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WORKING PAPER  
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# Remake the Police

*a comprehensive strategy for police reform*

**The Minneapolis Police Department Requires a Total Makeover  
as do many other departments around the nation**

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*Walter McClure*

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## The Minneapolis Police Department Requires A Total Makeover

*Walter McClure*

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### **Executive Summary**

Perceived and/or actual excessive and racially biased police violence has finally led to massive citizen demand for change, but there is confusion and disagreement what that change should be. Abolishing the police would violate goals for public safety, while measures like banning chokeholds are insufficient. The driver of the problems is a *warrior-minded* approach to policing emphasizing heavy-handed force and heavy-handed sentences to instill fear and quell and deter wrongdoing. In contrast, a new approach, *procedural justice*, places police in a position of welcome, trusted community guardians and helpers, and is notably superior on reducing police violence and racial bias, reducing crime, solving crime, and saving both citizen and officer lives.

What is the procedural justice approach? It is a disciplined policing approach that trains and manages officers how to a) always de-escalate all unnecessary use of force; b) give all people patience, respect and voice in all encounters with police; c) treat all people, white or of color, rich or poor, fairly and uniformly; and d) engage in community work and interactions that build trust and cooperation between police and all the city's diverse precincts and neighborhoods. But this approach and training will work only with officers committed to it. It will not work with warrior-minded officers who continue to think it bunk and weak despite its definitively superior track record.

Therefore this paper proposes a comprehensive strategy that is neither abolition nor piecemeal tinkering reforms, but a complete makeover. It has two key steps: (1) thoroughgoing transformation of policing approach and training, ending the current failed warrior-minded approach in favor of the superior new procedural justice approach; and (2) thoroughgoing turnover of police personnel from warrior-minded officers to officers deeply committed to the new approach. Both steps are necessary, otherwise the strategy will fail.

This is our city, these are our police who serve us daily at high risk. This strategy promises the kind of thoroughgoing transformation that our citizens and good officers want, transformation to a fair and just police force of excellence, guardians welcome in every corner of this diverse city, deservedly enjoying the gratitude and support from all of us that good policing deserves.

## **The Strategy**

I believe Minneapolis needs a police force, but a completely remade police force, a police force of excellence with 1) a complete makeover of policing approach from the current lawless “warrior-minded” approach to the fair, respectful, and racially unbiased “procedural justice” approach and 2) a complete makeover of personnel to remove all warrior-minded officers permanently from the force in favor of officers fully committed to the new approach. I believe this can be accomplished if all individuals in position to enable these two proposed steps, described more fully below, will act. If so, it can serve as a model for cities across the nation. Let there be no more George Floyds, no more Philando Castiles, anywhere, ever.

The City Council has proposed defunding, even dismantling, the Minneapolis Police Department. These proposals are a product of fully justified anger and frustration but need more careful thought. It seems to me this city, and particularly its low-income neighborhoods with gangs, drugs, and high crime, absolutely need police service and protection.

On the other hand, absolutely the last thing these neighborhoods and the city need is more of the continued widespread excessive and racially biased use of force too often characterizing this city’s police force as currently constituted. Despite its many good officers and the many good things it has done, the Minneapolis police force for decades has had far too many consistently abusive officers who have too regularly employed unjustified brutality, intimidation, bullying, and humiliation, particularly against people of color, under the pretext of being ‘tough on crime’.

This is not hearsay or exaggeration. The disastrous consequences of this so-called “warrior-minded” policing are documented in thousands of accumulated complaints: unwarranted civilian deaths, injury, and loss, requiring millions paid out by the City in settlements to the victims, while the offending officers get a few wrist slaps and continue on the force, their renegade behavior undeterred. Such warrior-minded police are not part of the community, they are a paramilitary occupying power outside the law and act like it.

The battle is not against the police. There are many brave and honorable officers to whom we owe much; they deserve all the public support we can give them. But it is also not against a few bad apples. Lawless and racially biased warrior-minded police and policing are visibly rampant across this country and have been for decades; they are a large minority in a justice system that flagrantly lets them act with impunity. Finally their violent and racially biased acts are being regularly caught on citizen videos. The battle is to remove them and their warrior approach from policing.

Everyone knows the goal. There is no disagreement. It is not simply justice for George Floyd, important as that is. The overarching goal is to accomplish enduring racial justice in policing, indeed enduring justice for all citizens, in policing and eventually all other aspects of the criminal

justice system. If that is accomplished, then Mr. Floyd and the countless others slain or assaulted by criminal police misconduct will not have suffered in vain,

To accomplish this goal, people are demanding substantive change. But there is confusion and disagreement what that change should be ... what changes might be necessary and sufficient to do the job. What has emerged is a growing grab-bag of proposed measures that don't add up. Some, such as community-led policing, are too nebulous to act on or even know what they mean. Many are ineffective gestures. For example, 'no chokeholds' may look like action but is actually window dressing that doesn't change anything: warrior-minded police can kill and assault citizens unwarrantedly with guns, batons and physical strong-arming. People should not be fooled that such window dressing is effective change. Finally, some proposed measures would throw out the baby with the bath. We need a police force, so disbanding or underfunding the police seems wholly unwise. But we demand it be a just, competent, highly professional, racially unbiased police force. What strategy will accomplish that?

When any large system ... such as our policing system ... is chronically malperforming on the goals that society expects of it, we at the Center for Policy Design have found the underlying reason is almost always that the system has flawed structure and incentives that enable and reward the observed undesired behavior and obstruct and punish the desired behavior. Therefore the effective strategy is to redesign the system so that the new structure enables and rewards the desired performance and blocks and punishes the undesired behavior. This provides a productive way to systematically discuss and develop a fully integrated comprehensive strategy to achieve the desired performance. Such a comprehensive integrated strategy which changes the structure and incentives is far more likely to be effective than an omnibus potpourri of tinkering half-measures.

Presently the Minneapolis police system trains, enables, and rewards "warrior-minded" policing in total violation of the desired goal, and obstructs any discipline against it ... an utterly flawed structure with backwards incentives. There is no way that warrior-trained officers can be disciplined into good behavior by civilian review boards no matter how strong, or by forbidding this tactic and that, such as chokeholds and no-knock warrants. The whole approach inherently escalates police violence and racial bias. It must be replaced with a superior policing approach. A properly redesigned policing system must spell out in detail a new disciplined approach to policing and to police training consonant with the goal. This approach must a) always de-escalate all unnecessary use of force; b) be applied with respect, fairly and uniformly to all citizens, white or of color, rich or poor; and c) build trust and cooperation between police and all the city's diverse precincts and neighborhoods. Fortunately there is such a new, well-researched, disciplined policing approach. It is called "procedural justice". Unfortunately almost no one is yet talking about it.

Once such a new policing approach is spelled out and adopted by the City, the approach should be 1) made official policy of the Department, and a chief be appointed wholly committed to it; 2) officers committed to and practicing it should be rewarded; and 3) officers resisting or violating it should be removed ... permanently ... from the force. This properly redirects the incentives to reward the desired performance and punish all malperformance. Therefore, and finally, 4) removing all obstacles internal and external to the department that prevent permanently removing all uncompliant officers from the force is a required part of the strategy, integral to the redesigned policing system.

In short, the strategy proposed here is neither abolition nor piecemeal measures, but a complete makeover ... decades overdue ... of the Minneapolis Police Department and all relevant bodies and rules external to it that bear on it. What would such a complete makeover look like? I believe it consists of two key steps:

- First, a complete transformation of the policing approach, from the current long-standing flawed “warrior-minded” approach to the new “procedural justice” approach, with its rigorous well-researched procedures that bar racial bias and undue violence, and build community trust.
- Second, a complete turnover of police personnel from warrior-minded officers solely to officers deeply committed to the new procedural justice approach and totally opposed to the warrior approach.

Either step alone will not work; both steps must be done together to reach the goal. Adopting a completely new policing approach without means to enforce it by hiring and firing is pointless; it will be ignored as in the past. Conversely, bringing on new officers with no well-specified new approach that they must agree and adhere to, provides no way to sort which officers should stay and which must go, allowing the Department to drift along in its old warrior ways. Thus we are not talking the frustrating token tinkering that has failed in the past and nothing changes. We are talking wholesale makeover of both system and personnel, ending the toxic culture of our present police force and building a culture of excellence.

To elaborate, let’s define the terms “warrior-minded” and “procedural justice” more carefully. “Warrior-minded” policing believes the way to reduce crime is so-called “strength”: heavy-handed force and heavy-handed sentences to instill fear and quell and deter wrongdoing. Warrior police training is about conducting war on criminals, overwhelmingly militaristic and adversarial.

The warrior premise is that every encounter is opportunity to look for criminal activity, and if anyone looks suspicious ‘in the officer’s opinion’, they should be stopped on any pretext no matter how trivial ... like a non-working taillight or putative resemblance to a suspect ... and

interrogated aggressively while looking for suspicious reactions or criminal evidence. For example, when the North Carolina State Police adopted warrior policing, the number of traffic stops doubled from 400,000 to 800,000 a year, the yield in criminal evidence was less than 0.01%, the percentage of outraged and humiliated citizens more than 99.99%. ‘Officer opinion’ opens the door freely to racial bias. For example, in Minneapolis 54% of traffic stops and 78% of searches are of black Americans, though they constitute only 19% of our residents.

Warrior training also drills police they are at risk of assassination at any moment, and to defend themselves with deadly force if necessary against any false move. Emphasis is on weapons and asserting dominance and control by intimidation and force. Security agencies, the FBI and police departments all over the country use warrior training manuals and classes. Little emphasis is placed on interpersonal skills in community interaction, fairness, service, prevention, or de-escalating all unnecessary force; indeed, such emphasis is often dismissed as “weak”.

When all this heavy force and excessive sentencing fail, as they conspicuously do, the warrior response is to up the force and the sentences, often to bizarre, very racially uneven, cruel and inhuman levels. We hear buzzwords like unshackle the police and dominate the battlespace. This failed strategy is why the United States has more domestic police violence and incarcerated citizens per capita than any other nation on earth, but no less crime.

The warrior-minded approach comprises all the macho strutting and incendiary rhetoric that more state force is the answer to all problems foreign and domestic; that anything else is “weak”; that more state force represents “strength”... rather than obtuse stupidity that can’t learn from its failures, to wit: Abroad: unending foolish, costly, losing wars, yet falling influence and stature. At home: vastly more police violence and costly incarceration wasting precious American lives, yet no less, if not more, crime than developed democracies that shun warrior policing.

When a large system rewards the wrong behavior, it attracts the wrong people ... those who like that behavior ... who then reinforce each other and dominate the people interested in the unrewarded right behavior. In the current policing system, warrior policing thus escalates and feeds on itself. It is self-rewarding to weapons-fixated individuals who like the ego-trips, power trips, strong-arming, and arrogant humiliating bullying of citizens that it enables, indeed rationalizes and promotes. (Think: stop, frisk, intimidate. Think: traffic stops that become power trips and assaults. etc.) Thus it draws individuals into police work to whom these things appeal, exactly the kind of individuals who should not be in police work. For example, regarding a man killed by police, one officer posted, “good riddance, one less thug.” “Our job,” says our local police union head, “is to keep the animals in their cages.” He has called Mr. Floyd, a man who all agreed had turned his life around remarkably, a “violent criminal”. He has called the massive protests a “terrorist movement.” Appalling. Yet the current policing system attracts and rewards such

warrior-minded individuals, glorifying their behavior as war on crime. It will continue to do so until structurally redesigned. Prosecutors and courts that still subscribe to this failed warrior approach turn a blind eye to police brutality and racial bias, and qualified immunity law has become unqualified immunity of police from prosecution even for extreme wrongdoing.

The lack of restraint or personal consequences to individual officers who exercise criminally excessive and racially biased force and get away with it, coupled with a culture of underlying systemic racism, allows the warrior-minded approach to enable and reward racial bias and undue violence in policing, and undermines trust between community and police ... to the point where, around the nation, responsible people of color avoid police and advise their children not to go to police when there is trouble, but instead seek out other adults of color. The long-standing disastrous results of such warrior policing have finally been brought to a head by the televised, agonizing ... wholly unnecessary, wholly unjustified ... police killing of Mr. Floyd.

Exactly opposite is the new “procedural justice” approach to policing. The procedural justice approach regards police as respected by, *and* respectful of, citizens ... welcome trusted guardians and helping members of the community. Procedural justice never escalates force when it can safely de-escalate it. It exercises patience and respect and, most crucially strives to protect all lives ... officers, suspects and bystanders. And the community know that when enforcement is necessary, their guardians will follow specified fair and just procedures, uniform for all ... no disrespect, no ego trips, no power trips.

For example, police did not have to arrest George Floyd, an unnecessary escalation of force. The videos show he was not violent and constituted no threat to officers or bystanders and was cooperative until they, unnecessarily, decided to arrest and take him to jail. He, a large gentle man high on drugs, balked non-violently, falling to the ground, only when ordered to enter a squad car. Its small back seat provoked severe claustrophobia, for which the officers showed neither patience nor respect. Lawfully they could have simply questioned him (did he even know his bill was fake) and given him citations for driving under the influence of drugs (and passing counterfeit money if intentional) for which he would have to appear in court. Further ... since he was in no condition to drive let alone answer questions ... in order to serve and protect Mr. Floyd and the public, officers could propose they call an ambulance to take him, accompanied by an officer, to a secured rehab unit. They could ask his companions to take care of his van until he got sobered up, and question him at the unit later after he was sober. They could propose not to handcuff him if he promised to make no trouble, otherwise they would have to handcuff, arrest, and forcefully take him to jail. Given his gentle nature and condition, most likely he would have agreed. All of this would have been safer, cheaper, and more respectful to all concerned. That is what procedural justice-minded officers might have done, and Mr. Floyd would be alive today. Instead these warrior-minded officers chose to assault and callously kill him.

The latest police killing, in Atlanta, equally acutely demonstrates the difference between the two approaches. Rayshard Brooks, a black American, was asleep and drunk in his car at a Wendy's restaurant, impeding but not blocking drive-in customers. Wendy's called the police to remove him.

The duty of police is to serve compassionately and protect courageously ... not only Wendy's but Mr. Brooks. Ascertaining Mr. Brooks was drunk, lived around the corner and had even offered to walk home, procedural justice-minded officers might have proposed, 'Mr. Brooks, you have been driving drunk and that's a serious offense, so I'm afraid we'll have to give you a citation to appear in court. But now since you're still in no condition to drive and we don't even think it safe for you to walk home, let us move your car to a vacant space on the lot here if Wendy's is okay with that, call your wife and take you home, and you can come back and get your car tomorrow, and that will save you and us and everybody a lot of time and expense.' Done. This thoughtful approach would have de-escalated all unnecessary coercion and truly humanely served and protected everyone. Mr. Brooks would be alive, and grateful to police to be spared making bail and having his car towed to an impound lot, both unnecessary and both often a racket in many jurisdictions.

Instead, it never even seemed to occur to these warrior-trained police that Mr. Brooks did not have to be arrested. They escalated force unjustifiably attempting to take him into custody. For what, being peaceably drunk? It's not a crime. For his car being a nuisance, trivially corrected? Then, when Mr. Brooks in his muddled state drunkenly resisted this unwarranted arrest, swiped a taser from an officer and began to run ... drunk people act stupidly we all know ... these warrior-minded officers, sober and in full possession of their senses, instead of letting him run home, decided that a drunken black man posing no threat was going to obey their orders even if they had to kill him. And they did.

Resisting arrest is a serious crime. Mr. Brooks' flight was unlawful, irresponsible and stupid. But were the police actions not even more so? Is it not even more unlawful, irresponsible and stupid to arbitrarily humiliate and outrage a citizen by unjustifiably arresting him for no legitimate reason, and even more so, to kill him as he drunkenly runs home, a threat to no one? Are not both arrest and shooting completely unjustifiable escalation of force? Mr. Brooks was drunk. The officers were not. Where was service? Where protection? Just whom did they think they were serving and protecting? That objective never seemed to cross their mind.

These warrior-minded police neither served nor protected Mr. Brooks, and due their egregious mishandling of what started out as merely a black American sleeping drunk in his car in the wrong place, Mr. Brooks is now dead. Had Mr. Brooks been Brad Pitt, these police would not only have driven him home, probably without a citation, but asked for his autograph!



Procedural justice policing is based on four central, well-researched principles: 1.) treating all people with dignity and respect, 2.) giving citizens 'voice' during encounters, 3.) being neutral in decision making, and 4.) conveying trustworthy motives. Its procedures, when monitored and enforced by police management, prevent intentional racial bias and gratuitous violence. Research finds citizens begin to trust officers who follow these procedures, and effective cooperation grows between police and community in preventing and apprehending crime and solving other community problems; it is thus more effective against crime than warrior policing. The principles, procedures and research on this approach are available in depth on the internet.

[www.policechiefmagazine.org/reflecting-procedural-justice/](http://www.policechiefmagazine.org/reflecting-procedural-justice/)

[https://cops.usdoj.gov/html/dispatch/09-2013/fairness as a crime prevention tool.asp](https://cops.usdoj.gov/html/dispatch/09-2013/fairness%20as%20a%20crime%20prevention%20tool.asp)

[www.sjpd.org/records/pc-13650\\_library/continuous\\_professional\\_training/principled%20policing\\_outline\\_eco.pdf](http://www.sjpd.org/records/pc-13650_library/continuous_professional_training/principled%20policing_outline_eco.pdf)

or enter “procedural justice policing” in your browser.

Procedural justice regards all people as worthy of respect, service, and protection. Warrior police training dehumanizes criminals as mere evil thugs beneath consideration. Even in routine citizen encounters police dominance and power, not protect and serve, are paramount. To procedural justice police all criminals are human beings, many poorly reared and fallen in with the wrong crowd, many as George Floyd so dramatically illustrates (but not all) capable of redemption and turning their lives around with some help from society. Incarcerating those irredeemably a threat to the public, makes sense. Sentencing many of the remainder to forms of service (military, civil) where they would have proper adult role models, discipline, and career training would likely be far more effective in restoring them productively to society than mindless undue prison terms where they remain surrounded by the same bad crowd and role models.

Which brings us to the second step. Procedural justice does not work with warrior-minded officers. Their thinking violates all its principles. They will seek to undermine and evade the new approach. They cannot be punished or persuaded out of their old ways: they must be replaced. I believe any policing reform strategy which does not do this will fail. I believe this failure to rigorously screen and remove all warrior-minded officers the single biggest factor in the failure of this City’s five-year effort, using guidelines of the 2015 President’s Task Force on 21<sup>st</sup> Century Policing, to build trust between police and community, particularly communities of color.

But too few appear to be talking about how we should screen for a new force to replace the current renegades. What should we be looking for? Commitment to the procedural justice approach provides the answer.

Thus it is essential, first, that a police chief be appointed who is deeply committed to the procedural justice approach. I believe Chief Arradondo is, and Chief Harteau and Bouza were, but so far

their hands have been tied. The chief and the City must embrace procedural justice as official policy of the Minneapolis Police Department.

That done, it is equally essential, second, that the chief be given full power to hire and fire ... to retain and recruit only officers fully committed to the new approach ... and to terminate all officers who reject it or violate its procedures and disobey orders. This is the only structural way the chief can provide the proper rewards and penalties to maintain discipline for the desired behavior. And, equally crucially, it is the only way to enable the wholesale turnover in police personnel necessary to eliminate all warrior-minded officers from the force.

New recruits should be hired and trained the same way coach Pete Carroll recruits to his Seahawks football team: not just on ability but on attitude. They must be interviewed in depth on their attitude toward racial bias and their commitment to the procedural justice approach. Recruits can be encouraged who live in local neighborhoods where policing is often needed, as knowledge of residents is often helpful in resolving problems.

Similarly, when in-depth interviews show honorable veteran officers ready and eager for the new procedural justice approach and rejecting the warrior approach, they should be retained. There are many competent honorable officers in the Department, but in the absence of effective discipline there has been little they can do. We know if they complain about excessive force or racial bias by other officers, they will be stigmatized by colleagues. Warrior-minded police management will not back them up. And procedural justice-minded management with little ability to fire or discipline can't back them up. As a result good officers simply stand aside when their all too many warrior-minded colleagues run amok. And to get along they have gone along with electing extreme warrior-minded heads of their union.

On the other hand, veteran officers who reject the new approach ... either expressly or by their later actions violating it ... should be let go, permanently. The object is to eliminate every warrior-minded officer from the force. They may still believe in this failed approach but it makes no difference, they must leave. Therefore whatever actions are necessary to assure the chief full authority to exercise and enforce his judgment on hiring and firing, must all be part and parcel of this strategy. Otherwise warrior-minded renegades can remain on the force and torpedo it. (The check on the chief himself or herself, is the City's power to appoint and remove.)

Rewards ... awards, bonuses, raises, promotions ... should now be based on successful procedural justice encounters, not on tickets, fine revenues, arrests, and convictions which only encourage undue force instead of de-escalation. For example, because of such perverse rewards, warrior-minded officers seeking to build their arrest numbers regularly troll emergency rooms for low-income citizens with outstanding fines or warrants, to the point where many sick and injured peo-

ple of color fear to come to emergency rooms. How is this service? The object should be to help people stop repeat offenses. Part of service for the police and justice system might be helping poor citizens negotiate a fair plan of restitution to adjust, work off, or pay fines on time installments, if they agree to stop repeat offenses ... restorative justice rather than costly imprisonment for inability to pay. This seems not only a humane but much more economical way to discourage repeat offenses. A negotiation that successfully discourages repeat offenses should be rewarded, and all necessary rules and sentence guidelines emended so it can be accepted by the justice system.

Certainly all officers must be kept fully trained in use of force ... they must often deal with very nasty people and with riots, and make snap life-and-death judgments. But they must also be kept equally fully trained in fair and just interpersonal procedural justice skills: all the necessary tools for enforcement with none of the disrespect, ego trips, power trips, and gratuitous force ... all the things excruciatingly evident in the appalling death of Mr. Floyd. In contrast to constant use-of-force training, presently most police training on interpersonal procedure with citizens and suspects is sporadic to non-existent.

Removing Obstacles. As noted, this wholesale weeding out of warrior-minded officers requires that the many current obstacles to the chief's authority to hire and fire officers be eliminated.

Perhaps the least visible but most fundamental obstacle to policing reform is the Minneapolis city governance structure. The city has a "weak mayor" system, a governance structure so ineffective it has been abandoned by most of the country. The Mayor presently lacks the authority to carry out the ordinances enacted by the Council. The real authority rests in the Council, but it is impossible for fourteen Council members to carry out the executive function. Essentially each city department has fourteen bosses who do not all agree with each other nor have adequate time for management oversight, and department heads are given conflicting directives by different Council members each wanting special favors for their wards, often unrelated to any ordinance or policy.

Arriving at and enacting ordinances for a city is a full-time business. Carrying out ordinances is a different full-time business. No matter how talented the Council, no matter how talented the Mayor, this structure cannot and does not work, and has been failing for years. The consequences of this flawed structure are severe. The city limps along until there is a crisis and then it stumbles badly. The failure of the police department to function fairly and effectively for years is only the most glaring and visible example. The crisis brought on by the police killing of George Floyd provoked a disastrous, utterly justified protest, sadly marked by excess violence and property damage that was completely mishandled by the city with the lack of clear executive authority and communication inherent in a strong council-weak mayor system.

It is no new thing, it is the culmination of years of inadequate city management ability and oversight due the weak mayor - strong council system. In 2015 the President's Commission on policing reform recommended many specific changes to straighten out the troubled police department, but the Council with its 14 bosses problem and compromised executive ability has not implemented any of them to date.

But police are only the most visible problem of this weak mayor – strong council system. Other city departments are also excessively ineffective, inefficient, and unresponsive, just less visible than the failures of the police department ... all for the same reason: years of structurally inadequate executive oversight and management authority inherent in our weak mayor-strong council city governance design.

The city needs a charter change to an “executive mayor-legislative council” structure that will house the legislative function in the Council where it belongs, and the executive function in the Mayor with sufficient authority over department heads that he can carry out the ordinances of the Council. Charter reform is fundamental to police reform. Any police department reform will be at best weak and short-term until the city governance structure is reformed. The two reforms go together. The City Charter Commission needs to put the new executive mayor-legislative council system on the ballot, and all voters wanting police reform need to approve it.

Another more immediate major obstacle is the present arbitration system. Bad officers cannot be removed from the force. The present incentives on arbitrators are perverse. Arbitrators are picked from a panel jointly by police management and police union. They know if they want the work (which is how they are paid), they must decide for each side half the time or they will never be picked. This is why in the past five years 46% of police fired for blatant misconduct have been returned to the force by arbitration.

One solution is that arbitrators on the panel be chosen for any given case by lottery or rotation, not by choice of the union and management. An oversight committee composed of city officials and citizens with a minority of police management and union members should appoint qualified arbitrators to the panel, and then they serve in order by lot. Then arbitrators will know they are guaranteed work even if they decide against all officers with clear misconduct. Appeal of arbitrators' decisions can be referred up to an administrative judge.

Not only policing but prosecution needs thoroughgoing reform from injustice and pervasive racial bias. Many arbitrators are moonlighting law professors. Shouldn't they and the deans of our distinguished Twin Cities law schools be called upon to work on reform of arbitration and prosecution so that both stop tolerating unduly violent officers and systemic racial bias not only in policing but in prosecution itself. Where is the diversity in arbitration panels, prosecutors and law faculty, where is concern for justice for all?

An equally major obstacle is warrior-minded police union leaders and members who undermine the procedural justice approach. These should be let go from the force for any actions violating the new policy and be disallowed membership in the union. Procedural justice-minded police should make their union a professional body that raises the standards of the profession, not defends officers who trash those standards. Good officers should want bad officers off the force.

It is time to call out legislators to help solve the police union problem. Democrats have naively given blind support to police unions, without regard that warrior-dominated police unions are among the nation's principal obstacles undermining good policing and reform. Republicans have naively given blind support to "the police", failing to distinguish good police and policing from bad police and policing. We need sophisticated legislation to support the first and eliminate the latter.

To achieve good policing, which both Parties want, both must recognize *the problem is not a few bad apples*. The problem is an unchecked warrior police culture rampant across the nation incompatible with good policing, crime reduction, and citizen confidence and trust in their police, particularly citizens of color. This ineffective, wrongheaded police policy and culture ... propagated in manuals, classes, and training ... enables and encourages lawless violent and racially biased behavior by police, glorified as war against crime. There must be new legislation to support good policing and good police unions and extinguish this warrior policing. The key feature must be to support police chiefs' ability to establish and enforce good procedural justice police department policy, and to discipline and permanently remove officers from the force who engage in warrior policing behavior and violate the policy. If legislation requires police unions to consist only of officers on the force, removing these officers will also remove them from the union.

Still another obstacle is so-called "qualified police immunity". The law provides damages against state officials who deprive citizens of their constitutional rights. But for 50 years the Supreme Court has been eviscerating this law with a legal doctrine called "qualified immunity" to protect police officers from the financial consequences if they engage in wrongdoing. The way it is now interpreted, it operates as "unqualified immunity".

Further, Supreme Court doctrine permits police officers to use deadly force when they have "probable cause" to believe someone "poses a threat of serious physical harm." The standard is highly deferential. As the Court has said, judges must make "allowance for the fact that police officers are often forced to make split-second judgments — in circumstances that are tense, uncertain, and rapidly evolving — about the amount of force that is necessary in a particular situation. In practice, these rules often prevent courts from second-guessing police use of deadly force. Even where smarter tactics ... such as procedural justice ... could have prevented death,

courts will find no violation so long as the officer can plausibly argue that he feared he was under threat at the moment he used deadly force. In these cases, emending qualified immunity won't make a difference. (The following reference exemplifies how even egregious warrior violence and racial bias are immune from prosecution: [https://www.washingtonpost.com/opinions/the-supreme-court-invented-qualified-immunity-now-a-judges-blistering-opinion-shows-why-it-must-go/2020/08/05/f72778e6-d74a-11ea-930e-d88518c57dcc\\_story.html](https://www.washingtonpost.com/opinions/the-supreme-court-invented-qualified-immunity-now-a-judges-blistering-opinion-shows-why-it-must-go/2020/08/05/f72778e6-d74a-11ea-930e-d88518c57dcc_story.html)).

Of course warrior officers have long been driving a truck of excess violence through these deferential provisions. Yet qualified immunity from criminal and civil penalties is essential to protect officers ... good conscientious, courageous officers ... when they are in fact forced to make split-second judgments in circumstances that are tense, uncertain, and rapidly evolving, and error is often possible doing the best they can. No officer would take the job without such protection.

There are two remedies. The first remedy is for when officers are not in dangerous situations requiring snap judgments, and have plenty of time to consider whether they are engaged in excessive force or wrongdoing. Here they must be held liable. But here again, whether an officer is in danger and has adequate time for decisions is a judgment call where a court would have to second-guess the officer's judgment, and only in the most obvious, egregious situations (such as the killing of George Floyd where there was neither threat nor crisis except of the officers' own making, and there was ample time for officers to make decisions) would a court feel justified to do so. And it should do so, to provide civil and criminal remedy for such blatant wrongdoing. Conscientious officers would not have to fear such a generous interpretation of qualified immunity, and it would remove blatant bad apples from the force.

Current qualified immunity doctrine must be emended so prosecutors can hold officers accountable for the more blatant criminal and civil misconduct, always generously recognizing exceptions where snap judgments are unavoidable and officers can err. Why are not law schools, judges, and prosecutors designing intelligent reform of qualified immunity law; why are they not pressuring the Supreme Court to revise the doctrine?

The second remedy is police department discipline. In a department committed to procedural justice policing, an officer's supervisors can make judgments about an officer's conduct far more nuanced than any court even in situations of crisis where snap judgement is required. If police supervisors detect an officer with a pattern of excessive force and misconduct in violation of the written procedural justice policies of the department, and neither training nor disciplinary steps shows the officer with any inclination to change his conduct, then he should be dismissed permanently from the force. It is far more important to citizen safety and justice to remove such warrior officers from the force where they can no longer do harm, even if they are not brought to justice by a court for their abusive conduct. Were there a national register of police with

misconduct dismissals, these officers would not be hired by other departments and would have to leave law enforcement, as they should.

In cases of mentally ill persons, domestic violence, and other situations where police do not have expertise, the role of the police should be as bodyguards to counselors expert in the relevant skills who take the lead. As with officers themselves, counselors should be recruited who live or have been raised in areas where these problems are frequent; knowledge of the neighborhood is often a great aid to successful resolution.

Very successful programs employing this approach are in operation. Notable is the CAHOOTS program devised in 1989 by the police department and mental health counselors in Eugene, OR. Calls to 911 that are related to addiction, disorientation, mental health crises, and homelessness but which don't pose a danger to others are routed to CAHOOTS. Program responders attend to immediate health issues, de-escalate, and help formulate a plan, which may include finding a bed in a homeless shelter or transportation to a healthcare facility. CAHOOTS does not handle requests that involve violence, weapons, crimes, medical emergencies, or similarly dangerous situations. Some calls require both CAHOOTS and law enforcement to be called out initially, and sometimes CAHOOTS calls in law enforcement, or law enforcement calls in CAHOOTS (for instance in the case of a homeless person who is in danger of being ticketed.)

#### In 2018 CAHOOTS

- responded to 20% of calls in Eugene and Springfield, Oregon, up from 17% in 2017.
- the program cost \$800,000, as compared to \$58 million for the police!

Some of these calls would not have been responded to by the police.

[https://en.wikipedia.org/wiki/CAHOOTS\\_\(crisis\\_response\)](https://en.wikipedia.org/wiki/CAHOOTS_(crisis_response))

CAHOOTS is dependent upon the availability of other services: a team may be able to talk a person in crisis into going to a hospital or a homeless shelter, but there must be a hospital or homeless shelter available to accept the person. Minneapolis is rich with such social services compared to most cities. This program makes enormous sense from a humaneness, effectiveness, policing, and financial standpoint. Good officers would welcome it. It should be replicated here.

Because the obstacles to Step 2, the ability of the chief to remake his officer personnel to support procedural justice policy, are so difficult to identify and complex to fix, I believe the most crucial action needed at present to implement this proposed police reform strategy is to convene a taskforce of all the different kinds of experts necessary to identify and propose technical and political remedies for these obstacles. It should be convened by an individual or individuals of stature in the community ... perhaps the governor, or a coalition of business, labor and activist leaders, or a prominent local foundation ... who will give it both credibility to the public and executive leadership to see that it does its job. Then all those in position to move the recommen-

dations and proposals of the task force should do their part to implement it. Until Step 2 is possible, police reform is impossible.

To conclude, the struggle for racial justice in policing will not come easily. Many inflammatory politicians still obtusely believe in the failed “strength” approach, or pander to fearful uninformed or biased voters who do. They falsely claim that coddling lawless police and policing is necessary for law and order. They use that a minority of protesters are violent as pretext to slander and ignore the legitimacy of the entire massive nationwide protest calling for racial justice in policing. They demand ever more heavy-handed warrior tactics, even police-state tactics, to indiscriminately suppress all protest, peaceful or violent, once again denying racial justice to black and other Americans of color. They call this “strong” rather than “unconstitutional”, “injustice” and “provocation.”

Such bellicose political drum-beating obtusely obscures that the present weeks of protest violence are minor compared to the lawless warrior-minded police violence endured by Americans of color, especially black Americans, every day for decades, all over this country, now documented by citizen videos. That is what is provoking many protestors, fed up with peaceful protest that has gotten nowhere, to unlawful violence to make white America listen. Even more obtusely, such drum-beating ignores the obvious and true way to end violent protest: give black Americans justice, give all Americans of color justice. Eliminate lawless, racially biased warrior-minded policing by total makeover to procedural justice policing. That will end the need for protest including violent protest.

I believe black lives matter. I believe lives of color matter. I equally believe blue lives matter. I believe the best protection for all these lives is to humanize the police force ... a complete makeover from the current paramilitary warrior approach to the humane, respectful, highly professional, racially unbiased procedural justice approach dedicated that everyone comes home alive.

I am sure there are ramifications overlooked in this proposed strategy, and comment is welcome. But knowledgeable people can improve it and make it succeed. So let me end as I started: I believe Minneapolis, as all cities, needs a police force, but a completely remade police force, a police force of excellence operating on the fair and unbiased procedural justice approach that good officers can be proud of, and deservedly winning complete support of all citizens, including citizens of color. I believe this can be accomplished if all individuals in position to enable the two proposed steps, ... from the City to the Legislature to influential voluntary and private groups ... will act. If so, it can serve as a model for cities across the nation. Let there be no more George Floyds, no more Philando Castiles, anywhere, ever. ■



**Endnote**

Protesters might note their grievances powerfully recognized by Pascal some 400 years ago:

*Having been unable to strengthen justice, we have justified strength.*

– Blaise Pascal, 1623-1662

On the other hand, ‘strength’ advocates ... particularly those claiming the mantle of Lincoln ... who attempt to dehumanize and trivialize the current massive nationwide protest as merely looters and arsonists; who incite indiscriminate violent state suppression of all dissent; who never offer one word of recognition or remedy for the rightful grievances of the protest ... the nation’s endless racial injustice to Americans of color ... might actually want to listen to Mr. Lincoln’s words:

*To sin by silence when they should protest makes cowards of men.* – Abraham Lincoln

*Force is all-conquering, but its victories are short-lived.* – Abraham Lincoln

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**End Thought:** Good officers dedicated to courageous public service have watched recent berserk warrior-policing flagrantly besmirch the honor and reputation of their brave profession on television screens across the nation. I believe good officers should seize the initiative, find good leaders among their ranks, organize and take the lead in mounting a procedural justice reform movement, not only in Minneapolis but among good officers across the state and nation, insisting police departments institute this reform. Reform will stick and work best only if it is done with the police, not to them. Activists for racial justice in policing should grasp that procedural justice reform is exactly what they are looking for, a concrete solution to the goals they have sought so long, and join with reform-minded officers to press for procedural justice reform ... officers and activists working together, instead of at war, to achieve the common goals they both seek and the nation desperately needs. Legislators, city governments, judges, prosecutors and arbitrators should help this reform movement get started and grow.

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About the Center: The Center for Policy Design is a non-profit, non-partisan policy research and design organization based in Saint Paul, Minnesota and working nationally that, using the theory and methods of Large System Architecture, develops and helps policymakers apply system redesign strategies for health care, public education, and other large systems in need of improved performance. [website: [centerforpolicy.org](http://centerforpolicy.org) ]