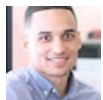


We Still Need Federal Action for Community-Based Policing Reform



Robert Cotter
Social Policy & Politics Fellow, 2019–2020
[@TWSocialPol](https://twitter.com/TWSocialPol)



Nathan Kasai
Former Deputy Director of Social Policy & Politics
[@Nathan_Kasai](https://twitter.com/Nathan_Kasai)

Policing reform is a challenging issue. It's especially challenging for candidates and elected officials charged with representing diverse constituents with interests that can often seem in direct conflict. Engaging in a dialogue on policing reform as a policymaker requires respecting the experiences of the distraught family-member of a victim of a police-involved shooting and the frustrated officer who feels the challenges of his job are not being appreciated. It can pit good-faith actors against one another, and in many communities, it can aggravate longstanding racial tensions hidden just beneath the surface. Having a productive conversation is difficult enough—and achieving substantive legislative reform can seem practically impossible. But no matter the degree of difficulty, the only path to making progress on community-police relations is for candidates and policymakers to wholeheartedly engage in the conversation with an understanding that the status quo is unacceptable. And the truth is that while the path to policing reform may be challenging, achieving real progress is possible.

Consider this: in the wake of protests following the death of an unarmed victim at the hands of local

Consider this. In the wake of protests following the death of an unarmed victim at the hands of local police, California passed a pair of policing reform bills that improved officer accountability and increased access to critical officer training and mental health resources. Just a year after protests consumed communities across the state, AB 392 and SB 230 passed not just with an overwhelming majority in the state legislature, but with the support of community groups representing victims of police violence and without objection from law enforcement.

Both AB 392 and SB 230 advanced into law together through persistence and consensus building, resulting in real steps toward meaningful change for community-police relations in the state. Initially introduced as opposing proposals, AB 392 elevated the deadly force threshold for officer accountability from a “reasonable” to “necessary” standard, and SB 230 provided de-escalation training and resources. Neither bill was able to garner the broad support necessary to pass on its own, but bringing them together as a packaged deal of better training and higher standards made reform possible. All parties made reasonable concessions, and as a result, Californians will have better trained and more accountable law enforcement.

As we can learn from California, even during in the most contentious times, it is possible to achieve important reforms for our vulnerable communities and for our police. Common ground can be found between community members and law enforcement officers that share in the desire to have safe neighborhoods and well-trained and accountable officers to serve as intervenors when necessary. Policymakers can make policing safer, both for the officers and for the communities they serve by crafting policies that advance the shared values of all parties involved. What follows is an overview of the challenges facing policing reform and proposals that could help candidates and policymakers bridge the divide.

The Problem: A Pattern of Violence Sowing Distrust

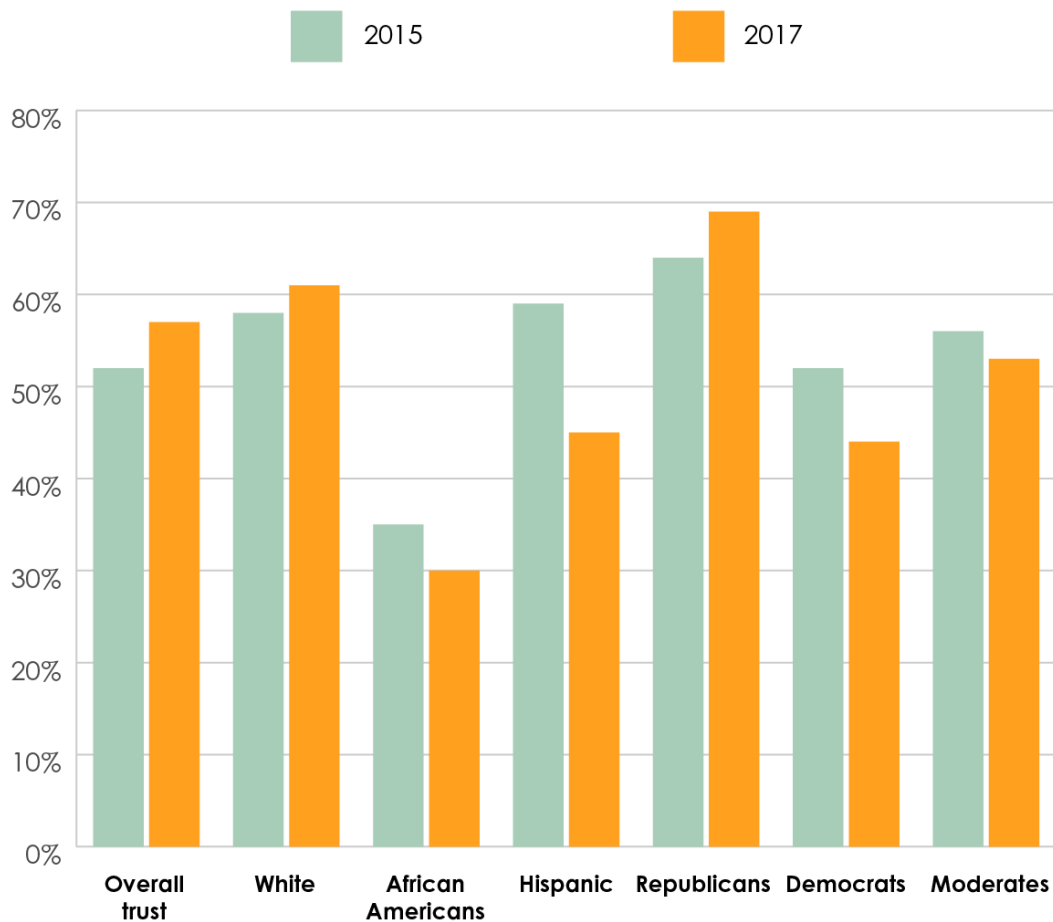
Properly addressing policing across the country requires an understanding of the root causes of the schism between police and many communities. There is no single fix for policing because there is no single cause of the division we see between police departments and communities around the country.

Continued fatal police violence against unarmed minorities. Police brutality remains a distressing reality for far too many Americans. Since 2015, nearly 60 unarmed victims have died each year in a violent interaction with a police officer. Over the past five years, these numbers have steadily declined—due in large part to reforms made on the state and local level. And still, in 2019, 41 unarmed victims were shot and killed by law enforcement.¹ Police violence is especially prevalent in communities of color and, particularly, for young African American males. 1 in 1,000 black men and boys in the United States will die at the hands of a police officer—a rate 2.5 times that of white men of the same age.² Latino men and boys, black women and girls, and Native American men, women, and children are also killed by police at higher rates than their white peers.

Lack of accountability for fatal encounters with unarmed community members. Fatal encounters

Lack of accountability for fatal encounters with unarmed community members. Fatal encounters between police officers and communities of color, and the increasing visibility of these encounters due to cell phones and social media, have exacerbated the real concerns many marginalized communities have long held for their safety and deepened existing trust deficits between law enforcement and the communities they serve. Because police officers are rarely held accountable for fatal encounters with people of color, the relationship between the police and these communities are strained. Healing these strained relationships is one of the most pressing challenges we face as a country. These miscarriages of justice not only cause pain in the communities in which they occur, they also tear the fabric of our country. The most recent polling shows that overall trust in law enforcement has increased slightly to 57% from a record low of 52% in 2015. But this increase is not reflected across the board. Several key demographics have less trust in America's law enforcement than ever before. While confidence in the police is at 61% for White Americans, confidence among Black and Hispanic Americans has decreased to 30% and 45% respectively.³ There are also clear partisan divides. Trust in the police has increased to 69% among Republicans but has fallen to just 44% for Democrats. Even the confidence of self-described moderates has fallen to 53%.⁴

Confidence in Law Enforcement: 2015-2017



Source: Norman, Jim. "Confidence in Police Back at Historical Average." Gallup, 10 July 2017, <https://news.gallup.com/poll/213869/confidence-police-back-historical-average.aspx>. Accessed 27 Apr. 2020.

Every American deserves to feel safe in their own community and their own home, and should feel secure in the belief that law enforcement is there to protect them from harm, not bring harm to their families. A community's lack of trust in its police often leads to less reporting of crimes and limited community cooperation with law enforcement. With these bonds of trust broken, law enforcement is hindered in its ability to be effective and crimes often go unresolved—furthering a damaging cycle of mistrust. A 2016 study found Black and Hispanic Americans “were 20 points less likely than White Americans to report a crime.”⁵ Hispanic and immigrant communities have the additional fear of being stopped by local police and referred to ICE.⁶ Without community-based reforms, geared towards furthering trust, accountability, and efficient enforcement operations, we risk isolating the most vulnerable among us and losing the bonds of trust that allow law enforcement and communities to cooperate effectively.

Trump rolling back measures to increase police accountability During the Obama administration

Trump rolling back measures to increase police accountability. During the Obama administration, DOJ actively pursued its oversight duties by investigating state and local law enforcement agencies suspected of violating federal law. For example, in 2015, the Justice Department investigated the Chicago Police Department following the police-involved shooting death of a black teenager. From their two-year investigation, DOJ identified widespread use-of-force violations within the department and issued a comprehensive reform plan that CPD agreed to follow, anchored in community policing and officer accountability.⁷ Similar consent decrees were signed in cities like Baltimore, Cleveland, Ferguson, and New Orleans. However, this work ground to a halt in the Trump administration. In 2018, then-Attorney General Jeff Sessions signed a memorandum gutting the investigatory scope and capabilities of consent decrees, and three years into this administration, not a single new consent decree has been signed.⁸ The neglect of the Trump administration has left a vacuum of leadership to combat this difficult issue.

Possible Solutions

State and local action must play a significant role in policing reform, as we saw in the California example, but federal action is also crucial to building a strong foundation of trust and accountability in law enforcement across the country. It is the job of the federal government to step in when strained relationships and abuse threaten the welfare and civil rights of Americans, no matter what state or community they live in.

During the Civil Rights era, the federal government intervened to make sure federal law was adhered to in all communities. Enforcement mechanisms in the Civil and Voting Rights acts set a federal floor of civil rights protections—ensuring that the application of civil rights was not dependent on zip code. In the same regard, this nationwide problem now requires a nationwide response.

The federal government has been investing in policing efforts for quite some time, helping to shape enforcement operations through data collection, grant funding, judicial action, and other means of influence. Continued Congressional action is essential to restore and increase trust in police. All of us are less safe when bonds of trust are broken between our communities and police. What follows are reforms that promote better agency practices, increase officer support and training, and improve accountability and transparency in community-police relations.

Promote Best Practices

Establish federal use of force standards. A zip code should not determine the outcome of an interaction between law enforcement and a member of the community. Research has proven that restrictive use of force policies strengthen community trust and improve officer safety.⁹ A federal standard for the use of force would help to ensure that every department, in every part of the country, is using evidence-based and best practices. The PEACE Act (H.R. 4359), introduced by Rep. Ro Khanna in September, mandates that federal law enforcement use deadly force as a last resort

and ties justice department public safety funding to states adopting similarly high standards for

and ties justice department public safety funding to states adopting similarly high standards for local police officers.¹⁰

End discriminatory practices like stop-and-frisk. To start rebuilding trust in law enforcement, we need to stop charging them with ineffective and alienating duties. Study after study has shown that programs like “stop-and-frisk” have no relationship with a reduction in crime, and only build frustration and resentment in the communities of color that are subjected to them. We can provide effective policing while not indiscriminately targeting people of color. In New York, for example, the city experienced its lowest levels of violent crime since the early 1960s, while ending “stop-and-frisk” and reducing all searches by 98 percent.¹¹

End or significantly modify alienating practices like broken-windows policing. Two decades of broken-windows policing—a method that focuses hyper-attention on policing “civil disorder” and petty crimes—has led to the criminalization and over-policing of disadvantaged communities and been one of the leading causes of broken trust between these communities and police. Trust and cooperation cannot be built when police officers are routinely discharged to punish communities for activities that do not threaten public safety. Studies have also found that these techniques just aren’t that effective at curbing serious crime.¹² Other studies indicate that they might even have the opposite effect by subjecting youth to contact with law enforcement at younger ages, increasing the likelihood that these same youth engage in subsequent criminal behavior.¹³ We need to encourage states to deploy law enforcement effectively and in a manner that builds trusts. Ending broken-windows policing can help accomplish both.

End quotas for tickets and arrests. There is an admitted culture, in certain law enforcement circles, that an officer isn’t working unless they are writing a ticket or making an arrest.¹⁴ That has to change. We are designing a system destined to fail when we equate good policing with making more arrests and writing more tickets. Many in law enforcement understand this but are forced to work within the confines of the directions they are given. Some like California, Illinois, and New York have already begun to ban the practice.¹⁵ States and localities that emphasize quality of arrests over quantity should be reward with federal government funding to assist with training and services.

Support steps to demilitarize local police . Images of local police taking to the streets of Ferguson, Missouri, in tanks and SWAT gear are still seared in the brains of many. Studies have shown that more militarized police departments are significantly more likely to engage in violent behavior than departments that are not.¹⁶ Equipping law enforcement with the tools they need to be effective and safe is absolutely necessary. But as part of rebuilding trust and cooperation between law enforcement and communities, we need to, where possible, encourage our officers to deploy less the least aggressive means of engagement. The Stop Militarizing Law Enforcement Act, introduced by Rep. Hank Johnson (D-GA-4) would limit and require reporting of military-style weapons and equipment transferred from the Department of Defense to state and local law enforcement.¹⁷

Keep law enforcement and immigration enforcement separate to avoid sowing mistrust. Just as is

keep law enforcement and immigration enforcement separate to avoid sowing mistrust. Just as is the case with “stop-and-frisk” and “broken-windows” policies, we cannot deploy local law enforcement with harassing duties and expect there to be durable and cooperative relationships between police and communities. The data shows that when police are intermingled with immigration enforcement, communities are less likely to report crimes, and public safety suffers.¹⁸ Local police should not be charged with carrying out the agenda of ICE at the expense of public safety. The federal government can take significant steps to ensure this entanglement doesn’t occur by repealing Section 287(g) of the INA and the “Secure Communities” program.¹⁹

Increase Officer Support and Training

Expand support for law enforcement family services, mental wellness and officer suicide prevention. Law enforcement work is deeply stressful. Long hours on high alert with very few relief outlets accumulate tension and anxiety. Operating under such high-stress conditions not only leads to diminished mental health but can cloud sound judgment in the most imperative times. Expanding support from the federal government will help ensure police officers and their families have access to tools that will help them process the inherited stressors of the job and ensure they are capable of making the best decisions under intense pressure situations. The Supporting and Treating Officers in Crisis Act (H.R. 2368/S. 998) is a bipartisan proposal that reauthorizes grant programs and expands support efforts for law enforcement family services, mental wellness, and officer suicide prevention. The bill has already passed in the Senate and awaits a vote in the House.²⁰

Increase funding for de-escalation training. There are currently only 21 states that require its law enforcement officers to undergo mandatory de-escalation training.²¹ Police departments across the country have demonstrated that, when used, de-escalation techniques make neighborhoods safer, reduce civilian complaints, and keep officers safe.²² Leaving resource-strapped chiefs and sheriffs on their own to implement these programs simply is not fair to them or the communities they serve. We can do better by requiring and funding these programs in the federal government. The Preventing Tragedies Between Police and Communities Act (H.R. 2927), introduced by Rep. Gwen Moore (D-Wis.-4), conditions grants under the Edward Byrne Memorial Justice Assistance Grant Program to states and localities implementing mandatory de-escalation training for their officers. The bill also requires departments to regularly submit use of force data to DOJ.²³

Reward departments that implement implicit bias and racial equity training. Most members of law enforcement sign-up, knowing the difficulties of the job, because they want to serve and protect their communities. We need to give them the tools to do so effectively. The science on implicit bias has long-since settled. In direct regard to law enforcement, implicit bias has been shown to have significant influence in the outcomes of police-community interactions.²⁴ To counteract this reality, we need to reward departments that take steps to meet these challenges directly. The Department of Justice has found that implicit bias can be gradually unlearned, and behavior

improved through effective bias and racial equity training.²⁵ The federal government should play

improved, through effective bias and racial equity training. - The federal government should play a role in bringing this critical training to every department in the country.

Improve Accountability and Transparency

Require, improve, and expand use of force data collection and publication. Further transparency in law enforcement is imperative to rebuilding relationships of trust in communities. Every instance of use of force should be documented and made public to ensure that communities are not left in the dark. We need to build on current data collection initiatives in the Bureau of Justice Statistics and make the reporting of use of force data compulsory and more comprehensive. The Next Step Act (H.R. 1893/S. 697) requires local enforcement to comply with use of force reporting, as well as data collection and publication, to qualify for federal grant funding. It also authorizes grant funding for states to develop community law enforcement partnership programs and implicit bias, use of force, and de-escalation training.²⁶

Expand responsible use of body cameras. As we have seen over the last several years, video evidence of interactions between members of the community and law enforcement matters. When employed properly, body cameras serve as an important tool of transparency and record-keeping for all parties involved. But to be viewed as more than an easily manipulated tool, cameras need to be paired with good policy that sets clear standards of use and holds non-complying officers accountable. This is an area where Congress can step in and provide grants to departments that implement responsible policy—increasing camera usage and protecting both the public and police from ambiguity in police interactions. Rep. Steve Cohen (D-TN-9) has introduced the Police CAMERA Act (H.R. 120), which sends grant funding to state and local law enforcement agencies to purchase and implement effective use of body cameras.²⁷

Require independent prosecutors and civilian oversight committees in cases involving use of deadly force. When deadly force is used, it's important that communities can have faith in the process of review and can be sure that a just outcome will be reached. Communities that install independent prosecutors and civilian oversight committees to review cases involving the use of deadly force, make a strong statement about their commitment to building trust and strengthening relationships with those they serve. The federal government should implement grant-funding to communities that take these important steps. The Police Training and Independent Review Act (H.R. 125), introduced by Rep. Cohen, provides for grant funding to state and local law enforcement agencies who 1) conduct diversity and sensitivity training and 2) require independent prosecutors in cases involving use of deadly force by law enforcement that resulted in death or injury.²⁸

Conclusion

The challenges associated with efforts to reform policing across the country are self-evident. It's one of the subjects that's often tagged as belonging to the "third rail" of American politics. But this

problem will not solve itself. Candidates and policymakers need to lean into the debate, as daunting

problem will not solve itself. Candidates and policymakers need to lean into the debate, as daunting as it may seem.

Regardless of party or political ideology, all Americans have a vested interest in the safety of their communities. We all need a police force that is capable of fulfilling its duties in a fair and just manner. But in recent years, confidence in law enforcement has been undeniably strained. That's neither good for our communities or our law enforcement officials.

In her passionate dissent in a recent Supreme Court case, Justice Sotomayor wrote that when the government abuses civil liberties, it sends a message—particularly to people of color—that they “are not a citizen of a democracy but the subject of a carceral state, just waiting to be cataloged.”²⁹ The same message is sent when we police communities without proper compassion and respect. There are commonsense and attainable solutions that will make a meaningful difference for law enforcement and communities. We have seen community groups and law enforcement come together to make meaningful change in communities like California and New York City. Bringing reform to those communities took compassionate and informed leadership by elected officials who respected the concerns and experiences of all members of their communities. It's time for policymakers across the federal government to bring the same kind of leadership nationwide and enact reforms that will bring about real change for the country as a whole.

TOPICS

JUSTICE 36

ENDNOTES

1. "Fatal Force." *The Washington Post*, 27 Apr. 2020, https://www.washingtonpost.com/graphics/2019/national/police-shootings-2019/?utm_term=.cb015b32c752. Accessed 27 Apr. 2020.
2. Khan, Amina. "Getting killed by police is a leading cause of death for young black men in America." *The Los Angeles Times*, 16 Aug. 2019, <https://www.latimes.com/science/story/2019-08-15/police-shootings-are-a-leading-cause-of-death-for-black-men>. Accessed 27 Apr. 2020.
3. Norman, Jim. "Confidence in Police Back at Historical Average." Gallup, 10 July 2017, <https://news.gallup.com/poll/213869/confidence-police-back-historical-average.aspx>. Accessed 27 Apr. 2020.
4. Norman, Jim. "Confidence in Police Back at Historical Average." Gallup, 10 July 2017, <https://news.gallup.com/poll/213869/confidence-police-back-historical-average.aspx>. Accessed 27 Apr. 2020.
5. Ekins, Emily. "Policing in America: Understanding Public Attitudes Toward the Police. Results from a National Survey." Cato Institute, 7 Dec. 2016, https://www.cato.org/survey-reports/policing-america#_ftnref3. Accessed 27 Apr. 2020.
6. Foxen, Patricia. "Perspectives from the Latino Community on Policing and Body Worn Cameras." Medium, 4 May 2017, <https://medium.com/equal-future/perspectives-from-the-latino-community-on-policing-and-body-worn-cameras-47f150f71448>. Accessed 27 Apr. 2020.
7. "Investigation of Chicago Police Department." United States Department of Justice Civil Rights Division and United States Attorney's Office Northern District of Illinois, 13 Jan. 2017, <https://www.justice.gov/opa/file/925846/download>. Accessed 27 Apr. 2020.
8. Fortin, Jacey. "Jeff Sessions Limited Consent Decrees. What About the Police Departments Already Under Reform?" *The New York Times*, 15 Nov. 2018, <https://www.nytimes.com/2018/11/15/us/sessions-consent-decrees-police.html>. Accessed 27 Apr. 2020.
9. Sinyangwe, Samuel. "Examining the Role of Use of Force Policies in Ending Police Violence." 23 Sep. 2016, [https://static1.squarespace.com/static/56996151cbced68b170389f4/t/57e17531725e25ec2e648650/1474393399581/Use of Force Study.pdf](https://static1.squarespace.com/static/56996151cbced68b170389f4/t/57e17531725e25ec2e648650/1474393399581/Use+of+Force+Study.pdf). Accessed 27 Apr. 2020.
10. United States, Congress, House. Police Exercising Absolute Care With Everyone Act of 2019. *Congress.gov*, <https://khanna.house.gov/sites/khanna.house.gov/files/Khanna%20Clay%20Police%20Exercising%20Absolute%20Care%20with%20Everyone%20PEACE%20Act.pdf>. 116th Congress, 1st session.
11. "Crime Falls as New York Abandons Stop-and-Frisk." Equal Justice Initiative, 19 Jan. 2018, <https://eji.org/news/new-york-crime-falls-as-police-end-stop-and-frisk>. Accessed 27 Apr. 2020.
12. Peters, Justin. "Broken Windows Policing Doesn't Work." *Slate*, 2 Dec. 2014. <https://slate.com/news->

12. Peters, Justin. "Broken Windows Policing Doesn't Work in State, 3 Dec. 2014, <https://statesociety.net/news-and-politics/2014/12/broken-windows-policing-doesnt-work-it-also-may-have-killed-eric-garner.html>. Accessed 27 Apr. 2020.
13. Del Toro, Juan Del. "The criminogenic and psychological effects of police stops on adolescent black and Latino boys." Proceedings of the National Academy of Sciences of the United States of America, Apr. 23 2019, <https://www.pnas.org/content/116/17/8261>. Accessed 27 Apr. 2020.
14. Rose, Joel. "Despite Laws and Lawsuits, Quote-Based Policing Lingers." NPR, 4 Apr. 2015, <https://www.npr.org/2015/04/04/395061810/despite-laws-and-lawsuits-quota-based-policing-lingers>. Accessed 27 Apr. 2020.
15. Rose, Joel. "Despite Laws and Lawsuits, Quote-Based Policing Lingers." NPR, 4 Apr. 2015, <https://www.npr.org/2015/04/04/395061810/despite-laws-and-lawsuits-quota-based-policing-lingers>. Accessed 27 Apr. 2020.
16. Delehanty, Casey. "Militarization and Police Violence: The Case of the 1033 Program." SAGE Journals, 14 Jun. 2017, <https://journals.sagepub.com/doi/full/10.1177/2053168017712885>. Accessed 27 Apr. 2020.
17. United States, Congress, House. Stop Militarizing Law Enforcement Act. *Congress.gov*, <https://www.congress.gov/bill/116th-congress/house-bill/1714?s=1&r=9>. 116th Congress, 1st session.
18. Solomon, Danyelle, Tom Jawetz, Sanam Malik. "The Negative Consequences of Entangling Local Policing and Immigration Enforcement." Center for American Progress, 21 Mar. 2017, <https://www.americanprogress.org/issues/immigration/reports/2017/03/21/428776/negative-consequences-entangling-local-policing-immigration-enforcement/>. Accessed 27 Apr. 2020.
19. "The 287(g) Program: An Overview." American Immigration Council, 23 Aug. 2019, <https://www.americanimmigrationcouncil.org/research/287g-program-immigration>. Accessed 27 Apr. 2020.
20. United States, Congress, House. Supporting and Treating Officers in Crisis Act of 2019. *Congress.gov*, <https://www.congress.gov/116/bills/hr2368/BILLS-116hr2368rh.pdf>. 116th Congress, 1st session. House Resolution 2368.
21. Clarey, David. "Some states training police to use words, not guns." APM Reports, 20 Dec. 2017, <https://www.apmreports.org/story/2017/12/20/more-states-training-police-to-use-words-not-guns>. Accessed 27 Apr. 2020.
22. "Police of Use of Force: An Examination of Modern Policing Practices." The United States Commission on Civil Rights, 15 Nov. 2018, <https://www.usccr.gov/pubs/2018/11-15-Police-Force.pdf>. Accessed 27 Apr. 2020.
23. United States, Congress, House. Preventing Tragedies Between Police and Communities Act of 2019. *Congress.gov*, <https://www.govinfo.gov/content/pkg/BILLS-116hr2927ih/pdf/BILLS-116hr2927ih.pdf>. 116th Congress, 1st session. House Resolution 2927.
24. "Implicit Bias." National Initiative for Building Community Trust and Justice. 2015.

24. "Implicit Bias." National Initiative for Building Community Trust and Justice, 2019, <https://s3.truandjustice.org/misc/ImplicitBiasBrief.pdf>. Accessed 27 Apr. 2020.
25. "Implicit Bias." National Initiative for Building Community Trust and Justice, <https://trustandjustice.org/resources/intervention/implicit-bias>. Accessed 27 Apr. 2020.
26. United States, Congress, Senate. Next Step Act of 2019. *Congress.gov*, <https://www.congress.gov/116/bills/s697/BILLS-116s697is.pdf>. 116th Congress, 1st session, S. 697.
27. United States, Congress, House. Police CAMERA Act of 2019. *Congress.gov*, <https://www.congress.gov/bill/116th-congress/house-bill/120>. 116th Congress, 1st session. House Resolution 120.
28. United States, Congress, House. Police Training and Independent Review Act of 2019. *Congress.gov*, <https://www.congress.gov/116/bills/hr125/BILLS-116hr125ih.pdf>. 116th Congress, 1st session. House Resolution 125.
29. Liptak, Adam. "Supreme Court Says Police Use Evidence Found After Illegal Stops." *The New York Times*, 20 June 2016, <https://www.nytimes.com/2016/06/21/us/supreme-court-says-police-may-use-evidence-found-after-illegal-stops.html>. Accessed 27 Apr. 2020.