

# REFORMING POLICING IN AMERICA 2020

Improving public safety by building trust with communities and changing police culture. Transforming officers from occupying soldiers to guardians who serve and protect.

The logo for the Equal Justice Initiative (EJI) is located in the bottom right corner. It consists of a red square containing the lowercase letters "eji" in white, with a white horizontal bar above the letter "i".

eji

**Police violence directed at Black people is a legacy of our history of racial injustice. Police have long been the face of oppression—from tracking down fugitive slaves to allowing and even participating in racial terror lynchings to beating nonviolent civil rights demonstrators. This history of violence and racial oppression has allowed police officers to see themselves as agents of control, as soldiers trained in fighting, shooting, and physically dominating their “enemies.”**

**We need to create police departments where officers accept a role as guardians, with a commitment to protect and serve everyone, even the people they are arresting.**

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# 01

## DOCUMENT & EXPOSE THE PROBLEM

### New Law Requiring Disclosure of Police Violence

/ FEDERAL

There are 18,000 police departments in the U.S., and there is no federal law requiring departments to disclose when officers kill or severely injure citizens. Without data, the scope of police violence cannot be assessed. Police officers are government agents who work for communities. There needs to be an obligation to reveal data about use of force so there can be accountability. Congress must pass a federal law requiring data collection and disclosure for all law enforcement departments in the U.S. with meaningful penalties and remedies for non-compliance.

### Police Misconduct Registry

/ FEDERAL / STATE / LOCAL

Hundreds of police officers remain employed for departments despite multiple complaints of excessive use of force, citations for misconduct and brutality, and confirmed abuse of citizens. Many of these officers would not be allowed to serve if departments had to comply with a registry of police misconduct. State and federal laws are needed to mandate disclosure and registration of officers who are cited for serious misconduct. Every mayor and police chief should immediately re-evaluate officers with histories of misconduct and abuse against citizens and discharge officers who present a threat to citizen safety based on prior conduct.

### Publicize Research and Data on Use of Force by Police

/ FEDERAL / STATE

States must submit detailed reports of all officer-caused deaths, police shootings, and use of force to the U.S. Attorney General. The Violent Crime Control and Law Enforcement Act of 1994 requires the U.S. Attorney General to “acquire data about use of force by law enforcement officers” and to “publish an annual summary of the data acquired.” This has not been effectively accomplished and additional funding and authority are needed. Transparency and public information about police violence and use of force is essential to build trust.

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# 02

## CHANGE POLICE CULTURE

### **Train Police Officers to be Guardians Who Protect and Serve, not Soldiers who Menace, Threaten, and Control**

/ STATE / LOCAL

Training of police officers needs to shift from the soldier model focused on shooting, fighting, and restraining people to a model that teaches officers how to help people who are in crisis or distress, who pose a threat to themselves or others, or who are severely mentally ill. Working with the mentally ill, intervening in domestic violence, and building trust with citizens are skills that have to be developed, and few departments provide the training needed.

### **Understand the Community You Serve, Live Where You Work**

/ LOCAL

Police officers must understand and have knowledge about the communities where they work. A knowledge of the community and its people are required for informed public safety efforts. Proximity is key to building trust and improves the ability to keep people safe and investigate and evaluate crimes. Police officers should live in the communities they serve.

### **An Age and Education Requirement**

/ STATE / LOCAL

Carrying a weapon with the authority to arrest and manage conflict requires skill and maturity. Many

police departments hire police officers to serve at 18 with just a high school diploma before they are legally eligible to drink or exercise the discretion we restrict to adults who are 21. A minimum age and minimum educational requirement will improve officer safety and community safety.

### **End The Transfer of Federal Military Equipment to Local Law Enforcement Agencies**

/ FEDERAL

Police departments that are militarized are significantly more likely to kill civilians. In the last three decades, through the Department of Defense's 1033 Program, more than \$6 billion worth of military equipment has been transferred to over 8,000 law enforcement agencies. This equipment includes grenade launchers, military aircrafts, machine guns, and night-vision goggles. To protect community members and mitigate significant damage to public trust, Congress must eliminate this section of the National Defense Authorization Act to prevent the transfer of military equipment under the 1033 Program.

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# 03

## BAN & CRIMINALIZE EXCESSIVE USE OF FORCE

### **Comprehensive Policy on Use of Force**

/ FEDERAL / STATE / LOCAL

A clearly stated "sanctity of life" philosophy must be at the forefront of every officer's mind.

Consistent with this philosophy, the Attorney General should recommend standards on use of force procedures, and law enforcement agencies must create comprehensive policies on use of force that include best practices, training, investigations, prosecutions, and information sharing. These policies must be clear, concise, and openly available for public inspection, and should be submitted to policing experts and the Attorney General for review. Any subsequent revisions to a department's use of force policy should be submitted to the Attorney General for feedback before implementation.

**The use of chokeholds and other neck restraints must be made illegal and subject to prosecution.**

### **Legislation Barring the Use of Lethal Violence and Reporting Requirements**

/ FEDERAL / STATE / LOCAL

The use of deadly force must be limited to the rare situations where an officer has probable cause to believe that a person poses an immediate threat of

serious bodily injury or death and where all other means of apprehension have been exhausted. State and federal legislation must also make law enforcement's use of chokeholds and other neck restraints illegal and subject to prosecution.

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# 04

## **EMPOWER CIVILIANS AND CITIZENS TO SHAPE POLICY AND HIRING**

### **Involve the Local Community in Developing and Evaluating Policies and Procedures**

/ FEDERAL / STATE / LOCAL

Police officers are government agents who serve local communities and are paid through tax dollars. Communities should have a meaningful say in the policies and procedures that govern officer behavior in their community. The lack of community input and decision-making power creates a problem of legitimacy for law enforcement agencies.

### **Ensure Civilians and Citizens Have a Role in Hiring and Training**

/ FEDERAL / STATE / LOCAL

Every police department should have civilian oversight that is independent of the department, staffed with the human and financial capital required for effective oversight, and empowered to ensure that officers follow policies and procedures. Civilian oversight should include, but also go beyond, incidents of officer-involved

violence, and allow civilians and citizens to shape law enforcement agencies' hiring practices and training.

## **Create Review Boards That Represent the Entire Community**

/ STATE / LOCAL

Communities of color have lost faith in law enforcement institutions after enduring decades of abuse perpetrated by officers who acted with impunity. One Pew study found that white Americans are far more likely than Black Americans to believe that the police use an appropriate amount of force, treat racial and ethnic groups equally, or hold officers accountable. Internal investigations rarely yield consequences and are susceptible to racial bias because of a lack of diversity within police departments across all levels of leadership. Law enforcement agencies should create Civilian Review Boards that are composed of both sworn staff and community members, with authority to review cases of officer-involved shootings and other incidents of misconduct that have the potential to damage community trust or confidence in the agency. To build trust, Boards must have representation from communities that have been historically subject to police abuse.

## **Identify Systemic Issues Within Agencies**

/ STATE / LOCAL

Civilian Review Boards vary widely in structure and effectiveness. There are roughly 200 police oversight bodies in America that have the authority to review internal investigations of misconduct or complete independent investigations of misconduct. To build maximum trust with the community, the authority of these Boards must extend beyond responding to individual complaints. Boards must be empowered to identify administrative, supervisory, training, tactical, or policy issues within the law enforcement agency that lead to misconduct and to demand correction of those issues. Review Boards must also have sufficient investigative authority and capacity.

# 05

## **CONFRONT THE HISTORY OF RACIAL INJUSTICE**

### **A New Truth And Justice Initiative Requiring Each Police Department To Publicly Report Its History of Racial Inequality**

/ FEDERAL / STATE / LOCAL

Truth and justice are sequential. It will be difficult for civilians to have faith in reform efforts unless local law enforcement agencies can name and apologize for the harm they have done. This is an important first step for communities to heal. Law enforcement agencies committed to equity and justice in policing must embrace the necessity of truth-telling about historical and contemporary department behavior that perpetuates racial inequality. A new federal law should mandate and provide the appropriate funding for law enforcement agencies to analyze their history and issue a full public report on their department's history of racial inequality. This report must include the department's past and present acts or policies that discriminate against or enforce disproportionate levels of policing on Black communities and all communities of color. This should include, but not be limited to, participating in racial terrorism in the late 19th and early 20th centuries, providing police support to efforts to resist federal mandates to de-segregate, discriminatory targeting and use of police surveillance in the communities and people they serve, and civilian complaints and lawsuits against the agency for racial injustice. This public report will also necessitate a formal apology from the department and a process through which the department will work with the local community to repair those harms.

## Law Enforcement Agencies Must Acknowledge the Role of Policing in the History of Racial Injustice

/ FEDERAL / STATE / LOCAL

A presumption that people of color are guilty and dangerous drives violent police conduct when officers interact with people of color. Yet, police departments make little, if any, effort to acknowledge the consequences of their biases and to engage in harm reduction. Many officers work for police departments that have been complicit in past and present racial violence, including the extrajudicial lynchings of Black people and the overthrow of duly elected Black public officials. All officers should know how their department contributed to or condoned the local history of racial injustice. The leaders of police departments that have engaged in racially unjust behavior must acknowledge this harm and take concrete, publicized steps to both end existing harmful practices and prevent future ones.

are nearly six times more likely to be incarcerated than white men; Latino men are nearly three times as likely. Native Americans are incarcerated at more than twice the rate of white Americans.

Numerous studies have demonstrated that as a result of a history of racial inequality, people have strong unconscious associations between Blackness and criminality. Implicit biases have been shown to affect policing and all aspects of the criminal justice system, leading to disproportionately high rates of police stops, searches, and violence towards young men of color; higher rates of childhood suspension, expulsion, and arrest at school; disproportionate contact with the juvenile justice system; a greater likelihood of being denied bail and diversion; harsher charging decisions and worse plea offers; an increased risk of wrongful convictions and unfair sentences; and higher rates of probation and parole revocation.

Congress should incentivize states and localities to require mandatory training on the myth of racial difference, the presumption of dangerousness that this myth supports, and how it manifests in implicit racial biases. States and localities should require every officer to undergo mandatory bias training to increase the awareness of law enforcement and work to eradicate the reliance on these biases in policing. These trainings should be situated in a historical understanding of the tangible harms done by police departments and provide officers with actionable practices to reduce the impact of implicit bias in their police work.



# 06

## REQUIRE TRAINING OF OFFICERS TO BE RESPONSIVE TO THE NEEDS OF COMMUNITY MEMBERS

### Mandatory Training on Racial Biases

/ FEDERAL / STATE / LOCAL

Racial disparities in our criminal justice system are a legacy of our history of racial injustice. Black men

### Mandatory Training on Responding to People with Mental Illness

/ FEDERAL / STATE / LOCAL

Police officers typically have limited background and training in responding to people suffering from mental health problems. As a result, officers are generally not equipped to assist people in times of distress, which has had serious, and even deadly, consequences. More training is essential to produce safer and more humane outcomes. Crisis Intervention Training (CIT) has been shown to improve police ability to recognize symptoms of

a mental health crisis, enhance their confidence in addressing such an emergency, and reduce inaccurate beliefs about mental illness. It has been found that after completing CIT training, officers felt encouraged to interact with people suffering a mental health crisis and to delay their rush to resolution. This underscores why we need training.

## **Serving Vulnerable Populations Within Their Communities**

/ FEDERAL / STATE / LOCAL

People with disabilities, members of the LGBTQ+ community, immigrant communities, people for whom English is not their first language, and people suffering from addiction and dependency should not be at a higher risk for negative or violent encounters with the police. Yet, police departments have historically failed to respond in ways that meet the needs of vulnerable people in their communities. Negative responses have included sexual harassment, dismissal of people's gender identity, violation of civil rights, and criminalization of health needs. These responses reduce public trust in law enforcement and increase exposure to harmful experiences for members of vulnerable communities. Departments must require officers to engage in harm reduction practices when interacting with people from vulnerable communities and must ensure adequate and ongoing training for officers on those practices. Departments should regularly collaborate with community members to assess whether existing practices meet the needs of all vulnerable communities and improve policies when needed.

**Reform must alleviate poverty, inequality and the root causes of crime.**

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# 07

## **MANDATE INDEPENDENT PROSECUTION WHEN CITIZENS ARE KILLED**

### **The Necessity of Independent Prosecutors**

External and independent prosecutors must conduct independent criminal investigations into cases where police use of force results in death or disability. Local district attorneys and prosecutors routinely work with the officers whom they would otherwise investigate and are incentivized not to expose the misconduct of their colleagues. As a result, law enforcement officials are infrequently held accountable for misconduct. Even when officials are prosecuted, convictions are exceedingly rare. In conducting an investigation independent from interested parties, an external prosecutor is more likely to hold law enforcement accountable.

### **Independent Prosecutors for Officers Who Use Force Resulting in Serious Physical Injury or Death**

/ FEDERAL / STATE / LOCAL

Congress should incentivize states to enact laws requiring the independent investigation and prosecution of the use of deadly force or force where a civilian suffers serious physical injury. States and localities should also move to create independent investigation and prosecution in these circumstances. Independent bodies must include special prosecutors, civilian review boards, State Attorneys General, or police departments from another jurisdiction.

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# 08

## ELIMINATE QUALIFIED IMMUNITY

### What Is Qualified Immunity and Why Is It an Impediment to Justice?

Qualified immunity is a court-created rule that protects police officers from almost all civil liability under 42 U.S.C. § 1983, a civil rights statute passed during Reconstruction to vindicate the rights of African American victims of racial terrorism. Before the United States Supreme Court created qualified immunity at the end of the Civil Rights Movement, Section 1983 was a critical mechanism used to remedy constitutional violations by law enforcement. In the case of *Monroe v. Pape* (1961), for example, a Black family successfully sued Chicago police officers that broke into their house without a warrant, rounded them up, made them stand naked in the living room, and looted their home. Since that time, the Court's doctrine has served as the basis for denying a remedy to victims of violent and deadly police misconduct, effectively creating a category of injuries without repair. Recently, United States Supreme Court Justices across the ideological spectrum have expressed "growing concern" that qualified immunity created an "absolute shield" for officers and has "sanction[ed] a 'shoot first, think later approach to policing.'"

### Congress Must Eliminate Qualified Immunity

/ FEDERAL

Policy decisions should be made by politically accountable institutions like state and federal

legislatures, but there has never been a legislative judgment that law enforcement should be shielded from liability when they violate people's constitutional rights. In response to ongoing police violence and misconduct, Congress should immediately amend 42 U.S.C. § 1983 to remove qualified immunity as a defense for police officers who engage in civil rights violations. Eliminating qualified immunity would not only provide victims of police violence with a remedy, but it would also deter law enforcement from using excessive force, since officers would no longer be able to do so with impunity, and would further encourage municipalities to take proactive steps to train their officers to prevent future financial responsibility for their officers' misconduct.

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# 09

## **INVEST IN COMMUNITY HEALTH AND CRIME REDUCTION**

Communities want and deserve effective strategies that reduce crime and provide support and hope to residents. Public safety cannot be achieved without attending to a host of conditions that disproportionately impact the poor, marginalized and communities of color. Adequate care and mental health treatment, programs to help people struggling with drug addiction and dependency, and care for children and families who have been traumatized by violence and neglect are essential components of any successful effort to improve public safety. Stable housing, educational systems that do not criminalize children with special needs, youth employment programs, and support for families in crisis are all critical to make communities safe and directly relate to the many challenges that we currently respond to with policing. Policing must be viewed as one small part of a larger system that does more to alleviate poverty, inequality and the root causes of crime and despair in communities. This will require state, local and federal funding and investments into systems of care.

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# 10

## **INCENTIVIZE AND CREATE MORE DIVERSE POLICE DEPARTMENTS**

A critical factor in managing bias is seeking candidates who are more likely to police in an unbiased manner. Law enforcement agencies must therefore strive to create a workforce that encompasses a broad range of diversity including race, gender, language, life experience, education, and cultural background to improve understanding and effectiveness in engaging with all communities. Achieving diversity in entry level recruitment is important, but achieving systemic and comprehensive diversification at every level of the department is the larger mandate. To facilitate this process, discretionary federal funding should be influenced by the department's efforts to improve their diversity and cultural and linguistic responsiveness. The federal government should also create a Law Enforcement Diversity Initiative designed to help communities diversify law enforcement departments to reflect the demographics of the communities they serve. Finally, law enforcement agencies must incentivize the above-referenced reforms, since people whose rights have been violated will be less interested in becoming police officers.



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