

HOW DOES THE REALLOCATION OF TAXPAYER FUNDS
DESIGNATED TO FUNDING POLICE DEPARTMENTS CONTRIBUTE TO THE
REDUCTION OF CRIME AND POLICE BRUTALITY THROUGH THE
DEVELOPMENT AND INCORPORATION OF PUBLIC AND SOCIAL SUPPORT
PROGRAMS?

By

MARKEISIA SHENAE VENETT

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Approved by:

Professor Xavier Segura

Department of Social and Behavioral Sciences

Abstract

The intended topic of this thesis is to address the issue of police brutality in America. Incidents of police brutality against unarmed black men and women seem to be more prevalent, with no solution in the near future.¹ As this thesis is being drafted, various news stations present news about another unarmed black victim, Tyree Nichols, in Memphis, Tennessee. Police stopped him during a traffic stop where a group of police officers removed him from his vehicle, induced fear and confusion, and violently beat him, resulting in his death at the nearby hospital from injuries.² Prior to this case, a more widely known, high-profile police killing of George Floyd at the hands of police officer Derek Chauvin sparked global protest and outrage. Incidents of police brutality in the U.S. have exemplified the underlying issue of White supremacy in our criminal justice system. The killings of Trayvon Martin, Michael Brown, Freddie Gray, Breonna Taylor, George Floyd, most recently Tyree Nichols, and countless others show us how law enforcement disproportionately harms marginalized groups.

The research conducted for this paper will provide a conclusive stance on the below thesis;

Thesis Question: "How does the reallocation of tax-payer funds designated to funding local police departments contribute to the reduction of crime and police brutality through the development and incorporation of public and social support programs?" This thesis aims to educate and inform the public from a non-partisan and impartial perspective supported by credible evidence and scholarship.

This research paper educates its readers on the U.S. history of slave patrols and its correlations to police brutality issues today. Then we will transition to police department practices, instances of police brutality that have gone unpunished, and a way forward to modernize our police departments to provide better ethics training and reallocate funds to poor communities. Similar topics will include mental health awareness, publicly funded programs in the community, social justice, and reducing recidivism rates. I plan to take my research on the above topics and find solutions to our most prevalent social justice issues.

¹ Wilson, Betty. "Under the Brutal Watch: A Historical Examination of Slave Patrols in the United States and Brazil During the 18th and 19th Centuries. *Journal of Black Studies*. Vol 53. 2022.Sagepub.com/journals-permissions.

² Stein, Robin. Cardia, Alexander. Reneau, Natalie. "71 Commands in 13 Minutes: Officers Gave Tyree Nichols Impossible Orders". 29 Jan 2023. *New York Times*. <https://www.nytimes.com/2023/01/29/us/tyre-nichols-video-assault-cops.html>

Introduction:

African American men and women have been enslaved, killed, discriminated against, oppressed, and victims of pervasive White supremacy for over 400 years.³ The violence against African Americans is nothing new to the United States and directly correlates to our country's history and founding, which has bled into modern-day issues. From enslavement and slave patrols to the subsequent reconstruction era, Jim Crow segregation, and Black codes, the United States has decades of recorded history where black men and women have been victims of deeply rooted oppression. Now police killings of unarmed black men and lack of accountability in our police departments are the forefront issue.⁴ Decades of both high-profile and unpunished cases exemplify the underlying issue of prejudice and have brought to light how systemic racism hinders marginalized groups of people.⁵

History of Slavery in the U.S.

Approximately 12 million Africans were uprooted from their home, forced into slave ships, and dispersed between the Caribbean, Brazil, and North America.⁶ The first enslaved African Americans were brought to Jamestown, Virginia August of 1619.⁷ Upon their arrival, they were sold as property to white enslavers. This was part of European colonists' international trade of enslaved Africans for almost 300 years.⁸ Due to the lucrative business of tobacco, cotton, and sugar crops, Africans that started as indentured servants became lifetime enslaved people. An 1860 census report noted that 3.9 million enslaved people resided in the U.S., making up 13 percent of

³ Slavery in America. [s.n.], [1845?]. *The Making of the Modern World*, link.gale.com/apps/doc/U0106540571/MOME?u=arizona_main&sid=bookmark-MOME&xid=432233ce&pg=2. Accessed 4 Nov. 2022.

⁴ Durr, Marlese. "What is the Difference between Slave Patrols and Modern Day Policing? Institutional Violence in a Community of Color". Sage, *Critical Sociology*. 2015. Vol 4. crs. sagepub.com.

⁵ Kenneth B. Nunn, Race, Crime and the Pool of Surplus Criminality: Or Why the "War on Drugs" Was a "War on Blacks," 6 *J. Gender Race & Just.* 381 (2002), available at <http://scholarship.law.ufl.edu/facultypub/107>

⁶ Finkelman, P. (2012). Slavery in the United States: Persons or Property? In J. Allain(Ed.), *The legal understanding of slavery: From the historical to the contemporary* (pp. 105–134). Oxford University Press.

⁷ Wilson, Betty. "Under the Brutal Watch: A Historical Examination of Slave Patrols in the United States and Brazil During the 18th and 19th Centuries. *Journal of Black Studies*. Vol 53. 2022.Sagepub.com/journals-permissions.

⁸ "This Day in History: First Enslaved Africans Arrive in Jamestown, Setting the Stage for Slavery in North America." A&E Television Networks August 13, 2019. <https://www.history.com/this-day-in-history/first-african-slave-ship-arrives-jamestown-colony>

the population.⁹ Children born to slave mothers were considered property to enslavers.¹⁰ Following the revolutionary war, Africans were only considered three-fifths of a person when the framers drafted the U.S. Constitution. This led to a significant lack of representation for African Americans and is still prevalent today. The legislation prohibited slaves from having equality and ensured enslaved Africans were held as workers for life. Hundreds of thousands of slaves aided in the economic development of the U.S. but were not given equal and fair treatment when it came to wages and owning property. The well-known Supreme Court case *Dredd Scott v. U.S. 1857* denied Dredd Scott the right to sue for his freedom since he was considered property by White slave owners.¹¹ Despite the efforts of the civil war to abolish slavery, the South and former Confederate states instituted Black Codes and Jim Crow, creating a new generation of segregation and unfair treatment of Blacks. Segregation from Jim Crow has led to generational poverty and black communities struggling financially and in education.

Slave Patrols

Slavery of African Americans is a topic that is seldom discussed, but another topic that goes unexamined is the implementation and practice of slave patrols. The U.S. and Brazil were the two countries with the highest prevalence of slavery in the world, enslaving millions of Africans.¹² Uprisings amongst slaves were common, but non-violent resistance occurred as well. Many slaves ran away to escape to the "Free States" (Ohio, Massachusetts, Pennsylvania, Indiana, Illinois). Slave patrols formed during the transatlantic slave trade played a significant role in the continuation and preservation of slavery. Slave patrols were formed to capture fugitives, police the behavior of enslaved Africans, prevent rebellions, ensure order & discipline, and capture and return runaway slaves.¹³ This was first established in the U.S. in 1704 and is considered by some to be the first institution of policing. "Slave patrols

⁹ Wilson, Betty. "Under the Brutal Watch: A Historical Examination of Slave Patrols in the United States and Brazil During the 18th and 19th Centuries. *Journal of Black Studies*. Vol 53. 2022.Sagepub.com/journals-permissions.

¹⁰ "This Day in History: First Enslaved Africans Arrive in Jamestown, Setting the Stage for Slavery in North America." A&E Television Networks August 13, 2019. <https://www.history.com/this-day-in-history/first-african-slave-ship-arrives-jamestown-colony>

¹¹ Gattis, Paul. "A Catalyst for Civil War after Suing for freedom, slave Dredd Scott once lived in Huntsville. 15. April 2011. Al.com.https://www.al.com/breaking/2011/04/a_catalyst_for_civil_war_after.html

¹² Wilson, Betty. "Under the Brutal Watch: A Historical Examination of Slave Patrols in the United States and Brazil During the 18th and 19th Centuries. *Journal of Black Studies*. Vol 53. 2022.Sagepub.com/journals-permissions.

¹³ Illich, Niles Stefan. "The Thirteenth Amendment and One Hundred and Fifty Years of Struggle to Criminalize Slavery: A First Amendment Challenge to the Forced Labor Act (18 U.S.C. 1589)." *St. Mary's Law Journal*, vol. 52, no. 4, November 2021, pp. 945-972. HeinOnline.

were crucial to sustaining White control and domination in areas where enslaved Africans outnumbered whites, such as South Carolina, which became the first state to create them.”¹⁴

By the end of the 18th century, slave patrols were present in every state in the country. By 1837, the Charleston police department had 100 officers dedicated to surveilling, checking documents, breaking up groups of Blacks, guarding against revolts, and capturing runaway slaves. Slave patrollers predominantly consisted of White males and were compensated for their work. Their responsibilities included patrolling streets at night, breaking up meetings between Blacks, questioning people on the street, and entering homes without warrants. Their roles granted them the authority to capture fugitives and inflict severe punishments such as whipping, beating, mutilation, and in some unfortunate cases lynching. Slave codes denied slaves many rights as citizens and continued the stigma against Blacks by treating them as property, allowing slave patrollers to inflict punishment.

Black Codes, Jim Crow, Reconstruction Era

Activism by abolitionists, the emancipation proclamation, and growing concerns about the ethics of slavery helped fuel the American Civil War in 1861. Following one of the bloodiest wars in American history, the Thirteenth Amendment of 1865 formally abolished slavery.¹⁵ Despite the efforts of the civil war and new legislation to promote equality, the South and former Confederate states instituted Black codes and Jim Crow, creating a new generation of segregation and unfair treatment of African Americans. Slave patrollers evolved into police departments, and police officers had new laws regulating their duties.¹⁶ Black codes regulated Blacks' movement, behavior, and placement in public spaces. Blacks were mandated to seek employment through contracts and were penalized for being homeless, unemployed, loitering, or using segregated restrooms. Slave patrols were established as the first institution of policing, with impunity from the law, made to regulate and oversee Blacks.

¹⁴ Wilson, Betty. "Under the Brutal Watch; A Historical Examination of Slave Patrols in the United States and Brazil During the 18th and 19th Centuries". *Journal of Black Studies*. 2022. Vol.53 3-18. <https://journals.sagepub.com/doi/pdf/10.1177/00219347211049218>

¹⁵ "This Day in History: First Enslaved Africans Arrive in Jamestown, Setting the Stage for Slavery in North America." A&E Television Networks August 13, 2019. <https://www.history.com/this-day-in-history/first-african-slave-ship-arrives-jamestown-colony>

¹⁶ Jackson, Tommie L. "Slave Patrols in Edward P. Jones "The Known World." *College Language Association*. CLA Journal December 2009. vol 53. <https://www.jstor.org/stable/44395275>

"Jim Crow" was a fictional character portrayed as a 'black-faced minstrel' by actor Thomas Rice.¹⁷

Thomas Rice was a White entertainer known for portraying "Blackface" and performing a popular song performance as an enslaved person. The character was named Jim Crow and displayed the distorted view of many Whites and how they viewed Black Americans throughout the 19th century. Segregation signs sprinkled throughout the South, displaying rules and regulations separating White from Black. Segregationist signs, believed to be emblematic of Jim Crow, exacerbated segregation and reinforced the inferiority of African Americans. Four generations of Blacks endured Jim Crow segregation.¹⁸

Several laws were passed during Reconstruction, solidifying Black communities' marginalization. Homer Plessy lost a lawsuit against the supreme court in *Plessy v. Louisiana* after trying to sue against a law that dictated segregated transportation.¹⁹ In the decade following the Plessy ruling, state and municipal legislators implemented laws to exacerbate segregation further and control the daily lives of Blacks. Segregation mandates were so prevalent that "Jim Crow Law" was found in the dictionary of American English in 1904. By 1909, 14 state legislatures created laws to control and segregate all forms of public transportation, including trains, streetcars, trolleys, and taxis. All of which were segregated based on race. Conductors and ticketing agents were charged with enforcing segregation in public buses, trains, and trolleys. Railroad companies were subject to fines and sanctions if it were found that they did not adhere to state legislation.

Around the time of WWI, states created new laws placing restrictions on interracial marriages, education, and healthcare. The daily lives and movements of Blacks were structured and controlled to enforce a culture of White control. State and local laws prohibited Blacks from renting living spaces in the same buildings as whites. Baseball fields with amateur and black baseball teams were only allowed to play so long as the field remained separated by two blocks from a White baseball field. Movie theaters could only show a picture as long as seating

¹⁷ Guffey, Elizabeth. "Knowing Their Space: Signs of Jim Crow in the Segregated South. MIT Press. Vol 28. Spring 2012. <https://www.jstor.org/stable/41427825>

¹⁸ Guffey, Elizabeth. "Knowing Their Space: Signs of Jim Crow in the Segregated South. MIT Press. Vol 28. Spring 2012. <https://www.jstor.org/stable/41427825>

¹⁹ Guffey, Elizabeth. "Knowing Their Space: Signs of Jim Crow in the Segregated South. MIT Press. Vol 28. Spring 2012. <https://www.jstor.org/stable/41427825>

was segregated, while restaurants were expected to install seven feet high partitions between blacks and whites.²⁰ Probably the most degrading of all, Blacks were expected to move over on public sidewalks to make room for whites.

Racially Motivated Legislation & Drug Use

The study of pharmacology and using plants for medicinal purposes has been around for centuries. The origin of its location has been debated, but the earliest recorded history can be found in Taiwan, 10,000 years ago. The proposed center of origin of cannabis, based on fossil pollen studies, is perceived to have evolved around 28 million years ago. The center of origin for cannabis was the Northeastern Tibetan plateau near Qinghai Lake 28 million years ago.²¹ Hemp has been used for rope and textiles, while cannabis has been used for agriculture and medicine. Hemp use has been found in ancient Chinese history in the 2nd century B.C. for clothing, shoes, and anesthetics. India is known for using cannabis, also called Ganja, for its psychoactive properties, for religious and cultural ceremonies. Egypt used cannabis for incense, giving it to women for help during childbirth. Many countries and cultures have used cannabis for medicinal and agricultural purposes. This plant has benefited people worldwide, including the U.S., since the 17th century.

Marijuana cultivation in the U.S. began in 1600 with Jamestown settlers. The settlers grew cannabis sativa, also known as hemp, for its strong fibers to make rope, sails, and clothing.²² Cannabis was a significant source of income for the U.S. up until the civil war. By the end of the 19th century, cannabis plantations were abundant in Mississippi, Georgia, North Carolina, South Carolina, California, Nebraska, New York, and Kentucky. Between 1850 to 1937, cannabis was used throughout the U.S. as a medicinal drug. Tinctures were processed by infusing the cannabis plant in alcohol and were sold at local pharmacies. In 1906 the Pure Food and Drug Act was passed, requiring a label disclosing cannabis as an ingredient.

Recreational use was limited but prevalent until the Mexican Revolution of 1910. This created an influx of Mexican immigrants to the U.S. and increased cannabis use. The Volstead Act of 1920 raised the prices of alcohol,

²⁰ Guffey, Elizabeth. "Knowing Their Space: Signs of Jim Crow in the Segregated South. MIT Press. Vol 28. Spring 2012. <https://www.jstor.org/stable/41427825>

²¹ Mechoulam, Raphael. "Cannabinoids as Therapeutic Agents." Hebrew University. Taylor & Francis Group. 1986.

²² "A Social History of America's Most Popular Drugs." pbs.org. <https://www.pbs.org/wgbh/pages/frontline/shows/dope/etc/cron.html>

which deterred alcohol sales and increased the use of cannabis products as an alternative. The Great Depression caused significant economic turmoil, job losses, unemployment, and Americans had to resort to extreme measures for survival. Lack of work and job opportunities influenced Americans' perceptions of marginalized groups like African Americans and Hispanics. Resentment towards minority groups increased as the Great Depression worsened, and White Americans often associated job losses with Blacks and Hispanics taking employment opportunities. Marijuana and drug use was associated with Mexicans and stigmatized.²³ In 1937 Congress passed the Marijuana Tax Act, criminalizing the drug. From 1951 to 1956, sentencing laws became stricter for mandatory minimum sentencing. Following increased drug use in white communities, congress passed the Drug Abuse and Prevention Control Act of 1970, which removed mandatory minimum sentencing, and classified Marijuana as a separate Narcotic. Unfortunately, the Nixon and Regan administrations reinstated previously removed regulations and policies concerning mandatory minimum sentencing.

President Reagan's "War on Drugs"

²⁴In 1986, President Reagan signed the Anti-Drug Abuse Act, increasing penalties and reinstating mandatory minimum sentencing.²⁵ This was one of the most significant pieces of legislation of the entire drug war during the Reagan administration. This echoed President Reagan's wife, Nancy Regan's Say No campaign against Illicit drug use that permeated throughout the Reagan era. Nationwide schools implemented anti-drug and say no programs. Organizations like DARE appeared at school assemblies, demonizing drug use and warning children about the consequences of illicit drugs. This act delivered billions of dollars in funding to the 'Drug War' efforts and created more controversial differences in punishments for certain drug types.

Furthermore, this legislation changed the sentencing for crack cocaine possession in contrast to powder cocaine possession. A five-year mandatory minimum sentence was enacted for possessing five grams of crack cocaine. On the contrary, possessing 500 grams of powder cocaine was given the same punishment.²⁶ This indicates racially motivated legislation that seeks to impose more severe punishments that target black communities. The

²³ "A Social History of America's Most Popular Drugs." pbs.org.<https://www.pbs.org/wgbh/pages/frontline/shows/dope/etc/cron.html>

²⁴ "The History of the War on Drugs: Regan Era and Beyond <https://landmarkrecovery.com/history-of-the-war-on-drugs-regan-beyond/>. February 13, 2019.

²⁵ <https://www.pbs.org/wgbh/pages/frontline/shows/drugs/buyers/socialhistory.html#fn9>

²⁶ "The History of the War on Drugs: Regan Era and Beyond <https://landmarkrecovery.com/history-of-the-war-on-drugs-regan-beyond/>. February 13, 2019.

weight disparity between these two drugs and holding the same level of punishment shows that this law was made to desecrate black communities based on a type of drug that was more prevalent in those areas. "Some criticized this 100:1 disparity as racially biased because crack cocaine was more likely to be used by poor Americans, many of whom were African American. On the other hand, powder cocaine was more expensive and more likely to be used by affluent White Americans" (Landmark Recovery). The irony of Nancy Reagan's "Just Say No Campaign" and trying to appeal to marginalized communities is that President Reagan enacted some of the most significant and harmful legislation incarcerating millions of African Americans.

The 'War on Drugs' has had a devastating impact on African American Communities nationwide. Throughout the drug war, African Americans have been disproportionately investigated, detained, searched, arrested, and charged with the illegal use and possession of illegal drugs.^{27.}'

Nevertheless, is the problem the use and possession of Illicit drugs, or is it the criminal justice system that sets the agenda of what is considered legal or illegal? Every president since WWII has prolonged the narrative that drugs are associated with people of color and that drugs should be criminalized, leading to millions of incarcerated men and women.²⁸ The number of incarcerated people for nonviolent drug law offenses went from 50,000 in 1980 to over 400,000 by 1997.²⁹ In 1980 U.S. jails and prisons held 500,000 individuals; in 2008, that number reached 2.3 million. In comparison, African Americans are 13 percent of the population, 35 percent of drug arrests, 55 percent of drug convictions, and 74 percent of drug incarcerations.³⁰ Between 1976 and 1989, the total number of drug arrests of whites grew by 70 percent, while the number of arrests of African Americans for drug arrests increased by 450 percent.³¹ The number of Caucasians incarcerated for drug offenses increased by 50 percent from 1986 to 1991, while the number of African Americans incarcerated increased by 350 percent.³² The same narrative is prevalent for

²⁷ Nunn, Kenneth B. "Race, Crime, and the Pool of Surplus Criminality: Or Why the 'War on Drugs' was a "War on Blacks

²⁸ CLARENCE LUSANE, PIPE DREAM BLUES: RACISM AND THE WAR ON DRUGS 77 (1991).

²⁹ Minton, Todd. "Correctional Populations in the United States, 2019. Statistical Tables". U.S. Department of Justice, Office of Justice Programs. July 2021. <https://bjs.ojp.gov/sites/g/files/xyckuh236/files/media/document/cpus19st.pdf>

³⁰ Nunn, Kenneth B. "Race, Crime, and the Pool of Surplus Criminality: Or Why the 'War on Drugs' was a "War on Blacks.'

³¹ D.J. Sifton, US. Prisons and Racial Profiling: A Covertly Racist Nation Rides a Vicious Cycle, 20 LAW & INEQ. 53, 61 (2002)

³² D.J. Sifton, US. Prisons and Racial Profiling: A Covertly Racist Nation Rides a Vicious Cycle, 20 LAW & INEQ. 53, 61 (2002)

Black Americans today. One in every five black males is incarcerated, and black people who hold convictions are disenfranchised, prohibiting them from voting. Despite the abolition of slavery and alleged equal rights, Black Americans are disproportionately negatively affected by hot-spot policing, incarceration, and racially motivated legislation. African American males are incarcerated at a rate eight times higher than Whites.

Modern Day Policing

The U.S. has been founded on pervasive means to create an oppressive country towards African Americans. **Racism-** *In the United States, it is the misuse of power by systems and institutions that are fueled by White Supremacy.*³³ "White supremacy is built into the foundations and identity of our country; maintaining white supremacy was one of the historical functions of institutions, and just changing some of the laws does not change a system or the ideology in which it was built."³⁴ Probably more deplorable than the act of police brutality and excessive force itself is the rare occasion police officers are held accountable for their misconduct.

Qualified Immunity

Qualified Immunity has many definitions, descriptions, and cases related to this legal term. In the Supreme Court case *Pierson v. Ray* (1967), qualified immunity was initially concluded as "justified qualified immunity to protect government defendants from financial burdens when acting in good faith in legally murky areas. Qualified immunity was necessary, according to the Court, because "[a] policeman's lot is not so unhappy that he must choose between being charged with dereliction of duty if he did not arrest when he had probable cause, and being mulcted in damages if he does."³⁵ In the case of *Harlow and Fitzgerald*, qualified immunity is defined as " **Qualified immunity** is a legal principle that grants government officials performing discretionary (optional) functions immunity from civil suits unless the plaintiff shows that the official violated "clearly established statutory or

³³ JOSEPH R. BRANDT, *UNDERSTANDING AND DISMANTLING RACISM* 75-76 (2007)

³⁴ Dias, Robette Ann. "Racism Creates Barriers to Effective Community Policing." *Southern Illinois University Law Journal*, vol. 40, no. 3, Spring 2016, pp. 501-512. HeinOnline.

³⁵ *Pierson et al. v. Ray et al.* . 386 U.S. p. 547 (1967) HeinOnline.

constitutional rights of which a reasonable person would have known." ³⁶ Cornell Law School defines it: "Specifically, qualified immunity protects a government official from lawsuits alleging that the official violated a plaintiff's rights, only allowing suits where officials violated a "clearly established" statutory or constitutional right."

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The Supreme Court Ruling in favor of the defendant against the plaintiff in *Pierson v. Ray* was the first instance of qualified immunity granted to judges and police officers, despite breaching United States Code 42, chapter 21, section 1983.

The story of *Pierson v. Ray 1967* starts in Jackson, Mississippi, where a group of "Freedom Riders" pastors were traveling from Tougaloo to Jackson. In their departure, on 13 September 1961, 15 priests stopped by a segregated coffee shop for lunch. The priests served as part of an Episcopal Society for Cultural and Racial Unity. After entering the coffee shop, the priests were stopped by two local policemen; officers David Allison Nichols and Joseph David Griffith ordered the priests to leave. When the priests refused to depart the coffee shop, police captain J.L. Ray arrested and charged the 15 priests for breach of peace.³⁸ Their justification used a now-repealed code in Mississippi state law "Makes guilty a misdemeanor anyone who congregates with others in a public place under the circumstances such that a breach of the peace may be occasioned thereby and refuses to move on when ordered to do so by a police officer."³⁹ The priests arrested were brought before a judge, James Spencer, after waiving the right to a trial, and were charged and sentenced for "Breach of Peace" and sentenced to four months in jail and a \$200 fine.⁴⁰

Following the charges and sentencing, the priests involved in the incident attempted to sue for damages in civil court with representation from Carl Rachlin, chief legal counsel at the Congress of Racial Equality. Unfortunately, the priests had no luck suing in civil court or during an appeals trial in the Fifth Circuit Court of Appeals. In both civil court and appeals trials, the jury ruled in favor of the police and the judge who sentenced

³⁶ Harlow v. Fitzgerald, 457 U.S. 800, 818 (1982).

³⁷ https://www.law.cornell.edu/wex/qualified_immunity

³⁸ *Pierson v. Ray*, 352 F.2d 213 (5th Cir. 1965)

³⁹ Schwartz, Joanna C. (2017). "How Qualified Immunity Fails" (PDF). The Yale Law Journal. Yale Law School. Retrieved February 26, 2020

⁴⁰ *Pierson v. Ray*, 352 F.2d 213 (5th Cir. 1965)

them, claiming that the police were justified in arresting to prevent a 'breach of the peace' and that the judge was immune from civil litigation.⁴¹

When the case *Pierson v. Ray* 1967 made it to the Supreme Court, Counselor Rachlin appealed to the court based on the **civil rights act of 1871, United States Code title 42 chapter 21, section 1983**:

§ 1983. Civil action for deprivation of rights Every person who, under color of any statute, ordinance, regulation, custom, or usage of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in action at law, suit in equity, or another proper proceeding for redress, except that in any action brought against a judicial officer for an act or omission taken in such officer's judicial capacity, injunctive relief shall not be granted unless a declaratory decree was violated or declaratory relief was unavailable.⁴² Eight of nine justices ruled in favor of the fifth circuit's decision, stating that the judge that ruled on the priest's case was entitled to absolute immunity from liability and damages. The police officers were also found to be not liable since they acted on valid state laws but were later found unconstitutional. Also, the police officers were not held liable for arresting someone later found innocent or released from their charges.⁴³

The ruling in *Pierson v. Ray* and subsequent cases have set a precedent and laid the foundations for qualified immunity to be the shield that police officers are granted when engaging in misconduct. Often, police officers use excessive force, make unauthorized stops and frisks, and fatally shoot or kill unarmed civilians in unfortunate situations.

The minimal oversight, and very rare consequences given to police officers for misconduct and excessive force, continue the system of oppression against African Americans. In the case of George Floyd, the former police officer charged with his murder, Derek Chauvin, had a history of violent behavior. Derek Chauvin was responsible for shooting several suspects, one fatally, and received 17 complaints on his record during his 20-year tenure with

⁴¹ *Pierson v. Ray*, 352 F.2d 213 (5th Cir. 1965)

⁴² Title 42- The Public Health and Welfare. 1983. Civil Action for Deprivation of Rights

⁴³ *Pierson v. Ray*, 352 F.2d 213 (5th Cir. 1965)

the Minneapolis police department.⁴⁴ 16 out of his 17 complaints were closed without disciplinary action. Only one complaint resulted in a Letter of Reprimand paperwork. Chauvin was part of a shooting incident with a group of police officers that responded to a stabbing incident. Upon approaching the scene of the incident, all 6 of the officers opened fire and killed the suspect, 42-year-old Wayne Reyes. The grand jury presented with the case declined to press charges against the police officers involved in the incident. In 2008 Chauvin was involved in another violent encounter when responding to a domestic disturbance call. When Chauvin arrived at the scene, the suspect Ira Latrell Toles locked himself in the household's bathroom. Chauvin broke into the bathroom and shot Toles twice, claiming he reached for his gun. Toles survived the shooting and claimed that Chauvin attacked him and that he reacted in self-defense. This incident was also closed without reprimand towards Chauvin.⁴⁵

Impact on Marginalized Communities

Black communities want and deserve to have an institution willing to serve and protect them. African Americans are disproportionately victims of police shootings. Black teens are 21 times more likely than white teens to be killed by police.⁴⁶ In his essay “Slave Patrols, Packs of Negro Dogs, and Policing Black Communities,” Larry Spirulli asserts that there is a deep connection between the functions of slave patrols and bloodhounds during slavery, and the practices of police officers today, including excessive force and the predatory use of dogs.⁴⁷ This severely undermines the practice and establishment of police departments providing a service to their community and replacing it with predatory and “warrior mentality” behavior. Racial profiling is pervasive, and Blacks are disproportionately affected by police stop and frisks and are more likely to be shot and killed by police than Whites. African Americans frequently experience disrespectful encounters with police, leading to more arrests and higher convictions. Nationally more African American men go to prison than go to college.⁴⁸ Due to the historical roots of

⁴⁴ Hawkins, Derek. “Officer Charged in George Floyd’s Death, Used Fatal Force before and had a History of Complaints.”

⁴⁵ Hawkins, Derek. “Officer Charged in George Floyd’s Death, Used Fatal Force before and had a History of Complaints.”

⁴⁶ Nicole Flatow, “Report: Black Male Teens Are 21 Times More Likely to Be Killed by Cops than White Ones,” ThinkProgress, October 10, 2014; Jeff Kelly Lowenstein, “Killed by the Cops,” ColorLines.com, November 4, 2007.

⁴⁷ Spruill L. H. (2016). Slave patrols, "packs of Negro dogs," and policing black communities. *Phylon*, 53(1), 42–66

⁴⁸ JEROME G. MILLER, NATIONAL CENTER ON INSTITUTIONS AND ALTERNATIVES, HOBBLING A GENERATION: YOUNG AFRICAN-AMERICAN MALES IN WASHINGTON D.C.'s CRIMINAL JUSTICE SYSTEM (April 1992) (In Washington D.C.,

slavery, slave patrols, and racially motivated "Drug Wars," police forces are conditioned to see Black and indigenous people of color communities as violent criminals.

In April 2015, in Charleston, South Carolina, former Police officer Michael Slager conducted a routine traffic stop and pulled over Walter Scott. During the traffic stop, Walter Scott ran from Slager and was shot multiple times in the back. When questioned about the event, officer Slager claimed that the two got into a scuffle where Scott reached for his taser, so he shot Scott in self-defense. Video evidence shows the exact opposite, that there was no altercation between Scott and officer Slager and that Scott was unarmed. The video also shows that after shooting and killing Scott, Michael Slager placed his taser on the ground to plant evidence and fabricate his story of what happened, which other officers corroborated.⁴⁹

On July 17, 2014, officers Justin Domico and Daniel Panatelo approached and attempted to arrest Eric Garner. Police suspected he was selling untaxed cigarettes and tried to make an arrest. When Garner resisted, officer Panatelo wrapped his arms around Garner and dragged him to the ground. Officer Panatelo held Garner on the ground in a chokehold. Garner pleaded for his life and told officers at least 11 times that he could not breathe. Emergency services arrived approximately 7 minutes later while his unconscious body lay on the sidewalk. Eric Garner was pronounced dead at the nearby hospital.⁵⁰

On November 24, 2014, 12-year-old Tamir Rice was shot twice and killed by police in Cleveland, Ohio. Rice was playing with a toy gun in a local park when a bystander called and told the police that "someone was running around and pointing a gun at people." Shortly after, the dispatcher called for the police to investigate the park. Within two seconds of arriving at the scene, while the police vehicle was still making a stop, and before Tamir was even questioned, 26-year-old officer Timothy Loehmann pulled out his gun and shot Tamir Rice, killing Tamir instantly.⁵¹ He was struck twice in the abdomen and was pronounced dead the next day due to his injuries.⁵²

⁴⁹ "Former South Carolina Officer Gets 20-year Sentence for Fatal Shooting of Walter Scott" pbs.org

⁵⁰ "Beyond the Chokehold: Eric Garner's Death. Baker, Al and Goodman, David and Mueller, Benjamin. June 13. 2015. NYtimes.com

⁵¹ McCarthy, Tom. "Tamir Rice: Video Shows Boy, 12 Shot Seconds After Police Confronted Child". <https://www.theguardian.com/us-news/2014/nov/26/tamir-rice-video-shows-boy-shot-police-cleveland>. November 26, 2014.

⁵² "Tamir Rice Shooting Dispatch." <https://www.youtube.com/watch?v=kqBqg43WN34>

On March 13, 2020, Breonna Taylor, a 26-year-old black female and EMT responder was shot and killed in her home in Louisville, Kentucky. Seven police officers forced entry into her home without notification or announcing themselves. Breonna Taylor's boyfriend fired one warning shot after he feared a home invasion since the officers never announced themselves. Three officers shot 32 rounds inside the front of the house, while officer, Brett Hankinson, fired ten rounds outside the side of the apartment. Breonna Taylor's home was never searched, and both Taylor and her boyfriend were never questioned before being fired upon.⁵³

Police are expected to perform many duties they are not sufficiently trained for. Local officers patrol communities, investigate crimes, make arrests, issue traffic citations, and respond to mental health crises, homelessness, noise complaints, and domestic abuse. Researchers estimate that one in ten police is called in response to mental health issues. Approximately one in four people between 2015 to 2020 were individuals who showed signs of mental illness.⁵⁴ Stretching police departments thin and asking police officers to deal with issues ignoring the underlying causes of our most prevalent problems exacerbates the pressure on police duties. It creates tension between officers and the public they are charged to serve and protect.

The Future of Policing

We must acknowledge, analyze, and research our history and its connections to modern-day social issues. We must acknowledge the issue of pervasive violence in the U.S. The source of that problem is structured in the institutions of society. Police have been used as a band-aid to these issues. Police departments should receive training on how racial bias can affect their positions and how to identify this. Reforming racially motivated legislation (mandatory minimum sentences, targeting black communities based on drug use). Change the narrative of police officers in society as "crime fighters" and the militarization of policing.

We must transform our current institutions and revert power to the people. Robette Ann Dias gives a clear and concise consolidation of the causes and effects of aggressive police behavior;

⁵³ Brown, Malachy. Jordan, Drew. Singhvi, Anjhali. "How The Police Killed Breonna Taylor." December 28, 2020. <https://www.nytimes.com/video/us/100000007348445/breonna-taylor-death-cops.html>

⁵⁴ Cheatham, Amelia and Maizland, Lindsay. "How do Police Compare in Different Countries." Council on Foreign Relations. <https://www.cfr.org/backgrounder/how-police-compare-different-democracies>. March 29, 2022.

1. History matters; There is a historical reality of policing being used to create and maintain racial inequality and exploitation in the United States
2. Law Enforcement denies that there is a race problem, and they are a part of it.
3. Racism shapes the ways we as a society are oriented around and desensitized to violence.
4. Racist ideologies permeate the training of police officers and drive the trend toward increasing militarization of law enforcement.⁵⁵

Allocation of Funding to Culturally Responsive Training

It is important to recognize that allocating funding to culturally responsive training for police departments and officers can have a profound impact on improving relationships with minority communities and reducing incidents of police brutality and use of force. This type of training can focus on teaching law enforcement officers about the historical and cultural factors that contribute to distrust and tension in minority communities, as well as provide them with strategies to effectively communicate with and understand people from diverse backgrounds. By prioritizing culturally responsive training, police departments can develop a more inclusive and culturally competent workforce, which can lead to increased trust, cooperation, and empathy from the communities they serve. Moreover, this training can provide officers with critical de-escalation techniques that can help prevent the use of force in situations that can quickly escalate. Ultimately, investing in culturally responsive training can help create a safer, more equitable society where law enforcement officers are better equipped to serve and protect all members of their communities.

Development & Incorporation of Public and Social Support Programs in the United States

The number of police forces drastically outnumbers police in other developed countries worldwide. The United States has approximately 18 thousand federal, state, and local law enforcement agencies.⁵⁶ In European countries like France and Sweden, they have national police forces that have federal oversight. Compared to the U.S., Canada only has 200 police services in total. Police departments notoriously let crimes go unsolved, despite billions of dollars invested in their departments, with budgets steadily increasing. In 2019, Minneapolis city police

⁵⁵ Dias, Robette Ann. "Racism Creates Barriers to Effective Community Policing."

⁵⁶ Cheatham, Amelia and Maizland, Lindsay. "How do Police Compare in Different Countries." Council on Foreign Relations. <https://www.cfr.org/backgrounder/how-police-compare-different-democracies>. March 29, 2022.

closed 56 percent of murder cases. Baltimore documented 347 homicides but could only solve 32 percent of cases in 2020, from 56 percent in 2015.

Calls for defunding police have unrelenting support. The goal of defunding the police is not to rid the police completely but to reform police departments while slowly removing their roles, authorities, and responsibilities. In the “Reimagining School Safety Research report” over 46 schools have reevaluated their relationships with policing in schools, and adopted a more holistic approach to safety. In at least 12 city councils, city boards have voted to cut budgets and reallocate funds to supportive housing, violence prevention, and other services. Oakland city council voted to reallocate \$1.85 Million to mental health related 911 calls. Austin, Texas considering \$20 million for family violence prevention, mental health services, and homelessness. "There is a lot of fear-mongering being perpetrated by both the Oakland Mayor and other city council members. It's not, ladies and gentlemen, about taking all the money from the police and there being no police left on your streets to deal with violent crime" (Brooks, Cat. Anti-Police terror project). “If we don’t need an armed first responder, why are the police doing it in the first place?” (Meares, Tracy. Yale Law School). An average of 10 percent of law enforcement agencies nationwide total budgets were spent on responding to mental health & illness calls.⁵⁷ Advocates argue for more standardized training and de-escalation procedures. Stop exchanging military equipment from the federal government to local police departments.

Similarly, advocates for justice reform argue that reallocating funds should focus on underlying crime issues like homelessness and poverty. City councils can vote to cut excessive law-enforcement budgets and reallocate that money to social services, housing, and youth programs. The Washington Post concluded that 1 in 4 people killed by police officers were people that suffered from mental illness. Investing in communities and supporting social programs will help to decrease crime, poverty, homelessness, mental health, and domestic abuse.

In a report by "The Cut," the Minneapolis city council vowed to cut the Minneapolis Police Department's budget and reallocate funds to proven community-led public safety. Other public sectors in the city, like public schools, the University of Minnesota, and Parks and Recreation, have resorted to cutting ties with police departments' contracts. Not only has the public called to defund the police, but officers themselves are also facing

⁵⁷ Melada, Geoffrey. “New National Survey Reveals The Immense Costs Borne by Law Enforcement in Responding to and Transporting People With Mental Illness.” Treatment Advocacy Center. <https://www.treatmentadvocacycenter.org/press-releases/new-national-survey-reveals-the-immense-costs-borne-by-law-enforcement-in-responding-to-and-transporting-people-with-mental-illness>

burnout. They are frustrated with being overtasked with work outside the scope of their duties. In an interview with a local Texas news station, Dallas Police Chief David Brown expressed frustration with the expectations of police officers from the community. "We are just asking us to do too much. Every societal failure, we put it off for cops to solve. Schools fail to give it to the cops, and single women are raising 70 percent of the African American community. Let's give that to the cops to solve that as well." ⁵⁸

Chief Brown correctly asserts that police officers have been used as a band-aid to solve societal failures that our local, city, state, and federal governments have contributed to and failed to resolve. Above all, responding to social issues detracts officers from conducting actual police work. Departments continuously let crimes go unsolved despite billions of dollars being poured into their organizations. ⁵⁹ In 2015 Minneapolis solved 56 percent of its homicide cases. Baltimore documented 347 homicides but only solved 32 percent of cases in 2020 compared to 56 percent in 2015. ⁶⁰

In the U.S., funding given to police departments far surpasses money given to social programs like schools, homeless shelters, and mental health programs. Advocates for police reform argued that investing in these programs can help curb crime rates and save communities. The Obama administration released a 2016 report that concluded a 10 percent increase in minimum wages for non-college-educated men would result in a 10-20 percent reduction in crime rates. Investing in underfunded communities could help resolve poverty and homelessness issues and prevent police officers from having to respond to social issues they are poorly trained to deal with. Traffic stops that end fatally, like with Walter Scott and Daunte Wright, could be evaded by investing in traffic camera technology suppressing the need for officers to engage in traffic stops.

Additionally, reallocation funding within police departments could fund ethics training and education programs in African American studies, de-escalation procedures, and how to respond with care instead of violence. Federal funding programs like the 1033 program have contributed to the militarization of police departments by

⁵⁸ Bazaldua, Erika. "Law Enforcement Officials Say they are Expected to 'Do Everything for Everybody.'" ABC7 KLTV. <https://www.kltv.com/story/32603243/law-enforcement-officials-say-they-are-expected-to-do-everything-for-everybody/>

⁵⁹ Arnold, Amanda. "What Exactly Does it Mean to Defund the Police?". The Cut. June 12, 2020. <https://www.thecut.com/2020/06/what-does-defund-the-police-mean-the-phrase-explained.html>

⁶⁰ Arnold, Amanda. "What Exactly Does it Mean to Defund the Police?". The Cut. June 12, 2020. <https://www.thecut.com/2020/06/what-does-defund-the-police-mean-the-phrase-explained.html>

providing them with wartime military equipment like tanks and rifles. By equipping our local police departments with deployment-style equipment meant to protect soldiers from ambushes from terrorist organizations, you bring the war to U.S. soil between police and the public they are meant to help protect and serve. Most importantly, police officers themselves agree that they are overtasked and unappreciated. The unnecessary stress and additional responsibilities given to officers exacerbate an already difficult job and undermine their work as officers solving crimes and protecting the public.

Our oppressive history of European colonists kidnapping and enslaving Africans to help build this country and the subsequent slave patrols and segregation against African Americans has stained the public perceptions of blacks in this nation. Racism is a learned behavior, and it must be unlearned. Our societal issues can all be attributed to decisions and legislation created throughout U.S. history. Police departments and the country must learn about our history, accept our wrongdoing and embrace the change we so desperately need to make the U.S. the greatest country for everyone.

Definition of Key Terms

4th Amendment- The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

Absolute Immunity- The right to be free from the consequences of a suit's results, and from the burden of defending oneself altogether.

BIPOC- Black Indigenous People of Color

Civil Rights Act of 1867- The first United States Federal law to define citizenship and affirm that all citizens are equally protected by the law. "Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, that all persons born in the United States and not subject to foreign power excluding Indians not taxed, are hereby declared to be citizens of the United States and such citizens, of every race, and color, without regard to any previous condition of slavery or involuntary solitude, except as punishment for crime whereof the party shall have been duly convicted, shall have the same right in every state and territory in the United States".

Criminal Justice Reform- Addresses structural issues in criminal justice systems such as racial profiling, police brutality, overcriminalization, mass incarceration and recidivism.

Indictment- When an individual is given formal notice that it is believed that they committed a crime. The indictment contains the basic information that informs the person of the charges against them.

Grand Jury- A group of citizens empowered by law to conduct legal proceedings, investigate potential criminal conduct, and determine whether criminal charges should be brought.

Malfesance- Wrongdoing or misconduct by a public official.

Marginalized Communities- A person or group treated as insignificant or peripheral.

Negligence- Failure to take proper care in doing something.

Pervasive- Spreading widely throughout an area or a group of people, especially in an unwelcome influence or physical effect.

Police Misconduct- Illegal or unethical actions or the violation of individuals' constitutional rights by police officers in the conduct of their duties.

Qualified Immunity- Legal principle that grants government officials performing discretionary (optional) functions immunity from civil suits unless the plaintiff shows that the official violated "clearly established statutory or constitutional rights of which a reasonable person would have known."

Racism- In the United States, it is the misuse of power by systems and institutions that are fueled by White Supremacy

Racial Profiling- The use of race or ethnicity as grounds for suspecting someone of having committed an offense.

Racial Discrimination- Treating someone unfavorably because he or she is of a certain race or because of personal characteristics associated with race.

Unauthorized Use of Force- Any action or procedure that surpasses a law enforcement officer's established limits of force against a civilian during an arrest, probation, parole or related duties.

Use of Excessive Force- A use of force that is not an authorized use of physical force.

“And yet this Christian nation, the flower of the nineteenth-century civilization, says it can do nothing to stop this inhuman slaughter. The general government is willingly powerless to send troops to protect the lives of its black citizens. However, the state governments are free to use state troops to shoot them down like cattle when in desperation, the black men attempt to defend themselves and then tell the world that it is necessary to put down a "race war." ⁶¹

⁶¹ Wells, Ida B. "Lynch Law in all its phases." From our Day Publishing Co. 1893.
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