level psychologist, or other mental health professionals where permitted by law;
  - b. Mandating departments provide examiners with all information about required job duties and working conditions in the relevant jurisdiction, and should provide examiners with any agency-specific risk management concerns;
  - c. Mandating departments collect relevant work, school, interpersonal, family, legal, financial, mental health, and substance abuse history, and provide that information to the examiners for analysis and integration into findings of screenings;
  - d. Mandating departments administer a battery of written psychological tests relevant to job duties. Tests should have documented reliability, validity, and evidence supporting their use in law enforcement candidate selection. Any psychological assessment instruments not validated for use in police screening should not be used;

<sup>5</sup> "The IACP Police Psychological Services Section (PPSS) developed these guidelines for use by public safety agencies, agency executives, and psychologists as well as other professionals who are charged with the responsibility of conducting, overseeing, and managing defensible Preemployment Psychological Evaluation (PPE) programs." The full set of IACP guidelines are available at [https://www.theiacp.org/sites/default/files/2018-08/Psych-PreemploymentPsychEval\\_0.pdf](https://www.theiacp.org/sites/default/files/2018-08/Psych-PreemploymentPsychEval_0.pdf)



- e. One-on-one, face-to-face interviews should be conducted after evaluators review screening test results. The interview should be used to confirm and clarify test scores, obtain more relevant information about mental health status and interpersonal qualities, learn about the candidate's personal history, and collect any other information deemed relevant by the agency with respect to specific working conditions in the relevant jurisdiction; and
  - f. Mandating examiners to provide hiring administrators with a written report of the examiner's evaluation. Reports should contain a determination of the candidate's suitability based on an analysis of psychological assessment materials and all background information and interview results.
5. Develop and use tests that focus not only on screening out (deselecting candidates who do not meet minimum requirements and therefore are at higher risk of engaging in ineffective or counterproductive job behavior) but also on selecting-in (identifying the best candidates from among those who are qualified).
- a. During screening interviews, examiners should also pay close attention to whether applicants exhibit any tendencies toward racial bias or stereotypical views.
  - b. Use multiple screening tests, at least one of which should be designed specifically for law enforcement psychological suitability, such as the IPI test.

### **Offer Educational Incentives to Attract Officers with College and Advanced Degrees**

1. Make educational benefit policies explicit on department websites and online recruiting materials. Candidates with higher levels of academic achievement must be aware of the specific benefits tied to their degrees.
2. Employ a dual-focus on both assisting current officers with their academic goals, as well as incentivizing degree holders to apply.
3. For current degree holders, offer both supplemental student loan payments and a tiered salary incentive based on the highest degree obtained—either as a lump sum amount or as a percentage-based increase to be paid annually or with each paycheck.
4. Fully acknowledge racial disparities that exist in access to higher education, and carefully craft department policies so they do not contribute to a less diverse police force.



# Appendices

# Appendices

## Appendix A: Alternatives to Armed 911 Responses

This chart outlines and describes the state of play and the programs implemented or the steps taken to implement co-responder programs in each of the Key Metro Areas.

Key Metro Areas with Co-Responder Programs	
<p><b>Atlanta, GA</b></p>	<p>DeKalb County, Georgia, which makes up about 10 percent of Atlanta proper, has had a co-responder program in place since the 1990s.<sup>1</sup> Through a cooperative arrangement between the DeKalb Community Service Board and the DeKalb County Police Department, DeKalb's Mobile Crisis Units intervene and evaluate individuals experiencing a crisis in the community.<sup>2</sup> In 2000, the program was staffed by four police officers and two psychiatric nurses who rotated to provide a team of two officers and one nurse on shifts from 3 p.m. to 10:30 p.m. seven days a week. The program also included a psychiatrist available for telephone consultations. The teams responded to 911 calls identified as psychiatric emergencies, calls from a hotline number and calls from other officers in the field.<sup>3</sup></p> <p>In a 2000 study of the efficacy of the program (spanning a three-month period in 1995), the author found that, on average the mobile crisis units cost around 20percent less than a typical police intervention. The study did not find a statistically significant difference in the number of arrests, but noted that "the overall arrest rate for both regular police and mobile crisis interventions was remarkably low considering the percentage of violence-related situations." The study did find a statistically significant decrease in psychiatric hospitalizations. The author also evaluated end-user satisfaction and found that both community members and family members rated the program favorably; 75% of 106 officers surveyed indicated that they were very satisfied or mostly satisfied with the program.<sup>4</sup></p>
<p><b>Boston, MA</b></p>	<p>Boston's co-responder program was implemented in 2011.<sup>5</sup> It was a typical ride-along model where a Master's level clinician from the Boston Emergency Services Team (BEST) of the Boston Medical Center would accompany officers when they respond to calls. The co-responder teams focused on two areas of the city, although the services could be requested citywide.<sup>6</sup></p>

1 Roger L. Scott, "Evaluation of a Mobile Crisis Program: Effectiveness, Efficiency, and Consumer Satisfaction," *Psychiatric Services*, 51 no. 9, (Sept. 2000), <https://ps.psychiatryonline.org/doi/pdf/10.1176/appi.ps.51.9.1153>.

2 DeKalb CSB, Crisis, <https://dekcsb.org/crisis/> (last visited Nov. 20, 2020).

3 Scott, "Evaluation of a Mobile Crisis Program."

4 Scott, "Evaluation of a Mobile Crisis Program."

5 Riding Shotgun, "Why American departments are sending social workers to answer 911 calls," *The Economist* (May 11, 2019), <https://www.economist.com/united-states/2019/05/11/why-american-departments-are-sending-social-workers-to-answer-911-call>

6 Melissa S. Morabito, et al., "Police Response to People with Mental Illnesses in a Major U.S. City: The Boston Experience with the Co-Responder Model," *Victims & Offenders*, 13, no 8 (2018), <http://doi.org/10.1080/15564886.2018.151.4340>.

## Key Metro Areas with Co-Responder Programs

<p><b>Charlotte, NC</b></p>	<p>In April 2019, Charlotte implemented its co-responder program, Community Policing Crisis Response Team (CPCRT). CPCRT pairs Master’s-level mental health clinicians with CIT officers to address incidents involving persons with behavioral health or substance abuse issues and then provides proactive follow-up including referrals for people with a history of behavioral health issues resulting in repeat police intervention.<sup>7</sup></p> <p>Charlotte’s CPCRT program started with 14 members, eight CIT trained officers and six Master’s level clinicians who would be available around the clock (not limited to a certain shift).<sup>8</sup> If a clinician is unavailable, two CIT officers are sent. The city of Charlotte allocated roughly \$800,000 in funding to implement this program.<sup>9</sup></p>
<p><b>Chicago, IL</b></p>	<p>Chicago launched the Crisis Assistance Response and Engagement program (CARE) as a pilot with an initial \$3.5 million investment for fiscal year 2021.<sup>10</sup> CARE teams are comprised of police officers trained in crisis intervention, a paramedic, and a mental health professional as first responders. The program has plans to add alternate CARE teams, partnering a paramedic with either a mental health professional or drug recovery specialist. Between September 21, 2021 and March 2, 2022, the CARE pilot has responded to 134 mental health crisis calls, where none resulted in arrests or use of force incidents.<sup>11</sup></p>

7 Charlotte-Mecklenburg Police Department, *Community Policing Crisis Response Team* (2019), [https://charlottenc.gov/CMPD/Organization/Documents/SupportSvcs/CMPD\\_CITdoc.pdf](https://charlottenc.gov/CMPD/Organization/Documents/SupportSvcs/CMPD_CITdoc.pdf).

8 Caryn Little, "CMPD Launches Community Policing Crisis Response Team," *WCCB Charlotte*, April 26 2019, <https://www.wccbcharlotte.com/2019/04/26/cmpd-launches-community-policing-crisis-response-team/>.

9 Phil Reiger, "May 30 Council Budget Discussion/Preliminary Votes Packet," Charlotte Strategy & Budget Department, May 25, 2018, <https://charlottenc.gov/CityClerk/Agendas/May%2030,%202018%20Budget.pdf>.

10 Justin Laurence, "Chicago Rolls Out Mental Health Emergency Teams to Reduce Police Encounters with People in Crisis," *Block Club Chicago*, Sept. 2, 2021, <https://blockclubchicago.org/2021/09/02/chicago-rolls-out-mental-health-emergency-teams-to-reduce-police-encounters-with-people-in-crisis/>.

11 Matt Masterson, "No Arrests, Use of Force Reported in First Month of Chicago's 911 Co-Responder Pilot," *WTTW.com*, Mar. 4, 2022, <https://news.wttw.com/2022/03/04/no-arrests-use-force-reported-first-months-chicago-s-911-co-responder-pilot>

## Key Metro Areas with Co-Responder Programs

<p><b>Dallas, TX</b></p>	<p>Dallas implemented the Rapid Integrated Group Healthcare Team (RIGHT) program in 2018 as a three-year pilot program that teams a police officer, paramedic, and a behavioral health specialist together to respond to 911 calls involving individuals with behavioral health issues. The teams operate 16 hours a day, seven days a week, and the program houses a clinician in the 911 call center who triages calls and serves as a liaison to Dallas Police Department.<sup>12</sup></p> <p>Since its implementation, “the patrol district has seen fewer psychiatric emergency room visits, arrests and citations than neighboring areas that were not part of the trial.”<sup>13</sup> As a result of the program’s success, Dallas expanded the program to cover the entire city with five RIGHT care teams for fiscal year 2021 and then to 10 RIGHT care teams in fiscal year 2022.<sup>14</sup></p>
<p><b>Houston, TX</b></p>	<p>Houston’s Crisis Intervention Response Team (CIRT) started in 2008 as a co-responder model pairing officers from the Houston Police Department with mental health professionals from The Harris Center for Mental Health.<sup>15</sup> CIRT is a ride-along co-responder program that partners a CIT (Crisis Intervention Team) trained officer with a Master’s level clinician. The goal of CIRT is to assist officers with CIT calls and handle the most serious CIT calls, conduct proactive and follow-up investigations, and respond to SWAT calls when available.</p> <p>There are 12 full-time CIRT units which, according to Houston’s CIRT website, makes it one of the largest ride-along co-responder programs in the country.<sup>16</sup> Last year CIRT responded to 5,519 mental health calls and, according to the Houston Police Department’s Mental Health Division, only 29 people were arrested in response to the calls; 182 people were suspected of criminal activity but diverted from jails.<sup>17</sup></p> <p>Another initiative in the pilot phase is CORE (Clinician-Officer Remote Evaluation). Part of the reasoning behind the CORE program are workforce challenges in Texas, as 185 of 254 counties in Texas do not have a general psychiatrist and 207 counties have less than one clinician per 30,000 people. This program would allow officers responding to mental health crisis calls to use a tablet and HIPAA-approved technology to connect to a mental health clinician at the time of the 911 dispatch.<sup>18</sup></p>

12 The Meadows Mental Health Policy Institute, “Dallas Launches Coordinated Response Program for Behavioral Health Calls,” press release, Jan. 22, 2018, [https://www.texasstateofmind.org/wp-content/uploads/2018/04/01.22-RIGHTCareTeam\\_PressRelease\\_FMT\\_FINAL2.pdf](https://www.texasstateofmind.org/wp-content/uploads/2018/04/01.22-RIGHTCareTeam_PressRelease_FMT_FINAL2.pdf).

13 Fola Akinnibi, *NYC Pilot Tries Mental Health Responders in Place of Police*, Bloomberg City Lab (Nov. 13, 2020), <https://www.bloomberg.com/news/articles/2020-11-13/nyc-pilot-sends-health-workers-in-place-of-police>.

14 Will Maddox, “The RIGHT Care Program Prepares to Expand Citywide,” *D Magazine*, Feb. 2, 2021, <https://www.dmagazine.com/healthcare-business/2021/02/ahead-of-the-curve-the-right-care-program-is-going-city-wide>.

15 Wayne Young and Frank Webb, “Innovations in Telemedicine Platforms to assist the treatment and recovery of people with Serious Mental Illness (SMI),” SAMHSA, (August, 2019), <https://www.nasmhpd.org/sites/default/files/CORE%20-%202006-02-19.pdf>.

16 *Houston Crisis Intervention Response Team (CIRT)*, houstoncit.org, <https://www.houstoncit.org/cirt/>.

17 Julian Gill and Hannah Dellinger, “The wave of the future: How police and social workers partner up to help those in crisis,” *Houston Chronicle*, July 9, 2020, <https://www.houstonchronicle.com/news/houston-texas/houston/article/Social-workers-partner-with-Houston-police-for-15397543.php>.

18 Young and Webb, “Innovations in Telemedicine Platforms.”

## Key Metro Areas with Co-Responder Programs

<p><b>Los Angeles, CA</b></p>	<p>Los Angeles has a multi-tiered approach which includes ride-along co-responders (SMART, or Systemwide Mental Assessment Response Teams), a 24-hour triage line, and follow-up-case managers. The program’s triage desk has a mental health nurse and an officer responding to calls from patrol officers in the field. LAPD requires that officers who encounter a person in a mental health crisis call and provide a detailed incident report to the triage desk, which has a mental health nurse and an officer responding to calls. When a call is received, the triage officers search through the Mental Evaluation Unit (MEU) database to see if the person has a history of police contacts. A triage nurse searches the Los Angeles County Department of Mental Health (LACDMH) database to find the person’s case manager, psychiatrist, or treatment center. Both then make a decision as to whether a SMART team should be dispatched or if the patrol officer should take the person directly to a mental health facility.<sup>19</sup></p>
<p><b>New York, NY</b></p>	<p>New York’s Co-Response Teams include two officers and a mental health professional. Until recently, the CRTs were dispatched only through a triage desk based on referrals, limited to non-emergency calls, and not available around the clock.<sup>20</sup> However, four new CRTs were announced in October 2019;<sup>21</sup> the CRTs would begin responding directly to 911 calls.<sup>22</sup></p>
<p><b>Orlando, FL</b></p>	<p>In March 2021, Orlando launched a pilot co-responder program in partnership with the Orlando Police Department and Aspire Health Partners. The program creates “a new line of first responders,” by dispatching behavioral health experts to respond to certain nonviolent calls where someone is experiencing a mental or behavioral crisis. A licensed clinician and a case manager employed by Aspire Health Partners make up the Community Response Team (CRT), although they only respond after the city’s 911 operators vet the call. During the pilot phase, CRT operated from 9:00 a.m. to 1:00 a.m. Wednesday through Friday and 2:00 p.m. to 10:00 p.m. Saturday through Tuesday.<sup>23</sup> According to the Orlando Police Department, the teams responded to 956 calls in the program’s first year and connected more than half of those people to local mental health care.<sup>24</sup></p>

19 Los Angeles Police Department, Mental Evaluation Unit, LAPD, <https://www.lapdonline.org/office-of-the-chief-of-police/office-of-special-operations/detective-bureau/detective-services-group/mental-evaluation-unit> (last visited May 4, 2022).

20 The City of New York, *Mayor’s Management Report, Preliminary Fiscal 2020*, January 2020, [https://www1.nyc.gov/assets/operations/downloads/pdf/pmmr2020/2020\\_pmmr.pdf](https://www1.nyc.gov/assets/operations/downloads/pdf/pmmr2020/2020_pmmr.pdf).

21 City of New York, “Mayor de Blasio, First Lady McCray and City Council Members Announce \$37 Million Annual Investment in New Strategies to Address Serious Mental Illness,” press release, Oct. 21, 2019, <https://www1.nyc.gov/office-of-the-mayor/news/496-19/mayor-de-blasio-first-lady-mccray-city-council-members-37-million-annual-investment>.

22 City of New York, “New York City Announces New Mental Health Teams to Respond to Mental Health Crises,” press release, Nov. 10, 2020, <https://www1.nyc.gov/office-of-the-mayor/news/773-20/new-york-city-new-mental-health-teams-respond-mental-health-crises>.

23 City of Orlando, Community Response Team, <https://www.orlando.gov/Our-Government/Departments-Offices/Orlando-Police-Department/Community-Response-Team>.

24 Ezzy Castro, “Orlando Police show success of program sending mental health professionals to some calls,” *ClickOrlando.com*, April 4, 2022, <https://www.clickorlando.com/news/local/2022/04/04/orlando-police-show-success-of-program-sending-mental-health-professionals-to-some-calls/>.



Key Metro Areas with Co-Responder Programs	
<b>Philadelphia, PA</b>	Philadelphia initiated a pilot co-responder program in Spring 2019, where officers from the existing Police Assisted Diversion (PAD) program partnered with mental health professionals from the Veteran's Initiative of the Department of Behavior Health and Intellectual Disability Services (DBHIDS). <sup>25</sup> Since March 2019, roughly 158 people have been referred to services through the co-responder program, approximately 75 % of whom would have otherwise faced arrest for low-level drug, sex work, or property crimes without the co-responder's intervention. <sup>26</sup>
<b>St. Louis, MO</b>	In late October 2020, a contract with Behavioral Health Response was approved for St. Louis's 911 Diversion and Co-Responder Program. This program is intended to divert some 911 calls to crisis intervention experts instead of dispatching emergency responders and is expected to handle around 5,000 of the 700,000 calls to 911 each year as well as pairing mental health workers with police when responding to mental health crisis situations on the streets. <sup>27</sup> The program went into effect in 2021, resulting in 700 calls diverted and 5,000 individuals assisted by the co-responder program. <sup>28</sup>
<b>Virginia Beach, VA</b>	In 2018, the Virginia Beach Police Department implemented the Mobile Co-Responder team. The Mobile Co-Responder team pairs a Department of Human Service clinician with police officers to respond to calls involving a person with a mental health crisis. <sup>29</sup>

25 Philadelphia Police Department, "Police Assisted Diversion: Overview," <https://www.phillypolice.com/programs-services/pad/> (last visited Feb. 13,2021). PAD is a program in which individuals who are suspected of low-level, non-violent drug, prostitution, and retail theft offenses are diverted away from the criminal justice system and toward social services.

26 Kelly Cofrancisco, "Diversion from Arrest program expanding to Kensington and North Philly," Aug. 11, 2020, <https://www.phila.gov/2020-08-11-diversion-from-arrest-program-expanding-to-kensington-and-north-philly/>.

27 Christine Byers, "Calling 911 in St. Louis about to change for some in crisis," *KSDK*, Oct. 28, 2020, <https://www.ksdk.com/article/news/local/calling-911-in-st-louis-about-to-change-for-some-in-crisis/63-9276f898-8562-428d-8461-bbdb317cc43c>.

28 Robert Patrick, "St. Louis 911 diversion program saves police, EMS workers time," *EMS1*, Feb. 20, 2022, <https://www.ems1.com/mental-health/articles/st-louis-911-diversion-program-saves-police-ems-workers-time-kdVRJzETtqrwxjet/>.

29 Frances E. Emerson and Afton Oglesby, *Virginia Beach Police Department 2018 Annual Report*, <https://www.vbgov.com/government/departments/police/Documents/ANNRPT2018.pdf>.

Key Metro Areas with Partial Programs	
<b>Baltimore, MD</b>	Baltimore pairs CIT trained officers with Mobile Crisis Teams to respond to crises that do not necessitate a police-only response. <sup>30</sup> The Baltimore County website says that the Mobile Crisis team pairs specially trained police officers with licensed, plainclothes mental health clinicians in an unmarked car. Mobile Crisis Teams are available 24 hours a day, 7 days a week, and receives calls through 911 as well as a crisis hotline. <sup>31</sup>
<b>Cleveland, OH</b>	Cleveland, Ohio was awarded a \$750,000 federal grant in September 2019 to implement a co-responder program. <sup>32</sup> As of December 2020, a new co-responder program was beginning to take effect with five teams of officers and social workers formed to cover different sections of the city to operate during 1 p.m. to 10 p.m. weekday shifts. <sup>33</sup> This new program would have social workers and individuals trained in crisis intervention arrive at the scene after police have assessed the situation to “protect the social workers.” <sup>34</sup> As such, despite responding to 911 calls, these co-responder teams are not first responders. <sup>35</sup>
<b>Detroit, MI</b>	In Detroit, Northeast Integrated Care runs a Community and Police Partnership Advocacy (CAPP) program which includes a partnership with the Detroit Police Department to provide crisis assistance and rapid behavioral health assessments to people in crisis in the community. <sup>36</sup> In an interview with Detroit’s WDET radio station, the CEO of Northeast Integrated Care, Sherry McRill stated that the partnership has been in place since the 1990s and includes a ride-along system where a social worker is able to perform an assessment on the scene with a Detroit Police Department partner and provide a referral. Although the program is not connected to the 911 system, with additional funding it could be integrated into the 911 system and expanded to cover the whole city (not only certain precincts). According to McRill, the Detroit Police Department has always embraced this partnership, and CAPP has received requests to expand the program. <sup>37</sup>

30 Consent Decree, *United States v. Police Department of Baltimore City*, No. 1:17-cv-00099, Jan. 12, 2017, <http://civilrights.baltimorecity.gov/sites/default/files/Baltimore%20City%20Consent%20Decree%202017.pdf>.

31 Baltimore County Government, Mobile Crisis Team, <https://www.baltimorecountymd.gov/departments/police/workplace-violence/wvmobilecrisisteam.html>.

32 Bureau of Justice Assistance, Cleveland Co-Responder Teams, *BJA.OJ.P.gov*, Sept. 26, 2019, <https://bja.ojp.gov/funding/awards/2019-mo-bx-0048>.

33 Policy Matters Ohio, “Reimagining public safety in Cleveland,” *polycymattersohio.org*, July 21, 2021, <https://www.polycymattersohio.org/research-policy/quality-ohio/justice-reform/reimagining-public-safety-in-cleveland>.

34 Lisa Ryan, “When 911 Is The Only Option For A Mental Health Care Crisis,” *Ideastream Public Media*, Nov. 12, 2020, <https://www.ideastream.org/news/when-911-is-the-only-option-for-a-mental-health-care-crisis>.

35 Policy Matters Ohio, “Reimagining public safety in Cleveland.”

36 Sherry McRill, “Opinion: Behavioral health responders support police, community,” *The Detroit News*, July 26, 2020, <https://www.detroitnews.com/story/opinion/2020/07/27/opinion-behavioral-health-responders-support-police-community-detroit-law-enforcement-cappa/5501035002/>.

37 Jake Neher, “Detroit Program Offers Mental Help Support to Police and Community,” *WDET.org*, Sept. 10, 2020, <https://wdet.org/2020/09/10/Detroit-Program-Offers-Mental-Help-Support-to-Police-and-Community/>.

## Key Metro Areas with Partial Programs

<p><b>Miami, FL</b></p>	<p>Thriving Mind South Florida is a nonprofit organization charged by the State of Florida to ensure that families and individuals affected by mental illness and substance abuse disorders in Miami-Dade and Monroe counties can access services. In October 2019, Miami-Dade Police Department, the Eleventh Judicial Circuit of Florida, and Florida Department of Children and Families were awarded a three-year, \$749,997 federal grant to create a co-responder program and address the lack of effective collaboration between the criminal justice and mental health agencies.</p> <p>The plan includes creating a joint database that allows for the sharing of information and for the creation of a co-responder model where licensed clinician care coordinators will respond alongside Miami-Dade Police Department officers, allowing them to provide immediate screenings, care coordination, and treatment referrals at the scene.<sup>38</sup> A co-responder program was put into place, and as part of the program, the police department, in coordination with Thriving Mind “provides ongoing case management services to people who have come into contact with these specialty units.”<sup>39</sup></p>
<p><b>Washington, DC</b></p>	<p>In Washington, DC, the Department of Behavioral Health launched the Community Response Team in July 2019.<sup>40</sup> The Community Response Team is a 24-hour multidisciplinary team that provides direct services to the community including community outreach, mobile crisis and pre-arrest diversion. While not a primary focus, the program does provide for co-response for certain incidents.<sup>41</sup></p>

38 South Florida Hospital News and Healthcare Report, “Thriving Mind South Florida-Miami-Dade Police Initiative Awarded Three Quarter of A Million Dollar Grant from the Department of Justice,” *southfloridahospitalnews.com*, Oct. 16, 2019, <https://southfloridahospitalnews.com/thriving-mind-south-florida-miami-dade-police-initiative-awarded-three-quarter-of-a-million-dollar-grant-from-the-department-of-justice>.

39 CGS Justice Center, “Miami-Dade County Police Department,” <https://csgjusticecenter.org/projects/law-enforcement-mental-health-learning-sites/miami-dade-county-police-department/>.

40 DC Department of Behavioral Health, “The District’s Approach to Saving Lives from the Opioid Epidemic: Accomplishments and Progress,” *livelongdc.gov*, July 2019, [https://livelongdc.gov/sites/default/files/dc/sites/opioid/page\\_content/attachments/July-2019-Monthly-Progress-Report-LIVE-LONG-DC2.pdf](https://livelongdc.gov/sites/default/files/dc/sites/opioid/page_content/attachments/July-2019-Monthly-Progress-Report-LIVE-LONG-DC2.pdf).

41 DC Department of Behavioral Health, “Community Response Team,” *dbh.dc.gov*, <https://dbh.dc.gov/service/community-response-team> (last visited Feb.13, 2021).

## Key Metro Areas without Developed Co-Responder Programs

<p><b>New Orleans, LA</b></p>	<p>New Orleans has a Mobile Crisis Unit made up of volunteer clinicians handling incidents involving persons who are in a mental health crisis. The Mobile Crisis Unit was established as part of a consent decree between the NOPD and the Department of Justice (DOJ) in part to address the deadly results of police interactions with the mentally ill.<sup>42</sup> New Orleans’s Mobile Crisis Units respond at the request of NOPD District Units when mental health calls are received; the units are not directly linked to the 911 system.<sup>43</sup> While established through a collaboration between the NOPD and Department of Health, there is no indication that the Mobile Crisis Unit is a co-responder program as clinicians are not paired with police officers in teams and do not serve as first responders to 911 calls.<sup>44</sup></p>
<p><b>Fort Worth, TX</b></p>	<p>In Fort Worth, a 2020 Preliminary Observations and Recommendations Regarding Use of Force, Internal Affairs and Community Oversight report suggested the implementation of co-responder program when CIT officers respond to calls.<sup>45</sup></p>
<p><b>Richmond, VA</b></p>	<p>In December 2020, Virginia enacted law that established the Marcus Alert, “an alert system to dispatch mental health specialists alongside police officers to help people experiencing potential crises.” The “Marcus Alert” is named after Marcus-David Peters, a 24-year-old teacher, who in 2018 was shot and killed by a Richmond police officer while experiencing a mental health crisis.<sup>46</sup> Despite launching Marcus Alert on December 1, 2021, Richmond has filled only three of the eight mental health worker positions; officers continue to respond to the majority of metal health crisis calls.<sup>47</sup></p>
<p><b>Memphis, TN</b></p>	<p>A Crisis Intervention Team (CIT) program, sometimes known as the Memphis Model, was established by the Memphis Police Department in 1988 and currently has over 260 CIT officers who are available around the clock.<sup>48</sup> However, while these officers have special training on how to intervene and respond to people in the midst of a mental health crisis, CIT programs are still police responses. As of May 2022, we have not seen any efforts to implement a co-responder program in Memphis.</p>

42 Aaron Looney, “WATCH: Inside the NOPD’s Mobile Crisis Unit,” *NOPD News*, Nov. 4, 2016, <https://nupdnews.com/post/november-2016/watch-inside-the-nopd-s-mobile-crisis-unit>; New Orleans Police Department, “NOPD Consent Decree,” *NOLA.gov*, <https://www.nola.gov/nopd/nopd-consent-decree/>.

43 NOPD Mobile Crisis Unit, manual, *Gov.serv*, Aug. 30, 2017, <https://www.govserv.org/US/New-Orleans/1363763167082791/NOPD-Mobile-Crisis-Unit#:~:text=The%20New%20Orleans%20Police%20Department%20MOBILE%20CRISIS%20UNIT,District%20Units%20when%20mental%20health%20calls%20are%20received>.

44 Naomi Martin, “After slow start, NOPD’s new mental health crisis team to be established next year,” *NOLA.com*, July 22, 2019, [https://www.nola.com/news/crime\\_police/article\\_336d5b9c-de08-5463-b326-3760deeff7bf.html](https://www.nola.com/news/crime_police/article_336d5b9c-de08-5463-b326-3760deeff7bf.html)

45 Police Reform Experts, “Fort Worth Police Department Expert Review Panel Status Report,” July 31, 2020, <https://www.washlaw.org/wp-content/uploads/2020/07/Interim-Report-Final.pdf>.

46 Adrianna Hargrove, “Gov. Northam signs legislation establishing ‘Marcus Alert System,’” *NBC12.com*, Dec. 15, 2020, <https://www.nbc12.com/2020/12/15/gov-northam-signs-legislation-establishing-marcus-alert-system/>; Arianna Coghill, “Marcus Alert’ to Send Mental Health Specialists Instead of Police Passes Key Senate Committee,” *Dogwood*, Aug. 21, 2020, <https://vadogwood.com/2020/08/21/marcus-alert-to-send-mental-health-specialists-instead-of-police-passes-key-senate-committee/>.

47 Ali Rockett, “As a bill allowing smaller localities to opt out of Marcus Alert passes Senate, Richmond is mid-implementation,” *Richmond Times-Dispatch*, Feb. 11, 2022, [https://richmond.com/news/state-and-regional/as-a-bill-allowing-smaller-localities-to-opt-out-of-marcus-alert-passes-senate-richmond/article\\_69f73330-cabc-593e-a1c7-0884b1082b87.html](https://richmond.com/news/state-and-regional/as-a-bill-allowing-smaller-localities-to-opt-out-of-marcus-alert-passes-senate-richmond/article_69f73330-cabc-593e-a1c7-0884b1082b87.html).

48 City of Memphis, “Crisis Intervention Team,” <https://www.memphistn.gov/government/police-department/crisis-intervention-team/>.

## Appendix B: School Police Presence in Key Metro Areas

This chart outlines and describes the presence of police officers, school resource officer (SROs), and/or security guards in public school systems located in Key Metro Areas.

Metro Area	Police Presence		Armed?	Security Officers or Guards
	Contract with City/County Police Department	School District Police Department		
<b>Atlanta, GA</b>	No (ended June 2016)	Yes	Yes	Yes
<b>Baltimore, MD</b>	Yes	Yes	No (not during the school day in the building)	N/A
<b>Boston, MA</b>	Yes	Yes	No	No
<b>Charlotte, NC</b>	Yes	Yes	Yes (not armed in elementary schools)	Yes
<b>Chicago, IL</b>	Yes	No	Yes	Yes
<b>Cleveland, OH</b>	No	Yes	Yes	Yes
<b>Dallas/Ft. Worth, TX</b>	No	Yes	Yes	Yes
<b>Detroit, MI</b>	No	Yes	Yes	Yes
<b>Houston, TX</b>	No	Yes	Yes	Yes
<b>Los Angeles, CA</b>	No	Yes	Yes	Yes
<b>Miami, Ft. Lauderdale, West Palm Beach, FL</b>	No	Yes	Yes	Yes
<b>Memphis, TN</b>	Yes <sup>1</sup>	Limited SRO program	Yes	Yes

<sup>1</sup> The Memphis Police Department opted not to renew the contract with Shelby County Schools when it expired in July 2020. The district was discussing creating its own department. WMCAActionNews5.com Staff, "MPD Will No longer be in Shelby County Schools," WMCAAction News, July 24, 2016, <https://www.wmcaactionnews5.com/story/32045151/mpd-will-no-longer-be-in-shelby-county-schools>

Metro Area	Police Presence		Armed?	Security Officers or Guards
	Contract with City/County Police Department	School District Police Department		
<b>New Orleans, LA</b>	Yes	No	Yes	Yes
<b>New York, NY</b>	Yes	No	School Safety Agents are not, but there are at least 200 armed officers assigned exclusively to schools <sup>2</sup>	Yes
<b>Orlando, FL</b>	No	Yes	Yes	Yes
<b>Philadelphia, PA</b>	Yes	Yes	No	Yes
<b>Richmond, VA</b>	Yes	No	Yes	Yes
<b>St. Louis, MO</b>	Yes	No	Yes	Yes
<b>Virginia Beach, VA</b>	Yes	No	Yes	Yes
<b>Washington DC</b>	Yes (council recommended ending the contract in July 2020, in hopes of establishing their own department)	Some (supplemental officers hired in some schools)	Some	Yes

<sup>2</sup> Elora Mukherjee, *Criminalizing the Classroom: The Over Policing of New York City's Schools*, (New York: New York Civil Liberties Union, 2007), [https://www.nyclu.org/sites/default/files/publications/nyclu\\_pub\\_criminalizing\\_the\\_classroom.pdf](https://www.nyclu.org/sites/default/files/publications/nyclu_pub_criminalizing_the_classroom.pdf).



## Appendix C: 1033 Program

This chart outlines the steps that certain states—corresponding to the Key Metro Areas—and the District of Columbia have taken to reduce possession and/or use of military and military-like equipment by their Law Enforcement Agencies (LEAs). Unless explicitly mentioned, information regarding the monetary amount a state has received in 1033 equipment is based on information gathered within the last decade.

State	Notes
<b>California</b>	<p>AB3131, which would have required LEAs to obtain local governmental approval before acquiring or using military equipment, was vetoed by Governor Brown in 2018.<sup>1</sup></p> <p>In San Francisco, Mayor London Breed “has directed San Francisco Police Department (SFPD) to establish an explicit policy barring the use of military-grade weapons against unarmed civilians. This includes, but is not limited to, chemical weapons such as tear gas, bayonets, and tanks. This plan will call on SFPD to inventory and plan how to divest the department of any such weapons currently in their possession by the end of 2021, and to create safeguards to disconnect the SFPD from federal grants for weapons of attack used against the community.”<sup>2</sup></p>
<b>Florida</b>	<p>Florida participates in the 1033 Program. LEAs have acquired over \$100 million 1033 equipment over the past 25 years.<sup>3</sup></p>
<b>Georgia</b>	<p>Statewide, over the last decade LEAs have received over \$57.5 million in 1033 equipment.<sup>4</sup> Police departments and sheriff’s offices have received more than 2,700 military rifles, night vision goggles and laser gun sights, and hundreds of armored vehicles, including more than two dozen mine-resistant vehicles.<sup>5</sup></p> <p>In 2020, City Council of Atlanta introduced an ordinance (20-0-1450) that would prohibit the use of military-style vehicles.<sup>6</sup></p>

1 Assembly Bill 3131, 2017–2018 Reg. Sess. (Cal. 2018), [https://leginfo.ca.gov/faces/billStatusClient.xhtml?bill\\_id=201720180AB3131](https://leginfo.ca.gov/faces/billStatusClient.xhtml?bill_id=201720180AB3131).

2 City and County of San Francisco Office of the Mayor, “Mayor London Breed Announces Roadmap for New Police Reforms,” press release, June 11, 2020, <https://sfmayor.org/article/mayor-london-breed-announces-roadmap-new-police-reforms>.

3 Alonso Alcocer and Eileen Kelley, “As heavily armed police confront protesters, data shows Florida agencies have stockpiled an arsenal of military equipment,” South Florida Sun Sentinel, July 29, 2020, <https://www.sun-sentinel.com/local/fl-ne-police-agencies-military-equipment-20200729-556vs4jrbbdtvonkvrts5il5be-story.html>.

4 Nick Routley, “Charting the \$1.7B Transfer of Military Equipment to Police Departments,” Visualcapitalist.com, June 26, 2020, <https://www.visualcapitalist.com/billion-dollar-transfer-of-military-equipment-to-police-departments/>.

5 Chris Joyner and Nick Thieme, “Police Killings more likely in agencies that get military gear, data shows,” Atlanta Journal-Constitution, Oct. 8, 2020, <https://www.ajc.com/news/police-killings-more-likely-in-agencies-that-get-military-gear-data-shows/MBPQ2ZE3XFHR5NIO37BKONOCGI/>

6 City of Atlanta, Public Safety & Legal Administration Committee, “Regular Committee Meeting Agenda,” June 22, 2020, <http://atlantacityga.iqm2.com/Citizens/FileOpen.aspx?Type=1&ID=2862&Inline=True>.

State	Notes
<b>Illinois</b>	HB5823, the Demilitarization of Policing in Illinois Act, was introduced on August 18, 2020. The legislation would prohibit Illinois police departments and sheriff's offices from obtaining military equipment through federal programs under 10 U.S.C. § 2576a. The proposed ban on acquiring military equipment would apply to the 1033 Program, but would allow procurement of military surplus equipment through other federal programs funding acquisition of such equipment. <sup>7</sup> There has been no further action on this bill.
<b>Louisiana</b>	Statewide, Louisiana LEAs have received over \$25 million in 1033 equipment. <sup>8</sup>
<b>Maryland</b>	HB138/SB210, which was vetoed by Governor Hogan in 2019, would have required any LEA acquiring equipment from a federal military surplus program to report the acquisition within 14 days on a publicly accessible website. The legislation would have also required any law enforcement agency acquiring military surplus equipment within a calendar year to submit a report to both the governor and the Maryland general assembly. <sup>9</sup>
<b>Massachusetts</b>	S1358, introduced on January 22, 2019, would require LEAs to have local government approval after a public meeting before applying to receive military-grade equipment from any federal program. Police departments would also have to get approval before applying for any grants or funding to purchase military-grade equipment. State police would also have to get approval from the secretary of public safety and security before acquiring military equipment. This legislation remains pending.  Proposed H2119 would prohibit LEAs from acquiring a certain military equipment from federal surplus programs without local government approval. <sup>10</sup> This legislation also remains pending.
<b>Michigan</b>	Statewide over the last decade, Michigan LEAs have acquired \$51.4 million worth of over 6,200 vehicles, firearms, supplies, and other equipment. <sup>11</sup>

7 Mike Maharrey, "Illinois Bill Would Limit Federal Militarization of Police," *Tenth Amendment Center*, Sept. 15, 2020, <https://blog.tenthamendmentcenter.com/2020/09/illinois-bill-would-limit-federal-militarization-of-police/>

8 Nick Routley, "Charting the \$1.7B Transfer of Military Equipment to Police Departments," *Visualcapitalist.com*, June 26, 2020, <https://www.visualcapitalist.com/billion-dollar-transfer-of-military-equipment-to-police-departments/>.

9 Mike Maharrey, "Maryland Bills Would Take the First Step Toward Withdrawing State from Federal Police Militarization Program," *Tenth Amendment Center*, Feb. 12, 2019, <https://blog.tenthamendmentcenter.com/2019/02/maryland-bills-would-take-the-first-step-toward-withdrawing-state-from-federal-police-militarization-program/>; *LegiScan*, "Maryland House Bill 138," <https://legiscan.com/MD/bill/HB138/2019>.

10 Mike Maharrey, "Massachusetts Committee Holds Hearing on Bills to Take First Step Toward Blocking Federal Militarization of Police," *Tenth Amendment Center*, July 16, 2019, <https://blog.tenthamendmentcenter.com/2019/07/massachusetts-committee-holds-hearing-on-bills-to-take-first-step-toward-blocking-federal-militarization-of-police/>.

11 Mark Cavitt, "Military Surplus: 1033 Program not being used to militarize police departments, Michigan sheriffs say," *Macomb Daily*, June 14, 2020, <https://www.macombdaily.com/2020/06/14/military-surplus-1033-program-not-being-used-to-militarize-police-departments-michigan-sheriffs-say/>.

State	Notes
<b>Missouri</b>	Statewide, Missouri LEAs have received over \$29 million in 1033 equipment. <sup>12</sup> In 2020, the Missouri Department of Public Safety issued policies and procedures for 1033 Program participation, including program training. <sup>13</sup>
<b>New Jersey</b>	S2364, signed in March 2015, requires approval from local legislative bodies before New Jersey municipalities and counties can obtain military equipment. <sup>14</sup>
<b>New York</b>	SB 8507 and AB 10669, introduced in June 2020, would bar a state or local LEA from receiving or purchasing the following through a military equipment surplus program such as the 1033 Program: drones that are armored, weaponized, or both; aircraft that are combat configured or combat-coded; grenades or similar explosives and grenade launchers; silencers; or militarized armored vehicles. The proposed law, which is pending and last referred to committee in June 2020, would also require LEAs to publish a notice on their publicly accessible website within 14 days of requesting allowable military equipment from a federal program. <sup>15</sup>
<b>North Carolina</b>	Statewide, North Carolina local LEAs have received over \$48 million in 1033 equipment. <sup>16</sup>
<b>Ohio</b>	<p>HB721, proposed on July 1, 2020, would prohibit a state or local LEA from receiving or purchasing the following property from a federal military equipment surplus program: drones that are armored, weaponized, or both; aircraft that are combat configured or combat-coded; grenades or similar explosives and grenade launchers; silencers; or militarized armored vehicles.</p> <p>HB721 would also bar LEAs from using federal money to purchase any equipment from a military surplus program and increase transparency by requiring LEAs to publish a public notice within 14 days of requesting any allowable military equipment from a federal program.<sup>17</sup> This proposed legislation is pending with its last action being referred to committee in August 2020.</p>

12 Nick Routley, "Charting the \$1.7B Transfer of Military Equipment to Police Departments," *Visualcapitalist.com*, June 26, 2020, <https://www.visualcapitalist.com/billion-dollar-transfer-of-military-equipment-to-police-departments/>.

13 Missouri Department of Public Safety, Office of the Director, Criminal Justice/Law Enforcement Unit, *Missouri LESO Program Policies and Procedures*, Feb. 25, 2020, <https://dps.mo.gov/dir/programs/cjle/documents/dod/leso-policy-proced-manual-revised.pdf>.

14 ACLU New Jersey, "ACLU-NJ Lands NJ's First-In-The-Nation Police Militarization Law," *ACLU New Jersey*, March 19, 2015, <https://www.aclu-nj.org/news/2015/03/19/aclu-nj-lauds-njs-first-nation-police-militarization-law>.

15 Mike Maharrey, "New York Bills Would Limit Federal Militarization of Police," *Tenth Amendment Center*, June 25, 2020, <https://blog.tenthamentendmentcenter.com/2020/06/new-york-bills-would-limit-federal-militarization-of-police/>.

16 Nick Routley, "Charting the \$1.7B Transfer of Military Equipment to Police Departments," *Visualcapitalist.com*, June 26, 2020, <https://www.visualcapitalist.com/billion-dollar-transfer-of-military-equipment-to-police-departments/>.

17 Mike Maharrey, "Ohio Bill Would Limit Federal Militarization of Police," *Tenth Amendment Center*, July 10, 2020, <https://blog.tenthamentendmentcenter.com/2020/07/ohio-bill-would-limit-federal-militarization-of-police/>.

State	Notes
<b>Pennsylvania</b>	<p>Statewide, Pennsylvania LEAs have acquired over \$19 million in 1033 equipment since September, 11 2001.<sup>18</sup></p> <p>The City Council of Pittsburgh passed legislation (2020-0406) that prohibits the city from acquiring certain military equipment such as weaponized aircrafts, bayonets, military surplus armored vehicles.<sup>19</sup></p>
<b>Tennessee</b>	<p>SB0039, introduced in 2015, would prohibit state and local law enforcement from owning or using certain military equipment.<sup>20</sup> This legislation appears on hold with the Tennessee’s General Subcommittee of Senate Judiciary Committee.</p>
<b>Texas</b>	<p>In the last decade statewide, over 13,000 local LEAs participating in the 1033 Program have received over \$141 million in equipment.<sup>21</sup></p>
<b>Virginia</b>	<p>In December 2020, Virginia passed HB5049, which prohibits a state or local LEAs from acquiring or purchasing the following military equipment: weaponized unmanned aerial vehicles; aircraft that are configured for combat or are combat-coded and have no established commercial flight application; grenades or similar explosives or grenade launchers from a surplus program operated by the federal government; armored multi-wheeled vehicles that are mine-resistant, ambush-protected, and configured for combat, also known as MRAPs, from a surplus program operated by the federal government; bayonets; firearms of .50 caliber or higher; ammunition of .50 caliber or higher; or weaponized armored vehicles.</p> <p>The Virginia Senate, however, removed proposed transparency provisions that would have required LEAs to publish public notice within 14 days of requesting military equipment from a federal program.<sup>22</sup></p>
<b>Washington, DC</b>	<p>The Council of the District of Columbia enacted B23-0825, which bans the city from acquiring certain military equipment from the federal government (such as armored or weaponized vehicles and drones, grenades and grenade launchers, and firearms above a certain caliber.<sup>23</sup></p>

18 Tom Squitieri, “How Pa. police departments reaped a windfall of military gear, explained,” *Pennsylvania Capital-Star*, Oct. 15, 2020), <https://www.penncapital-star.com/criminal-justice/how-pa-police-departments-reaped-a-windfall-of-military-gear-explained-analysis/>.

19 City of Pittsburgh, Legislation, *pittsburgh.legistar.com*, <https://pittsburgh.legistar.com/LegislationDetail.aspx?ID=4564788&GUID=19060DE0-B5D2-4382-8122-BCA5CD6B2397> (last visited Feb. 14, 2021).

20 Mike Maharrey, “Tennessee Bill Would Ban Military Equipment from Pentagon 1033 Program,” *Tenth Amendment Center*, January 16, 2015, <https://blog.tenthamendmentcenter.com/2015/01/tennessee-bill-ban-military-equipment-pentagon-1033-program/>.

21 Texas Department of Safety, “Texas LESO Program,” <https://www.dps.texas.gov/lawenforcementsupport/txlesoprgm.html>, last visited Feb. 14, 2020); Derek Cohen, et al., “Watchmen of Warfighters? A Conservative Proposal for Limiting Military-Grade Weapons Sent to States,” *PolicyPerspective*, August 2016, <https://www.texaspolicy.com/wp-content/uploads/2018/08/2016-08-PP16-WatchmenWarfighters-CEJ-CohenGlodHaugen.pdf>; Nick Routley, *Charting the \$1.7B Transfer of Military Equipment to Police Departments*, *Visualcapitalist.com*, June 26, 2020, <https://www.visualcapitalist.com/billion-dollar-transfer-of-military-equipment-to-police-departments/>.

22 Mike Maharrey, “Signed as Law: Virginia Limits Federal Militarization of Police,” *Tenth Amendment Center*, Dec. 2, 2020, <https://blog.tenthamendmentcenter.com/2020/12/signed-as-law-virginia-limits-federal-militarization-of-police/>.

23 Council of the District of Columbia, “B23-0825 – Comprehensive Policing and Justice Reform Second Emergency Amendment Act of 2020,” July 31, 2020, <https://lms.dccouncil.us/Legislation/B23-0825>

## Appendix D: Police Union Contracts

This chart outlines a snapshot of the state of play for police union contracts in the twenty Key Metro Areas. It includes selected notable provisions of both publicly available police union contracts and state laws that affects police unions. This chart, however, is illustrative and does not present a whole and complete picture, as it reflects only some of the main barriers to accountability and may not account for all of the ever-changing issues that union contracts pose for holding police officers responsible.

Key Metro Area	Police Union Contracts and Related State Law
<b>Atlanta, GA</b>	There is no collective bargaining/union contract in Atlanta. <sup>1</sup>
<b>Baltimore, MD</b>	The union contract prevents officers from being disciplined because the officer was placed on a “do not call” for testimony list. <sup>2</sup> The contract includes paid leave for officers arrested and charged with a criminal offense. <sup>3</sup> In 2021, Maryland became the first state to repeal its existing LEOBR and reduce the special protections offered to police officers facing misconduct allegations. For instance, discipline will now largely be determined by a civilian panel, though the police chief still plays a role in the process. <sup>4</sup>
<b>Boston, MA</b>	Substantive provisions of the Boston union contract have not changed since 2010, despite two renewals. In 2010, city and union were unable to come to an agreement and instead a contract was imposed by the state Joint Labor Management Committee. <sup>5</sup> The union contract allows binding arbitration to overturn discipline. Some reports indicate that arbitrators have overturned 72 percent of discipline decisions between 2007 and 2016. <sup>6</sup>
<b>Charlotte, NC</b>	Charlotte has no police union or collective bargaining. <sup>7</sup>

1 Noelle Du Bois, “Arresting Law Enforcement Abuses Begins with Police Unions,” *Georgia Public Policy Foundation*, August. 21, 2020, <https://www.georgiapolicy.org/news/arresting-law-enforcement-abuses-begins-with-police-unions/>.

2 Samuel Walker, “The Baltimore Police Union Contract and the Law Enforcement Officers’s Bill Of Rights: Impediments To Accountability,” University of Nebraska at Omaha, May 2015, [https://www.aclu-md.org/sites/default/files/field\\_documents/walker\\_-\\_baltimore\\_police\\_union\\_contract\\_report\\_0.pdf](https://www.aclu-md.org/sites/default/files/field_documents/walker_-_baltimore_police_union_contract_report_0.pdf).

3 Baltimore Police Supervisors Contract, Section 16A.

4 Ovetta Wiggins and Erin Cox, “Maryland enacts landmark police overhaul, first state to repeal bill of rights,” *Washington Post*, April, 20 2021, [https://www.washingtonpost.com/local/md-politics/hogan-vetoes-police-accountability/2021/04/09/c0ac4096-9967-11eb-962b-78c1d8228819\\_story.html](https://www.washingtonpost.com/local/md-politics/hogan-vetoes-police-accountability/2021/04/09/c0ac4096-9967-11eb-962b-78c1d8228819_story.html)

5 “Memorandum of Agreement City of Boston and Boston Police Patrolmen’s Association 2017-2020,” January 2017, [https://www.boston.gov/sites/default/files/embed/b/bppa\\_2017\\_2020\\_moa.pdf](https://www.boston.gov/sites/default/files/embed/b/bppa_2017_2020_moa.pdf).

6 Mike Beaudet, “Discipline for Boston police officers frequently overturned,” *WCVB*, Feb. 18, 2016, <https://www.wcvb.com/article/discipline-for-boston-police-officers-frequently-overturned/8231852#>.

7 James G. Weaving, email correspondence, June 23, 2015, <https://www.muckrock.com/foi/charlotte-161/police-union-contract-charlotte-mecklenburg-police-department-18431/>.

Key Metro Area	Police Union Contracts and Related State Law
<p><b>Chicago, IL</b></p>	<p>In September 2021, the Chicago City Council approved a new contract with the Fraternal Order of Police, representing most officers in the city. The contract includes a number of reform measures. For example:</p> <p>Anonymous complaints may be investigated; complaints against officers no longer require a sworn affidavit by the complaining party.</p> <p>It is no longer required that disciplinary records be destroyed after a five-year period.</p> <p>Officers are not allowed to change testimony after viewing video of the incident under investigation. An officer, however, is not required to provide a statement until 24 hours after a shooting by that officer.<sup>8</sup></p> <p>As of December 2021, the city and the union continue to negotiate regarding additional requirements.<sup>9</sup></p>
<p><b>Cleveland-Lorain-Elyria, OH</b></p>	<p>The contract holds certain investigations to a one-year limitations period “In such cases where the administrative investigation is initiated without a citizens’ complaint, and the investigation could not lead to criminal charges, the City shall not bring administrative charges later than one (1) year after the date within which the chief had knowledge of the alleged violation).<sup>10</sup></p>
<p><b>Dallas-Fort Worth, TX</b></p>	<p>A new contract was approved in August 2020, despite calls for reform. The contract gives officers 48 hour notice prior to interview, which is mandated by Texas law. There is a time bar on investigations after 180 days, anonymous complaints are not permitted, and disciplinary records are not public.<sup>11</sup></p> <p>The contract allows appeal to a Hearing Examiner selected in part by the union. Evidence of misconduct is restricted to Internal Affairs, beyond public review.<sup>12</sup></p>

8 Office of the Mayor, “The City of Chicago and the Fraternal Order of Police Lodge #7 Announce Tentative Contract Agreement,” press release, July 26, 2021, [https://www.chicago.gov/city/en/depts/mayor/press\\_room/press\\_releases/2021/july/FOPTentativeContractAgreement.html](https://www.chicago.gov/city/en/depts/mayor/press_room/press_releases/2021/july/FOPTentativeContractAgreement.html).

9 “Chicago City Council Approves New Police Contract,” *The Civic Federation*, Sept. 17, 2021, <https://www.civiced.org/civic-federation/blog/chicago-city-council-approves-new-police-contract>.

10 *Check the Police.org*, review of DeRay McKesson, Samuel Sinyangwe, Johnetta Elzie and Brittany Packnett, *Police Union Contracts and Police Bill of Rights Analysis*, (Campaign Zero, June 29, 2016), (citing section 8.12M), <https://www.checkthepolice.org/review>.

11 Local Government Code, Title 5, Matters Affecting Public Officers and Employees, Subtitle A Municipal Officers and Employees § 143.123; Luke Ranker, “Fort Worth residents demand action on policing as city council locks in union deal,” *Fort Worth Star-Telegram*, Aug. 4, 2020, <https://www.star-telegram.com/news/local/fort-worth/article244713182.html>

12 City of Fort Worth, Texas, Meet and Confer Labor Agreement Between City of Fort Worth, Texas and Fort Worth Police Officers Association (2013), <https://static1.squarespace.com/static/559fbf2be4b08ef197467542/t/55a26d6be4b02ee06b2a872c/1436708203059/Fort+Worth+police+contract.pdf>; Local Gov’t Code, Title 5, Matters Affecting Public Officers and Employees, Subtitle A Municipal Officers and Employees § 143.057.



Key Metro Area	Police Union Contracts and Related State Law
<b>Detroit, MI</b>	Officers are given 48 hours written notice before they can be interviewed in most circumstances and are granted immediate access to a copy of their investigative interview. Officers have the right to appeal disciplinary action against them through expedited binding arbitration. The city provides legal counsel and pays the costs of misconduct settlements on behalf of officers. Written reprimands for misconduct are erased after two years. <sup>13</sup>
<b>Houston, TX</b>	Texas state law provides for 48 hour notice before an interview, and makes disciplinary records non-public. <sup>14</sup> The Houston union contract creates a 180 day limitations period for allegations. Officers receive witnesses' statements prior to being interviewed. <sup>15</sup>
<b>Los Angeles, CA</b>	There is no civilian oversight power—all disciplinary authority is vested in the chief of police. The chief of police may reject in whole the findings of a hearing officer and may reject the punishment ordered by the Board of Right. <sup>16</sup> City charter time bars certain complaints. <sup>17</sup>
<b>Memphis, TN</b>	Citizen complaints must be in a sworn affidavit. Officers are informed of the allegations before an interview. If there is no pending or anticipated criminal action, the officer receives investigative materials, including witness statements, in advance of administrative hearing. There is a year statute of limitations except in criminal matters. Personnel files generally reflect sustained charges. <sup>18</sup>
<b>Miami, FL</b>	Officers are informed of each allegation against them prior to interview and can receive complete investigation file. Written reprimands are removed after two years. The contract allows appeal of the mayor's discipline decisions and allows the union to strike a Hearing Examiner from the appeal, or to elect binding arbitration. <sup>19</sup>
<b>New York, NY</b>	If officer is not found "guilty" of a violation, the record can be expunged after two years. <sup>20</sup>

13 City of Detroit, Master Agreement Between The City of Detroit And The Detroit Police Officers Association (2014-2019), <https://static1.squarespace.com/static/559fbf2be4b08ef197467542/t/55a26d54e4b02ee06b2a86ed/1436708180775/Detroit+police+contract.pdf>; David Guenthner, "Completing the Fix for Police Accountability," *Mackinac Center Blog*, June 16, 2020, <https://www.mackinac.org/completing-the-fix-for-police-accountability>.

14 Texas Local Gov't Code §§ 143.312, 143.1214.

15 Houston Police Officers Union, "Meet & Confer Agreement between the Houston Police Officers' Union as the City of Houston, Texas Through June 30, 2025," <https://hpou.org/wp-content/uploads/Pending-Contract.pdf>.

16 The City of Los Angeles and the Los Angeles Police Protective League, "Memorandum of Understanding No. 24 For Joint Submission to the City Council Regarding Police Officers, Lieutenant and Below Representation Unit," August 14, 2019, <https://cao.lacity.org/mous/MOU24-22.pdf>

17 "Los Angeles Charter and Administrative Code, Disciplinary Procedures For the Police Department," May 5, 2001, <https://static1.squarespace.com/static/559fbf2be4b08ef197467542/t/55a26e0be4b0e8589c306454/1436708363968/Los+Angeles+City+Charter+police+disciplinary+provisions.pdf> (Section 1070(c)).

18 Memphis Police Association and City of Memphis, Tennessee, "Agreement, 2021-2022," July 1, 2021, [https://www.memphistn.gov/news/wpfd\\_file/the-memphis-police-association-2021-2,022-mou-signed-searchable/](https://www.memphistn.gov/news/wpfd_file/the-memphis-police-association-2021-2,022-mou-signed-searchable/).

19 "Collective Bargaining Agreement Between Miami-Dade County, Florida and The Dade County Police Benevolent Association Rank and File Unit Oct. 1, 2020 to Sept. 30, 2023," <https://www.miamidadegov.com/humanresources/library/labor-relations-pba-rank-file.pdf>.

20 James F. Hanley, memorandum, "Executed Contract: Police Officer," Sep. 3, 2020. <https://www1.nyc.gov/assets/olr/downloads/pdf/collectivebargaining/cbu79-police-patrolmens-benevolent-association-080106-to-073110.pdf>.

Key Metro Area	Police Union Contracts and Related State Law
<b>New Orleans, LA</b>	State police bill of rights allows an officer 14 days to seek representation, during which he cannot be interrogated about misconduct. <sup>21</sup>
<b>Norfolk-Virginia Beach-Newport News, VA</b>	There are no union contracts. Virginia Law Enforcement Officers Procedural Guarantee Act requires that disciplinary hearings are conducted by a panel composed entirely of officials from the officer's law enforcement agency. The officer chooses one panel member, the agency selects another, and the third is agreed upon by the other two members. Hearing determinations are not binding on the chief of police. <sup>22</sup>
<b>Orlando, FL</b>	<p>The state police bill of rights allows officers to review all evidence prior to being interrogated.<sup>23</sup></p> <p>Sustained investigations resulting in oral reprimand or written censure are removed from an officer's files after three years. Sustained investigations resulting in suspension or demotion are removed from an officer's files after five years. Any sustained findings are removed from an officer's personnel file after one year and placed in the Internal Affairs disciplinary file. Unfounded, exonerated, and not sustained investigations are removed from an officer's files after one year.</p>
<b>Philadelphia, PA</b>	Disciplinary findings are subject to appeal in binding arbitration. <sup>24</sup>
<b>Richmond, VA</b>	There are no union contracts. The Virginia Law Enforcement Officers Procedural Guarantee Act requires that disciplinary hearings are conducted by a panel composed entirely of officials from the officer's law enforcement agency. The officer chooses one panel member, the agency selects another, and the third is agreed upon by the other two members. Hearing determinations are not binding on the chief. <sup>25</sup>

21 Louisiana Stat. § 2531 B.4(b).

22 Virginia Code. § 9.1-504.

23 DeRay McKesson, Samuel Sinyangwe, Johnetta Elzie, and Brittany Packnett, *Police Union Contracts and Police Bill of Rights Analysis* (Campaign Zero, June 29, 2016), <https://static1.squarespace.com/static/559fbf2be4b08ef197467542/t/5773f695f7e0abbdfe28a1f0/1467217560243/Campaign+Zero+Police+Union+Contract+Report.pdf> (citing Fla. Stat. § 112.532 Section 1.d)

24 "Award, In the Matter of Arbitration Between Fraternal Order of Police Lodge #5 and City of Philadelphia," Sept. 14, 2021, <https://www.phila.gov/media/20210913125918/FOP-Award-Executed-9-14-21.pdf>.

25 Virginia Code § 9.1-504.

Key Metro Area	Police Union Contracts and Related State Law
<p><b>San Francisco-Oakland, CA</b></p>	<p>In 2018, the California Legislature passed SB1421, the Right to Know Act, which gives the public the right to see certain records relating to police misconduct and use of force. The only records of police misconduct that can be accessed are: serious uses of force, sexual assault, and dishonesty related to investigations. Records of other types of police misconduct are still secret.<sup>26</sup></p> <p>In San Francisco, civilian led police commission can enact reforms, but union has a contractual right to meet and confer with the city over changes to work conditions. This allows the union to effectively block reforms.<sup>27</sup> The Firearm Discharge Review Board is limited in scope, and does not consider non-firearm use of force incidents.<sup>28</sup> Contract negotiations take place out of public view, and without involvement of civilian Police Commission.<sup>29</sup></p> <p>The City of Oakland allows appeals to an arbitrator selected in part by the police union.<sup>30</sup></p>
<p><b>St. Louis, MO</b></p>	<p>Minor discipline (less than 16 days suspension) is determined by a hearing board composed of officers. Major discipline is determined by the chief of police.<sup>31</sup></p>
<p><b>Washington, DC</b></p>	<p>Disciplinary appeals process led to 45% of fired officers being re-hired.<sup>32</sup></p>

26 ACLU Southern California, "Access to CA Police Records," aclusocal.org, <https://www.aclusocal.org/en/know-your-rights/access-ca-police-records> (last visited Feb. 12, 2021); California Codes Government Code Section 3300-3311, Police Officers Bill of Rights (undated), <https://static1.squarespace.com/static/559fbf2be4b08ef197467542/t/55a8acb2e4b044eedeff5194/1437117618125/CApoliceofficersbillofrights.pdf>.

27 Brett Simpson, "Protest calls for SF police union to stand down in blocking any department reform," *San Francisco Chronicle*, July 27, 2020, <https://www.sfchronicle.com/crime/article/Protest-calls-for-SF-police-union-to-stand-down-15438008.php>.

28 San Francisco Department of Police Accountability, "The Department of Police Accountability's 1st Quarter 2018 Recommendations to Implement a Serious Incident Review Board," memo, 2018, [https://sfgov.org/dpa/sites/default/files/DPA\\_SeriousIncidentReviewBoardRec\\_1stQ2018.pdf](https://sfgov.org/dpa/sites/default/files/DPA_SeriousIncidentReviewBoardRec_1stQ2018.pdf).

29 Michael Barba, "Police union contract moves forward as officers agree to delayed raises," *San Francisco Examiner*, August 18, 2020, <https://www.sfoxaminer.com/news/police-union-contract-moves-forward-as-officers-agree-to-delayed-raises/>.

30 "Memorandum of Understanding Between City of Oakland and Oakland Police Officers Association," November 27, 2018, December 12, 2018 through June 30, 2024), <https://cao-94612.s3.amazonaws.com/documents/OPOA.pdf>.

31 Collective Bargaining Agreement between the City of St. Louis and the SLPOA for Police Division PO, PPO & POT Bargaining Unit (Oct. 5, 2017), <https://jointhegram.org/wp-content/uploads/2020/06/CBA-SLPOA-OFFICERS-2017-searchable.pdf>.

32 Christopher Ingraham, Police Unions and police misconduct: What the research says about the connection," *The Washington Post*, June 10, 2020, <https://www.washingtonpost.com/business/2020/06/10/police-unions-violence-research-george-floyd/>.

## Appendix E: Qualified Immunity

This chart outlines the viability of and the current state of play for the qualified immunity defense in the states corresponding to the Key Metro Areas.

State	State Law and Qualified Immunity
<b>California</b>	California state law does not contain a qualified immunity defense. SB 731, which failed to pass, would have clarified that the state Bane Civil Rights Act is a state law alternative to the federal civil rights statute, Section 1983. <sup>1</sup>
<b>Florida</b>	State law provides immunity from suit unless the officer was acting in “bad faith or with malicious purpose or in a manner exhibiting wanton and willful disregard of human rights, safety, or property.” No discussion of reform found to date <sup>2</sup>
<b>Georgia</b>	In 2020, Senate Democrats introduced platform including removal of qualified immunity. <sup>3</sup>
<b>Illinois</b>	In 2020, an initial version of HB163, the Police Integrity and Accountability Act, would have created a state law cause of action without a defense of qualified immunity. This provision was stripped from the final bill that was enacted in January 2021. <sup>4</sup> Illinois more recently introduced HB1727, the Bad Apples in Law Enforcement Accountability Act of 2021, which is still in committee in the state house. <sup>5</sup>
<b>Louisiana</b>	The state house recently passed legislation to remove state qualified immunity, but the bill died in committee in the state senate. <sup>6</sup>
<b>Maryland</b>	Qualified immunity established by Maryland Tort Claims Act, <i>Lee v. Cline</i> , 863 A.2d 297 (Md. Ct. App. 2004). HB 463 was recently introduced in the state house, which would establish civil liability of a police officer who deprives or allows another to deprive an individual of certain rights under the Maryland Declaration of Rights and the Maryland Constitution. <sup>7</sup>
<b>Massachusetts</b>	As of December 2020, a new state law removed qualified immunity for officers decertified at the state level. A commission is continuing to study qualified immunity more broadly. <sup>8</sup>

1 SB 731, 2019-2020 Reg. Sess. (Cal. 2019), [http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill\\_id=201920200SB731](http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201920200SB731).

2 Fla. Stat. 768.28(9), [http://www.leg.state.fl.us/statutes/index.cfm?App\\_mode=Display\\_Statute&URL=0700-0799/0768/Sections/0768.28.html](http://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&URL=0700-0799/0768/Sections/0768.28.html).

3 Georgia Justice Act, Georgia Senate Democratic Caucus, <http://gasenatedems.com/georgia-justice-act/> (last visited May 5, 2022).

4 Erik Runge, “Police reform bill passes Illinois House and Senate, headed to governor’s desk,” *WGNTV*, January 13, 2021, <https://wgntv.com/news/police-reform-bill-passes-illinois-house-and-senate-headed-to-governors-desk/>.

5 HB 1727, 2021-2022 Reg. Sess. (Ill. 2021), <https://legiscan.com/IL/bill/HB1727/2021>.

6 LA HB 609, 2021 Reg. Sess. (La. 2021), <https://legiscan.com/LA/bill/HB609/2021>.

7 HB 463, 2022 Reg. Sess. (Md. 2022), <https://mgaleg.maryland.gov/mgawebsite/Legislation/Details/hb0463>.

8 Order H.5213, 191st Gen. Ct. (Mass. 2020), <https://malegislature.gov/Bills/191/H5213>.

State	State Law and Qualified Immunity
<b>Michigan</b>	Michigan House democrats have recently proposed legislation to remove qualified immunity. <sup>9</sup>
<b>Missouri</b>	Missouri has no state law analogue to Section 1983.
<b>New York</b>	The state senate is considered a bill to create a state law cause of action without a qualified immunity defense. However, the bill appeared to die in the Rules Committee. <sup>10</sup> New York City recently passed legislation that allows citizens to sue police for violating their Fourth Amendment rights without having to overcome qualified immunity. <sup>11</sup>
<b>North Carolina</b>	North Carolina does not appear to have a state law analogue to Section 1983.
<b>Ohio</b>	Ohio state law provides immunity for official acts, except in cases of bad faith. <sup>12</sup>
<b>Pennsylvania</b>	State law provides immunity in use of force cases. In 2020, law makers in the state House proposed legislation to remove this immunity. <sup>13</sup>
<b>Tennessee</b>	State law provides immunity for all but “willful, malicious, or criminal acts.” <sup>14</sup>
<b>Texas</b>	Texas applies the common law defense of official immunity in state law cases. <i>City of Lancaster v. Chambers</i> , 883 S.W.2d 650 (Tex. 1994). In 2020, the state senate introduced a bill that would have eliminated qualified immunity for deprivation of rights claims under the Texas constitution. The bill died in committee. <sup>15</sup>
<b>Virginia</b>	In 2020, the state House passed a bill to create a civil right of action against law enforcement officers, without a qualified immunity defense. The bill failed in the state senate. <sup>16</sup> Another such bill died in the General Assembly in 2021. <sup>17</sup>

9 LeBland, “Michigan House Dems advance police reform package ending qualified immunity,” *The Detroit News*, June 8, 2021, <https://www.detroitnews.com/story/news/local/michigan/2021/06/08/michigan-house-dems-advance-police-reform-package-endingqualified-immunity/7603238002/>.

10 NY S08618, General Assembly, (NY 2019-2020), <https://legiscan.com/NY/bill/S08618/2019>.

11 James Craven, “New York City Council Passes Qualified Immunity Reform,” *CATO Institute*, March 31, 2021, <https://www.cato.org/blog/nyc-council-passes-qualified-immunity-reform-bill-bolstering-citizens-fourth-amendment-rights>.

12 Ohio Rev. Code 9.86.

13 Jordan A. Harris, memorandum, “Ending Immunity for Excessive Use of Force,” June 11, 2020, <https://www.legis.state.pa.us/cfdocs/legis/CSM/showMemoPublic.cfm?chamber=H&SPick=20190&cosponId=31954>.

14 Tennessee Code Ann. § 9-8-307(h).

15 HB 88, 2021-2022 Reg. Sess. (Tex. 2021), <https://legiscan.com/TX/bill/HB88/2021>.

16 HB 5013, Spec. Sess. (Va. 2020), <https://lis.virginia.gov/cgi-bin/legp604.exe?ses=202&typ=bil&val=hb5013>.

17 Jackie DeFusco, “Virginia House kills bill to end qualified immunity for police officers, scaled-back Senate proposal lives on,” *ABC 8 News*, Jan. 29, 2021, <https://www.wric.com/news/virginia-house-kills-bill-to-end-qualified-immunity-for-police-officers-scaled-back-senate-proposal-lives-on/>.

## Appendix F: Body-Worn Cameras

In the last few years, cities, states, and police departments across the country have implemented laws, regulations, policies, and procedures requiring officers to wear body cameras while on duty. This chart outlines the state of play for body-worn cameras (BWC) programs for Key Metro Areas and certain corresponding states.

Key Metro Area or State	Notes
<b>Atlanta, GA</b>	<p>The City Auditor's Office of Atlanta has conducted BWC program audits that have shown substantial levels of defiance with basic policies for how and when BWCs are used.<sup>1</sup> Atlanta is using this audit program to enhance transparency and accountability of interaction between officers and citizens. The City recommends that the chief of police monitor and track the following performance metrics:</p> <ul style="list-style-type: none"> <li>• videos captured compared to dispatched calls;</li> <li>• uncategorized videos;</li> <li>• videos uploaded within one day;</li> <li>• videos streamed by supervisors;</li> <li>• videos deleted before retention schedule;</li> <li>• videos audited by compliance team;</li> <li>• audited videos that complied with activation procedures;</li> <li>• audited videos that were accurately categorized.<sup>2</sup></li> </ul>
<b>Baltimore, MD</b>	<p>In May 2016, Baltimore Police Department enacted their BWC program. Currently, all officers are wearing BWCs and shall activate recording for all enforcement and investigative interactions. The public can use the department's MPIA Form to request body-worn camera footage.<sup>3</sup></p>
<b>Charlotte, NC</b>	<p>North Carolina's State Legislature passed a new BWC law in 2015.<sup>4</sup> This law requires a court order before a police agency can release video of a critical incident. The presumption of the new law is that videos from BWCs will not be freely released; the burden will be on those seeking their release.<sup>5</sup></p>

1 Scot Haug, "Audits and Compliance Reviews Can Strengthen Body-Worn Camera Programs," *Body-Worn Camera Training and Technical Assistance*, <https://www.bwctta.com/resources/commentary/audits-and-compliance-reviews-can-strengthen-body-worn-camera-programs>.

2 City Auditor's Office, City of Atlanta, *Performance Audit: Atlanta Police Department Body-Worn Cameras*, (December, 2018), [http://www.atlaudit.org/uploads/3/9/5/8/39584481/apd\\_bwc\\_december\\_2018.pdf](http://www.atlaudit.org/uploads/3/9/5/8/39584481/apd_bwc_december_2018.pdf).

3 Baltimore Police Department, "Body Worn Camera Basics," *BaltimorePolice.org*, <https://www.baltimorepolice.org/transparency/resources-and-reports/body-worn-cameras-basics>.

4 General Assembly of North Carolina, Session 2015, HB 972, <https://www.ncleg.net/sessions/2015/bills/house/pdf/h972v7.pdf>.

5 Laura McElroy, "North Carolina's Body-Worn Camera Law Raises Questions," *Body-Worn Camera Training and Technical Assistance*, <https://www.bwctta.com/resources/commentary/view-north-carolinas-bwc-law>.



Key Metro Area or State	Notes
<b>Chicago, IL</b>	The Illinois Officer-Worn Body Camera Act was introduced in January 2020 and requires all law enforcement agencies, including state, county and municipal police officers to wear a body camera while on duty. The recording must be stored for a minimum of 90 days and made available to all requestors during that time period. The recording must be maintained for longer than 90 days when there has been an arrest and charge against an offender, death or great bodily harm resulted from police contact, and other investigatory matters into a police officer's conduct. <sup>6</sup>
<b>Cleveland-Lorain-Elyria, OH</b>	Officers must notify people that they are being recorded. Officers are required to record all encounters with members of the public that go beyond a casual conversation. Members of the public can only have access to footage in two ways: with permission of the chief of police or by filing a request under public records law. <sup>7</sup> The Ohio legislature is also considering a state law that would require BWCs for all police officers and that the footage be released publicly in certain circumstances. <sup>8</sup>
<b>Dallas-Fort Worth, TX</b>	Dallas and Fort Worth have adopted a BWC program to enhance citizens' interactions with law enforcement and to provide investigatory evidence. Officers must turn on their BWCs during all law enforcement interactions. <sup>9</sup>
<b>Detroit, MI</b>	Detroit Police Department has established guidelines and procedures for the use of BWCs. All officers must wear a BWC when they are engaging in citizen interactions. BWCs must be activated to record citizen interactions. If an officer fails to activate their BWC, fails to record the entire event, or interrupts the recording, then the officer shall document in their activity log why the recording was not made, interrupted, or terminated. Disciplinary action may be taken against any officer who purposely de-activates their BWC without justified cause. <sup>10</sup>

6 Illinois General Assembly, 50 ILCS 706 Law Enforcement Officer-Worn Body Camera Act, <https://www.ilga.gov/legislation/ilcs/ilcs4.asp?ActID=3662&ChapterID=11&SeqStart=100000&SeqEnd=100000>.

7 Cleveland Police Monitoring Team, "Cleveland Division of Police Body-Worn Camera Policy, Executive Summary," [https://static1.squarespace.com/static/5651f9b5e4b08f0af890bd13/t/56e9e0e520c6478af7cc79c5/1458168038133/BWC+Policy\\_Executive+Summary--FINAL.pdf](https://static1.squarespace.com/static/5651f9b5e4b08f0af890bd13/t/56e9e0e520c6478af7cc79c5/1458168038133/BWC+Policy_Executive+Summary--FINAL.pdf).

8 HB 367, 2021 Reg. Sess. (Ohio 2021), <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-HB-367>

9 David O. Brown, "Body Worn Cameras," Dallas Police Department General Order, <https://www.bwccorecard.org/static/policies/2015-05-26%20Dallas%20-%20BWC%20Policy.pdf>.

10 James E. Craig, "Planning and Deployment Transmittal of Draft Policy," March 17, 2017, <https://detroitmi.gov/sites/detroitmi.localhost/files/2018-03/BODY%20WORN%20CAMERAS.pdf>.

Key Metro Area or State	Notes
<b>Houston, TX</b>	Houston's BWC program was enacted in December 2013 when 100 cameras were purchased and distributed to officers in a pilot program. The BWC have three modes: <i>Off</i> , <i>Standby</i> , and <i>Activate</i> . Officers can leave their cameras on <i>Standby</i> mode when performing routine matters and prior to participating in law enforcement activities. However, BWC must be places in <i>Activate</i> mode to record all law enforcement activities regardless of dispatch status. <sup>11</sup> The mayor of Houston recently announced a policy to publicly release BWC footage for any officer-involved shooting that results in injury or death. <sup>12</sup>
<b>Los Angeles, CA</b>	LAPD officers must activate their BWCs upon arrival, or prior to initiating any enforcement or investigative contact involving a member of the public. Officers must continue recording the entire contact, and can stop recording when enforcement and investigative contact involving a member of the public has ended. Officers may stop a recording during an activated contact when a witness or victim refuses to provide a recorded statement and the encounter is non-confrontational. Victims of rape, incest, or other sensitive circumstances can also refuse to provide a recorded statement. Officers may not copy, edit, alter, or erase any recordings. <sup>13</sup>
<b>Massachusetts</b>	The Massachusetts State Police launched its statewide BWC program in 2021. The system will hopefully hold officers accountable for misconduct and provide digital evidence. More time is needed to access how the program will be implemented. <sup>14</sup>
<b>Memphis, TN</b>	Memphis Police Department launched their BWC pilot program in 2015. Since 2020, there are 2,000 active BWC in use and have been distributed to sergeants and investigators. <sup>15</sup>
<b>Miami, FL</b>	The City of Miami's BWC program requires officers to turn on BWCs as soon as they arrive on scene or engage in an enforcement contact, but only when it is safe and practical to do so. Officers must activate their cameras for all investigative or enforcement contacts. Officers are prohibited from activating their cameras "in a place where a reasonable expectation of privacy exists," such as, dressing rooms, locker rooms, restrooms, and strip searches. <sup>16</sup>

11 Art Acevedo, "Revision of General Order 400-28, Body Worn Cameras," August 11, 2017, <https://www.houstontx.gov/police/pdfs/Body-Worn-Cameras.pdf>.

12 Mario Diaz, "Houston Police Department's body-worn camera policy explained; What is shown? What isn't?," *Click2Houston*, April 14, 2022, <https://www.click2houston.com/news/local/2022/04/15/houston-police-departments-body-worn-camera-policy-explained-what-is-shown-what-isnt/>.

13 Los Angeles County Sheriff's Office, "Manual of Policy and Procedures: 3-06/200.00 Body Worn Cameras," August 12, 2020, [https://lasd.org/wp-content/uploads/2020/09/Transparency\\_BWC\\_MPP.pdf](https://lasd.org/wp-content/uploads/2020/09/Transparency_BWC_MPP.pdf).

14 Owen Boss, "Mass. State police launch body-worn camera program," *WHDH.com*, March 4, 2021, <https://whdh.com/news/mass-state-police-launch-body-worn-camera-program/>.

15 D. Crowe to J. Ryall, memorandum, "Body Worn Camera and in Car," Memphis Police Department, June 10, 2020, <https://reimagine.memphistn.gov/wp-content/uploads/sites/70/2020/06/06-10-20-History-BWC-ICV.pdf>.

16 The Leadership Conference, "Police Body Worn Cameras: A Policy Scorecard, Miami BWC Policy," *Body Worn Camera Scorecard*, July 18, 2017, <https://www.bwccscorecard.org/static/policies/2017-07-18%20Miami%20BWC%20Policy.pdf>.

Key Metro Area or State	Notes
<b>New Jersey</b>	As of June 1, 2021, all uniformed police officers must wear BWCs under state law. Law enforcement agencies are required to store data from BWC footage in a system designed to “prevent tampering with or deletion of recorded data” and “prevent unauthorized access.” <sup>17</sup>
<b>New Orleans, LA</b>	New Orleans Police Department enacted their BWC program in April 2015. Officers must wear their BWCs during all law enforcement and investigative interactions. <sup>18</sup>
<b>New York , NY</b>	The NYPD body-worn camera program is the largest in the United States. The program was implemented under three phases. <sup>19</sup> In April 2017, Phase one of the BWC program began with 1,300 officers, working the evening shift in 20 precincts across the city. This phase supported a year-long study to see the effects of BWCs. <sup>20</sup> The study noted some potential benefits of BWCs, such as alleviating mistrust between the NYPD and the public and creating records of stop encounters. In December 2017, Phase two was launched providing BWCs to all shifts in every precinct and to other enforcement officers. Phase three began in March 2019, and provided BWCs to officers working in specialized units that perform patrol-oriented or support functions, i.e., highway patrol.
<b>Orlando, FL</b>	Orlando Police Department has developed a BWC program in order to enhance transparency and accountability and improve police interactions with the public. Officers must inspect and provide general maintenance for their camera, meaning that the camera is fully charged and working properly. Officers shall activate BWC immediately at the beginning of traffic stops, priority responses, vehicle pursuits, arrests, suspicious persons/vehicle contacts, domestic violence calls, etc. And officers must not erase, alter, reuse, modify or tamper with any recording. <sup>21</sup>

17 Office of the Attorney General, State of New Jersey, *Body Worn Camera Policy*, May 2021, <https://www.nj.gov/oag/dcj/agguide/ag-Directive-2021-5-BWC-Policy.pdf>.

18 New Orleans Police Department, *NOPD Policy Manual*, <https://www.nola.gov/nopd/policies/>; *New Orleans Police Department Operations Manual: Body Worn Camera*, April 5, 2015, <https://www.nola.gov/getattachment/NOPD/Policies/Chapter-41-3-10-BWC-EFFECTIVE-5-23-21.pdf/?lang=en-US>.

19 NYPD, “Body-Worn Cameras: The Body-Worn Camera Program,” [nyc.gov](https://www1.nyc.gov/site/nypd/about/about-nypd/equipment-tech/body-worn-cameras.page), <https://www1.nyc.gov/site/nypd/about/about-nypd/equipment-tech/body-worn-cameras.page>.

20 NYPD Monitor, “Design and Implementation of a Pilot Program for Body Worn Cameras,” <http://nypdmonitor.org/summary-body-worn-camera-pilot-design/>.

21 Orlando Police Department, “Mobile Video Recording Systems,” January 25, 2022, <https://www.orlando.gov/files/sharedassets/public/documents/opd/policies-and-procedures/police-operations/1140.7-mobile-video-recording-systems.pdf>.

Key Metro Area or State	Notes
<b>Philadelphia, PA</b>	Effective in January 2018, the Pennsylvania Wiretapping and Electronic Surveillance Control Act (18 Pa.C.S. § 5704(16)) was amended to authorize the use of BWCs by law enforcement officers under certain conditions. Officers must activate their BWCs when responding to in-process crimes and priority one assignments, initiating any vehicular or foot pursuit, conducting any vehicle or pedestrian investigation, initiating a sight arrest or citation, taking a statement or information from a victim or witness, and when handling any protest or demonstration, etc. BWCs shall not be used to record non-work-related personal activities or conversations, and places where a reasonable expectation of privacy exists, etc. <sup>22</sup> However, there are some indications that implementation of the policy has not been entirely effective, as officers have been observed not turning their BWCs on or turning them off during encounters. <sup>23</sup>
<b>San Francisco, CA</b>	SFPD adopted their BWC policies in December 2016. Officers must record all law enforcement interactions and are prohibited from recording sexual assault and child abuse investigations. The department must retain all BWC recordings for a minimum of 60 days, after which recordings may be erased, destroyed or recycled. However, the department shall retain recordings for a minimum of two years if: the recording is of an incident involving an officer's use of force or officer-involved shooting, the recording is of an incident that leads to the detention or arrest of an individual, or the recording is relevant to a formal or informal complaint against an officer or the department. <sup>24</sup>
<b>St. Louis, MO</b>	The US Department of Justice has implemented the Body-Worn Camera Policy and Implementation Program to Support Law Enforcement Agencies (BWCPIP-LEA) to provide funding to states and units of local government. The award information shows that St. Louis Regional Justice Information Service was funded \$269,696 for the fiscal year of 2020. However, more official information has not been found on the St. Louis implementation of their BWC program. <sup>25</sup>

22 Philadelphia Police Department, "Directive D421: Body-Worn Cameras," updated May 20, 2019, <https://www.phillypolice.com/assets/directives/D4.21BodyWornCameras.pdf>.

23 Claudia Vargas, "Body Cameras Are Ineffective Because Some Philly Cops Misuse Them, Advocates Say," *NBC Philadelphia*, July 23, 2020, <https://www.nbcphiladelphia.com/investigators/body-cameras-police-departments-philadelphia-septa-protests/2458223/>.

24 San Francisco Police Department, "General Order: Body Worn Cameras," June 1, 2016, <https://www.sanfranciscopolice.org/sites/default/files/2018-11/COMMISSION-DGO-10.11-BODYWORNCAMERAS.pdf>.

25 Bureau of Justice Assistance, "Body-Worn Camera Policy and Implementation: St. Louis Metropolitan Area," <https://bja.ojp.gov/funding/awards/2020-bc-bx-0036>.

Key Metro Area or State	Notes
<b>Virginia</b>	In 2020, Assembly Bill 15.2-1723.1 enacted a statewide BWC program. The Virginia Department of Criminal Justice Services announced availability of \$6.4 million in state general funds to support the use of body-worn cameras in law enforcement and published a model policy on BWCs. <sup>26</sup>
<b>Washington, DC</b>	In December 2016, the Metropolitan Police Department deployed about 2,800 BWCs across the District and partnered with The Lab @ DC to design and implement a randomized controlled trial of the program. In this study, officers were randomly assigned to either wear or not wear a body camera, then researchers compared these two groups. Researchers found that BWC programs should be recalibrated and people should not expect that the use of BWCs will dramatically reduce complaints or documented uses of force. <sup>27</sup> Currently, DC is leading in the evolution of the BWC program because it has enhanced BWCs' video qualities, redaction features, and other technological advances. <sup>28</sup>

26 Virginia Department of Criminal Justice Services, "Body-Worn Camera Grant Solicitation," <https://www.dcjs.virginia.gov/law-enforcement/grants/body-worn-camera-grant-solicitation>; Virginia Department of Criminal Justice Services, "Model Policy on Body Worn Cameras," updated March 1, 2021, [https://www.dcjs.virginia.gov/sites/dcjs.virginia.gov/files/law-enforcement/files/model-policy/body\\_worn\\_camera\\_model\\_policy.docx](https://www.dcjs.virginia.gov/sites/dcjs.virginia.gov/files/law-enforcement/files/model-policy/body_worn_camera_model_policy.docx).

27 David Yokum, Anita Ravishankar, and Alexander Coppock, *Evaluating the Effects of Police Body-Worn Camera: A Randomized Controlled Trial*, *The Lab@DC*, October 20, 2017, <https://bwc.thelab.dc.gov/#home>.

28 BWC TTA Team, "Evolving with BWC Technology: Washington, DC Metropolitan Police Department," <https://www.bwcta.com/resources/commentary/view-field-washington-dc-metropolitan-police-department>.

## Appendix G: National Snapshot of Decertified Officers by State, 1963 to 2017

The following charts depict by state the number of police officers that have been decertified in the United States as of 2017. The first chart focuses on the Key Metro Area states and the second chart is for all other states.<sup>1</sup>

Key Metro Area	Number of Decertifications
Georgia	10,474
Florida	8,348
Texas	2,682
North Carolina	1,074
Missouri	860
Tennessee	460
Ohio	391
Illinois	234
Pennsylvania	165
Michigan	150
Louisiana	87
New York	74
Virginia	33
Mississippi	31
Maryland	4
California	0
Massachusetts	0

<sup>1</sup> Underlying data is from the database created by USA Today: Matt Wynn, "Our Database of Troubled Cops, and How You Can Help," USA Today, May 7, 2019, <https://source.opennews.org/articles/our-database-troubled-cops-and-how-you-can-help/>. The database represents records from 1963 to 2017. USA Today and affiliated newspapers gathered these records from state agencies, prosecutors, and police departments. John Kelly and Mark Nichols, "Search the list of more than 30,000 police officers banned by 44 states," USA Today, Dec. 16, 2019, <https://www.usatoday.com/in-depth/news/investigations/2019/04/24/biggest-collection-police-accountability-records-ever-assembled/2299127002/>.



<b>State (Non-Key Metro Area)</b>	<b>Number of Decertifications</b>
<b>Arizona</b>	1,112
<b>Idaho</b>	402
<b>Utah</b>	372
<b>Colorado</b>	365
<b>Alabama</b>	328
<b>Kansas</b>	295
<b>Arkansas</b>	270
<b>Oklahoma</b>	229
<b>Washington</b>	192
<b>Wyoming</b>	176
<b>Maine</b>	157
<b>New Mexico</b>	156
<b>Iowa</b>	150
<b>Alaska</b>	142
<b>Montana</b>	142
<b>Oregon</b>	107
<b>South Dakota</b>	96
<b>Nebraska</b>	87
<b>Kentucky</b>	76
<b>Connecticut</b>	73
<b>Wisconsin</b>	52
<b>West Virginia</b>	51
<b>Nevada</b>	50
<b>Minnesota</b>	48
<b>New Hampshire</b>	44
<b>Indiana</b>	38
<b>North Dakota</b>	33
<b>South Carolina</b>	15
<b>Vermont</b>	13

## **Appendix H: States with Decertification Processes in Place**

This chart describes the processes by which states corresponding to the Key Metro Areas decertify a police officer. This includes the types of misconduct that warrant decertification, certain details about how those states investigate the alleged misconduct, and the composition of the respective investigating and decertifying POST (Peace Officer Standards and Training) authority. The number of decertifications provided is as of 2017, which appears to be the most recent available data.

State	Number of Decertifications	Decertification Law
California	0	<p>The first attempt (SB 731) failed; the second attempt (SB 2) was signed into law on September 30, 2021:<sup>1</sup></p> <p><b>Decertifiable conduct</b> An officer who is convicted of a felony or whose name is listed in a federal database of decertified law enforcement officers, among other things, must be decertified.<sup>2</sup> An officer may be decertified who was previously terminated for or engages in “serious misconduct.” Serious conduct encompasses “[a]buse of power, including, but not limited to, intimidating witnesses, knowingly obtaining a false confession, and knowingly making a false arrest”; “[p]hysical abuse, including, but not limited to, the excessive or unreasonable use of force”; “[s]exual assault”; “[d]emonstrating bias on the basis of race, national origin, religion, gender identity or expression, housing status, sexual orientation, mental or physical disability, or other protected status”; certain violations of the law; and “[p]articipation in a law enforcement gang.”<sup>3</sup></p> <p><b>POST Authority and Composition</b> SB2 created a new accountability arm within California’s POST the Peace Officer Standards Accountability Division, which has discretion to investigate police misconduct and initiate decertification proceedings.<sup>4</sup> It also created the Peace Officer Standards Accountability Advisory Board to review investigative findings and make recommendations on decertification to POST.<sup>5</sup> If the commission reaches a different conclusion from the board, it must explain its analysis and reasoning in writing.<sup>6</sup></p> <p>The board consists of nine members: two must be from law enforcement; two must be members of nonprofit or academic institutions; two must be members of community-based organizations that work on issues related to police accountability; two must be members of the public, with strong consideration given to persons who have been subject to wrongful use of force likely to cause death or serious bodily injury or who are related to a person killed by wrongful force; and one must be an attorney with experience involving oversight of police officers.<sup>7</sup></p>

1 Robert Lewis, “Bill to decertify police for serious misconduct clears Legislature,” *CalMatters*, Sept. 10, 2021, <https://calmatters.org/justice/2021/09/decertify-police-california-bill-legislature/>; “Police Decertification (Bradford) (SB 2),” *ACLU California Action* (last visited July 12, 2021), <https://aclucalifornia.org/bill/sb-2/>; Office of Governor Newsom, “Governor Newsom Signs Policing Reform Legislation,” press release, Sept. 30, 2021, <https://www.gov.ca.gov/2021/09/30/governor-newsom-signs-policing-reform-legislation/>.

2 Cal. Gov. Code § 1029.

3 Cal. Penal Code § 13510.8.

4 Cal. Penal Code § 13509.5.

5 Cal. Penal Code § 13509.6; Cal. Penal Code § 13510.85.

6 Cal. Penal Code § 13510.85.

7 Cal. Penal Code § 13509.6.

State	Number of Decertifications	Decertification Law
Florida	8,348	<p><b>Decertifiable conduct</b> Officers may be decertified if they have a felony or misdemeanor conviction, or fail to comply with the requirement that officers must have “good moral character.”<sup>8</sup></p> <p><b>POST Authority and Composition</b> Only one out of nineteen members of POST is not required to be connected to law enforcement.<sup>9</sup></p>
Georgia	10,474	<p><b>Decertifiable conduct</b> Unlike some states, Georgia does not require a criminal conviction to decertify an officer, and permits revocation after an administrative hearing.<sup>10</sup> The following are grounds for decertification: “[c]ommitt[ing] a crime involving moral turpitude, without regard to conviction”; “unprofessional, unethical, deceptive, or deleterious conduct or practice harmful to the public”; violating or attempting to violate a law, rule, or regulation; suspension or discharge; and a felony conviction.<sup>11</sup></p> <p><b>POST authority and composition</b> POST consists of twenty-two voting members and five advisory members.<sup>12</sup> All of the twenty-two voting members must be law enforcement officers.<sup>13</sup> The council appoints five advisory members (with no experience restrictions) who serve without voting privileges.<sup>14</sup></p>

8 Fla. Stat. § 943.1395.

9 Fla. Stat. § 943.11.

10 Ga. Code Ann. § 35-8-7.1; Roger L. Goldman, “A Model Decertification Law,” *St. Louis University Public Law Review*, 32 no.1, (2012): 147.

11 Ga Code. Ann. § 35-8-7.1; Associated Press, “A national registry of problem police officers would require major changes by states,” *Los Angeles Times*, June 26, 2020, <https://www.latimes.com/world-nation/story/2020-06-26/us-police-registry-would-fail-without-changes-in-states>.

12 Ga Code. Ann. § 35-8-3.

13 Ga Code. Ann. § 35-8-3.

14 Ga Code. Ann. § 35-8-3.

State	Number of Decertifications	Decertification Law
Illinois	234	<p><b>Decertifiable conduct</b> Effective January 7, 2022, Illinois requires decertification of officers convicted of a felony or certain enumerated misdemeanors<sup>15</sup> Officers may be decertified if POST determines that an officer: “committed an act that would constitute a felony or misdemeanor which could serve as basis for automatic decertification” without regard to conviction, prosecution, or termination; “exercised excessive use of force”; “failed to comply with the officer’s duty to intervene” to prevent excessive use of force; tampered with a dash camera or body camera; engaged in certain misconduct related to prosecuting a crime (committing perjury, making a false statement, or knowingly tampering with or fabricating evidence); or “engaged in any unprofessional, unethical, deceptive, or deleterious conduct or practice harmful to the public.”<sup>16</sup></p> <p><b>POST authority and composition</b> In 2016, Illinois passed legislation that requires law enforcement agencies to notify POST of any “final determination of willful violation of department or agency policy, official misconduct, or violation of law” related to an officer’s termination or resignation.<sup>17</sup></p> <p>POST may investigate and file a complaint to decertify an officer for committing any of the abovementioned violations, regardless of whether the officer was disciplined for it.<sup>18</sup> Cases are then heard by an administrative law judge.<sup>19</sup></p> <p>Illinois does not require POST to include members of the community.<sup>20</sup></p>

15 50 Ill. Comp. Stat. § 705/6.1 (local police); 50 Ill. Comp. Stat. § 2610/12.6 (state police).

16 50 Ill. Comp. Stat. § 705/6.3 (local police); 50 Ill. Comp. Stat. § 2610/12.7 (state police).

17 50 Ill. Comp. Stat. § 705/6.2.

18 50 Ill. Comp. Stat. § 705/6.2.

19 50 Ill. Comp. Stat. § 705/6.2.

20 50 Ill. Comp. Stat. § 705/3.

State	Number of Decertifications	Decertification Law
Louisiana	87	<p>Up until 2016, Louisiana had not decertified a single officer in at least a decade.<sup>21</sup> In 2016, the killing of Alton Sterling spurred Louisiana to introduce proposals to rethink policing, including broadening its decertification policy. Legislation was passed in June 2017.<sup>22</sup></p> <p><b>Decertifiable conduct</b> Officers must be decertified if they are convicted of “malfeasance in office” or “an offense which results in the individual peace officers restriction of his constitutional right to bear arms.” Officers may be decertified if they are involuntarily terminated “for disciplinary reasons involving civil rights violations” and the officer has exhausted all administrative remedies; convicted of a felony or a misdemeanor involving domestic abuse battery; “failed to complete additional training as required/prescribed by the council”; or had “a judicial disposition in a criminal case that results in revocation.”<sup>23</sup></p> <p>Even with this legislation, POST has only permanently decertified officers since June 2017. In at least five cases, the council ignored requests from the New Orleans Police Department to decertify certain officers.<sup>24</sup></p> <p><b>POST authority and composition</b> POST consists of 12 members, all of whom are related to law enforcement.<sup>25</sup></p>

21 Ben Grunwald and John Rappaport, “Wandering Officers,” *Yale Law Journal*, (2020), 1676, 1760, 2020, [https://scholarship.law.duke.edu/faculty\\_scholarship/4004](https://scholarship.law.duke.edu/faculty_scholarship/4004); Andrew Fan, Ellen Glover, and Dana Brozost-Kelleher, “Louisiana tried to crack misconduct. It hasn’t worked,” *Daily Advertiser*, Nov. 20, 2019, <https://www.theadvertiser.com/story/news/2019/11/20/police-shooting-alton-sterling-new-louisiana-law-hasnt-helped/4231440002/>.

22 Fan, Glover, and Brozost-Kelleher, “Louisiana tried to crack misconduct.”

23 La. Admin. Code tit. 22 § III-4731.

24 Glover, and Brozost-Kelleher, “Louisiana tried to crack misconduct.”

25 Louisiana Commission on Law Enforcement and Administration of Criminal Justice, “Peace Officer Standards and Training Council (POST),” [http://www.lcle.la.gov/programs/post.asp#:~:text=June%2C%202022%2C%20will%20mark%20the%2046th%20anniversary%20of,for%20peace%20officers%20in%20the%20State%20of%20Louisiana,\(last%20visited%20May%205,%202022\)](http://www.lcle.la.gov/programs/post.asp#:~:text=June%2C%202022%2C%20will%20mark%20the%2046th%20anniversary%20of,for%20peace%20officers%20in%20the%20State%20of%20Louisiana,(last%20visited%20May%205,%202022).).



State	Number of Decertifications	Decertification Law
<b>Maryland</b>	4	<p>Maryland has decertified only four officers as of 2017.<sup>26</sup> Decertification in Maryland is rare because officers are usually dismissed or resign before they can be decertified.<sup>27</sup></p> <p><b>Decertifiable conduct</b> POST may decertify an officer that “violates or fails to meet the Commission’s standards[,]” or “knowingly fails to report suspected child abuse” in violation of Maryland’s family statute.<sup>28</sup> But a police officer may apply for recertification two years after the revocation order.<sup>29</sup></p> <p>POST can permanently decertify an officer if the officer’s certificate was obtained through misrepresentation or fraud, the officer was convicted of a felony, or the officer was convicted of a misdemeanor for which potential sentence of imprisonment was more than one year.<sup>30</sup></p> <p><b>POST authority and composition</b> POST does not have authority to investigate officers for decertification. Law enforcement agencies are required to report to the POST commission the number of “serious officer-involved incidents each year, the number of officers disciplined each year, and the type of discipline administered to those officers.”<sup>31</sup></p> <p>The Maryland POST has twenty-four members: one must have expertise in community policing; one must have expertise in policing standards; one must have expertise in mental health; and two must be citizens of the state without a relationship to law enforcement.<sup>32</sup></p>

26 Matt Wynn, “Our Database of Trouble Cops, and How You Can Help,” *USA Today*, May 7, 2019, <https://source.opennews.org/articles/our-database-troubled-cops-and-how-you-can-help/>

27 Glynis Kazanjian, “State Officials Decertify Cop Involved in Anton Black Case,” *Maryland Matters*, August 4, 2019, <https://www.marylandmatters.org/2019/08/04/state-officials-decertify-cop-in-anton-black-case/>

28 Md. Code Pub. Safety § 3-212.

29 Md. Code Pub. Safety § 3-214.

30 Md. Code Pub. Safety § 3-213.

31 Md. Code Pub. Safety § 3-207.

32 Md. CodePub. Safety § 3-203.

State	Number of Decertifications	Decertification Law
Massachusetts	0	<p><b>Decertifiable conduct</b> Effective July 1, 2021, an officer must be decertified if POST finds by clear and convincing evidence that the officer was convicted of a felony; obtained certification through misrepresentation or fraud; “has had a certification or other authorization revoked by another jurisdiction”; is terminated by their appointing agency for certain misconduct; “used excessive force in violation of section 14”; “used excessive use of force resulting in death or serious bodily injury”; “used a chokehold in violation of said section 14”; “engaged in conduct that would constitute a hate crime”; or “failed to intervene, or attempt to intervene, to prevent another officer from engaging in prohibited conduct or behavior, including, but not limited to, excessive or prohibited force in violation of section 15.”<sup>33</sup></p> <p>Excessive force includes using unreasonable physical force without first attempting de-escalation tactics under the totality of the circumstances.<sup>34</sup> An officer also must “intervene to prevent the use of unreasonable force unless intervening would result in imminent harm to the officer or another identifiable individual,” and must report any instances of excessive force to a supervisor that he or she witnesses.<sup>35</sup></p> <p>An officer may be decertified if POST finds that the officer has been convicted of a misdemeanor; “was biased on the basis of race, ethnicity, sex, gender identity, sexual orientation, religion, mental or physical disability, immigration status or socioeconomic or professional level in their conduct”; “has a pattern of unprofessional police conduct that [POST] believes may escalate”; “was suspended or terminated by their appointing agency for disciplinary reasons” where the appeal is exhausted; or “has repeated sustained internal affairs complaints, for the same or different offenses.”<sup>36</sup></p> <p><b>POST authority and composition</b> Police departments are required to report complaints about officers to the division of police standards (within POST) within two business days, and must report the final disposition of any investigation into a complaint (or if an officer resigns while the investigation is pending) immediately.<sup>37</sup> The division has authority to initiate a preliminary inquiry into an officer’s conduct if it receives a recommendation for disciplinary action or a complaint that an officer “was involved [in] an officer-involved injury or death”; committed a felony or misdemeanor; used excessive force as defined by section 14; or failed to intervene to prevent the use of excessive force as defined by section 15.<sup>38</sup></p> <p>POST consists of nine members, only three of which can be from law enforcement.<sup>39</sup></p>

33 Mass. Gen. Laws ch. 6E, § 10.

34 Mass. Gen. Laws ch. 6E, § 14.

35 Mass. Gen. Laws ch. 6E, § 15.

36 Mass. Gen. Laws ch. 6E, § 10.

37 Mass. Gen. Laws ch. 6E, § 8.

38 Mass. Gen. Laws ch. 6E, § 8.

39 Mass. Gen. Laws ch. 6E, § 2.

State	Number of Decertifications	Decertification Law
Michigan	150	<p><b>Decertifiable conduct</b> Officers must be decertified if they obtained certification by making a materially false statement, are convicted of a felony, or are convicted of certain enumerated misdemeanors.<sup>40</sup></p> <p><b>POST authority and composition</b> Michigan’s POST may investigate alleged violations of its rules.<sup>41</sup> The commission consists of 19 members and is mostly comprised of members with connections to law enforcement; it includes only one individual not connected to law enforcement to represent the public.<sup>42</sup></p>
Mississippi	31	<p><b>Decertifiable conduct</b> An officer may have his or her certification suspended, canceled, or revoked if the officer has been “convicted of any crime involving moral turpitude[]”; convicted of a felony, committed an “act of malfeasance or has been dismissed from his employing law enforcement agency[]”; or “[o]ther due cause as determined by the board.”<sup>43</sup></p> <p><b>POST composition and authority</b> POST includes 13 members, with only one member not required to be associated with law enforcement (though the member must be a representative of higher education and have a degree in corrections, criminal justice, or public administration).<sup>44</sup></p>

40 Mich. Comp. Laws Ann. § 28.609.  
41 Mich. Comp. Laws Ann. § 28.610.  
42 Mich. Comp. Laws Ann. § 28.603.  
43 Miss. Code. Ann. § 45-6-11.  
44 Miss. Code. Ann. § 45-6-5.

State	Number of Decertifications	Decertification Law
Missouri	860	<p><b>Decertifiable conduct</b> Grounds for discipline (and thus decertification) are broad. Since 1988, Missouri allows for decertification of an officer who cannot perform the functions of a peace officer “with reasonable competency or reasonable safety as a result of a mental condition, including alcohol or substance abuse[]”; has committed any criminal offense even if a criminal charge has not been filed; or has committed “any act while on active duty or under color of law that involves moral turpitude or a reckless disregard for the safety of the public or any person[.]”<sup>45</sup></p> <p>The director of the Missouri Department of Public Safety can also immediately suspend a license for a police officer who “is under indictment for, is charged with, or has been convicted of the commission of any felony[]”; is subject to an order from another jurisdiction or agency suspending or revoking certification; or “[p]resents a clear and present danger to the public health or safety if commissioned as a peace officer.”<sup>46</sup></p> <p><b>POST authority and composition</b> In Missouri, the director of the Department of Public Safety (which includes POST) has the authority to file a complaint with the administrative hearing commission, which will determine whether cause to discipline exists.<sup>47</sup> If cause exists, the director will hold a hearing to determine the form of discipline (e.g., probation, suspension, permanent decertification).<sup>48</sup></p> <p>The chief of each law enforcement agency is also required to report to the director whenever he or she “has reasonable grounds to believe that any peace officer . . . is subject to discipline pursuant to section 590.080[.]”<sup>49</sup> The chief also must notify the director whenever an officer “departs from employment or otherwise ceases to be commissioned” and include the reasons for departure.<sup>50</sup> If applicable, the chief must indicate if the officer “failed to meet the minimum qualifications for commission as a peace officer”; “violated municipal, state or federal law”; “violated the regulations of the law enforcement agency”; or “was under investigation for violating municipal, state or federal law, or for gross violations of the law enforcement agency regulations.”<sup>51</sup></p>

45 Mo. Rev. Stat. § 590.080.

46 Mo. Rev. Stat. § 590.090.

47 Mo. Rev. Stat. § 590.080.

48 Mo. Rev. Stat. § 590.080.

49 Mo. Rev. Stat. § 590.070.

50 Mo. Rev. Stat. § 590.070.

51 Mo. Rev. Stat. § 590.070.

State	Number of Decertifications	Decertification Law
<b>New York</b>	74	<p><b>Decertifiable conduct</b> New York passed its decertification laws in 2016. An officer may have his or her accreditation suspended or revoked “for disregarding standards or committing serious violations of program rules and regulations.”<sup>52</sup></p> <p><b>POST authority and composition.</b> POST includes 17 members appointed by the governor. Almost all the members are associated with law enforcement.<sup>53</sup></p>
<b>North Carolina</b>	1,074	<p><b>Decertifiable conduct</b> The North Carolina POST-equivalent has broad authority to “suspend, revoke, or deny, pursuant to the standards that it has established for the purpose, persons as qualified under the provisions . . . to be employed . . . and retained as criminal justice officers.”<sup>54</sup> Grounds for discipline include felony convictions, misdemeanors, or showing a “lack of good moral character.”<sup>55</sup></p> <p><b>POST authority and composition</b> The commission, which is comprised of thirty-four members, requires some of the members to have connections to education (e.g., the President of University of North Carolina at Chapel Hill is a member).<sup>56</sup></p>
<b>Ohio</b>	391	<p><b>Decertifiable conduct</b> An officer must be decertified if the officer has a felony criminal conviction, or pleads guilty pursuant to a negotiated plea agreement in which the officer agrees to enter a plea of guilty to a misdemeanor and to surrender his or her certificate.<sup>57</sup></p> <p>In 2020, the Attorney General and Governor (both Republicans) proposed giving their state’s policing agency the power to decertify officers for racial profiling or other misconduct that might not lead to a criminal charge.<sup>58</sup> As of May 2022, nothing has been implemented.</p> <p><b>POST authority and composition</b> The commission has 10 members, with one member representing the public.<sup>59</sup></p>

52 N.Y. Comp. Codes. R. & Regs. tit. 9, § 6035.8.

53 New York State, Division of Criminal Justice Services, “Accreditation Council,” <https://www.criminaljustice.ny.gov/ops/accred/accred04.htm>, (last visited Feb. 12, 2021).

54 N.C. Gen. Stat. §§ 17C-6, 17C-11.

55 Nomann Merchant and Reese Dunklin, “Police officer decertification by state,” *The Morning Call*, Nov. 1, 2015, <https://www.mcall.com/mc-a-50state-look-at-officer-decertification-for-sex-incidents-20151031-story,amp.htm>

56 N.C. Gen. Stat. §§ 17C-3.

57 Ohio Rev. Code Ann. § 109.77.

58 Nomann Merchant, “US police registry would fail without changes in states,” *AP News*, June 26, 2020, <https://apnews.com/article/2015003554eade8968b74272d141ea80>; Joe Pagonakis, “In-Depth: Ohio Attorney General, experts call for tougher police licensing standards,” *ABC News*, Sept. 14, 2020, <https://www.news5cleveland.com/news/local-news/cleveland-metro/ohio-attorney-general-experts-call-for-tougher-police-licensing-standards>

59 Ohio Rev. Code Ann. § 109.71.

State	Number of Decertifications	Decertification Law
Pennsylvania	165	<p><b>Decertifiable conduct</b> The commission may revoke an officer’s certification if the officer is convicted of a criminal offense, or the commission determines that the officer is “physically or mentally unfit to perform the duties of his office.”<sup>60</sup></p> <p>Although there is the “physically or mentally unfit” provision, it seems that in reality, the commission only decertifies officers who have a criminal conviction.<sup>61</sup></p> <p><b>POST authority and composition</b> The commission says it relies on local law enforcement agencies to notify it when an officer is eligible for decertification.<sup>62</sup> The commission does not independently investigate.<sup>63</sup></p> <p>The commission is made up of 20 members, most of whom have a relationship to law enforcement or politics. One member represents the “public at large.”<sup>64</sup></p>
Tennessee	460	<p><b>Decertifiable conduct</b> Tennessee has broad authority to decertify and does not require a criminal conviction.<sup>65</sup> POST can suspend or decertify an officer if the officer is suspended for 30 days or longer, resigns in lieu of termination, resigns with disciplinary action pending that could have resulted in termination, or discharged by employing law enforcement agency for disciplinary reasons.<sup>66</sup></p> <p><b>POST authority and composition</b> POST must have two citizens “who are not connected with law enforcement[]” and must include “at least one (1) person who is of a racial minority.”<sup>67</sup></p>

60 53 Pa. Cons. Stat. § 2164.

61 Jeffrey Benzing, “In disciplining cops, Pennsylvania’s standards trail other states,” *Public Source*, Nov. 19, 2018, <https://www.publicsource.org/in-disciplining-cops-pennsylvanias-standards-trail-other-states/>.

62 Merchant and Dunklin, “Police officer decertification by state.”

63 Elizabeth Hardison, “How police accountability works in Pennsylvania,” *Pennsylvania Capital-Star*, June 14, 2020, <https://www.penncapital-star.com/civil-rights-social-justice/how-police-accountability-works-in-pennsylvania/>.

64 53 Pa. Cons. Stat. § 2163.

65 Goldman, *A Model Decertification Law*.

66 Rules of Tennessee Peace Officers Standards and Training Commission, 1110-02-.04.

67 Tenn. Code. Ann. § 38-8-102.

State	Number of Decertifications	Decertification Law
Texas	2,682	<p><b>Decertifiable conduct</b> Texas only decertifies law enforcement officers who were elected under the Texas constitution if they are convicted of a felony or “a criminal offense directly involving the person’s duties as an officer.”<sup>68</sup> Other officers may be decertified who do not comply with POST rules or applicable reporting requirements.<sup>69</sup> This means POST does not have authority to revoke an officer’s license even if the officer has been fired multiple times for egregious conduct.<sup>70</sup></p> <p><b>POST authority and composition</b> POST “may” require local departments to submit “reports and information” to the commission.<sup>71</sup> The commission does not have investigative authority.<sup>72</sup></p> <p>The commission has nine members, with three of them representing the public.<sup>73</sup></p>

68 Tex. Occ. Code Ann. § 1701.501.

69 Tex. Occ. Code Ann. § 1701.501.

70 Emilie Eaton, “Three San Antonio police officers, fired by SAPD, were later hired in Leon Valley. Here’s why,” *San Antonio Express News*, July 3, 2020, <https://www.expressnews.com/news/local/article/Three-San-Antonio-police-officers-fired-by-SAPD-15383921.php>

71 Tex. Occ. Code Ann. §§ 1701.151; 1701.164.

72 Tex. Occ. Code Ann. §§ 1701.151; 1701.164; Eaton, “Three San Antonio police officers, fired by SAPD, were later hired in Leon Valley. Here’s why.”

73 Tex. Occ. Code Ann. § 1701.051.



State	Number of Decertifications	Decertification Law
Virginia	33	<p><b>Decertifiable conduct</b> As of March 2021, a sheriff, chief of police, or agency administrator “shall notify” POST within forty-eight hours of becoming aware that an officer has been terminated or resigned in advance of being convicted of a crime; has been terminated or resigned while the officer is the subject of a pending internal investigation “involving serious misconduct”; engaged in “serious misconduct”; or committed an act that “compromises an officer’s credibility, integrity, honesty, or other characteristics.”<sup>74</sup></p> <p>An officer may, after five years, petition the board to be considered for recertification.<sup>75</sup></p> <p><b>POST authority and composition</b> The chief of police or sheriff is required to notify POST “within 48 hours” of becoming aware that any police officer has been convicted of or pled guilty to a felony or misdemeanor involving moral turpitude, and must report within 48 hours if any officer is terminated or resigns in advance of being convicted of a crime previously described, a pending drug test, a violation of federal or state law, a pending internal investigation into the officer’s “serious misconduct,” committing an act “while in the performance of his duties that compromises an officer’s credibility, integrity, honesty” or other characteristics, or “engaging in serious misconduct” as defined by statute.<sup>76</sup></p> <p>POST has investigative authority, and can initiate decertification proceedings against any current or former law enforcement officer if it has found “any basis for the officer’s decertification.”<sup>77</sup></p> <p>POST has thirty-two members, with five not connected to law enforcement: one must be a representative of a crime victims’ organization or a victim of a crime; one must be a representative of a social justice organization; one must be a mental health service provider; and two must represent the community interests (one of which must represent the community interests of one of four minority groups).<sup>78</sup></p>

74 Va. Code Ann. § 15.2-1707.

75 Va. Code Ann. § 15.2-1708.

76 Va. Code Ann. § 15.2-1707.

77 Va. Code Ann. § 15.2-1707.

78 Va. Code Ann. § 9.1-108.

## Appendix I: Alternative Measures for Evaluation of Officer Performance

While many states have passed laws formally banning quota systems (i.e., ticket quotas, arrest quotas, or a combination of both), accusations of informal quota systems persist in most jurisdictions. Notwithstanding those accusations, the following chart outlines those states—corresponding to the Key Metro Areas—where formal quota systems have been banned.

State	State Law and Qualified Immunity
<b>California</b>	Formally bans ticket and arrest quotas. <sup>1</sup>
<b>Florida</b>	Formally bans quota systems. <sup>2</sup> In 2015, Florida passed another bill adding teeth to the ban by unequivocally applying the ban to all LEAs, adding penalties, and establishing requirements for traffic ticket revenue disclosure (for added transparency). <sup>3</sup>
<b>Georgia</b>	No formal quota ban. <sup>4</sup>
<b>Illinois</b>	Formally bans ticket quotas. <sup>5</sup>
<b>Louisiana</b>	Formally bans ticket and arrest quotas. <sup>6</sup>
<b>Maryland</b>	Formally bans ticket and arrest quotas. <sup>7</sup>
<b>Massachusetts</b>	While there are no specific law banning quotas, the Massachusetts Appeals Court ruled ticket quota systems as unconstitutional in a 2005 case about quotas within the Newton Police Department. <sup>8</sup>

1 Cal. Veh. Code §§ 41602, 41603; Kevin Rector and Ben Poston, “Officer alleges LAPD had quotas, silenced whistleblowers in gang-labeling scandal,” *Los Angeles Times*, Aug. 27, 2020, <https://www.latimes.com/california/story/2020-08-27/lapd-silence-whistleblowers-gang-labeling-scandal>

2 Fla. Stat. § 316.640, [http://www.leg.state.fl.us/Statutes/index.cfm?App\\_mode=Display\\_Statute&URL=0300-0399/0316/Sections/0316.640.html](http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&URL=0300-0399/0316/Sections/0316.640.html)

3 Associated Press, “Florida traffic ticket quotas: new ‘Waldo bill,’” *Florida Times-Union*, April 8, 2015, <https://www.jacksonville.com/story/news/2015/04/08/florida-senate-passes-waldo-bill-banning-traffic-ticket-quotas/15657785007/>; Lauren Kates, “Florida Traffic Ticket Quotas - New ‘Waldo Bill,’” *American Safety Council*, <https://blog.americansafetycouncil.com/florida-traffic-ticket-quotas/>

4 Joshua Sharpe, “DeKalb still denies police ‘quota’ system after settling suit for \$150K,” *The Atlanta Journal-Constitution*, Sept. 27, 2018, <https://www.ajc.com/news/crime-law/dekalb-still-denies-police-quota-system-after-settling-suit-for-150k/luFHQg3pT4lnsVyPETZxkM/>

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State	State Law and Qualified Immunity
<b>Michigan</b>	Formally bans ticket quotas. <sup>9</sup>
<b>Missouri</b>	Formally bans ticket quotas following the Ferguson protests. <sup>10</sup>
<b>New Jersey</b>	Formally bans ticket and arrest quotas. <sup>11</sup>
<b>New York</b>	Formally bans ticket and arrest quotas.
<b>North Carolina</b>	Formally bans ticket and arrest quotas. <sup>12</sup>
<b>Ohio</b>	No formal quota ban.
<b>Pennsylvania</b>	Formally bans ticket quotas. <sup>13</sup>
<b>Tennessee</b>	Formally bans ticket quotas. Passed a new law in 2020 giving the ban teeth by imposing fines on officials implementing informal quotas. <sup>14</sup>
<b>Texas</b>	Formally bans ticket quotas. <sup>15</sup>
<b>Virginia</b>	No formal quota ban. <sup>16</sup>
<b>Washington, DC</b>	No formal quota ban. <sup>17</sup>

9 Mi. Vehicle Code § 257.750, [http://www.legislature.mi.gov/\(S\(z2fmv2vekgwagkpmuj2tze3\)\)/mileg.aspx?page=GetObject&objectname=mcl-257-750](http://www.legislature.mi.gov/(S(z2fmv2vekgwagkpmuj2tze3))/mileg.aspx?page=GetObject&objectname=mcl-257-750)

10 SB 735, 2016 Re. Sess. (Mo. 2016), [https://www.senate.mo.gov/16info/BTS\\_Web/Bill.aspx?SessionType=R&BillID=22259793](https://www.senate.mo.gov/16info/BTS_Web/Bill.aspx?SessionType=R&BillID=22259793); Summer Ballentine, "Missouri attorney general sues city over ticket quotas," *AP News*, Dec. 9, 2019, <https://apnews.com/article/c171e5c6b503ef31d62103d36e1356e2>

11 New Jersey Title 40a:14-181.2, <https://law.justia.com/codes/new-jersey/2009/title-40a/40a-14/40a-14-181-2>

12 N.C. Gen. Stat. § 20-187.3, [https://www.ncleg.gov/EnactedLegislation/Statutes/PDF/BySection/Chapter\\_20/GS\\_20-187.3.pdf](https://www.ncleg.gov/EnactedLegislation/Statutes/PDF/BySection/Chapter_20/GS_20-187.3.pdf)

13 Prohibiting Ticket Quotas Act (Oct. 30, 1981, P.L. 321, Act. 114), <https://www.legis.state.pa.us/WU01/LI/LI/US/PDF/1981/0/0114..PDF>; Shaun Ossei-Owusu, "Race and the Tragedy of Quota-Based Policing," *The Prospect*, Nov. 3, 2016, <https://prospect.org/justice/race-tragedy-quota-based-policing/>

14 Keith Goble, "New Tennessee rule puts teeth into ticket quota ban," *Land Line*, Aug. 19, 2020, <https://landline.media/new-tennessee-rule-puts-teeth-into-ticket-quota-ban/>



15 Tex. Trans. Code § 720.001, et seq., <https://statutes.capitol.texas.gov/Docs/TN/htm/TN.720.htm>; Police1 Staff, "Texas officer accuses unit of having arrest quotas," *Police1.com*, June 29, 2018, <https://www.police1.com/patrol-issues/articles/texas-officer-accuses-unit-of-having-arrest-quotas-7R3668s01uVWL9pD/>

16 Virginia LEAs have at least in the past embraced the idea of quotas as "performance standards." *WTOP Staff*, "Arlington police chief denies ticket, arrest quotas," *WTOP News*, March 20, 2012, <https://wtop.com/news/2012/03/arlington-police-chief-denies-ticket-arrest-quotas/>

17 Justin George, "Metro Transit Police union calls for reforms, including ending emphasis on arrests and stop and question," *Washington Post* (August 15, 2020, [https://www.washingtonpost.com/local/trafficandcommuting/metro-transit-police-union-calls-for-reforms-including-ending-emphasis-on-arrests-and-stop-and-question/2020/08/15/05ce9aea-dbf2-11ea-809e-b8be57ba616e\\_story.html](https://www.washingtonpost.com/local/trafficandcommuting/metro-transit-police-union-calls-for-reforms-including-ending-emphasis-on-arrests-and-stop-and-question/2020/08/15/05ce9aea-dbf2-11ea-809e-b8be57ba616e_story.html)); Adam Tuss, "Former Metro Transit Police Officers Testify About 'Quotas' to DC Council," *NBC Washington*, Feb. 19, 2020, <https://www.nbcwashington.com/news/local/former-metro-transit-police-officers-testify-about-quotas-to-dc-council/2220060/>

## Appendix J: Militaristic Recruiting Materials Used

This chart displays the militaristic images used by certain Key Metro Areas in their recruiting materials.

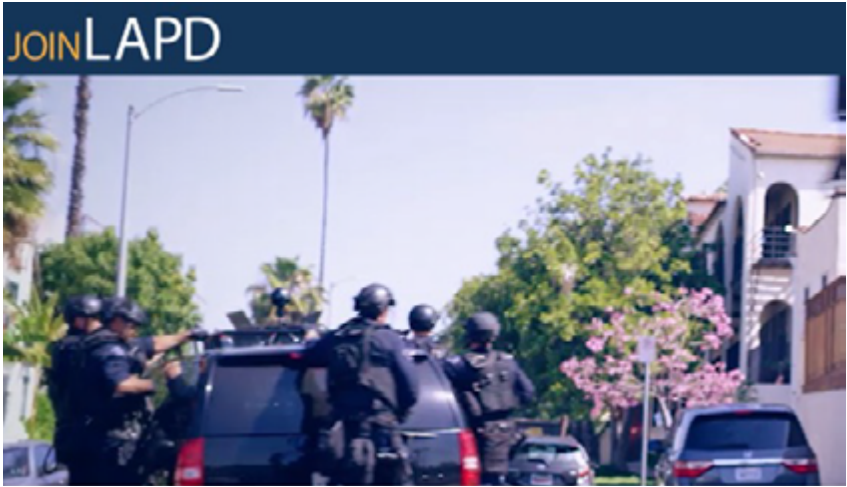
Key Metro Areas	Militaristic Images in Recruiting Materials
<b>Atlanta, GA<sup>1</sup></b>	 <p>The first image is a video frame showing police officers in a vehicle, with social media icons (Facebook, Twitter, YouTube, Instagram) overlaid on the right. The second image is a still of a police officer in tactical gear with 'POLICE' on the vest.</p>
<b>Chicago, IL<sup>2</sup></b>	 <p>The image is a video frame showing a Chicago Police armored vehicle with 'CHICAGO POLICE' written on the side. Officers in tactical gear are visible around the vehicle. A video player interface is at the bottom.</p>

1 Atlanta Police Department, <https://www.atlantapd.org/> (last visited Feb. 14, 2021); Atlanta Police Department, *Career Opportunities*, <https://joinatlantapd.org/career-opportunities/> (last visited May 5, 2022).

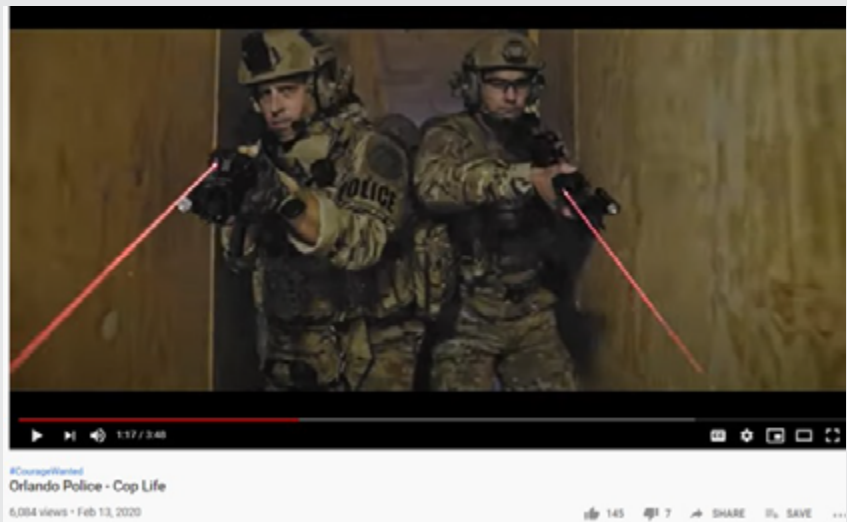
2 Chicago Police Department, *Chicago Police Department is Hiring*, YouTube (Oct. 11, 2018), <https://www.youtube.com/watch?v=U8fx2SWJ1Xo>

**Key Metro Areas**      **Militaristic Images in Recruiting Materials**

**Los Angeles, CA<sup>3</sup>**



**Orlando, FL<sup>4</sup>**



3 Los Angeles Police Department, *Join LAPD*, <https://www.joinlapd.com/lapd-virtual-reality> (last visited May 5, 2022).  
4 Orlando Police Department, *Orlando Police—Cop Life*, YouTube (Feb. 13, 2020), <https://www.youtube.com/watch?v=unl4th-4Uo>

Key Metro Areas	Militaristic Images in Recruiting Materials
<b>Virginia Beach, VA<sup>5</sup></b>	<p data-bbox="500 247 732 275">Trailer: Class 62 The Academy Story</p> 

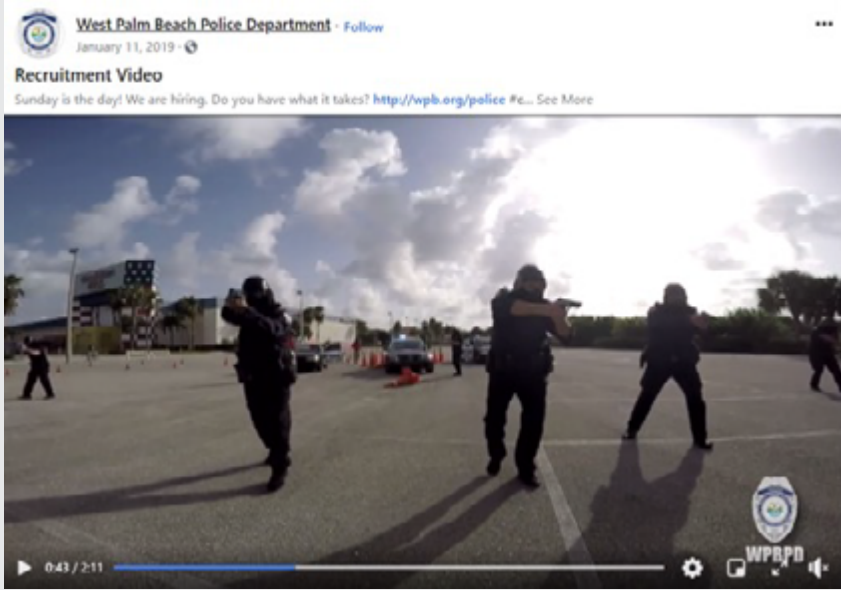
<sup>5</sup> City of Virginia Beach, *Careers*, <https://www.vbgov.com/government/departments/police/careers/Pages/default.aspx> (last visited May 5, 2022).



Key Metro Areas

Militaristic Images in Recruiting Materials

West Palm Beach, FL<sup>6</sup>



6 West Palm Beach Police Department, *Recruitment Video*, Facebook post (Jan. 11, 2019), <https://www.facebook.com/watch/?v=1858605667577322>



## Appendix K: Current Education-Based Salary Incentives

This chart details the available educational-based salary incentives in the Key Metro Areas that are readily identifiable from the respective police department’s online materials.

Key Metro Area or State	Educational Incentives Offered
<b>Atlanta, GA</b>	<p>The Scholarship Reimbursement Program provides staff up to \$3,000 per year to pursue college degrees and post baccalaureate work from accredited university programs.</p> <p>Scholarships reimburse tuition paid out-of-pocket and are paid after students complete the semester for which they request reimbursement.<sup>1</sup></p>
<b>Baltimore, MD</b>	<p>Baltimore County Police Department reimburses officers 70% to 80% of tuition following completion of pre-approved courses related to their position.<sup>2</sup></p> <p>Baltimore City Police Department reimburses officers up to 50% of direct tuition cost following completion of work-related college-level courses offered by accredited institutions within the state of Maryland.<sup>3</sup></p>
<b>Boston, MA</b>	<p>Educational benefits, if any, are not readily apparent in the available online recruiting materials.</p>
<b>Charlotte, NC</b>	<p>Pay incentives are offered for Associate Degrees (+5% of starting salary) and Bachelor’s Degrees (+10%) and a 5% pay incentive for proficiency in Spanish.</p> <p>There is an education tuition reimbursement program.<sup>4</sup></p>
<b>Chicago, IL</b>	<p>Reimbursement of tuition is offered for a maximum of two courses per school term.<sup>5</sup></p>
<b>Cleveland, OH</b>	<p>There is an unspecified amount of tuition reimbursement.<sup>6</sup></p>

1 Atlanta Police Department, *Salary and Benefits*, <https://joinatlantapd.org/salary-and-benefits/> (last visited May 5, 2022).

2 Baltimore County Government, *Police Careers: Learn About the Job*, <https://www.baltimorecountymd.gov/departments/police/careers/about.html> (last visited May 5, 2022).

3 Baltimore Police Department, *College Tuition Assistance/Educational Incentive Program*, <https://www.baltimorepolice.org/transparency/bpd-policies/408-college-tuition-assistanceeducational-incentive-program> (last visited May 5, 2022).

4 City of Charlotte, *Recruitment–Pay and Benefits*, <https://charlottenc.gov/CMPD/Organization/recruitment/Pages/default.aspx> (last visited May 5, 2022).

5 City of Chicago *Tuition Reimbursement Policy*, [https://www.chicago.gov/content/dam/city/depts/dhr/supp\\_info/POLICIES/TUITION\\_REIMBURSEMENT\\_POLICY.pdf](https://www.chicago.gov/content/dam/city/depts/dhr/supp_info/POLICIES/TUITION_REIMBURSEMENT_POLICY.pdf) (last visited May 5, 2022).

6 City of Cleveland, *Public Safety Careers*, <https://www.clevelandohio.gov/PublicSafetyCareers> (last visited May 5, 2022).

Key Metro Area or State	Educational Incentives Offered
<b>Dallas, TX</b>	<p>Up to \$1,500 per fiscal year in college tuition is provided for job applicable classes.</p> <p>Officers with a bachelor's degree receive \$300 per month, and officers without a college degree but with college hours above the minimum required 45 semester hours receive \$12 per month for every additional three hours college credit up to a maximum of \$240 per month.</p> <p>Officers fluent in Spanish, Khmer, Cantonese, Korean, Kurdish, Laot, Thai, or Vietnamese receive \$110 to \$150 per month depending on proficiency.<sup>7</sup></p>
<b>Detroit, MI</b>	<p>Officers receive an additional 2% in salary if they have at least two years of college credit from an accredit college or university at hire.</p> <p>Tuition reimbursement of \$2000 is provided after one year of continuous service following completion of academy training.<sup>8</sup></p>
<b>Houston, TX</b>	<p>Yearly educational incentives are paid bi-weekly after graduation from the police academy: Bachelor's Degree \$3,640; Master's Degree \$6,240; Doctorate Degree \$8,840.</p> <p>A bilingual pay incentive of \$1,800 is paid bi-weekly after the probationary period. Tuition reimbursement is made per credit hour at the rate of \$447 for bachelor's degrees, \$492 for master or doctoral degree, and \$898 for an MBA or JD.<sup>9</sup></p>
<b>Los Angeles, CA<sup>10</sup></b>	<p>LAPD offers a weekly educational incentive bonus: \$190 for and associate degree and \$290 for a bachelor's degree.</p>
<b>Memphis, TN</b>	<p>Officers can earn additional pay by completing college-level courses beyond the minimum 54 semester hours required. Officers will earn an extra 5% pay for 85 or more semester hours and 7.5% pay for a four-year degree. Officers may also receive college tuition reimbursement of \$3,000 annually and are eligible for student loan reduction through monthly contributions and extra student loan payments each month.</p> <p>Officers competent in speaking, reading, and writing in any language other than English (including sign language) will be compensated \$912 annually.<sup>11</sup></p>
<b>Miami, FL</b>	<p>Educational benefits, if any, are not readily apparent in the available online recruiting materials.</p>

7 Dallas Police Department, *Salary/Benefits*, <https://dallaspolice.net/joinpd/Pages/SalaryBenefits.aspx> (last visited May 5, 2022).

8 City of Detroit, *Detroit Police Department Careers*, <https://detroitmi.gov/departments/police-department/detroit-police-department-careers> (last visited May 5, 2022).

9 Houston Police Department, *Benefits*, <https://www.hpdcareer.com/benefits.html> (last visited May 5, 2022).

10 Police 1, *LA to give bonuses to officers with college degrees* (May 26, 2020), <https://www.police1.com/police-jobs-and-careers/articles/la-to-give-bonuses-to-officers-with-college-degrees-8vdpRbVkJBr74P1/>

11 Memphis Police Department, *Benefits & Salary*, <https://joinmpd.com/benefits-salary/> (last visited May 5, 2022).

Key Metro Area or State	Educational Incentives Offered
<b>New York City, NY</b>	<p>Officers may earn up to 29 college credits from academy training that can go toward a degree.</p> <p>Several local institutions offer full or partial scholarships to NYPD members.<sup>12</sup></p>
<b>New Orleans, LA</b>	<p>NOPD offers an annual educational bonus: \$1,000 for associate degrees and \$3,000 for a masters or doctorate degree/</p> <p>The College Tuition Assistance Program reimburses officers for eligible out-of-pocket expenses, \$50 per undergraduate credit hour with a C grade or better and \$100 per graduate college credit hour with a B grade or better, up to a maximum of six hours per semester.</p> <p>Additional pay is offered to officers who are bilingual in Spanish or Vietnamese.<sup>13</sup></p>
<b>Orlando, FL</b>	<p>The base salary is adjusted by \$960 for a four-year degree in the first year, and maxes out at \$1560. Officers attending college may be reimbursed up to \$1800 annually.<sup>14</sup></p>
<b>Philadelphia, PA</b>	<p>Educational benefits, if any, are not readily apparent in the available online recruiting materials.</p>
<b>Richmond, VA</b>	<p>The Richmond Police Department offers unspecified “promotional and educational opportunities.”<sup>15</sup></p>
<b>St. Louis, MO</b>	<p>The St. Louis Police Department offers an unspecified amount of tuition reimbursement for college courses.<sup>16</sup></p>
<b>Virginia Beach, VA</b>	<p>The Virginia Beach Police Department provides unspecified “tuition reimbursement.”<sup>17</sup></p>
<b>Washington, DC</b>	<p>Officers may seek reimbursement of up to \$800 per semester for two undergraduate courses or one graduate course. The maximum tuition allowed is \$2,400 per academic year, for a total of six undergraduate, or three graduate, courses.</p> <p>Officers who take and successfully pass a foreign language test that emphasizes conversational skills receive a language stipend of \$50 per pay period or \$1,300 per year in additional pay.<sup>18</sup></p>

12 New York Police Department, *Salary & Benefits*, <https://www1.nyc.gov/site/nypd/careers/police-officers/po-benefits.page> (last visited May 5, 2022).

13 New Orleans Police Department, *Salary & Benefits*, <https://joinnypd.org/career-paths-and-benefits/> (last visited May 5, 2022).

14 City of Orlando, *Orlando Police Officer Benefits Guide*, <https://www.orlando.gov/Public-Safety/OPD/Apply-to-Become-an-Orlando-Police-Officer/Orlando-Police-Officer-Benefits-Guide> (last visited May 5, 2022).

15 City of Richmond, *Police—Join Our Team*, <https://rva.gov/police/personnel> (last visited May 5, 2022).

16 St. Louis Metropolitan Police Department, *Police Recruitment*, <https://www.slmpdrecruit.org/> (last visited May 5, 2022).

17 Virginia Beach Police Department, *Benefits & Pay*, <https://www.vbgov.com/government/departments/police/careers/Pages/Benefits-Pay.aspx> (last visited May 5, 2022).

18 Metropolitan Police Department, *MPD Benefits*, <https://joinmpd.dc.gov/basic-page-2020/mpd-benefits> (last visited May 5, 2022).