

REIMAGINING POLICING:

**How State and Local Governments
Can Work Together to Create
Better, Safer Communities**



About the National League of Cities

The National League of Cities (NLC) is the voice of America’s cities, towns and villages, representing more than 200 million people. NLC works to strengthen local leadership, influence federal policy and drive innovative solutions.

NLC’s Center for City Solutions provides research and analysis on key topics and trends important to cities, creative solutions to improve the quality of life in communities, inspiration and ideas for local officials to use in tackling tough issues, and opportunities for city leaders to connect with peers, share experiences and learn about innovative approaches in cities.

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Introduction

America's cities, towns and villages are facing a national reckoning on racial justice and law enforcement. Blaring, passionate demands for the government to reimagine public safety and policing have persisted with every murder of an unarmed individual by police officers, with George Floyd's and Breonna Taylor's names at the forefront. At latest count, over 2,000 cities and towns have protested the senseless murders of Black individuals in 2020.¹ Some have called for a reevaluation of use-of-force policies and recognition of overtly militarized weapon use. Others have called for civilian oversight boards and community policing models as an alternative to the traditional "tough-on-crime" approach. Perhaps the most radical demand has been to defund the police and invest in the community, with the city of Newark, New Jersey as one instance where part of the police budget has been reallocated to create an office of violence prevention.²

Despite the presence of a virulent virus that shows no signs of slowing down, and an election that reveals an expanding political divide in America, the renewed passion for racial justice has inspired many of America's cities and towns to listen and work

urgently to question whether the traditional understanding of policing—one focused on enforcing local, state, and federal laws—still prevails today. Gone are the days where law enforcement officers are responsible for enforcing the law alone. Officers may now be expected to treat overdoses, de-escalate behavioral health crises, address homelessness and/or respond to disciplinary concerns in schools. The expansion of duties begs policy makers to reimagine public safety, and within it policing, in a way they may never have anticipated.

While many cities and towns are ready and willing to reimagine public safety for their communities, they are oftentimes constrained by preemption or the resources needed to establish new emergency response departments and staff. This presents an opportunity for state governments to aid local leaders by providing resources and support as they work through this process in their communities. This guide demystifies today's most urgent policing topics:

- Approaches to policing including police misconduct data sharing, body camera usage, militarized police response, civil asset forfeiture, and use of force policy;

- Roadblocks to reimaging policing including police union collective bargaining and funding streams; and
- Innovations in policing including the creation of civilian oversight boards and the renewed interest in community policing approaches.

As cities and towns grapple with how to maintain public safety and reckon with the need for long overdue racial justice, there is a push and pull that looks different in every community. For example, not every community is at the same point of reckoning as an Albuquerque or a Los Angeles. But one thing is clear: public trust in law enforcement officers has decreased considerably, and our nation must return to a point of high trust where external interfacing is common and criminal activity is proactively addressed. Local leaders must be at the forefront of conversations to reimagine public safety for all. By creating accountable, equitable, innovative, and improved systems, local leaders can begin to address the blemished history of law enforcement in our nation.

There is also ample opportunity for states and cities to work together to address these systemic issues. States can support—not

preempt—local police reform efforts by leading or working with recommendations coming from the municipal level. Rhode Island has created a statewide panel that provides standard guidance on training for law enforcement officers. Indiana has worked for the last five years on reforming the criminal code to place greater emphasis on recovery and treatment. The state has also provided a framework for the use of body cameras at the local level without mandating local governments adopt it. Lastly, the Utah League of Cities and Towns is conducting the Love, Listen, and Lead initiative. This group is composed of local elected officials and public safety representatives with the aim of examining current public safety practices and how they impact communities of color in Utah. The initiative will soon report a list of recommended policy changes and reforms. Through these types of creative, iterative policy changes working across the local, state, and federal level, public safety reforms can be both effective and reflective of the communities they serve.

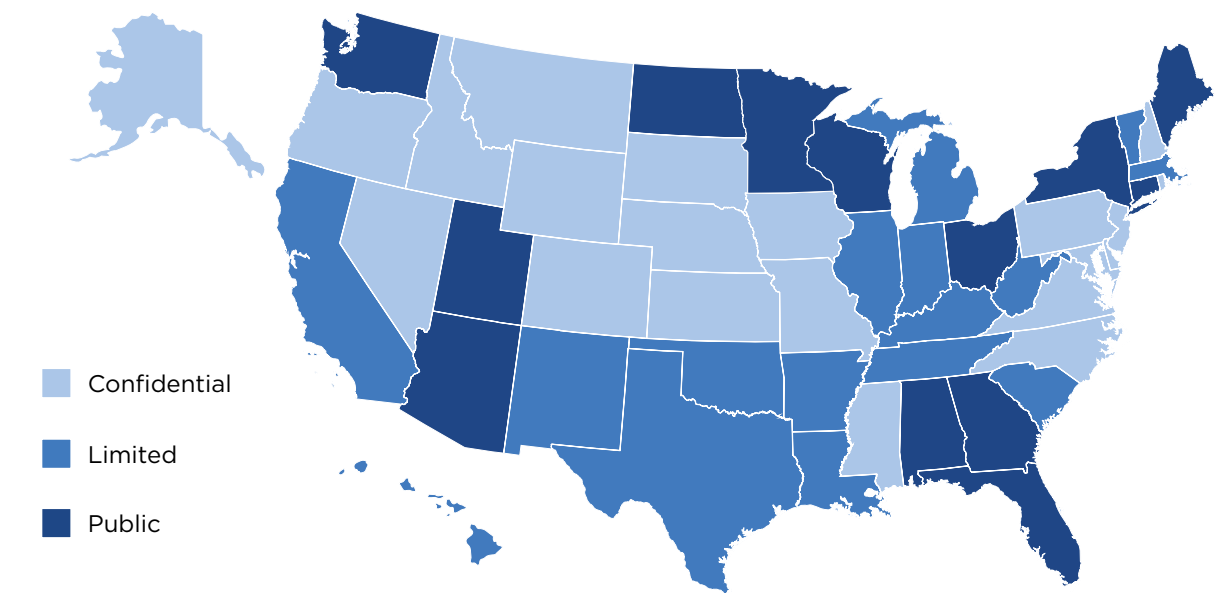
Approaches to Policing

Police Misconduct Data

Tracking data on police misconduct is one policy tool to minimize misconduct and identify concerning behavioral patterns of officers. This data set would be used by hiring managers and executives of law enforcement agencies to vet police officers. This information can also aid in the creation of disciplinary measures when needed. However, there is currently no national public database on police misconduct records, as state law varies

across the nation on what data is collected and what data is available for public viewing. NLC policy supports the establishment of a National Database of Decertified Officers that local governments can use to vet officers who have been dismissed for such issues such as unnecessary or excessive use of force, abuse of power, racial discrimination, and violation of individuals’ civil rights. State governments can help in these efforts by creating a statewide database until a national database is created.

Police Conduct Public Records



Source: <https://www.wnyc.org/story/police-misconduct-records/>

Public record laws on police misconduct at the state level can be sorted into the three broad categories of confidential, limited, and public.

- 21 states have laws that keep police conduct data confidential;
- 16 states and the District of Columbia have laws that fall into the limited category; and
- 13 states allow police conduct records to be made public.

Confidential

A majority of states fall into the confidential category. These states do not allow a police officer’s disciplinary record to be made public, even with a public records request. Some of these state laws exempt all public employee personnel files from disclosure. Other state laws place police departments under a general privacy exemption from public disclosure. For example, Delaware’s law on the matter explicitly makes law enforcement officers’ personnel records confidential. Court cases, such as those in Maryland, have upheld these laws tightly, stating that police disciplinary records are confidential even when a requester seeks a record about the investigation of his or her own complaint.

Limited

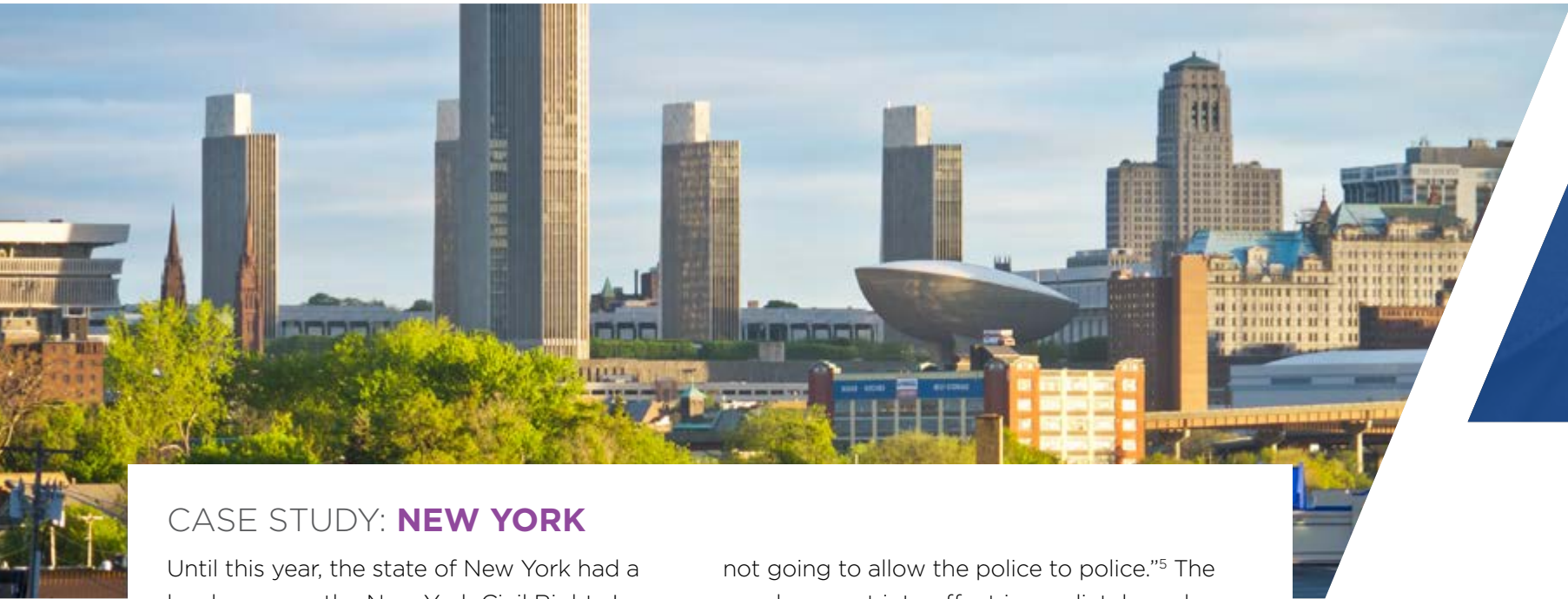
Sixteen states and the District of Columbia place limited restrictions on releasing public

records. Limited states allow for public records to be released only under certain circumstances. The terms of release vary from state to state. States such as Arkansas only allow records to be released if the records pertain to an officer’s suspension or termination and have a “compelling public interest” to be disclosed.³ Other states like Michigan are much more limited and only allow records to be released if, “there is an overriding public interest in the disclosure.”⁴ Court cases can also determine if records should or need to be made public. Many states that fall into the limited category are experiencing ongoing litigation to determine where those limits fall.

Public

Only 13 states fall into this category. These states make their police conduct records generally available to the public, but may make records of unsubstantiated complaints or ongoing investigations confidential. Arizona, for example, makes all police disciplinary records available to the public, but only after the internal investigation is finished and any appeals process has concluded. The state of Florida, however, remains the most famous for their open reporting records. Disciplinary records in Florida only remain confidential until an activate investigation ends.

With renewed calls from residents across the country to make police misconduct records available to the communities they serve, there is increased pressure on states to create legal pathways for doing so. Municipalities and states will need to work together to determine how to best utilize and share this data—whether that is with local elected officials, community members such as civilian oversight boards, or the public at large.



CASE STUDY: **NEW YORK**

Until this year, the state of New York had a law known as the New York Civil Rights Law § 50-a, which kept all police, firefighter, and corrections officer personnel disciplinary records confidential and undisclosed from the public. This law was changed as part of a larger law enforcement reform package by the New York State Legislature over the 2020 summer session after the death of George Floyd. During the bill signing Governor Cuomo stated, “If there’s no trust, the police can’t effectively police. If there’s no trust, the community is

not going to allow the police to police.”⁵ The new law went into effect immediately and now makes disciplinary records subject to the Freedom of Information Law. This will allow journalists and the public to make requests for records on disciplinary action within police departments.⁶



Photo by David McNew/Getty Images

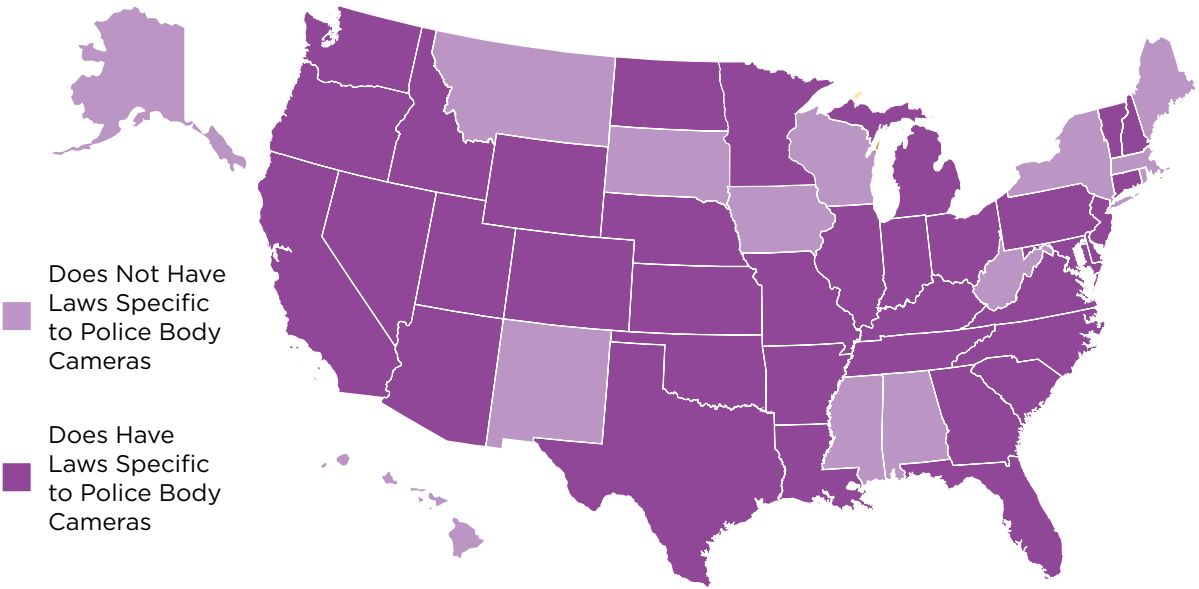
Body Cameras

The use of body cameras by police departments proliferated after 2014-2015 that included the murder of Michael Brown by police officers in Ferguson, Missouri; Walter Scott in North Charleston, South Carolina; and a \$23 million federal grant program launched by the Obama administration for police departments of all sizes to purchase body cameras.⁷ Acquiring body cameras is only one cost for local governments, even with grants, as footage and data storage costs can be even more expensive for local governments. As of 2020, five states—South Carolina, Nevada, California, Connecticut, and Florida—require at least some officers to use body cameras.⁸

But with greater use of body cameras came questions on the usage of the footage produced by them. According to the Urban Institute, all states and the District of Columbia have provided guidance or action on eight key facets of body cameras:⁹

- 1. **Prohibiting audio-only recordings** (30 states)
- 2. **Requiring two-/all-party consent to record** (14 states)
- 3. **Restricting recordings where privacy is expected** (41 states and the District of Columbia)
- 4. **Exempting investigative records (including body camera footage) from public records requests** (48 states and the District of Columbia)
- 5. **Creating or recommending a study group or pilot program on the usage of body cameras** (15 states and the District of Columbia)
- 6. **Prescribing where, when, and how cameras can be used** (16 states and the District of Columbia)
- 7. **Setting rules for public access to footage** (29 states and the District of Columbia)
- 8. **Prescribing video storage time** (22 states and the District of Columbia)

States That Have Laws Specific to Police Body Cameras



The nature of these policies depends on the state. Some set minimum requirements, such as California's law prescribing video storage time. Their state requires departments to keep non-evidentiary data for at least 60 days, and evidentiary data for at least two years. Departments can also elect to keep the data for longer.

Other states create preemptive ceilings, setting one policy that departments must follow. This would include states within the "prescribing where, when, and how cameras can be used" category, whereas states such as New Hampshire specifically require officers to start recording when engaged in any law enforcement encounter with civilians.

Every state has at least one law that applies to body cameras. However, some of these

existing laws were originally meant only to apply to general police records but have since been applied to body camera footage, without an explicit statute specifying this application. Laws in the following four categories were existing state statutes and/or case law around recordings that apply to body camera usage and footage: 1) prohibiting audio-only recordings; 2) requiring two-/all-party consent to record; 3) restricting recordings where privacy is expected; and 4) exempting investigative records from public records requests. Fourteen states, as of 2018, rely on these previous statutes to regulate police body cameras and their footage.

Conversely, 36 states and the District of Columbia have passed laws or have case law specific to body cameras and their footage. Laws specific to body cameras include:

creating or recommending a study group or pilot; prescribing where, when, and how cameras can be used; setting rules for public access to footage; and prescribing video storage time. While these laws can be used to preempt localities, they can also be used to set minimum standards and regulations that work with—rather than dictate—local governments.

For instance, when South Carolina required agencies to acquire and use body cameras, the state set up funding to help departments acquire the technology and required agencies to submit their own policies for using the cameras.¹⁰

Additionally, body cameras have presented challenging questions for advancements in public safety technology. Their capabilities will continue to advance, and further questions and issues will arise, such as the implications of facial recognition technology.¹¹ These are policy areas where states and municipalities can work together to determine the best way to utilize and deploy these technologies and ensure that resident privacy and officer conduct accountability are both considered when setting policy.

Militarization of the Police

Since the protests in Ferguson, Missouri after the murder of Michael Brown by police officers, communities have grappled with questions about the weapons that police departments obtain and use. The police response to the protests included overtly militarized vehicles and weapons. This type of militarized response again became a topic of discussion after the 2020 protests following the murder of George Floyd by Minneapolis police officers.¹²

Local departments have been able to acquire such military-grade equipment through a federal program known as the 1033 Program. This program allows law enforcement departments and agencies to apply for military vehicles, weapons, and equipment that the Department of Defense no longer wants. The program also distributes clothing, office supplies, and other non-weapon equipment.¹³

However, there is little-to-no oversight of the program. According to Pew, the program has granted 47 mine-resistant vehicles and 36 grenade launchers to law enforcement in



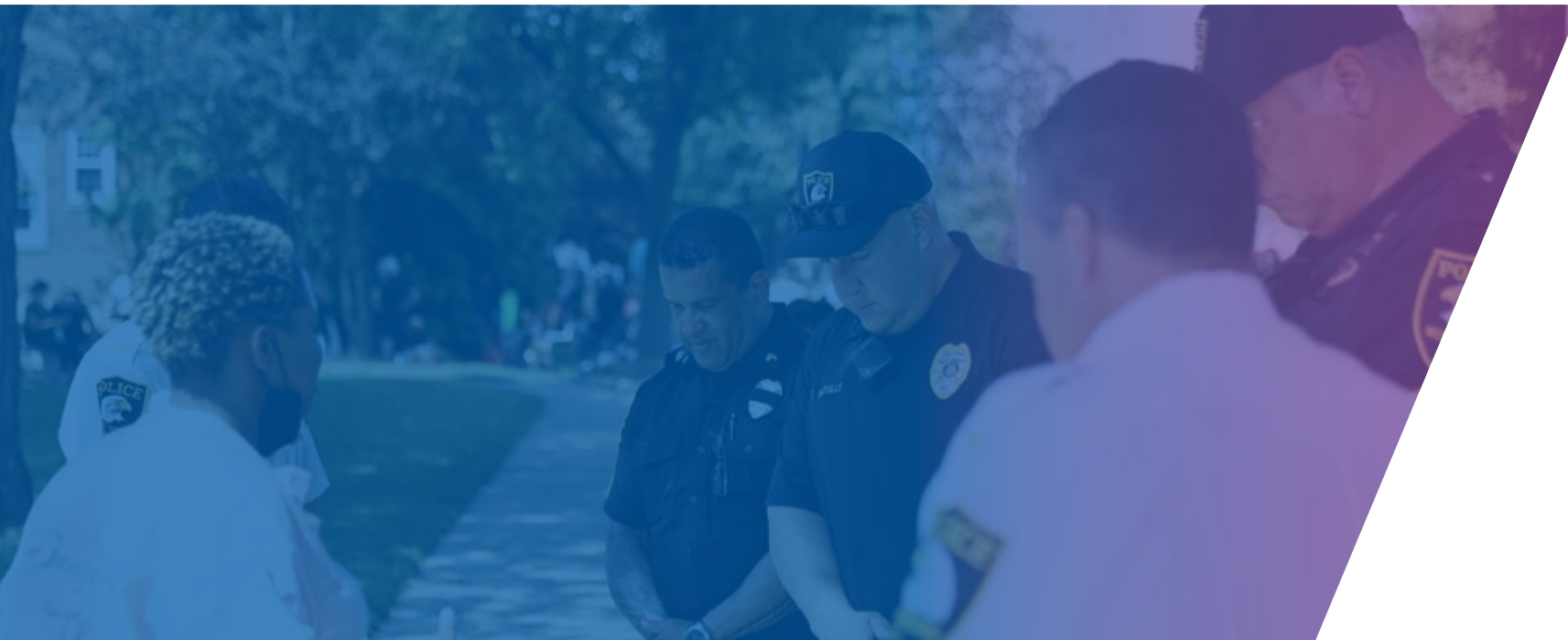


Photo by Elsa/Getty Images

Florida; 16 helicopters to agencies in North Carolina; and over 1,000 rifles to departments in Utah.¹⁴

In response to attention to the 1033 program, states introduced legislation that required greater transparency and oversight in New Jersey, California, Tennessee, and Montana, but of these four states, only New Jersey successfully passed a bill to increase oversight. Local control and guidance over these types of purchases by police departments is crucial for regaining community trust in public safety.

Chokeholds and Use of Force

The murder of Eric Garner by police in 2014 brought the use of neck restraints, chokeholds, and excessive use of force into question by policy makers. The use of chokeholds was already prohibited in the state of New York, but since then, several other states have passed

similar laws. With the death of George Floyd in May 2020, excessive use of force has come up again in policy making, as his murder was caused by an officer's neck restraint.

Legal Rulings and Statutes

The U.S. Supreme Court in 1985 struck down a Tennessee statute that followed common law allowing for police officers to “use all necessary means to effect the arrest” of a person fleeing or forcibly resisting arrest.¹⁵ The Supreme Court ruled in 1989 that use-of-force cases can be evaluated using an “objective standard of reasonableness” under the Fourth Amendment. These Supreme Court rulings have led most states to codify their use of deadly force for law enforcement officers. Some states such as Montana and Michigan do not have statutory standards that apply to use of deadly force. These states then fall under general use-of-force provisions and are subject to local departments’ policies and constitutional law. States like Oklahoma also delegate substantial

regulation to local entities by requiring each law enforcement agency to adopt their own policies or guidelines concerning officers’ use of force. Additionally, under Oklahoma law, officers are held to the same criminal penalty for using excessive force as civilians would.

Investigations of Use of Force

Fourteen states—Colorado, Connecticut, Georgia, Hawaii, Illinois, Maine, Nebraska, New Jersey, New Hampshire, New York, Oregon, Utah, Washington, and Wisconsin—have created procedures to improve the transparency and integrity of investigations into officer-involved deaths or allegation of police abuse of force. Almost all these states require investigations to take place outside of the police department. The states of Nebraska and Oregon require that a part of the investigation team be from another agency. Colorado and Illinois mandate that all police departments in the state have policies on how internal investigations are to be conducted when an officer discharges a weapon that causes injury or death (Colorado) or for all officer-involved deaths (Illinois).

Data Collection on Use of Force

Twelve states—Alabama, California, Colorado, Connecticut, Illinois, Maryland, New York, North Carolina, Oregon, Tennessee, Texas, and Virginia—require the collection of data for cases when deadly force is used by police. Most of these states require reports and statistics to be tracked and sent to state justice departments, attorneys general offices, or similar state executive agencies. The states of Oregon, California, and Colorado require law enforcement agencies to report specifically on gender, race/ethnicity and, under Colorado law, on sexual orientation and, “medically documented physical or mental ailment of the

suspect.”¹⁶ Most of these reports must be given annually or tracked in real time.

Limitations on Special Kinds of Use of Force

Seven states—Colorado, Connecticut, Illinois, Nevada, New York, Tennessee, and Utah—and the District of Columbia regulate or prohibit the use of neck restraints. Some states such as Utah held special legislative sessions over the summer of 2020 to vote on banning knee-on-neck chokeholds. States such as California and Washington have issued executive orders restricting the use of chokeholds in restraining suspects.¹⁷ Some states such as Vermont have even started to regulate the use of electronic control devices, also known as “tasers”. This law requires each local department to have a policy on electronic device use of force that was developed by the state Law Enforcement Advisory Board.¹⁸

These discussions happening at the state level have considerable implications for localities; thus, it is crucial that city leaders are involved in state-level discussions. Local leaders can communicate the needs of their communities which should inform decisions being made at the state level.

Civil Asset Forfeiture

Civil asset forfeiture policies enable law enforcement officials to seize and sell property, money or assets from an individual suspected of involvement with a crime or illegal activity, regardless of the owner’s guilt or innocence.¹⁹ Civil forfeiture law was intended to target and defund organized crime of their “working capital and their profits” and utilize the sales of property and proceeds to aid law enforcement agencies against future crimes.²⁰ However, over

time the policy has evolved into a controversial legal tactic due to its minimal standards. A suspected individual does not require a conviction or a criminal charge for the seizure and permanent loss of property or assets. As a result, law enforcement agencies may be financially incentivized to misuse profits from the seizure and sale of property, money, or assets.²¹

Growing concerns of abuse have garnered bipartisan support on the need for civil forfeiture reform. While every state has passed some form of legislation to address the seizure and forfeiture of civil properties and assets, only a select number of states have introduced reforms (including criminal conviction requirements and the abolishment of civil forfeiture) to eliminate abuses of the current asset forfeiture law and provide protections for innocent property owners.^{22,23}

- **Abolished** (3 states): abolished civil forfeiture laws entirely.²⁴
- **Allowed** (32 states and the District of Columbia): allow for the seizure and forfeiture of civil property, money, and assets without a criminal conviction.
- **Criminal conviction requirement** (15 states): require a criminal conviction or proof beyond a reasonable doubt to engage in civil forfeiture proceedings.

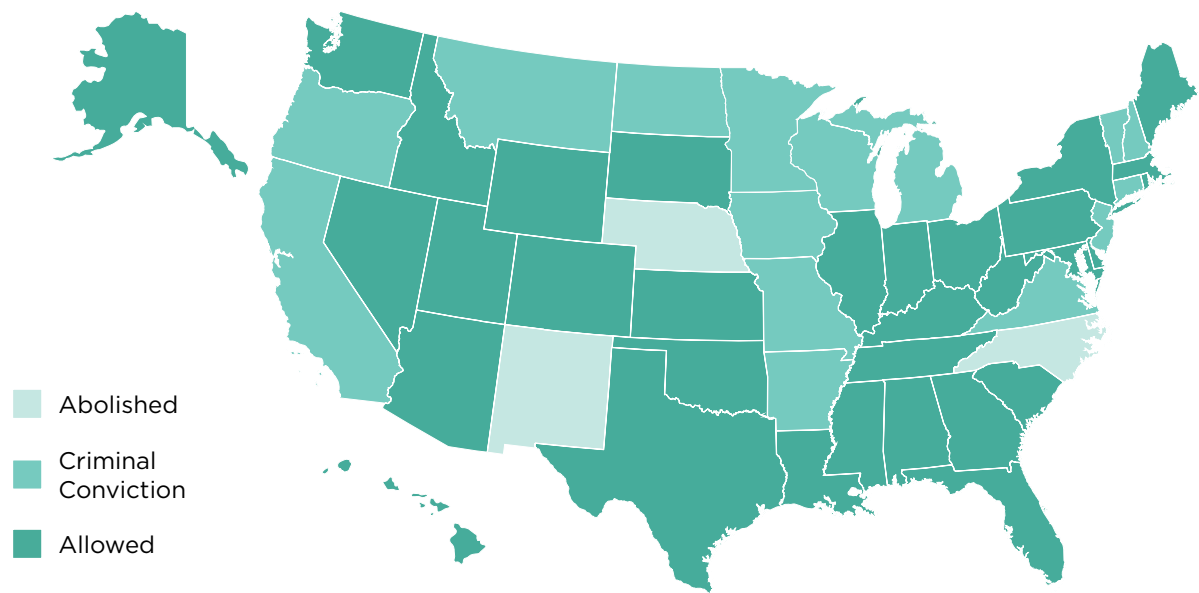
According to the Institute for Justice, three states have abolished civil forfeiture entirely.²⁵ Instead, any seizures of properties or assets are handled as criminal forfeiture, which requires the property owner to be charged and convicted in criminal court. Then, the same court must determine if the seized property is

connected to the crime. In 2015, New Mexico was the first state to pass legislation restricting civil forfeiture by abolishing the law; instead, the state solely uses criminal forfeiture in asset forfeiture proceedings.²⁶ Further, new forfeiture proceeds are transferred to the state’s general fund instead of to law enforcement agencies.²⁷

Thirty-two states and the District of Columbia allow for the seizure and forfeiture of civil property, money, and assets without a criminal conviction requirement. Civil asset forfeiture law varies by state including the state’s burden of proof for seizing property, law enforcement’s reporting requirements (if any such requirement exists), and which entities have access to forfeiture proceeds.²⁸ Cities in these states have addressed minimal standards of civil forfeiture law through local reforms. For example, in the city of Philadelphia, Pennsylvania, 25,000 individuals have been suspected and affected by the practice of asset forfeiture. Over 1,200 homes, 3,500 vehicles, and \$50 million from residents were confiscated.²⁹ In 2018, the city took steps to reform its controversial civil asset forfeiture program by changing which entities have access to sales of forfeitures. Monetary proceeds received from any forthcoming forfeiture programs will be given to local communities to assist with drug prevention and treatment programs.³⁰ In addition, the city established a \$3 million fund to compensate those affected by the practice.

Fifteen states require a criminal conviction or proof beyond a reasonable doubt for civil forfeiture proceedings. This is different from states that abolished civil forfeiture laws, as civil forfeiture law still exists and applies

Asset Forfeiture Map



Source: <https://ij.org/activism/legislation/civil-forfeiture-legislative-highlights/>

in these states. The burden of proof varies depending on the value or type of property, money, or asset; therefore, not all civil forfeiture proceedings require a criminal conviction requirement for some states. However, these states have raised the minimum standards within civil forfeiture law by extending protections to property owners through a criminal conviction requirement. In 2018, Wisconsin changed the state law to require a criminal conviction for civil asset forfeiture proceedings.³¹ In addition, the state transferred new forfeiture revenues to the state school fund instead of to law enforcement agencies.

While there are some aspects of civil asset forfeiture that have been habitually misused, it is important to recognize when applied lawfully, civil asset forfeiture is an effective tool for law enforcement agencies to weaken drug and human trafficking networks, take back ill-gotten gains, and prevent new crimes from being committed.³² Government leaders must work together to identify areas of local and statewide reform within the civil asset forfeiture program without preemptions, including the establishment of appropriate requirements that safeguard individual rights and remove financial incentives for potential misconduct.

Roadblocks to Reimagining Policing

Police Unions

As cities and towns across the country grapple with how to reimagine policing, police unions consistently act as a barrier to meaningful change. In August 2020, the U.S. Conference of Mayors released a report highlighting how police unions are stemming the tides of reform.³³ The main way police unions inhibit reimagining public safety efforts is through collective bargaining agreements (CBA). Police unions, like other unions across the country, negotiate basic provisions such as salary and benefits, but they also negotiate control over internal procedures and processes such as dealing with misconduct allegations and disciplining officers accused of misconduct, making it difficult for cities to hold officers accountable.

These CBAs that combine standard union negotiations with officer conduct have put local elected officials in an impossible position: mayors may be forced to acquiesce to demands such as reducing or eliminating use-of-force provisions if their other option is agreeing to pay raises that can't be funded with the city's available budget. The combination of wage negotiations and conduct guidelines leave many city leaders unable to hold law enforcement officers accountable in cases of misconduct. Cities and states have both encountered this issue, providing an opportunity to push back together against these powerful institutions.³⁴

Campaign Zero, through their Nix the Six initiative, has identified six common collective bargaining agreement provisions acting

as barriers for cities to reimagine policing because they stop elected officials from holding unelected city employees (i.e., police officers) accountable.

These six core provisions are present across the U.S. in both cities and states:³⁵

- **Disqualifying misconduct complaints:** (25 cities and four states)
- **Preventing officers from being effectively questioned:** (50 cities and 13 states)
- **Providing officers under investigation with information civilians would not get:** (41 cities and nine states)
- **Limiting disciplinary actions for officers:** (64 cities and seven states)
- **Requiring municipalities to cover costs relating to police misconduct:** (40 cities and three states)
- **Erasure of misconduct records:** (43 cities and three states)

In a study conducted by Campaign Zero, out of the 81 cities studied, 72 had at least one of these barriers in place. These CBA provisions are an impediment for cities because they block innovations in public safety (such as civilian review boards and independent investigations), and local leaders elected by the community are left out of the process for handling issues and complaints.

Beyond CBAs, police unions also wield power when it comes to legislation, often blocking local and state legislation aimed

at reforming policing. According to a study conducted by the Guardian, “police unions in Los Angeles, New York, and Chicago alone spent a combined \$87 million over the last decade on state and local politics.”³⁶ Whether it is endorsing and/or financially supporting political candidates or lobbying state and local governments to dismantle things like civilian review boards or access to police misconduct records, police unions hold considerable political power.³⁷

Police unions have created a reality in which elected city officials are not able to hold those sworn to protect and serve accountable when they fall short of that oath. The CBAs and political influence stemming from police unions negatively affect both cities and states, creating an opportunity for municipalities and states to work together to create a system whereby reforms are enacted by elected officials to hold all public servants accountable, including police officers.

Police Funding

For the last 50 years, policing funding has remained steady at the local and state level. While it is difficult to get a complete picture of how police departments are funded because of their numerous funding streams, overall policing spending has remained just under four percent as a share of state and local direct expenditures from 1977-2017.³⁸ Of the \$155 billion spent in 2017 on policing at the state and local level, 86 percent of this was by local governments.³⁹ Two-thirds of this spending is used for payroll.

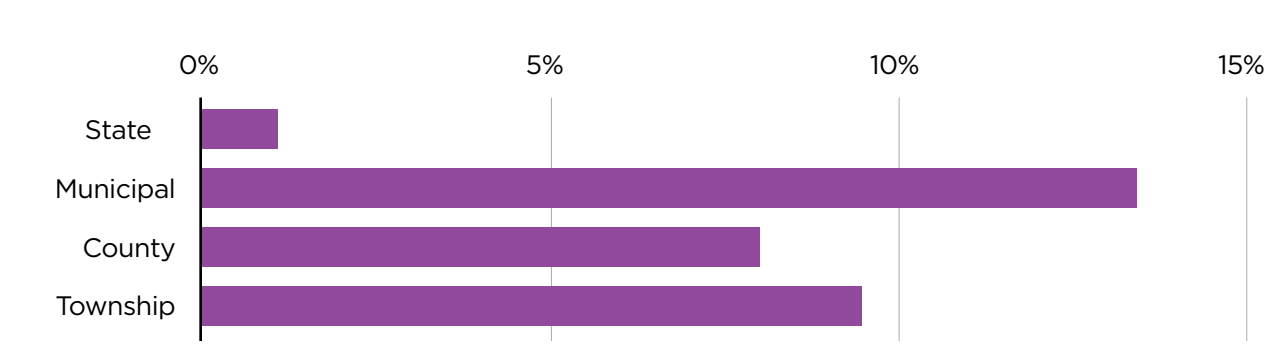
Besides these intergovernmental revenue sources, other streams of revenue include things such as punitive policing and fines and forfeitures that were magnified following an investigation into the Ferguson Police Department after the murder of Michael Brown by police officers in 2014.⁴⁰ These streams of revenue add additional complexity to understanding how police departments operate.

Federal law enforcement spending meanwhile has increased throughout the decades. As a share of GDP, federal police spending has increased from 0.05 percent in the 1980s, on average, to 0.26 percent over the past decade.⁴¹ This increase was 354 percent faster than both local and state spending combined between 1982 and 2015.⁴² Most of this law enforcement spending has gone to federal enforcement arms such as the FBI, Customs and Border Protection, the Drug Enforcement

Agency, and other agencies.⁴³ The two major increases in federal spending for state and local government are the Community Oriented Policing Services (COPS) in 1994 and the Byrne Justice Assistance (JAG) Grants in 1988. However, over time these two programs have lost funding. The COPS program received over a billion dollars in its first four years of funding.⁴⁴ Since 2011, funding for COPS grants has remained below 500 million.⁴⁵ JAG funding, while remaining more consistent in top-line appropriations, has not seen an increase with inflation and has seen more of its budget set-aside for specific congressional purposes. In 2020, the JAG grant saw 36 percent of its top-line appropriation set-aside.⁴⁶ From 2007-2011, the amount set aside was less than four percent.⁴⁷ These and the other federal programs below can continue to be a net positive for local governments, as they offer much needed resources and expertise.

Police Spending by Level of Government

Spending as share of direct general expenditures, 2017



Source: U.S. Census Bureau's Annual Survey of State and Local Government Finances, 2017.
Note: Graph from <https://www.urban.org/urban-wire/what-police-spending-data-can-and-cannot-explain-amid-calls-defund-police>



President-elect Biden has called for increasing federal spending on law enforcement programs.

Federal grants impacting the local level include the following:⁴⁸

- The Community Oriented Policing Services Program (COPS Program) was enacted as part of the 1994 Crime Bill. Since its passage, the COPS program has provided \$14 billion to hire and train local police in community policing.
- The Edward Byrne Memorial Justice Assistance Grant has largely created funding for joint task forces, most notably multijurisdictional drug enforcement task forces. There was \$264 million available for fiscal year 2019.
- The Preparedness Grant Program has nearly \$1.8 billion for communities.
- Rural Development Community Facility grant program under the Department of Agriculture helps towns under 5,000 in population construct new facilities or purchase new equipment.

■ The Department of Defense 1033 program (which has increased the militarization of the police) has transferred \$7.4 billion of military property to over 8,000 law enforcement agencies.⁴⁹

■ The Equitable Sharing Program allows local police departments to seize property associated with federal crimes and receive up to 80 percent of the proceeds. Since the start of the Equitable Sharing Program in 1984, over \$5 billion has been distributed to local governments.⁵⁰

As federal and state funding continues to feed into local policing budgets, advocating for more local accountability and more targeted approaches is key. Justice reform at the state and local level can also play a role in changing the cost of policing. A total of \$47 billion from state and federal expenditures can be saved by ending the prosecution of drug-related offenses (these constituted 20 percent of arrests in 2018).⁵¹ Local governments need to think about the various revenue streams feeding into their local police departments and think critically about how the funds they utilize affect how policing is conducted.

Innovations in Policing

Civilian Oversight Boards

One mechanism that cities, towns and counties utilize to hold police accountable is the establishment of civilian oversight boards (also known as citizen oversight, civilian review, external review, or citizen review boards). These boards focus on providing community input into the operations, conduct, and complaint processes of the local police force.

Generally, these boards follow one of three oversight models: 1) monitor and audit, 2) investigate, or 3) review and handle complaints. It is very rare for these boards to take part in the discipline of officers. The monitor and audit model focuses on larger patterns of police misconduct and behavior rather than on specific incidents or concerns. The investigation model utilizes trained civilians to conduct independent investigations on claims of police misconduct. Finally, the review-focused model consists of a board of community members who are responsible for overseeing internal police investigations and making suggestions for changes to operations and internal review processes.⁵²

As of this publication, there are 144 civilian oversight boards in the U.S. and there are only four states—Alabama, North Dakota, South Dakota, and Mississippi—that have no civilian oversight bodies.⁵³ The National Association for Civilian Oversight of Law Enforcement (NACOLE) currently follows civilian oversight boards in 111 cities across 38 states. A little over

80 percent of civilian review boards are at the city level while the remainder oversee county or sheriff departments.⁵⁴

According to NACOLE, across the civilian review boards in the U.S., there are five key goals that tend to emerge: 1) improving public trust, 2) ensuring the complaint process is accessible, 3) establishing or safeguarding thorough and fair investigations, 4) increasing transparency, and 5) serving as a deterrent for police misconduct. In order to achieve these goals however, the civilian review boards need to have the authority to make changes and their decisions need to be influential. Challenges from state preemption and police unions threaten even the strongest review boards, so state and local partnerships are crucial to protecting the future of these community organizations and building public trust.⁵⁵

While in places like Austin, Texas civilian review boards continue to grow, there are also places where there has been considerable setback. For example, in August 2020, the New Jersey Supreme Court struck down key provisions in Newark, New Jersey's 2016 ordinance that created a civilian review board.⁵⁶ In this case, the police union, Fraternal Order of Police, fought to block the city's effort to create civilian oversight over local police conduct.⁵⁷ This is an area where cities and states can work together to ensure resident voices are heard when it comes to public safety and policing in their communities.

CASE STUDY: TEXAS

Cities in Texas provide an interesting look at the diverse forms that civilian review boards can take and provide lessons learned for other cities or counties looking to implement similar oversight structures.

In San Antonio, there is a 14-person review board made up of 50 percent civilians and 50 percent sworn officers who are responsible for making a recommendation to the police chief on matters of police misconduct. The board is given access to the supporting information and the officers in question in order to come to a consensus and make their recommendation. The final say in the matter remains with the police chief.⁵⁸ In Dallas, the civilian review board has a similar structure but has slightly more power than in San Antonio. The board can hire external investigators, hear sworn testimony, and even subpoena witnesses.

The Austin civilian review board has the most power. The board does not report to the police or include officers on the board, so it remains independent. The board hears cases and makes a recommendation to the police chief. If the board feels the police chief didn't follow their recommendations, they can appeal to the city attorney, allowing even for oversight on the police chief that doesn't exist in other civilian review boards.⁵⁹

In Galveston, the civilian review board is tasked with overseeing investigations on five core areas of concern: 1) excessive use of force, 2) official oppression, 3) discharge of a firearm, 4) serious bodily injury, or 5) another area as identified and requested by the chief of police.⁶⁰ In Galveston, as in San Antonio, the board makes a recommendation to the chief of police, who has the final say. There is no recourse for appeal as in Austin.



Community Policing and Alternative Responses

Community policing dates back to the start of the 20th century, first uplifted by the conservative Peelian U.K. government and then popularized in the U.S. under the Johnson Administration, before being institutionalized by the 1994 Crime bill through the Office of Community Oriented Policing Services, an office inside the Department of Justice. Community policing differs from traditional policing in a few ways. Traditional policing focuses on swift incident response, clearing up emergencies as quickly as possible, and protecting citizens from criminals often through whatever means necessary. Community policing meanwhile focuses on assisting the public in establishing and maintaining an orderly environment by solving crimes that the community is concerned

about, while gaining the trust and support of government resources, residents, the media, and local businesses. This approach also looks different for every municipality, as it incorporates community input to determine what the role of police officers should be.

The major criticism of community policing today is that this solution-orientated approach to policing has gone outside of the original intent or scope, resulting in too full a plate for officers who are not properly trained to problem-solve such issues. For example, officers are effectively being asked to manage the opioid crisis in America. Police officers are neither health experts nor social care workers or mental health experts, and yet are being expected to fill these roles in emergency situations.⁶¹ They are the enforcers of the law as it stands and is written.

Cities, such as Indianapolis, Indiana, have pioneered a potential solution for an emergency response to the opioid crisis by creating a Mobile Crisis Assistance Team. The team is composed of an emergency medical provider, a licensed mental health professional, and a police officer. This team is intended to help deescalate situations and lower arrest rates, as part of the city's larger efforts to reform the criminal justice system. These new response methods to mediate issues beyond traditional law enforcement tactics means residents are better served and law enforcement remain within the bounds their training provides, leading to better community outcomes.

The NLC and Policy Research report, *Responding to Individuals in Behavior Health Crisis Via Co-Responder Models: The Roles of Cities, Counties, Law Enforcement, and Providers*, looks at how local governments across the country are adopting the co-responder model to improve how first responder departments engage with people experiencing behavioral health crises. One example of this is how the Pima County Sheriff's Office and the Tucson Police Department's Mental Health Support Team (MHST) in Arizona were established as a

specially trained unit to serve as a mental health resource for officers, community members, and health care providers. The MHST's co-responder program, which started in 2017, pairs an MHST officer with a licensed mental health clinician. The pair ride together, allowing for rapid dispatch of both services. The teams wear civilian clothes and drive unmarked cars to help proactively defuse situations.

Creating units such as a Mobile Crisis Assistance Team and Mental Health Support Team are examples of how local governments can play a key role in shaping new outcomes for community policing. While local governments are limited in what they can do once someone is in the criminal justice system, they can influence what happens before that. The fundamental philosophy of community will likely remain popular and a viable tool for maintaining public safety and dealing with crimes, but the creation of additional roles for officers should be re-examined. Lines will need to be drawn by municipalities about what role and capacity officers are to have, given their law enforcement powers.

A return to the initial intent of community policing is one direction to go—one where

COMMUNITY POLICING

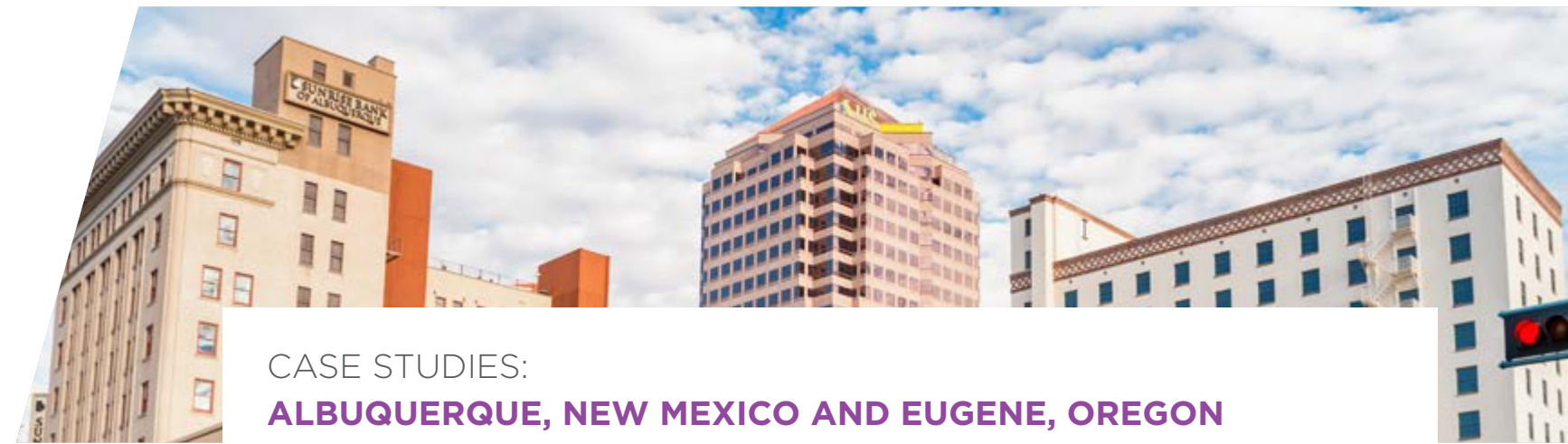
The Department of Justice defines community policing as “philosophy that promotes organizational strategies that support the systemic use of partnerships and problem-solving techniques to proactively address the immediate conditions that give rise to public safety issues such as crime, social disorder, and fear of crime.”⁶⁸

trust with officers is high with the community, external interfacing is common, and criminal activity is proactively addressed. Another would be to return to a more traditional role of policing where officers are removed largely from patrolling, only responding to emergencies or when arrest and conviction are certain.

Lastly, an idea that has gained popularity because of the Black Lives Matter movement is the unarmed community response unit, meant to problem-solve issues that require little or no law enforcement powers. The U.K. has done something like this by creating distinctions between sworn persons and non-sworn persons. The U.K. has also created a special firearms unit because most British police officers do not carry firearms on standard patrol. The city of London, for example, has the Specialist Firearms Command unit where each armed vehicle operates with three officers: a driver, a navigator, and an observer who gathers information about the incident

and liaises with other units. For the 2014-2015 year, there were 5,647 armed officers amongst the 14,666 police operations in England and Wales.⁶²

Each municipality will have to work with its residents and police officers to find the right innovative solution for their community. The expansion of response teams to include a variety of trained professionals as a form of community policing is gaining popular support and alleviating a burden on police officers, allowing them to focus their attention on the issues they were trained to address. This will require both policy changes and additional resources from the state level to aid these efforts. State governments can best serve these reimagining efforts by creating resources for pilot programs at the local level, allowing for experimentation before institutionalizing these efforts in the long term.



CASE STUDIES:

ALBUQUERQUE, NEW MEXICO AND EUGENE, OREGON

Cities, towns, and villages are reimagining public safety through alternative policing models and reforms to improve relations with the community. The city of Albuquerque, New Mexico has introduced new approaches to policing by reforming its local police department and gaining the trust of the community. Through the creation of the Community Police Council (which is comprised of members from the community independent of the city and the police department), the council aims to “engage in candid, detailed and meaningful dialogue between Albuquerque Police and the citizens they serve.”⁶³ The council identifies issues, successes, and opportunities for improvement by making recommendations on policies and procedures within the city’s police department. Other community policing efforts include partnerships with community organizations to increase community engagement and outreach by creating an internal database of services—such as drug abuse counseling and free meals for the homeless—for officers to share with community members.⁶⁴

Recently, Mayor Tim Keller announced the formation of a new public safety department called Albuquerque Community Safety

which will deploy social workers, housing and homelessness specialists, and violence prevention coordinators to respond to calls related to inebriation, drug addiction, homelessness, and mental health.⁶⁵

Similarly, the city of Eugene, Oregon addressed the growing concerns of mental health and substance addiction in the community through the nonprofit mobile crisis intervention program called Crisis Assistance Helping Out on the Streets. In collaboration with the police department, the city responds to non-emergency calls by dispatching social workers instead of officers. This model relies on “trauma-informed de-escalation and harm reduction, which reduces calls to police, averts harmful arrest-release repeat cycles, and prevents violent police encounters.”⁶⁶ Furthermore, in 2017, the program responded to 17 percent of overall call volume and saved the city on average more than \$8 million.⁶⁷ This program, considered the longest-running in the U.S., has inspired similar programs in other cities including the Denver Alliance for Street Health Response in Colorado and the Mobile Assistance Community Responders of Oakland in California.

Conclusion

Reimagining policing is a complex and multi-faceted topic. Local and state leaders across the country are stepping up to address resident concerns and making changes to strengthen their communities. As these changes are taking place, there are a few key considerations local leaders should keep in mind:

- **Community input:** Continuing communication with residents, providing platforms for all voices to be heard, and incorporating resident feedback into policy planning is crucial for community buy-in and effectiveness.
- **Iterative change:** Many cities are trying new approaches and pioneering new programs and policies. Creating flexible policy that allows for real-time resident feedback and iteration is crucial to finding long-term solutions.

- **Collaboration: Reimagining policing requires a multi-jurisdiction approach.** Working across cities, counties, and even states is important when it comes to public safety. Sharing best practices, problem solving, combining resources, and working together is important to creating effective change.

- **Partnership:** It is clear that for many cities and states, reimagining public safety means bringing trained professionals into the fold and changing the way emergency response is operated. These partnerships with social workers, mental health professionals, housing and homelessness experts, and many others is imperative to success.

Ahead of the 2021 state legislative sessions, state and local elected officials are expecting both discussions and legislative action around

policing reform and public safety more broadly. Local elected officials are thinking about not only how to reimagine policing in their communities but also how to grapple with the fear of preemptive action from state and federal governments. Policing is a topic that highlights how important city and state cooperation is: without true partnership on this issue, communities will be left without the changes they need. Local leaders are in a unique position of understanding their city's specific issues and needs and state leaders have resources that can help localities bring solutions and change to fruition.

Reimagining policing is also a unique topic where cities and states are naturally aligned on a number of issues. The unbridled power that police unions have wielded against cities and

states have hurt both levels of government. Federal preemption, interference, and mandates have similarly eclipsed the ability of both city and state officials to do their jobs. The need for responders who can effectively deal with calls involving mental health situations are jointly needed and wanted.

Residents across the country have told their state and city leaders what changes they want to see. With the combined forces of local elected leaders' knowledge and state resources, there is real potential for positive change in communities across the country.

Additional Resources

- [Responding to Individuals in Behavioral Health Crisis Via Co-responder Models: The Role of Cities, Counties, Law Enforcement, and Providers.](#)
- [Defund the Police is a Bad Slogan, but Some Aspects Are Worth Considering](#)
- [Community Policing Rightly Understood](#)

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