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INTRODUCTION

Public concern over police actions is not a new issue in American public policy. The civil rights era brought with it a new demand for justice that included scrutiny over police actions. With the availability of cameras, social media, and citizen journalism, Americans are more in touch than ever with cases of perceived or actual police abuse against citizens. The 1992 beating of Rodney King by Los Angeles police officers was the first prominent example of police abuse caught on camera and dispersed to the public through a 24 hour news cycle. Since then, technology and access to information has continued to increase and become more available to the average person. Today, a citizen journalist can video record the actions of police and upload the content of that recording to the internet where it has the potential to reach millions of viewers. The publishing and widespread attention of videos depicting police abusing citizens can magnify any hostility towards police that previously existed. Cases such as the killing of Michael Brown in Ferguson or Eric Garner in New York have only increased already tense relations between minorities and law enforcement in their communities and throughout the United States.

Thankfully, we live in a time where technology can provide unprecedented transparency and an objective account of interactions between police and citizens, especially interactions involving use of force. Reform is needed to require police officers who regularly interact with the public to use body worn cameras.
HISTORICAL BACKGROUND

Early American Policing

Organized policing groups were present in American as early as 1631 when the country was still an English colony. The first modern police department was established in Philadelphia in 1833 and other large cities such as Boston and New York quickly followed suite. Although fully separated from England at the time, American law enforcement closely mimicked their British counterparts.

Crowd Control

Conflict is inherent to police work. The police perform a necessary job of enforcing laws, and those who break laws will naturally show hostility towards the police from time to time. There are times when police come into conflict with large groups of citizens through demonstrations, riots, or otherwise unruly crowds. In many cases, demonstrations derive from labor or social demonstrations, issues concerning civil rights violations, or anti-war protests. But unruly crowds can form for a surplus of reasons that are unconnected to social justice. Take rioting after sporting events for example. Regardless of how a crowd forms, the police are tasked with maintaining order and mitigating the chaos. The inherent nature of crowd control places police in conflict with the masses, often times due to the behavior of the crowd.

Aggressive riot control tactics in New York during the early 1900’s caused the mayor of the city to mandate reform. In the 1960’s there were clear examples of inappropriate crowd control measures taken against demonstrators in parts of the South. During the Birmingham Campaign in 1963, crowd control techniques employed by law enforcement included using “high-pressure fire hoses and police dogs on men, women and children alike.” The violence
used by police against Birmingham even garnered the attention of President John F. Kennedy, who responded by saying “The events in Birmingham... have so increased the cries for equality that no city or state or legislative body can prudently choose to ignore them.”

The violence perpetuated on civil rights demonstrators during the Selma to Birmingham march in 1965 was equally disturbing. Steven Weisenburger graphically described the action of the police on Selma’s “Bloody Sunday”:

“…troopers charged, methodically ramming billy clubs into each marcher's solar plexus. Some of the women began to shriek, then the lead marchers all scattered as tear gas grenades popped and gas-masked troopers singled out fallen marchers who stumbled over the highway median. Some officers themselves tripped over fallen protestors while other gas-masked officers, hinging at the waist like woodchoppers, swung at marchers' backs and heads.”

Weisenburger further highlighted a key assertion regarding community-police tension as a result of civil demonstrations: the people involved are “normal” and would otherwise most likely not have negative interactions with the police if it were not for their participation in a demonstration. Weisenburger described the “ordinariness” of the demonstrators, pointing out that their attire was standard, dressed in “tan trench coats and slacks and shirts and ties, the ladies still in church dresses, overcoats, and hats. They could have been the fathers and mothers of kids at my high school…”

Overlapping with the Civil Rights era, anti-war demonstrations facilitated opportunities for citizens to experience the enforcement side of law. One of the more famous demonstrations and subsequent police reaction was the anti-Vietnam war protest at the 1968 Democratic
National Convention in Chicago. What makes this incident most notable is the level of violence used by the police against the protesters reconciled with the racial makeup of the protesters, described as “mainly white, mainly middle class, and mainly young.” With exception of their youthfulness, the demonstrators were hardly the demographic most associated with being victimized or unfairly targeted by law enforcement. Yet, the police reacted to these middle class white kids with formidable force and violence. The result of the demonstrators clash with the police was “blood, sweat and tear gas.” There is certainly debate on whether the use of force against the Chicago protest was justifiable or not. And if any of it was justifiable, the extent to what force was necessary can also be questioned. Regardless, the Democratic National Convention shows that even in the 1960’s, social demonstrations were not strictly a racial issue. Conflict between police and anti-war demonstrators continues to exist in present day, as the 2008 Democratic National Convention proved when police clashed with veterans of the Iraq war who demonstrated in an effort to voice their cause to the Democratic Party.

The exact social conditions that bring about widespread public scrutiny over police actions can change with time, but there are observable events that lead to some conclusions regarding trends. Marilynn S. Johnson, a history professor at Boston College, espouses that “public concern with police violence tends to follow roughly 20-year cycles.” This cycle starts with a trigger event that harvests public attention. That public attention leads to a public demand for justice and change, which in return, leads to reform. In effect, it is the painful, real world application of the public policy feedback loop. Recent trigger events will demand new reform.

**Triggering Events**

Studies show that bad news is more popular than good news. This has created a bad news to good news ratio of 17 to 1. This phenomena has been attributed to our survival instincts to tend
to the most urgent events first. Translated to news consumption, we prioritize bad news higher than good news. This can lead to an impression that conditions are worse than they really are. News surrounding law enforcement is no different. Even where objective reporting exists, there is likely to be more negative stories involving law enforcement than positive ones. While a negative story could spark a Ferguson moment, positive stories do not seem to gain as much traction or act as triggering events for pro-law enforcement social movements.

Triggering events appear to be somewhat anarchic. While there are clear trends and cycles, these do not always accurately represent national conditions. The challenges faced by law enforcement in the relatively small middle-class city of Rocklin, California are likely much different than in depressed inner-city Detroit, Michigan. Still, national attention on circumstances in one part of the country can inaccurately lead to broad conclusions about law enforcement agencies that operate in entirely different conditions. It’s important to ensure that any national reform to law enforcement is comprehensive enough to meet the needs of various communities operating under different conditions.

**Law Enforcement Practices and Race**

Because of its size, New York Police Department provides excellent examples of general problems that police departments face in regards to community-police relationships and the methods used to mitigate those problems through reform. New York’s police department also has a unique history of its relationships with its mayors. We can look at positive police relationships between the NYPD and mayors, found in examples such as the Department’s relationship with Giuliani. Examples of hostile relationships between the mayor’s office and the department can be found in mayors Gaynor, LaGuardia, and recently, De Blasio. Interestingly enough, those mayors who have hostile relationships with the Department seem to support reform that is favorable to
the citizens. Conversely, Giuliani worked well with the Department, but favored heavy-handed police tactics that brought national scrutiny to the Department.

Mayor Rudy Giuliani was in office from 1994 to 2001. Early in his mayorship he subscribed to the Broken Windows theory and implemented changes in the NYPD based on that. The Broken Windows theory simply asserts the small things, such as a broken window in a building, leads to unfavorable attitudes towards property and a general disrespect for the rule of law.\textsuperscript{10} The solution, according to Giuliani, was aggressive enforcement of petty crimes. Stopping small crimes, under this theory, would lead to stopping the bigger, more serious crimes plaguing the city. To summarize Giuliani’s reasoning, “Letting the small infractions slip by with no consequences creates an atmosphere that encourages people into believing that those small infractions aren't a big deal. Pretty soon, bigger infractions are committed and these too are not considered to be a big deal.”\textsuperscript{11}

Giuliani’s implementation of Broken Windows theory resulted in the police aggressively going after crimes such as graffiti, subway turnstile jumpers, loitering, panhandling, and homelessness. The results favored Giuliani: “The homeless were required to stay in shelters, graffiti was removed within 24 hours and yes, broken windows were identified and repaired”\textsuperscript{12}. But Giuliani’s successful results did not prevent national criticism of his policing style that included allegations of violations of Constitutional rights, racial profiling, and questionable deadly force incidents during his tenure as mayor.

Criticisms concerning violations of Constitutional rights during Giuliani’s mayorship mainly hinged on scrutiny of stop and frisk methods employed by the NYPD during that time. Opponents of Giuliani’s stop and frisk tactics not only bring up the obvious Fourth Amendment
concerns, but they also assert that “Stop and frisk and other “broken windows” policing aggressively targets low-income communities of color, young people, homeless people, LGBT people, people with disabilities, immigrants, and women.” The stop and frisk tactics remained in New York as part of Giuliani’s legacy. Data presented by the New York Civil Liberty Union shows that NYPD’s stop and frisk tactics disproportionately affect African Americans, most of whom are innocent of any crime at the time they were subject to the stop and frisk.

The data offered by the New York Civil Liberties Union is vast, but worth examining:

- In 2002, New Yorkers were stopped by the police 97,296 times. 80,176 were totally innocent (82 percent).
- In 2003, New Yorkers were stopped by the police 160,851 times. 140,442 were totally innocent (87 percent). 77,704 were black (54 percent). 44,581 were Latino (31 percent). 17,623 were white (12 percent). 83,499 were aged 14-24 (55 percent).
- In 2004, New Yorkers were stopped by the police 313,523 times. 278,933 were totally innocent (89 percent). 155,033 were black (55 percent). 89,937 were Latino (32 percent). 28,913 were white (10 percent). 152,196 were aged 14-24 (52 percent).
- In 2005, New Yorkers were stopped by the police 398,191 times. 352,348 were totally innocent (89 percent). 196,570 were black (54 percent). 115,088 were Latino (32 percent). 40,713 were white (11 percent). 189,854 were aged 14-24 (51 percent).
- In 2006, New Yorkers were stopped by the police 506,491 times. 457,163 were totally innocent (90 percent). 267,468 were black (53 percent). 147,862 were Latino (29 percent). 53,500 were white (11 percent). 247,691 were aged 14-24 (50 percent).
- In 2007, New Yorkers were stopped by the police 472,096 times. 410,936 were totally innocent (87 percent). 243,766 were black (54 percent). 141,868 were Latino (31 percent). 52,887 were white (12 percent). 223,783 were aged 14-24 (48 percent).
- In 2008, New Yorkers were stopped by the police 540,302 times. 474,387 were totally innocent (88 percent). 275,588 were black (53 percent). 168,475 were Latino (32 percent). 57,650 were white (11 percent). 263,408 were aged 14-24 (49 percent).
- In 2009, New Yorkers were stopped by the police 581,168 times. 510,742 were totally innocent (88 percent). 310,611 were black (55 percent). 180,055 were Latino (32 percent). 53,601 were white (10 percent). 289,602 were aged 14-24 (50 percent).
• In 2010, New Yorkers were stopped by the police 601,285 times. 518,849 were totally innocent (86 percent). 315,083 were black (54 percent). 189,326 were Latino (33 percent). 54,810 were white (9 percent). 295,902 were aged 14-24 (49 percent).

• In 2011, New Yorkers were stopped by the police 685,724 times. 605,328 were totally innocent (88 percent). 350,743 were black (53 percent). 223,740 were Latino (34 percent). 61,805 were white (9 percent). 341,581 were aged 14-24 (51 percent).

• In 2012, New Yorkers were stopped by the police 532,911 times 473,644 were totally innocent (89 percent). 284,229 were black (55 percent). 165,140 were Latino (32 percent). 50,366 were white (10 percent).

• In 2013, New Yorkers were stopped by the police 191,558 times. 169,252 were totally innocent (88 percent). 104,958 were black (56 percent). 55,191 were Latino (29 percent). 20,877 were white (11 percent).

• During the first three-quarters of 2014, New Yorkers were stopped by the police 38,456 times. 31,661 were totally innocent (82 percent). 20,683 were black (54 percent). 10,483 were Latino (27 percent). 4,590 were white (12 percent).

While some data may conclude that stop and frisk tactics are effective in reducing crime, the information put forth by the New York Civil Liberties Union demonstrates that any positive results come at a cost. The stop and frisk program was terminated in 2013 after a New York judge ruled the tactics were unconstitutional and targeted minorities.\textsuperscript{14}

**Trigger Events Trigger Reform**

In 1972, the NYPD was under public scrutiny for the killing of an unarmed African American youth, ten year old Ricky Bodden. In her book, *Street Justice: A History of Police Violence in New York City*, Marilynn S. Johnson described the circumstances surrounding Bodden’s death and the departmental reform that followed. Bodden was the passenger and one of three occupants of a stolen vehicle. The youths were unarmed and were taking the stolen vehicle on a joyride. At some point during the joyride the police unsuccessfully attempted to pull the vehicle over and a short chase ensued. The police claimed that after attempting to block the path of the stolen car
with a police vehicle, the stolen car swerved to avoid the police vehicle and narrowly escaped hitting one of the police officers. The police fired at the stolen car as it fled the area.

The police eventually pulled the vehicle over after a short chase. Immediately after pulling the vehicle over, the driver of the stolen car attempted to flee. The police claim the driver got out of the vehicle and “…had crouched down as if to fire a weapon.” Concurrent to the driver’s actions, the rear driver side passenger, Bodden, also exited the vehicle. Bodden was caught in the line of fire and died soon after being struck by a bullet. No weapons were ever found to be in possession by the driver or any occupants of the stolen car.

The predominately African American community of the New Brighton neighborhood where the shooting took place reacted severely to the death of Bodden. Johnson described the civil unrest that followed, comprising of “beating white pedestrians and pelting police cruisers with rocks and bottles.” Rather than providing an equally violent response to community outrage, the NYPD reached out to the community and established communication that validated their concerns with police actions. The NYPD used then Deputy Commissioner Benjamin Ward, an African American himself, to meet with residents and address concerns. The meetings eventually resulted in tangible reform to the Department’s use of force policies.

The reform that derived from Bodden’s death was two part. First, the NYPD changed its use of force policies to include a prohibition for warning shots and shooting at moving vehicles unless the occupants of the vehicle were using some type of deadly force against the officers other than the vehicle itself. NYPD’s new reforms relegated use of deadly force to defense of life or the apprehension of fleeing felons whose escape posed a risk to the public. The second part of the reform was the creation of a Firearm Discharge Review Board that would review every
instance in which NYPD officers discharged their firearm in the line of duty. As can be expected, the police union protested the changes on the basis that it put the officers’ lives in danger. Data would later prove that whether by correlation or causation, policemen were shot less after reforms were implemented than under the old use of force rules.

Although comprehensive and aggressive, the Department’s reform efforts were reactive to the shooting death of Bodden. In her book, Johnson briefly highlights more proactive reform that was reactive to another shooting death of an unarmed African American youth nearly a year after Bodden. This time, the Department used data collected from the first year of the Firearm Discharge Review Board to create an Early Warning System to identify police officers who had “repeatedly and unnecessarily fired their weapons.” The Early Warning System would identify officers who fit a pattern and take proactive measures to remove these problem officers from a position where they might unjustifiably damage the public or cause an incident deserving of public scrutiny. These officers would be “psychologically evaluated and subject to reassignment, discipline, or dismissal.” This system is an example of proactive reform. A modern early warning system could better identify problem officers while also absolving officers who justifiably use force.

The reform that derived from community outrage against the shooting of Ricky Bodden was effective in saving lives. The results of the reform are well documented in Street Justice: A History of Police Violence in New York City. The data shows fatalities from police shooting declined from 93 in 1971 to 25 in 1976. With what Johnson describes as some “minor variations,” this downward trend continued, hitting a low of 11 fatalities in 1985. Coincidently enough, the number of NYPD officers shot after the reforms were implemented also decreased at a nearly simultaneous rate. Officers shot declined from 58 in 1971 to an average of 11 or 12 a
year until 1985. Data from Johnson concludes that the positive effects of post-Bodden reform seem to expire in 1985. One reason for this might be the emergence of crack cocaine in the inner city drug market which led to increased crime and increased danger for police officers engaged in drug enforcement or drug related crime.

Johnson asserts that the positive effects of NYPD’s reformed use of force policies influenced other departments to make changes and contributed to the general decline in the number of police shootings throughout the nation. Additionally, NYPD’s policies restricting the use of deadly force against fleeing felons who were not suspected of violent crimes was eventually adopted nationally by way of case law in *Tennessee v. Garner* (1985).

**Tennessee v. Garner**

In *Tennessee v. Garner*, the Burger Court had to decide whether a Tennessee statute that authorized police to use deadly force against any feeling felon violated the Constitution’s Fourth Amendment protections against unreasonable seizures. In this case police officer Elton Hymon, was in pursuit of an African American teenager, Edward Eugene Garner, whom he suspected of robbing a nearby house. Hymon fatally shot Garner to prevent him from hopping over a fence and escaping arrest. Garner’s father sued, alleging Garner’s Fourth Amendment rights were violated by Hymon. The case eventually made it to the Supreme Court who ruled in favor of Garner’s father, the respondent. In this landmark case, the Court struck down the petitioner’s, Tennessee, statute authorizing deadly force in the apprehension of any felon, a principle that was considered common law at the time.

Many of the same elements present in Bodden’s case existed in *Tennessee v. Garner*. A felonious crime had been committed, the police engaged in some sort of chase with the suspect,
deadly force was used to prevent the escape of the suspect, and the suspect was unarmed. Unlike the circumstances surrounding Bodden’s death, where the police believed the driver was crouched down in order to shoot at the officers, the officer who shot Garner did not believe he was armed, and in fact believed he was most likely unarmed. During the oral arguments in _Tennessee v. Garner_, the respondent’s attorney, Steven L. Winter, argued that “The officer testified repeatedly that he had no indication that Garner was armed, that he was reasonably sure that Garner was unarmed, and finally, on direct testimony, when asked, did you know positively whether or not he was armed, he answered, “I assumed that he was not.” The Court ruled that use of deadly force to apprehend a fleeing felon is only appropriate when “it is necessary to prevent the escape and the officer has probable cause to believe that the suspect poses a significant threat of death or serious physical injury to the officer or others.”

**Citizen Journalism**

The national reforms carried out by the Court’s decision on _Tennessee v. Garner_ did not bring any permanent halt to public scrutiny over police actions, especially in regards to the treatment of African Americans. On the West Coast, relationships between police and minorities have experienced their fair share of conflict. As technology became more accessible to the average person, the emergence of “citizen journalism” changed the way news was created. America experienced its first viral video in 1991 when a bystander and soon to be citizen journalist, George Holliday, videotaped Los Angeles police officers as they appeared to be abusing African American suspect, Rodney King. This video was eventually distributed to the country through various news channels and the public demanded accountability. The involved police officers were eventually brought to trial under charges of assault with a deadly weapon and use of excessive force. After a jury failed to convict the officers, Los Angeles was consumed
by riots as the public cried out for justice. New charges of civil rights violations were brought
forth because of political pressure.24 One thing was clear in 1991, the racial tension and scrutiny
over police actions was alive and present in America.

In his 2012 article, *Rodney King Remembered*, author Lou Cannon described three myths
he believed surrounded the Rodney King incident: (1) the officers made no attempt to take King
into custody and chose to instead beat him with batons because they were white and he was
black; (2) the video was shown repeatedly on television; and (3) the officers were acquitted in
the first trial because of the racial makeup of the jury.25 Cannon refutes these myths and asserted
the following conclusions: King actively resisted the officers; only part of the video was shown
on television, and the evidence that most convinced the first jury to acquit the officers was the
video being shown in its entirety. Cannon widely focuses on the bias of the video, which was
recorded primarily after King resisted. Even then, the first part of the video shows King charging
after a police officer in an aggressive manner. That part of the video, Cannon concluded, was
edited out by the television station that first acquired the video because it was blurry and not the
quality that was desired for a broadcast audience. As Cannon put it, “The only record of an arrest
that had taken more than nine minutes, had become a 68-second videotape.”26

Cannon’s observations can lead to a few conclusions. The first is that citizen journalism
can and will insert itself as a player in police-community relations. With the popularity of cell
phones that are capable of recording high quality video, much more high quality than the Rodney
King video, citizens will continue to film the police. The second conclusion is that fair and
objective videos are needed and the absence of such can lead to potentially unfair or misplaced
public outcry and reaction. Modern body worn technology can provide this needed objectivity.
Recent court cases have reaffirmed a person’s constitutional right to film the police. In *Glik v. Cunniffe*, the First Circuit Court of Appeals reaffirmed a person’s right to film police in a public space and ruled that police officers are not afforded qualified immunity in cases where they arrest a person for exercising their right to film. The case derived from an arrest in 2007 made on Simon Glik for using his cell phone camera to film several police officers in Boston Commons while they were officiating a separate arrest. Glik was arrested under Massachusetts state wiretapping laws, but the charges were eventually dropped. Glik later brought suit against the officers for violating his Constitutional rights.

The police officers being sued by Glik attempted to invoke qualified immunity, which a lower court subsequently denied. The Circuit Court affirmed the lower court’s decision to deny qualified immunity, saying “We conclude, based on the facts alleged, that Glik was exercising clearly established First Amendment rights in filming the officers in a public space, and that his clearly-established Fourth Amendment rights were violated by his arrest without probable cause.” The Court’s powerful conclusion struck down any enforcement of a statute that may result in the arrest of a person for filming the police and the Court removed any qualified immunity for officers involved in arresting a person for filming, consequently violating their First Amendment rights. The *Glik* decision solidified the role of citizen journalists in a post-Rodney King America. Police officers now have to operate in an environment where their actions most likely will be recorded and any attempt to prevent this can result in the officer being held personally liable with the absence of qualified immunity. The *Glik* decision was a game changer. The trend of capturing law enforcement activities on camera is not limited to citizen
journalist. With the advent of body worn camera, police are capturing incidents themselves. This too will be prove to be a game changer.

The historical background surrounding police tactics and controversies provides a basis for understanding the current scrutiny and criticism of law enforcement. History has shown that this is not a new phenomenon and it is certainly not an issue that cannot be overcome through sensible reform measures. Although race can play a factor in community-police relations, it is not always a cause. Reform needs to be comprehensive and cover more than race relations.

**CURRENT CONDITIONS**

**Use of SWAT Teams**

The current issues with policing in America are multifaceted. Racial tensions between minority communities and police still exist. Militarization of the police has gained more attention in recent years. Militarization broadly refers to the general trend of civilian police departments becoming more paramilitary in appearance and action. Examples of this trend can range from the types of uniforms police wear, what weapons they use, to what kind of tactics are being employed. As the American military presence in the Middle East declines and some war materials are given to local police departments throughout the United States. Since 9/11, police departments have to worry about the threat of terrorism on top of typical policing issues that traditionally consumed their focus. Americans have generally accepted the legitimate need for the use of SWAT teams to respond to emergencies, such as a barricaded suspects, hostage situations, to apprehend armed suspects, or other equally dangerous situations.

But as the War on Drugs continues, SWAT teams are increasingly being used to handle drug warrants, especially where the suspect is believed to be armed. The ACLU estimated that
60% of SWAT deployments are used to conduct drug investigations. The ACLU has argued that a belief that a suspect may be armed based on unfounded gang affiliations or past weapons charges should not justify the use of a SWAT team to carry out an investigation. But in the ACLU’s report, their own statistics found that weapons were located in at least 35% of instances where SWAT teams were used when weapons were believed to be present. This is compared with only 32% of instances where weapons were not located, and 33% of instances where it is unknown whether weapons were located or not. This data could justify the need to use SWAT teams for warrants where weapons are believed to be present. In fact, the inherent danger of certain types of SWAT deployments, particularly “no-knock” raids, may be a reason to oppose their use.

The ACLU’s report also highlighted some interesting correlations between race and the use of SWAT teams. Out of the SWAT team deployments from the year 2011-2012 studied by the ACLU, 39% of the people affected were black. This is compared with 20% white, 11% Latino, and 30% whose race was unknown. As with so many other police tactics, such as NYPD’s stop and frisk program, the use of SWAT teams appeared to be another way the American criminal justice system disproportionately affect African Americans. The ACLU’s own report highlighted the fact that SWAT teams are used for investigations where legitimate threats are present. Rather than reduce the use of SWAT teams, it should be required that these officer use body worn cameras to provide an added layer of accountability to the public to restore or reinforce their belief that SWAT teams are used for legitimate purposes.
Ferguson: Today’s Trigger Event

America faced a trigger event in the summer of 2014 that reignited race issues in American law enforcement. In Ferguson, Missouri, an unarmed 18 year old African American, Michael Brown, was shot to death by a white police officer, 28 year old Darren Wilson. Exactly what happened between Brown and Wilson that culminated in Brown’s death is contested. Eye-witness accounts are inconsistent and unlike Garner’s death, there is no video recording of Wilson’s actions.

Unfortunately, relations between the Ferguson Police Department and their African American community were already tense. With the Ferguson case thrown into the national arena, a demand for some kind of action to be taken against Wilson emerged. This placed the St. Louis County prosecutor Robert McCulloch in a tough position. McCulloch needed to appease public demands for action against what was assumed to be another case of a white officer unjustly killing a black suspect. At the same time, the evidence did not necessarily point to Wilson being guilty of any wrongdoing. McCulloch found a way to personally absolve himself of the responsibility of taking action against Wilson and instead passed the decision to indict on to the county’s grand jury.

McCulloch’s decision to relegate his indictment power to the grand jury was met with mixed reaction. Some saw it as a way to liberate himself from criticism for an unpopular decision, akin to Pontius Pilate washing his hands of Christ’s blood before allowing the Jews to crucify Him through their independent judicial process. Allegations were made that McCulloch was simply “peddling the idea of grand jury independence as a cover for political cowardice.”
In any case, only one outcome could appease the crowds of people who at gathered in Ferguson: an indictment of Darren Wilson.

After contemplating the physical evidence, eye witness testimonies, Wilson’s testimony, and other evidence, the St. Louis County grand jury returned a decision to decline charging Wilson. Missouri is one of few states with sunshine laws that allow the public to have access to evidence presented before grand juries. A review of the witness accounts presented to the grand jury show obvious disparities. For example, “Witness 25” claims that Brown was running away from Wilson while Wilson “…was walkin’ behind him steady opening fire shootin’…”

Another witness, “Witness 10,” however, claims that Wilson was pursuing Brown after a fight ensued while Brown was outside Wilson’s vehicle and Wilson was still inside. Witness 10 recalled that Wilson was pursuing Brown after the fight when Brown stopped, turned around towards Wilson, and made some type of movement. As Witness 10 described it, “I can’t recall the movement that he did. I’m not sure if he pulled his pants up or-or whatever he did but I seen some type of movement and he started charging towards the police officer.”

Witness 10’s account of Brown’s death closely resembled Wilson’s original interview, given to a detective from the St. Louis County Police Department on August 10, 2014, one day after the fatal shooting. Wilson testified that after a fight took place with Brown while Wilson was still inside his vehicle, he pursued Brown on foot. At some point during the pursuit Brown stopped and started charging towards Wilson. “During his first stride, he took his right hand and put it under his shirt and into his waistband,” Wilson recalled. After failing to adhere to Wilson’s commands to stop, Wilson fired at Brown numerous times and killed him.
Wilson’s claims of self-defense were corroborated by some independent eye-witness accounts, wounds suffered by Wilson, and physical evidence at the scene, such as bullet casings whose location on the ground supported Wilson’s claims. Despite the public trial against Wilson in the media, the grand jury decided the evidence was not enough to warrant any charges against Wilson. The decision to not indict Wilson did not rest well with protesters. By all appearances, Ferguson looked like a war zone. Whether the verdict against Wilson was just or not, the police response to demonstrators led to more scrutiny over policing.

Could Ferguson Have Been Prevented?

Body worn cameras could have provided clear evidence to support Wilson’s account and prevent any misconceptions that fueled protesters. This specific sentiment is shared by some other law enforcement officers in the country. The Columbia, Missouri Police Department made the decision to equip all of their officers with body cameras shortly before the Ferguson incident. In a post-Ferguson interview with Columbia police officer Cory Dawkins, he speculated that body cameras could have prevented the controversy in Michael Brown’s death, saying “We might not have had all the mayhem that's happened in Ferguson if he had been wearing a body camera.”

Conclusions Regarding Current Conditions

We can make a few conclusions from today’s current climate. The first is that we have at least a perceived problem with racism within law enforcement. And there is some data that can at least correlate race with the likelihood to be negatively affected by the criminal justice system. For example, “African-American males are six times more likely to be incarcerated than white
males...”\textsuperscript{36} Statistics like these can help explain why African American communities are skeptical of police killings involving unarmed black men, like Michael Brown.

\textbf{COMPREHENSIVE SOLUTIONS}

\textbf{Body Cameras}

With the complex issues facing both law enforcement and citizens, it is clear we need comprehensive solutions. While body cameras may not completely solve the race issues facing law enforcement officers and minority communities, they can help build trust by providing more accountability and objective accounts of controversial incidents.

As part of his graduate studies at Cambridge University, Rialto, California’s Police Chief Tony Farrar conducted a study on the use and impact of body worn cameras on police officers using his department as a case study. The results of the study were stunning. Farrar found that the use of body worn cameras reduced use-of-force incidents by 59 percent and citizens’ complaints by 87.5 percent.\textsuperscript{37} As part of his study, Farrar compared the cost of investigating citizen complaints and compared it with the cost of purchasing the body cameras. Farrar estimated the national average for investigating a citizen complaint was “roughly in the area of $20,000 per complaint”\textsuperscript{38}. Farrar calculated that after the city of Rialto purchased the body worn cameras for $90k, they directly saved an estimated $400k due to the 87.5 percent reduction in citizens’ complaints.\textsuperscript{39}
The use of body worn cameras has received support from civil rights organizations such as the American Civil Liberties Union. Although the ACLU has shown general favoritism towards body worn cameras, they include the caveat that individual privacy of members of the public should be taken into consideration. Parts of the ACLU’s suggestions for departments considering implementing body worn cameras include retention periods for video footage; public notice of recording; and technological controls.40 The ACLU sees the potential for body worn cameras to be a “win-win” for communities and law enforcement, but privacy considerations must be addressed. “Without such a framework,” the ACLU contends, “their accountability benefits would not exceed their privacy risks.”41

Citizen Review Boards

Citizen review boards are another practice that can help bridge the gap between communities and law enforcement, while also providing accountability. If departments adopt body worn cameras, citizen review boards can be a vital part of reviewing the recorded footage and investigating complaints or use of force incidents. The NYPD established review boards in the 1970’s in response to community concerns regarding police actions. The initial review boards were not independent and only addressed use of force incidents. The current Civilian Complaint Review Board states on its website that it was established as an “all-civilian agency in 1993” and “Chapter 18-A of the New York City Charter sets forth its jurisdiction, powers and duties.”42 Other examples of civilian review boards can be seen in various municipalities throughout the nation, including San Diego and Milwaukee.
BIBLICAL IMPLICATIONS

Romans 13

The Bible speaks both about how we should treat each other and how we should interact with authority. Romans 13:1-6 provides instruction for Christians to submit to authority. Verses one to two state “Let everyone be subject to the governing authorities, for there is no authority except that which God has established. The authorities that exist have been established by God. Consequently, whoever rebels against the authority is rebelling against what God has instituted, and those who do so will bring judgment on themselves” (Romans 13:1-2). This verse taken at face value seems to command absolute obedience to established worldly authorities. But, that interpretation can be hard to reconcile with tyrannical governments and laws, such as those that existed in Hitler’s Germany or parts or the antebellum South during America’s days of slavery. Regardless, Christians needs to consider the respect for authority that is demanded of them when formulating public policy regarding law enforcement reform.

The Golden Rule

Additionally, both sides of the law enforcement debate should consider the Golden Rule of “do unto others” when considering how police and citizens ought to interact with one another. Hand in hand with the golden rule, Jesus proclaimed the second greatest commandment after loving God was to “Love your neighbor as yourself” (Matthew 22:39). Where the evidence exists of racial disparities in the application of law enforcement, Christians should make an attempt to remedy the situation. Christians should also approach controversies from a position of love, having empathy for minority communities that may perceive injustice based on race.
POLICY RECOMMENDATIONS

Body Cameras

With the success of body worn cameras in the Rialto, California experiment, all law enforcement agencies should implement their use. The ability to reduce complaints, even where few exist, should motivate any law enforcement agency to adopt this technology. For communities that have good relationships with their communities and do not face many citizen complaints, body worn cameras would be a type of insurance. It’s there if you need it, but you hope you do not. It’s important to remember that body worn cameras can be equally important to gaining evidence and prosecuting criminals as it can be for providing transparency to citizens who are concerned about law enforcement activities.

There should be a state law requiring every law enforcement officer who regularly interacts with the public to wear and use body worn cameras while on duty. State lawmakers around the country recognize the need to create legislation regulating body worn cameras for police officers. Two of the states that currently have proposed legislation are South Carolina and California. While the South Carolina bill mandates the use of body camera, the California bill proposes regulations for the use of body cameras, but leaves discretion to individual law enforcement agencies to decide whether or not to equip their officers with the technology.

South Carolina Model

South Carolina Senate Bill 47 was introduced January 13th, 2015. The law would require all law enforcement officers in the state to be equipped with body cameras. The officers must activate the camera to record all interactions, from the beginning to end, with persons in the performance of the law enforcement officer’s official duties and the officer must inform the person that the
interaction is being recorded. Senate Bill 47 would also require that the recording be subject to existing state law governing the retention and release of evidence.43

The Statement of Fiscal Impact for Senate Bill 47 estimated the implementation costs for state agencies for fiscal year 2015-2016 would be over $7 million. Reoccurring costs estimated for fiscal year 2016-2017 to be around $4 million. For local agencies, the estimates implementation costs for fiscal year 2016-2017 were over $14 million. Estimated reoccurring costs for fiscal year 2016-2017 were approximately $8 million. The report included costs associated with training, maintenance, license fees, and data retrieval. The report also anticipated costs associated with increased Freedom of Information Act requests that would be made as a result of the recordings.44

California Model

California Assembly Bill 66 was introduced December 17th, 2014. The law would not require law enforcement officers to wear body cameras, but it would impose specific requirements on law enforcement agencies within the state who required their officers to wear body cameras. Like South Carolina, this law would require officers equipped with body cameras to record interactions with persons in its entirety. But, the California law would require the officers start the recording while responding to calls for assistance and performing law enforcement activities in the field. The law would also necessitate that officers equipped with body cameras ensure their functionality prior to going in the field and prohibit an officer from tampering with the camera.

The Bill also addressed privacy concerns that are associated with video and audio recording. The Bill would prohibit recording in any situation where a reasonable expectation of privacy exists or any other lawful protections of privacy. An example is a provision in the Bill
that would prohibit an officer from recording in an emergency room. Additionally, AB 66 provides victims of sexual assault to request the camera be turned off when the victim is the subject of the recording. The same request can be made in situations where a law enforcement officer is inside a home without a warrant in a non-emergency situation.\textsuperscript{45}

\textbf{FINAL POLICY PROPOSAL}

\textbf{A Partially-Funded Federal Mandate}

Both the proposed legislation from South Carolina and California fall short, but they each contain useful elements that can contribute to the formulation of a policy that mandates the use of body worn cameras. A comprehensive policy regarding body worn cameras should be federally mandated and partially funded through Obama’s grant proposal of $263 million. Some discretion regarding implementation should be left to the states. In particular, state laws governing the release of evidence should endure the federal mandate.

\textbf{All Law Enforcement Officers to be Equipped with Cameras}

All law enforcement officers who regularly interact with members of the public should be required to be equipped with body cameras. South Carolina’s proposed law required all state and local law enforcement officers use body worn cameras. The fiscal impact report for Senate Bill 47 included law enforcement agencies, such as the Criminal Justice Academy and the Department of Mental Health.\textsuperscript{46} By only requiring body worn cameras for law enforcement officers who regularly interact with members of the public, it could save money by exempting personnel who may be sworn law enforcement officers, but do not regularly interact with members of the public as part of their duties. Recently, President Obama proposed a $263
million grant package that would aid law enforcement agencies with the costs associated with equipping their officers with body worn cameras.

**Duration of Recordings and Privacy Concerns**

Both the proposed laws in South Carolina and California would require that cameras stay on for the entire interaction between law enforcement officers and persons. California’s Bill would require officers to turn their cameras on after receiving a call for service or emergency. This takes into account that an officer may be caught off guard by an incident or otherwise unable to turn a camera on. Also, an officer’s focus should be on their job. A requirement that places the burden of turning on the camera on the individual officer could add unnecessary distraction in an emergency or otherwise stressful situation. A better policy would be for the cameras to stay while an officer is on duty and in the field.

The requirement for body cameras to be on throughout an officer’s time in the field raises concerns for privacy. California’s proposed law provided restrictions for when an officer should not record. However, these restrictions are largely unnecessary so long as current privacy laws prevent the release or use of these recordings. An example would be California’s proposed requirement that officers not be allowed to record where there is a reasonable expectation of privacy. In those cases, the recordings would not be allowed to be viewed outside of an investigation that was supported by some kind of substantial evidence. The exclusionary rule would also most likely apply to any recording that was obtained in a setting where an expectation of privacy existed.
Release of Evidence

Current state laws governing the release of evidence should remain in place. However, Citizen Review Boards should be given access to recordings for investigative purposes. The rules governing law enforcement agencies publicly releasing evidence would also apply to Citizen Review Boards. This could put the public at ease in cases where recordings are unable to be immediately released to the public because of requirements governing the release of evidence. In these cases, the public may be reassured by the fact that an independent Citizen Review Board representing the public also has access to the evidence.


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