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Why Reforms are Not Enough: Justice and Accountability Reimagined

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WHY REFORMS ARE NOT ENOUGH: JUSTICE AND ACCOUNTABILITY REIMAGINED

Felix Sitthivong†

I. INTRODUCTION	66
II. THE LIMITS OF REFORM	67
III. THE PROMISE OF ABOLITION.....	70
IV. JUSTICE AND ACCOUNTABILITY REIMAGINED.....	72

I. INTRODUCTION

On May 25th, 2020, like the rest of the world, I watched the footage of Derek Chauvin kneeling on George Floyd’s neck for nearly ten minutes.¹ As I sat in cell C137L, staring at my TV in the Washington State Reformatory Unit in Monroe, Washington, I was horrified at what I was witnessing. I remember vividly how angry and sick to my stomach I was at the thought of police continuing to murder unarmed Black men (as well as women of color² and LGBTQIA+³ people) and how it is so normalized in our society.⁴

The footage of Derek Chauvin has sparked demands for police reform.⁵ Reformers advocate for changes to the current carceral apparatus,

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¹ Evan Hill et al., *How George Floyd Was Killed in Police Custody*, N.Y. TIMES (Nov. 1, 2021), <https://perma.cc/X3W2-H5V7>.

² Frank Edwards et al., *Risk of Being Killed by Police Use of Force in the United States by Age, Race–Ethnicity, and Sex*, 116 PROC. OF THE NAT’L ACAD. OF SCI. 16793, 16794 (2019).

³ Melanie Langness & Gabriella Velasco, “No Cops at Pride”: *How the Criminal Justice System Harms LGBTQ People*, URB. INST. URB. WIRE GENDER AND SEXUALITY BLOG (June 30, 2020), <https://perma.cc/T5XP-9K7R>.

⁴ Edwards et al., *supra* note 2.

⁵ Abby Phillip, *George Floyd Protests Have Made Police Reform the Consensus Position*, CNN (June 9, 2020, 7:32 PM), <https://perma.cc/7DWF-A8FH>.

specifically to reduce incarceration rates, while maintaining the essential structure of that system.⁶ But surface-level reforms will never address the deeper, underlying issues that continue to plague our communities. Instead, we must ground our responses to police abuse in abolition. Abolition is a political movement working towards a world without imprisonment, policing, and surveillance.⁷ Abolitionists recognize that to address the root of police brutality, we must forego the prison industrial complex entirely.⁸ In its place, we must generate solutions that inspire the type of healing in which the conditions that perpetuate violence are transformed.⁹ Sustainable solutions must be committed to a community-centered society based on love, accountability, and transparency. Simple reforms run the risk of creating strict policies that expand the reach of policing such as increasing the amount of resources being devoted to police departments and carceral facilities.¹⁰ Solutions grounded in abolition work that chip away at the power of policing can lead to reinvestment into the well-being, growth, and development of those most marginalized and impacted, such as ending militarized policing programs, ending gang enforcement policing units and tactics, ending the presence of police on campus, reducing police contact with community members, and ensuring reparations for survivors of police violence.¹¹

II. THE LIMITS OF REFORM

While reforms to policing may seem practical and positive on their face, in truth, they often only serve to bolster an already-unjust system.

For instance, multitudes of local authorities have enacted policies that increase the use of body cameras. As of 2017, 62 of the 69 “major city” police departments in the U.S. now have body-worn camera programs in place.¹² The theory behind body-cameras is that the camera

⁶ See Anna Zimmerman & Herb Geraghty, *Opposing Views: Prison Reform vs. Abolition*, REHUMANIZE INT’L (Apr. 30, 2019), <https://perma.cc/Y754-N3ZY>.

⁷ *What is the PIC? What is Abolition?*, CRITICAL RESISTANCE, <https://perma.cc/S846-6SH5> (last visited Oct. 28, 2021).

⁸ See Keeanga-Yamahtta Taylor, *The Emerging Movement for Police and Prison Abolition*, NEW YORKER (May 7, 2021), <https://perma.cc/52QW-6HPQ>.

⁹ Danielle Sered, ACCOUNTING FOR VIOLENCE: HOW TO INCREASE SAFETY AND BREAK OUR FAILED RELIANCE ON MASS INCARCERATION, VERA INST. OF JUST. 4 (2017), <https://perma.cc/5MR3-VAPG>.

¹⁰ *Our Communities, Our Solutions: An Organizer’s Toolkit for Developing Campaigns to Abolish Policing*, CRITICAL RESISTANCE 16 (Oct. 2020), <https://perma.cc/4C4L-JSX6>.

¹¹ *Id.* at 21-23.

¹² *Police Body-Worn Cameras: A Policy Scorecard*, LEADERSHIP CONF. ON CIV. AND HUM. RTS. & UPTURN, <https://perma.cc/V9EZ-67L4> (Nov. 2017) [hereinafter Leadership Conf.].

will provide transparency into police interactions with civilians.¹³ However, equipping officers with body-worn cameras actually bolsters our policing system. Large sums of money are invested into buying these cameras, taking funding away from communities. In 2021, New York State Police struck a deal with the company Axon to supply police departments with a total of 3,000 cameras and to provide secure cloud video storage, software, and technical support at a cost of \$7.6 million per year.¹⁴ While these cameras may seem like a way of monitoring the actions of “bad officers,” they only add to the ways in which police are able to increase unwarranted surveillance of people in underserved communities of color. Body cameras are promoted as a tool for police accountability but have largely functioned as evidence-gathering devices.¹⁵ To top it off, officers often retain ultimate discretion for when they can turn off their cameras.¹⁶ In George Floyd’s case, the police officers’ body-cameras and all the other cameras present did nothing to lift Chauvin’s knee.

Reformists have also argued that proper and effective police training could reduce brutality and deaths caused by unreasonable and unnecessary force.¹⁷ Some even advocate that the police should receive special training to respond to medical emergencies and mental health crises, but this would be a dangerous approach.¹⁸ Not only will this cost more money,¹⁹ it also validates the assumption that more police equals a safer society—which is just not true.²⁰ In cities across the country, a decrease in the number of police have been accompanied by a decrease

¹³ *Id.*

¹⁴ See, e.g., Craig McCarthy, *New York State Troopers Start Rollout of Body Cameras*, N.Y. POST (Apr. 1, 2021, 12:17 PM), <https://perma.cc/J5TZ-4X49>.

¹⁵ Angel Diaz, *New York City Police Department Surveillance Technology*, BRENNAN CTR. FOR JUST. (Oct. 4, 2019), <https://perma.cc/KA9J-VC3U>.

¹⁶ Leadership Conf. *supra* note 12.

¹⁷ See, e.g., *Reimagining Police Training for the 21st Century*, INST. FOR CRIM. JUST. TRAINING REFORM, <https://perma.cc/62WA-6MMV> (last visited Oct. 28, 2021).

¹⁸ Stuart M. Butler & Nehath Sheriff, *Innovative Solutions to Address the Mental Health Crisis: Shifting Away from Police as First Responders*, BROOKINGS (Nov. 23, 2020), <https://perma.cc/GU9S-32ZV>.

¹⁹ THE ROLE AND IMPACT OF LAW ENFORCEMENT IN TRANSPORTING INDIVIDUALS WITH SEVERE MENTAL ILLNESS, A NATIONAL SURVEY, TREATMENT ADVOC. CTR. 7 (2019), <https://perma.cc/NV5E-HG25>.

²⁰ Paige Fernandez, *Defunding the Police Will Actually Make Us Safer*, COSMOPOLITAN (Apr. 13, 2021), <https://perma.cc/U23W-NCMW>; Simone Weichselbaum & Wendi C. Thomas, *More Cops. Is It the Answer to Fighting Crime?*, USA TODAY (Feb. 13, 2019, 9:00 AM), <https://perma.cc/Q2PL-7GTQ> (“Data shows that the raw numbers of police have declined over the past five years, and the rate of police officers per 1,000 residents has been dropping for two decades. At the same time, the violent crime rate has also dropped.”).

in violent crime.²¹ The notion that police training will stop police from murdering citizens also furthers the idea that it is the lack of training that leads to police violence, rather than an unjust system that promotes and encourages malice in the hearts of the officers themselves.²²

It is a commonly guarded secret that the origin of law enforcement in our country comes from White America's demand for slave patrols and that mass incarceration is deeply rooted in racist ideology and a direct manifestation of America's "need" to control and disenfranchise Black men, Black women, and other marginalized communities of color.²³ In essence, Chauvin's knee was not a result of an unfortunate police encounter—it was the product of generations of oppression and control by a system that was never meant for people of color.²⁴

In our nation, officers are often exonerated or go uncharged for on-duty killings based on the justification that they were actually only following their training or department protocol.²⁵ If the training itself is deadly, how could it simultaneously be the remedy?

Once in a blue moon, an officer gets convicted of a crime, and they are sent to prison.²⁶ I'm not going to lie about my feelings, I was pretty satisfied when Derek Chauvin was found guilty of all charges for the murder of George Floyd.²⁷ The community needed a win after generations of betrayal, but what has Chauvin's guilty verdict actually changed besides locking up another problem and hoping it somehow disappears? Is a prison cell our method of accountability or just another way of discarding and hiding our issues? Did Chauvin's guilty verdict actually stop any police killings? It certainly did not stop the murder of twenty-year-old Daunte Wright. He was killed by police just ten miles

²¹ Fernandez, *supra* note 20.

²² Alain Stephens, *The "Warrior Cop" is a Toxic Mentality. And a Lucrative Industry*, SLATE (June 19, 2020, 6:00 AM), <https://perma.cc/JTW4-6LWQ>.

²³ ALEX S. VITALE, *THE END OF POLICING* 31-48 (Verso, 2017); *see also Abolish Policing*, CRITICAL RESISTANCE, <https://perma.cc/UK2A-U42X> (last visited Oct. 28, 2021).

²⁴ *See* Vitale, *supra* note 23, at 31-48.

²⁵ *See generally* Shaila Dewan, *Few Police Officers Who Cause Deaths Are Charged or Convicted*, N.Y. TIMES (Apr. 12, 2021), <https://perma.cc/K4PB-ZD2W>; *see also* Max Hauptmann, *'Warrior Mindset' Police Training Proliferated. Then, High-Profile Deaths Put It Under Scrutiny*, WASH. POST (Aug. 12, 2021, 6:01 AM), <https://perma.cc/4E2A-82XR>.

²⁶ Dewan, *supra* note 25 ("Law enforcement officers kill about 1,000 people a year across the United States. Since the beginning of 2005, 121 officers have been arrested on charges of murder or manslaughter in on-duty killings. . . . Of the 95 officers whose cases have concluded, 44 were convicted, but often of a lesser charge."); *see also* Dan Mangan, *Ex-Minneapolis Cop Derek Chauvin Sentenced to 22.5 Years in Prison for George Floyd Murder*, CNBC (June 25, 2021, 11:33 AM), <https://perma.cc/8RGU-ESJ5>.

²⁷ Eric Levenson & Aaron Cooper, *Derek Chauvin Found Guilty of All Three Charges for Killing George Floyd*, CNN (Apr. 12, 2021, 12:13 PM), <https://perma.cc/6PYV-QRLC>.

away from the very courtroom where Chauvin's murder trial was taking place, and where he would ultimately be convicted of murder.²⁸

Finding emotional relief and believing that justice is being served through a prison sentence is so ingrained in our psyches that we do not realize that all we are doing is validating the prison industrial complex, which individualizes police violence rather than analyzing and addressing it as the systemic crisis it is.²⁹ In turn, this just contributes to mass incarceration. Ultimately, police reforms fall short of accountability and continue to trick our communities into believing that somehow more of the same police practices will miraculously inspire real change.³⁰

III. THE PROMISE OF ABOLITION

In addressing police violence and the problems in the criminal justice system as a whole, we must work to regain self-determination, uplift the voices of the marginalized, and rebuild community autonomy. Strategies should focus on reducing police funding,³¹ and challenging the notion that police increase safety.³² We should also look to reduce technology in which police are able to surveil and harass the community,³³ and reduce the overall scale of policing.³⁴ Abolition isn't just about removing jails (although that is a part of the vision³⁵); it is about transforming our society into a place where we want to live.³⁶ Given that this is a broad vision, so too are the strategies for making it a reality.

²⁸ Amy Forliti, *Officer Charged in Daunte Wright Death to Stand Trial Dec. 6*, ASSOCIATED PRESS (May 17, 2021), <https://perma.cc/JZ3C-UXFR>; see also Keeanga-Yamahtta Taylor, *supra* note 8.

²⁹ Keeanga-Yamahtta Taylor notes that:

Chauvin had to be convicted for it to remain even remotely credible that, in the United States, the law protects the rights of African Americans. Pursuing such an outcome allowed Chauvin's employers and supervisors to disavow him, describing him as a rogue cop who had abandoned his training. "Policing is a noble profession," the prosecutor Steven Schleicher said at the trial. "Make no mistake, this is not a prosecution of the police – it is a prosecution of the defendant. And there's nothing worse for good police than bad police."

Keeanga-Yamahtta Taylor, *supra* note 8.

³⁰ Critical Resistance, *supra* note 10, at 11.

³¹ Mon Mohapatra et al., *8 to Abolition, Abolitionist Policy Changes to Demand from Your City Officials*, 8 TO ABOLITION 1, 2 (2020), <https://perma.cc/E9V2-3GWA>.

³² See *More Police Does Not Make Us Safer*, #BLACK LIVES MATTER BLOOMINGTON, <https://perma.cc/XZN6-VXEF> (last visited Oct. 21, 2021).

³³ Chad Marlow & Gillian Ganesan, *Stop the Police Surveillance State Too*, ACLU: NEWS & COMMENT. (Aug. 19, 2020), <https://perma.cc/B2TY-NFNA>.

³⁴ Mohapatra et al., *supra* note 31, at 4.

³⁵ Critical Resistance, *supra* note 10, at 6.

³⁶ *Id.*

Arguably the most contentious demand made by activists is one of the few which aligns with abolitionist principles: defunding and divesting from the police.³⁷ This strategy involves taking money away from police budgets and reinvesting the funds into initiatives that empower communities and keep them safe, such as services that increase access to housing, health care, food, jobs, youth programs, and education.³⁸ People need to feel like they matter and that they're not just disposable commodities that are constantly under siege.³⁹ Abolition is about building life-affirming institutions that work toward fulfilling all the needs of the community.⁴⁰ By defunding the police and prisons, we not only free up the funds to lay the pathway toward that vision, we challenge the notions that policing is the answer to all our problems and that prisons can somehow erase the unwanted parts of our society.⁴¹

A heightened police presence does not ultimately lead to a greater sense of safety.⁴² Many around me were impoverished, and we generally understood that conflict with law enforcement was inevitable. Greater police presence creates contention.⁴³ Our communities need to stop being treated like a warzone.⁴⁴ Growing up in an inner city, I noticed a constant police presence in my neighborhood. There were truancy officers at our school, gang units patrolling our block, and police around every corner. Our perception was: these officers weren't there to support us and keep us safe; they were there waiting for us to "mess up" so that they could mess *us* up! School Resource Officers ("SROs") need to be removed from schools.⁴⁵ I still do not understand why there were so many at my school. The "resource officers" did nothing to support my education. If anything, they were actually a hindrance. Not once did an officer ask me about my safety or if I was dealing with any trauma. What I do remember clearly is being confronted by officers for the color of my clothes and interrogated about my gang affiliation. Instead of creating a safe and inviting space to learn, officers utilized our school as

³⁷ Critical Resistance, *supra* note 10, at 3, 12.

³⁸ *Id.* at 3; Mohapatra et al., *supra* note 31, at 1.

³⁹ See Critical Resistance, *supra* note 10.

⁴⁰ See *Id.*; Mohapatra et al., *supra* note 31.

⁴¹ See, e.g., Amanda Fialk, *Cops Shouldn't Be First at Scene in Mental Health Crises. NYC Pilot Program Needed Nationwide*, USA TODAY (Dec. 2, 2020, 10:03 AM), <https://perma.cc/A5X8-292U>.

⁴² John Jay Rouse, *Relationship Between Police Presence and Crime Deterrence*, 58 POLICE J.: THEORY, PRAC., AND PRINCIPLES 118, 126 (1985).

⁴³ *Id.* at 126.

⁴⁴ See generally RADLEY BALKO, *RISE OF THE WARRIOR COP: THE MILITARIZATION OF AMERICA'S POLICE FORCES* (Public Affairs eds., 2014).

⁴⁵ Kendrick Washington, *School Resource Officers: When the Cure Is Worse than the Disease*, ACLU WASHINGTON (May 24, 2021), <https://perma.cc/YQ8F-LBMF>.

an opportunity to update their gang files, which would allow the gang unit to further harass us outside of school.⁴⁶ We can see a similar trend happening in NYC, where teachers and school safety officers are encouraged to treat normal teenage behaviors as potential gang activity.⁴⁷ Under the guise of safety, students can find themselves added to a gang database without their knowledge.⁴⁸

Prisons cannot continue to be the de facto answer to all of our issues. As a prisoner currently serving 65 years for murder, I can tell you right now that prisons do not work. These institutions of torture do nothing to rehabilitate their inhabitants.⁴⁹ Instead, prisons are meant to punish and discard those deemed unworthy of humanity.⁵⁰ These places are not fulfilling society's needs for safety, they are simply just remodeled plantations warehousing cheap labor and broken dreams. Prison workers in New York labor in dangerous jobs for wages over 90% lower than the state minimum wage.⁵¹

IV. JUSTICE AND ACCOUNTABILITY REIMAGINED

Change will always be a work in progress and there is not going to be a blanket fix to all of our problems. In this current system, there will always be a Derek Chauvin—and unfortunately, there will continue to be more George Floyds. For too long, we have been separated by our own legacies of trauma, and we now have the opportunity to be united by our love for our community and implement real change. Dismantling a system that we have all been socialized to accept keeps us safe. It forces us to face our fears and insecurities. That is hard work. However, in doing that work, we open the door to unlimited possibilities. Being grounded in abolition means having the courage to confront our demons. In turn, our work becomes a labor of love and responsibility. Reforms have the potential to corner us into facing the temptation of accepting the world as it is. We must look towards abolition to reimagine what it could be.

⁴⁶ See Alice Speri, *New York Schools Gang Units Pushes the Criminalization of Children*, INTERCEPT (Feb. 13, 2020, 12:45 PM), <https://perma.cc/AAC6-R5SE>.

⁴⁷ *Id.*

⁴⁸ Nick Pinto, *NYPD Added Nearly 2,500 New People To its Gang Database in the Last Year*, INTERCEPT (June 18, 2019, 11:15 AM), <https://perma.cc/5NCB-JZD8>.

⁴⁹ See, e.g., Christie Thompson & Taylor Elizabeth Eldridge, *Treatment Denied: The Mental Health Crisis in Federal Prisons*, MARSHALL PROJECT (Nov. 21, 2018, 6:00 AM), <https://perma.cc/JZ68-6WMN>.

⁵⁰ See David Dolinko, *Three Mistakes of Retributivism*, 39 UCLA L. REV. 1623, 1626 (1992).

⁵¹ Gus Fisher & Diana Kennedy, *Prison Laborers Are Paid Pennies to Maintain the Prisons They Are Incarcerated in*, TRUTHOUT (Mar. 21, 2021), <https://perma.cc/4DD8-8KKY>.