

# Police Accountability in the USA: Gaining Traction or Spinning Wheels?

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**Abstract** Police accountability has long been a topic of discussion and debate among police practitioners, politicians, and scholars. This topic re-emerges every time there is highly publicized police shooting or incident of police misconduct. This article provides an overview of the current state of police accountability in the USA. This overview includes several examples of the ways in which police accountability has been enhanced in recent years at the local, state, and federal levels. Next, several obstacles to the progression of police accountability in the USA are discussed including a lack of 'buy-in' by some police personnel; limited research on the efficacy of common police accountability tools; lack of financial resources; lack of support and guidance by the federal government in recent years; and police unions. Finally, the article concludes with suggestions for overcoming some of the impediments associated with police accountability in the USA.

The last 5 years have been marred with violent police–citizen encounters that have resulted in the deaths of many Americans. According to the *Washington Post*, there have been 5,929 fatal shootings of people by on-duty police officers since 2015, with approximately 1,000 of those shootings occurring in 2020 ([Washington Post, 2021](#)). While half of the people shot and killed by the police are White, people of colour are killed by the police at a disproportionately high rate ([Washington Post, 2021](#)). Non-lethal acts of police misconduct have also drawn public attention in recent years. In June 2020, *USA Today* published an article detailing the contents of a national database of approximately 200,000 cases of police misconduct based on records from police agencies, prosecutors' offices, and other state agencies.

While many of the cases involve minor infractions, a portion of the cases involves more serious acts including 22,924 cases of excessive force; 3,145 allegations of rape, child molestation, and other acts of sexual misconduct; and 2,307 cases of domestic violence ([Kelly and Nichols, 2020](#)). Even though the previously described police–citizen encounters represent a small fraction of the millions of police–citizen contacts that occur annually in the USA, the actions of police officers during those encounters resulted in serious injuries, death, as well as an unquantifiable amount of diminished trust and legitimacy in the eyes of the public.

Many deadly shootings and acts of police misconduct have been recorded by officer body cameras or people using their personal cell phones.

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These recordings have been made available for public consumption through various social media platforms and media outlets. Increased media attention focused on these encounters has led to peaceful protests and social unrest in cities across the USA, along with a renewed call for accountability-based police reform.

## Current state of police accountability in the USA

Accountability occurs when police officers and police organizations are held responsible for effectively delivering services to their community, while treating people fairly, with dignity, and within the boundaries of formal law (Walker and Archbold, 2020). This issue is important to citizens because they expect the police to act in a manner that reflects their purpose in society—that is, to promote public safety and uphold the rule of law. When officers fail to meet public expectations and take actions that fall outside of what formal law dictates, citizens must have some process available to them to report such behaviours. Accountability also has important implications for police personnel. Police officers need to feel confident that their colleagues will conduct their work in a lawful manner that does not jeopardize their safety or the safety of others; that does not result in people questioning their professional integrity or expose them or their police agency to costly litigation, and that allows them to maintain a trusting, cooperative relationship with the community they serve. Thus, it is in the best interest of both citizens and the police to make police accountability a priority in the USA.

During the last decade, there has been some effort to increase police accountability at the local, state, and federal levels in the USA. For example, many municipalities have implemented civilian review boards to increase police accountability. Review boards vary in composition, size, and function; however, a shared element across all civilian

review boards is that citizens are actively involved in the oversight of the police. Over half (61%) of the 100 most populated cities in the USA have a civilian review board, with 22 boards created since 2014 (Fairley, 2020). In December 2020, the [National Association for Civilian Oversight of Law Enforcement Website \(2020\)](#) listed 131 civilian review boards located in cities across the USA (this count does not include jurisdictions that utilize police auditors/monitors). The number of civilian oversight boards fluctuates over time as new boards are created and others are revamped, suspended, or abandoned.

Many municipal police agencies have also employed body cameras to increase officer accountability. The Bureau of Justice Statistics reports that 47% of police agencies utilized body camera technology in 2016 (Hyland, 2018). Early intervention (EI) systems are another common accountability tool used by some police agencies. EI systems are data-driven programmes that track problematic performance by police officers so that supervisors can intervene before officers' problematic behaviours result in citizen complaints, costly litigation, incidents resulting in serious physical harm or death to citizens or officers, or police officers losing their jobs (Walker et al., 2000). Law Enforcement Management and Administrative Statistics (LEMAS) data indicate that 44% of all reporting police agencies utilized EI systems in 2007, with larger police agencies adopting EI systems at twice the rate as small police agencies (Shjarback, 2015).

Many police executives across the USA have changed use of force policies, and now provide specialized training to reduce the likelihood that officers will use (or misuse) deadly force. A recent study using shooting data from the Dallas (TX) Police Department found that a policy which requires mandatory reporting of firearm 'pointing' was associated with a reduction in 'threat perception failure' shootings (when officers mistakenly shoot someone because they believed that the person had a weapon) (Shjarback et al., 2021). In

addition to the use of force policy changes, some police agencies provide officers with de-escalation training to reduce the use of force during encounters with community members. In 2017, 16 states across the USA had mandated de-escalation training for police officers; however, many states have no minimum number of hours set for this type of training (Gilbert, 2017). The statistics associated with each of the previously mentioned accountability strategies indicate that some municipal-level community leaders and police executives are taking steps to increase accountability within their organizations and communities.

Many state political leaders are also responding to the renewed call for police reform by passing legislation meant to increase police accountability. According to the Vera Institute of Justice, 34 states and the District of Columbia passed 79 bills, executive orders, and resolutions making changes to laws associated with police accountability in 2015 and 2016 (Subramanian and Skrzypiec, 2017). This is a notable increase as there were approximately 20 changes made to laws associated with police accountability from 2012 to 2014.

Some recent examples of state-level police reform include the following: In July 2020, Connecticut passed a police reform law that makes it easier for citizens to file lawsuits against individual officers in state court (Polansky, 2020). The catch is that officers will only be held financially liable if it can be proven that they knowingly broke the law. This law does not erase qualified immunity; instead, it creates a more thorough review process, which can result in the decertification of officers involved in misconduct. In December 2020, Massachusetts Governor Charlie Baker, signed legislation that included the creation of a new civilian-based panel that can revoke officers' licenses for involvement in misconduct, and requires police officers to intervene if they witness fellow officers using unnecessary or excessive force (Stout, 2020). In January 2021, the Illinois General Assembly passed legislation that requires every

police officer in the state to eventually be equipped with a body camera (Petrella, 2021).

New York Governor Andrew Cuomo initiated state-wide police reform when he issued an Executive Order in June 2020 requiring all 500 police departments across the state to create and submit accountability plans by spring 2021 (Villeneuve, 2020). Each agency must create a formal accountability plan using guidelines provided by the Governor's Office which includes changes related to community engagement; increasing transparency by making agency data and policies accessible to the public; civilian oversight of the police; utilization of accountability-based technology within police agencies (such as EI systems and body cameras); strategies to reduce racial disparities in police-citizen interactions; and changing the culture within New York police agencies, to name a few (New York State Police Reform and Reinvention Collaborative: Resources and Guide for Public Officials and Citizens, 2020). Any police agency that does not submit an accountability plan to the state will no longer be eligible for future funding (New York State Governor's Website, 2020). This executive order increases the likelihood that police agencies will take the necessary steps to increase accountability because their funding is contingent upon it. Another benefit resulting from this executive order is that police reform will occur within hundreds of police agencies all at once, instead of just a few agencies choosing to make changes.

During the last decade, the most significant step taken to increase police accountability at the federal level took place in 2014, when President Barack Obama created the President's Task Force on 21st Century Policing. The purpose of this Task Force was to examine police-related problems and recommend actions resulting in police reform. The Task Force made several recommendations aimed at repairing fractured police-community relationships. Specifically, they recommend that police officers utilize procedural justice strategies when interacting with residents in their

communities. Procedural justice involves police officers treating citizens in a way that makes them believe that they have been treated fairly, with respect, and that they were given an opportunity to explain their actions during encounters with the police (Tyler, 1988). This strategy is based on the idea that citizens will view the police as a legitimate group if they believe that the police treated them fairly.

De-escalation training and changes to department use of force policies are also specifically mentioned in the action steps of the Task Force Report. Even though there is no consensus on a definition of de-escalation within the context of the policing profession; in general, it has been described as training that teaches officers to slow down, create space between themselves and the citizen involved in the interaction, and to use communication strategies to defuse volatile situations that could otherwise result in some use of force (Engel *et al.*, 2020). The Task Force report also advises police agencies to change department policies to mandate that officers use de-escalation techniques when they encounter potentially dangerous situations. Some police agencies now require officers to file formal reports describing how they utilized de-escalation techniques during volatile situations. After the death of George Floyd during the summer 2020, the Minneapolis (MN) Police Department changed its use of force reporting policy to require all police officers to document how they utilized de-escalation techniques during dangerous encounters, regardless if they ended up using force or not (Forliti, 2020).

In addition to procedural justice and de-escalation, the Task Force recommends that police agencies operate in an open and transparent manner to increase trust and legitimacy with the public. An example of this includes the police providing public access to information, such as citizen complaints filed against officers, police–citizen contact data, arrest data, as well as public access to department policies (including use of lethal and non-lethal force policies). A simple way that

transparency can be achieved is by police agencies posting this information on department websites (perhaps included in annual reports), where it is easily accessible to community members. Furthermore, the Task Force suggests that police agencies involve citizens in the development and alteration of department policies. This collaborative effort allows public voices to be heard and it also signals to the public that the police value their input.

Another central theme found within the Task Force report includes increasing police accountability. Task Force members believe that increased accountability contributes to police legitimacy by ensuring that officers will do their job based on police training, department policies, and taking actions based on formal law. Increased accountability also means that officers will be properly supervised while on duty, by police supervisors on the streets and in some cases, also by virtual supervision using technology, such as body cameras and EI systems to monitor officer performance.

Despite efforts to increase accountability at the local, state, and federal levels, we continue to see media accounts of police-involved shootings and acts of police misconduct. These incidents also continue to involve people of colour at a disproportionately high rate. It would be naïve to think that these incidents would completely stop after police agencies begin utilizing accountability strategies; however, it is reasonable to expect that we would see fewer of these incidents over time.

Currently, it is difficult to identify specific trends associated with acts of non-lethal police misconduct on a national level, because police agencies are not required to track and report these incidents in any systematic way. In addition, American police agencies only recently started reporting police-involved shootings to the Federal Bureau of Investigations (FBI) in 2019. Unfortunately, only 41% of all federal, state, local, and tribal police agencies voluntarily submitted shooting data for 2019, and participation only increased to 42% in 2020 (Federal Bureau of

[Investigations Website, 2021](#)). To be able to accurately assess how and if police accountability strategies influence the prevalence of police-involved shootings and acts of police misconduct, all American police agencies would have to be required to report these incidents to the FBI annually. In addition to the lack of systematically collected data, there are several factors that may impede the progression of police accountability efforts in the USA.

## Obstacles to police accountability

The decentralized nature of American policing, which consists of over 18,000 independent local and state police agencies, makes police reform on a national level difficult and slows the progress of reform down to a snail's pace. It is likely that we are not yet seeing any significant changes related to police accountability on a national level because some police executives have not taken any steps to make accountability a priority in their organizations. The police executives that have taken steps to increase accountability or are planning to take those steps in the future, face several barriers both before and after implementation that can hinder the success of these accountability strategies.

### Lack of 'buy-in' by police personnel

A lack of 'buy in' by police personnel is a potential roadblock to increasing accountability within American police agencies. Some patrol-level officers and supervisors may not support the use of accountability strategies and technology. For example, research conducted on police officers' perceptions of body cameras has generally found that officers have positive or neutral feelings towards the use of body cameras, and in some cases, officers' perceptions of this technology became positive over time ([Maskaly et al., 2017](#); [Lum et al., 2019](#)). There are also studies that found some officers are resistant to the use of body cameras as they believe it will increase the likelihood of them

being disciplined for minor policy violations, reduce their ability to use discretion, and create issues regarding officer safety and privacy ([Headley et al., 2017](#); [White et al., 2018](#); [Young and Ready, 2018](#)). There is also some evidence that command staff and police supervisors do not fully support the use of body cameras ([Smykla et al., 2016](#); [Snyder et al., 2019](#)). To increase 'buy-in' for any police reform strategy, officers and supervisors should be given an opportunity to provide input prior to implementation, and police leaders should be prepared to answer questions that police personnel have regarding proposed changes within their organization ([Rosenbaum and McCarty, 2017](#)).

The lack of 'buy in' by police personnel may also be influenced by the culture found within police organizations. Police culture involves officers' attitudes associated with cynicism and mistrust of citizens and supervisors, authoritarianism, loyalty to fellow officers, resistance to change, aggressive enforcement of the law, and secrecy ([Paoline, 2003](#)). Many of the Task Force recommendations, such as an increase in the oversight and accountability of officers, transparency of organizational data and operations, and increased collaboration with members of the public, diametrically conflict with many of the attitudes associated with police culture.

### Limited research on the efficacy of police accountability strategies/tools

When making the decision to implement strategies to increase officer accountability, police executives should seek out practices and technology that have been deemed effective through scientific evaluation. Unfortunately, police executives will find limited research (and in some cases conflicting research) on the effectiveness of many of the accountability tools/strategies recommended by the Task Force.

For example, limited research has been conducted on the efficacy of EI systems. The few evaluations that have been conducted on this

accountability tool produced mixed findings. A systematic review of research on EI systems identified only seven studies conducted in the USA during the last two decades (Gullion and King, 2020). Walker *et al.* (2000) conducted one of the earliest evaluations of EI systems in police agencies in Minneapolis (MN), Miami-Dade (FL), and New Orleans (LA). All three police agencies reported reductions in use of force and citizen complaints filed against officers after the implementation of an EI system. An evaluation in the Pittsburgh (PA) Police Bureau found a reduction in use of force and search and seizures a year after the EI system was implemented as part of a consent decree agreement (Davis *et al.*, 2005). Similar findings emerged from an evaluation within the Los Angeles Sheriff's Department. Researchers discovered a reduction in use of force, citizen complaints, officer-involved shootings, and litigation related to use of force (Bobb *et al.*, 2009). Research in a northeastern police department found a reduction in citizen complaints, but also discovered that arrests (including proactive arrests) also decreased after an EI system was utilized, suggesting that police officers may have been avoiding contact with citizens (Worden *et al.*, 2013)—this is sometimes referred to as de-policing or no contact, no complaints policing.

Two of the seven evaluations reviewed by Gullion and King (2020) discovered problems with the accuracy of EI systems. Specifically, an EI system in a southern police department did not flag police officers with the highest number of force incidents (Lersch *et al.*, 2006). This is problematic as the purpose of an EI system is to identify officers exhibiting poor work performance, and alert police supervisors so they can intervene before officers' behaviours result in something more serious (such as serious injuries or death, or loss of employment for officers). Another study analysed LEMAS data from 2003 and 2007 to see if police agencies that utilize EI systems experienced a change in rates of citizen complaints of force (Shjarback, 2015). This study also looked for any

differences in the success of EI systems in police agencies that voluntarily use EI systems compared with agencies that were mandated to use this technology as part of a consent decree agreement. The findings revealed no statistical differences in the mean rates of citizen use of force complaints after EI systems were utilized by police agencies or differences in the mean rate of force complaints when comparing police agencies that voluntarily implemented EI systems with agencies that were mandated to do so.

A study published shortly after the review by Gullion and King (2020) also found problems with the effectiveness of an EI system. James *et al.* (2020) analysed a random sample of police–citizen incident reports for officers who were flagged by an EI system, along with reports for officers who were *not* flagged by the EI system to determine if there were differences in officer performance. In general, they discovered that officer performance was similar when comparing the two groups. This means that the EI system was not able to distinguish officers with problematic performance from those who were not flagged by the EI system. The only differences found between the two groups of officers were that officers flagged by the EI system performed slightly better during the 'observe and assess' phase of crisis situations, and were slightly more likely to use reasonable force against suspects when compared with officers who had not been flagged by the EI system (James *et al.*, 2020). Also, women were over-represented in the group of officers flagged by the EI system in this police agency.

When considering the mixed results produced from the limited number of EI system studies, police executives may be left wondering if EI systems will help them increase accountability within their organizations, and if implementing an EI system is worth the financial investment. Additional research is needed to better understand the complexities associated with this accountability tool.

The Task Force report also recommends that police executives provide de-escalation training for officers to reduce the use of physical force, keeping

both citizens and officers safe. But, does this training influence officers' attitudes and behaviours during dangerous encounters with citizens? Robin Engel *et al.* (2020) recently conducted a systematic literature review of published evaluations of de-escalation training. They identified 64 publications that fit the criteria for inclusion in their review. They discovered that there are no publications featuring an evaluation of the efficacy of de-escalation training in the criminal justice discipline. Most of the evaluations were conducted on de-escalation training in the professions of nursing and psychiatry, and only 3 of the 64 evaluations used adequate research designs that could draw out any meaningful conclusions regarding the impact of the training (Engel *et al.*, 2020). The fact that there is no scientific research on the efficacy of de-escalation training within the context of policing leaves police executives in a situation where they must make decisions about utilizing this type of training without any real evidence that it will work.

Civilian oversight boards are also mentioned in the action steps of the Task Force report as a mechanism to increase police accountability. Community leaders will struggle to find research on the effectiveness of oversight boards, even though they have existed in the USA as far back as the 1920s (De Angelis *et al.*, 2016). Researchers have struggled with evaluations of civilian oversight boards because there are several types of boards with varying composition, structure, and operational differences (Ferdik *et al.*, 2013). There is also difficulty in deciding which outcome measures to use to determine effectiveness.

A few researchers have examined the impact of civilian review boards on police outcomes using sustained complaints against police officers as a measure of effectiveness. In 2006, Matthew Hickman analysed citizen complaints of police use of force drawn from the 2003 LEMAS dataset. He discovered that police agencies located in jurisdictions with civilian review boards had a higher rate of force complaints (11.9 per 100 officers) compared with police agencies in jurisdictions without

civilian review boards (6.6 per 100 officers). He also found that the overall percentage of sustained complaints was lower in jurisdictions with civilian oversight (6%) compared with jurisdictions that did not have civilian oversight (11%) (Hickman, 2006). Police agencies that used internal affairs to investigate complaints of force had a slightly higher percentage of sustained complaints (8–9%) compared with police agencies in jurisdictions with civilian review boards (6%). This finding is surprising since a common reason that jurisdictions implement civilian review boards is because of the perception that citizen complaints will less likely be sustained if the police (internal affairs) are policing themselves.

Several years later, Terrill and Ingram (2016) analysed citizen complaint data from eight cities across the USA. They found that citizen complaints were 78% more likely to be sustained in jurisdictions where the disposition decisions of complaints made by internal affairs were also reviewed by an external civilian oversight board (Terrill and Ingram, 2016). There are many contextual factors that could explain the differences in the findings from the Hickman (2006) and Terrill and Ingram (2016) studies including the local political climate within individual jurisdictions, the composition and structure of the oversight boards, and the presence and strength of police unions, to name a few. Additional research is needed to better understand the impact of civilian oversight boards on the accountability of officers.

There is one accountability tool that has received a significant amount of attention from researchers—police body cameras. A recent study identified 119 published reports and peer-reviewed studies on police body cameras as of the end of December 2019 (Gaub and White, 2020). Many of these studies examine the extent to which body cameras influence the behaviours and attitudes of officers and citizens. The early studies looked for behavioural changes using outcome measures such as use of force incidents and citizen complaints. Many of the early studies found positive results—

specifically, a reduction in the use of force and citizen complaints (see [Maskaly et al., 2017](#) for an overview of early literature).

Two recent reviews by Cynthia [Lum et al. \(2019, 2020\)](#) produced less positive assessments of this technology. After conducting a review of 70 studies, [Lum et al. \(2019: 93\)](#) concluded that body cameras ‘have not had statistically significant or consistent effects on most measures of officer and citizen behavior or citizens’ views of the police’. Lum reviewed 30 body camera studies for her 2020 publication—this time only including studies that utilized randomized controlled trials or quasi-experimental research designs, and that measured police and citizen behavioural outcomes ([Lum et al., 2020](#)). They concluded that body cameras do not have significant effects on officers’ behaviours including use of force, making arrests, and other activities. However, they did find that body cameras reduced citizen complaints filed against police officers, but were unsure why complaints declined ([Lum et al., 2020](#)).

The conflicting assessments of the efficacy of body cameras could leave some police executives wondering if they should invest or continue to invest in this technology. A recent report by the [Police Executive Research Forum \(2018\)](#) noted that the most common reason given by police leaders to deploy body cameras was to promote accountability, transparency, and legitimacy. If police executives are unsure that body cameras will help their agency promote these items, their decision to implement body cameras becomes difficult.

### Limited resources

Police executives interested in utilizing accountability strategies within their organizations must find resources to pay for that expense. Changes made to department policies and training often require additional expenditures of agency resources. All the accountability tools/strategies previously discussed in this article require a significant financial commitment. For example, in a June 2020

memo, Police Chief Williams of the Phoenix (AZ) Police Department stated that ‘costs for a new EI system ranged from \$952,000 to \$2.08 million, which does not include personnel or additional hardware costs needed to support a new system’ ([City of Phoenix - Office of the Police Chief, 2020](#)). A report by the Police Executive Research Forum (PERF) lists the total annual cost for one body camera ranging from \$1,125 up to \$2,883, which includes the cost of the camera, data storage, equipment maintenance, and staff ([PERF, 2018: 52](#)). These prices may be manageable for police agencies employing a small number of officers; however, the costs will add up quickly as the size of the police agency increases.

It has been suggested that local and county-level governments could cover the costs (or some of the costs) associated with accountability-based police reform by using resources that are otherwise used to pay for costly litigation. Some municipalities and counties across the USA include a line item in their annual budgets devoted to anticipated payments for liability and litigation cases involving police personnel ([Archbold, 2005](#)). In New York City, the Office of Management and Budget set aside \$697 million in 2019 and \$733 million in 2020 to pay for liability and litigation-based payouts associated with city employees ([Carrega, 2020](#)). Payouts specifically associated with New York Police Department (NYPD) officers include \$237.4 million in 2018 and \$220.1 million in 2019 ([Carrega, 2020](#)). Los Angeles (CA) county also sets aside funds for anticipated litigation and liability payouts annually. For fiscal year 2018–19, the budget included \$148.5 million for anticipated litigation/liability claims; \$91.5 million of that was used to pay for settlements and judgements involving employees of the Los Angeles Sheriff’s Department ([Carrega, 2020](#)). It could be argued that the resources set aside for anticipated litigation and liability payouts should be used to invest in accountability strategies that could ultimately reduce litigation and liability incidents involving officers in the future.

There is limited information on the cost-savings resulting from the implementation of accountability-based strategies and technology, and most of this research focuses on body cameras. A 2017 study conducted within the Las Vegas Metropolitan Police Department revealed a cost-savings associated with the use of body cameras. Specifically, the researchers discovered an annual estimated cost savings of \$2,909–\$3,178 per user, due to fewer complaints of misconduct and having to use fewer resources to investigate allegations of misconduct (Braga et al., 2017). The *Police Executive Research Forum* (2018) conducted a cost–benefit analysis looking at lawsuits and body cameras. They found a reduction in litigation costs after body cameras were implemented in Mesa (AZ), Phoenix (AZ), but not in Dallas (TX). The researchers noted that caution should be taken when interpreting these findings because litigation data are sensitive to outliers and the outliers may be independent from effects of body cameras (*Police Executive Research Forum*, 2018). Additional research is needed to fully understand the extent to which accountability strategies and tools reduce liability and litigation costs.

Finding extra resources to cover the expense associated with the implementation of accountability tools is likely to be a challenge in most jurisdictions across the USA and would likely be even more challenging in jurisdictions where local governments are defunding the police. In the past, the federal government has made resources available to police agencies to ease the financial burden associated with police reform. In 2015, President Obama worked with the Department of Justice to provide \$20 million in competitive grants to police agencies interested in utilizing body cameras (Fritze, 2015). In 2016, the Department of Justice provided \$12 million to support the Collaborative Reform Initiative for Technical Assistance (CRITA) programme. The CRITA programme was a voluntary process by which law enforcement agencies could request help from the federal government to evaluate and suggest changes to

policies and practices with the goal of improving their relationship with their community and ultimately increasing accountability, without the worry of financial costs (Charles, 2017). Unfortunately, the focus of the CRITA programme dramatically shifted away from accountability and towards crime control in 2017 after the change in presidential administration (Barrett, 2017). Fewer resources directed towards accountability-based police reform by the federal government in recent years have likely contributed to the slow progression of police accountability in the USA.

### Lack of support from the federal government

Earlier in this article, the creation of the *President's Task Force on 21st Century Policing* (2015) was identified as one of the most influential steps taken by the federal government to increase police accountability in the USA. The Task Force report continues to serve as a valuable guide for police executives interested in making changes within their organizations today. In addition to creating the Task Force, the Obama administration also provided financial resources for police agencies interested in implementing technology meant to increase accountability (such as body cameras), and also supported federal oversight of police agencies involved in controversial shootings and that have been accused of civil rights violations (Faturechi, 2020). The federal government played a significant role in leading the effort to reform policing in the USA from 2008 to 2016.

With the change in administration in 2017, many of the accountability-focused reform efforts that started during the Obama administration were radically altered or discontinued. As discussed in an earlier section of this article, significant changes were made to the CRITA programme in 2017 when the accountability-based focus of that programme was redirected towards crime control (Barrett, 2017). The decision to shift the focus of the CRITA programme was heavily criticized by people involved in police reform

during the Obama administration. Ronald Davis, former head of the Community Oriented Policing Services (COPS) Office, suggested that the changes to the CRITA programme no longer make it collaborative reform as there would no longer be any in-depth assessment of police policies and practices by a neutral third party (Mallonee and Watkins, 2017). Instead, police agencies receive training and strategies centred on crime reduction, which is something that the COPS Office already provides police agencies.

Another accountability-based practice that receded under the Trump administration is the use of pattern or practice investigations by the Department of Justice. Pattern or practice investigations are used to reform consistent practices of excessive force, biased policing, and other unconstitutional practices by police officers (Civil Rights Division—US Department of Justice, 2017). These investigations are conducted to ensure that police agencies lawfully and fairly provide services to people in their communities. In instances where there is evidence of a pattern of police misconduct, police agencies work to resolve the issues using an order enforced by a federal court called a consent decree. Twenty-five consent decrees were initiated during the Obama administration, while just one investigation was initiated during the 4 years of the Trump administration (Valverde, 2020). The lack of interest in federal oversight of police agencies was confirmed when then US Attorney General Jeffrey Sessions proclaimed that ‘it is not the federal government’s responsibility to manage non-federal law enforcement’ (Valverde, 2020).

With the most recent change in administration at the federal level in 2021, the pendulum could swing back to the place where police accountability is held at a high level of importance by the federal government. While on the campaign trail, Joe Biden hinted at this change when he committed to properly funding the COPS programme so that it can play a role in the reformation of American police departments, and he vowed to empower the US Department of Justice to hold police agencies

accountable for abuses or acts of misconduct (Joe Biden.com, 2021). We will likely learn more about President Biden’s plan to reform American policing in the near future.

### Police unions

Prior to the 1960s, police unions had little influence in police governance in the USA. An increase in public criticism directed towards the police during the 1960s led to the emergence of legally recognized police unions (Walker, 2016). Early on, the work of police unions centred on activities typical to most unions, such as securing fair salaries, benefits, and safe working conditions. As police unions gained strength in the 1970s by increasing their membership and creating strong political connections, the scope of their work expanded beyond the typical activities of unions.

Today, police unions are considered an influential force in many American police agencies. They influence operational elements within police organizations, which in turn, limit the authority of police leaders. Some police unions have become deeply entrenched in politics. This involvement is demonstrated by them creating political action committees to make financial contributions to candidates running in elections at the local, state, and federal levels (Perkins, 2020). Records from the US House and Senate indicate that police unions have spent approximately \$47.3 million at the federal level for lobbying and campaign contributions in recent elections (Perkins, 2020). Campaign contributions provide police unions with leverage to influence decisions made regarding city charters and state legislation, which ultimately impact the work of police officers. Police unions also use their resources to shape public perceptions of political candidates. For example, some police unions sponsor advertisements which suggest that a candidate is ‘soft’ on crime, which in turn, can influence whether the candidate will win his/her political race (McCorkel, 2020). The ability of police unions to influence political

leaders has led to the creation of contractual and legislative barriers that can thwart police reform efforts. As a result, police unions have been identified as a major impediment to the progression of police accountability in the USA (Walker, 2012).

Police unions use the collective bargaining process to negotiate contracts that include myriad restrictions related to investigations and disciplinary actions involving police officers, as well as general oversight of the police (Rushin, 2017). It is common for union contracts to contain requirements allowing officers to challenge adverse personnel decisions made by their superiors (Rushin, 2017). In some jurisdictions, union contracts override city charters, state laws, and have even stalled the enforcement of federal consent decrees in several cities across the USA (Emmanuel, 2016; Barker et al., 2020). Police union contracts are negotiated in private settings in all but eight states in the USA, which leaves no opportunity for scrutiny or feedback from the media or community members (McCorkel, 2020).

Police leaders struggle to hold officers accountable when restrictions are placed on the procedures used to investigate officers accused of misconduct. Collective bargaining agreements dictate how investigations will be conducted including the time of day that officers can be questioned, how long officers are questioned, as well as the number of investigators that can be present during questioning (Bellisle, 2020). It is also common for police officers to review all the evidence against them prior to them being questioned (McCorkel, 2020). In some jurisdictions, police officers involved in deadly force incidents are given a specified period before they can be questioned about the incident and can have a union representative or attorney present during questioning (McCorkel, 2020). Many collective bargaining agreements include restrictions requiring that only sworn police personnel can be involved in the investigation of police officers. This means that it would be next to impossible to create a civilian

oversight board in these jurisdictions, or the oversight board would be severely limited in its involvement in the investigation of officer misconduct (which defeats the purpose of having an oversight board).

Police unions also have a say in the process citizens use to file formal complaints against police officers. Some jurisdictions require citizens to notarize their complaints before they are turned in for investigation, and in some cases, citizens are required to provide sworn statements or videotaped testimony to accompany formal complaints (Honolulu Police Department Website, 2021). Union contracts also determine how long citizens have to file a complaint after an incident has occurred. If they fail to file a complaint within the specified period, their complaint will not be investigated (Levinson, 2017).

Collective bargaining agreements also influence the use and handling of officer employment records, including disciplinary records and recordings of officers on duty. 'Purge clauses' make it difficult to identify which officers have a history of misconduct allegations because police unions require police agencies to destroy disciplinary records after a specified period of time (typically 2–5 years; McCorkel, 2020). Purge clauses also make it difficult for police agencies to implement EI systems, as it is typical to use a variety of officer records as measures to track problematic work performance. Also, police departments interested in utilizing body cameras would have to negotiate who would have access to body camera footage, and how long the footage will be stored by the police agency.

Another way that police unions exert control over accountability efforts of police leaders is to require that police officers have the right to appeal decisions made in disciplinary cases to an arbitrator or arbitration board. In some jurisdictions, police unions get to choose which arbitrators are included in a pool that is used when officers file appeals of decisions made by their superiors (Burger, 2017). This has led to some police chiefs

choosing not to take any disciplinary action against officers who deserve it, or allowing officers to resign (instead of being punished or fired), which means that officers leave the agency with a clean record allowing them to seek employment in another police agency without any problems (Barker *et al.*, 2020).

Arbitration can also lead to the rehiring of police officers who have been previously fired, often with retro-active pay (Bellisle, 2020). This makes it difficult for police leaders to permanently remove officers involved in acts of misconduct and misuse of force. This issue was highlighted during the summer of 2020 after the death of George Floyd in Minneapolis, MN. The *Star Tribune* revealed that over the last 20 years, approximately half of the 80 police officers who were fired by police agencies across the state of Minnesota were rehired after they appealed to an arbitration board (Bjorhus, 2020). Rehiring fired police officers is not just a problem in Minnesota. In 2017, the *Washington Post* reported that police chiefs from 37 of the largest police agencies across the USA were required to rehire approximately one-quarter of the officers they previously fired (Kelly *et al.*, 2017). The *Washington Post* article noted that officers who were rehired after being fired were involved in serious acts of misconduct including sexual abuse, lying, being drunk on duty, and driving a gunman from the scene of a shooting where someone died. Police leaders also have the option to negotiate a financial settlement to convince previously fired officers not to return to their position. This was the case for a St Anthony (MN) police officer who fatally shot Philando Castille during a traffic stop in July 2016. After the officer was acquitted of criminal charges, the city agreed to pay the officer \$50,000 not to return to his position in the St Anthony Police Department (Barker *et al.*, 2020). These are just a few examples that demonstrate how police leaders face many restrictions resulting from police union contracts when they try to hold police officers accountable for their actions.

Much of what is known about American police unions is the result of investigative reporting by media outlets. In general, there has been limited research on police unions in the USA (National Academy of Sciences, 2004). This is surprising given the level of influence that police unions have had in American police agencies for decades. Some of the research on police unions focuses on the content of collective bargaining agreements/contracts and how those provisions restrict police leaders from holding officers accountable.

Campaign Zero, is a non-profit group that analyses police practices in the USA to identify solutions to end police violence, increase police accountability, and develop legislation to reform the police (Campaign Zero Website, 2021). In 2016, this group reviewed police union contracts in 81 of the 100 most populated US cities and discovered that 72 cities allow police officers to appeal disciplinary decisions to an arbitrator or arbitration board. This review also found that union contracts in 63 cities have three or more provisions that act as barriers to accountability.

In 2017, Reuters conducted a similar analysis of 82 police union contracts in large US cities and found that most of the contracts require police departments to erase officer disciplinary records (in some jurisdictions after 6 months; Levinson, 2017). The review also discovered that in 18 cities, records of officer suspensions are purged after 3 years (in some places less than 3 years). Approximately half of the union contracts allow officers being investigated for misconduct to review the entire contents of their investigative file prior to their interrogation (Levinson, 2017). Written consent provided by police officers is required before police agencies can provide public access to documents associated with internal investigations and prior disciplinary actions taken against police officers in 18 cities. Union contracts set time limits for citizens to file complaints of misconduct against officers in 17 cities.

Stephen Rushin (2017) analysed 178 police union contracts from the largest police departments across the USA and discovered that 88% of the contracts included at least one provision that limits police leaders' ability to hold officers accountable. His review revealed that many contracts ban civilian oversight of the police; place restrictions on interrogation of officers facing allegations of misconduct; require police agencies to destroy officers' disciplinary records; prohibit the collection and investigation of anonymous citizen complaints; and limit the timeframe of internal investigations (Rushin, 2017).

Most recently, Harris and Sweeney (2021) examined police union contracts from 47 of the largest cities in the USA. They discovered that all 47 contracts had at least one provision that would impede the investigations of officers involved in acts of misconduct. Restrictions are placed on citizen complaints of misconduct in 39 union contracts. The restrictions include time limits on filing complaints, the names of complainants are provided to officers who are named in complaints, not allowing anonymous complaints to be filed, and the legal penalties for filing false complaints are printed on complaint forms. Provisions related to police interrogations were included in 29 union contracts. The restrictions include a mandatory waiting period prior to interrogations, as well as restrictions on the length of interrogations before officers are allowed a break. Finally, 45 of the union contracts include provisions related to discipline, such as expungement of records after a specified period, the use of sick leave days to offset suspension, and impose statutes of limitation on discipline (Harris and Sweeney, 2021). All the provisions found within police union contracts in this study are threats to police accountability. All of the previously mentioned obstacles to police accountability create challenges for police executives and community leaders who want to increase accountability within their organizations and communities. Many of the impediments can be overcome if police executives,

community leaders, and political leaders work together to come up with feasible solutions.

## Where do we go from here?

The title of this article includes a question regarding the progression of police accountability in the USA—gaining traction or spinning wheels? On one hand, it could be argued that police accountability is gaining traction in the USA as several police leaders are taking steps to increase accountability within their organizations, whether it be changing policies, increasing and improving training, or implementing strategies and technology meant to hold officers accountable. It could also be argued that we currently have the highest level of police accountability in the USA than any other time in our country's history. On the other hand, there is also some evidence of spinning wheels, as there is currently limited research on the efficacy of most of the police accountability tools and strategies suggested by the Task Force report; there is a lack of systematic data collection of police misconduct incidents (on a national level); there has been less support and leadership provided by the federal government in recent years to advance police accountability forward; police unions continue to negotiate contracts that contain provisions that stymie accountability efforts of police leaders, and there are still many police leaders who have not taken any steps to make accountability a priority in their organizations.

So, where do we go from here? Based on the assessment of the current state of police accountability in the USA presented in this article, we still have work to do. Advancing police accountability further in this country will only be possible through the actions and commitment of political leaders, police leaders and police personnel, researchers, and American citizens. This is a complex issue that warrants input and action from a variety of groups—this is not something that police leaders can do on their own.

The US federal government must step back into a leadership role by providing support and resources to help police agencies make changes that will enhance accountability. Government leaders must require police executives that have not taken any steps to increase accountability to do so now. It has been said that making meaningful changes within American police organizations is challenging—in fact, it has been compared to ‘bending granite’ (Guyot, 1979). However, resources and support from federal and state government could make this process less difficult.

Results from a recent survey indicate that some police leaders are looking to the federal government for help. In November 2020, the PERF analysed surveys completed by 375 police executives asking about their views of priorities for the next presidential administration. Here are some significant findings from this survey:

- Police executives identified the top two concerns for the next presidential administration as increasing public trust in the police and addressing the call for police reform. This finding suggests that some police leaders are thinking about issues (such as strengthening police-community relationships) that can be partially solved by enhancing police accountability within their organizations.
- When asked which areas they would like to see federal grant assistance available in the future, the top three answers included training, research on ‘what works’ in policing, and grants for police equipment. Police executives identified de-escalation training, bias-free policing/community engagement, and training to help officers respond to mental health calls as the top three choices of training. Body cameras and less than lethal technologies were the top two types of technologies they would like to see government funding for in the near future (EI systems also made the list but was mentioned less frequently by police executives).

- When asked which strategies they consider to be most effective in improving the police-community relationship, police leaders identified increased face-to-face contact with citizens; educating the public about policing; utilizing strategies associated with transparency, accountability, and legitimacy; and holding listening sessions on difficult topics with community members.
- When asked about their greatest hopes for help from the next presidential administration, the most common responses included federal support for law enforcement; reform measures (many identified reforms listed in the Task Force report); healing the current divide in our society between democrats and republicans, as well as between the police and their communities; become more educated about how the police conduct their work; and enhancing accountability by giving police executives the power to fire officers involved in acts of misconduct. They mentioned that they would like to see limitations placed on police unions and arbitrators, so that these groups cannot reverse their decisions related to the discipline or firing of problematic officers (PERF, 2020).

The findings from this survey create a list for the Biden administration identifying specific resources and support that police executives need to strengthen relationships with their communities and to advance police accountability in this country.

Another way that political leaders can help police executives increase accountability within their organizations is to work with police unions to remove provisions within union contracts that prohibit police leaders from holding their officers accountable. As noted earlier in this article, collective bargaining agreements often usurp city charters, state legislation, and in some cases court orders that are enforced at the federal level (consent decrees).

In the past, police unions have been unwilling to give up the protections that come along with provisions typically included in collective bargaining agreements (such as provisions that restrict police executives' ability to discipline or fire officers involved in misconduct). A recent article in the *University of Chicago Law Review* proposes federal legislation that would encourage police unions to make much-needed changes to collective bargaining agreements. Specifically, [Mogck \(2020: 4\)](#) proposes that 'police unions should receive tax-exempt status only if they implement certain indispensable accountability measures in their collective bargaining agreements. Tax exempt status is important to unions: because union dues, donations, and investment income would otherwise be taxable income, losing tax-exempt status would dramatically shrink unions' operating budgets'. This legislation would give police unions 1 year to renegotiate collective bargaining agreements. Police unions that are unwilling to renegotiate union contracts would forfeit their tax-exempt status ([Mogck, 2020](#)). To some, this proposed legislation may appear to be a bit extreme. However, it is important to remember all the ways that provisions within collective bargaining agreements can hamstring police leaders who try to hold their officers accountable.

Currently, American police agencies are not required to track and report incidents of police misconduct in any systematic way. This means that there are no national statistics on police misconduct. There is no way to know the extent of officer involvement in such acts, which in turn, means that it would be difficult to determine if accountability strategies/technology influence or change officer behaviour in any way. It is impossible to come up with potential solutions to the problem of police misconduct if we do not know the scope of this problem. Most of what is known about police misconduct in the USA is currently generated by media outlets or independent groups. It is time for the government to play a central role in the systematic collection of police misconduct

data. Similar to the collection of police shootings, federal and state government officials must encourage police leaders to collect and submit police misconduct data (annually) to a national depository (such as the FBI).

Police executives ultimately determine how important police accountability is in their organizations. There are some who have taken several steps to enhance accountability by implementing strategies and technology meant to monitor officers' work performance, increase transparency, and hold officers accountable if they choose to become involved in misconduct. These individuals need to continue their efforts. There are, however, other police leaders who have not done anything to make accountability a priority in their organizations. It is critical that these leaders act now. Police leaders should include police personnel from all ranks in the decision-making process related to the adoption of technology and strategies meant to hold officers accountable. This collaborative effort with others in the police organization could increase police personnel buy-in.

To study how and if police officers are being held accountable for their actions, police leaders need to be open to building collaborative partnerships with researchers. The only way to figure out which police accountability strategies are effective is if researchers are allowed access to data. The Police Data Initiative (PDI) is a good example of collaboration between police agencies and researchers. PDI was launched in response to recommendations in the Task Force report. This initiative is a cooperative effort by the Police Foundation, the US Department of Justice/Office of COPS and 130 law enforcement agencies across the USA ([Police Data Initiative Website, 2021](#)). This website contains datasets provided by law enforcement agencies across the country, which are accessible to the public. There are datasets that include citizen complaints, use of force incidents, assaults on officers, traffic stops, citations, and arrest, to name a few. Police agencies voluntarily upload their data to this portal. By providing data

to this initiative, police agencies are demonstrating their commitment to transparency and accountability. The Police Open Data Census is another website where police agencies make their data available to researchers. This website contains datasets on a variety of topics including response time, use of force, citizen complaints, officer involved shootings, pursuits, traffic and pedestrian stops, and citations ([Police Open Data Census, 2021](#)). More police agencies need to be willing to participate in open data projects. And it is critical for researchers to take advantage of the access to datasets to continue to study a variety of issues associated with police accountability. As noted earlier in this article, additional research is desperately needed on this topic.

People living in the USA also play a critical role in the progression of police accountability in this country. Many Americans want police reform, officer accountability, and stronger community–police relationships. A survey distributed a month after the death of George Floyd revealed that many (74%) Americans supported the peaceful protests and demonstrations occurring in response to that incident ([Ipsos, 2020](#)). That survey also revealed that most (over 90%) Americans support the ideas that police officers need to intervene when they witness acts of police misconduct by their peers, that police officers should be required to wear body cameras, and that there should be independent investigations of police agencies that exhibit patterns of misconduct ([Ipsos, 2020](#)). It is imperative that people living in the USA continue to push for police reform. They must continue to vocalize their concerns regarding the lack of police accountability by participating in peaceful protests and demonstrations. They must empower and encourage police leaders in their communities to implement accountability-based strategies and technology. And finally, they must encourage political leaders to draft legislation that will create optimal conditions for real police reform to occur.

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