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LAW ENFORCEMENT IN AMERICA

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INTRODUCTION

Americans are increasingly seeing the state of policing in the United States as an issue that needs to be addressed. 89% of U.S. adults believe that some kind of law enforcement reform is needed, including a 50% who believe that major changes are required (De Pinto, 2023). Many see this shift in public attitudes as a result of new technologies. Due to the increased prevalence of cameras in everyday life and the widespread usage of social media, Americans are more likely to see and become aware of misconduct, bias, and tragedy at the hands of law enforcement. This skyrocketed into the public consciousness in 2020 when George Floyd's death at the hands of police was recorded and subsequently widely shared on social media. This tragedy was met with outrage and widespread protests across the entire United States, and around the world, with police oversight, procedures, and protections becoming increasingly contentious and debated. As lawmakers, Congress has the unique ability to introduce reform to policing in the United States as they see fit, which could increase Americans' trust of law enforcement. This briefing will provide background, information, proposals, and research that is important background to considering any such reforms.



The protests in the wake of George Floyd's death are the most widespread in American history.

EXPLANATION OF THE ISSUE

Historical Development

Police departments originated in the United States during the early 1800s. More specifically, the first police force in the United States was established in Boston in 1833 (Potter, 2013). The Boston Police Force was followed by one in New York City in 1845, Albany and Chicago in 1851, New Orleans and Cincinnati in 1853, and Philadelphia in 1855 (Potter, 2013). All these police forces had

multiple things in common: they were staffed by full-time police officers, they had established procedures and protocols, they were held accountable by a governmental authority, and they were publicly funded (Potter, 2013). All these departments helped set the framework for what professional, centralized law enforcement would look like in the United States.

During the mid-late 19th century, as more major cities developed around the United States, more police forces were established. However, these law enforcement agencies faced multiple challenges. At the time, many cities in the United States faced overcrowding and widespread poverty, causing civil unrest and disobedience to become widespread (Potter, 2013). This made it difficult for police forces to keep up with rising crime rates. In turn, the police forces were moved to adapt. Police started using new technologies, such as the telegraph, to make communication more efficient, and photographs for mugshots to make it simpler to apprehend repeat criminals (Potter, 2013). Furthermore, the development of detective units allowed police forces to dedicate resources to solving specific crimes and private security issues, such as the Pinkerton Detective Agency, which provided relief to overworked local forces (Potter, 2013). However, while all of these developments were occurring in urban police forces, areas outside of major cities typically had no formal police presence and would often rely on community policing, vigilantism, or, rarely, federal law enforcement, like the United States Marshall Service (Potter, 2013). Formal, organized law enforcement did not arrive to these areas of the country until the late 19th century when westward expansion and the development of railroads made it necessary for police presence in those less-populated areas. During this time, the appointment of sheriffs and constables in rural areas became more common; nonetheless, these areas often lacked the resources necessary to establish full police departments akin to those in city areas.

The 20th century brought many developments to policing in the United States. During the **Progressive Era** at the turn of the century, many societal influences brought larger efforts to reform and professionalize police departments, especially those in cities. Labor movements, such as strikes, resulted in confrontation and conflict between workers and police officers, often turning violent and causing widespread distrust of the police (Potter, 2013). This sparked reforms that expanded training and accelerated the centralization of policing, bringing stricter standards and ethics to departments around the country. Furthermore, technological developments, such as the telephone, made it quicker and easier for police to identify and respond to crime (Potter, 2013). The Civil Rights Era brought changes such as the diversification of police forces and the standardization of procedures, especially with the Supreme Court Case **Miranda v. Arizona** (Potter, 2013).

There are more than 800,000 law enforcement officers in the United States

Progressive Era – a period of time between the 1890s to 1920s in U.S. history marked by fervent social and political reform.

Miranda v. Arizona – a landmark U.S. Supreme Court Case that resulted in the “Miranda” warning becoming part of police procedure, whereby suspects are informed of their rights

In the 21st century, more community-oriented ideals were introduced to law enforcement as policing became seen as a service to civilians. This resulted in the introduction of more rigid standards to policing and an increase in civilian rights as local communities started to play a larger role in law enforcement oversight.

Scope of the Problem

The topic of law enforcement is ripe with many policy issues and debates in the United States.

Law Enforcement Oversight

One issue that many Americans tend to agree on is that law enforcement agencies in the United States often lack adequate oversight and regulation. According to a Washington Post-ABC News poll, 60% of Americans believe that the country needs to do more to hold law enforcement accountable (Clement et.al, 2021).

Many law enforcement agencies do not have much, if any, oversight from governmental agencies or the communities they serve. While some agencies have independent boards that review agency policies and claims against officers, these reviews often take place within the law enforcement agency itself for the majority of times (Scheiber et al., 2020). As a result, impartial reviews are often bypassed and accountability can be more difficult to come by since reviews are occurring internally.

Additionally, there are multiple systems and legal principles in place that can serve to shield police and law enforcement agency from proper liability. For instance, the United States has an often controversial legal principle called **qualified immunity**. Qualified immunity is legal policy that grants law enforcement legal immunity and protection from lawsuits for any actions they take in the line of duty unless a **plaintiff** can prove that officials violated a “clearly established statutory or constitutional rights of which a reasonable person would have known” (Chung, 2022). This sets a high legal standard that often prevents civilians who face harm from law enforcement from receiving damages. Specifically, qualified immunity shields police officers (or other state and local government officials, like social workers) from legal action. It does not, however, protect the government itself from liability; a plaintiff could still hypothetically seek damages from the city government that employs the police officer, for instance (Longley, 2022).

Police Practices and Training

Fifty-five percent of Americans say that they have little to no confidence that “police and law enforcement in this country are adequately trained to avoid the use of excessive force” (McCarthy, 2022). There are a number of more controversial practices and

Qualified Immunity – a legal doctrine that protects local and state law enforcement from individual legal liability unless the official clearly violated a constitutional right.

Plaintiff – a person who brings a legal case against another.

policies frequently employed by law enforcement that are more tied to this low level of trust in the American police force. One of these practices is the use of firearms in the line of service. Firearms accounted for 74% of deaths involving police in 2019, totaling up to 1347 deaths in the year (Subramanian et al., 2021). The United States has the highest rate of police firearm deaths in the world, causing many to consider whether alternative, non-lethal options could be implemented as the default in police forces.

Many individuals trace this use of excessive force within U.S. police forces back to training. In the United States, prospective police spend much less time in training academies when compared to other nations. In fact, while U.S. basic police training on average lasts around 21 weeks, some European nations, such as Norway and Finland, have programs that can last for over three years (Horton, 2021). Another key facet of this issue is that the United States has no centralized police training; in fact, there are over 18000 police agencies in the nation, all with different training standards, protocols, and procedures. U.S. police academies also, on average, spend a disproportionate amount of time on firearm training than on **de-escalation training** (Horton, 2021). According to Professor Maria Haberfeld, professor of police science at the John Jay College of Criminal Justice, the majority of U.S. training is in fact focused on the use of force, rather than communication skills.

De-escalation training – trainings focused on equipping police with the tools and techniques to de-escalate potentially violent situations without resorting to harsh force.

Policing Bias

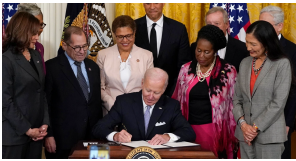
Another key problem that plagues policing in the United States is bias, whether inherent or more outright. There have been many instances in which there have been reports of hostile situations between law enforcement and marginalized communities. For instance, in a 2019 Pew Research Center survey, 84% of Black adult respondents cited that when dealing with police, Black individuals are generally treated less fairly than their white counterparts; 63% of white respondents agreed with the sentiment (DeSilver et al., 2020). The Washington Post’s Fatal Force Project found that Black women and men, American Indian and Alaska Native women and men, and Latino men are significantly more likely than white women and men to be killed by police (The Washington Post, n.d.).

Many individuals attribute such occurrences to police officers’ implicit bias, along with prejudices in the law enforcement system as a whole. This has brought into the conversation the idea of implicit bias training and additional safeguards against bias and protections for marginalized populations. The actual efficacy of implicit bias training on limiting the disparate impact of violent police force on underserved minorities in the United States is still not definitive.

Congressional Action

Congress has addressed the issue of law enforcement oversight and reform in the past. Most recently, Congress passed the Law Enforcement De-Escalation Training Act of 2022. This bipartisan law directs the Department of Justice to develop trainings and materials that can be used for training on de-escalation techniques and responding to medical and mental health crises for law enforcement (Cornyn, 2022). However, this law has been criticized for not mandating these trainings be implemented by law enforcement agencies across the country.

Following the death of George Floyd in 2020, Congress also attempted to pass the George Floyd Justice in Policing Act of 2021, or H.R.1280, which addressed a large range of policies regarding law enforcement practices and accountability. It was meant to “accountability for law enforcement misconduct, restricts the use of certain policing practices, enhances transparency and data collection, and establishes best practices and training requirements” (Congress.gov, 2021). In particular, it limited the use of qualified immunity, established a framework to prevent racial profiling, and prevented the use chokeholds and other more violent techniques (Congress.gov, 2021). While the bill passed in the House, negotiations have been deadlocked since—the bill is highly partisan.



President Joe Biden signing the first major piece of law enforcement reform of his administration.

Other Policy Action

Multiple presidents have issued executive orders and presidential proclamations on the topic of law enforcement. Most recently, President Joe Biden issued Executive Order 14074, or Executive Order on Advancing Effective, Accountable Policing and Criminal Justice Practices to Enhance Public Trust and Public Safety. This Executive Order restricted the use of **No-Knock warrants**, banned the use of chokeholds by federal law enforcement, encouraged and expanded de-escalation training, and created a national registry to track police misconduct (The White House, 2022).

Many state and local governments have also implemented law enforcement reform policies within recent years. Following the 2020 Black Lives Matter protests, at least 30 states and DC have enacted legislation that addressed law enforcement’s use of force, the responsibility of police to provide aid in situations involving law enforcement, and policies regarding law enforcement misconduct (Subramanian et al., 2021). Most commonly, legislatures have restricted the ability for law enforcement to use fatal or potentially lethal force (Subramanian et al., 2021).

No-Knock warrants – a warrant that allows law enforcement to enter a property with no prior notification.

IDEOLOGICAL VIEWPOINTS

Conservative View

Conservatives have been more likely to disprove of changes to the existing law enforcement system and are less likely to view certain law enforcement policies as larger issues affecting the country. For instance, they might see particular examples of violent use of force as one-of instances rather than as patterns. Many conservatives see crime as a larger issue than law enforcement oversight and reform; they view the use of certain measures as necessary to ensure protection of American communities. This results in many conservatives rejecting police reform and instead advocating for more law enforcement protections and expansions. It is important to note that this view is not held by the entire conservative caucus, and there are some members who have supported moderate, small reforms that have been supported by moderate liberals as well. It is important to research your specific representative and see how law enforcement is viewed in your delegated community.

Liberal View

Liberals are largely in favor of police reform and tend to see law enforcement issues as one of the central problems at play in the United States. Many members of this caucus see the overall system as flawed, and therefore support much greater changes to law enforcement systems when compared to conservative representatives.

However, it is important to note that there are also many moderate members of this caucus that are more in favor of smaller, more incremental changes to law enforcement in America. This has caused division within the caucus and has prevented action in the past, as some progressive policies and messages have been rejected by more moderate members as too extreme; at the same time, smaller-scale changes have been dismissed by progressive members as not sufficient.

AREAS OF DEBATE

Improving Law Enforcement Oversight

Many law enforcement agencies do not receive substantial oversight from their local governments, state governments, or their local communities. Thus, congressional action requiring oversight for police boards has been increasingly proposed as a solution. One way this can be accomplished is through directing an appropriate government agency to develop a national oversight board.

On the other hand, this can also be instituted by directing state or local government to develop their own oversight boards. Law enforcement can also receive oversight from civilians, as shown in jurisdictions such as Boston and Los Angeles. Boston, for instance, has a Civilian Review Board whose foremost responsibility is “reviewing and investigating certain complaints against the Boston Police Department and its employees” (City of Boston, 2021). Furthermore, oversight does not need to be limited to the law agencies themselves—in the United States, 55% of police officers are members of police unions. These unions have often been key tools used to protect union members accused of misconduct and preventing change within law enforcement as a whole. Oversight can also come in the form of limiting the scope of bargaining for issues such as discipline procedures or preventing the inclusion of certain provisions as non-negotiables in police union contracts.

Political Perspectives on this Solution

Liberals are likely to be in favor of solutions along these lines, as oversight is one of the most popular forms of police reform among Democrats and more liberal Americans as a whole. Most liberals would likely be in favor of oversight on all government levels. However, there is a number of moderate, at large pro-union liberals that might be against the government interfering in union contracts.

Many conservatives would likely be against these reform efforts. Since many conservatives are overall supportive of police efforts and see reform as a hinderance to their work, supporting additional oversight that can potentially impede police work would not be acceptable to many conservatives. However, it is important to note that moderate conservatives have noted that oversight is a simple and effective reform that can help restore trust in law enforcement and reduce misconduct among police officers. These moderate conservatives might be in favor of some of these reforms, such as oversight boards, but would likely be against other reforms, such as union oversight.

Updating Training Standards and Techniques

Many policing policies and standards are the key sources of tension for Americans more distrustful toward law enforcement. Changes to training standards have potential to resolve this issue, such as through encouraging training focused on law enforcement officials being equipped with techniques that reduce the likelihood of excessive violent force being utilized. As mentioned previously, more robust de-escalation training is key to this solution. While de-escalation training can take many forms, as seen by the variety of trainings implemented by different jurisdictions across the U.S., it tends to emphasize communication and the understanding of power balances (or imbalances) and respect.

Beyond de-escalation and excessive violence training, there is often a cited need for increased biased training. Due to multiple documented instances of law enforcement over-policing marginalized communities, some have noted the importance of our public officials recognizing the role of their own implicit biases in such actions. Some research has in fact shown that implicit bias training can potentially reduce instances of bias in police interactions, leading to many proponents of reform to view some form of mandatory and consistent bias training as a simple and effective improvement worth the investment. However, many opponents to this reform suggest that there is true little evidence to its effectiveness. At the moment, the evidence is still largely inconclusive; for instance, an NYPD study found “null results,” or that is, the study “doesn't prove implicit bias training changes cops' behavior, but it doesn't disprove it either” (Kaste, 2020). Other standards that many cite as needing reform include the use of techniques previously mentioned such as No-Knock Warrants and the amount of police officers that carry firearms. Furthermore, nationalizing these standards is another key policy debate that could potentially help reduce disparities between different stations around the country.

Political Perspectives on this Solution

Liberals would likely be in favor of most or all of these policy solutions. They often see training reform as a way of creating long-term change in policing. They would also likely be in favor of standardizing trainings across jurisdictions in the United States, viewing a national baseline as necessary to ensure equal and just policing across the country.

Conservatives might be more hesitant of these solutions, as the notion that training standards need to be updated and that issues such as implicit bias are affecting law enforcement activities are not fully accepted. Nonetheless, many conservatives have shown support for training focused on de-escalation, as such techniques serve to protect the safety of police officers and reduce their risk of violent harm. Some other reforms, such implicit bias training, are still likely to be opposed. They might believe that the funding investments necessary for some of these training upgrades might divert resources from other important programs within police stations.

Providing Grants and Conditional Funding

Many police departments and law enforcement agencies receive a portion of their funding from the federal government (Mollenkamp, 2022). This federal funding often comes in the form of grants (USAFacts, n.d.). Furthermore, many states and local governments receive funding from the federal government that they in turn direct toward policing (USAFacts, n.d.).

Based on this funding mechanism, many see tying such grants to specific reforms and changes as a way to pressure and ensure that police departments make necessary reforms. Furthermore, some people believe that increasing funding given to states, local governments, and police departments provide the necessary financial relief that departments need in order to institute many of the changes mentioned above, since funding shortages are often cited as reasons for not instituting reform. Grants can also be directed for purposes outside of training and reform more strictly, such as to technology and other upgrades that might create better policing relationships with surrounding communities. Conservatives would also likely support funding and grants focused on officer safety and health, such through legislation encouraging counseling and other health screenings and initiatives. For instance, Senate Republicans recently passed a bill meant to encourage programs for the treatment and care of job-related post-traumatic stress disorder or acute stress disorder for police officers and other public safety officials (Congress.gov, 2023).

Political Perspectives on this Solution

Many conservatives would be in favor of increasing funding for police departments, as they often see increasing police funding as a way of reducing crime. To them, when police departments have more funding, they are better suited to serve and protect their surrounding communities. Conservatives would largely be in favor of simply establishing new grants and funding mechanisms for police departments without contingencies on reform. As mentioned before, they would favor grant programs specifically meant to address officer health, safety, and wellbeing.

However, they might be opposed to tying this funding to certain reforms that they do not support. Nonetheless, a solution like this might be key to helping introduce more bipartisan support for certain policing reforms.

Many liberals would be in favor of tying federal funding to reforms as they are more likely to see reform as necessary and funding as more than simply a blank check. However, liberals are likely to be against increasing funding. They are more likely to be in favor of decreasing police funding.

Investing in Alternatives to Law Enforcement

As discussions surrounding police procedures take place, many have also started to discuss the situations which police currently are tasked with responding to. Some have noted that some situations traditionally addressed by police officers could instead be addressed by other community resources. For instance, certain situations, such as mental health crises or lower-level crimes, might be better handled by mental health professions or unarmed patrols (Bokat-

Lindell, 2023). In general, proponents argue that behavioral health, medical and social services professionals could be used to supplement the work of some police officers.

The proponents of this solution contend that this diversion of jurisdiction could also help police departments focus their efforts and resources to situations and crimes in which police and law enforcement presence are most direly necessary. Nonetheless, critics have raised the idea that reducing police presence in certain areas might lead to increases in crime rates and overall hurt communities, rather than benefit them.

Political Perspectives on this Solution

Many conservatives might be wary of this solution. As mentioned before, they might be inclined to believe that a reduction in law enforcement presence would lead to more community harm and crime. Thus, they are more likely to be in favor of increased law enforcement presence to reduce overall crime rates. They would argue that increasing law enforcement presence would also reduce the strain and pressure on police units to respond to many calls and stretch themselves too thin.

Liberals are more likely to be in favor of this policy solution. Many liberals would argue that bringing police presence into a lower-stakes situation might escalate the problem; thus, they would argue that having law enforcement present at situations where they are not fully needed simply increases the probability of adverse outcomes for all involved.

Encouraging Data Collection and Transparency

Due to the largely decentralized nature of police departments across the United States, levels of data collection, reporting, and documentation of cases and accidents vary widely. Past policy solutions have suggested increasing the federal reporting requirements for use of force situations or no-knock warrants (Grisales and Naylor, 2020).

Other efforts have focused on increasing the use of police body cameras through grant programs, mandating their use, or even instituting punishments for a failure to use them. For instance, a bill introduced to the House of Representatives this February called the Federal Police Camera and Accountability Act is meant to “[establish] requirements for federal law enforcement officers to wear body cameras and for federal law enforcement agencies to install video cameras in patrol cars” (Congress.gov, 2023). Proponents argue that transparency measures like this can help restore public trust in police units for Americans that are more disillusioned with the public agencies.

Political Perspectives on this Solution

Conservatives are likely to support some variations of increased transparency solutions. While they might initially reject making policing more difficult and cumbersome due to increased reporting and filing, they would support that this solution is likely to reestablish trust for public officers within the American populace.

While liberals would not oppose legislation focused on transparency, many would argue that more proactive measures and policies are needed to truly address issues concerning policing in the United States. Thus, they would likely support solutions like this being supplemented with more outright reforms.

BUDGETARY CONSIDERATIONS

While the federal government does provide some funding and grants to police departments across the country, the vast majority of funding for departments come from local and state governments. In 2020, state and local governments spent \$129 billion on policing as well as \$86 billion on corrections and \$51 billion on courts. This means that, on average, local governments spend between 20% and 40% of their budget on police, with police being the second largest expenditure, followed only by education.

On the other hand, the federal government directly contributed \$30 billion to policing, \$7 billion to corrections, and \$15 billion to courts in 2017. Furthermore, the federal government contributed \$12 billion in grants to local and federal governments for policing and corrections. The majority of the programs mentioned above would require significant federal funding, but many would come with sweeping benefits. It is up to you delegates to weigh the increased costs with potential upsides, while also evaluating the true impact of each solution.

CONCLUSION

Policing in the United States is an incredibly complex issue that will require lots of nuance and consideration when discussing in committee. Solutions, whether focused on transparency, accountability, training, or prejudice should be comprehensive and sensitive of the many realities that Americans face across the United States. Focusing on solutions like this can ensure a more just and safe society for all.

While this topic has become a polarizing issue, there are definitely solutions that can cater to both Republican and Democratic perspectives, all while ultimately benefiting the communities you are meant to represent. The solutions mentioned above are simply a

Over 84% of police department budgets go to salaries and wages.

starting point—feel free to combine, edit, or create completely new ones!

GUIDE TO FURTHER RESEARCH

A great place to start is the bibliography of this briefing, which lists multiple sources that can be helpful in providing more information and context to the state of police policy in the United States. It might be helpful to look at news and reports on the police departments local to your representative in order to figure out which issues are most pressing to the community you are representing.

Additionally, while some key pieces of legislation were mentioned throughout this briefing, there are many more bills and laws on this topic. You can access current and past bills that have been proposed on this topic on the website Congress.gov. It is important to keep up-to-date on new legislation, as this issue is always changing and in flux!

Whatever research avenues you decide to take, feel encouraged to look for solutions and ideas beyond the ones proposed in this briefing! This is a very complex and at times divisive issue, but you delegates should feel empowered to come up with creative and bipartisan solutions within our committee room.

GLOSSARY

Progressive Era – a period of time between the 1890s to 1920s in U.S. history marked by fervent social and political reform.

Miranda v. Arizona – a landmark U.S. Supreme Court Case that resulted in the “Miranda” warning becoming part of police procedure, whereby suspects are informed of their rights

No-Knock Warrant – a warrant allowing law enforcement to enter premises without announcing their presence.

Plaintiff – a person who brings a legal case against another.

De-escalation training – trainings focused on equipping police with the tools and techniques to de-escalate potentially violent situations without resorting to harsh force.

Qualified Immunity – a legal doctrine that protects local and state law enforcement from individual legal liability unless the official clearly violated a constitutional right.

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