

AN ABOLITIONIST VISION: RECLAIMING PUBLIC SAFETY FROM A CULTURE OF VIOLENCE

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The year 2020 saw every aspect of American society radically change as the country responded to the Coronavirus pandemic. Yet, despite the economic fluctuations and the prolonged lockdowns, one thing remained constant: the number of civilians killed at the hands of police officers. In 2020, more than 1,000 people were killed by a police officer. As other scholarship has highlighted, this can be explained by the centrality of violence in police training, which leads officers to self-identify as crime-fighting warriors — to act first and ask questions later. As a result, many police encounters begin with relative peace, yet end in bloodshed. In particular, Black and Latine communities are disproportionately the subject of police suspicion and, inevitably, police violence.

Yet, police violence cannot be attributed to training alone. This article highlights that the endemic of police violence is actually a manifestation of a greater societal culture upheld by a hegemony that legitimizes police violence. Various institutions in civil society — from the news media and popular culture to the influence of political leadership — lead us to believe that crime is rampant, that people of color are dangerous, and that police are necessary to preserve the safety of our communities. This hegemony is further cemented through the jurisprudence of the Supreme Court, which has expanded the power of the police over the last fifty years relying on this logic. This article proposes that reforming police training and introducing new policies cannot yield fruit so long as this hegemony exists. Consequently, reforming police training and introducing new policies will only find success if placed within the context of creating a culture that is the very antithesis of the culture of violence — one that is instead centered around community wellbeing.

Rather than focus on the various policy and legal mechanisms for untangling the culture of violence, this article argues that the first step to attaining meaningful and organic cultural change is for academics and public advocates to develop a consensus on the principles that will lie at the heart of this cultural change. Without this consensus, change will be haphazard, inconsistent, and short-lived, which ultimately suits the status quo of violence. As a result, this article offers three principles that fundamentally undermine the underlying logic of the culture of violence: the oneness of humankind, the inherent dignity and moral capacity of each individual, and the conception of justice as restorative, reparative, and redistributive. This article suggests that focusing

on these principles can present a guiding framework to the discourse of police reform that will promote a united vision for organic and long-term cultural change.

INTRODUCTION

If long-cherished ideals and time-honored institutions, if certain social assumptions . . . have ceased to promote the welfare of the generality of mankind, if they no longer minister to the needs of a continually evolving humanity, let them be swept away and relegated to the limbo of obsolescent and forgotten doctrines.¹

It is July 6, 2016. Police officer Jeronimo Yanez is conducting a routine patrol in Falcon Heights, Minnesota. Around 9:00 p.m., Officer Yanez turns his attention to a white, 1997 Oldsmobile Eighty-Eight LS, in which he can make out the figures of two individuals whom he believes staged a robbery at a convenience store two weeks prior over a packet of cigarettes and the contents of a cash register. During this time, Officer Yanez runs the car's license plate number, which comes up clean — no warrants, no tickets, nothing. However, Officer Yanez does not end his investigation there. He continues to follow the white Oldsmobile convinced that they are his suspects. After a couple of minutes of pursuit, Officer Yanez flashes his lights and pulls the car over.²

¹ SHOOGHI EFFENDI, *THE WORLD ORDER OF BAHÁ'U'LLÁH* 42 (pocket ed., U.S. Bahá'í Pub. Trust 1991) (1938).

² *74 Seconds Podcast: The Traffic Stop*, MPR NEWS (May 25, 2017), <https://www.mprnews.org/story/2017/05/25/74-seconds-podcast-episode3-the-stop> (hereinafter *74 Seconds Podcast*) (“On July 6, 2016, Officer Yanez was working the night shift . . . things started out pretty typical . . . Then a white Oldsmobile caught his attention. It was 9pm . . . in the front seat, he could make out two people . . . ‘The driver and passenger just look like people who were involved in our robbery,’ he says. At some point . . . Yanez runs the car’s license plate but comes up with nothing: it’s not stolen, there are no warrants out for the registered owner, Philando Castile. But Yanez keeps following . . . As the two cars near the corner of Larpenner and Fry, Yanez turns on his flashing lights . . . at 9:04pm”); Julia Jacobo & Enjoli Francis, *Cops May Have Thought Philando Castile Was a Robbery Suspect, Noting ‘Wide-Set Nose,’ Dispatch Audio Indicates*, ABC NEWS (July 11, 2016), <https://abcnews.go.com/US/cops-thought-philando-castile-robbery-suspect-dispatch-audio/story?id=40439957> (“In the audio . . . an officer can be heard saying that he is going to pull over a car to check identifications and that he has ‘reason to pull it over.’ . . . ‘The two occupants just look like people that were involved in a robbery,’ the officer says.”); *Police Officer Who Shot Dead Philando Castile Acquitted of All Charges*, THE GUARDIAN (June 16, 2017), <https://www.theguardian.com/us-news/2017/jun/16/philando-castile-death-police-officer-not-guilty> (“Yanez [later] testified that he stopped Castile . . . because he thought [Castile] looked like one of two men who had robbed a nearby convenience store a few days earlier.”).

Officer Yanez gets out of his squad car and walks towards the parked Oldsmobile. As he approaches the vehicle on the driver's side, Officer Yanez can see both of the driver's hands on the steering wheel. He looks into the driver's window at Philando Castile, a 32-year-old African American man, and his girlfriend Diamond Reynolds in the passenger seat, accompanied by a young daughter in the back seat, and informs them that they were being stopped for driving with a broken taillight. Officer Yanez then asks Castile to produce his driver's license and insurance card. The young driver first produces his insurance card, before reaching for his wallet in his back pocket which contains his driver's license. As he does so, Castile gently informs Officer Yanez that he has a firearm on him which he is licensed to carry. Officer Yanez instructs the driver — at first coolly, before shouting with panicked orders — not to reach for the gun. Castile, still pulling out the requested driver's license, calmly insists that he is not reaching for his gun, but his gentle reassurances are not heard over the screams of Officer Yanez. Within seconds, Officer Yanez grabs his gun, points it at Castile, and fires seven bullets in rapid succession at point blank range.³

Reynolds's and her daughter's nightmare does not end there. After witnessing Castile being killed in the seat next to her and trying to deescalate the situation with an armed and panicking police officer, Reynolds is handcuffed and placed in the back of a police car with her child for forty-five minutes. During this time, she is effectively prohibited

³ 74 *Seconds Podcast*, *supra* note 2 (“Yanez . . . gets out of his squad car . . . Officer Yanez approached the vehicle on the driver’s side . . . Officer Yanez described Castile as initially having his left arm over the steering wheel with both hands in view . . . Officer Yanez . . . exchanged greetings with Castile and informed him of his break light problem . . . Officer Yanez asked Castile to produce his driver’s license and proof of insurance . . . Castile first provided him with his insurance card . . . Castile then calmly and in a non-threatening manner informed Officer Yanez, ‘Sir, I have to tell you that I do have a firearm on me.’ . . . Before Castile completed the sentence, Officer Yanez interrupted and calmly replied . . . ‘okay, don’t reach for it then.’ Castile tried to respond, but was interrupted by Officer Yanez, who said, ‘don’t pull it out.’ Castile responded, ‘I’m not pulling it out.’ . . . Then, Officer Yanez screamed, ‘don’t pull it out’ and quickly pulling his own gun with his right hand . . . [Officer Yanez] then fired seven shots into the vehicle.”); Pat Pheifer & Claude Peck, *Aftermath of Fatal Falcon Heights Officer-Involved Shooting Captured on Video*, STAR TRIB. (July 7, 2016), <https://www.startribune.com/aftermath-of-officer-involved-shooting-captured-on-phone-video/385789251> (“[Diamond Reynolds] said on the video that the officer ‘asked him for license and registration. He told him that it was in his wallet, but he had a pistol on him because he’s licensed to carry.’”); *Breaking down the Dashcam: The Philando Castile Shooting Timeline*, STAR TRIB. (June 21, 2017), <https://www.startribune.com/castile-shooting-timeline/429678313/> (“Reynolds screamed, ‘No!’ . . . Yanez removed his left arm from the car and fired seven shots in the direction of Castile in rapid succession.”).

from contacting family members or even holding her child. As they are driven away to the police station for questioning, Reynold's young daughter pleads to her distressed mother, "Mom, please stop cussing and screaming 'cause I don't want you to get shot."⁴

The tragedy of Philando Castile's death and the trauma inflicted on Reynolds and her daughter is magnified by the recognition that there were numerous moments along the timeline of events where the crisis could have been averted had Officer Yanez opted for a different course of action. He did not need to pursue an investigation over a prior robbery for petty change and a packet of cigarettes. He could have moved on from the investigation once the license plate did not avail any warrants, knowing there was no justification for pulling the car over. He could have paid attention to the four-year-old girl asleep in the backseat, making it unlikely that anyone would pose a threat. He could have recognized all of Castile's actions as signs of compliance and cooperation. He could have chosen to regard Castile as a human similar to himself, rather than a dangerous suspect to be viewed with fear and suspicion. And he could have treated Reynolds with the understanding afforded to a victim rather than detaining her and her young child and aggravating their trauma.

Yet to label Officer Yanez as a "bad apple" cop or any of his actions as indicative of his lack of training would overlook the root cause of the issue. The events of July 6, 2016 were undisputedly a product of Officer Yanez's training and the training of every police officer in the United States.⁵ But more importantly, the instinct of fear and suspicion and the resulting violence are a part of the training that every *citizen* in the United States receives. These are natural byproducts of the culture of violence that defines law enforcement in America, which has become entrenched at every level of society.⁶ As a result, addressing the problem of policing by focusing solely on changes in policies, resources, and laws will almost certainly regress to the norm of violence. What is required is a shift in culture — a transformation that is as drastic as it is necessary. Reforming police training and introducing new policies will only find success if

⁴ Wendy Kozol & Rebecca A. Adelman, *Importance of Seeing the Trauma: The Video of Diamond Reynolds and Daughter in Back of a Police Car*, READING THE PICTURES (July 5, 2017), <https://www.readingthepictures.org/2017/07/diamond-reynolds-police-car/> ("[The police] handcuffed [Reynolds], effectively prohibiting her from calling family members or holding her child, and kept her and her daughter in the car for 45 minutes before driving them to the station for questioning . . . At one point, the little girl pleads: 'Mom, please stop cussing and screaming 'cause I don't want you to get shot.'").

⁵ See *infra* Part I Section C.

⁶ As discussed later, the culture of violence is part of a societal hegemony that affects all citizens, and which heavily influences social attitudes, policies, and laws surrounding the nature of law enforcement. See Part II.

placed within the context of creating a culture that is centered around community wellbeing.

In Part I, I explore the nationwide scale of the problem with policing in the United States, which I define as the primary manifestation of a culture of violence. This culture is integrated into police training and magnified by the fear and suspicion generated from “othering” different social groups, particularly communities of color, with consistently deadly results. In Part II, I explain the culture of violence through the concept of a social hegemony, organized through the media and social, political, and legal institutions, all of which work to legitimize the culture of violence. I predict that any efforts to reform policing will yield little fruit unless they directly challenge the culture of violence and undermine the assumptions that it relies upon. In Part III, I explore what this new culture should be. In doing so, I propose three principles that will need to be at the foundation of a new culture of community wellbeing — oneness, human dignity, and justice — and explain that cultural transformation at the scale needed will require us to redefine numerous time-honored institutions that no longer serve public safety and welfare. Together, this culture and its foundational principles will work alongside the vision of abolitionism and allow us to build “a more humane and democratic society.”⁷

I. AN AMERICAN ENDEMIC

America has long regarded itself as a “shining city upon a hill”⁸ — projecting the image of a beacon of liberty, held aloft by the colossal statue of Lady Liberty herself, illuminating other nations through its example. In

⁷ Dorothy E. Roberts, *Foreword: Abolition Constitutionalism*, 133 HARV. L. REV. 1, 7 (2019).

⁸ The “shining city upon a hill” metaphor used to describe America is attributed to a sermon John Winthrop gave to his crewmates on the flagship *Arabella* in 1630 en route to the Massachusetts Bay Colony. See John Beardsley, *A Model of Christian Charity by Governor John Winthrop*, THE WINTHROP SOC’Y, https://www.winthropsociety.com/doc_charity.php (last visited Apr. 10, 2021) (“For we must consider that we shall be as a city upon a hill. The eyes of all people are upon us.”). It has been used frequently in American politics to describe the American ideal of liberty as an example for other nations to follow, including by presidents John F. Kennedy, Ronald Reagan, and Barack Obama. See, e.g., President-elect John F. Kennedy, Address to Massachusetts State Legislature (Jan. 9, 1961) (transcript available in the John F. Kennedy Presidential Library & Museum, <https://www.jfklibrary.org/learn/about-jfk/historic-speeches/the-city-upon-a-hill-speech>); President Ronald Reagan, Farewell Address to the Nation, Oval Office (Jan. 11, 1989) (transcript available in the Ronald Reagan Presidential Library & Museum, <https://www.reaganlibrary.gov/archives/speech/farewell-address-nation>); Senator Barack Obama, University of Massachusetts at Boston Commencement Address (June 2, 2006) (transcript available at <http://obamaspeeches.com/074-University-of-Massachusetts-at-Boston-Commencement-Address-Obama-Speech.htm>).

reality, the American ideal of liberty is better compared to the tip of an iceberg, glistening gloriously on a mid-summer's day, but buoyed at all times by a dark underside of violence and oppression. Since the moment Columbus arrived in 1492 to begin an era of colonial expansion and European imperialism, state-sanctioned violence against those considered uncivilized or inferior has been the engine that has propelled the American expansion and the American economy. This violence drove the racial genocide of America's indigenous peoples — from an estimated population of five to fifteen million before Columbus arrived to fewer than 238,000 by the late nineteenth century⁹ — and the brutal capture of nearly 600,000 people from West Africa, forcing them into slavery and unimaginable suffering.¹⁰

Modern American policing was born from that violence and remains a prominent vestige of its legacy. As the number of enslaved people grew, policing began to adapt through slave patrols who were hired to maintain the status quo and the dominance of the wealthy and the white.¹¹ Even after slavery was formally abolished, policing continued to evolve, as did the violence necessary to maintain its coercive power. Police were central to the segregation and the omnipresent lynch-mobs that dominated the post-Reconstruction and Jim Crow eras, using every brutal means at their disposal to maintain dominance.¹²

⁹ See Donald L. Fixico, *When Native Americans Were Slaughtered in the Name of 'Civilization'*, HISTORY, <https://www.history.com/news/native-americans-genocide-united-states> (updated Oct. 26, 2020). To clarify, direct physical violence was not the only factor that caused the genocide of America's indigenous peoples. Millions were also killed through diseases brought by settlers and the forced poverty caused by their displacement and removal from ancestral lands. Guenter Lewy, *Were American Indians the Victims of Genocide?*, HISTORY NEWS NETWORK (Sept. 2004), <http://hnn.us/articles/7302.html>.

¹⁰ DICTIONARY OF AFRO-AMERICAN SLAVERY 678 (Randall M. Miller & John David Smith eds., 1988).

¹¹ Connie Hassett-Walker, *The Racist Roots of American Policing: From Slave Patrols to Traffic Stops*, THE CONVERSATION (June 2, 2020), <https://theconversation.com/the-racist-roots-of-american-policing-from-slave-patrols-to-traffic-stops-112816>.

¹² Roberts, *supra* note 7, at 40 (“The same logic of slavery that called for punishment of black insubordination to enforce white supremacy, regardless of culpability for a crime, was revived in lynching and persists in the modern prison industrial complex.”); Jhacova Williams & Carl Romer, *Black Deaths at the Hands of Law Enforcement are Linked to Historical Lynchings*, ECON. POL’Y INSTITUTE (June 5, 2020), <https://www.epi.org/blog/black-deaths-at-the-hands-of-law-enforcement-are-linked-to-historical-lynchings-u-s-counties-where-lynchings-were-more-prevalent-from-1877-to-1950-have-more-officer-involved-killings/> (Speculating that “as many as 75% of historical lynchings ‘were perpetrated with the direct or indirect assistance of law enforcement personnel.’”).

In 2020, this violence remains ever-present, albeit in a different form: a culture of violence in modern law-enforcement.¹³ This paper will examine the nature of this American endemic in three parts: (A) the grand scale and deadly manifestations of the culture of violence; (B) the racial disparity of the harm caused by policing, magnified by racially-driven policies and the fear and suspicion projected on communities of color; and (C) the integration of this suspicion and violence into modern police training.

A. The Deadly Manifestations of a Culture of Violence within Law Enforcement

Since Eric Garner's death in 2014, more than 5,000 people have been killed by police officers at a rate of nearly 1,000 deaths each year.¹⁴ In 2020 alone — a year that has seen most of the country undergo various stages of prolonged lockdown and minimized human contact in response

¹³ There are numerous other forms that this historic violence takes, most of which affects Black communities most. For example, the Black Lives Matter website states, “[t]he violence inflicted on Black communities . . . can be seen in the continued suppression of our history, the exploitation of our culture, and the reality that many of our people live in communities that have been systematically denied resources and jobs. The violence includes inadequate health care, dirty water, failing schools, and a lack of resources.” *Movement for Black Lives Policy Table Statement*, LAW4BLACKLIVES, <http://www.law4blacklives.org/m4bl-mlk> (last visited Apr. 10, 2021). While broader definitions of violence that include harmful uses of power are often disputed, they are by no means uncommon. For example, the World Health Organization defines violence as “[t]he intentional use of physical force or power . . . that either results in or has a high likelihood of resulting in injury, death, psychological harm, maldevelopment, or deprivation.” WHO, WORLD REPORT ON VIOLENCE AND HEALTH 5 (2002) (emphasis added). However, although these forms of violence are all worthy of further consideration, they are beyond the scope of this article, which focuses on the relationship between violence and law enforcement.

¹⁴ *Police Shootings Database 2015–2020*, WASH. POST (last updated Apr. 23, 2021), <https://www.washingtonpost.com/graphics/investigations/police-shootings-database/> (tracking all recorded incidents of police shootings in the United States since Jan. 1, 2015). However, even this figure is likely to be lower than the true number, as such records rely on statistics compiled by police reporting, which may misclassify cases as homicides without mentioning police involvement. Colin Loftin et al., *Underreporting of Justifiable Homicides Committed by Police Officers in the United States, 1976–1998*, 93 AM. J. PUB. HEALTH 1117, 1120 (2003). An investigation conducted by the New York State Commission on Criminal Justice and the Use of Force revealed that between 1981 and 1985, 62% of cases recorded as “justifiable homicides” failed to indicate that the victim’s death was caused by a police officer, leaving open the possibility that the number of police shootings from 2015 to 2020 is far larger than reported. *See id.*

to the Coronavirus pandemic¹⁵ — more than 1,000 people have died at the hands of the police.¹⁶ Most of these killings began with police responding to suspected non-violent offenses, individuals suffering mental health crises, or incidents where no crimes were reported at all.¹⁷ Many were unarmed, or were reported to have been armed with their “vehicle.”¹⁸ Even in the instances where the citizen killed was armed with a knife or a gun, police officers frequently shot the decedent before attempting to use any kind of de-escalating or disarming technique.¹⁹ In other words, the majority of police killings begin with instances of relative peace, yet somehow result in a person’s life being violently ended.

While many reports and headlines focus on police shootings, a more accurate description of this endemic would be “police violence.” Each year, dozens of citizens are killed through the authorized use of tasers,²⁰

¹⁵ See Jiachuan Wu et al., *Stay-at-Home Orders Across the Country*, NBC NEWS (Apr. 29, 2020), <https://www.nbcnews.com/health/health-news/here-are-stay-home-orders-across-country-n1168736>.

¹⁶ *Police Violence Map*, MAPPING POLICE VIOLENCE, <https://mappingpoliceviolence.org> (last visited Apr. 10, 2021). Mapping Police Violence is one of the few resources that tracks information on police violence and use of force. Since 2015, the Washington Post has tracked every instance where a police officer shoots and kills a civilian in the line of duty. Julie Tate et al., *How The Washington Post is examining police shootings in the United States*, WASH. POST (July 7, 2016), https://www.washingtonpost.com/national/how-the-washington-post-is-examining-police-shootings-in-the-united-states/2016/07/07/d9c52238-43ad-11e6-8856-f26de2537a9d_story.html. However, this does not include other important instances of police brutality, such as deaths in police custody, non-shooting deaths, or deaths by off-duty officers. *Id.* Since many police departments do not release their internal records, the Washington Post tracks every killing through “local news reports, law enforcement websites and social media, and by monitoring independent databases such as Killed by Police and Fatal Encounters” and “filing open-records requests with departments.” *Id.*

¹⁷ For example, of the 1,127 police killings in 2020, 658 began with police responding to suspected non-violent offenses or cases where no crime was reported, 94 began with police responding to mental health crises or an individual acting “erratically,” and a further 89 people were killed after police stopped them for a traffic violation. *2017 Police Violence Report*, MAPPING POLICE VIOLENCE, <https://policeviolencereport.org> (last visited Apr. 10, 2021).

¹⁸ In 2020, 153 people killed by police were unarmed or “undetermined” as to whether they were armed. *Id.* Additionally, 65 were recorded as having their vehicle as a weapon. *Id.*

¹⁹ *See id.*

²⁰ Approximately 50 people each year die after being shocked by police through a taser. *See* Tim Reid et al., *As Death Toll Keeps Rising, U.S. Communities Start Rethinking Taser Use*, REUTERS (Feb. 4, 2019), <https://www.reuters.com/article/us-usa-taser-deaths-insight/as-death-toll-keeps-rising-u-s-communities-start-rethinking-taser-use-idUSKCN1PT0YT>.

police vehicles,²¹ and physical force.²² And while every death is violent, few have provoked as much public outrage as the use of strangleholds.²³ Two of the largest protests against police use of force in the twenty-first century came from the brutal deaths of Eric Garner in 2014 and George Floyd in 2020.²⁴ In both instances, numerous police responded to a non-violent incident by forcefully restraining a cooperative suspect to the

²¹ Approximately 300 lives are lost each year from high-speed police pursuit related crashes, about a third of which includes innocent bystanders unrelated to any crime. F.P. Rivara & C.D. Mack, *Motor Vehicle Crash Deaths Related to Police Pursuits in the United States*, 10 INJ. PREVENTION 93, 94 (2004).

²² See e.g., Katie Wedell et al., *George Floyd Is Not Alone. 'I Can't Breathe' Uttered by Dozens in Fatal Police Holds Across U.S.*, USA TODAY (June 25, 2020), <https://www.usatoday.com/in-depth/news/investigations/2020/06/13/george-floyd-not-alone-dozens-said-cant-breathe-police-holds/3137373001/>.

²³ While there has been much news coverage of unarmed young Black men being shot by the police, even with video footage showing that their backs were turned or they were fleeing the police, such as Walter Scott in 2015 or Rayshard Brooks in 2020, the public response has not been the same as deaths by choking. See Ashley Fantz & Holly Yan, *Dash Cam Video Shows the Moments Before South Carolina Police Shooting*, CNN (Apr. 9, 2015), <http://www.cnn.com/2015/04/09/us/south-carolina-police-shooting/>; Malachy Browne et al., *How Rayshard Brooks Was Fatally Shot by the Atlanta Police*, N.Y. TIMES (June 14, 2020), <https://www.nytimes.com/2020/06/14/us/videos-rayshard-brooks-shooting-atlanta-police.html>. One possible explanation is the intimacy involved with choking as opposed to pulling a trigger. With both the murders of Eric Garner and George Floyd, the cause of death was the intimate physical grip that the officer exerted as they suffocated their victims. In such instances, the fear of their victims' Blackness was so powerful that it overcame the normal revulsion a human would generally have of killing an unthreatening stranger at close range. Paul Butler describes how the imagery of a chokehold is also powerfully symbolic in representing the grip that the police exert on Black communities, titling this control as "the chokehold." See generally, PAUL BUTLER, *CHOKEHOLD: A RENEGADE PROSECUTOR'S RADICAL THOUGHTS ON HOW TO DISRUPT THE SYSTEM* (2017).

²⁴ See Larry Buchanan et al., *Black Lives Matter May Be the Largest Movement in U.S. History*, N.Y. TIMES (July 3, 2020), <https://www.nytimes.com/interactive/2020/07/03/us/george-floyd-protests-crowd-size.html> (estimating that between 15 million and 26 million people in the United States alone attended the protests over the death of George Floyd); see also Justin Wm. Moyer et al., *Protests in Support of Eric Garner Erupt in New York and Elsewhere*, WASH. POST (Dec. 4, 2014), <https://www.washingtonpost.com/news/morning-mix/wp/2014/12/04/after-grand-jury-doesnt-indict-police-officer-who-choked-eric-garner-protests-erupt-in-new-york-and-elsewhere/>.

ground and suffocating the life from their bodies.²⁵ The rallying cry for the Black Lives Matter movements that have sprung since their deaths reflects both men's dying pleas: "I can't breathe."²⁶

Ironically, the endemic of police violence is increasingly at odds with a society that is, on the whole, increasingly less violent. In 2020, the FBI reported that violent crime in the United States decreased nationwide for the third consecutive year.²⁷ This matches the general trend often referred to as the "Great Crime Decline,"²⁸ with both general crime and violent crime falling by approximately 50% since 1990.²⁹ Thus, the violent relationship between law enforcement and citizens remains robust despite a changing landscape that is increasingly distancing itself from violence and crime.

Moreover, the endemic of police violence cannot be dismissed as an unfortunate byproduct that occurs only when police respond to dangerous scenarios, or a problem that exists only in a handful of urban cities like New York and Chicago. Over 1,000 people that were killed by police between 2013 and 2019 were completely unarmed.³⁰ Additionally, deaths at the hands of police officers happen in every state across the country and

²⁵ See Bill Hutchinson, *From Eric Garner to George Floyd, 12 Black Lives Lost in Police Encounters That Stoked Mass Protests*, NBC NEWS (June 6, 2020), <https://abcnews.go.com/US/eric-garner-george-floyd-12-black-lives-lost/story?id=70999321>.

²⁶ Colleen Long & Deepti Hajela, *'I Can't Breathe' Slogan at U.S. Protests*, 7NEWS (May 30, 2020), <https://7news.com.au/news/crime/i-cant-breathe-slogan-at-us-protests-c-1069275>; see also Mike Baker et al., *Three Words. 70 Cases. The Tragic History of 'I Can't Breathe.'*, N.Y. TIMES (June 29, 2020), <https://www.nytimes.com/interactive/2020/06/28/us/i-cant-breathe-police-arrest.html>.

²⁷ *FBI Report on Crime Shows Decline in Violent Crime Rate for Third Consecutive Year*, DEP'T OF JUST. (Sept. 28, 2020), <https://www.justice.gov/opa/pr/fbi-report-crime-shows-decline-violent-crime-rate-third-consecutive-year>.

²⁸ See Adam Gopnik, *The Great Crime Decline*, THE NEW YORKER (Feb. 5, 2018), <https://www.newyorker.com/magazine/2018/02/12/the-great-crime-decline>.

²⁹ John Gramlich, *What the Data Says (and Doesn't Say) About Crime in the United States*, PEW RSCH. CTR. (Nov. 20, 2020), <https://www.pewresearch.org/fact-tank/2020/11/20/facts-about-crime-in-the-us/>; *Reported Violent Crime Rate in the United States from 1990 to 2019*, STATISTA (Sept. 28, 2020), <https://www.statista.com/statistics/191219/reported-violent-crime-rate-in-the-usa-since-1990/> (showing that the violent crime rate fell from 758.2 cases per 100,000 in 1991 to 366.7 cases per 100,000 in 2019).

³⁰ Deidre McPhillips, *Deaths from Police Harm Disproportionately Affect People of Color*, USA TODAY (June 3, 2020), <https://www.usnews.com/news/articles/2020-06-03/data-show-deaths-from-police-violence-disproportionately-affect-people-of-color>; see also *National Trends*, MAPPING POLICE VIOLENCE, <https://mappingpoliceviolence.org/nationaltrends> (last visited Apr. 10, 2021).

are more likely to occur in suburban and rural neighborhoods, like the one Philando Castile was driving in, than in urban cities.³¹

Taken in isolation, a single incident of police violence can be blamed on individual actors and anomalous factors. But when aggregated together at such a consistent scale across the entirety of the United States, it becomes evident that this American endemic arises from a systemic culture of violence which defines the relationship between citizens and law enforcement.

B. The Internal “Other”: A Violence Focused on Communities of Color

Despite its far-reaching influence, the culture of violence does not affect all alike. One of its most salient features is its connection to fear — namely, fear and suspicion of the “other.” And in American society, where conceptions of belonging adhere closely to whiteness,³² people of color frequently become “othered” and cast into stereotypes of deviancy and danger.³³ Wrapped together with the pervasive and ever-present forces of racism and xenophobia, Black and Latine communities find themselves the focus of this fear and suspicion and the resulting police violence used to suppress any danger.³⁴

Looking at civilian deaths alone, Black citizens suffer a fatality rate from police violence that is 2.8 times higher than white citizens.³⁵ Again, links to danger or criminality bear no correlation. Black citizens are 3.5 times more likely to be shot by police than an unarmed white citizen,³⁶

³¹ Samuel Sinyangwe, *Police Are Killing Fewer People in Big Cities, but More in Suburban and Rural America*, FIVETHIRTYEIGHT (June 1, 2020), <https://fivethirtyeight.com/features/police-are-killing-fewer-people-in-big-cities-but-more-in-suburban-and-rural-america/>.

³² See generally, TONI MORRISON, *THE ORIGIN OF OTHERS* (2017).

³³ STUART HENRY & MARK LANIER, *WHAT IS CRIME?: CONTROVERSIES OVER THE NATURE OF CRIME AND WHAT TO DO ABOUT IT* 159 (2001) (describing the criminal black man as a “mythlike race/gender image of deviance”).

³⁴ It is worth noting that the process of “othering” those that do not fit into accepted traits of ‘white America’ also has a damning effect on immigrants, who are commonly referred to in law and politics as “aliens” and dehumanized through our language and culture. This process justifies numerous acts of cruelty that immigrants, refugees, and asylum seekers experience at the hands of border patrol and law enforcement officers. See Douglas Epps & Rich Furman, *The ‘Alien Other’: A Culture of Dehumanizing Immigrants in the United States*, 14 SOC. WORK & SOC’Y 1, 1 (2016).

³⁵ Sarah DeGue et al., *Deaths Due to Use of Lethal Force by Law Enforcement*, 51 AM. J. PREVENTIVE MED. 173, 173 (2016).

³⁶ Cody T. Ross, *A Multi-Level Bayesian Analysis of Racial Bias in Police Shootings at the County-Level in the United States, 2011–2014*, 10 PLOS ONE 1, 1 (2015), <https://doi.org/10.1371/journal.pone.0141854>. Most data used to calculate fatal police interactions are based on reports generated by police,

and research shows that the higher rate of police shootings against people of color holds even when controlling for factors such as the neighborhoods that police are dispatched in.³⁷ And even when police violence does not result in death, it nonetheless defines so many aspects of the day-to-day lives of the communities that it affects. Recent research shows that Black citizens are also significantly more likely than white citizens to be the target of non-fatal force by police.³⁸ In Minneapolis, the city where George Floyd was murdered, police are seven times more likely to use force against a Black citizen than white one.³⁹ Studies based on police reports in Texas, California and Florida similarly reveal that Black people are almost twice as likely to be kicked, pepper sprayed, or shot with a stun gun, three times as likely to be grabbed or handcuffed, and more than four times as likely to have a gun pointed at them by the police.⁴⁰

Moreover, police have a far greater and more traumatic presence in communities of color and poor neighborhoods, often surveilling like an occupying army trying to suppress an insurgency, and frequently making arrests for harmless conduct such as “loitering” or “disturbing the peace.”⁴¹ Police are often granted expansive license to make these arrests

which suffers from reporting bias as they are more likely to fabricate or exaggerate reasons that justify use of force. To account for this, Ross uses a multi-level Bayesian model that compares the probability of being Black, unarmed, and shot by police, relative to the probability of being white, unarmed, and shot by police. *Id.* at 3. Ross finds that an unarmed civilian shot by police is 3.49 times more likely to be Black, with relative consistency across different counties in the United States. *Id.* at 1.

³⁷ See Mark Hoekstra & Carly Will Sloan, *Does Race Matter for Police Use of Force? Evidence from 911 Calls* 4 (Nat'l Bureau of Econ. Rsch., Working Paper No. 26774, 2020). While white and black officers use guns at approximately the same rate in racially mixed or predominantly white neighborhoods, white officers use gun force five times as often in neighborhoods that are more than 80% Black. *Id.*

³⁸ See Roland G. Fryer Jr., *An Empirical Analysis of Racial Differences in Police Use of Force* 1 (Nat'l Bureau of Econ. Rsch., Working Paper No. 22399, 2018), https://www.nber.org/system/files/working_papers/w22399/w22399.pdf.

³⁹ Richard A. O'Connell Jr. & Lazaro Gamio, *Minneapolis Police Use Force Against Black People at 7 Times the Rate of Whites*, N.Y. TIMES (June 3, 2020), <https://www.nytimes.com/interactive/2020/06/03/us/minneapolis-police-use-of-force.html>.

⁴⁰ Fryer, *supra* note 38, at 55 fig.3.

⁴¹ Heavy police presence in minority neighborhoods is often attributed to the effects of gentrification, as the residents of historically racially diverse neighborhoods start to become disproportionately criminalized at the request of the whiter and more middle-class residents moving in. See e.g., Abdallah Fayyad, *The Criminalization of Gentrifying Neighborhoods*, THE ATLANTIC (Dec. 20, 2017), <https://www.theatlantic.com/politics/archive/2017/12/the-criminalization-of-gentrifying-neighborhoods/548837/> (“[A]s demographics shift, activity that was previously considered normal becomes suspicious, and

arbitrarily through the vagueness of social order statutes.⁴² The intensity of this presence is best represented through individual city analyses. For example, Ferguson, Missouri, is a predominantly Black city.⁴³ In 2013, the city's police officers obtained warrants for over 32,975 criminal offences.⁴⁴ In other words, police had on average 1.58 warrants per citizen. Yet, Ferguson is not a particularly dangerous city. The majority of arrests warrants came from unpaid traffic tickets, along with harmless actions like jaywalking, and "high grass and weeds" (uncut lawns), which reflect social preference more so than any danger or criminality.⁴⁵ Once again, African Americans in Ferguson are the prime focus of this over-policing, constituting the vast majority of arrests for minor offences, such as "failure to comply" (94%), "resisting" arrest (92%), "disturbing the peace" (92%), and "failure to obey" (89%).⁴⁶

New York City's stop-and-frisk practice is another noteworthy example of how Black civilians are more likely to be profiled, stopped, and subject to some form of degrading violence from a police officer without proof of an infraction.⁴⁷ Between 2002 and 2012, over five million people were stopped and frisked, with over 700,000 taking place in 2011

newcomers — many of whom are white — are more inclined to get law enforcement involved. Loitering, people hanging out in the street, and noise violations often get reported, especially in racially diverse neighborhoods."); Harold Stolper, *New Neighbors and the Over-Policing of Communities of Color*, CSSNY (Jan. 6, 2019), <https://www.cssny.org/news/entry/New-Neighbors> ("Complaints from newcomers to gentrifying neighborhoods about noise and how public space is used . . . can lead to an increased police presence, which is not merely a consequence of neighborhood change, but also a powerful tool for incoming, affluent residents to re-define how a community operates and regulate access to public space.").

⁴² See Dorothy E. Roberts, *Foreword: Race, Vagueness, and the Social Meaning of Order-Maintenance Policing*, 89 J. CRIM. L. & CRIMINOLOGY 775, 780 (1999) ("Vague statutes pose two problems: when criminal codes fail to clearly define the offense, citizens may not understand what conduct is prohibited and police are likely to enforce the law in an arbitrary and discriminatory manner.").

⁴³ 67.6% of the approximately 21,000 residents in Ferguson identify as Black or African American. *Ferguson city, Missouri Race and Ethnicity*, U.S. CENSUS BUREAU, <https://data.census.gov/cedsci/table?q=Ferguson%20city,%20Missouri%20Race%20and%20Ethnicity&tid=ACSDT5Y2018.B02001&hidePreview=false> (last visited Apr. 10, 2020).

⁴⁴ U.S. DEP'T JUST. CIV. RTS. DIV., INVESTIGATION OF THE FERGUSON POLICE DEPARTMENT 55 (Mar. 4, 2015).

⁴⁵ *Id.* at 3, 69 n.46.

⁴⁶ *Id.* at 62.

⁴⁷ See *Floyd v. City of New York*, 959 F. Supp.2d 540, 557 (S.D.N.Y. 2013) ("[I]t is important to recognize the human toll of [stop-and-frisks] . . . [E]ach stop is . . . a demeaning and humiliating experience.").

alone.⁴⁸ In 88% of these interactions, the citizen was completely innocent of any wrongdoing.⁴⁹ When the New York Police Department's practice was challenged in court in *Floyd v. City of New York*, the judge found that "Blacks and Hispanics are more likely than whites to be stopped [and frisked] . . . even after controlling for other relevant variables."⁵⁰ In a city that is approximately 18% Black and 13% Hispanic, 83% of all stops were of Black and Hispanic civilians.⁵¹ Additionally, officers recorded using force against Black and Latine civilians almost 1.5 times as often as white civilians, and were 30% more likely to arrest a Black civilian than a white one for the same alleged offense.⁵²

These dehumanizing interactions and the arrests they can lead to not only reinforce a dynamic of power and control on Black communities, but they are an important cog within the machine of government surveillance on Black civilians, particularly Black men.⁵³ Enrolling Black men into the criminal justice system is not just a punitive product of an institution born from racial subjugation — it is the state's response to controlling minority groups suspected of constant criminality. It is a way of making sure that the "others" next door are kept in check.⁵⁴

Ironically, just as Black communities are over-policed for minor offences or even no offences at all, Black communities are just as similarly under-policed, being harassed for harmless misdemeanors yet ignored when it comes to serious public safety issues.⁵⁵ Many Black

⁴⁸ *Stop-and-Frisk Data*, NYCLU, <https://www.nyclu.org/en/stop-and-frisk-data> (last visited Apr. 10, 2020).

⁴⁹ *Id.*

⁵⁰ 959 F. Supp. at 560.

⁵¹ *Id.* at 559.

⁵² *See id.*

⁵³ BUTLER, *supra* note 23, at 65 ("The idea is for the police to arrest [Black men] for low-level offenses like drinking in public, jaywalking, and riding a bike on the sidewalk — not because they really care about those 'crimes' but because then they can search you to see if you have a gun or drugs . . . In addition to giving cops the power to search, misdemeanor arrests serve to formally enroll black men in the criminal justice system.").

⁵⁴ Ironically, throughout American history, civil unrest has tended to arise from police brutality. For example, Black soldiers returning home from WWII frequently experienced discrimination at the hands of police officers in their hometowns, especially while they were in uniform. *See, e.g.*, Alexis Clark, *Returning From War, Returning to Racism*, N.Y. TIMES (July 30, 2020), <https://www.nytimes.com/2020/07/30/magazine/black-soldiers-wwii-racism.html>. In James Baldwin's *Notes of a Native Son*, he recalls one such incident in 1943: "A Negro soldier . . . got into a fight with a white policeman over a Negro girl . . . The fight between the policeman and the soldier ended with the shooting of the soldier." JAMES BALDWIN, *NOTES OF A NATIVE SON* 601 (1955).

⁵⁵ *See* David Kennedy, *Reading Los Angeles: Black Communities: Overpoliced for Petty Crimes, Ignored for Major Ones*, L.A. TIMES (Apr. 10,

neighborhoods experience slow or ineffective responses to active emergencies and threats of danger, with victims of crime often treated unempathetically.⁵⁶ A 2018 investigation of 55,000 murders found that Black victims, which makes up the majority of homicide victims, are the least likely of any racial group to have their killers arrested.⁵⁷

For many people in the United States, the summer of 2020 was their first introduction to the racially discriminatory nature of police violence. As millions of activists took to the streets in solidarity with the Black Lives Matter movement, police misconduct was placed under the world's spotlight. This was the moment for police officers to prove that the basket was filled with "good apples." Yet far too many police responded to the predominantly peaceful protests against their use of force by, ironically, using unprovoked and excessive force. In cities and towns all across the country, racial justice protesters and reporters were met with police armed in military-style gear using tear gas, batons, pepper spray, and rubber bullets, and in one instance driving at them with an SUV.⁵⁸ This can only be juxtaposed by the relative police inaction to the Capitol insurrection on January 6th or the numerous anti-mask protests in almost every state, some of which included protestors carrying semi-automatic rifles and nooses.⁵⁹ Compare the two and the picture is clear: armed white protestors marching

2015), <https://www.latimes.com/opinion/bookclub/la-reading-los-angeles-kennedy-ghettoside-20150404-story.html>.

⁵⁶ See Rod K. Brunson, *Protests Focus on Over-Policing. But Under-Policing is Also Deadly*, WASH. POST (June 12, 2020), https://www.washingtonpost.com/outlook/underpolicing-cities-violent-crime/2020/06/12/b5d1fd26-ac0c-11ea-9063-e69bd6520940_story.html.

⁵⁷ See *Murder With Impunity*, WASH. POST (Jan. 7, 2019), https://www.washingtonpost.com/graphics/2018/national/murder-with-impunity/?itid=lk_inline_manual_15.

⁵⁸ See e.g., Shaila Dewan & Mike Baker, *Facing Protests Over Use of Force, Police Respond With More Force*, N.Y. TIMES (June 2, 2020), <https://www.nytimes.com/2020/05/31/us/police-tactics-floyd-protests.html>; K.K. Revecca Lai et al., *Here are the 100 U.S. Cities Where Protestors Were Tear-Gassed*, N.Y. TIMES (June 18, 2020), <https://www.nytimes.com/interactive/2020/06/16/us/george-floyd-protests-police-tear-gas.html> (documenting instances where police used tears gas on protestors); Timothy Bella, *'He Just Floored It': Detroit Police SUV Plows Through Protesters, Flings People Who Climbed on Hood*, WASH. POST (June 29, 2020), <https://www.washingtonpost.com/nation/2020/06/29/detroit-police-suv-protesters/>.

⁵⁹ See Anna North & Ella Nilsen, *The Catastrophic Police Failure at the US Capitol, Explained*, VOX (Jan. 7, 2021), <https://www.vox.com/22218446/capitol-police-mob-trump-storming-washington-dc> (detailing the inaction of law enforcement against the mob of Trump supporters on January 6); Abigail Censky, *Heavily Armed Protesters Gather Again at Michigan Capitol to Decry Stay-at-Home Order*, NPR (May 14, 2020), <https://www.npr.org/2020/05/14/855918852/heavily-armed-protesters-gather-again-at-michigans-capitol-denouncing-home-order>.

on the United States Capitol or state legislature buildings are less threatening to the police than unarmed protestors of diverse backgrounds marching for Black lives. As demonstrated, police are clearly capable of restraint — they just employ it selectively, instinctively deferring to fear and suspicion with people of color yet somehow being pacified when confronting white anger. But perhaps the roots go deeper: gun-wielding white Americans reinforce the culture of violence, whereas a movement for racial justice calls it out. And when the culture of violence is threatened, it only knows one response.

C. Integrating Violence into Police Training

Violence is integral to American policing, which is evident through the way that resources have increasingly been poured into law enforcement, especially weaponry, and the ways that police officers are being recruited and trained to become “warriors” and “killers.”⁶⁰

Since the Crime Bill Act of 1994, police funding has increased by 46%, even as crime rates have continued to drop in that time.⁶¹ Numerous cities devote more money to police spending than they do towards any other city expense.⁶² Most notably, however, is the way that this funding leads to militarized policing. Through program 1033, which was created as part of the National Defense Authorization Act, departments are given billions of dollars to purchase military weaponry, such as grenade launchers and armored trucks.⁶³ This means that police are often being

⁶⁰ See Radley Balko, *A Day with ‘Killology’ Police Trainer Dave Grossman*, WASH. POST (Feb. 14, 2017), <https://www.washingtonpost.com/news/the-watch/wp/2017/02/14/a-day-with-killology-police-trainer-dave-grossman/>.

⁶¹ Taylor Miller Thomas & Beatrice Jin, *As U.S. Crime Rates Dropped, Local Police Spending Soared*, POLITICO (June 19, 2020), <https://www.politico.com/interactives/2020/police-budget-spending-george-floyd-defund/>.

⁶² See Alexandra Kanik, *The Reality of U.S. City Budgets: Police Funding Eclipses Most Other Agencies*, CITY MONITOR (Oct. 13, 2020) <https://citymonitor.ai/government/the-reality-of-us-city-budgets-police-funding-eclipses-most-other-agencies>.

⁶³ Since 1990, the 1033 program has transferred \$7.4 billion worth of military equipment to police budgets. *1033 Program FAQs*, DEF. LOGISTICS AGENCY, <https://www.dla.mil/dispositionservices/offers/reutilization/lawenforcement/programfaqs.aspx#q11>; see also Sarah Hansen & Halah Touryalai, *Call 911: How Police Built Military Arsenals and a Firm Grip on Local Budgets, and Why Defunding May Be Inevitable*, FORBES (June 26, 2020), <https://www.forbes.com/sites/sarahhansen/2020/06/26/call-911-how-police-built-military-arsenals-and-a-firm-grip-on-local-budgets-and-why-defunding-may-be-inevitable/#340116c519c3>.

equipped with highly sophisticated instruments of warfare that inevitably contribute to increased violence against the communities they police.⁶⁴

Violence is also central to police training and recruitment. Many police recruitment videos reinforce the image of the police as “force and law” by advertising with images of officers in military uniform driving fast cars and firing weapons.⁶⁵ Once recruited, cadet training cements the expectation that society expects its officers to regularly use force.⁶⁶ Many recruits are trained “in an academy environment that is modeled after military boot camp.”⁶⁷ On average, police academies spend approximately 110 hours on firearms training and self-defense, compared to the eight hours they spend on conflict management.⁶⁸ Juxtaposing this with the more common responsibilities of police officers, mostly motor patrols and administrative duties,⁶⁹ it is clear why force seeps into responsibilities that do not warrant it. Officers are effectively recruited and trained with the expectation that they will need to use force regularly on the job, resulting in those officers being ill-prepared to perform the actual tasks that they are called to respond to. The contrast between the expectation and reality of police work means that individuals recruited as officers are led to believe that the police are the public’s last line of defense in a violent world, which, in many cases, is an exaggeration of the danger that actually exists.

The expectation of violence can best be demonstrated through the prominence of “warrior training” within many police departments, which is funded or encouraged by numerous police departments. One of America’s leading police trainers, Dave Grossman, focuses on training

⁶⁴ See generally RADLEY BALKO, *RISE OF THE WARRIOR COP: THE MILITARIZATION OF AMERICA’S POLICE FORCES* (2013).

⁶⁵ See Barry Friedman, *Disaggregating the Policing Function*, U. PA. L. REV. (2020–21 Forthcoming); see also Radley Balko, *The Disturbing Messages in Police Recruiting Videos*, WASH. POST (Apr. 16, 2014), <https://www.washingtonpost.com/news/the-watch/wp/2014/04/16/the-disturbing-messages-in-police-recruiting-videos/> (showing numerous police recruitment videos that reflect “a general move toward more aggressive, militarized police forces.”).

⁶⁶ Friedman, *supra* note 65, at 19.

⁶⁷ Sue Rahr & Stephen K. Rice, *From Warriors to Guardians: Recommitting American Police Culture to Democratic Ideals*, NAT’L INST. JUST. (2015), <https://www.ojp.gov/pdffiles1/nij/248654.pdf>.

⁶⁸ Brian A. Reaves, *State and Local Law Enforcement Training Academies, 2006*, BUREAU OF JUST. STAT. (2009), <https://www.bjs.gov/content/pub/pdf/slleta06.pdf>. Even though the Bureau of Justice’s report is a decade old, it remains the most updated report breaking down the time police officers devote to different kinds of training.

⁶⁹ Brad W. Smith et al., *Community Policing and the Work Routines of Street-Level Officers*, 26 CRIM. JUST. REV. 17, 26 tbl.1 (2001) (showing that a police officer spends, on average, 26% of their day doing routine motor patrols and 19% of their day completing administrative duties).

police through what he calls “killology,” where he explicitly preaches the virtues of violence and insists that police officers must be ready and willing to kill.⁷⁰ Grossman trains his students to “shoot first and worry about questions later.”⁷¹ In the end, this training produces exactly what it sets out to do. One such student was Jeronimo Yanez, the officer that fired seven bullets into Philando Castile, who only two years earlier attended one of Grossman’s warrior training courses.⁷² Castile’s death was not an anomaly, but a product of Yanez’s training; as instructed, Yanez perceived a harmless situation with fear and suspicion, acted without hesitation, and utilized needless and deadly violence the moment he felt uncomfortable.

II. THE HEGEMONY THAT LEGITIMIZES VIOLENCE

The first step to addressing the culture of violence in law enforcement is to recognize that this culture is not just limited to those that wear blue badges. It is a culture that *everyone* in the United States is a part of — whether directly or indirectly, consciously, or subconsciously. Violence and oppressive policing are so well integrated into public thought that most people instinctively react with doubt or fear to abolitionist ideals encouraging Americans to conceive of a society that doesn’t need prisons or police. Such thoughts are often dismissed as utterly quixotic, or worse, denounced as dangerous.⁷³ What both responses reaffirm is the conviction that social violence is inevitable and violent policing is necessary. This

⁷⁰ Radley Balko, *supra* note 60. In his training, Grossman frequently glorifies and encourages violence with messages such as, “[w]e fight violence. What do we fight it with? Superior violence. Righteous violence,” and “[a]re you prepared to kill somebody? . . . If you cannot answer that question, you should not be carrying a gun.” *Id.*

⁷¹ David Chanen, *Fear-Based Training for Police Officers is Challenged*, AP NEWS (July 12, 2018), <https://apnews.com/article/4645f857141943118b5ad6fb57552b3b>.

⁷² See Mitch Smith & Timothy Williams, *Minnesota Police Officer’s ‘Bulletproof Warrior’ Training is Questioned*, N.Y. TIMES (July 14, 2016), <https://www.nytimes.com/2016/07/15/us/minnesota-police-officers-bulletproof-warrior-training-is-questioned.html>.

⁷³ See, e.g., James A. Gagliano, *Calls to Defund the Police Are Dangerous*, CNN (Aug. 15, 2020), <https://www.cnn.com/2020/08/15/opinions/defunding-police-dangerous-crime-gagliano/index.html> (“Defunding police budgets serves to critically impact the very underserved communities that need them most. We must resist the dangerous momentum of the pendulum’s swing.”); Christopher F. Rufo, *The Dangerous New Idea Inspiring Criminal-Justice Activists*, N.Y. POST (Dec. 28, 2019), <https://nypost.com/2019/12/28/the-dangerous-new-idea-inspiring-criminal-justice-activists/> (“If anything like police abolition ever occurred, it’s easy to predict what would happen next. In the subsequent vacuum of physical power, wealthy neighborhoods would deploy private police forces, and poor neighborhoods would organize around criminal gangs — deepening structural inequalities and harming the very people that the police abolitionists say they want to help.”).

worldview is so ingrained into the public consciousness that even some of those who are harmed most by it can end up advocating for more policing and surveillance.⁷⁴

One way of understanding the legitimization of violence is through the concept of a cultural hegemony, a theory developed by twentieth century philosopher Antonio Gramsci.⁷⁵ The theory of hegemony asks why the powerless consent to be dominated by those in positions of power. According to Gramsci, social control is maintained not just through force, but through ideology; those in positions of power are able to manipulate the culture of the working and middle classes by causing them to identify their own wellbeing with the status quo, convincing them that the norm is not only “natural,” but essential for their own wellbeing.⁷⁶ This cultural domination is achieved through the “civil society,” comprising of institutions such as the media, schools, religious centers, and political parties, which together form the worldview of a society.⁷⁷ Gramsci called this feature “hegemony,” and warned that it is more powerful than the coercive forces of the State.⁷⁸

⁷⁴ See MICHELLE ALEXANDER, *THE NEW JIM CROW* 202–03 (2010) (“[M]any African Americans seem to support the current system of control . . . It is frequently argued . . . that African Americans want more police and more prisons because crime is so bad in some ghetto communities . . . Ignoring rampant crime in ghetto communities would be racially discriminatory, they say; responding forcefully to it is not.”); Peter Hermann & Clarence Williams, *On a D.C. Street Beset by Gun Violence, Calls to Fix Policing, Not Defund It*, WASH. POST (July 10, 2020) https://www.washingtonpost.com/local/public-safety/on-a-dc-street-beset-by-gun-violence-calls-to-fix-policing-not-defund-it/2020/07/10/350f46de-c143-11ea-b4f6-cb39cd8940fb_story.html (describing the opinions of numerous residents of Cedar Street, an apartment community in the District of Columbia that suffers from gun violence to the extent that “children are taught to duck when they hear gunshots.” Many residents interviewed call for greater police presence in the area and describe police defunding as “totally, totally wrong”).

⁷⁵ Gramsci’s theory of hegemony was never explicitly elaborated in a systematic way in his lifetime. Instead, after Gramsci’s imprisonment in 1926 by General Mussolini, his writings were dispersed throughout over 30 notebooks written between 1929 and 1935, known as the Prison Notebooks (*Quaderni del carcere*). See generally, ANTONIO GRAMSCI, *SELECTIONS FROM THE PRISON NOTEBOOKS* (Quintin Hoare & Geoffrey Nowell Smith eds., 1987) (1935). The concept of a hegemony was “the unifying thread of Gramsci’s prison notes, and appears to be the logical conclusion to his total political experience.” Thomas R. Bates, *Gramsci and the Theory of Hegemony*, 36 J. HIST. IDEAS 351, 351 (1975).

⁷⁶ *Id.* at 352 (“[Consent] is secured by the diffusion and popularization of the world view of the ruling class.”).

⁷⁷ *Id.* at 353.

⁷⁸ Chantal Mouffe, *Hegemony and Ideology in Gramsci*, in *GRAMSCI AND MARXIST THEORY* 168, 181 (Chantal Mouffe ed., 1979).

The culture of violence bears all the features of a hegemony. We are repeatedly taught by the various institutions of our civil society — namely, the media, popular culture, and our social leaders — that the culture of violence is natural, that people of color are dangerous, and that the state’s response of violent policing is in the public’s interest. This hegemony is then cemented through our highest jurisprudence.⁷⁹ Alone, the culture of violence and policing runs contrary to the very foundational ideals of America: liberty and self-determination. But legitimized through the civil society, the culture of violence is internalized into our collective worldview. As a result, any “reforms” to law enforcement that do not directly challenge the culture of violence have yielded limited results, often regressing to the status quo.⁸⁰ So long as the cultural hegemony dominates our society, no amount of money or policy change will address the problem of police violence.

A. The Civil Society

Turning on the television or reading a newspaper would lead one to believe that crime is rampant, widespread, and more often perpetrated by people of color. According to a 2018 poll, 88% of respondents regarded the rate of crime in America as either “an immediate crisis” or “a major

⁷⁹ While it is perhaps beyond the scope of this article to chronicle the development of this hegemony over the history of the United States, it is critical to emphasize the hegemony’s deep roots in racism and racial control. From the moment Black people arrived on the shores of Virginia in shackles, American society has only ever known how to treat them with violence. The development of the death penalty, for example, is inextricably tied to slavery, seeing as the threat of incarceration, forced labor, or corporal punishment served as little deterrence to slaves looking to escape their captivity as it was not much different to their existing conditions. STUART BANNER, *THE DEATH PENALTY: AN AMERICAN HISTORY* 8, 142 (2002) (“From the perspective of slaveowners, harsh punishments were necessary to manage such large captive populations. The institution of slavery prevented southern states from developing alternatives to the death penalty for blacks. Incarceration or forced labor would not have been much worse than slavery itself, so these would not have been effective deterrents.”). Yet, such violence against Black Americans could only be sustained if they were dehumanized or viewed as a threat by the rest of the American population. Thus, after the abolition of slavery, the development of this hegemony was able to rationalize inflicting violence against Black Americans through pseudo-scientific arguments that associated Blackness with “criminality,” thereby setting in motion the fear and suspicion that defines both society’s and the police’s relationship with Black citizens today. See KHALIL GIBRAN MUHAMMAD, *THE CONDEMNATION OF BLACKNESS: RACE, CRIME, AND THE MAKING OF MODERN URBAN AMERICA* 52 (Harvard Univ. Press ed. 2011); Aderson Bellegarde Francois, *Et In Arcadia Ego: Buck v. Davis, Black Thugs, and the Supreme Court’s Race Jurisprudence*, 15 OHIO ST. J. CRIM. 229, 230 (2017).

⁸⁰ See *infra* Part II Section C.

problem.”⁸¹ Yet, this does not comport with reality. Crime statistics have been consistently falling over the last thirty years,⁸² and in 2019 the Bureau of Justice Statistics reported that fewer than 0.5% of people were victims of a violent crime.⁸³ Unfortunately, the reality of our relative public safety does not influence popular culture as effectively as the various institutions of the civil society, which maintain an image of constant violence and danger. As a result, America’s population has come to believe it is being swept by a rising tide of lawlessness, with public perception of crime being at its highest since 1993, despite the downward trends in actual crime.⁸⁴

The over and selective representations of crime and violence, which reinforce our public acceptance of them, can be understood as instruments that uphold the cultural hegemony of violence. Although it is present in every institution and at every level, this article highlights three of its most influential amplifiers: (1) news media; (2) entertainment media and popular culture; and (3) political leadership.

1. News Media

Reality is socially constructed through the news media, which tends to privilege the dominant ideological perspectives.⁸⁵ This social construction is maintained through two processes: capitalism, where media decisionmakers selectively choose to present stories with a focus on boosting ratings and raising profits; and confirmation bias, where consumers of media select the stories that confirm their preexisting worldview.⁸⁶ As a result, complex and nuanced facts are frequently reduced to oversimplified blurbs and “stock stories” that are then repeated and reinforced throughout the twenty-four-hour news cycle.

The overrepresentation of crime is an integral part of this social construct. Violent crime is reported on the news at a rate that far exceeds

⁸¹ *Center for American Progress National Online Survey*, GBA STRATEGIES (May 1, 2018), https://cdn.americanprogress.org/content/uploads/2018/08/22054329/CAP-National-Online-Survey-Topline-Results-050118.pdf?_ga=2.232963481.661943499.1603243788-1871585733.1603243788.

⁸² *See supra* notes 27–29.

⁸³ Rachel E. Morgan & Jennifer L. Truman, *Criminal Victimization, 2019*, BUREAU JUST. STAT. 1 (Sept. 2020).

⁸⁴ Justin McCarthy, *Perceptions of Increased U.S. Crime at Highest Since 1993*, GALLUP (Nov. 13, 2020), <https://news.gallup.com/poll/323996/perceptions-increased-crime-highest-1993.aspx>.

⁸⁵ *See* Jessica M. Pollak & Charis E. Kubrin, *Crime in the News: How Crimes, Offenders and Victims are Portrayed in the Media*, 14 J. CRIM. JUST. & POP. CULTURE 59, 60 (2007).

⁸⁶ *See id.*

how frequently it occurs according to public reporting and arrest statistics.⁸⁷ Moreover, it is often the only lens through which certain groups are presented on the news. One analysis examining newspaper reports and news segments found that 40% of all articles and 48% of all news stories on children were connected to them being perpetrators or victims of violence, and frequently emphasizing their delinquency.⁸⁸ Further, the selection of news stories overrepresents crime caused by Black and Latine citizens, aggravating a public fear that people of color are more prone to violence. For example, a 2014 study found that New York TV news reported on murder, theft, and assault cases in which African Americans were suspects at rates that far exceeded African American arrest rates for those crimes.⁸⁹ As a result, Americans, especially white Americans, significantly overestimate the proportion of crime committed by both Black and Latine citizens. For example, a 2010 national survey asked white respondents to estimate the percentage of burglaries, drug sales, and juvenile crime committed by African Americans, finding that the respondents overestimated actual Black participation in these crimes by about twenty to thirty percent (between 6.6 to 9.5 percentage points) compared with actual arrest rates.⁹⁰

The consequences of the distorted reality portrayed by the media have had tangible outcomes for public perception of real crimes, often increasing the public's willingness to support punitive criminal justice policies.⁹¹ In 1989, the murder and rape of Trisha Meili gained national attention with headlines such as "Wolf Pack's Prey,"⁹² leaving little doubt in the minds of the public that the five children accused of this crime, labeled then as the Central Park Five, were guilty. Donald Trump famously took out full-page advertisements calling for New York to

⁸⁷ See Sara Tiegreen & Elana Newman, *Violence: Comparing Reporting and Reality*, DART CTR. FOR JOURNALISM & TRAUMA (Feb. 18, 2009), <https://dartcenter.org/content/violence-comparing-reporting-and-reality>.

⁸⁸ Pollak & Kubrin, *supra* note 85, at 62.

⁸⁹ The suspects in the New York news coverage were African American in 68% of murder stories, 80% of theft stories, and 72% of assault stories, which overrepresented them by twenty to thirty percentage points compared with actual rates of crime. Todd Gregory et al., *REPORT: New York City Television Stations Give Lopsided Coverage to Black Crime*, MEDIA MATTERS (Aug. 22, 2014), <https://www.mediamatters.org/nbc/report-new-york-city-television-stations-give-lopsided-coverage-black-crime>.

⁹⁰ Justin T. Picket et al., *Reconsidering the Relationship Between Perceived Neighborhood Racial Composition and Whites' Perceptions of Victimization Risk: Do Racial Stereotypes Matter?*, 50 CRIMINOLOGY 145, 160 (2012).

⁹¹ Franklin D. Gilliam, Jr. & Shanto Iyengar, *Prime Suspects: The Influence of Local Television News on the Viewing Public*, 44 AM. J. POL. SCI. 560 (2000).

⁹² Don Singleton & Don Gentle, *Wolf Pack's Prey*, N.Y. DAILY NEWS (republished Apr. 2013), <https://www.nydailynews.com/services/female-jogger-death-savage-attack-roving-gang-article-1.1304506>.

reinstate the death penalty and execute the five children.⁹³ Despite the lack of evidence, these children were accused, charged, coerced into false confessions, and imprisoned, only for their innocence to be proven years later when Meili's true assailant confessed to the crime.⁹⁴ By then, they had spent between six and thirteen years behind bars.⁹⁵ Experts believe that the media narrative was responsible for creating a "centrifuge" in which everyone involved was pinned to their position of outrage.⁹⁶

2. Entertainment and Popular Culture

Popular culture is also responsible for normalizing behaviors and attitudes that legitimize violence and glorify the police. Like the news, capitalism directs entertainment media to select movies and TV shows that will increase profits. And few things sell like crime and violence.

Over the last ten years, six of the ten highest grossing films have been superhero or fantasy movies that portray a dualistic view of good versus evil, where violence is instrumental to overcoming malevolent forces.⁹⁷

⁹³ Lisa W. Foderaro, *Angered by Attack, Trump Urges Return of the Death Penalty*, N.Y. TIMES (May 1989), <https://www.nytimes.com/1989/05/01/nyregion/angered-by-attack-trump-urges-return-of-the-death-penalty.html>.

⁹⁴ Jim Dwyer, *The True Story of How a City in Fear Brutalized the Central Park Five*, N.Y. TIMES (May 30, 2019), <https://www.nytimes.com/2019/05/30/arts/television/when-they-see-us-real-story.html>.

⁹⁵ Korey Wise, the eldest of the five children, was sent to adult prison for twelve years as he was sixteen years old at the time of the conviction. During this time, he was subject to violence, abuse, and long periods of solitary confinement. Heather Finn, *'When They See Us' Reveals the Heartbreaking Truth About Korey Wise*, GOOD HOUSEKEEPING (Sept. 20, 2019), <https://www.goodhousekeeping.com/life/entertainment/a27757516/korey-wise-central-park-five/>. Even after being released from prison, all five of the boys were made to register as sex offenders, which followed them even after they moved out of New York State and which harmed their ability to later find jobs. Riya Saha Shah & Marsha Levick, *The Central Park Five's Other False Label: Sex Offender*, JUV. L. CTR. (July 9, 2019), <https://jlc.org/news/central-park-fives-other-false-label-sex-offender>.

⁹⁶ See Carroll Bogert, *It's Time to Change the Way the Media Covers Crime*, ENVISIONING JUST., <https://envisioningjustice.org/2019/06/05/its-time-to-change-the-way-the-media-covers-crime/> (last visited Apr. 15, 2020) ("Jim Dwyer, who wrote about the Central Park jogger case for Newsday, described the story as 'a centrifuge [in which e]veryone was pinned into a position — the press, the police, the prosecution — and no one could press the stop button.'").

⁹⁷ Six of the top ten highest grossing movies are *Avengers: Endgame*, *Star Wars: Episode XIII – The Force Awakens*, *Avengers: Infinity War*, *The Avengers*, *Avengers: Age of Ultron*, and *Black Panther*. See Carly Hallman, *The 25 Highest-Grossing Films of the 2010s*, TITLEMAX, <https://www.titlemax.com/discovery-center/lifestyle/the-25-highest-grossing->

Similarly, television shows frequently exalt the role of the crime-fighting police. Shows such as *Law and Order: SVU*, *COPS*, *America's Most Wanted*, *Miami Vice*, and *CSI: Crime Scene Investigation* depict crime as rampant, police departments as more effective than they are, and police as heroes whose use of force on unsympathetic criminals is consistently justified.⁹⁸ Frequently, procedural restrictions on violence is presented as a negative hinderance towards the ultimate goal of achieving justice.⁹⁹

Even television streaming sites like Netflix display an escalating amount of violence, often focusing on the most infrequent and gruesome kinds. Television shows such as *You*, *Criminal Minds*, *Making a Murderer*, and *The Ted Bundy Tapes* depict stories of real or fictional serial killers, often graphically portraying violence against women.¹⁰⁰ Experts believe that the prominence of such violence, especially the most brutal kinds, can make us increasingly tolerant to it in real life, thereby normalizing the culture of violence.¹⁰¹

3. Political Leadership

The culture of violence is further engrained into our collective psyche by the rhetoric political leaders across the ideological spectrum. One of the greatest weapons political candidates can use to rally the masses behind them is fear — namely, fear of violence inflicted by the “other.” Since the end of World War II, political leaders have consistently found an internal or external “other” that threatens the safety and liberty of

films-of-the-2010s/. Two of the other movies in the list of the top ten highest grossing films are also action movies where heroes fight the existential threat of dinosaurs (*Jurassic World*) or where heroes operate outside the law to save the world from terrorists (*Furious 7*). *See id.*

⁹⁸ *See* Alyssa Rosenberg, *Shut Down All Police Movies and TV Shows. Now.*, WASH. POST (June 4, 2020), <https://www.washingtonpost.com/opinions/2020/06/04/shut-down-all-police-movies-tv-shows-now/?arc404=true>.

⁹⁹ *See e.g.*, Meredith Black, *News Analysis: Dick Wolf Packed TV with Hero Cops. Critics Say That's Part of What's 'Killing Us'*, L.A. TIMES (June 9, 2020), <https://www.latimes.com/entertainment-arts/tv/story/2020-06-09/dick-wolf-law-and-order-chicago-pd-fbi-color-of-change> (“‘SVU’ also showed ‘good guy’ characters doing wrong in order to catch criminals far more often than ‘bad guys’ — a phenomenon that helps normalize police misconduct . . . the prevailing concern was all about protecting the innocent, defenseless public from the scourge of crime and terrorism, not about protecting the innocence of those wrongly accused.”).

¹⁰⁰ Steven Zeltchik, *Does Netflix Have a Killer Problem?*, WASH. POST (Mar. 21, 2019), <https://www.washingtonpost.com/business/2019/03/21/does-netflix-have-killer-problem/>.

¹⁰¹ *See id.* (“The research shows that escalating violence on-screen can make us more tolerant of it in real life; it can leave ‘lingering fear’ that can cause sleep disturbances and other problems.”).

everyday Americans.¹⁰² Those leaders then use the fear of this fabricated enemy as a strategic rallying point to generate political loyalty.¹⁰³ This ranged from the “red scare” in the 1950s, to “law and order” policing in the 1960s, to the “War on Drugs” in the 1980s, to the “War on Terror” in the early 2000s.¹⁰⁴ Each of these forms of rhetoric have radically distorted the probability of being harmed by a dangerous threat — whether it comes from Communists, young Black men, or Islamic fundamentalists — and used the exaggeration of such threats to legitimize violent countermeasures.¹⁰⁵

The effectiveness of this strategy cannot be disputed. Nixon’s “law and order” campaign ran advertisements with images of “lawless” Black civil rights activists and told voters to “vote like your world depended on it,” leading him to sweep a majority of votes in the 1968 election.¹⁰⁶ Similarly, Reagan’s declaration of the War on Drugs, first implemented in 1982 at a time when less than 2% of the population viewed drugs as the most important issue facing the nation, led to funding billions of dollars in police departments and drug enforcement funding, even as he dramatically reduced funding for the National Institute for Drug Abuse and the Department of Education.¹⁰⁷ The War on Drugs did little to veil its racial subtext, often adopting language that portrayed Black women as “welfare queens” and Black men as “predators” — all of whom are part of a criminal subculture that was harmful to white America.¹⁰⁸ This rhetoric was incredibly successful with white voters, reinforcing attitudes of fear and suspicion towards African Americans and solidifying punitive attitudes towards criminals and a desire for increased policing.¹⁰⁹ For example, in the 1988 election, George H.W. Bush’s campaign played toward this racial suspicion by associating the images of William Horton, a Black escaped convict, with his election opponent, Mike Dukakis, the

¹⁰² Geoffrey R. Skoll & Maximiliani E. Korstanje, *Constructing an American Fear Culture from Red Scares to Terrorism*, 1 INT’L J. HUM. RTS. & CONST. STUD. 341, 348 (“Both the postwar red scare and the terrorism scare campaigns recognize the central role of driving popular fears to make the masses do, or not do, what the elite desired. They both took advantage of the key to the control of public consciousness. Their key strategy relies on two behavioral levers: fear both engenders and channels action.”).

¹⁰³ *Id.*

¹⁰⁴ *Id.* at 348–54.

¹⁰⁵ *Id.*

¹⁰⁶ See ALEXANDER, *supra* note 74, at 46.

¹⁰⁷ *Id.* at 49–52.

¹⁰⁸ *Id.* at 51; *see also id.* at 53 (explaining that the War on Drugs also “offered whites opposed to racial reform a unique opportunity to express their hostility toward blacks and black progress, without being exposed to the charge of racism.”).

¹⁰⁹ *Id.* at 53.

then-Governor of Massachusetts.¹¹⁰ Horton was a beneficiary of the prison furlough program run in Massachusetts and, while on furlough, escaped and went on to commit robbery, rape and assault in Maryland.¹¹¹ Throughout the election, Bush's campaign ran attack advertisements against Dukakis by playing images of Horton, including his mug shot and images of him towering over a police officer, in order to aggravate the existing racial fear and build distrust of Dukakis.¹¹²

Democratic leadership has been equally as guilty of promoting the culture of violence as Republican leadership. Bill Clinton famously vowed that he would never allow any Republican to be tougher on crime than him,¹¹³ going as far as leaving the campaign trail in 1992 to watch the execution of Ricky Ray Rector in his home state of Arkansas, a man who was severely mentally impaired.¹¹⁴ Fulfilling his promise, Clinton passed the \$30 billion 1994 Crime Bill, which led to the largest increase in federal and state inmates of any presidency in American history. The 1994 Crime Bill had a devastating effect on communities of color and economically disadvantaged citizens across the United States as it increased the police force by 100,000 officers, led to harsher police practices, and incentivized more punitive punishments.¹¹⁵ As a result, the political rhetoric of policing as a necessary response to crime and the threat of dangerous "others" were successfully engrained into both public thought and public policy.¹¹⁶

In 2020, no political leader better embodied the culture of violence than Donald Trump, who, together with Mike Pence, mentioned the phrase "law and order" more than 90 times between the start of the Black Lives Matter protests in May 2020 and his re-election campaign in November

¹¹⁰ See Erin Blakemore, *How the Willie Horton Ad Played on Racism and Fear*, HISTORY (Nov. 2, 2018), <https://www.history.com/news/george-bush-willie-horton-racist-ad> ("By the time we're finished," said Lee Atwater, who managed Bush's campaign, "they're going to wonder whether Willie Horton is Dukakis' running mate.").

¹¹¹ *Id.*

¹¹² *Id.*

¹¹³ See ALEXANDER, *supra* note 74, at 55.

¹¹⁴ Richard Cohen, *The Execution of Rickey Ray Rector*, WASH. POST (Feb. 23, 1993) <https://www.washingtonpost.com/archive/opinions/1993/02/23/the-execution-of-rickey-ray-rector/120a086b-97d2-4d64-a2bb-8059ac6e39fe/> ("[Rector] had killed two men (one a cop) in 1981 and then turned the gun on himself. He emerged lobotomized, and it was never clear after that whether he understood that he had murdered or that his own death would be irrevocable. At his last meal, he saved the pecan pie as if he would be having it later."). Clinton, who was the Governor of Arkansas at the time, nonetheless denied Rector's appeal for clemency and was unmoved by descriptions of his mental incompetency. *Id.*

¹¹⁵ Udi Ofer, *How the 1994 Crime Bill Fed the Mass Incarceration Crisis*, ACLU (June 4, 2019), <https://www.aclu.org/blog/smart-justice/mass-incarceration/how-1994-crime-bill-fed-mass-incarceration-crisis>.

¹¹⁶ See ALEXANDER, *supra* note 74, at 56–57.

2020.¹¹⁷ From the moment Trump announced his candidacy in 2015, his entire campaign and presidency was devoted to creating a perception of violent outside threats, particularly focusing on people of color: describing migrants from Mexico as “rapists,”¹¹⁸ calling for a “total and complete shutdown” of Muslims entering the United States,¹¹⁹ warning that affordable fair housing “would bring . . . crime to Suburbia,”¹²⁰ labelling anti-racism protestors “terrorists” and “thugs,” and calling in the military to police overwhelmingly peaceful protests, promising “when the looting starts, the shooting starts.”¹²¹ The violent mob that stormed the Capitol on January 6, 2021, was not incited by one single speech, but rather a seemingly inevitable outcome of four years of Donald Trump’s relentless fighting rhetoric and fabrication of “enemies” purely for political profit.¹²²

B. *The Courts: Foot Soldiers in the Fight Against Crime*

As America’s culture of violence has evolved and become accepted at the public level, its power has likewise been reflected and legitimized within the law. This is of particular significance in the United States due

¹¹⁷ Beth Schwartzapel, *What Trump Really Means When He Tweets “LAW & ORDER!!!”*, MARSHALL PROJECT (Oct. 7, 2020), <https://www.themarshallproject.org/2020/10/07/what-trump-really-means-when-he-tweets-law-order>.

¹¹⁸ *Full Text: Donald Trump Announces a Presidential Bid*, WASH. POST (June 16, 2015), <https://www.washingtonpost.com/news/post-politics/wp/2015/06/16/full-text-donald-trump-announces-a-presidential-bid/>.

¹¹⁹ Ed Pilkington, *Donald Trump: Ban all Muslims Entering US*, THE GUARDIAN (Dec. 7, 2015), <https://www.theguardian.com/us-news/2015/dec/07/donald-trump-ban-all-muslims-entering-us-san-bernardino-shooting>.

¹²⁰ Donald J. Trump (@DonaldTrump), FACEBOOK (Oct. 22, 2020), <https://www.facebook.com/DonaldTrump/posts/finally-suburban-women-are-flocking-over-to-us-they-realize-that-i-am-saving-the/10165669133260725/>.

¹²¹ See Tommy Beer, *Trump Called BLM Protesters ‘Thugs’ But Capitol-Storming Supporters ‘Very Special’*, FORBES (Jan. 6, 2021), <https://www.forbes.com/sites/tommybeer/2021/01/06/trump-called-blm-protesters-thugs-but-capitol-storming-supporters-very-special/?sh=298d3a523465>.

¹²² See Fabiola Cineas, *Donald Trump is the Accelerant*, VOX (Jan. 9, 2021), https://www.vox.com/platform/amp/21506029/trump-violence-tweets-racist-hate-speech?fbclid=IwAR2iNfaBpSv_QHnygDcmTsU-qKZmSrNdlm03sVqzAPco1StwR9v3az1w4K0 (“As far back as 2015, Trump has been connected to documented acts of violence, with perpetrators claiming that he was even their inspiration. In fact, dozens of people enacted violence in Trump’s name in the years before the Capitol attack . . . Trump’s campaign rallies have always been incubation grounds for violence, sites where Trump spewed hate speech that encouraged physical harm against dissenters. And as president, he has used his platform to encourage violence against American citizens, whether through the police and National Guard or militia groups — unless those citizens are his supporters.”).

to the elevated cultural significance of the Supreme Court, meaning the powers and deference it gives to police officers to use force influences public perception of the validity and necessity of that force.

The Supreme Court's Fourth Amendment jurisprudence has evolved based on the assumption that the police are the public's last line of defense and must be given every possible means of protection, even against the citizens they are sworn to keep safe, and even if it means utilizing violent and deadly force. This can be seen not only through the laws the Court creates, but through the language and reasoning it adopts. Although the Court's role in developing the culture of violence is expansive,¹²³ this article focuses on two categories: (1) reducing the protections of the Fourth Amendment and (2) escalating the police's authority to use force.

1. Reducing Fourth Amendment Protections

Over the last 50 years, the Fourth Amendment, which protects citizens from "unreasonable searches and seizures,"¹²⁴ has been gradually eroded by the Supreme Court. The prevalence of stop-and-frisk police stops was constitutionally endorsed in *Terry v. Ohio*, where the Court allowed police officers to make such stops with arbitrary discretion as long as they had reason to believe that the person was armed and dangerous.¹²⁵ The reasoning provided by the Court is illustrative of how the Supreme Court jurisprudence is influenced by and contributes to the culture of violence. Speaking for an 8–1 majority, Chief Justice Warren wrote that stopping and frisking a suspect is a necessary part of the police officer's right to "the protection of himself and others in the area."¹²⁶ The suspect did not need to have taken part in any crime or be guilty of any wrongdoing whatsoever, so long as the officer could reasonably articulate (1) the criminal activity that was likely to take place (justifying the "stop"), and (2) that the person stopped was "armed and dangerous" (justifying the

¹²³ There are other ways that the Court has expanded the police's power to use violence, which are worthy of further review, including the ways that they have defended police officers charged with crimes. Perhaps the most notable tool that the Court has created to defend police who harm civilians is the doctrine of qualified immunity, which grants them broad protection against federal lawsuits if the harm occurs during the course of official duty. *E.g.*, *Malley v. Briggs*, 475 U.S. 335 (1986) ("[Qualified immunity] provides ample protection to all but the plainly incompetent or those who knowingly violate the law."). As a result, in order for a civilian to prevail in their case, they would need to produce a binding precedent establishing "a constitutional rule specific enough to alert these deputies in this case that their particular conduct was unlawful." See *West v. City of Caldwell*, 931 F.3d 978, 984 (2019). Effectively, the Court's cyclical logic ensures that no matter how egregious a police officer's conduct was, it can only be unlawful if a court has previously found that another instance of such conduct was unlawful.

¹²⁴ U.S. CONST. amend. IV.

¹²⁵ *Terry v. Ohio*, 392 U.S. 1, 27 (1968).

¹²⁶ *Id.* at 30.

“search”).¹²⁷ According to the Court, police officers engaging in this practice “serves to protect both the officer and the public” from possible dangers.¹²⁸ Years later, the Supreme Court in *Arizona v. Johnson* would hold that only the second *Terry* element — the reasonable articulable belief that a person is “armed and dangerous” — is required during a traffic stop. In this instance, the first would be fulfilled by whatever traffic violation prompted the pull-over,¹²⁹ such as the supposed broken break light that Officer Yanez claimed was present in order to pull over Philando Castile.¹³⁰

The Fourth Amendment’s safeguards were further eroded in *Whren v. United States*, which held that police are allowed to stop and search a driver based on any pretextual reason.¹³¹ As long as the police have a reason to stop a driver — a faulty headlight, a missed indication, a prior speeding ticket — they can also had power to search the driver and the compartments of the car.¹³² Later in *Heien v. North Carolina*, the Court upheld the practice of a *Terry* stop even when the supposed offense was not illegal.¹³³ The Court noted the officer’s inherent suspicion of each of the suspects, even though the officers could not meet the bar of demonstrating “probable cause,” but nonetheless upholding the search as long as the officers could justify a potential danger. Against the backdrop of America’s War on Drugs and “tough on crime” policing, where danger was believed to around every corner, the Court effectively authorized the police to pull over more young Black men in order to search for drugs and weapons and nullify their threat to the public.

Justice Stevens’ dissent in *Acevedo v. California* highlighted the trend that was unfolding in the Supreme Court’s erosion of the Fourth Amendment and its true motives:

[Between 1982 and 1991], the Court has heard argument in 30 Fourth Amendment cases involving narcotics. In all but one, the government was the petitioner. All save two involved a search or seizure without a warrant or with a defective warrant. And, in all except three, the Court upheld the constitutionality of the search or seizure.

¹²⁷ *Id.* at 27 (“The officer need not be absolutely certain that the individual is armed; the issue is whether a reasonably prudent man in the circumstances would be warranted in the belief that his safety or that of others was in danger.”).

¹²⁸ *Arizona v. Johnson*, 555 U.S. 323, 330 (2009) (citing *Terry*, 392 U.S. 1).

¹²⁹ *Johnson*, 555 U.S. at 333.

¹³⁰ See 74 Seconds Podcast, *supra* note 2.

¹³¹ 517 U.S. 806 (1996).

¹³² *Id.* at 813; *Michigan v. Long*, 463 U.S. 1032 (1983) (holding that, under *Terry*, officers may search the compartments of a car during a stop with reasonable suspicion).

¹³³ 574 U.S. 54 (2014).

. . . No impartial observer could criticize this Court for hindering the progress of the war on drugs. On the contrary, decisions like the one the Court makes today will support the conclusion that *this Court has become a loyal foot soldier in the Executive's fight against crime*.¹³⁴

As a result, through the Court's legitimization of the culture of violence, innocence is no longer a shield to invasive interactions. So long as the officer can articulate any reason to suspect an individual of wrongdoing or danger, their conduct is automatically endorsed by the law. As demonstrated below, such conduct is not just limited to the violence associated with invasive stops and searches, but also with the ability to escalate to violence and even use deadly force.

2. Escalating Authority to Use Deadly Force

In many countries, police have very limited powers to arrest citizens without warrants for non-jailable offenses, typically issuing fines or tickets for misdemeanors.¹³⁵ Yet, the culture of violence leaves no margin of room for trust or autonomy. In the United States, officers are authorized to use force to arrest a citizen even if their offense does not carry any possible jail time. This doctrine was developed in *Atwater v. City of Lago Vista*, where a resident of Texas was pulled over because she and her children were not wearing seatbelts.¹³⁶ In Texas, the maximum penalty for this offense is a \$50 fine. Yet, the Court held that the police officer was authorized to arrest the driver and take her into police custody, even if it meant leaving her children behind.¹³⁷ According to Justice Souter's

¹³⁴ *Acevedo v. California*, 500 U.S. 565, 600 (1991) (J. Stevens, dissenting) (emphasis added).

¹³⁵ Ian Ayers & Daniel Markowitz, *Ending Excessive Police Force Starts with New Rules of Engagement*, WASH. POST (Dec. 25, 2014), https://www.washingtonpost.com/opinions/ending-excessive-police-force-starts-with-new-rules-of-engagement/2014/12/25/7fa379c0-8a1e-11e4-a085-34e9b9f09a58_story.html (describing how police in Germany are regulated through strict limits on their ability to use force to arrest petty offenders); Paul Hirschfield, *Why Do American Cops Kill So Many Compared to European Cops?*, THE CONVERSATION (Nov. 25, 2015), <https://theconversation.com/why-do-american-cops-kill-so-many-compared-to-european-cops-49696> (comparing the broad arrest powers and authority to resort to force in the United States with the more restricted limits across Europe).

¹³⁶ *Atwater v. City of Lago Vista*, 532 U.S. 318 (2001).

¹³⁷ In the case of Gail Atwater, the plaintiff in *Atwater v. City of Lago Vista*, the nature of the arrest was particularly distressing. As the court record shows, the arresting officer, Turek, approached Atwater aggressively screaming at her for her seatbelt infraction by shouting, "you're going to jail." *Id.* at 368 (J. O'Connor, dissenting). When Atwater then suggested that she drop her children off at a friend's house two houses down the road, Turek refused, suggesting they

majority opinion, granting officers this discretion was the simplest option as it frees officers from needing to know “frequently complex penalty schemes” or assess whether the arrest is truly “necessary.”¹³⁸ His ultimate conclusion perfectly captures the distrust generated by the culture of violence and the Court’s preference to over-punish minor crimes than to possibly risk underenforcing similarly insignificant crimes¹³⁹ which may carry a criminal sentence:

An officer not quite sure that the drugs weighed enough to warrant jail time or not quite certain about a suspect's risk of flight would not arrest, even though it could perfectly well turn out that, in fact, the offense called for incarceration and the defendant was long gone on the day of trial. Multiplied many times over, the costs to society of such underenforcement could easily outweigh the costs to defendants of being needlessly arrested and booked.¹⁴⁰

The case of Sandra Bland demonstrates how miscalculated the Court’s calculus truly was. After failing to signal during a lane change, Bland was pulled over by a police officer. As Bland did not comply with the officer’s demands to put out her cigarette, the officer violently dragged her from her car, pulled his gun on her, and forced her into handcuffs and the back of his police car.¹⁴¹ Bland was found dead in her cell three days after this traumatic encounter.¹⁴² It is hard to reason that the minimal cost of underenforcing minor transgressions, such as those committed by Bland and Atwater, even remotely compares to the cost that they and countless others have endured by being forcibly arrested and detained.

be taken to the police station instead. *Id.* In the end, Atwater was removed from her car and placed in Turek’s car in order to be taken to the police station, leaving her children behind and requiring that they were collected by Atwater’s friends. *Id.* at 368–69.

¹³⁸ *Id.* at 348.

¹³⁹ It is worth noting here that the crimes that risk being underenforced would unlikely be truly significant, as those crimes that are truly harmful to society would easily be distinguishable to a police officer. Instead, the Court’s rationale is based specifically on those crimes that fall in the grey area, which are jailable offenses but not significant enough to be of much harm to society, such as drug possession or minor traffic infractions.

¹⁴⁰ *Id.* at 351.

¹⁴¹ K.K. Rebecca Lai et al., *Assessing the Legality of Sandra Bland’s Arrest*, N.Y. TIMES (July 22, 2020), [https://www.nytimes.com/interactive/2015/07/20/us/sandra-bland-arrest-death-videos-](https://www.nytimes.com/interactive/2015/07/20/us/sandra-bland-arrest-death-videos-maps.html?mtrref=en.wikipedia.org&assetType=REGIWALL)

[maps.html?mtrref=en.wikipedia.org&assetType=REGIWALL.](https://www.nytimes.com/interactive/2015/07/20/us/sandra-bland-arrest-death-videos-maps.html?mtrref=en.wikipedia.org&assetType=REGIWALL)

¹⁴² *Id.*

In *Graham v. Connor*¹⁴³ and *Scott v. Harris*,¹⁴⁴ the Supreme Court elevated the authority to use violent force to new heights. First, *Graham* held that the use of force needs to only be “reasonable” as measured through the officer’s eyes at the time the use of force occurs, and not through scrutiny of whether other non-violent alternatives existed.¹⁴⁵ So long as an officer can say that they felt endangered, they are not required to use other non-violent alternatives. Later, in *Scott*, the Court authorized police officers to use *deadly* force if deemed necessary to protect the public.¹⁴⁶ There, a young driver was signaled to pull over for speeding, another non-jailable offense.¹⁴⁷ Rather than comply, however, the driver tried to evade the police in his car, resulting in a high-speed pursuit that lasted until one of the officers finally decided to ram the driver’s car off the road using a PIT maneuver,¹⁴⁸ leaving the driver permanently paralyzed.¹⁴⁹ Even though the public danger was caused by the police pursuit over a speeding fine, the Court focused its analysis on the young driver as the sole source of danger, not the officers pursuing him, meaning the police bore no responsibility to call off the chase.¹⁵⁰ Ultimately, ramming the driver off the road was “certain to eliminate the risk [to public safety],” whereas ceasing the high-speed pursuit was not.¹⁵¹ As a result, *Scott* implies that police are not only able to create the danger through the threat associated with their arrest power, but are also given every possible means by which to carry it out.

C. The Limitations of Reform within the Culture of Violence

Having established the hegemony that creates the culture of violence, it bears exploring whether reforms can be made in the immediate future.

¹⁴³ 490 U.S. 386 (1989).

¹⁴⁴ 550 U.S. 372 (2007).

¹⁴⁵ *Graham*, 490 U.S. at 396 (“The ‘reasonableness’ of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight.”).

¹⁴⁶ *Scott*, 550 U.S. at 372.

¹⁴⁷ *Id.* at 374.

¹⁴⁸ PIT stands for precision immobilization technique. Shaun Raviv & John Sullivan, *Deadly Force Behind the Wheel*, WASH. POST (Aug. 24, 2020), <https://www.washingtonpost.com/graphics/2020/investigations/pit-maneuver-police-deaths/>. It is employed as a driving technique by pursuing officers during a vehicle chase where the police car pushes the back of the fleeing vehicle sideways, causing it to spin out of control until it comes to a stop. *Id.* Since 2016, PIT has killed at least thirty people and injured hundreds more, most of which began with officers attempting to stop a vehicle for minor traffic violations. *Id.*

¹⁴⁹ *Scott*, 550 U.S. at 374–75.

¹⁵⁰ *Id.* at 385.

¹⁵¹ *Id.*

“Reformist” reforms¹⁵² that attempt to work within the existing framework have a limited ability to create meaningful and lasting change; those reforms that do not fundamentally challenged the culture of violence risk regressing towards the status quo. Worse still, diverting the current energy towards short-term reforms and away from more substantial abolitionist aims may produce small, pyrrhic victories, which divert the momentum needed to make long-term reform and truly abolish the culture of violence.

However, that does not mean that reforms should not be attempted at all. Rather, this article suggests that a key test of any reform to policing is *whether it challenges the culture of violence or undermines the assumptions and beliefs that uphold it*.¹⁵³ Reforms that accomplish this may serve as important interim measures that not only address the harm caused by police violence in the short term but can contribute to the long-term goal of untangling the complex snares of hegemonic control that uphold the culture of violence.¹⁵⁴ Within this framework, abolitionist work can treat the immediate symptoms of harm while still curing the disease.¹⁵⁵

While many reforms have been proposed and implemented, this article assesses three popular reforms and examines whether they challenge the culture of violence:

¹⁵² Police abolitionists characterize “reformist reforms” as those which ultimately maintain the status quo of policing, without critically challenging the existing structure. By contrast, “abolitionist reforms” are those which fundamentally challenge the power of policing and the assumptions underlying its necessity.

¹⁵³ Critical Resistance theory proposes several tests for whether a reform is truly abolitionist: (1) “does it reduce police funding?”; (2) “does it challenge the notion that police increase safety?”; (3) “does it reduce the tools, tactics or technology that police have at their disposal?”; and (4) “does it reduce the scale of policing?” *Reformist Reforms vs. Abolitionist Steps in Policing*, CRITICAL RESISTANCE, https://static1.squarespace.com/static/59ead8f9692ebee25b72f17f/t/5b65cd58758d46d34254f22c/1533398363539/CR_NoCops_reform_vs_abolition_CRside.pdf (last visited Apr. 10, 2021). The test proposed by this article is intended to be seen alongside these Critical Resistance tests, rather than in their place).

¹⁵⁴ While certain reforms may have instrumental value in dismantling the culture of violence, this article is under no illusion that that reforms are without limitations. As many scholars have already highlighted, reforms to policing and even prosecution face the constraints of operating within the current system of violence, often facing barriers from personnel, culture, and even the legal system as a whole. See Seema Gajwani & Max. G. Lesser, *The Hard Truths of Progressive Prosecution and a Path to Realizing the Movement’s Promise*, 64 N.Y.L. SCH. L. REV. 69, 78–82 (2020); *The Paradox of “Progressive Prosecution”*, 132 HARV. L. REV. 748, 756–58 (2018); see generally Madison McWithey, *Taking a Deeper Dive into Progressive Prosecution: Evaluating the Trend Through the Lens of Geography*, 61 B.C. L. REV. 32 (2020).

¹⁵⁵ See Angel E. Sanchez, *In Spite of Prison*, 132 HARV. L. REV. 1650, 1652 (2019).

- (1) **Ban the chokehold.** Targeting specific acts of force does not penetrate the problem of why force is necessary in the first place. The use of the chokehold, if banned within the current system, will naturally evolve into other forms of deadly force, albeit with a different name.¹⁵⁶ For example, the officers that killed Eric Garner in 2014 defended their use of force by claiming that it was not a chokehold, but another authorized form of neck restraint.¹⁵⁷ Even if the use of all neck restraints were successfully ended, another deadly alternative will arise to replace it so long as the culture of violence and the justification for extreme force prevails.
- (2) **Improving police training.** Increasing funding and training that police receive often reinforces the idea that police are critical to society, and that harm and violence results from a *lack* of training. The key question is: what kind of training is being reformed, and how does that transform the nature of police work? Increased training for its own sake and within the context of a supposedly dangerous and suspicious citizenry will likely increase the scope of policing and the extent to which they interfere with and control the communities they are deployed to police. Within the culture of violence, many departments will see “killology” as valuable police training. But if departments choose to transform police training by emphasizing de-escalation tactics and mediation skills and trying to reduce the need for violence, they can generate environments within policing that are more critical of violence and more hospitable towards large-scale reform. Reconceptualizing the nature of police training can also act as a powerful signal of what attitudes and conduct the state endorses. One

¹⁵⁶ See Monika Evstatieva & Tim Mak, *How Decades of Bans on Police Chokeholds Have Fallen Short*, NPR (June 16, 2020), <https://www.npr.org/2020/06/16/877527974/how-decades-of-bans-on-police-chokeholds-have-fallen-short> (“[A]n NPR review of bans on neck restraints in some of the nation’s largest police departments found them largely ineffective and subject to lax enforcement. And when chokeholds specifically were banned, a variation on the neck restraint was often permitted instead.”).

¹⁵⁷ Michael R. Sisak, *NYPD Training Official: Garner Officer Used Banned Chokehold*, AP NEWS (May 14, 2019), <https://apnews.com/article/69ae3f174b4741edaa3a68af9ad1ee98> (reporting that Pantaleo’s defense and union claim he was using a “seat-belt” hold, which is an approved restraint technique).

example of this is ICAT, a use-of-force training designed to equip police officers with the skills and materials needed to respond to potentially volatile situations.¹⁵⁸ ICAT not only provides police with alternatives to violent methods of situational control, but challenges how the culture of violence dehumanizes criminal suspects by promoting, as its mission, “the core ideal of sanctity of human life — the need to protect . . . wherever possible, criminal suspects and subjects in crisis from danger and harm.”¹⁵⁹ And so far, ICAT has proven to be effective in reducing use-of-force incidents by officers and injuries to both officers and citizens.¹⁶⁰ One can only imagine that had Officer Yanez been trained in de-escalation, rather than taught to “shoot first and ask questions later,” Philando Castile might still be alive today.

- (3) **Community self-policing.** Various philosophies of community self-policing promote the merits of empowering members of the community to take on the role of the police within their own neighborhoods.¹⁶¹ Many of these appear abolitionist in nature as they aim to eliminate the need for formal policing. However, simply removing the police does not address the root cause of *why* the police function has turned so violent. Unless the culture of violence is directly challenged by the nature and culture of the

¹⁵⁸ *About ICAT*, POLICE EXEC. RSCH. F.,

<https://www.policeforum.org/about-icat> (last visited Apr. 10, 2021).

¹⁵⁹ *ICAT Mission Statement*, POLICE EXEC. RSCH. F.,

<https://www.policeforum.org/icat-mission-statement> (last visited Apr. 10, 2021).

¹⁶⁰ ROBIN S. ENGEL ET AL., EXAMINING THE IMPACT OF INTEGRATING COMMUNICATIONS ASSESSMENT, AND TACTICS (ICAT) DE-ESCALATION TRAINING FOR THE LOUISVILLE METRO POLICE DEPARTMENT: INITIAL FINDINGS 80 (2019).

¹⁶¹ See, e.g., Batya Ungar-Sargon, *The Neighborhood that Policed Itself*, THE DAILY BEAST (Apr. 14, 2017), <https://www.thedailybeast.com/the-neighborhood-that-policed-itself> (describing a majority-Black neighborhood in Florida where police officers taught adults in the community “how to stand watch themselves, training them in the basics of passive-aggressive self-policing. The neighborhood’s adults took up a vigil at the intersection, and their presence essentially intimidated the sale of drugs, solving the neighborhood’s problem for a long time. By the end of it, this section of the Homes of Lawrence was effectively a self-policed neighborhood.”); see also *Community Policing*, INTIME, (Nov. 23, 2018), <https://intime.com/blog/news/community-policing/> (highlighting various models of community policing and self-policing around the world).

community policing itself, the void left behind will inevitably be filled by a different set of actors still influenced by the same worldview.¹⁶² Critically, replacing the police with members of the community does not address the fear and suspicion and the racial biases that pervade policing. It will only result in fellow citizens firing the fatal shots. In particular, people of color living in predominantly white suburbs would be most threatened by a self-policing community, as they will frequently be the focal point of their community's suspicion and the target of violence from vigilantes looking to protect their community.¹⁶³ This form of self-policing was what drove George Zimmerman, a volunteer Neighborhood Watch member, to follow and murder Trayvon Martin after he deemed him "suspicious."¹⁶⁴ It was what prompted Gregory and Travis McMichael to pursue and shoot Ahmaud Arbery as he jogged through his neighborhood.¹⁶⁵

One way or another, the culture of violence will claim innocent lives, whether it is through prevailing practices or limited reforms. So long as this culture exists, "our justice system" — beginning with law enforcement in the streets and leading up to the decisions of the Supreme Court — "will continue to be anything but."¹⁶⁶ The ultimate aim should be to dismantle the culture of violence. Only then will both abolitionists and reformists achieve many of their shared ultimate aims — namely, significant reductions in violence and healthier relationships between the

¹⁶² See *Towards the Horizon of Abolition: A Conversation with Mariame Kaba*, THE NEXT SYSTEM PROJECT (Nov. 9, 2017), <https://thenextsystem.org/learn/stories/towards-horizon-abolition-conversation-mariame-kaba> ("We still internalize particular ideologies about policing, we still have the police in our heads and our hearts.").

¹⁶³ For example, Neighborhood Watch originated in the early 1970s as a reaction to the civil rights movement and the migration of Black families into suburban neighborhoods following the Fair Housing Acts. See *The Ugly History and Repressive Role of Neighborhood Watch*, LIBERATIONS NEWS (Apr. 13, 2012), <https://www.liberationnews.org/the-ugly-history-and-html/>.

¹⁶⁴ Andre Munro, *Shooting of Trayvon Martin*, BRITANNICA, <https://www.britannica.com/event/shooting-of-Trayvon-Martin> (last updated Feb. 19, 2021).

¹⁶⁵ Richard Fausset, *What We Know About the Shooting Death of Ahmaud Arbery*, N.Y. TIMES (Nov. 13, 2020), <https://www.nytimes.com/article/ahmaud-arbery-shooting-georgia.html>.

¹⁶⁶ *Utah v. Strieff*, 136 S.Ct. 2056, 2071 (2016) (J. Sotomayor, dissenting).

state and its citizenry.¹⁶⁷ In the meantime, developing reforms that directly challenge the culture of violence can be seen as important steppingstones that mitigate immediate harms while laying the foundation for long-term change.

III. RECLAIMING PUBLIC SAFETY THROUGH A CULTURE OF COMMUNITY WELLBEING

Gramsci argued that to change culture, ethically motivated individuals have to systematically work to raise the consciousness of the populace and give them a more just worldview.¹⁶⁸ Applying this to the cultural hegemony of violence outlined in Part II, it is not sufficient to simply identify and denounce the numerous factors and phenomena that shape the endemic of violence. Rather, it is imperative that we build a new culture in its stead. Thus, abolitionists can regard the path from the culture of violence as both a creative and a destructive one¹⁶⁹; just as “hatred is never appeased by hatred . . . [but only] by loving-kindness,”¹⁷⁰ this article proceeds from the position that violence can only be replaced by a force, a logic, and a culture that is its very antithesis, centered around community wellbeing.

Far too often, advocates are quick to debate how to implement change before establishing what that change should be. Many of the problems that hamper current models of reform are that actors can point to the problems they wish to remove but cannot agree on what it is they wish to create. If the ultimate goals of police reform or abolition are not established with sufficient support, efforts will be limited to a series of political compromises, with each side ceding important values in order to obtain at least a modicum of change. This underlies the frustrations that many abolitionists experience and, ultimately, suits the status quo. Thus, an important path towards reclaiming public safety from the culture of violence is to achieve unity of vision and thought as to the nature of the culture that will replace it. Throughout this article, I label this culture that will replace violence as “the culture of community wellbeing.”

¹⁶⁷ This can already be seen in areas that have had strong BLM protests since 2014, where police killings have decreased by 15–20%. Travis Campbell, *Black Lives Matter Effect on Police Lethal Use-of-Force*, SOC. SCI. RSCH. NETWORK 34 (Jan. 15, 2021), <https://ssrn.com/abstract=3767097>. Between 2014 and 2019, this meant that the cultural change slowly being brought about by BLM movements have led to approximately 300 fewer deaths. *Id.*

¹⁶⁸ See Bates, *supra* note 75, at 360.

¹⁶⁹ Roberts, *supra* note 7, at 43 (“Prison abolitionists frequently define their work as consisting of two simultaneous activities, one destructive and the other creative.”).

¹⁷⁰ See *Dhammapada Verse 5*, TIPITAKA, <https://www.tipitaka.net/tipitaka/dhp/verseload.php?verse=005> (last visited Apr. 10, 2021) (quoting the teachings of the Buddha).

A. Changing Cultures within a Greater Context

A central goal of the abolitionist project is “the founding of a new society” where police, prisons, and the other instruments of the culture of violence have no conceivable role.¹⁷¹ Changing culture at that scale is a delicate process that requires an understanding of the greater context in which it exists. Attempting to transform it in isolation is like relocating a tree by moving its leaves. To establish lasting and meaningful change, one needs to identify and transform the intricate structures — the roots, branches and stems — that have held it in place. In this context, a new culture of community wellbeing includes other necessary implications for public safety, which likewise require “the imagining and generating of alternative institutions and relations.”¹⁷² Human capacity and community safety cannot truly flourish without universal access to numerous prerequisites: education, healthcare, employment, housing, food, and clean water.¹⁷³ In that manner, the culture of violence exists interdependently with numerous other cultures that share its values and give rise to the same suffering. They, too, will need to be replaced by cultures sharing the culture of community wellbeing’s ultimate goals and foundational principles.

- (1) **The Culture of Individualism.** The culture of individualism places the needs of the individual first and separates them from the wellbeing of the entire community. It allows people to accept and justify the harm experienced by others so long as they themselves are safe. Abolition, by contrast, places the

¹⁷¹ Fred Moten & Stefano Harney, *The University and the Undercommons: Seven Theses*, 22 SOC. TEXT 101, 114 (2004); see also Roberts, *supra* note 7, at 119 (“prison abolitionists are dedicated to working within carceral society to ‘build models today that can represent how we want to live in the future’ and to start creating a radically different society where prisons are unimaginable” (quoting *What Is the PIC? What Is Abolition?*, CRITICAL RESISTANCE, <http://criticalresistance.org/about/not-so-common-language/> (last visited Apr. 10, 2021))).

¹⁷² HARSHA WALIA, UNDOING BORDER IMPERIALISM 249 (2013).

¹⁷³ Mariame Kaba, *So You’re Thinking About Becoming an Abolitionist*, LEVEL (Oct. 30, 2020), <https://level.medium.com/so-youre-thinking-about-becoming-an-abolitionist-a436f8e31894> (“abolition is a vision of a restructured society in a world where we have everything we need: food, shelter, education, health, art, beauty, clean water, and more. Things that are foundational to our personal and community safety.”); Sara Jayaraman & Zachary Norris, *What Does it Mean to be Safe?*, MEDIUM (July 18, 2016), <https://medium.com/@ellabakercenter/what-does-it-mean-to-be-safe-2403bc91d906> (“Together, we will build safe communities where people have homes without fear of displacement. Where they have healthcare that they can afford. Where a quality education is accessible for all. Where people have access to clean water and healthy food.”).

community at the center.¹⁷⁴ If this culture were to be replaced by one centered around community responsibility, people will start to regard the injustices and hardships faced by their neighbors with greater empathy. Such frameworks already exist within the abolition movement, such as Community Accountability strategies, which aim to address the harms of violence through “strengthening relationships and communities, emphasizing mutual responsibility for addressing the conditions that allow violence to take place, and holding people accountable for violence and harm.”¹⁷⁵ Within a culture of community responsibility, the harms of violence will naturally be regarded as the responsibility of the collective to solve in collaboration with one another.¹⁷⁶

(2) The Culture of Competition. The culture of competition pits the interests of different individuals and social groups against one another, further contributing to the forces of fear and suspicion and paralyzing efforts for community collaboration. It reinforces cynical assumptions about human nature and colors how we view the actions of others, especially those that do not belong to our immediate social group. Many of our social institutions — such as our political, legal, and economic institutions, and even the Constitution of the United States — have been built upon and rationalized by a culture of competition.¹⁷⁷ The institution of policing is no

¹⁷⁴ See Patrisse Cullors, *Abolition and Reparations: Histories of Resistance, Transformative Justice, and Accountability*, 132 HARV. L. REV. 1684, 1692 (2019) (“Abolition means community. Abolition does not isolate individuals. Abolition invites people in. Abolition repairs the friction caused by necessary separation.”).

¹⁷⁵ *Community Accountability*, TRANSFORM HARM, <https://transformharm.org/community-accountability/> (last visited Apr. 10, 2021).

¹⁷⁶ See Mariame Kaba, *Yes, We Mean Literally Abolish the Police*, N.Y. TIMES (June 12, 2020), <https://www.nytimes.com/2020/06/12/opinion/sunday/floyd-abolish-defund-police.html> (“People like me who want to abolish prisons and police, however, have a vision of a different society, built on cooperation instead of individualism, on mutual aid instead of self-preservation.”).

¹⁷⁷ See, e.g., THE FEDERALIST NO. 10 (James Madison) (“So strong is this propensity of mankind to fall into mutual animosities, that where no substantial

different, often drawing clearly defined lines between law enforcement and the public, innocent and suspicious, law abiding citizens and dangerous delinquents. As a result, a question that is critical to realizing a world without violence is: how can we “harness our latent capacities for cooperation and altruism, and channel these energies towards the well-being of the entire social body?”¹⁷⁸ How can we create a norm whereby different social groups regard themselves first and foremost as like-minded citizens working together to promote the wellbeing of all?

- (3) **The Culture of Capitalism.** The culture of capitalism drives a relentless push for constant growth, often resulting in patterns of exploitation from those in existing positions of power and privilege.¹⁷⁹ Since its inception, the culture of capitalism was integral to slavery and continues to drive racial subordination and violence against people of color.¹⁸⁰ Moreover, the culture of capitalism is inextricably connected with the culture of violence, as “[a] society based on inequality and exploitation

occasion presents itself, the most frivolous and fanciful distinctions have been sufficient to kindle their unfriendly passions and excite their most violent conflicts.”); ADAM SMITH, *THE WEALTH OF NATIONS* 456 (1776) (“It is not from the benevolence of the butcher, the brewer, or the baker, that we expect our dinner, but from their regard to their own interest. We address ourselves, not to their humanity but to their self-love, and never talk to them of our necessities but of their advantages.”).

¹⁷⁸ TEDx Talks, *Beyond the Culture of Contest: Michael Karlberg at TEDxInnsbruck*, YOUTUBE (July 31, 2012), <https://www.youtube.com/watch?v=J0ZCAbYrQ7Q>; see also Roberts, *supra* note 7, at 47 (“Some abolitionists are implementing local social-change projects, based on principles of mutual aid rather than competition and profit”).

¹⁷⁹ INST. FOR STUD. GLOB. PROSPERITY, *ADVANCING TOWARDS THE EQUALITY OF WOMEN AND MEN* 6 (2009) (hereinafter *Studies in Global Prosperity*) (“increased flows of goods, services, capital and labor within existing structures and processes benefit only a very few at the expense of so many — giving rise to the impoverishment of entire local communities, the exploitation of vulnerable populations, and the mass destruction of the environment.”).

¹⁸⁰ Roberts, *supra* note 7, at 47; Peter Hudis, *Racism and the Logic of Capitalism*, HIST. MATERIALISM, <https://www.historicalmaterialism.org/index.php/articles/racism-and-logic-capitalism> (last visited Apr. 10, 2021) (“Capitalism first emerged as a world system through the anti-black racism generated by the transatlantic slave trade, and it has depended on racism to ensure its perpetration and reproduction ever since.”).

needs violence and repression to keep the oppressed in line.”¹⁸¹ As a result, the goals of abolitionism and the culture of community wellbeing cannot be achieved so long as capitalism exists in its current form.¹⁸²

B. The Foundational Principles of a New Culture

Transforming culture is complex. On the one hand, it is easy to see how culture is molded through the various leaders and institutions in society. In this context, individual transformation will undoubtedly have a role to play. As described previously, training police officers and departments to question the culture of violence and prioritize public safety and the sanctity of human life will create community servants that can both embody and spearhead the culture of community wellbeing.¹⁸³ Similarly, the various institutions of the civil society that have created the hegemony of the culture of violence can also have a profound role to play in undoing the inaccurate and harmful perception of violence and otherness that we see today. As a result, it is possible to conceive of the positive influence that could be generated from news media and political leadership that help sow the seeds and reinforce the values of the culture of wellbeing.

However, relying on individual leadership and policy changes must be rooted in the larger context of a cultural change that develops organically. In other words, the change must come from within the community at the grassroots level and be tailored to administer to its own specific needs if it is to ensure that the hegemonic tools used to create a culture of wellbeing do not regress to a coercive or manipulative institutional framework that is divorced from the reality of the community it intends to serve.¹⁸⁴ Yet, to be organic does not mean that such a process

¹⁸¹ Daniel Taylor, *Defunding, Disarming, Defeating and Abolishing the Police*, REDFLAG (June 17, 2020), <https://redflag.org.au/node/7233>; see also Evan Dent et al., *Alternatives to the Police*, MCGILL DAILY (Nov. 26, 2018), <https://www.mcgilldaily.com/PoliceIssue/Restorative-Justice.html> (publishing a phone interview with criminologist Luis Fernandez: “[T]he role of the police is to maintain the capitalist social order, to maintain the social order so that those particular people who have power can do their business with the least amount of disruption . . . possible.”).

¹⁸² Robert Scott, *Using Critical Pedagogy to Connect Prison Education and Prison Abolitionism*, 33 ST. LOUIS U. PUB. L. REV. 401, 403 (2014).

¹⁸³ See *supra* Part II Section C.

¹⁸⁴ This article acknowledges the tension that may exist between the idea of changing a culture that has been forced upon a society by replacing it with another culture using the same hegemonic tools. History is littered with examples of outside countries and actors trying to change another group’s culture to match its own vision. To many, cultural change equates to

must be directionless. Rather, the natural development of a community's values ultimately requires the identification of a coherent yet evolving conceptual framework that can guide and inform such efforts. Thus, informed by this framework, different communities can develop the culture of community wellbeing authentically in a way that honors and respects their existing values.

This article proposes three core principles that will form the foundation of this culture of community wellbeing: (1) the oneness of humankind; (2) the inherent dignity of each individual; and (3) the restorative nature of justice.¹⁸⁵

1. The Oneness of Humankind

The culture of violence is inherently divisive. It creates harmful distinctions between people, selectively targeting races, cultures, and communities that it labels as dangerous. When officers point their weapons at a driver, forcefully pat-down a passerby, or demand complete obedience from a stranger, they fail to see the equal humanity within the same citizens they are sworn to protect. The culture of community wellbeing that arises to replace this should be built around the fundamental truth of the oneness of humankind and the equality of all peoples.

This article proceeds from the assumption that humankind is fundamentally one; all divisions in race, class, nationality and gender are socially constructed.¹⁸⁶ In this context, prejudice and discriminatory laws

imperialism, racial supremacy, or even ethnic cleansing. However, cultural change need not arise through coercion, as embodied by the abolitionist movement. Numerous grassroots initiatives and coalitions, such as Black Lives Matter, arise organically and promote cultural change through decentralized efforts at the community level. *See About, BLACK LIVES MATTER*, <https://blacklivesmatter.com/about/> (last visited Apr. 10, 2020). Properly understood, cultural change at the grassroots level is not inherently coercive and has the capacity to manifest itself differently between the various communities it embraces.

¹⁸⁵ Each of these principles is inspired by the teachings of the Bahá'í Faith, a world religion whose aim is to bring about the unification of the human race and the conditions necessary for peace and prosperity. *See What Baha'is Believe*, BAHÁ'Í, <https://www.bahai.org/beliefs/> (last visited Apr. 10, 2021) (“O ye children of men! The fundamental purpose animating the Faith of God and His Religion is to safeguard the interests and promote the unity of the human race, and to foster the spirit of love and fellowship amongst men ... Whatsoever is raised on this foundation, the changes and chances of the world can never impair its strength, nor will the revolution of countless centuries undermine its structure.” (quoting BAHÁ'U'LLÁH, *GLEANINGS FROM THE WRITINGS OF BAHÁ'U'LLÁH CX* (pocket-size ed. 1990) (1935)).

¹⁸⁶ The concept that humankind is one is by no means novel. Numerous religions, such as The Bahá'í Faith, Christianity, Islam and Buddhism offer

and practices, which contradict the principle of oneness, have no place in the culture of a worthy, mature society. Any culture centered around the wellbeing of its members must grow to reconcile the differences that exist between peoples — in tradition, religion, language, experience, and privilege — and instead treat every member of society as cells within a single, living social organism.

The oneness of humankind also cuts off the lifeblood of the culture of violence: dehumanizing and “othering” people from different social groups. Through the oneness of humankind, characteristics that separate social groups can be acknowledged as lesser differences which contribute to the beauty and diversity of the human family, without taking away from its primary unity and interdependence.¹⁸⁷ The analogy of a social organism can help illustrate this fundamental principle. A well-functioning organism requires the health and participation of diverse cells working together in harmony in order to reach its full capacity.¹⁸⁸ No cell lives apart from the body, whether in contributing to its function or in deriving from the well-being of the whole.¹⁸⁹ So long as one organ is sick, the whole body remains afflicted.

Likewise, a culture of community wellbeing requires the health and prosperity of all its members and suffers from systems that oppress or harm any segment of society. The current culture of violence facilitates a punitive logic that subordinates groups and individuals to the point where

variations of the teaching that the oneness of humankind is a fundamental spiritual truth. See *supra* note 187, GLEANINGS FROM THE WRITINGS OF BAHÁ'U'LLÁH CXXXII (“The utterance of God is a lamp, whose light is these words: Ye are the fruits of one tree, and the leaves of one branch. Deal ye one with another with the utmost love and harmony, with friendliness and fellowship.”); *Galatians* 3:28 (“There is neither Jew nor Gentile, neither slave nor free, nor is there male and female, for you are all one in Christ Jesus.”); *Al-Hujurat*, QUR’AN 49:13, <https://quran.com/49> (last visited Apr. 10, 2021) (“O humanity! Indeed, We created you all from a male and a female, and made you into peoples and tribes so that you may get to know one another.”); *Finding Unity*, THE SEARCH FOR ENLIGHTENMENT (Nov. 10, 2014), <https://anupadin.com/tag/many-in-body-one-in-mind/> (“The concept of many in body, one in mind is based on the vow of Shakyamuni Buddha, which is contained in the Lotus Sutra, ‘to make all persons equal to me, without any distinction between us.’”).

¹⁸⁷ See ‘ABDU’L-BAHÁ, PARIS TALKS 53 (11th ed., UK Bahá’í Pub. Trust 1972) (1912) (“The diversity in the human family should be the cause of love and harmony, as it is in music where many different notes blend together in the making of a perfect chord . . . [or] different colored roses growing in the beautiful garden of humanity.”).

¹⁸⁸ UNIVERSAL HOUSE JUST., WELLSPRINGS OF GUIDANCE: MESSAGES OF THE UNIVERSAL HOUSE OF JUSTICE 38 (Bahá’í Pub. Trust 1969) (“In the human body, ever cell, every organ, every nerve has its part to play. When all do so the body is healthy, vigorous, radiant, ready for every call made upon it.”).

¹⁸⁹ *Id.* (“No cell, however humble, lives apart from the body, whether in serving it or receiving from it.”).

we accept and naturalize the need to remove them from society, or to inflict direct harm upon them in the name of public safety.¹⁹⁰ We attack or cast out those we regard as less worthy, thereby simultaneously depriving them of the society to which they belong to and us of the capacities and talents they could offer the society if given the chance. One can only imagine how much the United States would gain if the two million people locked in state and federal cages were instead offered education and support, if they were present to uphold the growth of their families and communities, and if the talents latent within them could be developed for the betterment of all.

Cast in this light, a culture of community wellbeing recognizes that society should be fundamentally invested in the capacity of every individual. A community that regards every member as an equal would not give up on those who stumble but will instead work tirelessly to create conditions whereby everyone within them can grow and succeed.

2. The Inherent Dignity and Moral Capacity of Each Individual

If violence degrades and assumes the worst of certain groups and individuals, the culture of community wellbeing must uplift and believe that every group and every individual is endowed with the capacity to recognize moral values and contribute to the betterment of their society. As such, recognizing the inherent dignity of each individual becomes a direct antidote to the forces of fear and suspicion that feed the culture of violence, since it naturally undermines the racial and cultural stereotypes of inherent criminality that the hegemony has labored to create.

In doing so, the culture of community wellbeing must pay attention to the harms that come from certain forms of lawbreaking. Any system of justice within this culture should be administered to prevent all forms of murder, assault, rape, abuse and corruption. But it must do so making two important distinctions. First, the culture of community wellbeing should draw from the belief that no human being is innately a predator; every human being has the capacity to develop moral qualities.¹⁹¹ Too often, instances of violent and harmful conduct can be attributed to desperation, trauma, and maleducation. Research from around the world shows that one of the most effective ways to decrease the rate of crime in an area is

¹⁹⁰ See Roberts, *supra* note 7, at 16–18.

¹⁹¹ Many people may not share this position and can critique this principle by attesting to numerous examples of humanity's incredible capacity for cruelty. Such claims are entirely reasonable. However, this article argues that each human being is created inherently noble and has the capacity to offer invaluable service to humankind even after they harm another: "O Son of Spirit! Noble have I created thee, yet thou hast abased thyself. Rise then unto that for which thou wast created." BAHÁ'U'LLÁH, *THE HIDDEN WORDS OF BAHÁ'U'LLÁH* 22 (US Bahá'í Pub. Trust 1985) (1858). As a result, the dignity of each individual should define them, rather than the instances when their actions degrade their other moral qualities.

to uplift the community from poverty.¹⁹² Rather than focus its attention on control and punishment, a culture of community wellbeing that recognizes the moral capacity of each individual would instead focus its resources on solutions that alleviate people from the factors that brought about criminal behavior in the first place. Thus, a culture of community wellbeing would see the billions of dollars dedicated to the prison and policing industry better spent on intellectual and spiritual education, mental and physical health, safe housing and clean food and water, and meaningful economic support.

Second, no matter how degraded one's conduct has been, this principle affirms that every human can be educated and uplifted to achieve greater spiritual capacity. Nobody should be defined by the crimes they commit since "each of us is more than the worst thing we've ever done."¹⁹³ To label a human as a murderer, a fraud, a criminal, is to hinder their capacity to be greater. Numerous initiatives already exist which embody this philosophy, such as the expansion of expungement laws which make it easier for citizens to remove previous criminal records.¹⁹⁴ As it stands, the very existence of a criminal record creates collateral consequences that impose barriers to housing, voting and employment for the rest of a person's life.¹⁹⁵ Expunging convictions and allowing an individual to be freed from being defined by a past crime not only removes barriers that

¹⁹² See, e.g., Osvaldo Meloni, *Does Poverty Relief Spending Reduce Crime? Evidence from Argentina*, 39 INT'L REV. L. & ECON. 28 (2014) (finding that welfare spending in Argentina reduced overall levels of crime, including violent crimes like aggravated assault, larceny and robbery); see also Robert Muggah & Sameh Wahba, *How Reducing Inequality Will Make our Cities Safer*, WORLD BANK BLOG (Mar. 2, 2020), <https://blogs.worldbank.org/sustainablecities/how-reducing-inequality-will-make-our-cities-safer> ("[P]eople living in environments characterized by high levels of economic and social inequality tend to be more exposed to violence and victimization than those living elsewhere. Neighborhoods exhibiting higher levels of income inequality and concentrated disadvantage experience higher levels of mistrust, social disorganization and violent crime. Failure to adequately address these issues dramatically reduces equality of opportunity and outcomes across generations, perpetuating violence.").

¹⁹³ See BRYAN STEVENSON, *JUST MERCY: A STORY OF JUSTICE AND REDEMPTION* 254 (2014) ("[I]f someone tells a lie, that person is not *just* a liar. If you take something that doesn't belong to you, you are not *just* a thief. Even if you kill someone, you are not *just* a killer.").

¹⁹⁴ See, e.g., J.J. Prescott & Sonja B. Starr, *Expungement of Criminal Convictions: An Empirical Study*, 133 HARV. L. REV. 2460 (2020) (describing how many states have adopted expansive expungement laws in recent years which have focused on removing procedural burdens or providing automatic expungement for certain convictions).

¹⁹⁵ Amy L. Solomon, *In Search of a Job Criminal Records as Barriers to Employment*, NAT. INST. JUST. J. 42, 44 (2012) ("[M]ore than 38,000 statutes . . . impose collateral consequences on people convicted of crimes, creating barriers to jobs, housing, benefits and voting.").

separate that person from their wider society, but is in the interest of public safety as expungements can reduce further risk of recidivism.¹⁹⁶ Consequently, a culture of community wellbeing seeks to respond to wrongful actions with understanding, rather than rushing to judgement or defining those who commit them as “criminals.” Trusting the inherent capacity of the offender, a society that recognizes the inherent dignity of each individual would respond to harmful conduct asking: “what caused them to act that way?” and “how can we address these underlying causes for them and for others?”

3. Justice as Restorative, Reparative, and Redistributive

The culture of violence addresses harm or lawbreaking with even greater harm. It preaches that a victim is best served when their perpetrator is locked away. By contrast, the culture of community wellbeing must address harm with healing, looking to repair the broken windows it encounters by understanding the root cause of the social ills that created it.

At its very core, the purpose of the law ideally centers around creating conditions of fairness for all. After all, any legal system that allows some to prosper at the expense of others is fundamentally unjust. Instead, the institutions that determine and administer our conception of justice must promote the wellbeing and prosperity of every member of society. For American society — one that, since its inception, has been defined by violence, inequality, and oppression¹⁹⁷ — such a task is no small feat. As we begin the enterprise of creating a culture and a justice system that serves all, it is important to acknowledge that we are starting from a position of gross injustice. We cannot gloss over this. A culture of wellbeing must first acknowledge the brokenness and manifold inequalities that currently exist within it. As Bryan Stevenson explains:

We are all broken by something. We have all hurt someone and have been hurt. We all share the condition of brokenness even if our brokenness is not equivalent But simply punishing the broken — walking away from them or hiding them from sight — only ensures that they remain broken and we do, too.¹⁹⁸

Thus, all institutions contributing to our system of justice must seek to restore those harmed, repair the social inequalities that have stifled

¹⁹⁶ For example, a study of 20,000 individuals in Michigan who received an expungement found that only 1.8% are convicted within two years and 4.2% reconvicted within five years, which mostly accounts for minor and nonviolent crimes. J.J. Prescott & Sonja B. Starr, *supra* note 194, at 2512. These rates are much lower than rates found in most studies of criminal recidivism and appear to be much lower than that of the general population. *Id.* at 2514.

¹⁹⁷ See *supra* notes 4–5.

¹⁹⁸ BRYAN STEVENSON, *supra* note 193, at 253–54.

countless individuals and communities, and redistribute the multitudes of wealth we have collectively amassed to ensure that all can benefit from it. Rather than depriving an individual from the means to sustain themselves, a culture of community wellbeing would advance ways to enhance their capacity to flourish, so that they, too, can begin to redistribute from their means and repair the harms of those less fortunate.

Numerous examples are already being advocated for which represent the principles of restoration, reparation, and redistribution. For example, an increasing number of scholars and advocates call for reparations for slavery and seek to advance social justice through universal healthcare, education, and minimum standards of living.¹⁹⁹ Additionally, restorative justice programs across the world seek to repair harms suffered by victims of violence and crime while addressing the conditions that create crime — a process which views the community as both an important stakeholder and key actor within the process.²⁰⁰ These initiatives are inspired by a reconceptualization of justice in its broadest form and embody the kind of justice system that will be at the heart of a culture of community wellbeing.

CONCLUSION

The abolitionist movement has undoubtedly led to many important victories in the battle against police violence. Now, with the momentum of the Black Lives Matter movement and the nationwide protests following the deaths of George Floyd and Breonna Taylor, there is reason to believe that the winds are changing. Finally, there is hope that this Sisyphean task can be accomplished.

However, with the role of police in the crosshairs of a nationwide conversation, the opposition to calls to defund or abolish the police are not insignificant. Even though he lost, the 2020 Presidential election saw Donald Trump — a man whose very brand personifies the culture of violence — receive over 70 million votes endorsing his rhetoric. And the rise of racial justice movements across the country have only enraged

¹⁹⁹ See, e.g., Ta-Nehisi Coates, *The Case for Reparations*, THE ATLANTIC, <https://www.theatlantic.com/magazine/archive/2014/06/the-case-for-reparations/361631/> (June 2014) (“American prosperity was ill-gotten and selective in its distribution. What is needed is an airing of family secrets, a settling with old ghosts. What is needed is a healing of the American psyche . . . [reparations entail] a national reckoning that would lead to spiritual renewal.”); HEALTHCARE-NOW, <https://www.healthcare-now.org> (last visited Apr. 10, 2021) (advocating for a universal healthcare system and its important to human dignity); FIGHT FOR \$15, <https://fightfor15.org> (last visited Apr. 10, 2021) (advocating for a national minimum wage of \$15 per hour).

²⁰⁰ HOWARD ZEHR, THE LITTLE BOOK OF RESTORATIVE JUSTICE 23 (2002) (“Restorative justice requires, at minimum, that we address victims’ harms and needs, hold offenders accountable to put right those harms, and involve victims, offenders, and communities in this process.”).

white supremacy groups and provoked insecure “Blue Lives Matter” movements looking to preserve the social assumptions and institutions that have reinforced the endemic of violence. It is therefore imperative that abolitionists act decisively while the moment is ripe.

This article argues that the first step of eliminating the violence afflicting American society is to identify its source: the hegemony of a culture of violence. This hegemony affects all citizens, influencing social attitudes without revealing itself. It is reinforced and legitimized through those social institutions that shape our collective worldview by echoing its philosophy without revealing its name. It is therefore essential that those looking to abolish violence first acknowledge the cultural hegemony that has held it in place and shine a light into the shadow where it lurks. Beyond raising consciousness, the various spaces that are available to us — whether it be on college campuses, online, within communities, or even within families — provide us with an opportunity to interrogate the ways we too have been shaped by this cultural hegemony, and how the choices that we make continue to cement it in our worldview.

Yet, calling out the problem is not enough. To truly eliminate the culture of violence, it is critical that we work in collaboration and with a united vision to raise up a culture of community wellbeing, built around principles that directly address the forces of fear and suspicion that fuel the culture of violence. Every individual has a distinctive part to play within this framework. Different social actors can take on various functions within the path of healing and justice, collectively working towards the same vision while adapting to the specific needs and capacities of each community. This article argues that within that process, abolitionists need not dichotomize short-term reforms from long-term change. So long as they challenge the culture of violence and are consistent with the principles of community wellbeing, reforms to policing can be instrumental in training individual police officers to question the virtues of violence and transform the environment in which they operate to be more receptive to lasting cultural change.

The task before us may appear overwhelming. With every passing day, more and more people are killed at the hands of police officers whose social and institutional training has taught them see danger everywhere, especially in people of color. Most people who are killed will not make the evening news. Their stories will not be told. Their names will not be chanted. But their deaths can be prevented so long as we are bold and act with urgency and ambition for the creation of a society that sees no instrumentality in violence, and which prioritizes the sanctity of human life and the wellbeing of the collective.
