

# Governmental Oversight and Reform Measures

POLICY ASSESSMENT APRIL 2021

Police departments and other law enforcement agencies are insular institutions, and while internal investigations of misconduct and uses of force are necessary, they are not fully sufficient to hold departments and their officers accountable for transgressions. More often than not, external means of accountability also come up short, with too many cases of excessive force and other misconduct leaving the victim uncompensated and the wrongdoer unpunished. Independent governmental review of agencies' policies and practices, as well as patterns of misconduct, are intended to fill these gaps, enhancing the accountability of officers who use excessive force or engage in other forms of misconduct and deterring others from doing so.

## SUMMARY ASSESSMENT

- + The narrowness of the current standard for a federal criminal civil rights violation in policing unnecessarily hinders prosecutions for even the most egregious police uses of excessive force. The criteria should be expanded to include “knowing” and “reckless” deprivations of rights.
- + Reforms in individual police agencies resulting from the U.S. Department of Justice’s (DOJ) “pattern-or-practice” program have been effective in reducing uses of force, civil litigation costs, and improper stops, frisks, and searches. The DOJ should revive and dramatically expand this program and the Collaborative Reform Initiative within the Community Oriented Policing Services (COPS) office.
- + Consent decree and collaborative reform processes should include opportunities for community engagement, such as community outreach plans and inclusion of community voices in the review of new policies.
- + State attorneys general should have the authority to bring pattern-or-practice investigations. Relatedly, consideration should be paid to who is best suited to independently investigate and prosecute particular instances of police misconduct. In some cases, a state attorney general may be better suited than a local prosecutor’s office to manage such inquiries.

## Current Practice and Research

With an average of more than 1,000 fatalities of community members at the hands of law enforcement each year, it is crucial that systems of investigation, indictment, and prosecution of police officers are transparent, equitable, and hold wrongdoers accountable.<sup>1</sup> But judging from the minuscule number of indictments and



convictions for fatal police shootings – figures that have barely changed over the past six years despite increased public awareness and a wave of reforms – current investigation and prosecution practices remain insufficient.

Legal experts attribute the low rate of police officer indictments and convictions for excessive use of force to several factors. The culture of police agencies is typically protective of officers, compromising the independence and efficacy of internal investigations, and this dynamic is bolstered by strong union representation. In addition, prosecutors use different practices when bringing police misconduct cases to grand juries, providing much more exculpatory evidence in the case of police officer defendants than they do with defendants in other criminal cases (Levine, 2016).

At the trial stage, the absence of a clear legal definition of what qualifies as excessive force makes it difficult for jurors to determine if the police have violated the law. Moreover, the criteria for police use of force that constitutes a federal civil rights violation is quite narrow. Finally, the threat of civil cases is a weak deterrent given the protections afforded officers and their agencies through qualified and sovereign immunity.

There are several ways that outside governmental agencies and reform measures could address these challenges. These include passing statutory measures that clarify the definition of excessive use of force and civil rights violations; revitalizing the DOJ pattern-or-practice and Collaborative Reform programs; and developing and employing more robust independent state and local governmental oversight efforts through the use of inspectors general, police monitors, police auditors, and police integrity units.

## LEGAL REFORMS

The legal justification for a police officer's legitimate use of deadly force is established through case law, usually by criteria from *Tennessee v. Garner* (1985), which requires the officer's perception of danger to his or her life or that of a bystander to be considered "reasonable." These criteria are largely subjective, requiring judges, prosecutors, and jurors to get inside the head of the officer and affording ample latitude on the part of the defense to craft a narrative that meets a loose and malleable definition (Alpert and Smith, 1994; Steorts, 2015; Lee, 2017). In addition, cases are typically decided on the specific nature and extent of the force used in the instant. This neglects the context of preceding and following events that shape the encounter, though legal precedent permits the inclusion of such facts (see *Graham v. Connor*, 1989).

The lack of precision in what justifies the use of force also has serious implications for the prevention of fatal use of force, especially if officers interpret it to mean that they are justified in using fatal force based on their perceptions of the threat level rather than on the material circumstances surrounding the encounter. Zimring (2017) proposes the establishment of more objective, clear, and restrictive protocols on deadly force, such as prohibitions of the use of deadly force when the suspect is unarmed, is attempting to escape on foot, or is fleeing in a vehicle but has not fired shots and does not have a hostage. Naturally, these prohibitions would not apply to cases for which there is an immediate threat to life, per *Tennessee v. Garner* (1985). Another protocol that could be employed is a "shoot and stop" policy, requiring officers to re-evaluate the need for deadly force after firing the first shot (Zimring, 2017).

A related definitional problem concerns the current criteria governing when police use of force constitutes a federal civil rights violation, which requires proof that the officer has willfully subjected the community member to bodily injury with specific intent to violate his or her rights. The existing law is narrowly drawn. Meeting the



“willfully subjects” criterion (18 U.S.C. § 242) and requiring “specific intent” (*Screws v. United States*, 325 U.S. 91) is so difficult that no federal civil rights charges were brought against the New York City officer who killed Eric Garner, or the Cleveland officers who killed Tamir Rice, a 12-year-old child, that same year. The law should cover “knowing” and “reckless” deprivations of rights under the color of law and not just “willful” ones, as recommended by Savoy (2017) (see also Teitelbaum, 2017).

## **FEDERAL PATTERN-OR-PRACTICE INVESTIGATIONS AND COLLABORATIVE REFORM**

Though it is better known for funding 100,000 police officers and enhancing criminal penalties, the 1994 Crime Bill also provided authority for the U.S. Attorney General to investigate law enforcement agencies for a pattern or practice of unconstitutional behavior, such as excessive force, unreasonable stops and searches, arrests without warrants or sufficient cause, and discriminatory policing. These investigations often result in a consent decree or a negotiated settlement. Consent decrees generally require reforms in use-of-force policies, reporting and investigations, stop-and-search procedures, revised training and supervision, improved public complaint investigations and officer discipline systems, prohibitions on racial profiling or other bias-based policing, and the use of early intervention systems. More recent consent decrees have begun to include provisions for community engagement, such as community outreach plans, civilian review boards, public monitor meetings, and, in some cases, a community voice in review of new policies. They have also incorporated aspects of community and problem-oriented policing strategies into their provisions.

The decision to open an investigation often occurs after a high-profile use-of-force incident, civil unrest, media attention, and/or a request for investigation from jurisdiction officials or community and civil rights organizations. On average, an investigation takes 18 months, and concludes with the DOJ issuing a public “findings letter” or report and negotiating a resolution with the jurisdiction. Typically, that resolution is a consent decree overseen by a federal court with an independent monitor team to evaluate progress and compliance and report to the court. Since 1996, there have been more than 70 DOJ investigations of police agencies, resulting in more than 40 consent decrees and settlement agreements (U.S. DOJ, Civil Rights Division, 2017).

In 2011, during the Obama administration, the DOJ’s COPS Office developed the voluntary Collaborative Reform Initiative to provide police departments with a review of agency policies and practices and offer technical assistance with implementation efforts. Under this program, jurisdictions could request that the COPS Office fund and oversee an intense, time-limited assessment of a department’s policies and practices by national experts. The experts would produce a report with findings and recommendations for the department and write follow-up assessments describing progress. Between 2012 and 2017, 16 law enforcement agencies utilized the Collaborative Reform Initiative process, including departments in San Francisco, Spokane (WA), St. Louis County (MO), and Las Vegas (Cole et al., 2017).

Under the Trump administration, the DOJ launched only one pattern-or-practice investigation and did not enter into any consent decrees. While the Collaborative Reform Initiative was continued at the COPS Office, it no longer involved a systemwide review of an agency’s policies and practices, instead providing technical assistance for specific areas requested by the agency.

## **STATE ATTORNEYS GENERAL**

Some state attorneys general have taken on the responsibility of investigating serious allegations of officer misconduct, including officer-involved shootings and deaths in custody. Local prosecutors, who often have close



working relationships with police departments through routine criminal cases, may be perceived as biased and unable to fairly lead a case. A district attorney's office that relies on testimony from a police officer on the witness stand one day may have a hard time investigating that same officer the next day – and subsequently charging him or her with a crime. This bias can be addressed by deploying a special prosecutor or state attorney general's office to oversee police investigations and undertake any prosecutions that follow.

State attorneys general in Maine, New Jersey, and New York oversee investigations and prosecutions of deadly uses of force by police officers; the Minnesota Attorney General's Office is prosecuting the officers involved in the death of George Floyd; and a Nebraska law provides for the appointment of a special prosecutor for deaths in police custody. State leaders have an important role to play in police accountability, serving as a crucial fail-safe if local leaders decline to engage, but they are not always effective in that role. For example, New York enables its state attorney general to investigate and prosecute the deaths of unarmed persons at the hands of police, rather than local prosecutors; of 43 cases investigated so far, none has resulted in a conviction (Nir et al., 2021).<sup>2</sup> Indeed, in some cases, such as when state attorneys lack experience or interest in investigating police misconduct, the district attorney's office may be the better entity to conduct these investigations (Austin and Krinsky, 2020).

In addition, independent accountability mechanisms such as the Baltimore State's Attorney's Public Trust and Police Integrity Unit are designed to objectively investigate and prosecute cases against police officers.<sup>3</sup> Comprised of experienced attorneys, the agency provides the public with detailed explanations of decisions to decline charging officers accused of excessive force, potentially improving both accountability and transparency.

Attorneys general may also bring agency-wide civil litigation against law enforcement agencies in their state, although it is a rare occurrence. California was the first state to do so in a case against the Riverside Police Department in 2000. Since then, the California Attorney General's Office has brought cases against Anaheim, Maywood, San Francisco, Sacramento, and Stockton, and has pending cases against the Bakersfield Police Department and the Kern County Sheriff's Office. Other states have followed suit. New York's Attorney General obtained a consent decree against the Walkill Police Department in 2001. More recently, the Illinois Attorney General took over the U.S. Justice Department's investigation and obtained a consent decree against the Chicago Police Department in 2019.

## **INDEPENDENT GOVERNMENTAL REVIEW**

Another avenue for police oversight involves government agencies outside the police department that review and monitor police practices and policies. Numerous jurisdictions have created inspectors general, police monitors or police auditors that deploy professional staff to scrutinize police policies and serious use-of-force incidents. These entities are independent of police departments and generally report to the mayor or city manager. The inspector general/police monitor model tends to focus on systemwide problems within the department, while tracking their policy recommendations to assess whether they have been implemented. The level of staffing, funding, expertise, authority, and responsibilities varies among the diverse set of oversight entities, as has their effectiveness (De Angelis, Rosenthal, Buchner, 2016a; DeAngelis, Rosenthal, Buchner, 2016b; Walker and Archibald, 2014).



## Research Evidence

Reducing police misconduct is the principal goal of consent decrees and several empirical studies have linked them to decreases in police misconduct, including improper stops, searches, seizures, and arrests (Alpert, et al., 2017; Rushin, 2017; Stone et al., 2009; Davis et al., 2005; Rhodes et al., 2019). One study of multiple jurisdictions explored the impact of consent decrees on racial disparities, examining differences in pedestrian and vehicle stops and finding no changes in racial disparities (Kupferberg, 2008). However, all of these studies are largely descriptive in nature and thus are unable to control for intervening factors that may have independently influenced these outcomes.

A recent study using a more rigorous methodology examined the impact of federal pattern-or-practice investigations on police use of fatal force. The research concluded that agencies with consent decrees that included the appointment of a federal monitor resulted in significantly fewer police killings (Goh, 2020). Unfortunately, the study design was compromised because of unequal pre-trends metrics between treatment and control groups.

Studies documenting changes in public satisfaction with law enforcement have identified improvements in community sentiment towards the police in some of the jurisdictions under consent decrees (Rushin, 2016; Stone, et al., 2009; Davis et al., 2005). Consent decrees have yielded benefits to officers as well, such as the development of new officer wellness programs, reductions in public complaints against officers, in some jurisdictions, and fewer civil litigation judgments and settlements (Rushin, 2016; Powell, Meitl, Worrall, 2017).

What is not clear, however, is whether the reforms implemented under consent decrees and the attendant impacts can be sustained over time (Alpert, 2017; Chanin, 2014, 2015; Davis et al., 2005). Institutionalizing the consent decree's mandated policies and practices is critical to sustaining reforms (Jiao, 2020). Despite such uncertainty, elements of the consent decrees have been adopted as best practices throughout law enforcement, arguably improving the police profession overall (Walker and MacDonald, 2009; Livingston, 1999). For example, provisions of consent decrees have been incorporated into the International Association of Chiefs of Police model policies, the Commission on Accreditation for Law Enforcement Agencies standards, and the report of President Obama's Task Force on 21<sup>st</sup> Century Policing. In addition, police departments have been prompted to review and improve their agency policies to avoid a federal investigation (Harmon, 2009, 2017; Jerome, 2004).

Critics of the DOJ pattern-or-practice program have raised concerns that the cost of consent decrees are exorbitant, particularly because they may take several years. Examining the fiscal impact of the Los Angeles Police Department (LAPD) consent decree, Rushin (2016) documents an average of \$40 million per year but also notes that the city was able to recoup much of this cost through reductions in financial payouts associated with civil rights and use-of-force lawsuits, which declined by nearly 75% (Rushin, 2016). Moreover, several chiefs have observed that consent decrees provided the leverage they needed for the mayor and city council to dedicate resources for technical assistance, training, technology and data software upgrades, and other necessities that they would not have otherwise received (U.S. Department of Justice, 2011; Stone, et al., 2009).

Skeptics of consent decrees also argue that they make officers more reluctant to do their jobs, with such "de-policing" causing increases in crime. Studies are mixed on this topic, and underscore the complex relationship between consent decrees, the high-profile cases and public outcry that often precipitate them, and any concurrent changes in policing practices and crime. The most comprehensive and rigorous quantitative study of



the effects of consent decrees on police activity and crime used a synthetic controls design to find suitable comparison jurisdictions to the 27 pattern-or-practice investigation jurisdictions (Devi and Fryer, 2020). Researchers found that most consent decree departments experienced decreases in crime with the exception of jurisdictions for which consent decrees were preceded by high-profile incidents of excessive force, in which crime increased. However, given that only five jurisdictions fell into the high-profile category, this finding is not definitive. Indeed, a study of 72 high-profile officer-involved homicides between 2005 and 2016, most of which were not followed by a consent decree, found 10% to 17% increases in robberies and homicides, a 33% decline in arrests for minor offenses, and no change in arrests for violent crime (Premkumar, 2020). This study's findings suggest that any declines in enforcement and increases in crime in consent decree jurisdictions are likely caused by the high-profile incidents that precipitated the decrees, rather than the decrees themselves.

Other studies on this topic employed less rigorous methodologies and yielded mixed findings. Rushin and Edwards (2017) examined a subset of consent decree jurisdictions compared with those that were not subject to them. This study observed a statistically significant but temporary increase in some crime rates in the years immediately following federal intervention, relative to unaffected municipalities. By contrast, a descriptive analysis of stops and arrests before and after the LAPD's consent decree found an increase in the number of pedestrian and vehicular stops and the share of arrests that were filed as felonies (Stone et al., 2009). While this study seems to discount the de-policing hypothesis, it was unable to control for other factors that might have influenced the outcomes. Similarly, researchers examining the impact of the consent decree in Cincinnati documented an increase in constitutional policing and a concomitant reduction in crime, suggesting that a tradeoff between effectiveness and equity in policing is not inevitable (Engel and Eck, 2015).

Studies of the impact of the Collaborative Reform Initiative efforts have not yet been undertaken, nor has research been conducted on the impact of providing state attorneys general the authority to independently investigate police shootings and other high-profile cases.

## Critical Policy Elements

- + Altering the definition of what justifies use of force, including deadly force, to employ objective criteria requires legislative changes to supersede case law as well as changes to departmental policies. These changes must be reinforced through training on de-escalation and use-of-force.
- + The effectiveness of federal oversight rests to a large degree on the willingness of police chiefs and their officers and staff to cooperate with investigations and commit to agreed-upon reforms. This can be facilitated by a monitor who is skilled in providing technical assistance and serving in a mediation role between the DOJ and the subject agency.<sup>4</sup> Active judicial oversight of consent decree progress can also be beneficial.
- + Consent decrees should focus on both accountability and policy changes. These changes should include the revision or elimination of police strategies or tactics that may be ineffective and have damaging consequences for community members, such as zero tolerance or unconstitutional uses of stop-question-and-frisk.
- + The DOJ should resume and expand upon its pattern-or-practice program and Collaborative Reform Initiative. However, with 18,000 independent law enforcement agencies in the United States, these programs can only reach a small fraction of problem departments. This makes it important to select agencies for investigation based on data rather than on high-profile incidents that capture media attention.



To facilitate this, data on use of force and other relevant metrics must be collected more systematically and published routinely.

- + To be effective, consent decrees and collaborative reform efforts should require agencies to track and report a wide array of police activity measures beyond use of force, including stop, search, and arrest activities. These metrics should be tracked annually by all agencies and reported to the state so that allegations of misconduct can be confirmed or denied using accurate data.
- + While external oversight entities can enhance accountability, a careful balance of power must be maintained between external oversight and internal chain of command. Police executives should have the primary responsibility for addressing misconduct and retain the ability to fire officers.

## Expected Impacts

### PREVENTING MISUSE OF FORCE

Addressing excessive force is a core element of almost all federal consent decrees, requiring changes in use-of-force policies, training, reporting, and investigations. Research has found these requirements effective in reducing excessive force. In addition, restricting deadly force to objective circumstances of the encounter, including the sequence of events leading up to it, rather than perceptions of threat should, theoretically, reduce excessive force.

### ENHANCING TRANSPARENCY AND ACCOUNTABILITY

Enhancing accountability and transparency are principal goals of federal consent decrees and collaborative reforms, and can also be identified as objectives by local oversight entities, state attorneys general, and inspectors general. Clearer definitions on what constitutes deadly force may also enhance accountability and transparency.

### STRENGTHENING COMMUNITY TRUST

Many consent decrees require community surveys to measure trust and satisfaction with law enforcement. However, increased public satisfaction with law enforcement occurred in only some of the jurisdictions that have been subject to consent decrees.

### REDUCING RACIAL DISPARITIES

Most consent decrees include provisions prohibiting racial profiling and biased policing, typically requiring implicit bias training and policies and the collection and reporting of racial disparities in stops, searches, and arrests. However, research has not identified a relationship between government oversight mechanisms and reductions in racially biased police practices.

### ENSURING OFFICER SAFETY

It is not clear whether consent decrees have had an impact on officer safety, but some evidence indicates that they have prompted the establishment of officer wellness programs.

### PROMOTING PUBLIC SAFETY

There is no strong empirical evidence consistently linking government oversight mechanisms to either enhanced or compromised public safety.



## Endnotes

1 See updated numbers at <https://mappingpoliceviolence.org/>.

2 See <https://ag.ny.gov/OSI>

3 See <https://www.stattorney.org/policy-legislative-affairs/policy/public-trust-and-police-integrity-unit>

4 From U.S. Department of Justice, 2011: “The monitoring team’s credibility allows it to play the role of neutral broker and mediator, to ensure that disagreements over the meaning of a provision or the significance of a new initiative do not become distractions from the overall goal of achieving effective, constitutional policing.”

## Statutes and Ordinances

CA Code, Civil Code, CIV § 52.3 (Pattern-or-practice authority for state Attorney General)

Minnesota State Senate, Bill 19-1203 (Establishing Board of Special Prosecution and State Special Prosecutor)

New York State Executive Law 70-B (2020) (Attorney General investigation and prosecution of officer-involved deaths)

New York State Executive Law 75 (2020) (Pattern-or-practice authority for state Attorney General)

New York State Executive Order 147 (Attorney General as Special Prosecutor)

## Case Law

Tennessee v. Garner, 471 U.S. 1 (1985)

Graham v. Connor, 490 U.S. 396 (1989)

Screws v. United States, 325 U.S. 91 (1945)

## References

Ali, Usman and Pirog, Maureen. 2019. “Social Accountability and Institutional Change: The Case of Citizen Oversight of Police.” *Public Administration Review*, 79(3): 411-426.

Alpert, Geoffrey P. and Smith, William C. 1994. “How Reasonable Is the Reasonable Man: Police and Excessive Force,” *Journal of Criminal Law & Criminology*, 85(2): 481-501.

Alpert, Geoffrey P., McLean, Kyle, and Scott Wolfe. 2017. “Consent decrees: An approach to police accountability and reform.” *Police Quarterly*, 20(3): 239-249.

Austin, Roy, and Krinsky, Miriam. 2020. “Local prosecutors are the best people to defend their communities against corrupt cops.” *The Baltimore Sun*.

Bobb, Merrick. 2003. “Civilian Oversight of the Police in the United States.” *Saint Louis University Public Law Review*, 22(1).

Bobb, Merrick. 2005. “Internal and External Oversight in the U.S.” PARC Issues Paper.

Bobb, Merrick. 2005. “Review of National Police Oversight Models for the Eugene Police Commission.” PARC Issues Paper.

Chanin, Joshua. 2015. “Examining Sustainability of Pattern or Practice Police Misconduct Reform.” *Police Quarterly*, 18(2): 163-192.

Chanin, Joshua. 2014. “On the Implementation of Pattern or Practice Police Reform.” *Criminology, Criminal Justice, Law & Society*, 15(3).





- Chanin, Joshua. 2011. "Negotiated Justice? The Legal, Administrative, and Policy Implications of 'Pattern or Practice' Police Misconduct Reform." Unpublished Ph.D. dissertation, American University.
- Clarke, Stephen. 2009. "Arrested Oversight: A Comparative Analysis and Case Study of How Civilian Oversight of the Police Should Function and How it Fails." *Columbia Journal of Law and Social Problems*, 43(1).
- Cole, Christine, Collins, Megan, Finn, Julie Finn, and Sarah Lawrence. 2017. "The Collaborative Reform Initiative Process: Experiences of Selected Sites." Washington, DC: Office of Community Oriented Policing Services.
- Davis, Robert C., Ortiz, Christopher, Henderson, Nicole J., Miller, Joel, and Michelle K. Massie. 2002. "Turning Necessity Into Virtue: Pittsburgh's Experience With A Federal Consent Decree." Vera Institute of Justice.
- Davis, Robert C., Henderson, Nicole J., and Christopher Ortiz. 2005. "Can Federal Intervention Bring Lasting Improvement In Local Policing? The Pittsburgh Consent Decree." Vera Institute of Justice.
- De Angelis, Joseph, Rosenthal, Richard, and Brian Buchner. 2016a. "Civilian Oversight of Law Enforcement: Assessing the Evidence." OJP Diagnostic Center; NACOLE.
- De Angelis, Joseph, Rosenthal, Richard, and Buchner, Brian. 2016b. "Civilian Oversight of Law Enforcement: A Review of the Strengths and Weakness of Various Models." OJP Diagnostic Center; NACOLE.
- Devi, Tanaya and Fryer, Roland G. 2020. "Policing the Police: The Impact of 'Pattern-or-Practice' Investigations on Crime." National Bureau of Economic Research. Working Paper 27324.
- Dewan, Shaila. 2020. "Few Police Officers Who Cause Deaths Are Charged or Convicted." *New York Times*.
- Dukanovic, Ivana. 2016. "Reforming High-Stakes Police Departments: How Federal Civil Rights Will Rebuild Constitutional Policing In America." *Hastings Constitutional Law Quarterly*, 43(4).
- Engel, Robin and Eck, John. 2015. "Effectiveness versus Equity in Policing: Is a Tradeoff Inevitable?" *National Police Foundation: Ideas in American Policing*, 18.
- Ferdik, Frank, Rojek, Jeff, and Geoffrey P. Alpert. 2013. "Citizen Oversight in the United States and Canada: An Overview." *Police Practice and Research*, 104-116.
- Finn, Peter. 2001. "Citizen Review of Police: Approaches and Implementation." National Institute of Justice.
- Goh, Li Sian. 2020. "Going Local: Do Consent Decrees and Other Forms of Federal Intervention in Municipal Police Departments Reduce Police Killings?" *Justice Quarterly*, 37(5): 1-30.
- Harmon, Rachel A. 2009. "Promoting civil rights through proactive policing reform." *Stanford Law Review*, 62: 1-70.
- Harmon, Rachel A. 2017. "Evaluating and Improving Structural Reform in Police Departments." *Criminology & Public Policy*, 16(2): 617-627.
- Jerome, Richard. 2004. "Police Reform: A Job Half Done," ACS Issue Brief.
- Jiao, Allen Y. 2020. "Federal consent decrees: a review of policies, processes, and outcomes." *Police Practice and Research*, 22(1): 793-804.
- King, Kevin. 2015. "Effectively Implementing Civilian Oversight Boards to Ensure Police Accountability and to Strengthen Police-Community Relations." *Hastings Race and Poverty Law Journal*, 12(1).



- Kupferberg, Noah. 2008. "Transparency: A new role for police consent decrees." *Columbia Journal of Law and Social Problems*, 42(1).
- Livingston, Debra. 1999. "Police Reform and The Department of Justice: An Essay on Accountability." *Buffalo Criminal Law Review*, 2(2): 817-859.
- Mazzone, Jason, and Rushin, Stephen. 2020. "State Attorneys General as Agents of Police Reform." *Duke Law Journal*, 69(5).
- Lee, Cynthia. 2017. "Reforming the Law on Police Use of Deadly Force: De-escalation, Pre-seizure Conduct, and Imperfect Self-Defense." George Washington Law School Public Law and Legal Theory Paper No. 2017-65.
- Levine, Kate. 2016. "How We Prosecute the Police." *The Georgetown Law Journal*, 104. 745-776.
- Nir, Sarah Maslin, Bromwich, Jonah, and Benjamin Weiser. 2021. "A Special Unit to Prosecute Police Killings Has No Convictions." *The New York Times*.
- Powell, Zachary, Bisaccia Meitl, Michele, and Worrall, John L. 2017. "Police Consent Decrees and Section 1983 Civil Rights Litigation." *Criminology & Public Policy*, 16(2): 575-605.
- Prenzler, Tim and Lewis, Colleen. 2005. "Performance Indicators for Police Oversight Agencies." *Australian Journal of Public Administration*, 64(2): 77 - 83.
- Premkumar, Deepak. 2020. "Intensified scrutiny and bureaucratic effort: Evidence from policing and crime after high-profile, officer-involved fatalities." Technical report, Working Paper.
- Rhodes, Dasha, Robinson, Davida, Archibald, Paul, and Laurens Van Sluytman. 2019. "A Decade's Tale: Consent Decrees and Police Use of Disproportionate Excessive Force With Communities of Color." *Advances in Social Work*.
- Rice University Kinder Institute for Urban Research. (2020). "Who's Policing the Police: A comparison of the Civilian Agencies that Perform Oversight of Police in Texas' Five Largest Cities."
- Rushin, Stephen. 2016. "Competing Case Studies of Structural Reform Litigation in American Police Departments." *Ohio State Journal of Criminal Law*, 14(1).
- Rushin, Stephen and Edwards, Griffin. 2017. "De-policing." *Cornell Law Review*. 102(3).
- Savoy, Paul. 2017. "Reopening Ferguson and Rethinking Civil Rights Prosecutions." *New York University Review of Law and Social Change*, 41(2): 277-324.
- Steorts, Jason Lee. 2015, Aug. 27. "When Should Cops Be Able to Use Deadly Force?" *The Atlantic*.
- Stone, Christopher, Foglesong, Todd, and Christine M. Cole. 2009. "Policing Los Angeles Under a Consent Decree: The Dynamics of Change in the LAPD." Program in Criminal Justice Policy and Management, Harvard Kennedy School.
- Teitelbaum, Mia. 2017. "Willful Intent: *U.S. v. Screws* and the Legal Strategies of the Department of Justice and NAACP." *University of Pennsylvania Journal of Law & Social Change*, 185.
- U.S. Department of Justice. 2017. "The Civil Rights Division's Pattern and Practice Police Reform Work: 1994-Present."
- U.S. Department of Justice. 2011. "Taking Stock: Report from the 2010 Roundtable on the State and Local Law Enforcement Police Pattern or Practice Program (42 USC § 14141)."
- U.S. Department of Justice. 2001. "Principles for Promoting Police Integrity: Examples of Promising Police Practices and Policies."



Walker, Samuel and Archibald, Carol. 2014. *The New World of Police Accountability*. Second Edition, Los Angeles: SAGE Publications.

Walker, Samuel, and MacDonald, Morgan. 2009. "An Alternative Remedy for Police Misconduct: A Model State 'Pattern or Practice Statute.'" *George Mason Civil Rights Law Journal*. 19.

Zimring, Franklin E. *When Police Kill*. 2017. Harvard University Press.

## About The Task Force

The independent **Task Force on Policing** was launched in November 2020 by the **Council on Criminal Justice**. Its mission is to identify the policies and practices most likely to reduce violent encounters between officers and the public and improve the fairness and effectiveness of American policing. The **11 Task Force members** represent a diverse range of perspectives and experience and include law enforcement leaders, civil rights advocates, researchers, a former mayor, and community members who have lost loved ones to police violence. The Council staffs the Task Force, and the **Crime Lab** at the University of Chicago's Harris School of Public Policy is serving as its research partner.

*The Task Force on Policing thanks Richard Jerome for his contributions to this brief.*