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Spring 2022

Do Police Union Contracts Hinder Accountability: A Quantitative Approach

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By: Jacob Bell

April 27, 2022

Abstract

This paper provides preliminary quantitative evidence about the relationship between police union collective bargaining agreements (CBAs) and police accountability, bridging a previously existing gap in the empirical literature on police union contracts. I conduct linear regression analysis of a database of 178 police union contracts (coded by discipline-related terms) and a database of the corresponding police departments' performance on a wide range of accountability-related indicators. I find no statistically significant relationships between any discipline-related contract terms and accountability metrics, nor a significant relationship between the number of discipline-related contract terms and accountability indicators. Although this exploratory quantitative analysis is constrained by considerable empirical limitations, it suggests that more careful research may be needed to determine whether, in the aggregate, police union contracts are indeed barriers to police accountability.

Table of Contents

Introduction

Since the 2014 shooting of Michael Brown in Ferguson, police violence in cities like Ferguson, Baltimore, and Minneapolis has accelerated a national reckoning over policing in the United States.[1] Observers across the political spectrum have coalesced around the idea that police unions and their powerful collective bargaining agreements (CBAs) are partly to blame for the perceived impunity with which police departments operate. For instance, a political scientist from the conservative Manhattan Institute recently published an article claiming, "[c]ollective bargaining agreements with police too often constrain department leadership and tilt the playing field away from accountability for officers' misconduct."[2] Meanwhile, the ACLU claims that such contracts "protect officers with special rights from punishments and consequences, and block [the] ability to generate holistic public safety systems."[3] Anecdotal evidence from police departments across the country seems to validate this hypothesis.[4]

Police unionization is widespread in the United States. Even as union power in general has significantly declined, about seventy-five to eighty percent of American police officers were members of a labor union in 2017.[5] Police unions are also successful in bargaining for wages, benefits, and other labor protections. Unionized police officers are paid better than non-unionized officers. In 2013, starting salaries for police officers were about 19 percent higher in departments with a collective bargaining agreement, compared to those without a CBA. [6] Unionized police officers also enjoy more generous benefits, on average. A 2011 empirical survey of unions found that pensions for public sector unions—and particularly police unions—

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[1] *See* Mitch Smith, *Policing: What Changed (and Didn't) Since Michael Brown Died*, N.Y. TIMES (Aug. 7, 2019), https://www.nytimes.com/2019/08/07/us/racism-ferguson.html [https://perma.cc/RM8E-WNSY] (discussing the legacy of Michael Brown, an unarmed Black teenager shot by police in Ferguson, Missouri, on policing); Justine Barron, *Freddie Gray, Five Years Later*, THE APPEAL (Apr. 23, 2020), https://theappeal.org/freddie-gray-five-years-later/ [https://perma.cc/YRX7-5Q32] (examining a similar legacy of Freddie Gray, an unarmed Black man killed by police in Baltimore, Maryland); Ram Subramanian & Leily Arzy, *State Policing Reforms Since George Floyd's Murder*, BRENNAN CTR. (May 21, 2021), https://www.brennancenter.org/our-work/research-reports/state-policing-reforms-george-floyds-murder [https://perma.cc/SUH4-75AR] (tracking the impact on police reform efforts of the murder of George Floyd, an unarmed Black man, by police in Minneapolis, Minnesota).

[2] Daniel DiSalvo, *Police Reformers' Next Step: A Hard Look at Union Contracts*, MANHATTAN INST. (Feb. 2, 2021), https://www.manhattan-institute.org/police-reform-hard-look-at-union-contracts [https://perma.cc/XG5T-XFLK].

[3] Paige Fernandez & Nicole Zayas Fortier, *Protect People, Not Police Lobbyists*, ACLU (June 1, 2021), https://www.aclu.org/news/criminal-law-reform/protect-people-not-police-lobbyists [https://perma.cc/MWB3-LX2H].

[4] *See* Stephen Rushin, *Police Union Contracts*, 66 Duke L.J. 1191, 1193-98 (2017) (discussing how police union contracts seemed to have prevented officers who committed particularly egregious acts of violence on civilians from being held legally accountable in Chicago, Illinois and Baltimore, Maryland).

[5] *See* Jon D. Michaels, *Privatization's Progeny*, 101 Geo. L.J. 1023, 1045 (2013) ("Government employees have fared far better than their counterparts in the private sector, where effective unionization has long been in a state of free fall."); RON DELORD & RON YORK, LAW ENFORCEMENT, POLICE UNIONS, AND THE FUTURE 179 (2017) (estimating police union membership).

[6] BRIAN A. REAVES, U.S. DEP'T OF JUSTICE, LOCAL POLICE DEPARTMENTS, 2013: PERSONNEL, POLICIES, AND PRACTICES (2015), https://bjs.ojp.gov/content/pub/pdf/lpd13ppp.pdf [https://perma.cc/3G8J-69CH].

are more generous than analogous private sector retirement plans.[7] Most importantly, police unions enable officers to negotiate for "a greater say in internal policy matters," which almost always includes disciplinary procedures.[8] Police officers consider say over disciplinary practices a fundamental privilege because they "often function in hostile environments" and "should have the ability to exercise their authority with some discretion to achieve public safety goals."[9]

Empirical explorations of the effects of police unionization on police conduct are scarce, although recent scholarship has found a generally positive relationship between unionization and misconduct. In 2019, researchers at the University of Chicago Law School compared the incidence of violent misconduct of unionized and non-unionized law enforcement officers in Florida between 1996 and 2015.[10] Exploiting a 2003 Florida Supreme Court Decision that conferred collective bargaining rights on sheriffs' deputies (but leaving police departments unaffected), the researchers found that sheriff's deputies exhibited a 40 percent increase in violent misconduct relative to municipal police officers.[11]

Economist Felipe Goncalves called these results into question, however, finding no statistically significant increases in officer misconduct among Florida law enforcement officers after the introduction of unionization.[12] Goncalves found that "the crucial presumption that [police] unions are able to successfully protect problem officers is not borne out among Florida misconduct investigations."[13]

Subsequent research has found evidence of relationships between collective bargaining rights and civilian deaths at the hands of the police in the United States. In a 2021 paper, a team

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[7] Alicia H. Munnell, Jean-Pierre Aubry, Josh Hurwitz & and Laura Quinby, *Unions and Public Pension Benefits*, CTR. FOR RET. RSCH. AT B.C. 2-5 (2011), https://crr.bc.edu/wp-content/uploads/2011/07/slp_19.pdf [https://perma.cc/2NQZ-PVE6] (noting this is true despite the fact that "[p]lans for police and fire employees are considerably more expensive than those for teachers or general employees, because public safety workers retire at a much younger age.").

[8] *Rushin*, supra note 4 at 1205; Tate Fegley, *Police Unions and Officer Privileges*, 25 INDEP. REV. 165, 169 (2020) (quoting the Florida Police Benevolent Association, the largest police union in Florida: "We give law enforcement officers a voice in the day-to-day affairs of their agencies and we fight to win them better pay, benefits and working conditions.").

[9] Jamein Cunningham, Donna Feir & Rob Gillezeau, *Overview of Research on Collective Bargaining Rights and Law Enforcement Officer's Bills of Rights* 5 (Dec. 2020) (unpublished manuscript), https://craftmediabucket.s3.amazonaws.com/uploads/LEOBR_Cunningham_12_3_20.pdf [https://perma.cc/7BA4-MLVZ].

[10] *See* Dhammika Dharmapala, Richard H. McAdams & John Rappaport, *Collective Bargaining Rights and Police Misconduct: Evidence from Florida* (U. Chi. Coase-Sandor Inst. for Law & Econ., Research Paper No. 831, 2019), https://ssrn.com/abstract=3095217 [https://perma.cc/2VUN-4JWD].

[11] *Id.* at 19.

[12] *See* Felipe Goncalves, *Do Police Unions Increase Misconduct?* 3 (Mar. 2021) (unpublished manuscript), https://static1.squarespace.com/static/58d9a8d71e5b6c72dc2a90f1/t/60622724b6a902732b636324/1617045285669/Goncalves_Unions.pdf [https://perma.cc/SZV7-C2NL] ("The evidence suggests that unionization does not lead to meaningful increases in fatal incidents by police or officer decertifications in either the national or Florida sample.").

[13] *Id.* at 31.

of economists examined variation in the location and timing of when officers were granted bargaining rights to determine the impact of collective bargaining rights on police killings of civilians, focusing specially on *duty to bargain* provisions.[14] The authors find that the "introduction of collective bargaining rights for law enforcement drives a substantial increase in non-white civilians killed by law enforcement over both the medium and the long-run," suggesting that collective bargaining rights accounted for 10 percent of the total non-white civilian deaths during the period studied.[15]

Such findings comprise an important foundation for empirical analyses of police union contracts *themselves*. In a groundbreaking 2017 article, Professor Stephen Rushin of the Loyola University Chicago School of Law found compelling, albeit qualitative, evidence that police union CBAs' inclusion of problematic, discipline-related terms frustrates attempts to hold officers accountable for misconduct.[16] By collecting and coding a dataset of 178 police union contracts from the nation's largest cities, Rushin dramatically advanced the field by analyzing the relationship between specific contract terms and police misconduct and accountability.

This paper seeks to build on this advancement by adding a quantitative element. It is a preliminary attempt to answer the question: which specific police union contract terms, if any, are associated with variations in police misconduct and accountability?

Hypothesis

In a previous iteration of this project, I conducted qualitative, interview-based research into how police union contracts are drafted and negotiated. Between February and April 2022, I conducted telephone interviews with ten lawyers involved in drafting and negotiating police union contracts in major U.S. cities.[17] The lawyers came from a broad cross-section of U.S.

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[14] Jamein Cunningham, Donna Feir & Rob Gillezeau, *Collective Bargaining Rights, Policing, and Civilian Deaths*, IZA INST. OF LAB. ECON. 2 (Mar. 2021), https://ftp.iza.org/dp14208.pdf [https://perma.cc/NA38-C5V3]. "Duty to bargain" provisions are imposed by state statutes, requiring municipalities to "bargain in good faith with their employees' representative and to sign any collective bargaining agreement that has been reached." *Bargaining in Good Faith With Employees' Union Representative (Section 8(d) & 8(a)(5))*, NLRB, https://www.nlrb.gov/about-nlrb/rights-we-protect/the-law/bargaining-in-good-faith-with-employees-union-representative#:~:text=Employers%20have%20a%20legal%20duty,agreement%20that%20has%20been%20reached . [https://perma.cc/2CGJ-A4B6] (last visited Apr. 20, 2022).

[15] Cunningham et al., supra note 14, at 29. The authors stated their work is "closely connected" to the work of Dhammika Dharmapala et al., *supra* note 10 and Felipe Goncalves, *supra* note 12, but differentiated their methodology from that of Goncalves in three key ways: "First, we focus on deaths by race while he focuses on aggregate deaths, which may mask heterogeneity in police use of lethal force. Second, our research examines a different treatment: the duty to bargain with law enforcement officers' unions. The duty to bargain may not only strengthen the local power of unions that ultimately establish themselves, but it may also have spillover effects on non-unionized departments within the same state. Finally, we focus on the time period before his begins - one with a rapid increase in police violence." *Id*. at 9.

[16] Rushin*, supra* note 4 at 1252.

[17] *See* Appendix B for a discussion of the challenging nature of identifying outside counsel to police unions. *See* Appendix C for a list of the law firms and lawyers I was able to identify.

cities,[18] and espoused a diverse range of beliefs about police unionization, the role of the police in the communities they serve, and the need for police reform. However, almost all the lawyers I interviewed emphasized (sometimes unprompted) that police union contracts (1) are unfairly maligned by police reform activists; (2) do not vary widely between police unions; and (3) are not materially different from those used by most public sector unions.[19]

Although this paper does not test these claims directly, it *does* test the relationship between police union contracts and a proxy that captures the spirit of these claims: whether police unions are effectively held accountable. Building on the literature and my interviews with police union lawyers (and taking them at their word), I hypothesize that the inclusion of discipline-related contract terms would not be significantly associated with accountability-related policing outcomes.

Materials & Methods

My sample is derived from 178 police union contracts from the largest American cities between 2014 and 2016 gathered by Professor Stephen Rushin for a 2017 article in the *Duke Law Journal*.[20] It was first large-scale collection of police union CBAs coded by specific contract

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[18] Albuquerque, New Mexico; Austin, Texas; Baltimore, Maryland; Fort Worth, Texas; Jacksonville, Florida, Las Vegas, Nevada; Memphis, Tennessee; Philadelphia, Pennsylvania, San Francisco, California; and San Jose, California.

[19] These observations are largely consistent with two foundational concepts of the empirical contracts literature. First, contract "stickiness." In a 2021 paper, law professor Julian Nyarko found that even the most high-value and high-sophistication commercial contracts, "material" contracts, strikingly lacked dispute settlement provisions that would have better insulated parties from legal liability. He concluded that parties engaged in a "distinct apathy toward addressing dispute resolution through contracting" and that "defaults are significantly more important for transactions between even the most sophisticated commercial actors." Julian Nyarko, *Stickiness and Incomplete Contracts*, 88 U. CHI. L. REV. 1, 1 (2021). In my research, all of the interviewed lawyers noted that police union contracts are often based on boilerplate templates that largely do not change year-on-year. I have little reason to believe that incremental changes to police union contracts are significantly more prone to customization than high-value commercial contracts, and thus it is reasonable to believe that terms, even discipline-related terms, are driving variation in accountability-related policing indicators.

Second, non-contractualism. In a seminal 1963 paper, law professor Stuart Macaulay found that repeat parties in mutually beneficial contracting relationships—such as that between police unions and municipalities with which they bargain—often forego legal formalities (and sometimes, legal counsel), choosing instead to bargain amongst themselves. Stuart Macaulay, *Non-Contractual Relations in Business: A Preliminary Study*, 28 AM. SOC. REV. 1, 7-12 (1963) (finding in a seminal paper that counsel are "called into the dispute settlement process only after the businessmen settle mattes in their own way" and recalling that one businessman observed "[y]ou can settle any dispute if you keep the lawyers and accountants out of it."). In my research, many of the interviewed lawyers stated that they often took a backseat to union representatives in negotiations with municipalities. Perhaps when negotiations are conducted informally, contract terms are less prone to influence variation in misconduct indicators.

[20] Rushin, *supra* note 4 at 1218-19. A note of caution about the timeframe is in order. This dataset includes contracts in force between 2014 and 2016. To be sure, the political discourse surrounding policing has evolved since that time. *See, e.g.*, Jocelyn Simonson, *Police Reform Through a Power Lens*, 130 YALE L.J. 778, 811 (2021) (surveying the "public debate about police policies such as the use of deadly force and police surveillance of Black and brown people."). However, I do not think such a time lag is fatal to the analysis in this paper. The majority of the underlying data in the Police Scorecard metrics (against which I analyzed Rushin's police union contract dataset) were collected between 2016 and 2020. It is reasonable to believe that a couple-year lag between the execution of a

provision and covered "approximately 41.4 percent of municipal police officers in states that permit or require collective bargaining."[21]

Rushin coded the dataset to identify the frequency of disciplinary provisions, eventually settling on a scheme involving seven "recurring and potentially problematic disciplinary provisions" that help to limit officer accountability.[22] The coded contract provisions are replicated in Table 1.[23]

Table 1: Rushin's Potentially Problematic Contract Provisions	
Provision	**Definition**
Delays Interrogations of Officers Suspected of Misconduct	The contract includes any stipulation that delays officer interviews or interrogations after alleged wrongdoing for a set length of time (for example, two days or twenty-four hours).
Provides Access to Evidence Before Interview	The contract provides officers with access to evidence before interviews or interrogations about alleged wrongdoing (for example, complete investigative files or statements from other witnesses).
Limits Consideration of Disciplinary History	The contract mandates the destruction or purging of disciplinary records from personnel files after a set length of time, or limits the consideration of disciplinary records in future employment actions.
Limits Length of Investigation or Establishes Statute of Limitations	The contract prohibits the interrogation, investigation, or punishment of officers on the basis of alleged wrongdoing if too much time has elapsed since its alleged occurrence, or since the initiation of the investigation.
Limits Anonymous Complaints	The contract prohibits supervisors from interrogating, investigating, or disciplining officers on the basis of anonymous civilian complaints.
Limits Civilian Oversight	The contract prohibits civilian groups from acquiring the authority to investigate, discipline, or terminate officers for alleged wrongdoing.
Permits or Requires Arbitration	The contract permits or requires arbitration of disputes related to disciplinary penalties or termination.

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specific police union contract and measures of that city's police department's effectiveness would be an ideal timeframe for contract provisions to influence (or not) the indicators.

[21] *Rushin*, supra note 4, at 1219. *See id*. at 1219, n. 129 for Rushin's explanation of the methodology behind this calculation.

[22] *Id*. at 1219.

[23] *Id*. at 1220. *See id*. at 1224-29 for a discussion of how each term has the potential to limit officer accountability.

These 178 contracts comprise my sample. In Table 2 and Figure 1, I report basic descriptive statistics about the sample.[24]

Table 2: Descriptive Statistics of Sample		
Contract Term	**Share of Contracts Containing Term**	**Number of Contracts Containing Term**
Delays Interview	27.9%	50
Provides Access to Evidence Before Interview	18.4%	33
Limits Consideration of Disciplinary History	48.6%	87
Limits Length of Investigation or Establishes Statute of Limitations	25.7%	46
Limits Anonymous Complaints	17.9%	32
Limits Civilian Oversight	22.9%	41
Permits or Requires Arbitration	64.8%	116
Observations	**177**	

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[24] As you can see from Table 2, my sample only included 177 contracts—one fewer than Rushin's original sample. This is because the dataset from Police Scorecard (which supplied the dependent variables in my analysis) was missing data for one city, Topeka, Kansas.
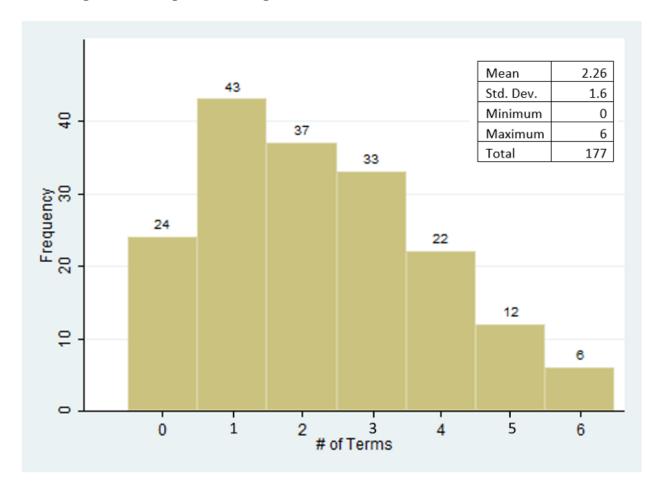
Figure 1: Histogram Showing Number of Problematic Terms in Each Contract

Mean	2.26
Std. Dev.	1.6
Minimum	0
Maximum	6
Total	177

I compared this coded sample of contracts against objective measures of police department performance calculated by Police Scorecard, an independent watchdog organization.[25] Using data from state and federal databases, public records requests, and media reports, Police Scorecard compiled a database of hundreds of metrics of policing outcomes for over 16,000 municipal and county law enforcement agencies.[26] Measured outcomes ranged from racial disparities in arrests to use of force events per capita to clearance rate, which Police Scorecard divided into four categories: (1) accountability, (2) approach to policing, (3) funding, and (4) violence.[27] It then created a composite score of the four categories (each city's "overall score").[28]

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[25] *About the Police Scorecard,* POLICE SCORECARD, https://policescorecard.org/about [https://perma.cc/M3Y3-2W8Q] (last visited Apr. 4, 2022).

[26] *Id*.

[27] *Id*.

[28] *Id*.

Because Rushin's contract coding scheme examined only discipline-related contract provisions,[29] I limited my primary analysis of Police Scorecard's data to metrics related to accountability. While I do not discount the possibility that discipline-related contract terms may be associated with police funding or use-of-force outcomes,[30] I believe this limitation is nonetheless appropriate to maintain like-for-like analysis. Below is a brief methodological description of Police Scorecard's accountability-related metrics.[31]

Table 3: Police Scorecard's Methodology for Accountability-Related Metrics	
Category	**Methodology**
Overall Accountability Score	Extent to which investigations into civilian complaints of police misconduct result in a sustained finding of misconduct against the officers involved, which is usually the first step to imposing disciplinary consequences. ***Formula***: 0.5*(*Percentile* Civilian Complaints Sustained) + 0.5*(Percent Discrimination, Excessive Force, and Criminal Complaints Sustained).
Civilian Complaints Sustained	Percentage of founded/substantiated (sustained) complaints compared to all civilian complaints filed against the agency. *Note*: "Overall Accountability Score" uses this metric expressed as a *percentile*, as compared to other agencies of similar size jurisdiction.
Discrimination Complaints Sustained	Percentage of discrimination complaints founded/substantiated (sustained) compared to all excessive use of force complaints filed against the agency.
Excessive Force Complaints Sustained	Percentage of use of force complaints founded/substantiated (sustained) compared to all use of force complaints filed against the agency.
Criminal Complaints Sustained	Percentage of criminal complaints founded/substantiated (sustained) compared all criminal complaints filed against the agency.

Using the software package Stata, I conducted inferential statistical analysis using linear regression to identify whether individual discipline-related contract terms were associated with accountability-related policing outcomes. Regression analysis is a useful tool for controlling—or

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[29] *See* Table 1.

[30] *See*, *e.g.,* Keith L. Alexander, Steven Rich & Hannah Thacker, *The Hidden Billion-Dollar Cost of Repeated Police Misconduct*, WASH. POST (Mar. 9, 2022), https://www.washingtonpost.com/investigations/interactive/2022/police-misconduct-repeated-settlements/ [https://perma.cc/RSF9-YDWM] ("More than $1.5 billion has been spent to settle claims of police misconduct involving thousands of officers repeatedly accused of wrongdoing."). Many police union contracts contain provisions that explicitly require municipalities to pay for police misconduct settlements. *Contracts Searchable Database*, NIXTHE6, https://nixthe6.org/contracts/ [https://perma.cc/7A8Q-BRHY] (last updated Mar. 2022) (showing 250 police union contracts containing a clause requiring municipalities to pay for police misconduct settlements from a searchable database of 836 police union contracts).

[31] *Data Dictionary*, POLICE SCORECARD (Jan. 2, 2021), https://docs.google.com/document/d/1KeQH-grSplYzTqzX05byH5fm89f9C_ArSJYHWnkHlSw/edit#heading=h.kk1966kbedef [https://perma.cc/S6HC-EJDK].

accounting for—the influences of other variables that might also be relevant in accurately predicting the outcome being observed.[32] My input, or independent, variables are the coded contract provisions.[33] Note that all input variables are binary, meaning such a provision either exists in the contract, or it does not. My output, or dependent, variables are the accountability metrics.[34] All output variables are continuous, meaning they are numeric variables that have an infinite number of values between any two values. Again, my theoretical hypothesis is that the inclusion of discipline-related contract terms would not be significantly associated with accountability-related policing outcomes, controlling for other input variables.

Results

I found no statistically significant associations between specific discipline-related contract terms and accountability-related policing metrics. In Table 4, I report the linear regression results between the contract terms and the policing metrics.

Table 4: Linear Regression Model Predicting Overall Accountability Score[35]				
	Coef.	**Std. Err.**	**t**	**P>t**
Delays Interview	-0.001	0.028	-0.030	0.976
Provides Access to Evidence Before Interview	-0.010	0.031	-0.340	0.737
Limits Consideration of Disciplinary History	0.019	0.023	0.840	0.400
Limits Length of Investigation or Establishes Statute of Limitations	0.002	0.027	0.060	0.950
Limits Anonymous Complaints	-0.046	0.030	-1.540	0.125
Limits Civilian Oversight	-0.023	0.027	-0.870	0.384
Permits or Requires Arbitration	0.019	0.023	0.830	0.406
Constant	0.282***	0.021	13.220	0.000
R-Squared	0.028			
Adjusted R-Squared	-0.013			
Observations	177			
* p<.05; ** p<.01; *** p<.001				

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[32] W. PHILLIPS SHIVELY, THE CRAFT OF POLITICAL RESEARCH 99-100 (5th ed. 2002).

[33] *See infra* Table 1.

[34] Overall Accountability Score and the percentage of the following types of complaints sustained compared to the total number of complaints of that type filed: all types of complaints, discrimination complaints, excessive force complaints, and criminal complaints.

[35] As a reminder, "Overall Accountability Score" represents the extent to which investigations into civilian complaints of police misconduct result in a sustained finding of misconduct against the officers involved. It is a function of the weighted averages of the types of complaints sustained. *See infra* Table 3.

As is clear from the extremely low R-Squared value, very little (2.8 percent) of the changes in the Overall Accountability Score can be predicted by the existence of any of the discipline-related contract terms.[36] That contracts with a provision limiting consideration of disciplinary provision is associated with a modest, not statistically significant rise (1.9 percent) in the Overall Accountability Score thus does not tell us much.[37]

In Appendix A, I report the linear regression results between the contract terms and the additional accountability-related policing metrics, none of which had significant associations with specific contract terms. In fact, I found very few statistically significant associations between terms and outcomes when I conducted linear regressions for every possible dependent variable collected by Police Scorecard, across all outcome categories (accountability, approach to policing, funding, and violence).[38] In Table 5 I report the only statistically significant associations I found.

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[36] The R-squared statistic indicates how much of the variation in the dependent variable of is explained by the variation in the independent variable. The R-squared statistic varies 0 and 100 percent, where 0 represents that none of the variation is explained, and 100 represents that all, of the variation is explained. A regression with a "high" R-squared statistic may be used to claim that the regression fits the data well and explains the observed variation. Michelle M. Burtis & Darwin V. Neher, *Correlation and Regression Analysis in Antitrust Class Certification*, 77 ANTITRUST L.J. 495, 531 (2011).

[37] The correlation coefficient is a statistical measurement of the linear relationship between two variables; it varies between positive one and negative one. *Id.* at 497. In the present context, a value of positive one would indicate that there exists a perfect positive linear relationship between the existence of a specific contract term and Overall Accountability Score. The coefficient of the provision that limits consideration of disciplinary history is 0.019, indicating it is all but unrelated to the variation in Overall Accountability Score.
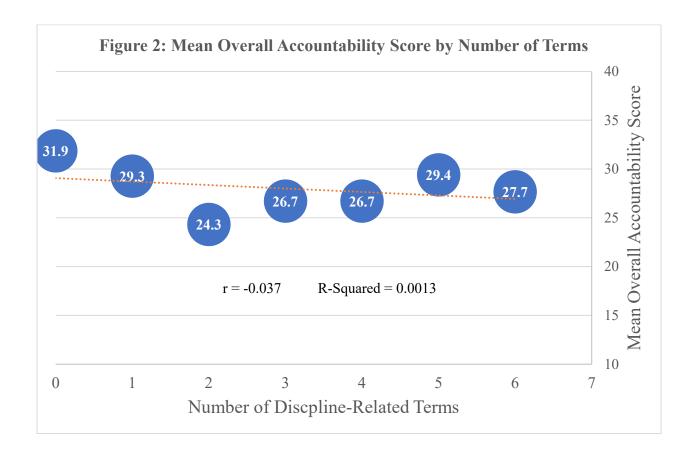
[38] Police Scorecard collected hundreds of data points per police department. However, I only conducted regression analysis on factors for which data was available for at least 60 of the municipalities contained in my police union contract sample (39 factors).

Table 5: The Only Significant Associations Between Terms and Policing Outcome Metrics				
	Percentile Use of Force	Civilians Killed / 10,000 Arrests	Percentile Murder Solve Rate	Pop. Adj. Misconduct Settlement Payouts
Delays Interview				
Provides Access to Evidence Before Interview			**0.135*** (-0.062)	
Limits Consideration of Disciplinary History				
Limits Length of Investigation or Establishes Statute of Limitations		**-0.492*** (-0.235)		**0.224*** (-0.097)
Limits Anonymous Complaints			**-0.168**** (-0.060)	
Limits Civilian Oversight			**-0.111*** (0.053)	
Permits or Requires Arbitration	**-0.141*** (-0.056)			
Standard Error in Parentheses * p<.05; ** p<.01; *** p<.001				

In one final analysis, I wanted to check whether the *number* of discipline-related contract terms could predict accountability-related outcomes.[39] In Figure 2, I present a scatterplot of these variables. The horizontal axis indicates values for the number of the coded discipline-related contract terms and the vertical axis indicates values for the Overall Accountability Score. Note that for display purposes, the points on the scatterplot represent each number of terms' *mean* Overall Accountability Score. However, the r and R-squared value correspond to the original, 177-observation Overall Accountability Scores, rather than the mean scores.

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[39] Note that "number of terms" was limited to the seven coded categories.

Figure 2: Mean Overall Accountability Score by Number of Terms

r = -0.037   R-Squared = 0.0013

Number of Discpline-Related Terms

Mean Overall Accountability Score

As is clear from Figure 2, there is a negative, but extremely weak relationship between the number of discipline-related terms and Overall Accountability Score. Although it may be tempting to conclude that because "the line is going down," accountability goes down as the number of terms go up, the regression coefficient, *r*, and R-Squared values are too close to zero to draw any sort of conclusion from these data.[40]

General Discussion

Limitations and Future Research

I found no statistically significant relationships between specific discipline-related terms in police union contracts and measures of those police department's performance on accountability indicators; I found no statistically significant relationship between the number of such terms and accountability indicators. It is therefore tempting to claim that such results validate my hypothesis—that the inclusion of discipline-related contract terms would not be

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[40] *See* DANIEL MUIJS, DOING QUANTITATIVE RESEARCH IN EDUCATION WITH SPSS 163-64 (2d ed. 2011) for a discussion of the derivation and meaning of the regression coefficient and the R-Squared values.

significantly associated with accountability-related policing outcomes. However, significant limitations to my research prevent me from making such a claim.

First, the time lag between the Rushin dataset (containing contracts in force between 2014 and 2016) and the Police Scorecard dataset (containing indicators collected between 2016 and 2020) may not be as trivial as I suggested above.[41] It is possible that I was not comparing like-for-like independent and dependent variables in my analysis. Second, I relied too heavily on a coding scheme devised by someone else. In our correspondence, Professor Rushin encouraged me to code the contracts myself to produce more reliable results.[42] Due to time constraints, I did not heed his advice, which could have partly compromised the accuracy of my results. Third, my sample was too limited. As Rushin himself identifies, this coding scheme "does not capture all potentially problematic provisions in police union contracts," but only those related to police accountability.[43]

To address each of these limitations, I would like to replicate Rushin's coding scheme from scratch, using an even larger—and more current—dataset and a wider set of contract terms that may be linked to non-accountability variables in Police Scorecard's dataset.[44] Such terms could include—but are not limited to—whether the contract restricts layoffs, requires the city to pay for misconduct, requires overtime and hourly minimums for court appearances, and stipulates procedures for body-worn cameras. One last limitation is the sophistication of my quantitative analysis. In future, I would like to work with a researcher with a wider quantitative skillset to measure and report relationships between variables that go beyond simple linear regressions.

Contribution

This is a preliminary attempt to answer the question: which specific police union contract terms, if any, are associated with variations in police misconduct and accountability? It is, in effect, a quantitative extension of Stephen Rushin's impressive qualitative assessment of the police union contract landscape.[45]

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[41] *See supra* note 20.

[42] Email from Stephen Rushin, Professor of Law, Loy. U. Chi. Sch. L., to Jacob Bell (Jan. 19, 2022) (on file with author) ("[C]ontractual language can be tricky, and coding decisions are highly dependent on the variable definitions, procedural choices, coders, etc. So I'd strongly recommend that you pick whatever contracts you are interested in and analyze them yourself rather than relying on any one organization or individual interpretation. This will produce more reliable results.").

[43] Rushin*, supra* note 4, at 1221.

[44] Nix the 6, a project by the police watchdog organization Campaign Zero, has large database of 836 police union contracts as of April 26, 2022. *See* NIXTHE6, *supra* note 30.

[45] Rushin, *supra* note 4.

Practical Implications

This paper's (admittedly constrained) findings of no significant relationships between the number and types of police union CBA terms and accountability outcomes may frustrate critiques of modern policing that focus heavily on police union contracts.[46] Such critiques may be overly-simplistic or perhaps fruitlessly searching for a magic bullet to stem the tide of police excesses. This is important, because as the backlash to the "Defund the Police" movement has illustrated, advocates for police reform are often at-odds with public opinion.[47] Police unions are composed of police officers who are often viewed as trusted protectors of their communities.[48] Perhaps advocates for reform should consider whether there is lower-hanging—and more palatable—fruit than police union contracts.

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[46] *See*, *e.g.*, the critiques of police union contracts referenced *supra* notes 2, 3.

[47] *See*, *e.g.*, Chris Cillizza, *Even Democrats Are Now Admitting 'Defund the Police' Was a Massive Mistake*, CNN (Nov. 5, 2021), https://www.cnn.com/2021/11/05/politics/defund-the-police-democrats/index.html [https://perma.cc/95FG-BP5C] (discussing how Democrats, who largely supported initial calls to "Defund the Police" in the fallout of the death of George Floyd, came to view the slogan as an electoral liability and a barrier to meaningful police reform).

[48] *See*, *e.g.*, *Americans' Trust in Law Enforcement, Desire to Protect Law and Order on the Rise*, Ipsos (Mar. 5, 2021), https://www.ipsos.com/en-us/americans-trust-law-enforcement-desire-protect-law-and-order-rise [https://perma.cc/Q7L8-43KE] ("Sixty-nine percent of Americans trust local police and law enforcement to promote justice and equal treatment for people of all races (up from 56%), and 52% feel the same about police unions (up from 40%)."). To be sure, Black Americans' trust in police has historically run well-below that of white Americans. However, polling from Gallup indicates that Black Americans' trust in police recovered in 2021 from an all-time low in 2020. Jeffrey M. Jones, *In U.S., Black Confidence in Police Recovers From 2020 Low*, Gallup (July 14, 2021), https://news.gallup.com/poll/352304/black-confidence-police-recovers-2020-low.aspx [https://perma.cc/9X59-QMYN].

Appendix A: Additional Linear Regression Results

Table 6: Linear Regression Model Predicting Percentage of All Complaints Sustained[49]				
	Coef.	**Std. Err.**	**t**	**P>t**
Delays Interview	-0.023	0.040	-0.570	0.567
Provides Access to Evidence Before Interview	0.026	0.045	0.590	0.560
Limits Consideration of Disciplinary History	0.023	0.033	0.690	0.490
Limits Length of Investigation or Establishes Statute of Limitations	0.005	0.040	0.130	0.893
Limits Anonymous Complaints	-0.046	0.045	-1.020	0.308
Limits Civilian Oversight	-0.044	0.037	-1.200	0.231
Permits or Requires Arbitration	-0.010	0.031	-0.310	0.754
Constant	0.190	0.028	6.670	0.000
R-Squared	0.028			
Adjusted R-Squared	-0.026			
Observations	134			
* p<.05; ** p<.01; *** p<.001				

Table 7: Linear Regression Model Predicting Percentile of Agency With Respect to Percent of All Complaint Types Sustained				
	Coef.	**Std. Err.**	**t**	**P>t**
Delays Interview	0.007	0.066	0.110	0.913
Provides Access to Evidence Before Interview	-0.014	0.074	-0.200	0.845
Limits Consideration of Disciplinary History	0.027	0.054	0.500	0.617
Limits Length of Investigation or Establishes Statute of Limitations	0.012	0.066	0.180	0.857
Limits Anonymous Complaints	-0.134	0.074	-1.820	0.072
Limits Civilian Oversight	-0.040	0.060	-0.660	0.509
Permits or Requires Arbitration	0.056	0.052	1.080	0.284
Constant	0.476	0.047	10.160	0.000
R-Squared	0.039			
Adjusted R-Squared	-0.015			
Observations	134			
* p<.05; ** p<.01; *** p<.001				

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[49] As Police Scorecard notes, this metric could reflect selection bias regarding who is filing complaints and the level of difficulty of each department's complaint filing system. Police Scorecard, *supra* note 25, at 23.

Table 8: Linear Regression Model Predicting Percentage of Use of Force Complaints Sustained				
	Coef.	Std. Err.	t	P>t
Delays Interview	0.016	0.043	0.370	0.711
Provides Access to Evidence Before Interview	-0.018	0.054	-0.340	0.737
Limits Consideration of Disciplinary History	0.040	0.033	1.190	0.235
Limits Length of Investigation or Establishes Statute of Limitations	-0.004	0.043	-0.100	0.921
Limits Anonymous Complaints	-0.016	0.050	-0.330	0.741
Limits Civilian Oversight	-0.032	0.039	-0.820	0.412
Permits or Requires Arbitration	-0.063	0.033	-1.900	0.061
Constant	0.109	0.031	3.530	0.001
R-Squared	0.064			
Adjusted R-Squared	-0.01			
Observations	99			
* p<.05; ** p<.01; *** p<.001				

Table 9: Linear Regression Model Predicting Percentage of Discrimination Complaints Sustained				
	Coef.	Std. Err.	t	P>t
Delays Interview	0.009	0.013	0.720	0.472
Provides Access to Evidence Before Interview	-0.010	0.017	-0.620	0.538
Limits Consideration of Disciplinary History	-0.006	0.010	-0.620	0.535
Limits Length of Investigation or Establishes Statute of Limitations	0.015	0.013	1.140	0.256
Limits Anonymous Complaints	0.002	0.015	0.150	0.878
Limits Civilian Oversight	0.005	0.011	0.490	0.626
Permits or Requires Arbitration	0.001	0.009	0.090	0.927
Constant	0.013	0.009	1.560	0.122
R-Squared	0.041			
Adjusted R-Squared	-0.033			
Observations	98			
* p<.05; ** p<.01; *** p<.001				

Table 10: Linear Regression Model Predicting Percentage of Criminal Complaints Sustained				
	Coef.	Std. Err.	t	P>t
Delays Interview	-0.027	0.149	-0.180	0.854
Provides Access to Evidence Before Interview	0.068	0.212	0.320	0.748
Limits Consideration of Disciplinary History	0.153	0.100	1.540	0.129
Limits Length of Investigation or Establishes Statute of Limitations	-0.130	0.141	-0.920	0.361
Limits Anonymous Complaints	-0.058	0.177	-0.330	0.743
Limits Civilian Oversight	-0.100	0.122	-0.810	0.419
Permits or Requires Arbitration	0.102	0.093	1.100	0.278
Constant	0.124	0.084	1.480	0.143
R-Squared	0.09			
Adjusted R-Squared	-0.024			
Observations	64			
* p<.05; ** p<.01; *** p<.001				

Appendix B: Lawyer Interview Methodology

I started by identifying the lawyers involved in drafting and negotiating police union contracts with the fifty largest cities in the country.[50] I was aided immensely by Check the Police, an activist organization that compiled police union contracts for the largest U.S. cities through Freedom of Information Act (FOIA) requests.[51] Even so, finding the lawyers themselves proved more difficult than I anticipated. [52]

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[50] Some police departments in large cities such as Atlanta, Georgia and Charlotte, North Carolina do not have contracts with their police departments because of statewide prohibitions on collective bargaining—for any type of union. Rushin, *supra* note 4, at 1204 n.58. South Carolina and Virginia also prohibit collective bargaining. *Id*.

[51] *Police Contracts Database*, Check the Police, https://www.checkthepolice.org/database [https://perma.cc/4ZHF-N8NQ] (last visited Mar. 7, 2022).

[52] I considered using the "snowball method" of interviewee selection, in which one conducts interviews with a small cohort of subjects and asks each to suggest others who might be willing to participate, and so on. I decided against this method to attempt to control for selection bias. One could foresee a situation in which lawyers referred me to colleagues either (1) in a similar area, subject to the same statutory and market-based constraints or (2) with unrepresentatively similar approaches to or views about police contracts.

Only about ten percent of the contracts specifically referenced the name of the police union's lawyer or lawyers. Next, I tried simple Google searches using variations on the search string ("Name of Union" AND attorney) to find news coverage about labor negotiations between the city and the police union. This method was ultimately ineffective because most search results showed media coverage of instances of criminal defense attorneys representing individual police officers in misconduct and related matters. Indeed, many (if not most) large police unions retain separate counsel for employment and criminal defense matters.

Next, I used Lexis Courtlink to find cases in which the police union was the plaintiff and, separately, when the city was the defendant.[53] I filtered the results by using the opposing party as a keyword search. This method was the most successful. By selecting cases regarding employment, I was able to find the names of the majority of the fifty police unions on my list. For the half-dozen remaining police unions, I used Bloomberg Law's Labor Arbitration Award tracker, for which I was about to find cases referencing the police unions' lawyers.[54] Of the largest fifty cities with police union contracts, was unable to find lawyers who drafted or negotiated contracts with the cities of El Paso, Texas and Tucson, Arizona.[55]

Thankfully, I was able to find the contact information for most lawyers from a combination of law firm websites and the court and arbitration documents described above. However, a handful of lawyers had no law firm websites or websites without listed contact information (!), so I had to scrub Lexis Courtlink for other cases in which those lawyers were involved to find phone numbers. I was unable to find contact numbers for three lawyers, even though state bar records indicated their attorney licenses were still active.

I do not contend that the relationship between police unions and their lawyers are purposefully opaque, nor opaquer than the traditional client-lawyer relationship. However, I was surprised that I needed to consult as many different (and expensive, to the non-institution-affiliated researcher) tools as I did to simply find the names of lawyers representing a quasi-public sector organization. Prior scholarship has bemoaned the dearth of empirical study of police union contracts.[56] The difficulty of completing this first, most basic research step tracks with this observation.

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[53] LexisNexis CourtLink, http://www.lexisnexis.com/Courtlink/online/ [https://perma.cc/CQN9-59EG] (last visited Mar. 7, 2022).

[54] Bloomberg Law Employment Arbitration Decisions, https://www.bloomberglaw.com/product/labor/search/results/ca137ea024076f0cca2e6881fd0ef692 [https://perma.cc/4Q8X-GLJE] (last visited Mar. 7, 2022).

[55] I was unable to find the lawyers who represented the unions of a handful of other cities' police departments.

[56] *See, e.g.*, Rushin*, supra* note 4, at 1198 ("[V]irtually no comprehensive empirical work has examined the prevalence of such provisions in police union contracts across the country.").

Having found the contact information for about forty lawyers who have represented police unions in collective bargaining agreements with large U.S. cities, I emailed each with a request to interview. Ten lawyers agreed to speak with me.

Appendix C: List of Police Unions' Outside Counsel

Table 11: List of Police Unions' Outside Counsel in 50 Largest U.S. Cities			
Pop. Rank	**City**	**Police Union's Law Firm**	**Lawyer**
1	New York	The Quinn Law Firm PLLC	Andrew Quinn
2	Los Angeles	Rains Lucia Stern St. Phalle & Silver, PC	Richard Levine
3	Chicago	Asher, Gittler & D'Alba	Joel D'Alba
4	Houston	Hunton Andrews Kurth	Kelly Sandill
5	Phoenix	Napier, Abdo, Coury & Baillie	James Abdo
6	Philadelphia	Jennings Sigmond	Stephen Holroyd
6	Philadelphia	Willig, Williams & Davidson	Richard Poulson
7	San Antonio	Ronald G. DeLord PLLC	Ron DeLord
8	San Diego	BOBBITT PINCKARD & FIELD	Richard Pinckard
9	Dallas	Lyon, Gorsky & Gilbert, L.L.P.	Bob Gorsky
10	San Jose	Messing Adam & Jasmine LLP	Gregg Adam
11	Austin	Deats Durst & Owen, P.L.L.C.	B. Craig Deats
12	Jacksonville	Delegal Poindexter	Tad Delegal
13	Fort Worth	Lyster & Associates, PPLC	Chris Lyster
14	Columbus	Hunter, Carnahan, Shoub, Byard & Harshman	Russell Carnahan
15	Indianapolis	Ruckelshaus Kautzman Blackwell	Leo Blackwell
16	Charlotte	No Contract. State Prohibition on Collective Bargaining.	
17	San Francisco	Messing Adam & Jasmine LLP	Gregg Adam
18	Seattle	Vick, Julius, McClure, P.S.	Hillary H McClure
19	Denver	Olson Law Firm, LLC	Sean T. Olson
20	Washington	McGillivary Steele Elkin LLP	Gregory McGillivary
21	Nashville	Feeney & Murray	Lee Anne Murray
22	Oklahoma City	Puhl & Wood	Scott Wood
23	El Paso	UNABLE TO FIND	
24	Boston	Decker & Rubin, P.C.	Bryan Decker
25	Portland	Public Safety Labor Group	Anil Karia
26	Las Vegas	Sgro & Roger	David Roger
27	Detroit	Peter P. Sudnick, P.C.	Peter Sudnick
28	Memphis	Godwin, Morris, Laurenzi & Bloomfield, P.C.	Deborah Godwin
29	Louisville	Priddy, Cutler, Naake & Meade, PLLC	David Leightty
30	Baltimore	Schlachman, Belsky, Weiner & Davey, P.A.	Michael Davey

31	Milwaukee	Cermele & Matthews, S.C.	Brendan Matthews
32	Albuquerque	Sanchez, Mowrer & Desiderio P.C.	Frederick Mowrer
33	Tucson	UNABLE TO FIND	
34	Fresno	Rains Lucia Stern St. Phalle & Silver, PC	Rockne A. Lucia Jr.
35	Sacramento	Mastagni Holstedt, P.C.	David P. Mastagni
36	Kansas City	McCauley & Roach, LLC	Sean P. McCauley
37	Mesa	Napier, Abdo, Coury & Baillie	James Abdo
38	Atlanta	No Contract. State Prohibition on Collective Bargaining.	
39	Omaha	Baird Holm, L.L.P.	Chris Hedican
40	Colorado Springs	UNABLE TO FIND	
41	Raleigh	No Contract. State Prohibition on Collective Bargaining.	
42	Long Beach	Law Offices of James E. Trott	James E. Trott
43	Virginia Beach	No Contract. State Prohibition on Collective Bargaining.	
44	Miami	Slesnick & Casey LLP	Don Slesnick
45	Oakland	Berry Wilkinson Law Group	Alison Berry Wilkinson
46	Minneapolis	Rice Michels & Walther	James Michels
47	Tulsa	Douglas D. Vernier Attorney at Law, P.C.	Douglas D. Vernier
48	Bakersfield	Hayes, Ortega & Sanchez, LLP	Dennis J. Hayes
49	Wichita	Steve A.J. Bukaty, Chartered	Steve A.J. Bukaty
50	Arlington	UNABLE TO FIND	