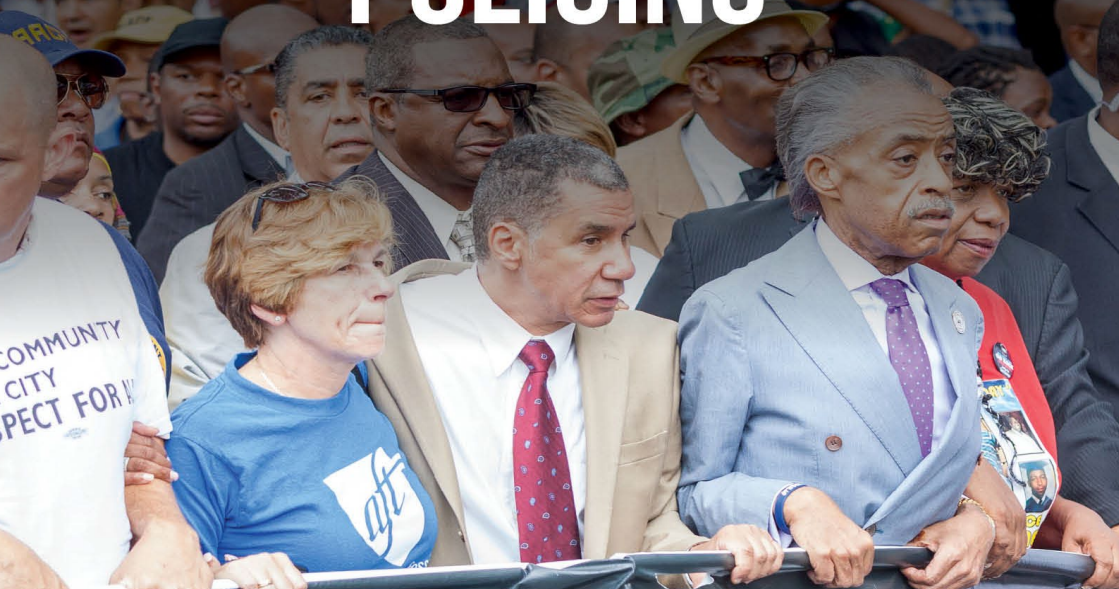


# FEDERAL INFLUENCE IN POLICING



WE WILL NOT GO

MARCH FOR

Chief Joel F. Shults, Ed.D

Aug 23, 2014

The National Police Association's free Law Enforcement education series is designed for home school, classroom, or independent learning. As part of our nonprofit educational mission, it prepares you for careers in public safety. This series is authored by [Chief Joel F. Shults, Ed.D.](#)

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## Table of Contents

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- 1** The New McCarthyism: A Domestic Terrorist Behind Every Badge?
- 5** Biden: “Antifa is an idea not an organization”. So who threw that brick?
- 8** Feds Take the Supremacy Clause Personally
- 12** Will Biden’s New DOJ Encumber Local Law Enforcers?
- 16** Politicians Shed Crocodile Tears for Capitol Police Officer
- 20** Presidents and Police Officers
- 24** American Policing Unique in the World
- 27** Cops Are Overcoming the Efforts of the Department of Justice to Discredit Them
- 31** Biden’s first year in office saw more officers murdered than any year since 1995
- 34** Why Biden’s Funding Advocacy Scares Me
- 38** About The Author



## The New McCarthyism: A Domestic Terrorist Behind Every Badge?

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President Biden advocates a federal domestic terrorism law. Given that the Constitution guarantees not only free speech but free association, even the ACLU is skeptical that the government can keep from repeating past mistakes in criminalizing political and religious activity. Although concerns about radicalization through social media and hate speech raise caution flags, criminal acts must be the guide rather than mere oratory. Representative Jackie Speier, D-California has formally urged Biden to expand screening for military member by surveying their social media specifically for “white supremacy” groups. Little attention was given to another alarming [report](#) cited at Military.com citing concern about street gangs associated with Army personnel. Potential misconduct crosses racial lines.

During hearings on Biden’s pick for Attorney General, the specter of ideological persecution was in the air. “I would not have taken this job if I thought the politics would have any influence over prosecutions and investigations,” he said. Yet Judge Merrick Garland, President Biden’s pick for attorney general, promised to combat the rising threat of domestic extremism. Few would disagree that violence should be stopped, but what if watchdogs are defining extremism as any opposition to their beliefs and policies?

As a February 22nd USA Today editorial states “there’s also little doubt that targeting perceived ideological threats contributed to our nation’s most shameful

episodes of civil rights abuse and governmental spying on citizens.” With grants proposed for state and local law enforcement as well as schools for violence prevention programs, leaders in these institutions must be watchful for ideological indoctrinations that go beyond data and common-sense tools. The shifting sands from the Trump era to the Biden/Harris era are soaked with presuppositions and broad classifications of people whose thoughts are deemed to be dangerous. It bears noting that Biden’s Attorney General nominee oversaw the prosecution of Timothy McVeigh’s murderous bombing of the federal building in Oklahoma City without any special terrorism laws.

Guiding [documents](#) on U.S. laws define terrorism as any crime that appears to be intended to intimidate a civilian population, influence government policy, or affect government conduct by assassination, kidnapping, or mass destruction. Based on those criteria it would seem that the actions of rioters in Seattle, Washington and Aurora, Colorado where police officers were trapped inside buildings should be examined through the lens of domestic terror. This past August in Seattle, rioters went about setting a fire outside a door to a police building which they had jammed with rebar and boards and attempted to seal with quick-dry cement. SPD officers managed to kick their way out of the exit. Three fire bombs were tossed at a Seattle Police Guild building. These kidnappings, arsons, and attempted murders were given little attention by city leaders.

In Aurora, Colorado, police were trapped for seven hours in a precinct station, chaining the doors shut. In

the aftermath, police found makeshift weapons and gas cans nearby. While other officers attempted to enter the area, including access to patrol cars that had also been blocked, rioters used mortar type fireworks and other means to assault responders. The lack of political outrage at these horrific actions is an indication that political messages will be projected through the search for domestic terrorists. As law enforcement comes under the suspicious eyes along with our military, it is no wonder that the anti-police crowd will gladly support undermining the police and further impugning their credibility.

Some of Biden's concerns arise from the participation of military veterans and police officers in the January 6th assault on the U.S. Capitol, despite the heroic actions of thousands of police and military members responding to the melee. One analysis showed that 20% of persons criminally charged in that debacle were veterans or active-duty persons, while 7% of the population have a military service connection. Comparing those figures is not an accurate reflection of widespread and radical ideological corruption in the military, nor is the number of persons involved in the capitol attack who have law enforcement connections. One could argue that those who have had the most intimate interactions with government, having borne arms for it, would have a higher sensitivity and awareness of concern for liberty, even if misguided.

For the weight of government surveillance to be pressed against the men and women in uniform is not merely an insult, but a real danger. Along with the goal of rooting out extremists (currently almost always

referring to white, right wing extremists) there is, necessarily, a grand re-education effort to vilify them. The line between those who are all talk and those who commit real violence against our democracy shouldn't be all that difficult to determine. Even conspiracy requires some overt act in furtherance. Without behavior, there is no crime but one's thoughts and attitudes, which, however ugly, must never be criminalized.



## **Biden: “Antifa is an idea not an organization”. So who threw that brick?**

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We can't pick on Joe Biden for quoting FBI Director Chris Wray, but we can look for some context.

Ask the business owner whose building and livelihood was burned out by arson, or the police officer struck by a brick, whether antifa is “a thing” or not.

Director Wray wasn't brushing off the dangers of extremist groups when he testified before Congress in September. Saying that antifa was an ideology and not an organization Wray went on to clarify that the FBI considers antifa a real thing and has investigated violent extremism involving individuals identifying with antifa.

It is exactly the murky nature of antifa and other extremist ideologies that makes them dangerous. Law enforcement agencies in riot torn areas of the country have special challenges gathering intelligence to prevent violent attacks. Because there is no formal organization or hierarchy, monitoring for threats and conspiracies to engage in violence is difficult. Many plans for disruption of lawful protests by antifa and other amorphous ideological groups are spontaneously produced on social media as well as hard to find sites on the dark web.

Although neither candidate was able to finish very many of their statements during the recently televised debate, Biden's statement and Trump's hesitance will likely be construed as tacit endorsement by extremists

associated with the left and right of American political thought. When individuals have a bent towards extremism, they can be easily triggered by statements left to interpretation. The candidates did little to distance themselves from radical groups that are identified with the parties.

America's history of dissent and protest began with the ultimately violent protest against the infringement of liberties imposed by King George. The criminal justice system has struggled with the balance of Constitutional rights to free speech and assembly while keeping lives and property safe. The line that must be drawn ultimately is drawn by police officers.

Speech and assembly are freedoms that are bounded by the same rationale used for centuries: your right to swing your fist ends at the other person's nose. Protests can be regulated by time and place, although the content of speech can not generally be proscribed in advance. Protests that allow assembly of like-minded citizens, and perhaps those who oppose whatever statement is being made by organizers, can progress outside of the boundaries of the safety of the permission given. Most policing strategies allow for a great deal of latitude for gatherings and protests.

Protests, whether by intention or spontaneously, can evolve into small acts of defiance, angry and threatening language, assaultive behavior, vandalism, and rioting.

Civil disobedience also has a significant place in history. The idealism of the civil rights era involved an intentional expectation of arrest. Today's protestors

seem to have forgotten this sacrificial effort and expect complete accommodation by law enforcement. They are often aided by weak-willed politicians and judges who refuse to give peace keeping tools to police officers on the front lines.

Protests, marches, and agitation have proven to be a catalyst for important social changes. Admittedly, even violence and threats have had desired political effect. Armchair observers can bicker over labels, but ideologies like antifa (anti-fascists) can and do spark violence. Certainly, the same can be said about extremist groups from any political bent. People who chose to harm people deserve no protection from criticism and censure regardless of their affiliation.

Law enforcement is not designed to be used to oppose ideology or choose political affiliations. But it is designed to preserve peace, intervene in criminal enterprise and activity, and to protect life and property. If a minority of activists choose to ignore the bounds of the law and expect no accountability for their choices, they cannot be considered courageous promoters of cause, but mere agitators and lawbreakers who must reckon for their actions.

## Feds Take the Supremacy Clause Personally

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A Constitutional Republic is what Ben Franklin is said to have remarked was produced by the first Constitutional Convention, adding, according to history “if you can keep it”. Whether those words were actually uttered or not is the subject of conjecture, but Franklin’s wit and vision ring true. We are still trying to keep it. Without a history book in front of us, we may have the vague impression that the Constitution and the Declaration of Independence sort of evolved out of the same set of meetings. A quick history review reminds us that the battle for a workable government was not easy or quick.

The Continental Congress, a rather rebellious group dissatisfied with British oppression, did indeed pass the Declaration of Independence. They also passed the first constitution which was the Articles of Confederation, passed in 1777 and subsequently ratified in 1781 under which the country operated until 1789. This document established states as the primary centers of government and provided little authority to the national government. The Continental Congress gave way to the more official Confederation Congress, although made up of mostly the same membership. When the Revolutionary War was won in 1783, the weakness of the Articles of Confederation was of such concern to such luminaries as Alexander Hamilton, who, along with others, proposed a convention in Philadelphia to amend the Articles. They ended up proposing a whole new document in 1788 it went into effect and established the government structure we now know as

the Constitution. This document was not ratified by the states until the addition of the Bill of Rights in 1791.

The intense debates, exemplified by the set of documents written by certain Founding Fathers and known as the Federalist Papers, continue into our present day. What is the role of the federal government? What is the relationship between the federal and state governments? The fear of an overpowering national government led to those amendments we know of as the Bill of Rights, which clarify what natural rights the citizens have that were not to be trampled by government. This included the Tenth Amendment: “The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people”.

With that background, let’s consider a recent court decision from Texas. Travis County Judge Jan Soifer ruled that a trespassing arrest by Texas law enforcement was unconstitutional. Let’s quickly tell that story.

Governor Abbott developed a program called “Operation Lone Star” whose purpose was to do what the Biden administration refuses to do in dealing with criminal violations of the law by those entering the US at the Mexican border contrary to US Law. An Ecuadorian seeking asylum was found on railroad property and charged with trespass. Judge Soifer ruled that because of the supremacy clause of the Constitution, the state’s enforcement action interfered with the federal task of immigration enforcement.

Travis County District Attorney José Garza, who took office last year under a reform platform, capitulated on the charges, agreeing with the ACLU and the judge that the enforcement action “represents an impermissible attempt to intrude on federal immigration policy”. Garza is known for immediate action to reduce bail requirements including presumptive release even for some felonies and failure to appear at previous court dates.

Governor Abbott expects the ruling to be overturned. He has been faced with floods of unlawful crossings into his state after the Biden administration failed to take a decisive stance on any real engagement with the border crisis. Texas Attorney General tweeted “Lib Austin judge lets a Soros Travis County DA represent State of TX, then declares Op Lone Star unconstitutional. Ridiculous. Biden has FAILED to secure the border. Texas stepped in. We have the right to defend our border if the feds refuse. I’ll fight this nonsense on appeal”.

It doesn’t take an attorney to question a ruling that essentially says that lawlessness must persist if the federal government decides, itself, to ignore the law. The supremacy clause certainly reigns if there is a conflict between a state law and a federal law. It can’t mean that if there is federal jurisdiction there can be no state enforcement. Because bank deposits are federally insured, bank robbery is a federal offense. Does Judge Soifer think Texas law enforcement is prohibited from arresting bank robbers if the FBI decides not to?

Constitutional law is complicated, state and federal interagency cooperation can be complicated, and immigration policy is desperately complicated. What isn't so complicated is the right of states to enforce the law.

## Will Biden's New DOJ Encumber Local Law Enforcers?

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No advocate of quality policing objects to accountability of police officers or police agencies. The honest question is how to achieve that without gutting the essentials of policing. So far, many of the voices calling for police reform range from the abolition of policing to thinly veiled changes that undermine the police function. New US Attorney General Merrick Garland has vowed to “police the police”. This will mean an acceleration of popular reform actions. It will also mean an increase in civil rights investigations of police agencies and federal prosecution of police officers for use of force. “Pattern and practice” investigations seldom see the light of day. They most often result in an agency surrendering to expensive federal oversight.

In addition to more federal manhandling of local law enforcement are what appear on the surface to be acceptable proposals but can involve hidden harms to law enforcement. Three of the most popular and palatable are increasing non-law enforcement (NLE) response to some calls, body-worn cameras, and increased training. What could go wrong?

### Harm # 1

Funding non-law enforcement responses have the potential of directly diverting policing funds or indirectly diverting funds that could be used for upgrading police staffing. Law enforcement personnel



numbers have not kept pace with population increases, while funding has remained at consistent levels as a percentage of government budgets.

## Harm # 2

Non-law enforcement responses are showing successes, but the evaluation is not complete. NLE calls are carefully screened. NLE personnel will not respond to calls of violence or weapons, and if the situation is dangerous when they arrive, their protocol will be to call law enforcement. This means that when an NLE unit can claim no one was harmed on their calls, they are dealing with cherry-picked services, leaving the dangerous calls, appropriately, for law enforcement. But it is the weapon and violence calls that result in violent confrontations with police officers. The rosy statistics of NLE success miss this selectivity.

## Harm # 3

NLE response success relies on the trust of their clientele. This means that there is a disincentive to report criminal activity discovered during their calls. A pile of stolen property, narcotics, or other evidence of a crime will go undetected or unreported by NLE. Many troubled individuals engage in criminal behavior and need to be entered into the criminal justice system. Diversion from the complexities of the courts and corrections is, indeed, often appropriate. But not always. Criminal activity and victimization can be perpetuated.

## Harm # 4

Body-worn cameras are of great benefit to police officers. They justify the officer's behavior the vast majority of the time and can refute spurious claims of misconduct and lawsuits against agencies. They are so effective in gathering evidence of criminal conduct of actual criminals, that many civil liberty advocates are now turning against body cameras as an invasion of privacy!

Laws like Colorado's that assume officer misconduct if a body cam was off during an encounter, those that mandate the huge expense of data storage and retrieval, and the reluctance of citizens to approach an officer because the conversation will be on record, are all harms that can impede effective law enforcement and divert needed funds from patrol staffing.

## Harm # 5

Officers embrace training opportunities, but legislative training mandates can be counterproductive in two ways. One is the strain on basic academy training. Any extension of basic training requirements will require either an extension of the academy time or the dropping of some other training component. The proposed curriculum is often repetitive of what is already part of the training but unknown to the lawmakers (a very common occurrence), or is based on emotion and public misperception rather than data. As such, many of these mandates, whether well-intended or not, are of little value.

## Harm # 6

Training costs money. Money is what is used to put uniformed officers on the street. Taking an officer off of the street reduces staffing for emergency response. Staffing shortages means taking officers and detectives away from investigations. Reduced resources for response and investigation means a rise in crime. Watch the crime data and correlate it with the most oppressed police agencies and you will find a major spike in violent crime and a reduced rate of solved crimes.

No training mandate should be passed without data showing it is necessary, consultation with police professionals on unintended consequences, and funding for more police officers so that no one is being told by dispatch that there are no officers available to respond to their call while police officers are tied up in a classroom to learn something they already know.

## Politicians Shed Crocodile Tears for Capitol Police Officer

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It would be fitting to properly honor the life, service, and sacrifice of Capitol Police Officer Brian Sicknick. Given so many of the Biden administrations' disdain for law enforcement, it was hard to get past the hypocrisy as so many supporters of the anti-police movement somberly lamented Brian's death with sound bytes and photo ops.

As questions still linger over what happened on that January day when the capitol building security was breached by dozens of persons ostensibly protesting the Electoral College count, the narrative has been seized by the new administration. With all due respect to the gravity of the Capitol invasion and the tragedy of all of the deaths and injuries that are connected to it, the contrast between the cheerleading of rioters across the country during 2020 and the declarations of outrage for disturbances in their own neighborhood is noteworthy.

As President Biden includes the elimination of offering surplus safety equipment from the military, improving federal prison conditions, and enjoying the celebrity of his Vice President who has praised defunding the police, it is no surprise that no sorrow has been extended to the hundreds of police officers who die in the line of duty yearly or to the thousands of police injured in riots across the country. That he has now made time to add Officer Sicknick to George Floyd as a funeral guest smacks of pandering to law enforcement whom he alienated during the presential campaign.

A Biden Justice Department is poised to begin an aggressive hunt for police agencies to accuse of racially biased practices in order to continue for the federalization of law enforcement along with federal oversight of local police and national policies to impose on local entities. Biden has also attacked the discretion of local elected prosecutors, although many politicized prosecutors have declined to prosecute criminal behavior of rioters including assaults on officers, the goal of Biden's policy is to ensure that police officers are prosecuted.

Biden has repudiated his involvement in the 1994 crime bill that he once took great pride in and credit for. Despite crime's significant decline partially due to the bill, the fact that it ended up putting people in prison merited his apology for it. He has also begun aggressive efforts to reduce immigration enforcement, deflating the brave men and women that work to interdict those who engage in smuggling, human trafficking, and drug importation.

Biden and Obama had urged fellow Democrats to walk back harsh talk about defunding the police, recognizing that it could alienate independent conservatives and many centrist Democrat voters. A member of the police reform task force that served Biden and Bernie Sanders described the anti-police protests as a great liberation movement. Jalina Porter has been named deputy spokesperson for the U.S. State Department under President Biden, once wrote that the largest threat to U.S. national security is law enforcement, not Russian hackers or ISIS. These pervasive influences may not

reflect Biden's public pronouncements of supporting the police but are components of his administration.

The narrative of the capitol riots has been leveraged to imply support for law enforcement. During President Trump's tenure, he was a vocal supporter of policing which meant that to be an anti-trump politician had to include being anti-police. Since supporters of law and order come in all stripes and party affiliations, the opportunity provided by rioters waving Trump logos struggling against police officers was not to be overlooked by strategists. Praising the heroes of the Capitol police (while, of course, later blaming police leaders for failure) has all of the appearances of political leverage. We can only hope that the death of Officer Sicknick is being honestly mourned.

Autopsy results may or may not verify the sketchy reports that Sicknick was beaten with a fire extinguisher as a cause of death. Investigators have yet to confirm exactly what happened during the melee. The best narrative that would serve the generally anti-police, anti-Trump narrative would be this brutal death, so any contrary investigative results may be difficult to find and not likely to be widely reported. Meanwhile, the suicides of two officers, Officers Jeffrey Smith and Howard Liebengood, who served on the Capitol grounds that day have evoked no widespread action on behalf of officer well-being. The three medical emergencies that resulted in three other deaths in the crowd have been headlined as deaths directly resulting from the incursion.

Add to the public's skepticism is Congresswoman Ocasio-Cortez' (AOC) claim of trauma from the riots may be a dramatized version since recent reports indicate she was not even in the building at the time of the attack. If the reports are confirmed, it is just one more example of false narratives foisted on the American public.

Thank you to all the officers who brought order to the chaos, including the 65 officers hurt during the event. Rest in peace, Officer Brian SnickNick, and Officers Smith and Liebengood.

## Presidents and Police Officers

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Local law enforcement hasn't garnered much attention from the White House for most of America's history. Things are very different now and not necessarily for the better.

The affairs of local policing were in the hands of elected sheriffs and marshals in the early days. Municipal police departments proliferated after the Civil War, with state agencies following in the first quarter of the 20th century with the advance of highways and an increasing population of the motoring public crossing jurisdictional lines in their newfangled horseless carriages.

Although federal law enforcement advanced in prominence after the Mann Act made kidnapping a federal crime and later the enforcement of Prohibition and the resulting gangster era of interstate crime, little thought was given to regulating crime and justice within individual states.

It took nearly a hundred years for state and local law enforcement to be held to federal Constitutional standards after the passage of the 14th amendment. It took a short time after the advent of televisions in most homes in America for the federal government to see local policing as an issue affecting national politics. Newsreel footage of police ignoring the protection of children attempting to attend newly integrated public schools and colleges, prompted a reluctant President Eisenhower to send federal troops and U.S. Marshals to Little Rock, Arkansas in 1957. President Kennedy



dispatched U.S. Marshals to move Governor George Wallace from the doorway of the University of Alabama where he was blocking the entrance of the university's first black student. News footage of officers dealing harshly with civil rights marchers in Selma, Alabama in 1965, and protestors in Chicago at the Democratic convention of 1968 all led to more intense national scrutiny.

Law and order became a theme with President Nixon shortly after the release of *The Challenge of Crime in a Free Society* in February of 1967. The report of President Johnson's Commission on Law Enforcement and Administration of Justice touted, to no one's surprise, better education and training for local law enforcement. It was followed by The Omnibus Crime Control and Safe Streets Act that poured millions of dollars to state and local governments to better equip, train, and educate their police officers. Nixon's war on drugs was another financial infusion of funding local law enforcement. While civil unrest still percolated from the civil rights struggle and opposition to the Vietnam War, Nixon strategically appealed to the "silent majority" whom he perceived to be tired of the disorder.

President Carter was a contrast to the Nixon era emphasis on law and order. His policies emphasized rehabilitation over punishment, the abolition of the death penalty, more emphasis on white collar crime instead of crimes committed by the poor, and the view that crime was a social disorder best addressed by a good economy and greater national unity and respect for the law. His successor, Ronald Reagan, adopted a more Nixonian approach to criminal justice.

The rising concern about drugs and gangs among the voting public was recognized by Bill Clinton in his 1992 campaign for President. The issue was given little attention by rival George H.W. Bush, the incumbent at the time. Clinton's proposals, most of which became law, involved increasing the number of police officers by 100,000 and emphasizing community oriented policing.

The Violent Crime Control and Law Enforcement Act of 1994 was another major federal effort to infuse money to address the problem of crime. The political importance was the effort by Clinton and Democratic legislators to remove the reputation that the party was soft on crime as a Carter era legacy. Current presidential hopeful Joe Biden was a major supporter of the legislation. While Clinton has publicly apologized for the law because it resulted in increases in prisons and prisoners (while still acknowledging that crime rates went down as a result), Biden has recently reiterated his support for community oriented policing with promises of more funding.

George W. Bush famously stood with first responders in the aftermath of the September 11th, 2001 terrorist attack. In reshuffling federal law enforcement, the importance of local policing in combatting terrorism was attached to funding and equipping state and local agencies. A new wave of respect for first responders lasted until the Obama White House.

It is no mere editorial commentary or partisan quibble to say that Obama set the cause of respect for law enforcement back decades. His support for the

mythology of Michael Brown as a victim of racist police violence, despite the multiple investigations that wipe out any such claims in the interaction between Brown and Officer Wilson, was as disheartening as the premature reactions to the cases we see celebrated by police antagonists today. Famously calling out police for doing a routine burglary investigation that involved questioning the owner of the house, who happened to be a friend of Obama's and Harvard professor, he described the Cambridge, Massachusetts officers as "acting stupidly".

In an insult befitting Obama's perception of law enforcement, the President invited, Cambridge police Sgt. James Crowley, to have a low brow beer and peanuts with the professor and, as a last-minute guest, Vice-President Joe Biden. In other statements, Obama had claimed that America needs strong policing, but his damning with faint praise was always louder.

We have a current President who has appeared unequivocally supportive of law enforcement and for that most police officers are grateful. Police officers as a profession are not monolithic in their politics, so the field includes those who fear that the vociferous objection to Trump's presidency and his pugnacious persona makes his support of police an incentive for more anti-police sentiment and opposition. Biden is more moderate on police reform than he is given credit by his critics, but those who may be brought into policy making in a Biden White House may not be.

## American Policing Unique in the World

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American policing is unique in the world primarily because of our national historic interest in liberty and self-determination.

1) We are not a branch of the military. Even though law enforcement is often described as paramilitary, American policing is decidedly civilian. Many of the founders didn't even want a standing military, much less have the military in charge of keeping the peace on the streets of our country. Granted, there are situations where a military presence is deemed necessary in times of great chaos and disorder, but, as proscribed in the Posse Comitatus Act of 1878, the use of the U.S. Armed Forces is expressly forbidden.

As articulated in an article by the Brennan Center for Justice "The Posse Comitatus Act bars federal troops from participating in civilian law enforcement except when expressly authorized by law. This 143-year-old law embodies an American tradition that sees military interference in civilian affairs as a threat to both democracy and personal liberty." State militias (National Guard) may be called up by a state's governor, but unless federalized, are acting as law enforcement under state statute in limited ways.

Critics of "military grade" tools such as armored vehicles and other gear may fear militarization, but these are tools used and equipped in ways that are not consistent with invading armies. They may be military surplus or have a military appearance but are used for

rescue or insertion of police officers for intervention in highly dangerous criminal activity. This writer once issued a challenge, along with a cash incentive, to produce any instance of a functioning machine gun mounted on an armored police vehicle. The challenge went unanswered.

2) We do not have a centralized national police force. While countries with national law enforcement with broad powers over local crime often have constables or other township officers, their major organization is federal rather than local. The U.S. law enforcement community is comprised of about 18,000 separate entities ranging from state police, county sheriffs, local police departments, and specialty agencies such as campus or transit police.

There are, indeed, nearly 100 different federal agencies with armed personnel with arrest authority, but these are designed with special crimes defined by federal law over which they have limited jurisdiction. The FBI has authority over bank robberies, for example, because a loss of bank funds is a loss to the Federal Deposit Insurance Corporation and therefore a federal matter, but that same FBI agent has no more authority over the armed robbery of a 7-11 convenience store than a passing citizen. To be sure, federal policing has expanded and there are ongoing efforts to federalize law enforcement through federal mandates and financial incentives, but policing in America is local.

That means that accountability is local. The voters control those who appoint law enforcement leaders, devise funding for law enforcement, and make the laws

that the police enforce. In the case of elected sheriffs, and in some jurisdictions elected chiefs, marshals, or constables, the choice of policing is directly democratic.

3) We have a Constitution that holds all government actors to a basic standard of conduct to ensure the liberty of its citizens. In some countries, the police are very independent of judicial oversight and enjoy virtual immunity from what we would label misconduct. While state and local governments were held only to their state's constitutions until after the Civil War, the 14th Amendment slowly gained traction in applying to all law enforcement and continues to be defined in the courts. The 14th Amendment got teeth from accompanying federal law that made violation of civil rights subject to criminal and civil penalties. This makes law enforcement at every level (as well as other government actors) subject to many layers of accountability. Law enforcement officers face federal civil action, federal criminal action, lawsuits, and criminal prosecution in state courts, and the regulations and sanctions of their employing agencies, all of which can end their careers as the least of their punishments.

The voices of police reform continue to rise and continue to be heard as the police community refines the profession, but American policing remains a unique, effective, and accountable force in protecting the public.

## Cops Are Overcoming the Efforts of the Department of Justice to Discredit Them

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The National Institute of Justice just released a document entitled “A Landscape Report on Measuring Community Sentiment and Perceptions of Safety and Law Enforcement Performance”. By coincidence, just before I saw the announcement of this report in my email, I was doing an internet search for “police officer hug” to find a photo for a social media post. With its usual efficiency, Google promised forty million hits, most of them actually positive. If you need a lift to your day, hit that search phrase for images and you’ll find page after page of kids hugging cops, cops hugging cops, survivors hugging cops, and lots of smiles and tears.

I am writing this commentary on the study in real-time while I read it over. As someone who has engaged in academic research, I am always interested in how results are obtained. Who got questioned? Who wrote the questions? Who interpreted the results? The watchwords “trust the science” have been echoed since COVID, and we all know how confusing that was. I trust my car but I check the tires and watch the gauges.

A hallmark study from the Obama era (hardly a President whose statue will be in the Law Enforcement Supporter Hall of Fame) was his Task Force on 21st-Century Policing. The report I’m reading as I write begins with a quote from that study: “Law enforcement agencies should track the level of trust in police by their communities just as they measure changes in crime. Annual community surveys, ideally standardized across

jurisdictions and with accepted sampling protocols, can measure how policing in that community affects public trust.”

That is a statement with which I heartily agree. The challenge in my mind is trusting a report from an administration that sent multiple White House officials to attend Michael Brown’s funeral, famously referred to police as “acting stupidly”, opened a record number of civil rights investigations of police departments resulting in a near-takeover and federalization of more than a dozen local agencies, and moved to stop agencies from obtaining essential protective equipment from military surplus so that they can stop this “warrior” nonsense and become mere “guardians.”

Now comes this report from a Justice Department agency when the Justice Department is, itself, under investigation for political favoritism and weaponization, under a President who has apologized for supporting successful crime control legislation under the Clinton administration, and whose faint praise and continued goading for reform belies his public face of support for law enforcement.

Feel free to listen to the Jeopardy theme or smooth jazz while I read the report..... O.K., done. Well, it turns out that the report is just about how to measure citizen perceptions, how to get samples, and how to analyze data – just the things that I started the article with that I was going to use while reading the document. So where do we find the results of research already done on public perceptions?



Statistics measured after nationally broadcast tragedies like the Floyd case in Minneapolis and the Nichols case in Memphis have shown a dip in public trust, but the ebb and flow of media attention and political rhetoric must be averaged out over time. Another factor, as I mentioned earlier, is who is doing the research and writing the report. Read carefully for reports that use vague language like “too many” and “all too often”, and make assumptions about the frequency of alleged police misconduct and racism. There is a significant difference in the measure of law enforcement trust between those who identify as Democrat and those who identify as Republican, as well as Black respondents to surveys compared to white respondents. It appears that facts are not evenly distributed or digested, otherwise, the conclusion of any rational observer would be the same regardless of the ideological bent.

In trust-building efforts, law enforcement has flocked to body-worn cameras (BWC) on its officers. An extensive study with the Washington, D.C. police shows no significant difference in officer behavior before and after BWCs were mandated. A study by Arizona State University of the Phoenix PD deployment of BWCs showed officer productivity increased and citizen complaints decreased. A National Institute of Justice report also showed no difference in the use of force by officers with or without the BWC, did not improve suspect conduct, and made no statistically significant difference in officer-initiated activity. In other words, the AHA! GOTCHA! moment never came for the anti-police folks waiting for video to justify their hostilities.

A Psychology Today article from April of this year cites a 74% confidence rate toward police from a 2022 study. A 2022 posting of Gallup Poll results showed law enforcement ranked 6th in trustworthiness and above judges, politicians, and reporters. A Quinnipiac University poll published early this year showed 62 percent of respondents said they trust police to do what is right all or most of the time. By race, the figures were lower for Blacks but still 2/3 of that demographic. By partisan affinity 85% of Republicans were trusting of police, 63% of independent voters, and 49% of Democrat voters. A 2021 USA Today (not fans of law enforcement) poll showed 69% trusted law enforcement to “promote justice and equal treatment for people of all races”, a result that was on the rise from previous polling.

Even though the new report told me nothing, it did prompt me to review the issue of trust in police and, as a bonus, led me to a few hundred pictures of cops getting well-deserved hugs.

## **Biden's first year in office saw more officers murdered than any year since 1995**

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The increase has largely been attributed to ambush attacks against police officers. We can't say that the deaths were a direct result of anything that the President did, but his proclaimed support of law enforcement rings hollow because of the basic misunderstanding of violence in policing shared by much of the public that has been indoctrinated to believe that most uses of force, including deadly force by police are excessive and unnecessary.

Discerning what is unlawful conduct during a violent encounter is, in fact, often more complex than first appearances convey. The shooting death of Michael Brown in Ferguson, Missouri in 2014 and the beating death of Tyre Nichols in Memphis in 2023 are not the same. Yet President Biden invited the parents of both of these men to hold seats of honor during the State of the Union address. Treating these two cases as holding the same meaning for society is a tragic torture of perception with far-reaching consequences.

Brown's day started with a quest to steal cigars for mixing with marijuana. Entering a convenience store where a lone, older Asian man staffed the counter, Brown picked up a box of cigars and began to leave the store without paying for them. When the clerk attempted to stop him, Brown – described routinely as a teenager but with an imposing stature – shoved the man and left the store, turning the theft into a strong-arm robbery.

Sulking along the roadway, Brown was told by a passing police officer to step out of the street. The forensic evidence examined ad nauseam, verified the officer's statement that Brown violently assaulted the officer and attempted to disarm him, then fled. The officer, having been the subject of a felonious attack, pursued Brown on foot in order to take him into custody rather than let the violent attacker remain loose in the neighborhood. Brown continued to resist the lawful arrest of the officer to the extent that the officer resorted to deadly force.

The narrative that erupted after the shooting was patently false. The story that Brown was callously executed with his hands up in surrender has been thoroughly crushed but persists in the minds of many. The physical evidence, including multiple autopsies, was investigated by multiple agencies which included a grand jury, and at no point was the officer found to have used unlawful, unjustifiable deadly force.

Even in the face of microscopic examination, the lie of "hands up don't shoot" and the mythology of a victimized teen on the cusp of learning a trade shot for being a black jaywalker has kept Brown and his family on a pedestal of heroic and tragic victimization.

The Nichols case in Memphis still has many unknowns, such as the basis for the reckless driving stop claimed by the officers, but Nichols apparently unfortunately fled after a pursuit. In the best assessment of every police expert I know, the final takedown and subsequently brutal attack on Nichols bore no signs of justification or

rudimentary sound tactics for even resistive subjects. It is likely that the assault and murder charges against the officers will be sustained at trial.

Mr. Nichols and Mr. Brown are not in the same club. While in no way a defense of the handful of Memphis officers, we have to find our President's statement inflammatory, that the beating was "yet another painful reminder of the profound fear and trauma, the pain, and the exhaustion that Black and brown Americans experience every single day." What they and all Americans fear is crime, Mr. President, and you have indicted all police officers as criminal co-conspirators. America needed soothing words, perhaps understandable outrage and grief, but not a splash of hyperbolic gasoline on all police officers. Let's fix what is broken, not break what we're fixing.

## Why Biden's Funding Advocacy Scares Me

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For the record, Joe Biden has not vociferously advocated defunding. He has not been able to dodge those accusations because of the [many around him](#) who have celebrated the idea, including the Vice President. He also lives under the shadow of his own Vice Presidency under one of the most anti-law enforcement presidents in my lifetime.

My concern with the President's proclamation during the State of the Union address to "Fund them (the police) with resources and training they need to protect our communities" (which Nancy Pelosi has said has no place in the Democrat position), is that there will be strings attached. Make that chains attached. Make that federal control attached.

Biden clearly does not trust police leaders and local government leaders with the task of policing their communities. Law enforcement agencies will find it hard to turn down federal dollars, perhaps with gritted teeth. I haven't seen the grant applications. The applications for the old COPS programs under the Clinton administration were very simple. Some are not and the cost of personnel or grant specialists to get them can be considerable. There are also typically reporting requirements, creating more work for the agency.

Most grants forbid supplanting, which means that the new dollars cannot replace old dollars. If the previous budget allotted \$50,000 for a new patrol car, most grants will not let the receiver use the money for that

already budgeted item. Many, if not most, agencies – especially the smaller ones that represent most police departments in the country – need essential funding.

If these federal dollars create future costs, they may need to be turned down. The old COPS grants that I dealt with would add police officers with declining percentages of support over a few years at which point my agency had to bear the cost of the added officers. We were not able to do so and suffered no sanctions from the grantors, but grants are always subject to audits and repayments.

Another requirement may be that agencies engage in programs prescribed by the grant which may not meet the urgent needs of the police department. Creative grant writers and administrators may be able to contort the funds to their real needs at the risk of losing their award. When drug enforcement was a federal priority, I asked for manpower and equipment. When community policing was a federal priority, I asked for manpower and equipment. When fighting terrorism was a federal priority, I asked for manpower and equipment.

With Biden's pride in supporting the COPS program in his Senate days under President Clinton, he continues that theme. As an expert in community policing, having written my doctoral dissertation on the topic, the continued push for it has some deep flaws. I am an advocate of community engagement, partnerships with governmental and non-governmental, and innovative problem-solving. Specific definitions and modeling of what community policing is have been a controversy

since old-fashioned police work was re-labeled as community policing.

Aside from the disparity of what community policing looks like, we have to ask the question of whether the concept has made a significant difference relative to the investment in it. No doubt there are success stories all across the country of better public relations, more effective problem solving, and crime reduction, but these activities seldom need a ton of federal money to accomplish. Further, let's look at the current condition of the relationship with the public. Although most citizens still trust and respect the police, there hasn't been a time in history when that trust and respect has been lower or had a greater impact in derailing police morale and effectiveness. So, either community policing wasn't done enough, was done wrong, or didn't make a difference its practice for over thirty years hasn't brought us to a good place in policing. My purpose is not to criticize community policing, but to say that if this is the basket a lot of the Biden money is going into, the results are uncertain.

The Biden administration will also be funding "gun crime" initiatives which, while some may have merit, are bundled with clear hostility to American's 2nd Amendment freedoms. As has been argued for decades, the enforcement of current state and federal laws regarding firearms use would be a sufficient crime deterrent if only applied before adding reams of new laws and regulations with no scientific evaluation of their potential reward in lowering violent crime.



The government, in its typical rush to respond to headlines rather than real systemic problems, has already entangled many manhours in the business of red tape, regulatory reporting to bureaucracies, and threats of the Justice Department to take over their police departments. So-called national standards for training and policy are always a specter just as are all of the federal agencies operating on their own with little accountability. If one were a conspiracy-oriented thinker, one could make a credible case that the end goal is to federalize law enforcement. Federal partnerships can be great, but we must retain the control of policing to local communities' voters

## About The Author

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This series is authored by [Chief Joel F. Shults, Ed.D.](#) Joel is a retired police chief. He is an award-winning writer, college professor, trainer, and first responder chaplain.