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**PROTESTS AND LAW ENFORCEMENT:  
DYNAMIC RESPONSES IN A DEMOCRACY**

by

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September 2023

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**PROTESTS AND LAW ENFORCEMENT: DYNAMIC RESPONSES  
IN A DEMOCRACY**

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## ABSTRACT

Democracy is a balance between the rights of citizens and the power of the state. Citizens have the right to protest government actions that do not align with their political or moral beliefs; the state via law enforcement is empowered to police these politically charged events. This thesis examines how citizens' rights to protest in a democracy and law enforcements' function as agents of the state help to shape, and are shaped, by democracy. The research utilized a comparative analysis and case study design to explore positive and negative impacts of specific social and political movements on democracy. This thesis also conducted a case study comparison of three metropolitan area police agencies and their respective policies for handling First Amendment assemblies as a means of comparing how different agencies fulfill their role as enforcers of laws. Key to the relationship between protestor and police is the level of legitimization one attributes to the other. For both to coevolve in a democracy, there must be a willingness to find common ground regarding legislative reforms, adoption of best practices for demonstrations, a deepening of bilateral engagement, and the strengthening of institutional transparency on the part of law enforcement.

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## LIST OF ACRONYMS AND ABBREVIATIONS

ACLED	Armed Conflict Location & Event Data Project
ASP	Armament Systems and Procedures, Inc.
BLM	Black Lives Matter
CCC	Crowd Counting Consortium
CDU	Civil Disturbance Unit
COVID-19	Coronavirus Disease of 2019
CPOST	Chicago Project on Security & Threats
CRM	Civil Rights Movement
CS	chlorobenzylidene malononitrile (tear gas)
CSIS	Center for Strategic International Studies
DC	District of Columbia
GO	General Order
MAGA	Make America Great Again
MCCA	Major City Chiefs Association
MIA	Montgomery Improvement Association
MLK	Martin Luther King, Jr.
MPD	Minneapolis Police Department
MPDC	Metropolitan Police Department
NAACP	National Association for the Advancement of Colored People
NAWSA	National American Woman Suffrage Association
NWP	National Woman's Party
OC	Oleoresin Capsicum (OC Spray)
PPB	Portland Police Bureau
RWMSM	Right-Wing Militarized Social Movement
SIT	Social Identity Theory
SPD	Seattle Police Department
WPC	Women's Political Council

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## EXECUTIVE SUMMARY

Social and political polarization are long-standing phenomena in the annals of American history. Even our most cherished foundational event—the American Revolution—was a “violent insurrection [that] divided American colonists into party-like factions.”<sup>1</sup> American history is replete with examples of social and political divides that have, in the case of the Civil War, literally divided the nation in half. Violence sometimes accompanied democratic progress in the United States, and sometimes the latter fell short of the change desired.

Demonstrations have advanced the cause of democracy, such as the women’s suffragist movement, the Civil Rights Movement, and the current social justice movement. Some movements’ impact on democracy is unclear, such as the Black Lives Matter (BLM) movement and the Make America Great Again (MAGA) ideology. BLM and MAGA are socially and politically divisive for those who oppose them.

Protests surrounding the killing of George Floyd in May 2020 and the election-related riot at the United States Capitol on January 6, 2021, demonstrate intense social and political polarization that may transform the nature of the bond between the government and the governed. Both events produced shockwaves throughout the public that raised serious questions regarding the validity of our system of governance and the institutions entrusted with its implementation. Law enforcement is perhaps one of the most visible institutions of the state authority in the United States. Attitudes regarding law enforcement have dramatically shifted to the point that the political left and the right see it as a symbol of repression.<sup>2</sup> Such hostile sentiments sparked mobilization and violence against law enforcement at protests in 2020 and 2021.

How does the right of citizens to protest, which is essential for democracy, affect law enforcement as state agents when protests focus on them? This thesis uses a

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<sup>1</sup> Nathan P. Kalmoe and Lilliana Mason, *Radical American Partisanship: Mapping Violent Hostility, Its Causes, and the Consequences for Democracy* (Chicago: University of Chicago Press, 2022), 13.

<sup>2</sup> Catrina Doxsee et al., *Pushed to Extremes: Domestic Terrorism amid Polarization and Protest* (Washington, DC: Center for Strategic & International Studies, 2022), 2.

comparative case study method to examine how and to what degree political polarization influenced protests and caused law enforcement to become a symbol and a galvanizing force behind contentious protest and violence. The research also examines levels of violence at demonstrations concerning COVID-19 mandates, civil justice protests that occurred in the aftermath of the George Floyd murder, and the multiple MAGA rallies that preceded the riot at the Capitol on January 6, 2021. These specific cases involve violent protests that made the police a symbol, resulting in numerous injuries suffered by protestors and law enforcement. To account for variations in how various law enforcement agencies handle First Amendment gatherings, I compared the policies of three agencies that have dealt with many peaceful and violent protests to explore different approaches across agencies.

Public demonstrations place society and the state—often in law enforcement mode—in confrontation. Safeguarding a citizen’s right to air their grievances with the government through *peaceful* assembly or even non-violent civil disobedience has boosted democracy in ways impossible through other means. Without the ability to protest, women would not have achieved the right to vote, the civil rights movement would not have happened, and the country will still be segregated. Protests can also be seen as a method of prodding our democratic society to live up to the ideals promised in the Constitution. A legitimate concern for further contemplation is whether the opportunity for democratic expansion is possible in a politically and socially polarized environment.

Regarding the impact of law enforcement on political and social polarization, the research revealed more of an effect on the individual officer from both types of polarization than from an institutional perspective. In the immediate aftermath of the deaths of Michael Brown and George Floyd, the de-militarization and defund the police movements had a significant impact in terms of public perception and political posturing regarding law enforcement. However, as the months of social justice protests receded, communities faced rising crime rates and significantly reduced staffing levels. Further compounding the problem was the apparent inability of agencies to hire new officers to keep pace with their losses.

The recommendations represent an attempt to refocus attention on several key areas where communities and law enforcement may agree to contribute to the conversation on how protests and law enforcement can best coexist in a democracy. They fall into four categories: legislative reforms, best practices for policing of protests, community engagement, and transparency. First, regarding policy reforms, the primary advice is to codify restrictions against the transfers of specific types of excess military equipment to law enforcement agencies. As seen in the transition between the Obama, Trump, and Biden administrations, the program is subject to political posturing. Congress should produce legislation that changes the current law to eliminate specific items from the program.

The second recommendation is to create a national commission combining subject matter experts in crowd psychology and law enforcement to create a national standard of best practices for safely and effectively handling of First Amendment assemblies. Third, messaging must distinguish between criminal conduct (i.e., destruction of property, willful injuring of officers) and peaceful assembly. The latter is a guarantee afforded to citizens in a democracy, whereas the former merits swift intervention by law enforcement.

The final recommendation is to create a national database containing the names of officers fired for cause; especially for civil rights violations and excessive use of force, to prevent them from being rehired by different agencies. To this end, there should be a centralized, independent, entity as a central repository of records of officers fired for cause.<sup>3</sup> This body would serve as a tool for hiring agencies to validate their candidates' credentials and ensure that they were not terminated for cause or resigned for any of the pre-determined list of disqualifiers. Transparency would show policing as invested in all communities nationwide and unwilling to allow unfit persons to move from one agency to another.

Democracy requires compromises between factions to strengthening its institutions and the citizenry's faith in those institutions—especially law enforcement. By highlighting the positive and the turbulent, this research attempted to show how two vital elements of

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<sup>3</sup> Russell E. Wheatley, IV, "Can National Tracking of Police Misconduct Increase Police Professionalism?" (master's thesis, Naval Postgraduate School, 2023), 56–57.

society contribute to the shaping of democracy. The precarious position of law enforcement in the post-George Floyd/January 6 environment challenges homeland security because of law enforcement's unique role as an enforcer of laws. An undermined law enforcement may lead to a governmental inability to implement laws that express the people's will or provide security for citizens.

## ACKNOWLEDGMENTS

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# I. INTRODUCTION

## A. PROBLEM STATEMENT

The Pew Research Center reports political and social polarization as the current status quo within the United States.<sup>1</sup> However, political polarization is a long-standing issue in America. Founding father James Madison penned a famous observation in Federalist 10, concluding that “as long as the reason of man continues fallible, and he is at liberty to exercise it, different opinions will be formed.”<sup>2</sup> In his work, Peter T. Coleman points to states’ rights vs. federal power during the nation’s founding, the Civil War, the civil rights struggle(s), anti-war efforts during Vietnam, and the Watergate scandal that forced a President to resign as examples of prior political contentiousness.<sup>3</sup> Antagonistic relationships may be a hallmark of politics in the United States, but there is more than mere political posturing currently at the root of our electoral divide.

Dan Balz and Clara Ence Morse suggest that the nation is faced with an increased level of political polarization. Balz and Morse argue the growing rift is caused by “shifts within the two parties that have enlarged the ideological gap between them; geographic sorting that has widened the differences between red and blue states; a growing urban-rural divide; and greater hostility among individuals toward political opponents.”<sup>4</sup> More recently, political protests surrounding the killing of George Floyd in May 2020 and the election-related riot at the U.S. Capitol on January 6, 2021, illustrate the rise in political polarization targeting law enforcement’s role in American democracy. Attitudes regarding

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<sup>1</sup> Michael Dimock et al., *Political Polarization in the American Public: How Increasing Ideological Uniformity and Partisan Antipathy Affect Politics, Compromise and Everyday Life* (Washington, DC: Pew Research Center, 2014), <https://www.pewresearch.org/politics/2014/06/12/political-polarization-in-the-american-public/>.

<sup>2</sup> Alexander Hamilton, John Jay, and James Madison, *The Federalist Papers* (Newburyport, MA: Open Road Integrated Media, Inc., 2020).

<sup>3</sup> Peter T. Coleman, *The Way Out: How to Overcome Toxic Polarization* (New York: Columbia University Press, 2021), 4.

<sup>4</sup> Dan Balz and Clara Ence Morse, “American Democracy Is Cracking. These Forces Help Explain Why,” *The Washington Post*, August 18, 2023, <https://www.washingtonpost.com/politics/2023/08/18/american-democracy-political-system-failures>.

law enforcement have dramatically shifted to the point that the political left and the right see it as a symbol of repression.<sup>5</sup> Such hostile sentiments sparked mobilization and violence against law enforcement at protests in 2020 and 2021. According to Doxsee et al., “the government, military, and especially law enforcement were the primary targets of domestic terrorist attacks and plots in 2021, comprising 43 percent of all attacks.”<sup>6</sup> These results raise the question of how and why law enforcement—federal, state, and local—became a focal point of anger and a symbol of governmental failures for the political right and left.

The precarious position of law enforcement in the post-George Floyd/January 6 environment challenges homeland security because of law enforcement’s unique role as an enforcer of laws. Both events produced shockwaves throughout society that raised serious questions regarding the validity of our system of governance and the institutions entrusted with its implementation. An undermined law enforcement may lead to a governmental inability to implement laws that express the people’s will or provide security for citizens.

## **B. RESEARCH QUESTION**

How do protests inform law enforcement responses, as an agent of the state, in a democracy?

## **C. RESEARCH DESIGN**

I used a comparative case study method to examine how and to what degree political polarization influenced protests and caused law enforcement to become a symbol for and a galvanizing force behind contentious protest and violence. My research also examined levels of violence at demonstrations concerning COVID-19 mandates, civil justice protests that followed the George Floyd murder, and the multiple MAGA rallies that preceded the riot at the Capitol on January 6, 2021. These specific cases involved violent protests that made the police a symbol, resulting in numerous injuries suffered by

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<sup>5</sup> Catrina Doxsee et al., *Pushed to Extremes: Domestic Terrorism amid Polarization and Protest* (Washington, DC: Center for Strategic & International Studies, 2022), 2.

<sup>6</sup> Doxsee et al., 2.

protestors and law enforcement. Additionally, by examining these protests, I attempted to shed light on how law enforcement can best respond to demonstrations during periods of extreme polarization when they are the targets of the protests.

The research for case studies relied on academic and journal articles and books on political polarization and the nature of protests between 2016 and 2021. To account for variations in how various law enforcement agencies handle First Amendment gatherings, I compared the policies of three agencies that have dealt with many peaceful and violent protests to explore different approaches across agencies. Additionally, I used data sets regarding polarization and the level of violence by the Pew Research Center, the Chicago Project on Security & Threats (CPOST), and other such institutions that have studied protests during these five years.

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## II. LITERATURE REVIEW

In the past decade, debates over political polarization, protest, and law enforcement have erupted in the United States. The literature provides a framework for understanding this situation and its threat to homeland security. Chapter II reviews selected scholarly contributions regarding protests and their importance in a democracy. Then, it covers the relationship between law enforcement and protest events. Finally, the last section treats political polarization in the United States and how it shapes protests.

### A. PROTESTS IN DEMOCRACY

Many scholars, such as David S. Meyer, note the essential nature of protests in a functional democracy. Meyer highlights James Madison’s view that “the guarantee of civil liberties encourages those dissatisfied with any government policy to take their claims public and to attempt to convince others to join them. Clandestine organizing flourishes when the United States retreats from constitutionally protected liberties.”<sup>7</sup> Protest, therefore, communicates citizen dissatisfaction with the government. Meyer asserts that “to understand American politics, we need to understand protest movements.”<sup>8</sup> He also writes that policies and actions of government actors—Congress, law enforcement, etc.—have the most bearing on the who, what, why, and how of protest movement actions and reactions.<sup>9</sup> Protests are integral to democratic processes because of the interconnectedness between social movements and governmental responses to them.<sup>10</sup> Appreciating the vital role of protests in a democracy is necessary for understanding its ability to shape outcomes, especially on contentious issues.

In support of such claims, Donatella della Porta also asserts that “routinized protests proliferate in normal times” and adds that action in protest movements can send shock

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<sup>7</sup> David S. Meyer, *The Politics of Protest: Social Movements in America*, 2nd ed. (New York: Oxford University Press, 2015), 21.

<sup>8</sup> Meyer, 1.

<sup>9</sup> Meyer, 2.

<sup>10</sup> Meyer, 5.

waves that generate “intense and massive waves of contention.”<sup>11</sup> Pulling from research by Robin Wagner Pacific and William Sewell, della Porta asserts that social movement studies view specific protest experiences as capable of bringing about rapid transformation.<sup>12</sup> She says protests are critical for change and merit serious consideration because they disrupt established patterns that can produce quick modifications.<sup>13</sup> Research into a movement’s ability to capitalize on periods of discord and the impact their demonstrations have on the status quo is critical for understanding the role that protests play in a democracy.

Mike King and David Waddington support della Porta’s assertions in their appraisal of the “flashpoints” model of demonstrations.<sup>14</sup> However, according to the authors, some protests are more transformational than others. Their model “comprises several integrated levels of analysis used to explain why some potentially disorderly incidents (“flashpoints”) fail to ignite, while other, ostensibly similar, incidents can trigger off [sic] an explosive social reaction.”<sup>15</sup> The Revised Flashpoints model creates a framework to assess why protests begin, how pressure builds, when negative interactions occur, and how situations resolve. It also incorporates law enforcement response into the model. Tammy Rinehart Kochel uses this model in her examinations of the protests following the deaths of Michael Brown and Freddy Gray in Ferguson, Missouri, and Baltimore, Maryland, respectively, as both protest events experienced periods of violent and peaceful protests.<sup>16</sup> The Revised Flashpoints model provides a roadmap for this analysis of protests in 2020 and 2021.

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<sup>11</sup> Donatella della Porta, “Protests as Critical Junctures: Some Reflections Towards a Momentous Approach to Social Movements,” *Social Movement Studies* 19, no. 5–6 (2020): 559. <https://doi.org/10.1080/14742837.2018.1555458>.

<sup>12</sup> della Porta, “Protests as Critical Junctures.”

<sup>13</sup> della Porta, “Protests as Critical Junctures,” 560.

<sup>14</sup> Mike King and David Waddington, “Flashpoints Revisited: A Critical Application to the Policing of Anti-Globalization Protest,” *Policing and Society* 15, no. 3 (2005): 255–82, <https://doi.org/10.1080/10439460500168584>.

<sup>15</sup> Mike King and David Waddington, “Flashpoints Revisited: A Critical Application to the Policing of Anti-Globalization Protest,” *Policing and Society* 15, no. 3 (2005): 255, <https://doi.org/10.1080/10439460500168584>.

<sup>16</sup> Tammy Rinehart Kochel, *Policing Unrest: On the Front Lines of the Ferguson Protests* (New York: New York University Press, 2022).

Scholars, such as Erica Chenoweth, agree that protests catalyze mobilizing for a cause but do not guarantee a specific outcome.<sup>17</sup> Recognizing the composition of protests helps better understand why protests matter to democracy. To this end, several writers collaborated on a National Bureau of Economic Research’s (NBER) Working Paper that examines “who protested, what they protested, and why” during the spring and summer of 2020 about the nationwide COVID-19 lockdown mandates and the murder of George Floyd in Minneapolis.<sup>18</sup> The authors suggest their study is unique compared to other protest studies because their data set allows them to track “non-protestors and protestors at a unique point in time when two large movements were underway.”<sup>19</sup> These authors’ contradictory view of the prevailing narrative about the polarization of the electorate is a crucial aspect of the study.

The NBER authors attempt to distinguish the portion of the population that uses “protest as another form of civic engagement to draw attention to their needs” and the “rising division and polarization that characterizes the policy process.”<sup>20</sup> This study offers substantial insights into the differing motives of a protest movement. It warns against painting any protest movement too broadly or constituting “one specific demographic group or solely of extremists prone to violence.”<sup>21</sup> This research needs to grasp these essential elements; it examines how and why law enforcement became a focal point for supporters of the Black Lives Matter (BLM) and Make America Great Again (MAGA) movements. Why BLM, its founders, and its members focus upon law enforcement as a symbolic target for the systemic failure of social justice, and how they mobilize others to join is a significant part of this research. Regarding MAGA, the study documents the transition from support to animus toward law enforcement among MAGA supporters and other similarly situated groups on the right.

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<sup>17</sup> Erica Chenoweth et al., *Who Protests, What Do They Protest, and Why?* (Cambridge, MA: National Bureau of Economic Research, 2022), <https://www.nber.org/papers/w29987>.

<sup>18</sup> Erica Chenoweth et al., *Who Protests, What Do They Protest, and Why?* (Cambridge, MA: National Bureau of Economic Research, 2022): 1, <https://www.nber.org/papers/w29987>.

<sup>19</sup> Chenoweth et al., 7.

<sup>20</sup> Chenoweth et al., 27.

<sup>21</sup> Chenoweth et al., 2.

## B. LAW ENFORCEMENT AND PROTESTS

A functional democracy requires active participation from its citizens to thrive. Their involvement ranges from voting to marching in the streets to express their preferences. When protestors and the police face each other, dissatisfied citizens seek change while the government aims to maintain order. The question then emerges of how law enforcement responds when one of the most fundamental rights in a democracy—to voice one’s grievances against the government—involves vocal and, at times, violent acts within that public space. Law enforcement responses to protests also rely on the legitimacy granted by governing authorities. The literature on policing in America documents law enforcement as a symbol of “uniformed agents of the state” with broad discretionary power.<sup>22</sup> Whether that discretionary power applies to the policing of protests and, if so, how law enforcement exercises such power remains an open question.

Jennifer Earl and Sarah A. Soule review several prevailing theories regarding the nature of protest policing and assert that most pre-existing research has flaws in its underlying premise.<sup>23</sup> Furthermore, they claim that scholars studying law enforcement’s handling of protests do not use a “coherent explanatory approach” that examines the “institutional” and “organizational” attributes of police agencies.<sup>24</sup> They contend that each department’s approach to policing protests accounts for those differences. Such distinctions are critical for understanding this variation in responses—one agency focuses on legitimacy and another on how to act.<sup>25</sup>

This distinction between institution and organization approaches is vital in Earl and Soule’s work because it forms the foundation of the “blue” approach to protest policing. They use the word “blue” to communicate law enforcement or “police-centered” handling

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<sup>22</sup> Michael Leo Owens, “The Urban World Is a World of Police,” *Journal of Race, Ethnicity and the City* 1, no. 1–2 (2020): 11–15, <https://doi.org/10.1080/26884674.2020.1795488>.

<sup>23</sup> Jennifer Earl and Sarah A. Soule, “Seeing Blue: A Police-Centered Explanation of Protest Policing,” *Mobilization: An International Journal* 11, no. 2 (n.d.): 145–64.

<sup>24</sup> Jennifer Earl and Sarah A. Soule, “Seeing Blue: A Police-Centered Explanation of Protest Policing,” *Mobilization: An International Journal* 11, no. 2 (2006): 147.

<sup>25</sup> Earl and Soule, 148.

of demonstrations.<sup>26</sup> Earl and Soule’s focus on the institutional aspect of policing provides a framework for understanding what individual officers consider hostile to their authority. They contend that the police are more worried about “situational” factors that point to a loss of control.<sup>27</sup> Control is a central theme throughout the literature on protest policing and figures prominently in the interactions between the police and protestors.

John D. McCarthy et al. articulate a direct correlation between police and protestor interactions in the police response, echoing Earl and Soule’s assertion. This correlation is pivotal to understanding the reasoning behind police responses to protests; how they respond could influence the movement toward or away from violence, as Donatella della Porta suggests in her case study of protest policing in Italy and Germany.<sup>28</sup> She argues that the police handling of protest events directly affects social movements and the state, and the policy choices of the bureaucracy and public opinion influence protest policing. Ultimately, this interaction highlights how social demonstrations and the state can create counter-movements that apply pressure on the status quo.

Pressure on the status quo cannot turn a protest into a movement. Della Porta hypothesizes that a confluence of factors creates the environment for protests to transition into movements.<sup>29</sup> She contends that “under some political opportunities, some protests—or moments of protest—act as exogenous shocks, catalyzing intense and massive waves of contention.”<sup>30</sup> Della Porta draws from research by David Collier, Gerardo L. Munck, and Kenneth Roberts to define the concept “critical juncture,” which she uses to characterize moments of “deep change.”<sup>31</sup> She quotes Roberts’ definition of critical junctures as moments of “crisis or strain that existing policies and institutions are ill-suited to

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<sup>26</sup> Earl and Soule, 149.

<sup>27</sup> Earl and Soule, 149.

<sup>28</sup> Donatella Della Porta, *Social Movements, Political Violence, and the State: A Comparative Analysis of Italy and Germany*, Cambridge Studies in Comparative Politics (Cambridge [England]; New York: Cambridge University Press, 1995).

<sup>29</sup> della Porta, “Protests as Critical Junctures.”

<sup>30</sup> della Porta, 559.

<sup>31</sup> della Porta, 558.

resolve.”<sup>32</sup> Law enforcement induces social justice shockwaves over the deaths of African American males by police in the United States. The resulting protests place them at the epicenter of anti-police backlash that reforms have not yet mollified.

The variation in the institutional nature of law enforcement from agency to agency impacts how different agencies police protests. Earl and Soule highlight the variation of organizational characteristics across police agencies as another factor in determining how law enforcement responds to demonstrations.<sup>33</sup> Specifically, they equate organizational traits with the number of personnel in an agency and the variation in levels of professionalism from agency to agency.<sup>34</sup> They hypothesize that larger agencies will have more personnel to dedicate to policing protests while not compromising other daily activities. More personnel mean more tactical options and better equipped and trained members dedicated to policing protests.<sup>35</sup> Earl and Soule’s examination of the importance of organizational differences between agencies receives less attention in this research than the institutional aspects of protest policing. The imbalance represents a gap that warrants further study, and the analysis may enrich the understanding of how police agencies respond to threats.

Although such research may reveal the underlying dynamics of policing a protest, it does not address demonstrations targeting law enforcement. As government representatives, police are indirect targets for their role at rallies, but what happens when the protest focuses on the police? Although much research concerns police responses or how policing shapes protests and law enforcement’s role before and during demonstrations, significantly less research tackles police response to anti-police protests that safeguard the participants’ right to assemble.<sup>36</sup> Such research is increasingly necessary given the nature of protests in the United States in the past decade.

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<sup>32</sup> della Porta, 558.

<sup>33</sup> Earl and Soule, “Seeing Blue,” 148.

<sup>34</sup> Earl and Soule, 150.

<sup>35</sup> Earl and Soule, 151.

<sup>36</sup> Tammy Rinehart Kochel, *Policing Unrest: On the Front Lines of the Ferguson Protests* (New York: New York University Press, 2022).

The emphasis on law enforcement as the target of protests places officers and leadership in a dangerous position regarding the choice of response tactics and public perception of them. Besides the content of the protests, they have become significantly more frequent in the United States since 2016.<sup>37</sup> However, Reynolds-Stenson appears to be the only researcher who has explicitly written about law enforcement challenges to “policing anti-police brutality protests.”<sup>38</sup> She builds on the scholarly work that examines balancing institutional reputation and maintaining safety using coercive means.

Reynolds-Stenson draws from work by P.A.J. Waddington, who suggests that the police attempt to keep disruptions to a minimum while allowing a certain amount to proceed to avoid unnecessarily escalating the tension.<sup>39</sup> She also builds on research by C.R. Epp and R.M. Fogelson, who suggest police agencies have an overwhelming motivation “to avoid public embarrassment or challenges to their reputation over brutality claims.”<sup>40</sup> She contends that a harsher response by the police is a reaction against the potential loss of “legitimacy and authority” rather than countering physical safety threats during protests.<sup>41</sup> The conclusion Reynolds-Stenson formulates is that in protests where anti-law enforcement messages and conduct occur (e.g., throwing items at the police), the police are more likely to respond aggressively because of the threat it poses to officers’ sense of individual and organizational status. She argues that police agencies view anti-police demonstrations, especially those concerning claims of excessive force or brutality, as “especially at risk of getting out of hand” because of the intense feelings of the protestors confronting the police.<sup>42</sup> Whether the response differs in protests targeting the police deserves investigations compared to other demonstrations.

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<sup>37</sup> Kevin Drakulich and Megan Denver, “The Partisans and the Persuadables: Public Views of Black Lives Matter and the 2020 Protests,” *Perspectives on Politics* 20, no. 4 (December 2022): 1191–1208, <https://doi.org/10.1017/S1537592721004114>.

<sup>38</sup> Heidi Reynolds-Stenson, “Protesting the Police: Anti-Police Brutality Claims as a Predictor of Police Repression of Protest,” *Social Movement Studies* 17, no. 1 (2018): 51, <https://doi.org/10.1080/14742837.2017.1381592>.

<sup>39</sup> Reynolds-Stenson, “Protesting the Police,” 51.

<sup>40</sup> Reynolds-Stenson, 52.

<sup>41</sup> Reynolds-Stenson, 52.

<sup>42</sup> Reynolds-Stenson, 58.

Based on such a foundation, Reynolds-Stenson produces four hypotheses about how police might respond to protests and protestors targeting them, which frequently happens in the United States. Her first hypothesis concerns the defensive posture of law enforcement:

Police will be more likely to attend protests against police brutality than protests making other claims...Once present, police will be more likely to intervene, that is to use force or make arrests, at protests against police brutality than at protests making other claims.<sup>43</sup>

The author also presents two alternative hypotheses that consider self-interest to avoid further criticism:

Police will be less likely to repress protests against police brutality than protests making other claims...Once present, police will be less likely to intervene, that is use force or make arrests, at protests against police brutality than at protests making other claims.<sup>44</sup>

These hypotheses align with more recent work by scholars of the BLM and the MAGA protests, who contend the nature of the demonstrations has a significant bearing on law enforcement's handling of them. Although her research does not explain how police became a symbol for these protests, it does provide foundational research for understanding the relationship between the police and such protestors. A better understanding of the nature of this relationship is vital to deciphering why the police handle anti-police protests differently from others.

Research involving anti-police demonstrations would be incomplete without the protestors' perspective. A key aspect of Reynolds-Stenson's research is the applicability of her hypotheses and the underlying theme of her research—"policing anti-police brutality protests"—to other scholarly research following the protests of the deaths of Michael Brown, Freddy Gray, and George Floyd.<sup>45</sup> Specifically, Jennifer E. Cobbina and Tammy Rinehart Kochel write extensively about protests over the deaths of Brown and Gray in

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<sup>43</sup> Reynolds-Stenson, 52.

<sup>44</sup> Reynolds-Stenson, 53.

<sup>45</sup> Reynolds-Stenson, 51.

Ferguson, Missouri, and Baltimore, Maryland, respectively. Kochel aptly notes that “a history of failure of an institution [police] to meet a group’s needs leads to frustration, mistrust, and a lower reservoir of support.”<sup>46</sup> These writings connect the protests in Ferguson and Baltimore to the police actions before and after the protests, making law enforcement a symbol of systemic racism in the United States. The research tackles the system and law enforcement as agents of the state by examining police responses in anti-police protests vis-a-vis other types of demonstrations.

The research on law enforcement’s role in policing protests places it at the epicenter of political discourse and disagreement. The role of law enforcement in a democracy is to provide a safe environment for the public airing of social and political grievances. Such a role can become complicated when the protests target the institutional authority the police symbolize, particularly during extreme social and political polarization.

### C. POLITICAL POLARIZATION

In a politically charged environment in the United States, people increasingly identify more closely with their party than their interests, entrenching party ties and producing hostility towards people perceived as the “other.” Such a sentiment is shaping political participation and the nature of the protest.<sup>47</sup> Sidney G. Tarrow and other scholars of American politics agree that Americans are increasingly polarized as a result of their social identity merging with their chosen party.<sup>48</sup> As seen on January 6, 2021, this fusion of social identity and political party produces a volatile combination that threatens democracy in the United States.

Merged identity also depicts law enforcement’s challenges when policing protests in severe polarization. James Campbell argues that two leading factors contributed to the current level of political polarization over the past 60 years. He contends that the first cause

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<sup>46</sup> Kochel, *Policing Unrest*, 4.

<sup>47</sup> Sidney G. Tarrow, *Power in Movement: Social Movements and Contentious Politics*, 3rd ed., Cambridge Studies in Comparative Politics (Cambridge; New York: Cambridge University Press, 2011).

<sup>48</sup> Nathan P. Kalmoe and Lilliana Mason, *Radical American Partisanship: Mapping Violent Hostility, Its Causes, and the Consequences for Democracy*, Chicago Studies in American Politics (Chicago; London: The University of Chicago Press, 2022).

is the shift of political parties from their roots (e.g., Republicans as the party of Lincoln to the party of Reagan), and the second is the electorate’s increase in closely held social identification with one party over the other. Campbell suggests that previous work on polarization has a “number of problems with the theories and studies that dominate the debate about the level and change in polarization.”<sup>49</sup> He uses three data sets to measure polarization within the electorate: “ideological orientations,” “issue preferences,” and “circumstantial behavioral evidence.”<sup>50</sup> These three elements provide a roadmap for further research on mitigating some of polarization’s most damaging side effects. Correctly diagnosing the root causes is necessary to implement a proper remedy.

In examining polarization in the United States, Campbell posits the political and social drift to the far ends of the spectrum makes it difficult, if not impossible, for a more centrist candidate or party to win support. He contends that “not even a slim majority of Americans voting in recent elections are moderates. Some are to the left, some to the right, and together they outnumber those in the middle.”<sup>51</sup> The weight that each party and its adherents exert on the political fulcrum ensures the electorate’s support of their party rejects the policies and politicians of the other party, further pushing the sides further apart.<sup>52</sup> Elections demonstrate the distancing of voters from the middle, as does the hostility of elected officials toward one another.

The political parties’ inability or unwillingness, of the political parties to compromise sets the stage for polarization to become the new normal for governance in the United States. Ezra Klein also echoes Campbell in examining the process of mutual self-radicalization among the major political parties. As the electorate becomes more divided and polarized, the political parties move to meet the demands of the public to retain

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<sup>49</sup> James E. Campbell, *Polarized: Making Sense of a Divided America* (Princeton, NJ: Princeton University Press, 2018), 5.

<sup>50</sup> Campbell, 6.

<sup>51</sup> Campbell, 2.

<sup>52</sup> Carothers O’Donohue, Thomas Andrew, *Democracies Divided: The Global Challenge of Political Polarization* (Washington, DC: Brookings Institute Press, 2019), <https://muse.jhu.edu/book/67890>.

power.<sup>53</sup> According to Klein, Obama’s presidency “radicalized American politics” by cleaving Democrats and Republicans along racial lines and racial mindsets.<sup>54</sup> Klein highlights two aspects that contributed to the polarization within the electorate during this time. The first was a backlash among a segment of white Americans who feared the loss of their perceived standing after the election of the first African American president. The second was the campaign and eventual ascendancy of Donald Trump to the oval office. According to Klein, Trump seized upon the backlash by feeding into that narrative and saying it out loud and unapologetically.<sup>55</sup> Trump’s narrative fueled the division between the political parties and cut a wide swath through the public.

Another area of agreement between Klein and Campbell is an increase in ideological entrenchment among parties. As the chasm between the two parties grows in liberal vs. conservative, it becomes a mutual, self-radicalizing phenomenon as the parties openly wage war to show how extreme the other party is on the issues. Klein explores the electorate’s racial, religious, and geographical divides.<sup>56</sup> Within social identity, these three concepts represent the guiding lights that bind the elected and the electorate, whether in agreement or opposition. Therefore, they deserve further examination regarding their contribution to the current polarized atmosphere in the United States.

Steven Levitsky and Daniel Ziblatt also highlight historical events to show the nature and damage caused by political polarization. Their research examines the role of Newt Gingrich’s scorched earth policy in negotiating with Democrats after his ascension to House Speaker in 1994. As a result of the polarization pushed by Gingrich, the United States Government shut down for five days in 1995 and 21 days in 1996.<sup>57</sup> Peter T. Coleman agrees with these scholars regarding polarization and asserts that “researchers have gotten it partly right, but mostly wrong.”<sup>58</sup> Coleman argues against the “sovereign

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<sup>53</sup> Ezra Klein, *Why We’re Polarized* (New York: Avid Reader Press, 2020), xix.

<sup>54</sup> Klein, 109.

<sup>55</sup> Klein, 114.

<sup>56</sup> Klein, 38.

<sup>57</sup> Steven Levitsky and Daniel Ziblatt, *How Democracies Die* (New York: Crown, 2018), 150.

<sup>58</sup> Coleman, *The Way Out*, 18.

theory fallacy,” which suggests that prolonged contact with one theory to explain a phenomenon can cause over-reliance on its significance.<sup>59</sup> In disagreeing with Campbell, Coleman maintains no single cause accounts for the current level of polarization; instead, it happens when “many different individual, community, and macro-level tendencies and influences start to line up and fuel each other in complex and ever-increasing ways, establishing vicious cycles.”<sup>60</sup> These theories provide ample ground for further examination on this topic and point to gaps in research attempting to explain the causes of polarization in America.

Other potential causes are in the very fabric of the election system in the United States. Rachel Kleinfeld asserts that a steep political separation that relies on individual identity is one factor that increases the potential for politically-based clashes.<sup>61</sup> The other three factors are contentious elections that could alter the power dynamic, election-related rules that manipulate identity differences, and minimal checks against violence, particularly by those with enforcement responsibilities.<sup>62</sup> This last point is of particular concern for homeland security professionals and law enforcement personnel because it can lead to a sense of unassailability on the part of the perpetrators.<sup>63</sup> Kleinfeld’s assertion reiterates research on election violence by Sarah Birch et al., who include three other factors in this research on political violence. Birch et al. assert that “electoral violence is linked to the core aims of political competition: contestation, participation, and the quest for power.”<sup>64</sup> Further research in this area is critical in understanding not only why political

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<sup>59</sup> See I. William Zartman, “Ripeness Revisited: The Push and Pull of Conflict Management,” in *Negotiations and Conflict Management: Essays on Theory and Practice*, by I. William Zartman (London: Routledge, 2007), 232–44; Paul F. Diehl and Gary Goertz, *War and Peace in International Rivalry* (Ann Arbor, MI: University of Michigan Press, 2000); and Coleman, *The Way Out*.

<sup>60</sup> Coleman, *The Way Out*, 29.

<sup>61</sup> Rachel Kleinfeld, “The Rise of Political Violence in the United States,” *Journal of Democracy* 32, no. 4 (2021): 163, <https://doi.org/10.1353/jod.2021.0059>.

<sup>62</sup> Kleinfeld, “The Rise of Political Violence in the United States,” 167.

<sup>63</sup> Kleinfeld, 164.

<sup>64</sup> Sarah Birch, Ursula Daxecker, and Kristine Höglund, “Electoral Violence: An Introduction,” *Journal of Peace Research* 57, no. 1 (2020): 10, <https://doi.org/10.1177/0022343319889657>.

polarization can be dangerous to democracy but also for preventing or mitigating electoral violence.

Believing that the solution for such a complex issue lies within a simple remedy is unrealistic. On this point, Kleinfeld and Birch et al. agree with Coleman’s argument that polarization has multiple causes. As Birch et al. conclude, it will “require both short-term and long-term efforts, as well as a focus that moves beyond election-level factors and takes into consideration the broader social, economic and political issues.”<sup>65</sup> The ability to change social, economic, and political disparities is a yardstick by which society can measure the positive impact of demonstrations as an impetus for change.

Although a vast amount of literature covers protests and protest policing methods, political violence and polarization and their impact on the police receive much less attention in the existing research. This analysis contends that the level of polarization within the electorate who attend protests affects the electorate’s views toward law enforcement. Numerous authors underscore the “othering” effect and the “us vs. them” mindset characteristic of political polarization, and research highlights the same mentality between protestors and the police, especially when the theme of the protest is squarely anti-police.

#### **D. CONCLUSION**

The protests in 2020 and 2021 over society’s social justice failures represent the workings of a contentious democracy. However, they also reflect polarization within the elected and the electorate that led to violence aimed at the physical embodiment of the government—i.e., law enforcement—and, in the case of the January 6, 2021 insurrection, at one of three branches of the government. The right to peaceful assembly is an inalienable right in our democracy. As Meyer points out, protests have a critical role in allowing those disagreeing with any government action to make their case known and attempt to persuade others to join their cause.<sup>66</sup> Despite general agreement among scholars regarding the role

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<sup>65</sup> Birch, Daxecker, and Höglund, “Electoral Violence,” 10.

<sup>66</sup> Meyer, *The Politics of Protest*, 21.

of group identity in creating a polarized environment, whether such identity becomes the prevailing narrative controlling future protests represents a gap in the literature. Considering the critical role that protests and the police play in our democracy, this gap warrants further investigation because ignoring the underlying tension is a powder keg awaiting a match.

### III. PROTESTS IN A DEMOCRACY: ADVOCACY, AGITATION, AND ACTION

There may be times when we are powerless to prevent injustice, but there must never be a time when we fail to protest.

—Elie Wiesel<sup>67</sup>

#### A. INTRODUCTION

Implementing democracy does not always match the inspired language of the Constitution. During the summer of 2020, chants of “No justice, no peace, no racist police” could be heard echoing off buildings in downtown Washington, DC.<sup>68</sup> Scores of protestors screamed at lines of police officers deployed in Civil Disturbance Unit (CDU) formations at what had become a nightly ritual of marching, chanting, and acts of civil disobedience following the death of George Floyd. From an organizational perspective, the social justice protests organized under the umbrella of the BLM movement were historically significant. According to Tyler T. Reny and Benjamin J. Newman, the demonstrations in the summer of 2020 “stands as the largest episode of social protest in both the catalog of the Black Lives Matter movement and the long history of Black resistance against dehumanization and state violence in the U.S.”<sup>69</sup> In a functioning democracy, protest movements are a dialogue between citizens and the state. The ability to openly criticize the government and advocate for change (i.e., protest) is what binds the citizenry to the democratic system and places pressure on the state to act.

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<sup>67</sup> “Human Rights Careers,” Human Rights Careers. <https://www.humanrightscareers.com/issues/quotes-about-activism/#:~:text=%E2%80%9CThere%20may%20be%20times%20when,human%20rights%20activist%20and%20author.>

<sup>68</sup> Andrew Beaujon, “‘Stop Killing Us’: Scenes from the DC Protests,” *Washingtonian*, June 1, 2020, <https://www.washingtonian.com/2020/06/01/stop-killing-us-scenes-from-the-dc-protests/>.

<sup>69</sup> Tyler T. Reny and Benjamin J. Newman, “The Opinion-Mobilizing Effect of Social Protest against Police Violence: Evidence from the 2020 George Floyd Protests,” *American Political Science Review* 115, no. 4 (2021): 1499, <https://doi.org/10.1017/S0003055421000460>. Also see, Christopher J. Lebron, *The Making of Black Lives Matter: A Brief History of an Idea* (New York: Oxford University Press, 2017).

The chapter examines four specific protest movements that have shaped democratization in the United States and illuminate the positive and negative relationship between protests—and protest movements—and democracy. First, the chapter discusses the suffrage movement between 1919 and 1920 that exerted pressure on Federal and State governments leading to the passing of the 19th Amendment, guaranteeing women the right to vote. The second movement described here is the Civil Rights Movement (CRM) of the 1960s, which promoted racial parity for African Americans, eventually leading to the passage of the Civil Rights Act of 1964. The focus then shifts to a review of the demonstrations in 2020 surrounding the murder of George Floyd in Minneapolis, Minnesota. The last movement examined will be the MAGA movement that took center stage in the demonstrations regarding the presidential election in 2020 and the attempts by rioters to stop the certification of Electoral Ballots on January 6, 2021. A common thread tying the discussion together is the sense of responsibility shared respectively by law enforcement and activists in advancing democratic principles espoused in the Constitution.

## **B. MOVEMENTS THAT CHALLENGED DEMOCRATIZATION**

Although several theories examine what causes citizens to take to the streets and engage in collective action against the government, David S. Meyer suggests that “people protest when they believe that they won’t get what they want otherwise and that they *might* get it if they do take action. In other words, *potential activists must see participation in a social movement as both necessary and potentially effective in order to stage a large event.*”<sup>70</sup> Meyer creates a baseline formula—necessity plus potential effectiveness equals large-scale protests—for qualitatively comparing various protest movements in the United States and their impact on societal change.

The focus of this chapter concerns the protest activities by citizens who believed the only way to gain access to rights enjoyed by others was to engage in protests. The women’s suffrage and civil rights movements advanced democracy for citizens denied representation through the regular democratic processes. The social justice movement

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<sup>70</sup> Meyer, *The Politics of Protest*, 13.

emerged to change the treatment of people of color by state institutions, especially the police.<sup>71</sup> Whereas researchers could argue that these three movements seek to secure democracy for all, the MAGA movement is seemingly more concerned with limiting democracy's blessings to a select few, which also may affect democratic institutions, the true extent of which has yet to be determined.

### **1. The Suffrage Movement's Impact on Democracy**

The suffragist movement had a consequential impact on the course of democracy in the United States, not merely regarding voting rights specifically, but on the trajectory of social change in general. When the prerequisite number of states ratified the 19th Amendment to the Constitution in 1920, approximately 50 percent of the adult population, nearly 52 million women, became participants in one of democracy's fundamental rights: the right to vote.<sup>72</sup> In 2020, the United States marked the 100th anniversary of ratifying the 19th Amendment. Nancy Lyons Sargeant, Chairperson of the Turning Point Suffragist Memorial Association, stated that the impact of the suffrage movement represents "the largest expansion of democracy the country had ever seen."<sup>73</sup> The expansion of democracy in 1920 did not occur overnight or without vigils, marches, civil disobedience, and in some cases, hunger strikes.<sup>74</sup> Some of these tactics were new to protest movements and challenged the democratic norms of the time, but have since become recognized as essential components of change created in a democracy.

As crucial as individuals were to the movement (i.e., Susan B. Anthony), organizations transformed individual energy into collective action. The National American Woman Suffrage Association (NAWSA) and the National Woman's Party (NWP) were

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<sup>71</sup> For the purposes of this thesis, the social justice movement incorporates demonstrations organized by either the national Back Lives Matter organization or any affiliated local chapter(s), as well as any demonstrations related to the murder of George Floyd.

<sup>72</sup> William C. Hunt, *Fourteenth Census of the United States Taken in the Year 1920*, vol. II (Washington, DC: Department of Commerce: Bureau of the Census, 1922), 107, <https://www.census.gov/library/publications/1922/dec/vol-02-population.html>.

<sup>73</sup> Turning Point, "Turning Point Suffragist Memorial Dedication Final," video, 6:13, YouTube, October 2021, <https://www.youtube.com/watch?v=G1NyTX8YnS8>.

<sup>74</sup> Alli Hartley-Kong, "Radical Protests Propelled the Suffrage Movement. Here's How a New Museum Captures That History," *Smithsonian Magazine*, October 26, 2020.

prominent activist organizations leading the suffragist movement.<sup>75</sup> Notably, the NWP emerged after a segment of the NAWSA split off in 1914 due to frustration with “the conventional, even decorous, politics the NAWSA deployed as it sought to win the vote for women state by state.”<sup>76</sup> The eventual leader of the NWP, Alice Paul, recognized the importance of capturing the nation’s attention to promote her goal of universal suffrage. Paul knew that to gain the attention of the politicians, the NWP must first gain the public’s attention.

What is commonly called a demonstration today was called a “parade” in 1913. An event encapsulating Paul’s direct-action approach was the 1913 suffrage parade in Washington, DC, a day before Woodrow Wilson’s inauguration.<sup>77</sup> As described by Rebecca Boggs Roberts, “groups of women dressed in white, carrying banners as they marched along Pennsylvania Avenue.”<sup>78</sup> As the procession moved down the historic avenue, the women were scorned and physically assailed by onlookers, especially men, while the police did nothing to intervene on the women’s behalf. Although not pleased with the conduct of bystanders towards the women, Paul was not displeased to see the resulting headlines the event made in newspapers across the nation. The result was to show that “suffrage work was no longer a staid affair, conducted politely.”<sup>79</sup> The suffragist movement proved an essential axiom in movement momentum: publicity of a movement’s cause is as significant as oxygen is to fire; attention feeds the cause as oxygen fuels a fire.

The movement leaders decided that parades alone would not produce the type of change the suffragists were trying to generate. As the turmoil of world events inched the United States toward entry into the First World War, the NWP initiated a vigil in front of the White House on January 10, 1917. The watch, known as the “silent sentinel,” involved

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<sup>75</sup> Cynthia Harrison, review of *Suffragists in Washington, D.C.: The 1913 Parade and the Fight for the Vote*, by Rebecca Boggs Roberts, *Washington History* 32, no. 1/2 (Fall 2020): 92–93.

<sup>76</sup> Harrison, 92.

<sup>77</sup> Harrison, 92.

<sup>78</sup> Harrison, 92.

<sup>79</sup> Harrison, 92.

women standing peacefully and holding signs to protest their lack of voting rights.<sup>80</sup> It was not long until the seemingly benign act of picketing in front of the White House led to arrests.

Although peaceful, the suffragist activities underscore the delicate nature that often characterizes the interaction between protestors and the police. Hartley-Kong writes, “It soon became routine; suffragists would walk with banners to the White House, get arrested, stay in jail briefly when they refused to pay their small fines, then be released.”<sup>81</sup> The Washington, DC, Metropolitan Police Department (MPDC) was at a loss to handle “this headline-grabbing form of protest that was not a simple criminal matter but one of large political consequence.”<sup>82</sup> The revolving door stopped in July 1913 when a judge in Washington, DC, ordered 16 suffragists to be sent to the Occoquan Workhouse on the Lorton prison campus. Altogether, 72 women would serve time at Occoquan, except for Paul, who was held in solitary confinement in the District of Columbia.<sup>83</sup> Instead of solving the problem, this government action may have signaled the turning point for broader acceptance of the movement’s goal.<sup>84</sup> Since the government’s effort had the opposite of its intended effect, forecasting what tactics will ultimately be successful—for either side—is quite tricky.

Meyer suggests that participation in a social movement depends on activists seeing the necessity and potential effectiveness of the action before becoming involved. If Meyer’s hypothesis is correct, the question becomes what kind of framing is needed to change the opposition’s mindset on an issue. For the suffrage movement, the answer started on November 14, 1917, and came to be called the “Night of Terror.” What began as a meeting with the prison warden to present a list of demands—including the request for the women incarcerated to be considered “political prisoners”—ended with the vicious assault

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<sup>80</sup> Hartley-Kong, “Radical Protests Propelled the Suffrage Movement.,” 1.

<sup>81</sup> Hartley-Kong, 2.

<sup>82</sup> Hartley-Kong, 4.

<sup>83</sup> Hartley-Kong, 4.

<sup>84</sup> Hartley-Kong, 6–7.

of the women.<sup>85</sup> Agents representing the state not only acted against the Constitution but with the state's endorsement until it became public and transparent.

Although the state tried to suppress news of what occurred, accounts leaked out, resulting in a court order requiring verification of the women's well-being. Less than 14 days after the Night of Terror, a judge ruled that the "women at Lorton were subject to cruel and unusual punishment" and ordered all the suffragist prisoners released.<sup>86</sup> When the court vacated all 218 convictions of the women arrested for protesting on March 4, 1918, the ruling stated that "'peaceful assembly, under the present statute [was not] unlawful.'"<sup>87</sup> Later that year, President Wilson voiced his approval for the 19th Amendment, and by 1919 both chambers of Congress passed the legislation. Congress then transmitted the amendment to the states for final ratification.<sup>88</sup> The suffragists engaged in the democratic process and ultimately forced the Federal Government to expand democracy's inclusion of women.

The suffragist movement exemplifies a group of citizens banding together to demand action and using civil disobedience to gain attention. In the specific case of the suffragists, Alana Jeydel notes that "women were no longer going peacefully to ask for their rights; they were going to demand them."<sup>89</sup> By confronting the status quo head-on, the suffragists opened a new pathway to democracy for future movements by showing the effectiveness of using civil disobedience for a cause. The ripple effect caused by the movement's tactics contributed to modern-day protest movements. The suffragists showed that democracy could survive being tested and pushed into uncomfortable places by previously ignored and marginalized members of society.

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<sup>85</sup> Hartley-Kong, 5.

<sup>86</sup> Hartley-Kong, 5.

<sup>87</sup> Hartley-Kong, 6.

<sup>88</sup> Hartley-Kong, 6.

<sup>89</sup> Alana S. Jeydel, *Political Women: The Women's Movement, Political Institutions, the Battle for Women's Suffrage and the ERA*, Routledge Research in Gender and History (London: Routledge, 2011), 99.

## 2. **The Civil Rights Movement: Bus Boycotts, Sit-Ins, and Democratization**

Although the suffragist movement opened the doors of representative institutions to white women, democracy's promise of "certain inalienable rights" has remained an abstract concept for an entire race within the United States. The failure to apply these foundational rights universally to all citizens is perhaps the most persistent problem our democracy faces. The CRM provides another opportunity to test whether participation in the cause of civil rights aligns with Meyer's formula of necessity plus potential effectiveness results in a movement's ability to generate a sustainable challenge to the status quo. More significant activities often comprise smaller, independent actions strung together over time, generating forward momentum for the more substantial cause.<sup>90</sup> Two examples of more minor actions that sought to shake loose the pernicious grip of segregation were the Montgomery, Alabama, bus boycotts and lunch counter sit-ins in Greensboro, North Carolina.

### a. ***The Bus Boycotts Impact on Democracy's Growth***

Historians generally define the civil rights movement in the United States as to have occurred between 1955 and 1965.<sup>91</sup> According to Doron Shultziner, the "Montgomery [Alabama] bus boycott of December 5, 1955, is widely accepted as the constitutive event of the mass mobilization phase in the modern U.S. civil rights movement."<sup>92</sup> But similar to other mass movements, a build-up preceded the momentous occasion when Rosa Parks refused to relinquish her bus seat on December 1, 1955. Shultziner cites the case of *State of Alabama v. Martin Luther King Jr.* as evidence of "the rising agitation over the bus situation since late 1953."<sup>93</sup> This court case merits examination because it helps answer

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<sup>90</sup> Charles E. Lindblom, "Still Muddling, Not Yet Through," *Public Administration Review* 39, no. 6 (December 1979): 520.

<sup>91</sup> Doron Shultziner, "The Social-Psychological Origins of the Montgomery Bus Boycott: Social Interactions and Humiliation in the Emergence of Social Movements," *Mobilization* 18, no. 2 (2013): 117, <https://doi.org/10.17813/mai.18.2.83123352476r2x82>.

<sup>92</sup> Shultziner, 117. The word "modern" as used by Shultziner, delineates efforts undertaken between 1955 and 1965 from all efforts prior to 1955, (p. 137).

<sup>93</sup> Shultziner, 126.

why the boycott started in 1955 and why it started in Montgomery, Alabama.<sup>94</sup> The court case is also critical because it shows how the CRM worked within established democratic institutions—in this case, the court system—to expand democracy’s reach.

The picture painted by the witnesses revealed the denial of elemental human dignities enshrined in the essential tenets of the democratic framework. The attorney representing Martin Luther King, Jr. called 33 African American witnesses to relate their experiences riding the bus in Montgomery. Witnesses indicate that between 1953 and 1955, approximately 30 instances of “abuse” on buses occurred, compared to 21 reports for the 15 years between 1937 and 1952.<sup>95</sup> Although several factors undoubtedly contributed to the spike, Shultziner opines that the “escalation of humiliation from late 1953 to 1955 created a climate conducive for mass mobilization against bus segregation.”<sup>96</sup> Perhaps the years of humiliation and dehumanization created the underlying conditions. Still, the presence of a frustrated and courageous Rosa Parks on December 1, 1955, tipped over the first domino.

In hindsight, the bus boycott fits squarely within Meyer’s formula of necessity plus potential effectiveness results in a significant event. Schulzinger asserts the underlying necessity was due to “real-life personal experience and not due to a response to abstract and far-removed notions of political opportunities.”<sup>97</sup> Prior success demonstrated the “potential effectiveness” of what was originally only planned to be a one-day boycott organized by the Women’s Political Council (WPC). According to J. Mills Thornton, “The boycott had been brilliantly successful, far more so than leaders had permitted themselves to hope.”<sup>98</sup> Regardless of how successful the boycott was from an organizational

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<sup>94</sup> Shultziner, 117.

<sup>95</sup> 10 seats at the front of the bus always reserved for white riders, 10 seats in the back of the bus always reserved for black riders, and 16 seats in the middle that were “unreserved,” but required a black passenger to vacate if there was no place for a white passenger to sit (Adapted from “Exhibit A” in the case file of *Browder v. Gayle* 142 F. Supp. 707 (1956), located at the National Archives, South East Region). Also see, Shultziner, 127.

<sup>96</sup> Shultziner, 126.

<sup>97</sup> Shultziner, 127.

<sup>98</sup> J. Mills Thornton, “Challenge and Response in the Montgomery Bus Boycott of 1955–1956,” *Alabama Review* 67, no. 1 (January 2014): 75, <https://doi.org/10.1353/ala.2014.0000>.

perspective, ultimately, it did not immediately open democracy's doors as the suffragist movement did with the passage of the 19th Amendment.

Although the boycott did not achieve the initial goal of changing the seating policy of buses in Montgomery, in the end, it achieved significantly more for democratization.<sup>99</sup> One such impact was the boycott's ability to stand as a testament to "the power of the method and tactics of mass protest and nonviolent resistance" for future movements.<sup>100</sup> A second significant outcome of the Montgomery protests was the Montgomery Improvement Association (MIA) creation by Reverend Ralph D. Abernathy to run the boycotts and the election of Reverend Martin Luther King, Jr. (MLK) as the president of the MIA.<sup>101</sup> As a result of his involvement with the boycotts, MLK was elevated "onto the stage of national prominence and gave attention to the emerging strategy of nonviolent resistance that became critical to the civil rights movement."<sup>102</sup> Finally, due to the conduct of the protestors and the strategies employed, activists from the South came to Montgomery to learn, making Montgomery a de facto "training ground for civil rights organizers."<sup>103</sup> Additionally, the lessons learned positively affected society in a ripple effect.

***b. Lunch Counter Sit-Ins: Putting Democracy Front and Center***

Activists engaged in the CRM adopted new techniques to build upon success and keep the momentum moving forward. The bus boycotts did more than help change discriminatory treatment; according to Kowal, the actions of the boycotters "proved how effective masses of people could be in swaying public opinion and changing governmental policy."<sup>104</sup> The extent of the movement's influence could be seen in the lunch counter sit-ins, with the most well-known one occurring in Greensboro, North Carolina, on February 1, 1960. Although it was not the first instance where protestors used this specific civil

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<sup>99</sup> Shultziner, "The Social-Psychological Origins," 123.

<sup>100</sup> Robert Jerome Glennon, "The Role of Law in the Civil Rights Movement: The Montgomery Bus Boycott, 1955–1957," *Law and History Review* 9, no. 1 (Spring 1991): 96.

<sup>101</sup> Thornton, "Challenge and Response in the Montgomery Bus Boycott," 76.

<sup>102</sup> Glennon, "The Role of Law in the Civil Rights Movement," 97.

<sup>103</sup> Glennon, 97.

<sup>104</sup> Rebekah J. Kowal, *Staging the Greensboro Sit-Ins* (Cambridge, MA: MIT Press, 2004), 136.

disobedience tactic, historians credit it as transforming “the movement from a local (or more Southern-based) to a national campaign for equal rights of Americans of color.”<sup>105</sup> Kenneth T. Andrews and Michael Biggs contend that “as the sit-ins spread, the fact that so many protestors were hopeful of success inspired blacks in other cities to initiate sit-ins.”<sup>106</sup> The sit-ins validate Meyer’s formula; necessity plus the potential for positive impact results in effective protest action.

In only three months, the popularity of sit-ins across the South as the primary means of civil disobedience conducted by young adults gained national attention. Research by Aarushi Shah states that by May 1, 1960, sit-ins at lunch counters occurred in 78 municipalities and involved “over 70,000 student participants.”<sup>107</sup> The influx of student involvement in civil disobedience in the name of the civil rights movement substantially changed the trajectory of the action.<sup>108</sup> August Meier and Elliott M. Rudwick contend that not only did the student-led protests accelerate the pace of change regarding the integration of the races, but they also rendered “nonviolent direct action the dominant strategy in the struggle for racial equality during the next half-decade.”<sup>109</sup> The sit-ins were also significant in opening the door to democratic engagement for younger participants whose participation may have been an untapped resource initially.

Non-violent action is an essential tactic for movements because the approach promotes “social change by appealing to the public conscience rather than to power in numbers or coercion and threats.”<sup>110</sup> As William H. Chafe opines, “The students acted

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<sup>105</sup> Kowal, 135.

<sup>106</sup> Kenneth T. Andrews and Michael Biggs, “The Dynamics of Protest Diffusion: Movement Organizations, Social Networks, and News Media in the 1960 Sit-Ins,” *American Sociological Review* 71, no. 5 (October 2006): 756, <https://doi.org/10.1177/000312240607100503>.

<sup>107</sup> Aarushi H. Shah, “All of Africa Will Be Free before We Can Get a Lousy Cup of Coffee: The Impact of the 1943 Lunch Counter Sit-Ins on the Civil Rights Movement,” *The History Teacher* 46, no. 1 (November 2012): 130.

<sup>108</sup> August Meier and Elliott M. Rudwick, *CORE, a Study in the Civil Rights Movement, 1942–1968* (Urbana, IL: University of Illinois Press, 1975), 101.

<sup>109</sup> Meier and Rudwick, 101.

<sup>110</sup> Erin R. Pineda, *The Awful Roar: Civil Disobedience, Civil Rights, and the Politics of Creative Disorder* (New Haven, CT: Yale University Press, 2015), 37.

because they believed in American democracy.”<sup>111</sup> The hope was that public conscience would pressure democratic institutions to dismantle segregation and fulfill the promises of equality outlined in the Constitution. As Charles E. Lindblom opined, “a fast-moving sequence of small changes can more speedily accomplish a drastic alteration of the status quo than can an only infrequent major policy change.”<sup>112</sup> Although it may have seemed like a small step—being seated and served at a lunch counter—when measured against the impact the sit-ins had on democratic institutions, the students had a significant effect on the status quo.

Sit-ins challenged societal norms by adopting a form of activism that directly confronted racial inequity by placing the inequity front and center. According to Rebekah Kowal, “sit-inners exerted pressure by insistent presence, occupying spaces from which they were usually prohibited. Sit-inners put themselves center stage instead of removing themselves from the scene.”<sup>113</sup> Notably, the actions of bus boycotts and lunch counter sit-ins happened in a particular context.

The bus boycotts and lunch counter sit-ins took place in a fertile environment. In research examining protest movements between 1965–1975, Michael Welch contends that “even though several separate social movements were co-occurring, cross-fertilization was common, fueling even greater opposition to the government.”<sup>114</sup> Such actions within the civil rights movement helped spread nonviolent civil disobedience beyond just a few cities in the South and captured the attention of the national media. Bringing the struggle for civil rights—and law enforcement’s often brutal responses—into living rooms across the country “helped galvanize public opinion that segregation was an outdated if not wholly unjust practice.”<sup>115</sup> Awakening public opinion against law enforcement tactics and the

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<sup>111</sup> William H. Chafe, *Civilities and Civil Rights: Greensboro, North Carolina, and the Black Struggle for Freedom* (New York: Oxford University Press, 1980).

<sup>112</sup> Lindblom, “Still Muddling, Not Yet Through,” 520.

<sup>113</sup> Kowal, *Staging the Greensboro Sit-Ins*, 136.

<sup>114</sup> Michael Welch, “Social Movements and Political Protest: Exploring Flag Desecration in the 1960s, 1970s, and 1980s,” *Social Pathology: A Journal of Reviews* 5, no. 2 (December 1999): 167.

<sup>115</sup> Kowal, *Staging the Greensboro Sit-Ins*, 149.

corresponding direction of action against policing as an institution would return to the forefront during the social justice demonstrations that would engulf the nation nearly 50 years later.

Unfortunately, the legal protections against discriminatory practices achieved by the passage of the Civil Rights Act of 1964 and the Voting Rights Act of 1965 did not eliminate the “othering” of non-white communities. However, the CRM, nearly 60 years hence, still acts as a benchmark of participatory democracy for those seeking to engage in grass-roots level organizing, mass mobilization for a cause, and direct action in pursuing social justice. Ultimately, the CRM strengthened democracy in the United States by confronting systemic racism and inequality and empowering citizens to engage more fully in democratic processes.

### **3. The Social Justice Movement: Protests in the Post-Civil Rights Space**

As the country becomes further removed from the events of the 1950s and 1960s, it also distances itself from people who can share their direct experiences in the civil rights struggle. Human nature illustrates a tendency to venerate the past at the expense of the present.<sup>116</sup> This phenomenon has significance in today’s political environment because, without historical knowledge, the current social and racial justice issues may lack the critical insights gained through prior struggles to expand democracy’s reach. Davyd Setter suggests that by “invoking the civil rights movement as the “correct” way of doing insurgent politics, BLM’s critics have used the collective memory of civil rights activism as a cudgel against modern-day activists, casting them as inferior to their predecessors.”<sup>117</sup> Based on protest data collected and analyzed from social movement protests from 2020 to 2021, the current generation organizing protests and movements today are just as savvy and capable as their peers during the CRM.

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<sup>116</sup> Aldon Morris, “The Power of Social Justice Movements,” *Scientific American* 324, no. 3 (March 2021): 8.

<sup>117</sup> Davyd Setter, “Changes in Support for U.S. Black Movements, 1966–2016: From Civil Rights to Black Lives Matter,” *Mobilization* 26, no. 4 (2021): 475, <https://doi.org/10.17813/1086-671X-26-4-475>.

Although fully appreciating BLM’s impact on democracy in the United States may be too early, the movement’s use of social media highlighted the running narrative of democracy’s failings, engaging a larger cross-section of the populace in real-time. The murder of George Floyd is one example of how an unfiltered view of illegal conduct on the part of the police can generate a worldwide reaction that crosses over from digital space into physical action.<sup>118</sup> On May 25, 2020, a citizen’s cell phone captured the killing of George Floyd by a Minneapolis Police Department (MPD) officer. After the citizen uploaded it online, a company specializing in measuring and monetizing online content estimated that between May 25 and June 5, 2020, “BLM-related videos were watched over 1.4 billion times.”<sup>119</sup> *New York Times* reporter Jenna Wortham wrote that on May 28, 2020, “more than eight million tweets tagged with #BlackLivesMatter were posted on the platform.”<sup>120</sup> The online activity translated into activism in the street. Wortham reports, “By the time outrage and despair over Mr. Floyd’s death filled our feeds, the tinderbox was ready to explode.”<sup>121</sup> The explosion resulted in unprecedented daily and nightly protests that spread across the United States with an anger born of our democracy’s apparent indifference to the lives and well-being of people of color.

The “why” and the tactics used to achieve a goal differentiate one movement from another. For the Civil Rights Movement, “the wound was racial oppression based on Jim Crow; for BLM, it is the devaluation of Black lives in all domains of American life.”<sup>122</sup> About tactics used, Morris asserts the specifics matter less than the outcome, which is to “disrupt the society sufficiently that power holders capitulate to the movement’s demands

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<sup>118</sup> For the purposes of this thesis, I will be using Social Justice Movement and Black Lives Matter interchangeably. This is not intended to convey the idea that Black Lives Matter is the only organization working on social justice issues, but rather to acknowledge their national leadership on the issue of excessive force within the African American community by law enforcement.

<sup>119</sup> Sam Blake, “Why the George Floyd Protests Feel Different – Lots and Lots of Mobile Video,” dot.LA, June 12, 2020, <https://dot.la/george-floyd-video-2646171522.html>.

<sup>120</sup> Jenna Wortham, “A ‘Glorious Poetic Rage’: News Analysis,” *New York Times*, June 5, 2020, <https://www.nytimes.com/2020/06/05/sunday-review/black-lives-matter-protests-floyd.html>.

<sup>121</sup> Wortham.

<sup>122</sup> Morris, “The Power of Social Justice Movements,” 7.

in exchange for the restoration of order.”<sup>123</sup> In other words, sometimes advancing democratic principles can require disruption to shake society out of its normal state.

One such disruption comes from a tool that modern-day protestors take for granted but was unavailable for the CRM. The bus boycott had to rely on “mimeographs” to spread the news regarding Rosa Parks’ arrest. In contrast, every cellphone user is a videographer who can reach millions and potentially generate near-universal outrage immediately.<sup>124</sup> Social media platforms conduct an unfiltered, unedited information flow that lacks a cunning crafting of the narrative that favors the status quo. Such unrestricted reach allows movements “to mobilize people and produce international surges of protests at lightning speed.”<sup>125</sup> Thanks to technology, what took the CRM weeks, months, and sometimes years to plan and implement occurs almost instantly in today’s civil society.

Research conducted by the Armed Conflict Location & Event Data Project (ACLED) in May 2021 exemplifies the movement’s effectiveness. The data shows the significant increase in pressure applied to the government—and law enforcement in particular—the murder of George Floyd caused in the United States. The ACLED research shows that from January 2020 to May 2021, “more than 11,000 demonstrations associated with the BLM movement have been reported in nearly 3,000 distinct locations.”<sup>126</sup> The explosion in online dialogue that became an organic online mobilization became “the biggest collective demonstration of civil unrest around state violence” that very well may define the current generation’s struggle to achieve social justice.<sup>127</sup> The ability to rapidly disseminate information and quickly stage a demonstration has advanced democratization in unimaginable ways compared to the CRM.

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<sup>123</sup> Morris, 6.

<sup>124</sup> Morris, 7.

<sup>125</sup> Morris, 7.

<sup>126</sup> Roudabeh Kishi et al., *A Year of Racial Justice Protests: Key Trends in Demonstrations Supporting the BLM Movement* (Grafton, WI: Armed Conflict Location & Event Data Project, 2021), 1, <https://acleddata.com/2021/05/25/a-year-of-racial-justice-protests-key-trends-in-demonstrations-supporting-the-blm-movement/>.

<sup>127</sup> Wortham, “A ‘Glorious Poetic Rage’: News Analysis.”

BLM is a unique mixture of grassroots, street-level activism, and contemporary protest resources. Researcher Janani Umamaheswar argues, “BLM represents a particularly modern form of social protest: it emerged as a hashtag (#BlackLivesMatter) on Twitter that has grown into one of the most powerful movements against racial injustice.”<sup>128</sup> The use of social media by protest movements allows for rapid communication between organizers, protestors, and social justice organizations like BLM. According to Jennifer Cobbina, “more than 3.6 million tweets about the Ferguson incident [took place] within five days of Brown’s death,” and “9,600 tweets about the Baltimore uprising occurred within 24 hours of [Freddie] Gray’s death.”<sup>129</sup> The almost instantaneous sharing of information and videos directly from participants on the scene changed how the “news” was delivered and drastically reduced the time lag for sharing it. In some ways, the social justice movement democratized the gathering and sharing of information.

Considering the BLM movement’s deployment of technology and social media to reach supporters and coordinate protests, unsurprisingly, its substantial support comes from teenagers and young adults. A study conducted by the Pew Research Center showed that approximately 68 percent of teenagers and young adults between 13 and 29 support BLM. Although the level of support starts to drop to around 55 percent between ages 30 and 64, the most significant drop off in support comes from adults aged 65 and over.<sup>130</sup> In part, one may attribute the difference to the greater youth involvement in social justice protests, the greater use of technology, and multiple social media platforms. Either way, Cobbina asserts that social media “served as a game changer because of its discursive ability to reach all domains of social life, allowing people to share their experiences quickly and

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<sup>128</sup> Janani Umamaheswar, “Policing and Racial (In)Justice in the Media: Newspaper Portrayals of the ‘Black Lives Matter’ Movement,” *Civic Sociology* 1, no. 1 (2020): 2, <https://doi.org/10.1525/001c.12143>.

<sup>129</sup> Jennifer Cobbina, *Hands up, Don’t Shoot: Why the Protests in Ferguson and Baltimore Matter, and How They Changed America* (New York: New York University Press, 2019), 100; also see Paul Hitlin and Nancy Vogt, “Cable, Twitter Picked up Ferguson Story at Similar Clip,” Pew Research Center, August 20, 2014, <https://www.pewresearch.org/fact-tank/2014/08/20/cable-twitter-picked-up-ferguson-story-at-a-similar-clip/>; and also see Tanzina Vega, “How Baltimore Police, Protestors Battle on Twitter,” CNN Politics, April 28, 2015, <https://www.cnn.com/2015/04/28/politics/baltimore-riot-social-media/index.html>.

<sup>130</sup> Kiley Hurst, “U.S. Teens Are More Likely than Adults to Support the Black Lives Matter Movement,” Pew Research Center, June 15, 2022, 3, <https://www.pewresearch.org/fact-tank/2022/06/15/u-s-teens-are-more-likely-than-adults-to-support-the-black-lives-matter-movement/>.

offer alternative accounts of what happened locally and globally.”<sup>131</sup> In other words, as technology effectively placed a news camera in every citizen’s hand, the world became a relatively minor stage.

Another critical and perhaps somewhat overlooked benefit of social media’s use in this realm is participating in one of democracy’s most essential functions: one’s right to have their voice heard and their life valued. As Christopher J. Lebron notes, “Democracy, even if imperfectly practiced, requires that one’s life chances not hinge on entirely arbitrary and irrational features like race.”<sup>132</sup> Arguing against democracy’s poor implementation through radical movements is sometimes complex because, in 2020, African Americans still struggled to benefit from democracy’s promise of “life, liberty, and the pursuit of happiness.”

## **B. THE MAGA MOVEMENT AND JANUARY 6, 2021: DEMOCRACY OR INSURRECTION?**

Although the CRM and BLM represent efforts to make the promise of democracy fully inclusive, the politically correct views certain ideologies espoused by the left (such as Antifa) are dangerous to democratic institutions. One such umbrella movement is the MAGA faction of the political right. The term MAGA comes from then-presidential hopeful Donald Trump’s 2016 run for the White House but became a rallying cry for the far right-leaning wing of the Republican party. The MAGA movement, and supportive satellite organizations like the Proud Boys and Oath Keepers raise questions about the stability of American democracy and whether it advances democratization?

This section examines the deep-seated tensions and contentious narratives surrounding the January 6, 2021, events. The discussion explores the interplay of politics and public sentiment in creating the constitutional crisis on public display that day. Although MAGA supporters believe they are exercising democratic freedoms and rights, a large segment of the American public and government officials view the movement as a serious threat to the foundation of democracy, especially considering the storming of the

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<sup>131</sup> Cobbina, *Hands up, Don’t Shoot*, 102.

<sup>132</sup> Lebron, *The Making of Black Lives Matter*, 144.

Capitol by mostly MAGA supporters. Examining the delicate boundary between free speech, lawful protests, and insurrection is vital. In many ways, appreciating the present and future trajectory of democracy in the United States is only possible by parsing these contrasting perspectives.

### **1. Who Are They: Social Identity and Demographics of the MAGA Movement**

Although the “Make America Great Again” political slogan emblazoned on a red baseball cap is immediately identifiable with former President Trump, it initially appeared in the 1980 presidential contest by Ronald Reagan and then later in the campaign of George H.W. Bush.<sup>133</sup> Two aspects of the MAGA movement appear in this section. The first briefly examines how the MAGA movement fits within the social identity theory (SIT), and the second breaks down specific demographic data compiled on MAGA followers. An examination of SIT combined with demographic information provides a clear assessment of who MAGA followers are, what they believe in, and whether the movement contributes to democratization in the United States. Although Meyer’s formula for protests helped to examine most movements covered in this thesis, SIT was more applicable—emphasizing in-group vs. out-group facets—for discussing the MAGA movement.

In some ways, James Madison was the first to recognize the concept of SIT when he authored Federalist Paper Number 10, in which he asserted that the “causes of faction are thus sown in the nature of man” and that factions play a role in every aspect of society.<sup>134</sup> Jay Van Bavel and Dominic J. Packer echo Madison’s belief that factions have and always will exist and that political deliberations and differences of opinion are “critical to healthy societies and robust democracies.”<sup>135</sup> The lens of SIT provides a glimpse into

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<sup>133</sup> The 1980 campaign slogan of Ronald Reagan and George H.W. Bush was “Let’s Make America Great Again.” Also see, Sam Dangremond, “Who Was the First Politician to Use ‘Make America Great Again’ Anyway?,” *Town & Country*, November 14, 2018, <https://www.townandcountrymag.com/society/politics/a25053571/donald-trump-make-america-great-again-slogan-origin/>.

<sup>134</sup> Hamilton, Jay, and Madison, *The Federalist Papers*.

<sup>135</sup> Jay Van Bavel and Dominic J. Packer, *The Power of Us: Harnessing Our Shared Identities for Personal and Collective Success* (London: Wildfire, 2022), 95.

the development of factions and create an “us versus them” mentality that can contribute to deepening divisions based on shared interests, beliefs, or agendas.

Bavel and Packer’s research relies on categorizing four critical identity components. The first aspect posits that association with a group is essential to how a person sees oneself. The second aspect theorizes that individuals tend to establish “collective solidarity with others” and coalesce around shared experiences and characteristics. The third component advances the idea that once “activated,” particular social identities can shape how people behave, feel, and act. The final part theorizes that “people are likely to conform to the norms associated with an active identity and try to act in ways that they believe will advance its interests, making personal sacrifices if necessary.”<sup>136</sup> Bavel and Packer further suggest that the political sphere can amplify the fundamental building blocks of social identity.<sup>137</sup> The question this produces is how essential characteristics of social identity become transformed in a politically driven space, especially one that is hyper-polarized as the current environment.

## **2. The Demographic and Belief Breakdown of MAGA Supporters**

For researchers attempting to identify the relationship between the characteristics of politically motivated social identity and the MAGA movement, the key lies in the demographic breakdown of MAGA supporters. A study by Rachel Blum and Christopher Sebastian Parker may be the first to analyze MAGA supporters’ core beliefs. From December 24 and January 31, 2020, Blum and Parker ran a Panel Study of the MAGA Movement.<sup>138</sup> The MAGA movement, the critical group of supporters to whom former President Trump directed his messages (and continues to do so), played a significant role in motivating his actions that challenged conventional American democratic principles.<sup>139</sup>

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<sup>136</sup> Van Bavel and Packer, 31–32.

<sup>137</sup> Van Bavel and Packer, 94.

<sup>138</sup> Rachel M. Blum and Christopher Sebastian Parker, “Panel Study of the MAGA Movement,” Panel Study of the MAGA Movement, February 2021, <https://sites.uw.edu/magastudy/>.

<sup>139</sup> Blum and Parker.

Understanding the composition of the MAGA movement is also a central requirement to understanding what took place on January 6, 2021.

The study shows that MAGA supporters are not a diverse group. Approximately 60 percent of male MAGA supporters are Caucasian males, identifying themselves as Christian from a purely demographic standpoint. Nearly half are “retired, over 65 years of age, and earn at least \$50K per year.”<sup>140</sup> Some findings from the study contradict some commonly held beliefs regarding MAGA followers. A surprising result of Blum and Parker’s analysis is that approximately 50 percent fall into the middle-income bracket, and nearly one-third meet the education standards typically associated with the middle class, which contradicts the portrayal within the media that the majority of January 6, 2021, rioters constituted “mainly working-class” participants.<sup>141</sup> The study found that MAGA adherents are grouped around major cities like Atlanta, Chicago, and Dallas.<sup>142</sup> This grouping is significant because it shows that the MAGA presence is not as restricted to mainly rural areas as is generally believed.

In addition to Christian beliefs, the Blum and Parker study also found that approximately 85 percent of supporters belong to a gun-rights organization, even if the respondent is not a gun owner. Additionally, nearly 60 percent belong to pro-law enforcement entities, and approximately 50 percent are members of “anti-lockdown and pro-life groups.”<sup>143</sup> The study contributes to the understanding of the demographics of MAGA supporters and illustrates a complex web of affiliations that shape their socio-political identities.

Although most of the study’s findings are as expected, a couple of surprising conclusions cast some of the movement’s adherents in a different light. For example, “only 38% of the MAGA movement identifies with the ‘Stop the Steal’ campaign. Likewise, only

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<sup>140</sup> Blum and Parker.

<sup>141</sup> Blum and Parker.

<sup>142</sup> Blum and Parker.

<sup>143</sup> Blum and Parker.

roughly 23% of the insurgent movement identifies with militia movements of any kind.”<sup>144</sup> The significance of such a finding may suggest that members of militia-styled movements (such as the Michigan Wolverine Watchmen) and far-right groups (such as the Proud Boys) are likely to identify with their organization more than with the overall MAGA movement.

Political affiliations represent the means for the MAGA philosophy to become a part of the “mainstream” political landscape in the United States. Regarding political factors, a couple of interesting facts stand out, especially one that challenges the United States’ voter-centric form of participatory democracy. According to the study, nearly 90 percent of MAGA believers self-identify as Republicans or lean Republican.<sup>145</sup> When asked about Trump’s claims of a fraudulent election, almost 98 percent of respondents believed widespread fraud existed and did not trust the results.<sup>146</sup> Interestingly, the trustworthiness of election results drops by 20 percent when the respondents respond to a question about the validity of congressional elections. The researchers suggest that MAGA followers are “less upset with gains made in the House versus losing (illegitimately) the presidency.”<sup>147</sup> The results highlight that voters believe in the electoral process only if their candidate wins, implying a movement that does not hold much faith in electoral institutions. The numbers also suggest a movement that does not seek to advance democratization but maintains a tight grip on control of the government’s highest office.

The study also probed respondents’ level of direct political action because it is a means of discerning a person’s depth of dedication to political involvement.<sup>148</sup> According to the study, at least 50 percent of MAGA supporters were politically active, whether that is by donating money, participating in a politically driven boycott, contacting an elected

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<sup>144</sup> Blum and Parker. It should be noted that use of the term “insurgent movement” is a direct quote from the text of the panel study, but there was no accompanying definition of how the authors apply the term. A reasonable conclusion could be made, based on the context in which it is used, that it refers to those MAGA adherents who were involved in the events at the U.S. Capitol on January 6, 2021.

<sup>145</sup> Blum and Parker.

<sup>146</sup> Blum and Parker.

<sup>147</sup> Blum and Parker.

<sup>148</sup> Blum and Parker.

representative, or signing a petition.<sup>149</sup> Additionally, the study concluded that nearly 45 percent attended an event, 35 percent went to a political rally, and approximately 30 percent worked for free on a campaign.<sup>150</sup> Even if the results are not shocking, the data paints a picture of an electorate fully committed to the cause and, as seen on January 6, 2021, who are more than willing to put that support into action.

### C. MAGA’S LARGER MEANING

What does the MAGA movement’s larger socio-political platform represent? S. Romi Mukherjee suggests the “rationale for Trumpism is not simply policy-based, or economic. Rather, resonating under Trumpism and the promise to Make America Great Again is a white political theology deployed in a new ‘spiritual war’ for the soul of America and, indeed, the soul of the West.”<sup>151</sup> Understanding the premise underlying the MAGA philosophy is crucial to understanding why extremist groups subscribed to the messaging of MAGA politicians during Trump’s presidency and well afterward.

According to data analysts, religion was integral in helping Trump win the presidency. According to a Pew Research Center analysis, “fully eight-in-ten self-identified white, born-again/evangelical Christians say they voted for Trump, while just 16% voted for Clinton.”<sup>152</sup> Additionally, Trump’s level of support among white Catholic voters was enough to push him to a seven-point margin over Clinton even though she far outpaced him among Hispanic Catholic voters by a 67 to 26 percent margin.<sup>153</sup> Trump’s ability to convert religious beliefs into political support reveals “how religious discourse could be used to mask all too human self-interests.”<sup>154</sup> As Mukherjee chides, “the dilemma faced by the ‘country’s thinking class’ should not be underestimated for believing that

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<sup>149</sup> Blum and Parker.

<sup>150</sup> Blum and Parker.

<sup>151</sup> S. Romi Mukherjee, “Make America Great Again as White Political Theology,” *Revue LISA* 16, no. 2 (2018): 1, <https://doi.org/10.4000/lisa.9887>.

<sup>152</sup> Jessica Martinez and Gregory A. Smith, “How the Faithful Voted, A Preliminary 2016 Analysis,” Pew Research Center, November 9, 2016, <https://www.pewresearch.org/fact-tank/2016/11/09/how-the-faithful-voted-a-preliminary-2016-analysis/>.

<sup>153</sup> Martinez and Smith.

<sup>154</sup> Mukherjee, “Make America Great Again as White Political Theology,” 5.

Trumpism signifies the end of the liberal world order, the moral and political virtues that typified liberal democracy.”<sup>155</sup> Therefore, the research posits that the MAGA movement is not a positive force for democratization but instead constitutes a backsliding of democratic principles in the United States.

Although demographic information is an important element in understanding the socio-economic aspects of MAGA supporters, having Trump supporters self-identify what MAGA means in terms of issues provides critical data regarding the issues that trigger political polarization within the MAGA wing of the Republican party. Figure 1 represents eight categories that respondents provided when asked to describe what MAGA meant to them personally. An interesting finding is that other than those who equated MAGA with Donald Trump, the categories are not atypical of traditional Republican values.

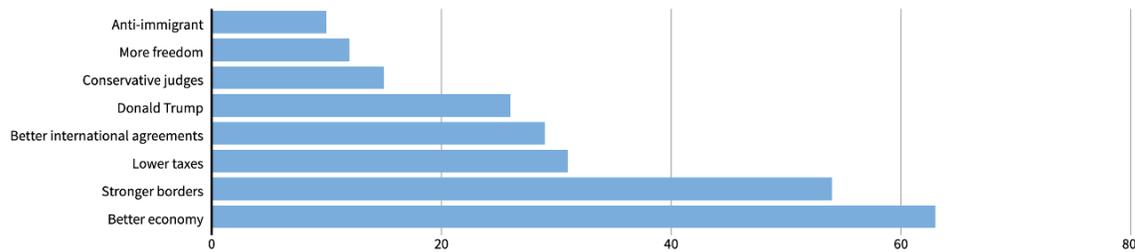


Figure 1. What MAGA Means to Trump Supporters.<sup>156</sup>

#### D. JANUARY 6, 2021: A TEST FOR DEMOCRACY’S SUSTAINABILITY

Many scholars have written about the causes and effects of January 6, 2021. In a similar process in advancing our understanding of who makes up the MAGA movement, delving deeper into the demographics of the people captured in the images from that day is necessary to understand why it happened. Researchers at the Chicago Project on Security

<sup>155</sup> Mukherjee, 11.

<sup>156</sup> Source: Reuters/Ipsos poll, Oct. 2–9, 2018. Sample size = 1,249 Trump voters; credibility interval = +/- 3 percentage points. Julia Harte, Ned Parker, Chris Kahn, Pete Eisler | REUTERS GRAPHICS “What MAGA Means to Trump Voters,” Reuters Graphics, n.d., <https://fingfx.thomsonreuters.com/gfx/editorcharts/USA-ELECTION-TRUMP-MAGA/0H001BBVZ2XL/index.html>.

& Threats (CPOST) conducted one of the earliest examinations of the motivation behind January 6. The CPOST report comprehensively examines the “stated motives of those Americans who have been charged for their part in the January 6 Insurrection.”<sup>157</sup> It is crucial to our democracy that the motivations behind the attack are evaluated and potential safeguards against re-occurrence implemented.

The real possibility that the end of the American experiment with democracy was at hand was not readily apparent to the scores of police officers battling with would-be insurrectionists on January 6, 2021. However, as Robert A. Pape and Keven Ruby articulate, “the attack on the Capitol was unmistakably an act of political violence, not merely an exercise in vandalism or trespassing amid a disorderly protest that had spiraled out of control.”<sup>158</sup> But what was the motivation behind the violence, were there different sets of motives at work, and did those facing charges still maintain the core beliefs on display on January 6, 2021?

At the heart of the CPOST study were three core topic areas, each generating a central question that seeks to quantify the depths of the respondent’s motives. The three main ideas concerned a sense of duty, a cohesive political ideology, and the renouncement of their belief that the Democrats stole the election. Respondents were charged with a crime or completed sentencing before the study’s conclusion. About the first category, CPOST examined the public statements of 398 individuals out of 716 accused of a crime as of January 1, 2022. Of this total, nearly 24 percent “assert various versions of they were ‘swept up in the crowd.’”<sup>159</sup> The vast majority of respondents, approximately 80 percent, provided a response indicating their motivation was politically driven.<sup>160</sup> The high number of participants whose actions were politically motivated may warn of the dangers that

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<sup>157</sup> Robert A. Pape, “*Patriotic Counter-Revolution*”: *The Political Mindset That Stormed the Capitol* (Chicago, IL: University of Chicago, Chicago Project on Security & Threats, 2022), [cpost.uchicago.edu/publications/patriotic\\_counter\\_revolution\\_the\\_political\\_mindset\\_that\\_stormed\\_the\\_capitol](https://cpost.uchicago.edu/publications/patriotic_counter_revolution_the_political_mindset_that_stormed_the_capitol).

<sup>158</sup> Robert A. Pape and Keven Ruby, “The Capitol Rioters Aren’t Like Other Extremists,” *The Atlantic*, February 2, 2021, 3.

<sup>159</sup> Pape, *Patriotic Counter-Revolution*, 4.

<sup>160</sup> Pape, 4.

excessive political polarization continues to exert on democratic institutions within the United States.

Unsurprisingly, political motivation ranked the highest as an inspirational idea, considering the level of political polarization in the United States pre-and post-election in 2020. The 80 percent of respondents who stated political considerations drove their actions fell into five main categories: “patriotic duty (41%), closely followed by anti-government animus (38%) and stolen election (36%), then loyalty to Trump (23%), and fear of losing rights (12%).”<sup>161</sup> One of the most interesting aspects of the findings is that being swept up in a crowd and loyalty to Trump were nearly identical as motivating reasons. The results indicate that a warped sense of duty or government betrayal motivated action more than blind faith in a single person.

Since the CPOST study identified at least five political rationales for the insurrectionist’s actions, the researchers then determined whether these self-identified motivations were more prevalent in one demographic group than another: those charged with more violent crimes or the set that belonged to a militia group. According to the data, researchers found “no significant differences based on age, sex, race, occupation, education, pre-existing criminal records, those charged with violence, and those with pre-existing militia ties.”<sup>162</sup> This finding points to a “remarkably coherent political mindset” within the crowd of people engaging in violence at the Capitol, which is not entirely unexpected considering the psychology of crowd behavior.<sup>163</sup> The combination of crowd behavior and belief in the righteousness of the cause proved to be an explosive mixture.

The question important for democracy then is, has the passage of time since January 6 had a sobering effect on those who have seen their cases wholly adjudicated? Upon the study’s conclusion, 114 respondents had completed the judicial process. Of those 114, approximately 84 percent expressed remorse for violating the law, but only 21 percent renounced any political motivation proffered initially as the reason for engaging in illegal

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<sup>161</sup> Pape, 4.

<sup>162</sup> Pape, 4.

<sup>163</sup> Pape, 4.

conduct at the Capitol. Potentially, many people are harboring any (or all) of the politically motivated factors identified in the study does not bode well for the 2024 election, especially should Trump become the Republican nominee. A healthy democracy depends on the principle of informed, active, and free participation of its citizens in the political process. When factors identified in research motivate large segments of the population, the outcome may be a more polarized and potentially less conducive political atmosphere.

A significant anchor of democracy is the peaceful transition of power from one person or party to another. One potential red flag that stands out from the study’s findings related to individuals who had their cases adjudicated is that only six of the 114 respondents “publicly recognize Joe Biden as the legitimate president of the United States.”<sup>164</sup> Not accepting the legitimate outcome of a free and fair election is one signpost that politically-inspired violence may recur in the United States. Barton Gellman assesses that to think otherwise would be a “dangerous underestimate of the threat in 2024—which is larger, not smaller than it was in 2020.”<sup>165</sup> Gellman’s assessment conforms with a 2022 University of California-Davis poll that “one in five Americans believes political violence would be ‘at least sometimes’ justified, and one in 10 believes it would be justified if it meant returning Trump to the presidency.”<sup>166</sup> The findings reveal that the danger is no longer theoretical or distant.

Although the CPOST study analyzes the motivations of extremist groups, insurrectionists, rioters, or accidental tourists and provides excellent insights into the who and the why, it does not identify MAGA adherents as a distinct category or group in their analysis. Blum and Parker queried self-identified MAGA supporters regarding responsibility for the actions at the Capitol, and unsurprisingly, less than 30 percent of MAGA followers assign any blame to Trump but parse responsibility between Republicans and the Proud Boys at roughly 55 and 73 percent, respectively, and again, not surprisingly,

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<sup>164</sup> Pape, 4.

<sup>165</sup> Barton Gellman, “Trump’s Next Coup Has Already Begun,” *The Atlantic*, no. January/February 2022 (December 6, 2021): 33.

<sup>166</sup> Adrienne LaFrance, “The New Anarchy,” *The Atlantic*, April 2023, 24.

95 percent of MAGA adherents feel Antifa shares some responsibility for the violence.<sup>167</sup> A fascinating aspect of these statistics is that most respondents did not cast blame for precipitating the violence at the Capitol at the feet of then-President Trump, which could translate into votes during his 2024 race.

Another interesting revelation from the Panel Study of the MAGA Movement was how MAGA devotees would describe the events of January 6 when presented with the following choices: “protest, riot, coup, rebellion, or insurrection.”<sup>168</sup> According to the data, nearly 60 percent chose protest, 20 percent selected riot, and only 8 percent selected coup.<sup>169</sup> These numbers suggest that most MAGA followers will overlook what happened on January 6, 2021, if Trump regains the White House in January 2025.

On January 6, 2021, Washington, DC, was the epicenter of a historical event that rattled our democracy to its core. Although Make America Great Again began as a political slogan of candidate Donald Trump, it became a rallying cry for his most committed adherents. Preceding the events at the United States Capitol on January 6, 2021, far-right extremist groups such as the Proud Boys descended upon Washington, DC, under the MAGA banner to protest what supporters claimed was a rigged election to engineer Joe Biden’s win in 2020. Although BLM and MAGA could not be further apart on the political spectrum, advocates share the common belief in the necessity of their actions to advance or protect our democracy.

## **E. CONCLUSION**

This chapter focused on demonstrations as a significant mode of communication between democratic institutions, their agents, and the citizens. This messaging becomes critical when a disconnect emerges between the promise of democracy and the reality of its application. Specifically, this chapter showed that bringing causes to the streets allows those without access to express themselves before decision-makers. The suffragist

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<sup>167</sup> Blum and Parker, “Panel Study of the MAGA Movement.”

<sup>168</sup> Blum and Parker.

<sup>169</sup> Blum and Parker.

movement of the 1920s increased participatory democracy by 50 percent when women secured the right to vote. This achievement was not easy and did not occur overnight. Still, the hardships endured and the picket lines, marches, hunger strikes, and acts of civil disobedience eventually put enough pressure on democratic institutions that previously locked doors began to open.

The focus of the chapter then shifted to the CRM and two specific protest methods—the bus boycotts and the lunch counter-sit-ins—to show the significant impact that seemingly small acts of defiance can have on systemic hostility towards an entire segment of society. The CRM showed that, ultimately, the power is with the people and should remind leaders of their accountability to the governed. The CRM and the BLM movement that would come 60 years later also show that demonstrating through a sustained presence is a powerful tool for making democracy more responsive to people’s needs.

The advent of social media and near-instantaneous communication has made every person with a cellphone an organizer for social justice and provided a platform for accountability previously unimaginable. The video of the murder of George Floyd by a former Minneapolis Police Officer reverberated around the world at a speed not possible even a decade ago. As a result, an organic explosion of anger, frustration, and action shook the world with a fury built up from injustices suffered for far too long and expressed through shouts of “no justice, no peace.”

If democracy is a ledger with positive and negative entries, then the suffragist movement, the CRM, and the BLM movement would appear in the positive column. All these movements strengthened democracy because of the pressure the followers applied to the status quo to expand democracy’s reach to marginalized communities. Considering the events of January 6, 2021, researchers can argue that the MAGA movement occupies the negative side of the ledger because it threatened to upend the foundation of democracy: the peaceful transfer of power.

All social change movements interact with factions representing the government’s interests. Law enforcement agencies are the arm of the government with the most interface with demonstrators and protest movements. Ample research addresses theories of protest

movements and protest policing. Still, research is thin when examining the implications for the police and the protestors when the targets of the demonstrations are the police themselves. Chapter IV discusses that dynamic in greater detail by analyzing the protests in Washington, DC, between May 30, 2020, and January 6, 2021. During this timeframe, law enforcement found itself in the middle of virulent anti-police protests from causes on the left and the right. Chapter IV also examines the implications for Homeland Security that such a dynamic represents as the country prepares for the next presidential election in 2024.

## IV. POLICE AND PROTESTORS: FROM AN UNEASY TO A DIVISIVE RELATIONSHIP

We who in engage in nonviolent direct action are not the creators of tension.  
We merely bring to the surface the hidden tension that is already alive.

—Martin Luther King, Jr.<sup>170</sup>

### A. INTRODUCTION

In the United States, two crucial groups stand out on the stage for exercising the right to air grievances through protests: the protestors and the police. This uneasy relationship builds upon interactions that have sometimes tested democratic resiliency. Law enforcement ensures the safety of every citizen’s First Amendment rights while simultaneously “officially licensed to exercise coercion over citizens.”<sup>171</sup> William Smith suggests that “the strategies that the police adopt towards transgressive protest play a vital role in expressing the state’s attitude towards civil disobedience.”<sup>172</sup> Law enforcement is uniquely situated as a representative of the democratic state that guarantees the right to protest while at times becoming the target of protest action.

Police agencies are perhaps the most visible and direct conduit between the protestors’ displeasure with state actions and, at least within the realm of the social justice movement, a primary cause of democracy’s failings. The chapter here first examines law enforcement’s institutional approach to First Amendment assemblies via a comparison of policies between the Washington, DC, Metropolitan Police Department (MPDC), the Seattle Police Department (SPD), and the Portland Police Bureau (PPB). The BLM, Antifa, and the MAGA movements reveal the evolution of the relationship between the police and the protestors from uneasy to openly contentious, either because of law enforcement’s

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<sup>170</sup> Anusuya Mukherjee, “55+ Best Quotes for Peaceful and Powerful Activism,” Kidadl, July 27, 2023, <https://kidadl.com/quotes/best-protest-quotes-for-peaceful-and-powerful-activism>, <https://kidadl.com/quotes/best-protest-quotes-for-peaceful-and-powerful-activism>.

<sup>171</sup> Robert Reiner, *The Politics of the Police* (Oxford, UK: Oxford University Press, 2000).

<sup>172</sup> William Smith, *Civil Disobedience and Deliberative Democracy* (London: Routledge, 2013), 11.

specific actions or simply because protestors see the police solely as an extension of the state.

## **B. POLICING OF PROTESTS: A NATIONAL AND LOCAL FRAMEWORK**

A citizen's commitment to an issue is apparently on display through their presence at a protest. The democratic framework for engagement often produces a contentious but constitutionally protected faceoff between the state and the protestors. But what does citizens' willingness to engage in demonstrations say about protestors' frame of mind? Does engagement in non-violent protests show the demonstrators' esteem for the framework of "deliberative democracy?"<sup>173</sup> As Smith asserts, is the decision to engage in this form of political participation an expression or conviction that society has deliberately or negligently been unable to safeguard the integrity and fairness of the democratic process?<sup>174</sup> Whereas citizens' displeasure with state actions often manifests at the grassroots level, how the police view their roles and responsibilities are questions often addressed by law enforcement at the institutional level. In this way, both the police and the protestors are operating within the boundaries prescribed by our legal system and within the framework of the Constitution, thereby increasing the legitimacy of both actors.

In response to the George Floyd protests, the Major City Chiefs Association (MCCA) empaneled a working group to "advance and inform thoughtful conversations so police departments and communities can best work together to facilitate the continued exercise of First Amendment rights while ensuring the safety for all."<sup>175</sup> Additionally, the MCCA working group sought to provide insight regarding a few of the difficulties law enforcement must contend with in this realm while providing an "educational resource outlining why specific actions are taken during First Amendment assemblies."<sup>176</sup> The

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<sup>173</sup> Smith, *Civil Disobedience and Deliberative Democracy*.

<sup>174</sup> Smith.

<sup>175</sup> First Amendment Assembly Working Group, *Law Enforcement Response to First Amendment Assemblies: Best Practices and Tactics* (Salt Lake City, UT: Major City Chiefs Association, 2021), 1, <https://majorcitieschiefs.com/wp-content/uploads/2021/04/MCCA-First-Amendment-Assembly-Working-Group-Final-Report.pdf>.

<sup>176</sup> First Amendment Assembly Working Group, 1.

panel identified the lack of communication between law enforcement and the community as a gap in facilitating safe demonstrations.<sup>177</sup> The finding echoes what most police agency leaders would say about communicating with the community: the time to establish a working relationship is not in the midst of a crisis.

Protests pose challenges to police, who must balance the community’s safety with the rights of peaceful demonstrators. The working group’s classification of three variations of First Amendment assemblies: calm and legal, prohibited, and confrontational are beneficial due to these challenges.<sup>178</sup> The report noted, “it is not uncommon for the same assembly to include components from all three categories.”<sup>179</sup> Although the panel asserted the goal for all police departments is the safe facilitation of citizens’ right to peacefully assemble while eliminating, or at a minimum, limiting criminal conduct, the knowledge of the dynamics of each variation is an essential tool for law enforcement’s planning, preparation, and resource allocation for a demonstration.<sup>180</sup> The question this presented for law enforcement is how best to ensure a safe and successful outcome for First Amendment demonstrations.<sup>181</sup> As identified previously, one challenge of protest policing is the potential for a shift between the three categories in the middle of the demonstration and the need to pivot response(s) to ensure a safe and successful outcome for the police and protestors alike.

The report articulated the responsibility of law enforcement that is inherent in their duty of ensuring the public’s safety within the confines of the authority granted to them by state and federal statutes. The report identified several best practices for adoption that position law enforcement agencies to fulfill these duties effectively. The first best practice identified was not allowing the protest’s subject matter to influence how officers act towards the protestors. Maintaining impartiality, the report suggests, is essential for

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<sup>177</sup> First Amendment Assembly Working Group, 1.

<sup>178</sup> First Amendment Assembly Working Group, 1.

<sup>179</sup> First Amendment Assembly Working Group, 2.

<sup>180</sup> First Amendment Assembly Working Group, 2.

<sup>181</sup> First Amendment Assembly Working Group, 4.

ensuring fair treatment for all participants.<sup>182</sup> Second, the panel recommended agencies adopt unambiguous language and policies that “establish clear guidelines for appropriate responses, tools and techniques available, and instances where a specific tactic may not be used.”<sup>183</sup> Preserving institutional legitimacy plays an integral role in the panel’s recommendations and accentuates the importance the panel ascribed to the concept.

The actions taken by the police during a demonstration present a significant factor in determining the level of legitimacy afforded to law enforcement by society. The importance of law enforcement’s assessment of the crowd’s actions and moderating their response based on that is two-fold.<sup>184</sup> First, considering how their actions may influence crowd behavior will help create an environment that fosters the best chance for a safe outcome. Second, by maintaining a degree of flexibility and not getting locked into a uniform response mentality, law enforcement “ensure the response is still appropriate given the current circumstances of an assembly.”<sup>185</sup> Law enforcement is responsible for applying “proportionate and measured” action(s) in all their dealings with the public, even as the targets of the protest.

### **1. Case Study of the Washington, DC, Metropolitan Police Department’s Handling of First Amendment Assemblies**

The following section examines the handling of First Amendment assemblies by the MPDC. Focusing on the MPDC as the primary agency for a review of First Amendment policies has two justifications: first, the author’s familiarity with the policy and its application, and second the MPDC’s jurisdiction encompasses the nation’s Capitol, which is the stage for near-daily protests. As the seat of our democratic institutions, Washington, DC, is a primary destination for groups who want to exercise their right to free speech and air their grievances with the government. Internal policy guidelines (General Orders) along with the District of Columbia Criminal Code and the Constitution guide the MPDC’s

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<sup>182</sup> First Amendment Assembly Working Group, 4.

<sup>183</sup> First Amendment Assembly Working Group, 4.

<sup>184</sup> First Amendment Assembly Working Group, 4.

<sup>185</sup> First Amendment Assembly Working Group, 4.

handling of events within the District of Columbia. The combination of all three sources provides the framework for how the MPDC handles everything from parades, marathons, demonstrations, festivals, and riotous conduct.<sup>186</sup> Although Washington, DC, hosted many peaceful events between May 2020 and January 2021, the MPDC routinely became the focal point of the dis-ease and hostility between law enforcement and the BLM protestors and MAGA rally participants.

## **2. The MPDC Philosophy**

Established in 1861, the MPDC is one of this nation’s oldest law enforcement agencies. The credentials issued to every MPDC police officer indicate a duty to ensure “the preservation of peace, the protection of life and property, the prevention of crime, the arrest of violators of the law, the protection of the President and other government officials of the United States, and such other duties as may be designated by the Mayor, the Chief of Police, and their agents.”<sup>187</sup> The agency’s handling of protests reflects the significance of its institutional mission. Its guidelines stipulate that the MPDC “protects the constitutional and statutory rights as well as the physical safety of people to assemble peacefully and exercise free speech while preserving the peace.”<sup>188</sup> Preserving peace during demonstrations can be a difficult balancing of rights and responsibilities on the part of the police and protestors.

## **3. MPDC’s First Amendment Assembly Guidelines**

Although the examination of MPDC policy represents a high overview of the MPDC policy, it will cover the most pertinent aspects for this thesis. The GO governing how MPDC handles First Amendment assemblies states the policy is “intended to exceed constitutional requirements and satisfy the heightened requirements of local statutory law and best practices for protecting the First Amendment rights and safety of demonstrators

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<sup>186</sup> Metropolitan Police Department, *Crowd Management and Civil Unrest*, General Order 801.01 (Washington, DC: Metropolitan Police Department, 2021), 2.

<sup>187</sup> These words are taken directly from the law enforcement credentials issued to the author of this thesis upon graduation from the police training academy and being sworn in as a police officer for the Washington, DC, Metropolitan Police Department.

<sup>188</sup> Metropolitan Police Department, *Crowd Management and Civil Unrest*, 2.

while safeguarding persons and property in the District of Columbia.”<sup>189</sup> However the MPDC achieves it, this balance offers a critical insight into the philosophical underpinnings of a large United States law enforcement agency’s handling of demonstrations.

On the local level, the District of Columbia Criminal Code, known as the “First Amendment Rights and Police Standards” (§5-331) governs MPDC’s handling of First Amendment assemblies.<sup>190</sup> The law stipulates a that “persons and groups have a right to organize and participate in peaceful First Amendment assemblies on the streets, sidewalks, and other public ways, and in the parks of the District of Columbia.”<sup>191</sup> Participants also have the right to be located near the object of their protest so long as it does not interfere with non-participants’ safety, property protection, or public accommodations (e.g., access to sidewalks, streets, mass transit).<sup>192</sup> When protestors fail to comply with the “reasonable time, place, and manner restrictions,” the MPDC attempts to negotiate a settlement first and foremost before it engages in the issuance of citations or arrests.<sup>193</sup> The restrictions enumerated in the GO refer to equitable limitations that seek to balance the rights of the protestors with the rights of the community. The policy aims to balance interests that often contradict each other, but policy and law nonetheless protect.

A vital component of the right of the public to voice their displeasure with the government is the ability to assemble *peacefully*. In those instances where a person or persons engage in illegal conduct, officers must try to identify the perpetrator(s) and make an arrest only of those involved in such behavior instead of issuing an order for all participants to disperse.<sup>194</sup> The policy for issuing a dispersal order requires the following elements: “a significant number or percentage of the assembly participants fail to adhere to the imposed time, place, and manner restrictions,” and the chance of gaining voluntary compliance is minimal; a large amount of the group are participating in, or about to join in,

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<sup>189</sup> Metropolitan Police Department, 2.

<sup>190</sup> Metropolitan Police Department, 12.

<sup>191</sup> Metropolitan Police Department, 12.

<sup>192</sup> Metropolitan Police Department, 12.

<sup>193</sup> Metropolitan Police Department, 15. Time

<sup>194</sup> Metropolitan Police Department, 15.

acts of “unlawful disorderly conduct or violence toward persons or property;” or the Mayor has issued a “public safety emergency” and the Chief of Police “determines that the public safety concerns that prompted the declaration require that the First Amendment assembly be dispersed.”<sup>195</sup> January 6 exemplifies the declaration of a public safety emergency declaration was issued. However, as soon as the violence began, the event ceased being a First Amendment assembly, even though no one had yet declared it a riot.

#### **4. Riot Control**

As the MCCA points out, First Amendment assemblies may turn violent and become riots. The MPDC policy states that a “declared riot is not a First Amendment assembly and is characterized by a group of five or more persons engaged or threatening to engage in near-simultaneous assaultive behavior or significant property damage that has aroused, or is likely to arouse, public alarm or apprehension.”<sup>196</sup> Declaring a protest a riot not only authorize arrests, but the policy states that “force may be used, including less lethal weapons, consistent with this order.”<sup>197</sup> The policy governing riots also does not mandate issuing warnings to disperse before enforcement action commences.<sup>198</sup> Declaring an event a riot effectively strips the rally of the protections afforded to First Amendment assemblies.

A recent update to the policy that came as a result of changes to local laws after the George Floyd riots was that “absent exigent circumstances,” authorization to use “CS agents (i.e., tear gas)” can only be made by the Chief of Police or a person designated to act on their behalf.<sup>199</sup> The city council’s spearheading this change demonstrates the chasm between law enforcement’s view of CS agents as an acceptable form of crowd control and society’s view that their use is oppressive.

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<sup>195</sup> Metropolitan Police Department, 15.

<sup>196</sup> Metropolitan Police Department, 19.

<sup>197</sup> Metropolitan Police Department, 19.

<sup>198</sup> Metropolitan Police Department, 19.

<sup>199</sup> Metropolitan Police Department, 19.

## 5. MPDC’s Use of Force Structure During Civil Disturbance

Although the MPDC is not unique among law enforcement agencies from the perspective of policy, law, and the Constitution governing it, the sheer volume of First Amendment assemblies it handles gives it a unique perspective. The MPDC may also be unique in employing a use-of-force framework within a CDU context. The MPDC CDU framework consists of six levels of force based on “perceived threats and force responses, all of which are fluid, dynamic, and non-sequential.”<sup>200</sup> The MPDC delineates the following six CDU use of force categories:<sup>201</sup>

***Constructive Force:*** For use with peaceful protests or marches. Constructive Force involves uniform members in a CDU line formation without direct physical contact with the protestors.<sup>202</sup>

***Physical Force:*** For use when needed to sequester a location where “large-scale unlawful activity is either happening or could happen. Physical Force represents direct physical contact with protestors intended to move a crowd in a particular direction. According to the policy, arrests qualify as physical force.<sup>203</sup>

***Oleoresin Capsicum (OC) Force:*** For use when OC spray is needed to “repel a substantial effort to breach a police line, to prevent significant physical injury of police personnel or others, or to prevent significant property damage.”<sup>204</sup> Police cannot use OC as a means of dispersing a crowd.<sup>205</sup>

***Mechanical Force:*** For use as a defensive mechanism to disperse a crowd “actively engaging in violence or to protect lives and property when the circumstances indicate that its use would be the most effective manner of accomplishing the objective.”<sup>206</sup> Mechanical

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<sup>200</sup> Metropolitan Police Department, 22.

<sup>201</sup> Metropolitan Police Department, 22.

<sup>202</sup> Metropolitan Police Department, 15.

<sup>203</sup> Metropolitan Police Department, 23.

<sup>204</sup> Metropolitan Police Department, 24.

<sup>205</sup> Metropolitan Police Department, 24.

<sup>206</sup> Metropolitan Police Department, 24.

Force represents “uses of force involving the use of department-issued equipment or weapons (e.g., expandable baton, ASP, mountain bike, and protective shield) and the use of less-lethal projectiles.”<sup>207</sup> MPDC cannot use mechanical force when merely attempting to disperse a Constitutionally protected assembly.<sup>208</sup>

***Chemical Force:*** For use when “other tactical options are unavailable or when a lower level of force will not have the desired effect.”<sup>209</sup> The use of chemical force is limited to defensive situations in which the crowd is “threatening or actively engaging in violence or to protect lives and property when the circumstances indicate that the use of CS agents would be the most effective manner of accomplishing the objective.”<sup>210</sup>

***Deadly Force:*** Only to be utilized “when it is immediately necessary to protect the member or another person (other than the subject of the use of deadly force) from the threat of serious bodily injury or death.”<sup>211</sup>

## 6. A Comparison of Techniques: MPDC vs. Seattle and Portland

An important aspect to consider when analyzing how law enforcement agencies manage First Amendment assemblies is the lack of a national standard. In addition to the Constitution, state and municipal laws dictate how most agencies craft internal policies. Although an in-depth comparison of crowd control techniques is not the focus of this section, the short comparison of the MPDC’s First Amendment assembly policy with SPD and PPB’s policies in Table 1 enables a quick comparison to two west coast municipal law enforcement agencies that deal with large, and often violent protests.

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<sup>207</sup> Metropolitan Police Department, 24.

<sup>208</sup> Metropolitan Police Department, 24.

<sup>209</sup> Metropolitan Police Department, 25.

<sup>210</sup> Metropolitan Police Department, 25.

<sup>211</sup> Metropolitan Police Department, 25–26.

Table 1. Comparison of First Amendment Assembly Policies<sup>212</sup>

	MPDC	SPD	PPB
<b>State/ Municipal Legal Authority</b>	“DC Official Code §5-331 (First Amendment Rights and Police Standards).” <sup>213</sup>	“Article 1, §4 & 5 of the Washington State Constitution.” <sup>214</sup>	Oregon Revised Statutes (ORS), Oregon Administrative Rules, Portland City Code, PPB Directives. <sup>215</sup>
<b>Stated Policy Goal</b>	“This general order is intended to exceed constitutional requirements and satisfy the heightened requirements of local statutory law and best practices for protecting the First Amendment rights and safety of demonstrators while safeguarding persons and property in the District of Columbia.” <sup>216</sup>	“The Seattle Police Department takes seriously its responsibility and commitment to support and facilitate the exercise of these [free speech and peaceable assembly] rights in [a] fair and equitable manner, without consideration as to the content or political affiliation, with as minimal a footprint as is reasonably necessary to preserve public safety and order.” <sup>217</sup>	“The PPB recognizes both the importance of protecting First Amendment rights and the tradition of exercising free speech and assembly in the City of Portland. The Bureau is committed to respecting lawful assembly and expression of speech while also maintaining public safety, peace, and order.” <sup>218</sup>
<b>Definition of a Riot</b>	“Characterized by a group of five or more persons engaged or threatening to engage in near-simultaneous assaultive behavior or significant property damage that has aroused, or is likely	“Violent acts by four or more persons or acts that pose an imminent threat of violence against persons or	“Six or more persons engaging in tumultuous and violent conduct and thereby intentionally or recklessly

<sup>212</sup> Adapted from Metropolitan Police Department, *Crowd Management and Civil Unrest*; Seattle Police Department, *Crowd Management, Intervention, and Control*, 14.090 (Seattle, WA: Seattle Police Department, 2021); Seattle Police Department, *Reviewing Use of Force*, 8.500 (Seattle, WA: Seattle Police Department, 2021); Seattle Police Department, *Use of Force Tools*, 8.300 (Seattle, WA: Seattle Police Department, 2021); Portland Police Bureau, *Portland Police Bureau Response to Public Order Events*, 0635.10 (Portland, WA: Portland Police Bureau, 2023), <https://www.portland.gov/policies/police-directives/field-operations-0600/063510-portland-police-bureau-response-public>.

<sup>213</sup> Metropolitan Police Department, *Crowd Management and Civil Unrest*, 12.

<sup>214</sup> Seattle Police Department, *Crowd Management, Intervention, and Control*, 1.

<sup>215</sup> Portland Police Bureau, *PPB-0635.10*, 1.

<sup>216</sup> Metropolitan Police Department, *Crowd Management and Civil Unrest*, 2.

<sup>217</sup> Seattle Police Department, *Crowd Management, Intervention, and Control*, 1.

<sup>218</sup> Portland Police Bureau, *PPB-0635.10*, 5.

	MPDC	SPD	PPB
	to arouse, public alarm or apprehension.” <sup>219</sup>	property (RCW 9A.84.010).” <sup>220</sup>	creating a grave risk of causing public alarm.” <sup>221</sup>
<b>Use of Force Guidelines</b>	“MPD[C] members shall use the minimum amount of force that the objectively reasonable officer would use in light of the circumstances to effectively bring an incident or person under control, while protecting the lives of the member or others. When using force, members shall continuously reassess the perceived threat in order to select the reasonable use of force response, or one that is proportional to the threat faced by him, her, or others.”	“Officers and commanders are expected to apply core principles of de-escalation and modulation of force where safe and feasible to do so. Nothing about this policy creates an exception to the requirement that officers may use only force, which is objectively reasonable, necessary, and proportional to bring an incident or person under control, while protecting the life and safety of all persons.” <sup>222</sup>	“Members shall only use objectively reasonable force necessary to accomplish a lawful objective, and their actions must be in accordance with the IAP [Incident Action Plan] objectives and/or the IC’s [Incident Commander’s] direction.  When the Bureau declares a riot and orders the crowd to disperse, and the crowd does not heed repeated warnings, and no reasonable alternative is apparent, the IC may authorize the use of force.” <sup>223</sup>
<b>Less-Lethal Weapons</b>	“Less-lethal projectiles <b>shall not</b> be used for the purpose of dispersing a First Amendment assembly.” <sup>224</sup>	“The Incident Commander has authority to direct the use of Less-Lethal Weapons other than CS to disperse the crowd. <b>Exception:</b> A lieutenant may authorize the use of less-lethal weapons to move or disperse crowd if an immediate life safety emergency exists.” <sup>225</sup>	“Members may use certain KIPs [Kinetic Impact Projectiles] and chemical incapacitants <i>on an individual person in a crowd</i> if the person is engaged in conduct otherwise justifying the use of force under state law and Bureau policy.” <sup>227</sup>

<sup>219</sup> Metropolitan Police Department, *Crowd Management and Civil Unrest*, 19.

<sup>220</sup> Seattle Police Department, *Crowd Management, Intervention, and Control*, 5. It should be noted that effective January 1, 2014, the Washington State legislature changed the term riot to criminal mischief, and therefore, the word riot is not contained within the Seattle Police Department’s manual covering crowd management (14.090).

<sup>221</sup> Portland Police Bureau, *PPB-0635.10*, 5.

<sup>222</sup> Seattle Police Department, *Crowd Management, Intervention, and Control*, 8.

<sup>223</sup> Portland Police Bureau, *PPB-0635.10*, 12.

<sup>224</sup> Metropolitan Police Department, 24.

<sup>225</sup> Seattle Police Department, *Crowd Management, Intervention, and Control*, 8.

<sup>227</sup> Portland Police Bureau, *PPB-0635.10*, 13.

	MPDC	SPD	PPB
		Must have approval of Incident Commander and then only after order to disperse has been issued and a reasonable amount of time has been allotted for compliance. <sup>226</sup>	
<b>Authority to Use Tear Gas (CS Agents)</b>	“Absent exigent circumstances, only the chief of police or his or her designee shall approve the use of CS agents (i.e., tear gas).” <sup>228</sup>	As of 04/15/2021, tear gas is not included in SPD Crowd Management, Intervention, and Control policy.	The use of tear gas must be “objectively reasonable to defend against a threat to life or serious bodily injury to any person, including a peace officer; bring an objectively dangerous and unlawful situation safely and effectively under control; a commanding officer (the IC) authorizes the use of tear gas. Announced the Bureau’s intent to use gas. Allowed sufficient time for persons to evacuate the area; and announced a second time, immediately before using the tear gas, the agency’s intent to use tear gas.” <sup>229</sup>
<b>Prohibited Crowd Control Measures</b>	“The use of canines for crowd control during a protest is strictly prohibited.” <sup>230</sup>	Canine deployments are prohibited for “demonstration management and or crowd control situations.” <sup>231</sup>	Members are prohibited from using the “following tools or tactics for crowd management purposes: Fire Hoses, Canines, Sound Trucks for purposes other than issuing announcement and warnings,” and the intentional use of motor vehicles to “contact crowd

<sup>226</sup> Seattle Police Department, 9.

<sup>228</sup> Metropolitan Police Department, *Crowd Management and Civil Unrest*, 21.

<sup>229</sup> Portland Police Bureau, *PPB-0635.10*, 13.

<sup>230</sup> Metropolitan Police Department, *Crowd Management and Civil Unrest*, 22.

<sup>231</sup> Seattle Police Department, *Use of Force Tools*, 7.

	MPDC	SPD	PPB
			members or bystanders.” <sup>232</sup>
<b>Use of Force Investigations Stemming from First Amendment Activity</b>	<p>The Internal Affairs Division shall investigate all serious uses of force involving Civil Disturbance Units.<sup>233</sup></p> <p>An individual officer’s use of force (serious or otherwise) that is not associated with a Civil Disturbance Unit action is handled via regular Department reporting and investigating channels.<sup>234</sup></p>	<p>The investigative policy “recognizes that there may be long periods of civil unrest or other large-scale events where the investigation and review processes set forth in this policy are not feasible in a reasonably timely manner. In such instances, the Chief of Police will consult with the Director of the Office of Police Accountability, the Inspector General for Public Safety, and the Director of the Community Police Commission, to determine whether department goals of critical review, transparency, and accountability are better and/or more timely achieved through alternative process(es), within SPD or in coordination with the [Office of the Inspector General] OIG.”<sup>235</sup></p>	<p>“At the end of the event, the lead supervisor of each squad that took police action shall conduct debriefing of the incident with their personnel and document it in their police report. [For the] use of force, the assistant supervisor, or a designated alternate supervisor, of each squad shall write an After Action of any force used by the squad in accordance with directive 0910.00, Use of Force Reporting, Review, and Investigation, during the incident.”<sup>236</sup></p>

## 7. Differing Perceptions on the “Proper” Use of Force

Comparing the three agencies reveals the similar scopes the agencies operate within during First Amendment assemblies. Although no one-size-fits-all national approach to protest policing, the limited case studies show significant parallels in stated goals, legal authority, and use of force parameters. However, less clear is whether similar policies

<sup>232</sup> Portland Police Bureau, *PPB-0635.10*, 14.

<sup>233</sup> Metropolitan Police Department, *Crowd Management and Civil Unrest*, 26.

<sup>234</sup> Metropolitan Police Department, 26.

<sup>235</sup> Seattle Police Department, *Reviewing Use of Force*, 17.

<sup>236</sup> Portland Police Bureau, *PPB-0635.10*, 21.

results in similar implementation practices during demonstrations that are aimed at the institution of law enforcement. Although not the focus of this thesis, the gap between policy and practice may account for the considerable disparity between law enforcement and protestors views regarding what constitutes proper use of force at demonstrations.

### **C. CONFRONTING THE POLICE: THE LEFT VS. THE RIGHT PERSPECTIVES**

The relationship between the police and protestors is multifaceted and influenced by various factors. Between the summer of 2020 and the winter of 2021, large protests concerned social justice, defunding the police, and allegations of rigged elections. The first two protests targeted the criminal justice system and the police in the United States. The latter ones placed law enforcement directly at the center of a polarized polity as the left and the right battled in the streets over the outcome of the 2020 presidential election. Examining these protests and the resulting interventions by the police yields more insights regarding law enforcement's efforts to maintain order when their conduct is cause as well as protection against fissures in our social fabric. Conducting a case study of the entities involved in 2020 and 2021 fosters an understanding of the impact the interactions between these movements and law enforcement can have on the stability of our democracy.

A case study of the BLM, Antifa, and MAGA movement in confronting law enforcement provides a starting point. These movements represent factions associated with the left and right of the polarizing political and social spectrum. The following discussion applies three benchmarks to each movement: the movement's reason(s) for being anti-police, the tactics, and responses of each group to police actions, and to what degree, if any, the activities of each movement have facilitated a shift to a more adversarial relationship.

#### **1. Black Lives Matter: A Brief History and Relationship to Law Enforcement**

Black Lives Matter came into existence after the acquittal of George Zimmerman in 2013 for the killing of Trayvon Martin, an event that did not involve law enforcement; the movement sought to highlight the problems in the overall justice system. The

movement first gained national exposure following the officer-involved shooting death of Michael Brown in Ferguson, Missouri in 2014.<sup>237</sup> According to research, the first use of the hashtag #Blacklivesmatter was in 2013, “it was rarely used through the summer of 2014 and did not come to signify a movement until the months after the Ferguson protests.”<sup>238</sup> Although BLM operates primarily at the local level, there is a unified front nationally when it comes to how BLM views law enforcement. For many, it became the foremost mobilization effort to fight racial injustice in the history of the United States.<sup>239</sup> According to the BLM website, part of the organization’s mission “is to eradicate white supremacy and build local power to intervene in violence inflicted on Black communities by the state and vigilantes.”<sup>240</sup>

Reducing BLM to a mission statement would be underestimating its reach and decentralized nature. Freelon et al. assert that the hashtag and the term Black Lives Matter are different.<sup>241</sup> Whereas the hashtag was born from a single event, the phrase Black Lives Matter refers to “a loosely-coordinated, nationwide movement dedicated to ending police brutality.”<sup>242</sup> For this thesis, the term BLM will signify what Freelon et al. describe as a movement that is “the sum of all organizations, individuals, protests, and digital spaces dedicated to raising awareness about and ultimately ending police brutality against Black people.”<sup>243</sup> The organizational structure of the BLM movement is critical for

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<sup>237</sup> Monica Anderson et al., “#BlackLivesMatter Surges on Twitter after George Floyd’s Death,” Pew Research Center, June 10, 2020, <https://www.pewresearch.org/short-reads/2020/06/10/blacklivesmatter-surges-on-twitter-after-george-floyds-death/>.

<sup>238</sup> Deen Freelon, Charlton D. Mcilwain, and Meredith D. Clark, *Beyond the Hashtags: #Ferguson, #Blacklivesmatter, and the Online Struggle for Offline Justice* (Washington, DC: Center for Media & Social Impact, 2016), 5, <https://cmsimpact.org/resource/beyond-hashtags-ferguson-blacklivesmatter-online-struggle-offline-justice/>.

<sup>239</sup> Also see Umamaheswar, “Policing and Racial (In)Justice in the Media,” 2; Monica Anderson et al., “#BlackLivesMatter Surges on Twitter after George Floyd’s Death,” Pew Research Center, June 10, 2020, <https://www.pewresearch.org/short-reads/2020/06/10/blacklivesmatter-surges-on-twitter-after-george-floyds-death/>.

<sup>240</sup> “Black Lives Matter,” Black Lives Matter, accessed April 3, 2023, <https://blacklivesmatter.com/>.

<sup>241</sup> Freelon, Mcilwain, and Clark, *Beyond the Hashtags*, 9.

<sup>242</sup> Freelon, Mcilwain, and Clark, 7.

<sup>243</sup> Freelon, Mcilwain, and Clark, 9.

understanding BLM protests on the local level and their connection with the larger BLM vision.

The question that takes us to the heart of understanding the influence of movement and the organization is whether the central BLM organization has input on local activities. Deen Freelon et al. suggest that BLM is a “chapter-based activist organization” with local chapters needing the approval of a “centralized authority to be listed on the official webpage.”<sup>244</sup> To the authors, such a structure suggests a national presence with “more in common with traditional advocacy institutions like the NAACP than with porous, digital-first activist networks like Anonymous.”<sup>245</sup> This non-traditional organizational structure results in local chapters or individual protestors carrying BLM signs not needing approval from any central authority to take action, significantly shaping the nature of protests and their policing at the local level, resulting in non-centralized and unexpected action plans.

On a societal level, BLM’s influence is significant because “it is indicative of what people believe police violence, and protest against it, tell us about the state of a democratic society.”<sup>246</sup> Colin Wayne Leach and Cátia P. Teixeira assert that “support or opposition to protest such as Black Lives Matter is predicated on a presumption regarding whether the protestors have a true and legitimate moral claim of injustice.”<sup>247</sup> The presumption of holding the moral high ground vis-à-vis the police affects the perception of law enforcement’s handling of protests. It dramatically affects the legitimacy that various segments of society attribute to police actions.

Unlike the support for BLM based on a principled assertion of inequality, support for law enforcement is represented in more demographic terms. The legitimacy of police actions and whether society views police conduct favorably is partially contingent on political party affiliation and race. Leach and Teixeira assert that faith in the police among Republicans and Whites has generally remained positive or increased in the past ten years

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<sup>244</sup> Freelon, Mcilwain, and Clark, 9.

<sup>245</sup> Freelon, Mcilwain, and Clark, 9.

<sup>246</sup> Colin Wayne Leach and Cátia P. Teixeira, “Understanding Sentiment toward ‘Black Lives Matter,’” *Social Issues and Policy Review* 16, no. 1 (2022): 4, <https://doi.org/10.1111/sipr.12084>.

<sup>247</sup> Leach and Teixeira, 6.

but has declined amongst Democrats and minorities. Citing a 2017 Gallup poll, the authors state that “only a minority of Hispanics (45%), Blacks (30%), Liberals (39%), or younger people aged 18–34 (39%) expressed confidence in the police.”<sup>248</sup> Findings such as this show that the crisis in confidence towards the police is becoming deeply ingrained in the United States among certain groups and is producing a debate into the very nature of policing in America.

As the targets of the protests and policy debates, do police officers view the demonstrations as being strictly anti-police, or assign a more profound meaning to it? In January 2017, the Pew Research Center surveyed approximately 8,000 sworn officers from departments across the United States that employ 100 or more officers. The report included topics such as whether the impact of deaths of African Americans during police interactions motivated the protests that ensued. The results show that many police officers questioned the motivation of the protestors engaged in these demonstrations.

The results may reflect a level of defensiveness on the part of officers regarding their profession. According to the results of the survey, “about nine-in-ten (92%) say long-standing anti-police bias is a motive for the protests, comprising 68% who say it is a great deal of the motivation and about a quarter (24%) who believe bias plays some role.”<sup>249</sup> Although a majority of officers (67 percent) view the deaths of African Americans during interactions with law enforcement “as isolated incidents and not signs of a broader problem between police and the black community,” the viewpoint is starkly different when factoring in the race of the officer.<sup>250</sup> Among black officers, approximately 57 percent feel that these deaths indicate a deeper fissure between African Americans and law enforcement compared to 27 percent of white officers.<sup>251</sup> This disconnect suggests the need for internal work by law enforcement agencies internally and with the community.

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<sup>248</sup> Leach and Teixeira, 6.

<sup>249</sup> Rich Morin et al., *Behind the Badge* (Washington, DC: Pew Research Center, 2017), 62.

<sup>250</sup> Morin et al., 60.

<sup>251</sup> Morin et al., 60.

Still, the question remains: does BLM rhetoric lead to violence directed at law enforcement during protest? In May 2021, the ACLED project released a report examining this question.<sup>252</sup> The research examined “more than 11,000 demonstrations associated with the BLM movement” in “nearly 3,000 distinct locations all around the country.”<sup>253</sup> The data from January 1, 2020, through April 30, 2021, reveals that approximately 94 percent of the “pro-BLM” protests were peaceful, with only 6 percent involving violence towards police or property destruction.<sup>254</sup> The wide gap evident in the incidents of violence versus peaceful protests may suggest more frequent coverage of violent protests by the media.

The instigation of violence during a demonstration may have many triggers. The research conducted by Kishi et al. was inconclusive regarding what group or person(s) initiated the violence. The researchers held that even though “demonstrators have provoked some cases of violence or looting, other events have escalated due to aggressive police action, intervention from right-wing armed groups, and individual car-ramming attacks.”<sup>255</sup> This data suggests that violence directed at law enforcement, or any other kind of violence, is not the primary goal of BLM protests. Such findings do not mean that BLM supporters do not view law enforcement as part of the problem.

Like the suffragists and the CRM, capturing the public’s attention to the BLM message did not occur overnight. According to Freelon et al., “Like many important but invisible issues, police brutality was for many years the exclusive concern of the communities most affected by it. The rise of BLM changed that.”<sup>256</sup> In their mission statement, the organizers clearly state their intention to end the “violence inflicted on Black communities by the state and vigilantes.”<sup>257</sup> Vanessa Williamson et al. further assert that

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<sup>252</sup> Kishi et al., *A Year of Racial Justice Protests*. The 2021 report “builds on initial research published in September 2020 in the wake of the first round of demonstrations,” 1.

<sup>253</sup> Kishi et al., 3.

<sup>254</sup> Kishi et al., 4.

<sup>255</sup> Kishi et al., 4.

<sup>256</sup> Freelon, McIlwain, and Clark, *Beyond the Hashtags*, 36.

<sup>257</sup> Black Lives Matter, “Black Lives Matter.”

“police killings are concrete and observable events carried out by a specific state actor.”<sup>258</sup> An outcome of this combination of community-based violence is that police actions in one local community can produce shockwaves of discontent hundreds of miles from the incident location.

For example, the initial reaction by the public to the video of George Floyd’s murder was as swift as it was violent, with protests breaking out in cities hundreds of miles away from Minneapolis. The video sparked the fuse of pent-up anger, frustration, and historical mistreatment of African Americans by society in general and the criminal justice system specifically, nationally using the narratives of Black Lives Matter.<sup>259</sup> Factoring in the data from ACLED regarding the lack of violence at most BLM protests, it becomes apparent that the violence committed was not associated with the larger BLM message.

Instead, the violence was precipitated by those seeking to take advantage of the protests to commit acts of violence. Research indicates “even if protestors changed or carried signs supporting BLM, BLM-affiliated groups were rarely involved.”<sup>260</sup> BLM-affiliated organizations managed only approximately 3 percent of the 14,000 demonstrations.<sup>261</sup> Whether a formal BLM group was present had no bearing on whether that protest was more violent than demonstrations without the organization’s direct involvement.<sup>262</sup> This statistic lends credence to the findings of the ACLED project that found the majority of BLM protests were peaceful.

Although this thesis does not assess the worldwide George Floyd protests nationally or globally, it will examine what occurred in Washington, DC, between May 30 and June 1, 2020, as an example of the violence in a city approximately 1,109 miles from Minneapolis. On Saturday, May 30, 2020, the District of Columbia braced for the potential

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<sup>258</sup> Vanessa Williamson, Kris-Stella Trump, and Katherine Levine Einstein, “Replication Data for: Black Lives Matter: Evidence That Police- Caused Deaths Predict Protest Activity,” *Perspectives on Politics* 16, no. 2 (June 2018): 402, <https://doi.org/10.1017/S1537592717004273>.

<sup>259</sup> Leach and Teixeira, “Understanding Sentiment toward ‘Black Lives Matter,’” 15.

<sup>260</sup> Kerby Goff and John D. McCarthy, “No, Antifa Didn’t ‘infiltrate’ Black Lives Matter during the 2020 Protests. But Did It Increase Violence?,” *Washington Post*, February 8, 2022.

<sup>261</sup> Goff and McCarthy.

<sup>262</sup> Goff and McCarthy.

that protests could turn violent. It did not take long for that concern to become a reality as intense confrontations erupted near the White House.<sup>263</sup> According to *The Washington Post* article, “Protests and riots in cities across the country following the death of George Floyd while detained by Minneapolis police had put the District on edge.”<sup>264</sup> In this instance, the demonstrators had access to a seemingly limitless supply of fuel for the anger: the police attempting to quell the disruption.

Generally filled with tourists and peaceful protestors, Lafayette Park—directly across from the White House—became the backdrop for much of the violence that erupted over Memorial Day weekend in 2020. The violence included smashing the windows of police cars with bricks, throwing water bottles at the police (most of the bottles frozen ahead of time), looting, and setting fires throughout the downtown area.<sup>265</sup> The news accounts of activity over the weekend in Washington, DC, articulated that the “largely peaceful protests Sunday over the killing of George Floyd devolved into rioting and looting after dark, leaving smashed windows, overturned vehicles and smoldering remains of fires across the city.”<sup>266</sup> The response by the police included the use of “batons and tear gas to push back the crowd.”<sup>267</sup> The protestors’ actions placed law enforcement in the awkward position of being both the cause and the cure for the rioting.

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<sup>263</sup> Samantha Schmidt, Rachel Weiner, and Joe Heim, “D.C. on Edge as Anger over George Floyd’s Death Launches Protests through the Nation’s Capital,” *Washington Post*, May 30, 2020, [https://www.washingtonpost.com/local/dc-on-edge-as-anger-over-george-floyds-death-launches-protests-through-the-nations-capital/2020/05/30/01be2956-a2af-11ea-9590-1858a893bd59\\_story.html](https://www.washingtonpost.com/local/dc-on-edge-as-anger-over-george-floyds-death-launches-protests-through-the-nations-capital/2020/05/30/01be2956-a2af-11ea-9590-1858a893bd59_story.html).

<sup>264</sup> Schmidt, Weiner, and Heim.

<sup>265</sup> Erik Wemple, “‘They’re Just Showing the Violence’: Protesters Sound Off on Coverage of George Floyd Backlash,” *Washington Post*, June 1, 2020, <https://www.washingtonpost.com/opinions/2020/06/01/theyre-just-showing-violence-protesters-sound-off-coverage-george-floyd-backlash/>, <https://www.washingtonpost.com/opinions/2020/06/01/theyre-just-showing-violence-protesters-sound-off-coverage-george-floyd-backlash/>.

<sup>266</sup> Wemple, “‘They’re Just Showing the Violence’: Protesters Sound Off on Coverage of George Floyd Backlash.”

<sup>267</sup> Schmidt, Weiner, and Heim, “D.C. on Edge as Anger,” [https://www.washingtonpost.com/local/dc-on-edge-as-anger-over-george-floyds-death-launches-protests-through-the-nations-capital/2020/05/30/01be2956-a2af-11ea-9590-1858a893bd59\\_story.html](https://www.washingtonpost.com/local/dc-on-edge-as-anger-over-george-floyds-death-launches-protests-through-the-nations-capital/2020/05/30/01be2956-a2af-11ea-9590-1858a893bd59_story.html).

## 2. Antifa: A Catalyst for Violence

Antifa, short for anti-fascist, presents a comparable example of violent actions associated with the group at demonstrations nationwide and not because of any direct affiliation with BLM. Granting Antifa organizational status does not accurately characterize the type of loosely formed, far-left political posturing with which the movement is synonymous.<sup>268</sup> Antifa adherents are well known for direct-action tactics, such as street protests, arson, property damage, and sometimes physical confrontations with persons identifying with the political right and law enforcement.<sup>269</sup> David C. Pyrooz and James A. Densley conclude that the “collective behavior in some factions of Antifa is inherently violent.”<sup>270</sup> Pyrooz and Densley cite actions taken by Antifa groups across the United States within eight months between January 2017 and August 2017 as justification for their assessment. A common thread among all the events cited in Table 2, outside of the description of the March 4, 2017, event in Berkeley, CA, is the violence perpetrated against the police.

Table 2. Synopsis of Antifa Violence<sup>271</sup>

When	Where	What
January 20, 2017	Washington, DC	During the 2017 Presidential Inauguration, “Antifa members smashed storefronts and bus stops in downtown Washington, D.C., They vandalized and set on fire a limousine parked outside <i>The Washington Post</i> headquarters and threw rocks at police.” <sup>272</sup>

<sup>268</sup> Gary LaFree, “Is Antifa a Terrorist Group?,” *Society* 55, no. 3 (2018): 249, <https://doi.org/10.1007/s12115-018-0246-x>.

<sup>269</sup> David C. Pyrooz and James A. Densley, “On Public Protest, Violence, and Street Gangs,” *Society* 55, no. 3 (2018): 233, <https://doi.org/10.1007/s12115-018-0242-1>.

<sup>270</sup> Pyrooz and Densley, 233.

<sup>271</sup> Adapted from Pyrooz and Densley, “On Public Protest, Violence, and Street Gangs.”

<sup>272</sup> Pyrooz and Densley, 233.

<b>When</b>	<b>Where</b>	<b>What</b>
<b>January 20, 2017</b>	Seattle, WA	“Antifa threw bricks and other items at officers during a demonstration on the University of Washington campus demonstration.” <sup>273</sup>
<b>January 20, 2017</b>	Sacramento, CA	“Over a dozen were injured, including seven stabbed, in a clash in Sacramento.” <sup>274</sup>
<b>February 1, 2017</b>	University of California at Berkeley	“Prior to a planned speech by alt-right figurehead Milo Yiannopoulos at the University of Berkeley, Antifa caused \$100,000 worth of property damage to the campus, threw fireworks, Molotov cocktails, and rocks at the police, and used pepper spray on people.” <sup>275</sup>
<b>March 4, 2017</b>	Berkeley, CA	“Another disruption in Berkeley, California, resulted in multiple arrests for assault with a deadly weapon.” <sup>276</sup>
<b>April 15, 2017</b>	Berkeley, CA	“Arrests after a pro-Trump demonstration in Berkeley turned violent, with Antifa hurling projectiles at police. Knives and makeshift weapons were confiscated.” <sup>277</sup>
<b>May 1, 2017</b>	Portland, OR	“At a May Day rally in Portland, Oregon, demonstrators set fires and attacked police with rocks, bottles, ball bearings, fireworks, smoke bombs, and road flares.” <sup>278</sup>
<b>August 27, 2017</b>	Berkeley, CA	“About 100 masked black-clad, Antifa associates carrying shields and sticks broke through police lines and proceeded to target right-wing activists. Nine men and four women were arrested on various charges, including assault with a deadly weapon and felony assault.” <sup>279</sup>

<sup>273</sup> Pyrooz and Densley, 233.

<sup>274</sup> Pyrooz and Densley, 233.

<sup>275</sup> Pyrooz and Densley, 233.

<sup>276</sup> Pyrooz and Densley, 234.

<sup>277</sup> Pyrooz and Densley, 234.

<sup>278</sup> Pyrooz and Densley, 234.

<sup>279</sup> Pyrooz and Densley, 230.

Antifa’s role in democracy is a complex and controversial topic from a socio-political and a law enforcement perspective. Antifa groups are opportunistic, taking advantage of movements’ agendas to strike out against any person, organization, or government entity deemed right-wing or believed to support such an agenda. From a philosophical perspective, violence directed at law enforcement is not only warranted because police officers embody state authority but also because Antifa views law enforcement as protectors of the far right.<sup>280</sup> Seth G. Jones and Catrina Doxsee opine that even though “many Antifa sympathizers do not support violence as the only—or even the main—instrument to oppose fascism, they view violence as a legitimate option.”<sup>281</sup> This mindset inserts the possibility of violence at any rally attended by Antifa members.

Although a healthy democracy supports diverse opinions and viewpoints, even those deemed controversial or offensive, Antifa’s tactics can challenge democracy. Members espousing Antifa’s ideology believe that violence is a legitimate demonstration tactic.<sup>282</sup> It should be self-evident in a democratic society that acts of violence such as lighting fires, smashing storefront windows, and assaulting police officers are crimes, not First Amendment activities. But whether Antifa was solely responsible for the violence that occurred after George Floyd’s death remains an unresolved question.

The weekend after the initial release of the George Floyd video, Washington, DC, was among many cities that observed violent clashes between protestors and the police. Even though Antifa considers law enforcement officers legitimate targets for direct action, it does not appear that the violence arising from the lawful protests was orchestrated or perpetrated by Antifa. According to researchers Neil MacFarquhar, Alan Feuer, and Adam Goldman, no evidence supported “an effort by Antifa to perpetrate a coordinated campaign of violence” even though Antifa members were in the crowd with scores of other

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<sup>280</sup> Seth G. Jones and Catrina Doxsee, “Examining Extremism: Antifa,” *Examining Extremism* (blog), June 24, 2021, <https://www.csis.org/blogs/examining-extremism/examining-extremism-antifa>.

<sup>281</sup> Jones and Doxsee.

<sup>282</sup> Jones and Doxsee.

protestors.<sup>283</sup> Yet, according to MacFarquhar et al., the movement’s size, sustainability, and passion outstripped anything an individual Antifa cell could ever hope to arrange.<sup>284</sup> Such research casts doubt on former President Trump’s assertion that Antifa drove the violence in the summer of 2020.

Although the data does not support the contention that Antifa devotees committed the violence, there have been accusations that Antifa “infiltrated” BLM.<sup>285</sup> Research conducted by Kerby Goff and John D. McCarthy suggests otherwise. Goff and McCarthy reviewed 2020 data from the Crowd Counting Consortium (CCC) and the ACLED that identified protests involving “racial justice” to determine whether Antifa or a local BLM organization was present at rallies occurring in cities around the country. The researchers then examined the proportion of demonstrations involving “police injuries, crowd injuries, property destruction or arrests.”<sup>286</sup> Of the approximately 14,000 protests meeting the prerequisites, Antifa appeared in only 37 demonstrations, or roughly 0.2 percent.<sup>287</sup> Although the research significantly noted no direct relationship between Antifa and BLM, researchers could not argue there was no correlation between Antifa’s presence at demonstrations and the increased potential for violence, as demonstrated in Table 3. Another interesting finding of this research was the lack of statistical difference in the level of violence between Antifa and right-wing groups such as the Proud Boys or the Three Percenters.

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<sup>283</sup> Neil MacFarquhar, Alan Feuer, and Adam Goldman, “Federal Arrests Show No Sign That Antifa Plotted Protests,” *New York Times*, June 11, 2020, <https://www.nytimes.com/2020/06/11/us/antifa-protests-george-floyd.html/>.

<sup>284</sup> MacFarquhar, Feuer, and Goldman.

<sup>285</sup> Goff and McCarthy, “No, Antifa Didn’t ‘Infiltrate’ Black Lives Matter.”

<sup>286</sup> Goff and McCarthy.

<sup>287</sup> Goff and McCarthy.

Table 3. Level of Violence when Antifa Present<sup>288</sup>

	<b>% of Injuries to Crowd</b>	<b>% of Injuries to Police</b>	<b>% of Property Damage</b>	<b>% of Arrests Made</b>
<b>Antifa Present</b>	30%	14%	27%	30%
<b>No Antifa Present</b>	2%	2%	4%	7%

The mere presence of Antifa factions at protests directly influences the police posture. As a target of their direct action, law enforcement managers need to take their violent tendency into account in order to mitigate violent confrontations. Pyrooz and Densley’s research on Antifa makes a critical distinction between “armchair anarchists from the bellicose Black Bloc.”<sup>289</sup> The difference is significant from a law enforcement perspective because, generally, persons identifying as Black Bloc are the members who commit aggressive and criminal feats. For example, this faction is known for “attacks on police, government, and political institutions, along with any other symbols of the capitalist system or displays of fascism.”<sup>290</sup> Understanding the motivations behind the Black Bloc is crucial for law enforcement’s policing of any assembly where it is present.

Pyrooz and Densley opine that law enforcement needs a paradigm shift in its approach to Antifa. Currently, they state that police agencies attempt to isolate individuals engaged in criminal conduct and arrest them if feasible; the police deal with far left and right groups from a crowd control perspective. According to their research, the authors presume that policing crowds is more reactive, whereas the policing of gangs is pre-emptive and statistically guided. Pyrooz and Densley suggest that if the “police responded to Antifa like they respond to street gangs, it may be a far more productive approach to

<sup>288</sup> Adapted from Goff and McCarthy.

<sup>289</sup> Pyrooz and Densley, “On Public Protest, Violence, and Street Gangs,” 233.

<sup>290</sup> Pyrooz and Densley, 233.

reduce violence and allow for peaceful protest.”<sup>291</sup> The policing of groups like Antifa differently than other protestors at First Amendment assemblies, primarily when the violence targets law enforcement, has significant implications for distinguishing criminal conduct from constitutionally protected rights in a democratic society.

### **3. The Evolution of the MAGA Movement’s Hostility Toward Law Enforcement**

The MAGA movement presents a challenging dilemma for law enforcement. Often a vocal proponent of law enforcement, interactions became verbally antagonistic during the COVID-19 lockdown orders and openly hostile after the November 2020 presidential election.<sup>292</sup> The MAGA movement acts as an umbrella for an in-group faction of the conservative and extremist elements of the Republican party. Although MAGA Republicans are readily identifiable by the red baseball cap with the white “Make America Great Again” slogan, the MAGA rallies in Washington, DC, in November and December 2020, were notable due to the appearance of far-right groups, like the Proud Boys, sporting their distinctive colors and logos. The question becomes what caused those under the MAGA umbrella to move from “backing the blue” to seeing law enforcement as an out-group worthy of contempt and as legitimate targets for acts of violence.

#### ***a. Lockdown Orders and Mask Mandates: A Growing Discontent***

The COVID-19 pandemic and the corresponding lockdown and mask mandates produced the first mistrust between MAGA enthusiasts and law enforcement. Luke Mogelson’s examination of the impact of the lockdown orders and mandates in April 2020 on small businesses and their communities revealed that “many anti-lockdowners sincerely placed mask mandates and concentration camps on the same continuum.”<sup>293</sup> However, in some instance, the enforcement of the mandate led to a gap between the officers and the right. Mogelson cites a barbershop in a small Michigan town where the owner intentionally

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<sup>291</sup> Pyrooz and Densley, 235.

<sup>292</sup> Luke Mogelson, “How Trump Supporters Came to Hate the Police,” *New Yorker*, September 10, 2022, <https://www.newyorker.com/news/news-desk/how-trump-supporters-came-to-hate-the-police>.

<sup>293</sup> Luke Mogelson, *The Storm Is Here: An American Crucible* (New York: Penguin Press, 2022), 22.

disobeyed the state order to close non-essential businesses. As a result, the state attorney general directed Michigan State Troopers to execute a “cease-and-desist” mandate to the owner.<sup>294</sup> According to Mogelson’s account, a witness to the trooper’s actions pronounced that the latter were not police officers and referred to them as “stormtroopers” that “deserve to wear the Nazi emblem on their sleeves.”<sup>295</sup> Although no extensive violence accompanied protests at various state capitols, the coalescence of far-right groups around anti-COVID mandates was an omen of more coordinated and violent actions to come.

The anti-government hatred brewing in March and April of 2020 around COVID mandates had a significant bearing on post-election demonstrations in November and December 2020 and the events of January 6, 2021. The protests against lockdown orders and mask mandates provided an excellent opportunity for right-wing and militia groups to conduct recruitment drives. According to an ACLED study, anti-COVID “rallies have provided locations for both unaffiliated individuals and organized groups to express their politics, connect, and establish coalitions.”<sup>296</sup> Similarly, the organization and collaboration provided a blueprint upon which like-minded groups could build, organize, and establish an in-group cohesion with unaligned entities. The study cites a “coalescence of previously disparate, armed, right-wing groups alongside a range of other right-wing movements that are typically not equipped with firearms, such as the Proud Boys.”<sup>297</sup> The negative impact this amalgamation of far-right groups and militias would have on law enforcement was not readily apparent in the Spring of 2020 but signaled a deteriorating relationship in the right’s staunch backing of the blue.

As extensive as the anti-mandate protests were in March and April of 2020, statistically speaking, the demonstrations were mainly peaceful. The ACLED’s study examined approximately 140 “right-wing militarized social movements (RWMSMs),”

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<sup>294</sup> Mogelson, 11.

<sup>295</sup> Mogelson, 22.

<sup>296</sup> Armed Conflict Location and Event Data Project, *A National Emergency: How COVID-19 Is Fueling Unrest in the U.S.* (Grafton, WI: Armed Conflict Location and Event Data Project, 2021), 14, <https://acleddata.com/2021/03/04/a-national-emergency-how-covid-19-is-fueling-unrest-in-the-us/>.

<sup>297</sup> Armed Conflict Location and Event Data Project, 14.

encompassing various militia and other far-right activities during COVID.<sup>298</sup> The study indicated that about 23 percent of all RWMSMs activity in 2020 involved anti-COVID measure protests.<sup>299</sup> Despite the low level of RWMSM involvement in the overall number of COVID-related demonstrations between March 2020 and February 2021, violence happened at approximately 55 percent of the events when RWMSMs were present, versus less than 4 percent of events without them.<sup>300</sup> Every violent incident included in the 55 percent total, by default, involved police intervention in quelling it and further weakened the right's perception of a shared in-group identity with law enforcement.

***b. George Floyd Protests and MAGA Rallies: Caught in the Middle***

The protests surrounding the public health measures taken by state governments seemed to place the right on a collision course with law enforcement. The death of George Floyd and the corresponding social justice protests not only seemed to stop the growing antagonism but also reversed the course of the far-right groups and MAGA followers in opposition to the left's condemnation of the police.<sup>301</sup> Mogelson opines that "backing the blue became analogous with opposing the left."<sup>302</sup> In gauging the rapid shift among the right from viewing the police as despotic for enforcing lockdown measures to full support during the George Floyd protests, Mogelson asserts that the alliance that MAGA and the right feel they have with law enforcement appeared to be "conditional and tended to break down whenever laws intruded on conservative priorities."<sup>303</sup> The social justice demonstrations during the summer of 2020 provided the right with an opportunity to repair the strain on their traditional in-group identity as being pro-law enforcement that occurred during the pandemic.

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<sup>298</sup> Armed Conflict Location and Event Data Project, 16.

<sup>299</sup> Armed Conflict Location and Event Data Project, 16.

<sup>300</sup> Armed Conflict Location and Event Data Project, 16.

<sup>301</sup> Mogelson, "How Trump Supporters Came to Hate the Police," <https://www.newyorker.com/news/news-desk/how-trump-supporters-came-to-hate-the-police>.

<sup>302</sup> Mogelson, "How Trump Supporters Came to Hate the Police."

<sup>303</sup> Mogelson, "How Trump Supporters Came to Hate the Police."

As the summer protests in 2020 continued into the fall, the social justice demonstrations in Washington, DC, became mixed with MAGA rallies surrounding the 2020 presidential election, and law enforcement became enmeshed in nightly encounters between the two groups. Certain media accounts at the time suggested that “police officers across the country have been accused of favoring a violent extremist group” and of having a “cozy relationship” with certain far-right groups, especially the Proud Boys.<sup>304</sup> Although there was research conducted regarding the number of far-right adherents in law enforcement and the military, Mogelson reports on a post-election MAGA event in Washington, DC, in which Trump enthusiasts roamed the area around the White House engaging in assaults and vandalism and seeking fights with anyone the group believed were Antifa.<sup>305</sup> According to Mogelson’s account, the MPDC, the United States Park Police (USPP), and the United States Capitol Police (USCP) attempted to keep the opposing sides apart, which “enraged the Trump supporters,” who referred to the officers as “piggies,” and “pieces of shit.”<sup>306</sup> Mogelson further indicated that some insults hurled at the police “were indistinguishable from those shouted by leftists in Portland.”<sup>307</sup> A common theme that would emerge throughout November and December 2020 was law enforcement cast as an out-group by MAGA adherents who came to see the police as adversaries.

*c. January 6: The Tempest at Democracy’s Door*

The events of January 6, 2021, did not spontaneously occur; each of the ingredients required for the attack accumulated months prior. The factors included the following: a growing resistance to the COVID-19 lockdown measures within the MAGA base; the anti-BLM sentiment expressed by the right during the George Floyd demonstrations; the MAGA marches and rallies that weaponized a false narrative about a stolen election; and

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<sup>304</sup> Will Careless, “How Police Handled a DC Stabbing Is Yet Another Sign of How Law Enforcement Favors Extremist Group Proud Boys,” *USA Today*, November 12, 2020, <https://www.usatoday.com/story/news/nation/2020/11/12/police-echoed-proud-boys-claim-black-lives-matter-members-stabbed-them/6228779002/>.

<sup>305</sup> Luke Mogelson, “How Trump Supporters Came to Hate the Police,” *New Yorker*, September 10, 2022, <https://www.newyorker.com/news/news-desk/how-trump-supporters-came-to-hate-the-police>.

<sup>306</sup> Mogelson, “How Trump Supporters Came to Hate the Police.”

<sup>307</sup> Mogelson, “How Trump Supporters Came to Hate the Police.”

the explicit expression of police officers as legitimate objects for targeted violence. Much more was at stake on January 6 than the in-group, out-group dynamic between the far-right and law enforcement, but it reflected an irrefutable distinction in how each viewed the other. Mogelson writes of his observations of the two sides facing off on the steps of the Capitol:

The mob pressed against them, screaming insults, pelting them with cans and bottles. Some people shoved and punched individual officers; others linked arms and rammed their backs into a row of riot shields, their eyes squeezed shut against blasts of pepper spray. A few Trump supporters used their own chemical agents against the police. The stone slabs underfoot were smeared with blood. “You’re a bunch of oath breakers!” a man making his way along the police line barked through a bullhorn. “You’re traitors to the country!”<sup>308</sup>

Spencer Hsu writes that the MAGA rally in Washington, DC, in mid-December 2020 sowed the seeds for the violent treatment of the police officers on January 6, 2021. According to Hsu, the Proud Boys wanted to exact retribution on law enforcement for what the group believed was “an insufficient response” to the stabbing of four of their members while in DC for the December rally.<sup>309</sup> Citing a Federal Bureau of Investigation (FBI) affidavit, Proud Boys leader Ethan Nordean stated that the police “are starting to become a problem.”<sup>310</sup> Additionally, after the January 6, 2021 riot, Nordean posted a message on social media that stated that if anyone felt bad for law enforcement, they were “part of the problem.”<sup>311</sup> Neither the far-right, the MAGA base, nor law enforcement tested the nature of their relationship during an administration that routinely weaponized the police against the left. Law enforcement’s defense of the Capitol on January 6 demonstrated the fallacy

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<sup>308</sup> Mogelson, “How Trump Supporters Came to Hate the Police.”

<sup>309</sup> Spencer S. Hsu, “Proud Boys May Have Planned Capitol Breach to Retaliate against Police for Member Stabbed at Earlier March, FBI Alleges,” *The Washington Post*, February 3, 2021, [https://www.washingtonpost.com/local/legal-issues/proud-boy-capitol-riot-stabbing/2021/02/03/85900842-666a-11eb-8c64-9595888caa15\\_story.html](https://www.washingtonpost.com/local/legal-issues/proud-boy-capitol-riot-stabbing/2021/02/03/85900842-666a-11eb-8c64-9595888caa15_story.html).

<sup>310</sup> Hsu, “Proud Boys May Have Planned Capitol Breach to Retaliate against Police for Member Stabbed at Earlier March, FBI Alleges.”

<sup>311</sup> Hsu, “Proud Boys May Have Planned Capitol Breach to Retaliate against Police for Member Stabbed at Earlier March, FBI Alleges.”

that law enforcement would put the deteriorating relationship with the right ahead of the oath to protect and defend the Constitution.

#### **D. SUMMARY AND CONCLUSION**

The nature of a democratic system places law enforcement in a unique role of being “both a critical infrastructure and [a] symbol of political power.”<sup>312</sup> How police manage protests reflects society’s values and represents the vitality of our democracy.<sup>313</sup> Chapter IV provided a case study of how a central metropolitan police agency in the United States handles First Amendment assemblies and then compared it with two other agencies with extensive experience in handling peaceful and violent demonstrations.

The examination in this chapter aimed to establish a baseline for the policies guiding how the respective agencies handle First Amendment assemblies before turning to the practical application of those policies when policing demonstrations involving specific groups. Peter Newsham, the Chief of Police for the MPDC, during the George Floyd and MAGA demonstrations stated, “The main goal of police is to prevent violence without choosing sides.”<sup>314</sup> During the summer and fall of 2020, law enforcement found itself between two sides of the political spectrum more than willing to engage in violence with each other and the police during the height of the George Floyd protests and after the outcome of the 2020 presidential election.

To examine the precarious relationship between the police and the protestors, Chapter IV discussed the following highly active movements during the timeframe outlined: Black Lives Matter, Antifa, and MAGA. These three movements were selected for study because of their association with political beliefs commonly associated with the

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<sup>312</sup> Temitope Oriola, “Police and Politics Have Dangerously Intertwined during the 2020 U.S. Presidential Election,” *The Conversation*, November 5, 2020, <https://theconversation.com/police-and-politics-have-been-dangerously-intertwined-during-the-2020-u-s-presidential-election-149420>.

<sup>313</sup> Frederic Lemieux, “Democratic Policing: What It Says About America Today,” *The Conversation*, December 17, 2014, <https://theconversation.com/democratic-policing-what-it-says-about-america-today-35066>.

<sup>314</sup> Marissa J. Lang and Peter Hermann, “Policing Protests: Demonstrators Say Officers Are Taking Sides as D.C. Hosts Pro-Trump Rallies Saturday,” *The Washington Post*, December 11, 2020, [https://www.washingtonpost.com/local/dc-maga-protest/2020/12/11/fe7859d2-3afd-11eb-98c4-25dc9f4987e8\\_story.html](https://www.washingtonpost.com/local/dc-maga-protest/2020/12/11/fe7859d2-3afd-11eb-98c4-25dc9f4987e8_story.html).

left and right. The nature of the interactions between these groups—both the perception and the reality—underscored the balancing act law enforcement engaged in with groups seeking to air grievances with the government. The act of engaging in a protest represents a certain level of agitation of the governed towards the state.

Additionally, these protests took place during a period of intense political polarization from which the police were not immune. Roger A. Mitchell, Jr., a former Deputy Mayor for Public Safety and Justice in Washington, DC, indicated an awareness of “more and more politicization of policing, and our law enforcement is in the middle.”<sup>315</sup> Although law enforcement is certainly a crucial component of our democratic society, the question becomes, during a period of intense political polarization, what impact does the weaponization of our democratic infrastructure have on the health and sustainability of our democracy?

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<sup>315</sup> Lang and Hermann.

## V. THE IMPACT OF POLITICAL POLARIZATION ON LAW ENFORCEMENT

So do the shadows of our own desires stand between us and our better angels, and thus their brightness is eclipsed.

—Charles Dickens<sup>316</sup>

### A. INTRODUCTION

As an institution representing the state, law enforcement is not immune from the fluctuations of the political landscape. Several scholars point out that the deepening of social and political polarization in the United States has hampered the ability of the governing and the governed to engage in civil discourse on issues critical to the functioning of democracy. Similarly, research has shown that political affiliation potentially affects police officers in the current polarized environment, especially regarding racial inequalities and law enforcement culpability.<sup>317</sup> Although the current level of political polarization does not have a single cause, the degradation of more moderate political beliefs has generated manifestations of discord.

This chapter briefly discusses political polarization visible in the United States and its harmful impact on democratic institutions, including law enforcement. It also explores how polarization influences a police officer's capacity to fulfill the dual role of an agent of the state and citizen. Finally, it concludes with a discussion of the controversy regarding the federal government's transfer of specific military equipment to police agencies and the 'defund the police' campaign that grew from the social justice protests in 2014 and 2020, respectively. The slogan produced a political divide and therefore provides an opportunity to assess the impact of polarization on law enforcement from an individual officer perspective and an institutional perspective, and what effect, if any, political and issue polarization have police departments' ability to recruit and retain officers.

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<sup>316</sup> Lang and Hermann.

<sup>317</sup> Samuel Thomas Donhaue, *The Politics of Police* (New York: American Sociological Association, 2023), 6; Vance D. Keyes and Latocia Keyes, "Dynamics of an American Countermovement: Blue Lives Matter," *Sociology Compass* 16, no. 9 (September 2022): 1–15, <https://doi.org/10.1111/soc4.13024>.

## B. POLITICAL POLARIZATION AND GROUP IDENTITY IN THE UNITED STATES

Joining and forming groups along various real or imagined societal identities is human nature. Any discussion of group identity would not be complete without an application of the lens of SIT provided by Henri Tajfel.<sup>318</sup> Tajfel posited that belonging to a group required three distinct modes: cognitive, evaluative, and emotional. Put more simply, one must know he belongs to a group, assign value to membership, and derive some emotional benefit from it. Although Tajfel's theory is rooted in understanding terrorist groups, it also applies to understanding the motivations for an individual's identification with a specific political party. Meyer's formula for protest participation only takes the discussion so far. In contrast; SIT provides a cornerstone for a deeper understanding of how the seeds of social and political polarization are sewn.

Considering the nature of in-group vs. out-group dynamics, delving into the role of group dynamics in the hardening of individuals into groups, and groups into opposing factions is vital. According to Rupert Brown and Sam Pehrson, group dynamics significantly shape the polarization process and the positioning of the political right and the left away from the political center. Brown and Pehrson further the discourse on groups by advising that:

Social identities do not drop from the ether fully formed, nor are they immutable entities, fixed for life. They emerge from particular social contexts as people react to and strive to make sense of their social worlds. As those contexts change, so do identities. And, last, but not least, groups are a primary vehicle of social action, by means of which people often seek to achieve change in their environments.<sup>319</sup>

Brown and Pehrson point out that “anger related to how people make sense of their situation, and anger-driven collective action is directed specifically at the cause of disadvantage: it is not just about frustrated people letting off steam.”<sup>320</sup> Brown and

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<sup>318</sup> David W. Brannan, Kristin M. Darken, and Anders Strindberg, *A Practioner's Way Forward: Terrorism Analysis* (Salinas, CA: Agile Press, 2014).

<sup>319</sup> Rupert Brown and Sam Pehrson, *Group Processes: Dynamics within and between Groups*, 3rd ed. (Hoboken, NJ: John Wiley & Sons, Ltd., 2019), xi.

<sup>320</sup> Brown and Pehrson, *Group Processes*.

Pehrson assess the level of anger that exists across party lines and along hotly contested policy issues has created silos from which in-group members not only find reinforcement for beliefs but also generate enmity for anyone in opposition to their ideas. James Madison was remarkably prescient when he wrote in Federalist Paper 10:

[The] zeal for different opinions concerning religion, concerning government, and many other points, as well of speculation as of practice; an attachment to different leaders ambitiously contending for pre-eminence and power; or to persons of other descriptions whose fortunes have been interesting to the human passions, have, in turn, divided mankind into parties, inflamed them with mutual animosity, and rendered them much more disposed to vex and oppress each other than to cooperate for their common good.<sup>321</sup>

Anger across party lines and based on divisive policies creates a sense of hostility across party lines and social ones. The divisions created then become solidified as the in-group dynamic bolsters a sense of resentment towards anyone with a differing political viewpoint.

Social polarization profoundly impacts political interactions and perceptions of the political world and can create emotional responses to political events. Lilliana Mason asserts that “social polarization affects political interactions and a person’s understanding of the political world, as well as the vehemence with which he or she reacts emotionally to political events.”<sup>322</sup> Authors Thomas Carothers and Andrew O’Donohue assert that “the roots of contemporary U.S. polarization are diverse and deep.”<sup>323</sup> Carothers and O’Donohue argue that the cultural revolution that began in the 1960s, creating three primary fault lines running under the surface of our national fabric, has direct ties to our current political polarization and, by extension, our issue polarization.<sup>324</sup> According to

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<sup>321</sup> James Madison, “Federalist Paper Number 10,” 1787, [www.billofrightsinstitute.org](http://www.billofrightsinstitute.org).

<sup>322</sup> Lilliana Mason, “‘I Disrespectfully Agree’: The Differential Effects of Partisan Sorting on Social and Issue Polarization,” *American Journal of Political Science* 59, no. 1 (January 2015): 128–45, <https://doi.org/10.1111/ajps.12089>.

<sup>323</sup> Thomas Carothers and Andrew O’Donohue, *Democracies Divided: The Global Challenge of Political Polarization* (Washington, DC: Brookings Institute Press, 2019), 66, <https://muse.jhu.edu/book/67890>. p. 66.

<sup>324</sup> Carothers and O’Donohue, 67.

their analysis, the “three societal cleavages—racial, ideological, and religious—aligned along the axis of the overarching progressive-conservative division, forming an ‘iron triangle’ of U.S. polarization that continues to this day.”<sup>325</sup> Considering the depth of division within the populace over race, ideology, and religion, apprehending that the level of polarization today involves a set of deeply rooted beliefs and historical tensions that transcend mere political disagreements becomes much easier.

Cracks that perhaps always existed in the social and cultural identity of the nation broke wide open in 2008 with the inauguration of the first African American president. Ezra Klein’s research on American political life brings these points home; he writes, “Demographic change, and the fears and hopes it evokes, is one of the tectonic forces shaping this era in American life.”<sup>326</sup> President Barack Obama and Donald Trump embody race and ideology cleavages cited above and represent the changing demographics Klein references. Klein also points to Michael Tesler’s claim that “the mere existence of Obama’s presidency further racialized American politics, splitting the two parties not just by racial composition but by racial attitudes.”<sup>327</sup> Klein also argues that President Obama’s presidency also signaled something more ominous to a particular segment of white Americans: losing their grip on the reins of power.<sup>328</sup> Klein writes, “The simplest way to activate someone’s identity is to threaten [their identity], to tell them they don’t deserve what they have, to make them consider that it might be taken away. The experience of losing status—and being told your loss of status is part of society’s march to justice—is itself radicalizing.”<sup>329</sup> An individual’s sense of status affect one’s self-perception and can significantly shape relationships to others and identifying with in-group vs. outgroup status.

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<sup>325</sup> Carothers and O’Donohue, 67–68.

<sup>326</sup> Klein, *Why We’re Polarized*, 106–7.

<sup>327</sup> Klein, 109. Also see Michael Tesler, *Post-Racial or Most-Racial?: Race and Politics in the Obama Era* (Chicago: University of Chicago Press, 2016), <https://press.uchicago.edu/ucp/books/book/chicago/P/bo22961444.html>.

<sup>328</sup> Klein, *Why We’re Polarized*, 110.

<sup>329</sup> Klein, 118.

Klein also states that President Trump, during his campaign, offered a counter-narrative to those not swayed by President Obama’s platform of hope. According to Klein, “Trump was alone in speaking to Republican voters who didn’t want the party to remake itself, who wanted to be told that a wall could be built, and things could go back to the way they were.”<sup>330</sup> For those identifying on the right side of the political spectrum, the Obama presidency itself was enough to raise a red flag for the status quo. Trump then used that fear and anger to get elected and to further polarize Americans along racial, political, and policy lines by amplifying their concerns instead of placating them. The juxtaposition of the two presidencies also provides insight into what Klein called the “feedback loop of polarization: institutions polarize to appeal to a more polarized public, which further polarizes the public, which forces institutions to polarize further, and so on.”<sup>331</sup> The seemingly endless loop creates conditions ripe for mutual self-radicalization within the political parties and their bases.

### 1. Mutual Self-Radicalization and Political Polarization

Another crucial aspect of polarization is what Jennifer McCoy et al. define as the foundational aspect of acute polarization: othering. They define othering as the “inherently *relational* and *political nature*: it suppresses ‘within-group’ differences and collapses otherwise multiple and cross-cutting intergroup differences into one single difference that becomes negatively charged and then defines the ‘Other.’”<sup>332</sup> Their argument mainly highlights that “othering” not only results in one side converging within its in-group, it also causes each side to place the “others”—those on the opposite side—in defined silos. This categorization allows the in-group to dismiss any position the out-group supports. As the authors asserted, “Social interactions, when conducted only within a seemingly homogeneous group, can increase the distance between groups at conflict in society.”<sup>333</sup>

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<sup>330</sup> Klein, 113.

<sup>331</sup> Klein, 137.

<sup>332</sup> Jennifer McCoy, Tahmina Rahman, and Murat Somer, “Polarization and the Global Crisis of Democracy: Common Patterns, Dynamics, and Pernicious Consequences for Democratic Polities,” *American Behavioral Scientist* 62, no. 1 (2018): 18, <https://doi.org/10.1177/0002764218759576>.

<sup>333</sup> McCoy, Rahman, and Somer, 24.

Scholars have argued that negative othering is not a new phenomenon in our culture and that the founding fathers hard-wired othering into the nation's framework.

Moss makes an excellent observation when she notes that those in power do not need to create something from scratch. She asserts that politicians “can merely capitalize on preexisting divisions and amplify them in ways that glorify the old days and the old ways,” a tactic used by those on both the right and the left.<sup>334</sup> One only needs to examine the presidential election in 2016 to see this tactic at play. The MAGA slogan became a rallying cry for the extreme right wing of the Republican party and the portion of the electorate who thought there was something wrong with America that required a dramatic shift in course and leadership.

In many ways, politics is a zero-sum game in which time matches one party's political gains or losses with those of the opposition. Barack Obama's presidency galvanized the right, and the tacit support of the far right's conduct carried his successor to the White House.<sup>335</sup> McCoy, Rahman, and Somer argue that Trump's ascension to the presidency “spawned another grass-roots counter-mobilization, this time on the Left and particularly women, who marched and ran for political office in massive numbers.”<sup>336</sup> Such social and political polarization became abundantly clear in data released by the Pew Research Center in 2016, which showed a dramatic increase in how disparagingly Democrats and Republicans thought of each other. According to the data, between 1994 and 2016, the opposing views held by Republicans toward Democrats increased by 37 percent; and similarly, negative attitudes toward Republicans among Democrats increased by 38 percent.<sup>337</sup> As Ezra Klein pointed out, “If there is a threat to American unity, it rests not in the specific concerns of Virginians or Alaskans, but in the growth in enmity between

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<sup>334</sup> Dana M. Moss, “Contentious Politics in the Trump Era,” *Politics Spotlight* 51, no. 1 (January 2018): 17–25, <https://doi.org/doi:10.1017/S104909651700141X>.

<sup>335</sup> McCoy, Rahman, and Somer, “Polarization and the Global Crisis of Democracy,” 30.

<sup>336</sup> McCoy, Rahman, and Somer, 30.

<sup>337</sup> McCoy, Rahman, and Somer, 30.

Democrats and Republicans.”<sup>338</sup> The growing distrust for government institutions such as law enforcement also shows up in the visible disdain between political parties.

## **2. Law Enforcement’s Susceptibility to Political Polarization**

The proposition that political parties and their respective bases become polarized over policy issues and party leadership is easy to comprehend. The polarization of the criminal justice system—often symbolized by a blindfolded woman holding a balanced scale and a sword, that blends neutrality and strength and is an innate part of our democratic system—is more challenging to address.<sup>339</sup> Is law enforcement, from a personal and an institutional level, subject to the same degree of pressure caused by political polarization as the rest of the mainstream polity? Although police officers must perform their jobs objectively, officers do not relinquish their rights to engage in the democratic process or their political identity simply because of their chosen profession. From this perspective, a secondary question emerges whether polarization can change an individual officer’s ability to perform their duty. Does an individual officer’s set of political beliefs impede their conformity with institutional precepts?

## **3. Polarization’s Impact on Law Enforcement: On the Individual Level**

The impact of political polarization on the individual officer level is visible in at least two events. The first is in the number of police officers charged in the storming of the United States Capitol on January 6, 2021. According to an National Public Radio (NPR) report, approximately 15 percent of defendants have a military or law enforcement background. For context, about 7 percent of the U.S. population are military veterans. Police and sheriff patrol officers comprise less than 1 percent of the population.<sup>340</sup> A direct nexus exists between the rhetoric espoused by President Trump throughout his campaign and presidency and the high level of law enforcement participation on January 6.

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<sup>338</sup> Klein, *Why We’re Polarized*, 259.

<sup>339</sup> “Visiting the Court,” Supreme Court of the United States, accessed June 5, 2023, <https://www.supremecourt.gov/visiting/activities/SymbolsOfJustice.aspx>.

<sup>340</sup> Meg Anderson and Nick McMillan, “1,000 People Have Been Charged for the Capitol Riot. Here’s Where Their Cases Stand,” NPR Investigations, March 25, 2023, <https://www.npr.org/2023/03/25/1165022885/1000-defendants-january-6-capitol-riot>.

The second polarization process manifested through Trump’s posturing as a pro-law and order candidate/president. The importance of this façade on the institutional and individual levels was a significant factor in helping Trump ascend to the presidency. The official law enforcement endorsement of Trump in 2016—and again in 2020—represented the first one of a presidential candidate since 2008.<sup>341</sup> Considering that the National Fraternal Order of Police (FOP) boasts approximately “300,000 dues-paying members and 2,000 active lodges,” the political influence of the National FOP exerts on individual officers across the United States should not be underestimated.<sup>342</sup>

The state places a significant level of authority in law enforcement personnel. When so many of police officers are willing participants in a riotous event aimed at disrupting the peaceful transfer of power, it creates grave concerns about the legitimacy of the institution of policing.<sup>343</sup> One researcher aptly characterized the situation when she asserted, “It is chilling to consider that the police entrusted to uphold the Constitution created a constitutional crisis and delayed the certification of the election.”<sup>344</sup> The question then becomes whether identification with a particular political party influences individual officers’ actions, and if so, does placing personal political beliefs ahead of fidelity to one’s oath and the institution of policing threaten its legitimacy?

One way to measure such sentiments is to examine officers’ viewpoints on politically polarizing issues such as BLM and participation in the January 6 riot. Despite scarce research in this area, at least one study attempted to determine whether such a correlation existed. Lois V. Woods and Kimberley K. Blackmon researched individual police officers’ political affiliations and the impact of those views on politically motivated protests. The researchers first established a political beliefs baseline which indicated that

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<sup>341</sup> Alex Gangitano, “Largest Police Union Endorses Trump for Reelection,” *The Hill*, September 4, 2010, <https://thehill.com/homenews/campaign/515110-largest-police-union-endorses-trump-for-re-election/>.

<sup>342</sup> Michael Zoorob, “Blue Endorsements Matter: How the Fraternal Order of Police Contributed to Donald Trump’s Victory,” *PS: Political Science & Politics* 52, no. 2 (April 2019): 243, <https://doi.org/10.1017/S1049096518001841>.

<sup>343</sup> Vida B. Johnson, “White Supremacy’s Police Siege on the United States Capitol,” *Brooklyn Law Review* 87, no. 2 (2022): 9.

<sup>344</sup> Johnson, 10.

approximately 42 percent of respondents identified as Republicans, 33 percent as Democrats, 4 percent as Independents, and 6 percent as Libertarians.<sup>345</sup> Regarding preferred candidates in the 2020 election, approximately 91 percent of officers polled chose Republican candidates, 53 percent voted “for some Democratic candidates,” and 25 percent cast a ballot for an Independent candidate.<sup>346</sup> In light of current research regarding the current level of polarization, the statistics suggest that political party identification may have a substantial impact on the degree of political polarization on the individual officer level.

Regarding actual participation in political protests, an approximately 19 percent difference separated officers who believed participating in protests should be prohibited (60 percent) from those who felt that officers should have the same rights as any other citizen (41 percent).<sup>347</sup> Regarding participation in the BLM protests or the insurrection on January 6, approximately 68 percent of officers identifying as Republicans believed that officers who took part in either event, should face suspension and investigation by their agency; this compares to only 33 percent who identified as Democrats.<sup>348</sup> This finding may result from shortcomings in the survey design or lack of robustness in the pool of respondents, as determined by the study’s authors, more than a significant shift in political viewpoint.

#### **4. Polarization’s Impact on Law Enforcement: Institutional Consequences**

Law enforcement occupies a precarious position within a democratic society. As an institution, police agencies enforce laws promulgated by politicians based on prevailing community standards. As individuals, police officers have a wide degree of discretion in fulfilling that institutional mission. These two realities do not exist in an environment free from external influences or individual beliefs, values, and judgments. A polarized political

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<sup>345</sup> Lois V. Woods and Kimberley K. Blackmon, “Police Officer Political Identity and Their Opinions of Public Protests,” *Journal of Criminal Justice and Law* 5, no. 1 (2021): 10.

<sup>346</sup> Woods and Blackmon, 11.

<sup>347</sup> Woods and Blackmon, 11.

<sup>348</sup> Woods and Blackmon, 11–12.

climate is an external influence that can exert enormous pressure at the profession's institutional and individual levels.

Two examples of polarization that affected the institution addressed in this chapter concern the political backlash against the federal program that provided military equipment to domestic law enforcement agencies (colloquially known as the 1033 program) and from the Defund the Police movement.<sup>349</sup> For an institutional study, the problem this presents is twofold: first, were each of these solely politically partisan efforts or natural outgrowths of the unprecedented scope of the social justice movement sparked by the deaths of Michael Brown in Ferguson, Missouri, and George Floyd in Minneapolis, Minnesota, respectively. The second question is whether these actions represent a reconceptualization of the role of law enforcement in our democratic society.

### **C. POLARIZATION AND DEMILITARIZATION OF LAW ENFORCEMENT AGENCIES**

Although this chapter is not an in-depth explanation of the 1033 program, an overview is essential to provide context for our analysis. Researchers David M. Ramey and Trent Steidley examined data from the Law Enforcement Support Office (LESO) to ascertain the extent of material transferred from the Department of Defense (DOD) to various law enforcement agencies (LEAs) within the United States. Ramey and Steidley determined that two distinct categories of equipment transfers exist: controlled and noncontrolled items.<sup>350</sup> The grouping of items into their respective category is the nucleus of the program and which received the most notoriety during the social justice protests in Ferguson, Missouri.

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<sup>349</sup> The 1033 program derives its name from the National Defense Authorization Act for Fiscal Year 1997. Section 1033 of the legislation permits the “Secretary of Defense to sell or transfer excess military equipment to local LEAs [Law Enforcement Agencies].” Also see Casey Delehanty et al., “Militarization and Police Violence: The Case of the 1033 Program,” *Research & Politics* 4, no. 2 (April 2017): 2, <https://doi.org/10.1177/2053168017712885>.

<sup>350</sup> David M. Ramey and Trent Steidley, “Policing through Subsidized Firepower: An Assessment of Rational Choice and Minority Threat Explanations of Police Participation in the 1033 Program,” *Criminology* 57, no. 2 (May 2019): 369, <https://doi.org/10.1111/1745-9125.12212>.

The statute designated certain items as controlled or noncontrolled, affecting how one tracks data, including determining the ultimate ownership of the item and determining which items fit into which category. Categorization of equipment as controlled or noncontrolled is based, in part, on whether modification to the equipment is required before the DOD transfers the article to the local LEA.<sup>351</sup> For example, the DOD tracks unmodifiable items (e.g., clothes and office equipment) for a year before being deleting them its inventory. Equipment such as “weapons, vehicles, and tactical equipment,” that require modification are considered controlled items and their ownership never fully transfers to LEAs, effectively acting as an “open-ended loan to LEAs.”<sup>352</sup> A caveat regarding tracking controlled items, and where the monitoring becomes convoluted, is that once a controlled item is “destroyed, returned to the LESO, or transferred to another agency,” the ability to track the complete history of that item becomes nearly impossible.<sup>353</sup> The grouping of the items into their respective categories is the nucleus of the program and received the most notoriety during the social justice protests in Ferguson, Missouri, due to the nightly reporting from the scene that broadcast the image of military-styled equipment on American streets.

### **1. The Political Considerations of Police Militarization**

Although the size, capabilities, and armaments have changed significantly since the inception of law enforcement in the United States, the nexus between the military and policing can be traced back to after the Civil War and are rooted in the politics of that time.<sup>354</sup> According to Jill Lepore, August Vollmer, in 1909, “refashioned American police into an American military.”<sup>355</sup> The language of political leaders signals this transformation, when comparing the role of law enforcement to that of the military. The

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<sup>351</sup> Ramey and Steidley, 369–70.

<sup>352</sup> Ramey and Steidley, 369.

<sup>353</sup> Ramey and Steidley, 370.

<sup>354</sup> Jill Lepore, “The Invention of the Police: Why Did American Policing Get So Big So Fast? The Answer, Mainly Is Slavery,” *New Yorker*, July 13, 2020, 9–10, <https://www.newyorker.com/magazine/2020/07/20/the-invention-of-the-police>.

<sup>355</sup> Lepore, 10.

result has been a mixed signal regarding the mission of LEAs within a socio-political context: serve and protect vs. combat and control.

The administrations of Presidents Lyndon Johnson (Democrat), Richard Nixon (Republican), and George W. Bush all declared domestically-driven wars on crime, drugs, and terrorism, respectively, that militarized the language of domestic law enforcement, as well as the equipment used.<sup>356</sup> Christopher J. Coyne argues that the September 11, 2001 terror significantly shaped the militarization of law enforcement in the United States and accelerated the facilitation of the 1033 program. He also aptly identifies the crux of the problem with such terminology: it “cast members of the domestic police as soldiers who sought to combat potential domestic enemies, including U.S. citizens.”<sup>357</sup> At a time when the legitimacy of policing in America has come under intense criticism, the debate surrounding the militarization of police in a democracy is a valid avenue of inquiry.

Although the 1033 program had existed for more than two decades before the events in Ferguson, the public was largely unaware of the program’s existence before 2014. Originally a part of the National Defense Authorization Act in 1990, Congress expanded the scope of the items available to LEAs in 1997.<sup>358</sup> According to Friedman et al., between 1990 and the analysis conducted by the National Police Foundation in 2021, more than \$7.5 billion of “surplus military equipment” has been released by the DOD to state and local LEAs. Another way to examine the numbers is to see how many different LEAs have gone through the registration process required to apply for the equipment. According to the Defense Logistics Agency’s (DLA) website, as of June 2020, approximately “8,200 federal, state, and local law enforcement agencies from 49 states and four U.S. territories

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<sup>356</sup> Lepore, “The Invention of the Police”; Jamila Hodge and Nazish Dholakia, “Fifty Years Ago Today, President Nixon Declared the War on Drugs,” Vera Institute of Justice, June 17, 2021, <https://www.vera.org/news/fifty-years-ago-today-president-nixon-declared-the-war-on-drugs>; Christopher J. Coyne, “The Militarization of Policing and the Future of U.S. Politics,” *American Political Science Association* 13, no. 3 (September 2015): 779.

<sup>357</sup> Coyne, “The Militarization of Policing and the Future of U.S. Politics,” 779.

<sup>358</sup> Barry Friedman et al., *Police Militarization: A 1033 Program Analysis* (Atlanta, GA: National Police Foundation, 2021), 4–5.

participated in the program.”<sup>359</sup> The data indicates that about 45 percent of the LEAs in the United States have received surplus military equipment —regardless of category— through the Federal Government’s administration of the 1033 program.

The DLA asserts that most of the property provided to LEAs falls into the noncontrolled category. The agency website indicates that “normally, small arms weapons make up about 5 percent and less than 1 percent of property issued are tactical vehicles.”<sup>360</sup> The study by Friedman et al. revealed that between 2010 and March 2020, 2–9 percent of the approximately 18,000 LEAs in the United States took possession of controlled items from the DOD.<sup>361</sup> An interesting finding of the study for this thesis showed that “weapons were the most frequently acquired controlled item, and riot gear the least.”<sup>362</sup> Considering that during the timeframe of the analysis, riots took place in Ferguson, Baltimore, and Minneapolis, one might have presumed the opposite. The data from the study indicates that “armored vehicles account for roughly 85 percent of the value of transferred items [between 2010-March 2020], whereas riot gear and weapons each account for only 1 percent of all controlled equipment transferred.”<sup>363</sup> The study’s findings point to the need for more transparency on the part of LEAs in terms of justification to the community prior to the acquisition of any controlled items.

The increased scrutiny the program received after handling the riots in Ferguson in 2014 prompted President Obama to issue an Executive Order (E.O.) banning the release of “certain highly militarized equipment” to LEAs. The study conducted by Friedman et al. showed a slight decline in the number of controlled properties transferred after the action by the Obama administration, and it was short-lived as the Trump administration reversed course.<sup>364</sup> Although President Biden forecasted the reinstatement of the Obama-era

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<sup>359</sup> “1033 Program FAQs,” Defense Logistics Agency, accessed July 7, 2023, <https://www.dla.mil/Disposition-Services/Offers/Law-Enforcement/Program-FAQs/>.

<sup>360</sup> Defense Logistics Agency.

<sup>361</sup> Friedman et al., *Police Militarization*, 17.

<sup>362</sup> Friedman et al., 18.

<sup>363</sup> Friedman et al., 18.

<sup>364</sup> Alice Speri, “Lawmakers Take on Militarization of Police in Defense Budget Talks,” *The Intercept*, September 20, 2021, <https://theintercept.com/2021/09/20/ndaa-military-equipment-police-1033/>.

prohibitions as a priority for his administration, he did not sign E.O. 14074 until May 2022. Section 12 of the E.O. requires a review of all property transfers and purchases by “State, Tribal, local, and territorial LEAs” to determine whether additional items outlined explicitly in the E.O. can also be restricted “consistent with applicable law.”<sup>365</sup> This requirement could act as an additional safeguard against the placement of certain military-styled equipment in communities across the nation.

Although not inclusive of all the proposed new restrictions, the E.O. seeks to prohibit the transfer of items such as firearms and ammunition of .50 or greater caliber, “grenades (including stun and flash-bang),” and grenade launchers, explosives (except for those items used by bomb squads and detection canines for training), “weaponized drones,” and “long-range acoustic devices that do not have a commercial application.”<sup>366</sup> It appears that the political party occupying the White House influences modifications to the 1033 program. Still, some bipartisan support within Congress wants to limit the type of equipment available to LEAs.<sup>367</sup> According to researcher Christopher McMichael, “Democrats and Republicans shared a general sentiment that the primary problem with the ‘militarization of police’ was in potentially threatening the integrity and legitimacy of domestic policing.”<sup>368</sup> If lawmakers ask such questions, one may reasonably assume that the public has the same concerns.

## **2. Public Views on the 1033 Program: Politically and Demographically**

Examining how the Executive and Legislative branches of government treat a politically dynamic issue such as the 1033 program offers insight into the level of political polarization at play. Providing a snapshot of public opinion is equally important in evaluating whether public support separates along party lines, demographics, or some

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<sup>365</sup> Joseph R. Biden, Jr., “Advancing Effective, Accountable Policing and Criminal Justice Practices to Enhance Public Trust and Public Safety,” *Federal Register* 87, no. 104 (May 31, 2022): 32954.

<sup>366</sup> Biden, Jr., 32957.

<sup>367</sup> Kelsey Wright, “Voters Don’t Want Police Departments to Have Military Equipment,” *Data for Progress* (blog), July 1, 2020, <https://www.dataforprogress.org/blog/2020/7/1/voters-dont-want-police-departments-to-have-military-equipment>.

<sup>368</sup> Christopher McMichael, “Pacification and Police: A Critique of the Police Militarization Thesis,” *Capital & Class* 41, no. 1 (February 2017): 117, <https://doi.org/10.1177/0309816816678569>.

combination of both. Three studies between 2016 and 2020 endeavored to capture the public’s sentiment toward transferring military equipment to LEAs. Each of the studies followed significant social and political upheaval—highly publicized deaths of African Americans by police and the presidency of Donald Trump. The results serve as a barometer of public sentiment towards the program at various inflection points—i.e., the deaths of Michael Brown and George Floyd—with ramifications both politically and for the institution of law enforcement.

Although each study has shortcomings, they are nonetheless significant in measuring potential changes in public attitudes towards the program in the aftermath of the events that preceded them. The Cato Institute study occurred in 2016 after four African American males died during interactions with law enforcement but before the inauguration of President Trump and his nullification of President Obama’s E.O. limiting the transfer of military equipment to LEAs. At the time of the survey, public attitudes toward the program showed no significant difference.

In response to whether the program “goes too far” or is “necessary for law enforcement purposes,” there was only an 8 percent difference separated opinions (54 percent to 46 percent, respectively).<sup>369</sup> Considering that Michael Brown’s death and the Ferguson demonstrations and riots feature prominently in the media coverage of police militarization, the small statistical variation is interesting. The results of the Cato Institute study reflect party issue alignment more than political polarization. The study determined that respondents identifying as Republicans favored the program (65 percent) and that voters identifying as either a Democrat or an Independent were opposed (60 percent for both).<sup>370</sup> The grouping of Democrats and Independents represents a powerful grouping of voters that may have brought significant political pressure and bolstered President Obama’s decision to issue E.O. 13688.

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<sup>369</sup> Emily Ekins, *Policing in America: Understanding Public Attitudes Toward the Police. Results from a National Survey*. (Washington, DC: Cato Institute, 2016), 56.

<sup>370</sup> Ekins, 57.

In 2018, the Rand Corporation conducted a study that attempted to measure the level of awareness within the public about the 1033 program. Perhaps the starkest finding from this study is that approximately 48 percent of respondents were unaware of the program's existence, 33 percent of respondents found it valuable, and only 20 percent viewed it as harmful.<sup>371</sup> From a demographic standpoint, approximately 41 percent of whites favored the program, whereas 23 percent of African Americans and 22 percent of Hispanic respondents opposed it.<sup>372</sup> Regarding restrictions placed on the types of equipment, approximately 46 percent favored some kind of restrictions (within that total, 41 percent favored non-lethal equipment, and 5 percent would have banned all equipment transfers).<sup>373</sup> An unanticipated result of the Rand study was the apparently lower percentages of African American and Hispanic respondents who opposed the program. After one of the most sustained protest movements in American history regarding racial equity, one might have hypothesized higher levels of opposition.

Research conducted by Brian Lockwood et al., produced a more nuanced result when accounting for race than did the Rand study.<sup>374</sup> According to their research, Hispanics “were not found to be significantly more or less likely to support militarization of the police for any purpose.”<sup>375</sup> This finding contradicts similar research conducted by Yuning Wu which asserted that Hispanics articulate more negative views of law enforcement—which generally correlates with a lack of support for the militarization of police.<sup>376</sup> Meanwhile, Lockwood et al., determined that African American support for the use of military equipment by the police was “50% lower for Black respondents, compared

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<sup>371</sup> Aaron C. Davenport et al., *An Evaluation of the Department of Defense's Excess Property Program: Law Enforcement Agency Equipment Acquisition Policies, Findings, and Options*, RR-2464-OSD (Santa Monica, CA: RAND Corporation, 2018), 57, <https://doi.org/10.7249/RR2464>.

<sup>372</sup> Davenport et al., 60.

<sup>373</sup> Davenport et al., 57.

<sup>374</sup> Brian Lockwood, Matthew D. Doyle, and John G. Comiskey, “Armed, but Too Dangerous? Factors Associated with Citizen Support for the Militarization of the Police,” *Criminal Justice Studies* 31, no. 2 (April 3, 2018): 113–27, <https://doi.org/10.1080/1478601X.2017.1420652>.

<sup>375</sup> Brian Lockwood et al., 123.

<sup>376</sup> Brian Lockwood et al., 123. Also see Wu, Y. (2014). Race/ethnicity and perceptions of the police: A comparison of White, Black, Asian and Hispanic Americans. *Policing & Society*, 24(2), 135–157. <https://doi.org/10.1080/10439463.2013.784288>

to Whites,” and ascribed the likely difference to the “disproportionate usage of militarized police for riot control purposes in Black neighborhoods and against Black protestors.”<sup>377</sup> Such reasoning is consistent with the findings of earlier research by Scott H. Decker who posits that support for such programs is dependent on perceptions of the legitimacy of police in their respective communities.<sup>378</sup>

Another interesting result highlighted in the Rand study was the disparity between respondents who wanted restrictions and those who did not. The study revealed that 38 percent of respondents supported no limits, and 16 percent did not indicate a preference.<sup>379</sup> Perhaps the most surprising finding from this survey, considering it occurred after the demonstrations and riots associated with Michael Brown and Freddie Gray’s deaths, was the high level of respondents who indicated being unaware of the program. The lack of knowledge reflected in the study is an area worthy of further research. A question worthy of further inquiry may be whether the program went unnoticed in the immediate aftermath of September 11, and whether the current debate over the program’s merits is an effort by groups associated with the social justice movement, such as BLM, to have a positive impact on democracy.

Perhaps the most extensive of the three studies, the Justice Collaborative Institute evaluated the sentiments of likely voters about the sale or transfer of specific types of military equipment to LEAs. In addition to other topics, the researcher gauged the level of support or opposition to the “use of military vehicles and weapons” when handling First Amendment demonstrations.<sup>380</sup> The survey distinguished the federal government selling equipment to LEAs and the DOD transferring certain items to LEAs.<sup>381</sup> Regarding the

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<sup>377</sup> Lockwood, Doyle, and Comiskey, 123.

<sup>378</sup> Lockwood et al., 115.

<sup>379</sup> Davenport et al., *An Evaluation of the Department of Defense’s Excess Property Program*, 58.

<sup>380</sup> Bernard E. Harcourt, *How to Demilitarize the Police* (New York: Data for Progress, 2020), 8, <https://www.dataforprogress.org/memos/how-to-demilitarize-the-police>.

<sup>381</sup> It should be noted that the question regarding the sale of military-style equipment by the federal government specifically included the wording, “including armored or weaponized drones, militarized armored vehicles and grenades,” where the question regarding the transfer of equipment by the Department of Defense specifically included the wording, “such as bayonets, grenade launchers, tracked combat vehicles, weaponized drones and asphyxiating gases,” see Harcourt, *How to Demilitarize the Police*, 6–7.

former, approximately 52 percent of the respondents supported ceasing sales of “military-style equipment,” and 37 percent opposed it.<sup>382</sup>

Political affiliation does not appear to alter responses significantly. Roughly 59 percent of Republicans and 56 percent of Democrats indicated varying support for ending the practice, whereas 32 percent of Republicans and 37 percent of Democrats oppose no longer allowing such sales.<sup>383</sup> As perhaps would be expected, Independents were more evenly split, with approximately 40 percent supporting the end of such deals and 44 percent opposed. These results show a significant drop in sentiment from the Cato Institute study, where 60 percent of Independents expressed the opinion that using military-style equipment by police was inappropriate.<sup>384</sup>

Regarding banning the transfer of military equipment to LEAs, the most significant percentage shift is in the number of Democrats who support a ban and the number of Independents who oppose it. According to the study, approximately 69 percent of Democrats support a ban on transferring certain types of military equipment, while only 25 percent of Independents oppose such a ban.<sup>385</sup> Determining whether these differences are due to the difference in entities involved (federal government vs. DOD) or the types of equipment referenced in the question is difficult.

Perhaps most significant for this research was the level of support or opposition to “the use of military vehicles and weapons to respond to protesters exercising their First Amendment rights.”<sup>386</sup> This question drew the most resistance from voters identifying as Democrats, with nearly 69 percent opposing using such equipment during First Amendment demonstrations.<sup>387</sup> Approximately 50 percent of Republican respondents indicated their support for the use of such equipment in such instances. Finally, more

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<sup>382</sup> Harcourt, *How to Demilitarize the Police*, 6.

<sup>383</sup> Harcourt, 6.

<sup>384</sup> Harcourt, 6; Also see, Ekins, *Policing in America*, 57.

<sup>385</sup> Harcourt, *How to Demilitarize the Police*, 7.

<sup>386</sup> Harcourt, 8.

<sup>387</sup> Harcourt, 8.

Independents (48 percent) opposed the idea than supported using the items (30 percent).<sup>388</sup> Such findings were replicated in a study conducted by Kevin H. Wozniak et al., who found that support for police equipment is associated with people’s political beliefs and their more general views of police efficacy, bias, misconduct, and risk, when accounting for respondents’ broader beliefs about police and politics not their race in-and-of itself. The extant research on militarizing law enforcement does not appear to establish a tangible link between political polarization and support for transferring military equipment to LEAs; however, that does not mean there are no political or societal consequences for law enforcement.

From an institutional perspective, the potential damage to the profession’s legitimacy should give police departments pause when considering the acquisition and use of military items in American communities. Additionally, political support from one presidential administration to the next can be capricious even without pressures generated by external events, such as the demonstrations and riots after Michael Brown and George Floyd’s deaths. An interesting area for further study is whether the debate over the militarization of police peaked after Ferguson or has simply been replaced by the defunding debate after the death of George Floyd.

#### **D. DEFUND THE POLICE: POLARIZATION OR POLITICS**

Although the “defund the police” movement was perhaps one of the most publicized outgrowths of the social justice demonstrations in the summer and fall of 2020, the difficulty communities and legislators experienced in pinpointing a single definition of what it meant or how to operationalize it, represented one of the movement’s significant downfalls. According to Cobbina-Dungy et al., one interpretation of the term suggests a reduction in money allocated to the police, reallocating those funds to social services programs.<sup>389</sup> The researchers also articulated the hypothesis as a “strategic frame that resonates with protestors as they seek to reimagine policing and push for racial equality in

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<sup>388</sup> Harcourt, 8.

<sup>389</sup> Jennifer Cobbina-Dungy et al., “‘Defund the Police:’ Perceptions among Protesters in the 2020 March on Washington,” *Criminology & Public Policy* 21, no. 1 (February 2022): 6, <https://doi.org/10.1111/1745-9133.12571>.

the United States.”<sup>390</sup> The question this generates is what level of support exists within the populace for defunding the police and whether it reflects a polarized society or routine political posturing.

In the immediate aftermath of the demonstrations following the death of George Floyd, the calls to defund the police resounded from city halls and state houses across the country. However, since Minneapolis was the fulcrum for the demonstrations and riots following the release of the video which captured the killing of George Floyd, it offers a unique insight into the development and demise of the defund movement. According to research conducted by the Urban Institute, it was not long after the protests started that the Minneapolis City Council “unanimously approved a proposal to abolish the city’s police department” and replace it with a Department of Public Safety, “led by a director with non-law enforcement expertise.”<sup>391</sup> When the city council in Minneapolis put the restructuring proposal to a vote, 56 percent of voters, unprepared to entirely scrap the police, rejected it. One reason cited was the number of officers who left the Minneapolis Police Department (MPD) in the aftermath of riots, especially when the city experienced a significant rise in gun-related offenses and murders.<sup>392</sup> The results of the defund the police referendum in Minneapolis revealed the topic was not as politically divisive or socially polarizing as perhaps believed.

Although Minneapolis was a critical test case for the realignment of budget priorities away from the police and into more holistic social service programs, other cities experienced a reversal in the defund the police sentiments. The Pew Research Center conducted a study in the fall of 2021 to gauge whether the level of support for the movement had increased, remained steady, or declined in the respondents’ communities. According to the results, the level of support for increased funding in their community

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<sup>390</sup> Cobbina-Dungy et al., 3.

<sup>391</sup> Colette Marcellin and Libby Doyle, “Four Months after Protests Peaked, Did Four Cities Keep Their Promises to Cut Police Funding?” Urban Institute, October 14, 2020, <https://www.urban.org/urban-wire/four-months-after-protests-peaked-did-four-cities-keep-their-promises-cut-police-funding>.

<sup>392</sup> Martin Kaste, “Minneapolis Voters Reject Measure to Replace the City’s Police Department,” NPR Morning Edition, November 3, 2021, <https://www.npr.org/2021/11/02/1051617581/minneapolis-police-vote>.

climbed approximately 16 percent between June 2020 and September 2021, from 31 percent to 47 percent, with about 21 percent of respondents indicating that spending should be “increased a lot.”<sup>393</sup> The Pew study, only a year removed from the tumult of 2020, could be interpreted as a rebuke of the political elites from both parties who may have misjudged the intensity of the moment and passion of the participants for a mandate to strip police budgets bare.

### **1. Impact of Polarization on Police Recruitment and Retention**

Lastly, and quite significantly, has the negative portrayal of law enforcement negatively affected agencies’ abilities to recruit and retain personnel? A *Washington Post* review of the topic showed the San Francisco (SFPD), Phoenix (PPD), and the MPDC faced difficulties in staffing. According to the report, SFPD falls short by at least 600 officers or approximately 30 percent of the targeted size, and “Phoenix needs about 500 more officers to be fully staffed. The D.C. police force is smaller than it has been in 50 years.”<sup>394</sup> The author cited the belief that new laws passed in the wake of George Floyd’s murder were anti-law enforcement, the perception that communities in which officers served were anti-police, and the criminal justice reforms that sought “to reduce the number of people in jail” as reasons for this gap.<sup>395</sup> Although the article did not expressly mention de-militarization or defunding, one can assume that the reasons provided included them.

Although the initial explanations for the reduction in personnel did not highlight political sentiments, researchers should not dismiss the possibility that political sentiments could be an underlying cause. According to the report, political affiliation or support for the Republican party was a factor in the decision of some officers to relocate to different states. The head of the Illinois Association of Chiefs of Police stated that Illinois, a “traditionally blue state, is bleeding officers who are transferring to more conservative

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<sup>393</sup> Kim Parker and Kiley Hurst, “Growing Share of Americans Say They Want More Spending on Police in Their Area,” Pew Research Center, October 26, 2021, <https://pewrsr.ch/3pE9B2V>.

<sup>394</sup> Robert Klemko, “Police Agencies Are Desperate to Hire. But They Say Few Want the Job,” *The Washington Post*, May 27, 2023, <https://www.washingtonpost.com/national-security/2023/05/27/police-vacancies-hiring-recruiting-reform/>.

<sup>395</sup> Klemko, “Police Agencies Are Desperate to Hire. But They Say Few Want the Job.”

states.”<sup>396</sup> About recruits, the article points to the tainting of the profession as a reason that potential hires are staying away, especially from “poor or minority communities.”<sup>397</sup> It is more than just political affiliation for this particular demographic; it is rather personal. Those respondents stated they “would feel ashamed—or face blowback from friends or relatives—if they pursued a law enforcement career.”<sup>398</sup> Scholars and police agency officials alike, could reasonably expect that the images broadcast from Ferguson, Baltimore, and Minneapolis might exacerbate this recruitment dilemma.

In the aftermath of the riots in Ferguson, Missouri, the media paid significant attention to whether the so-called “Ferguson Effect” negatively affected officers’ performance of their duties in the wake of the social justice movement and riots associated with the death of George Floyd. Specifically, the question became whether the Ferguson Effect “impacted the ability of police departments to maintain staffing levels and recruit new officers nationwide.”<sup>399</sup> The study showed that, in general, all police agencies are having trouble recruiting new hires but the Ferguson Effect was limited compared to issues such as small agency budgets and viable alternatives for employment.<sup>400</sup> The same held on the retention side, in which the researchers found that “traditional factors of limited funding and competitive job markets, coupled with department size, played an important role in explaining problems with officer retention.”<sup>401</sup> The one caveat highlighted by the study showed that “potential police recruits are more likely to respond to negative publicity than those who are already police officers.”<sup>402</sup> These findings underscore the difficulty that many police agencies across the nation face in recruiting: external factors upon which

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<sup>396</sup> Klemko, “Police Agencies Are Desperate to Hire. But They Say Few Want the Job.”

<sup>397</sup> Klemko.

<sup>398</sup> Klemko.

<sup>399</sup> Christopher Copeland, Alex del Carmen, and Olga B. Semukhina, “Revisiting the Ferguson Effect: Law Enforcement Perception of Recruitment in the Post George Floyd Era,” *International Journal of Police Science & Management* 24, no. 3 (September 2022): 261, <https://doi.org/10.1177/14613557221074988>.

<sup>400</sup> Copeland, del Carmen, and Semukhina, 269.

<sup>401</sup> Copeland, del Carmen, and Semukhina, 269.

<sup>402</sup> Copeland, del Carmen, and Semukhina, 269.

agencies exercise little to no control have placed enormous strains on the ability of the institution to recruit and retain personnel.

## **E. SUMMARY AND CONCLUSION**

At a time in our nation’s history when scholars have written extensively about the political partisanship and its adverse impacts on our democratic institutions, there have also been increased demands for social justice and the restructuring of state governance have arisen, particularly its law enforcement arm. Chapter V briefly looked at political polarization and its impact on law enforcement at an individual and institutional level. The research specifically focused on how group identity (e.g., identifying as a Republican or Democrat) can contribute to polarization and whether the concept of “othering” produces such extreme ideological divides that “factions,” as espoused by Madison, seems wholly inadequate for our present situation.

On the law enforcement side, Chapter V examined whether law enforcement is susceptible to political polarization from an individual officer perspective and from an institutional perspective. Chapter V also discussed two politically charged initiatives that directly resulted from the social justice protests following the deaths of Michael Brown and George Floyd: the militarization (or, more aptly, the de-militarization) of law enforcement agencies and the defund the police movement. Finally, the chapter assessed whether polarization in the political arena swayed a law enforcement agency’s ability to recruit and retain officers.

As perhaps one of the most observable components of the government, fluctuations in political sentiments affect law enforcement, on individual and institutional levels. At the personal level, political polarization also influences where officers prefer to work. The head of the Illinois Association of Chiefs of Police expressed the sentiment that Illinois, typically a Democratic stronghold, is losing officers to nearby states that are typically more Republican in their views on police and criminal justice.<sup>403</sup> Studies point to budgetary constraints and better job opportunities as hurting recruitment. However, the current

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<sup>403</sup> Klemko, “Police Agencies Are Desperate to Hire.”

recruitment difficulties faced by agencies across the country are due in part to the negative media attention of law enforcement during the social justice demonstrations and highly publicized deaths of African Americans and the potential mental health stress it imparts on officers.

From an institutional perspective, the level of media attention following Ferguson and Minneapolis also affected the institutional level through a push to de-militarize and defund police agencies. Those movements have realized minimal long-term success after the initial amplification of calls for each. This convergence of forces and political pressure has touched many of the police agencies in the United States. Whether the loss of access to specific equipment or budget transformations, or the difficulty in fully staffing an agency, such topics happen in a specific context and, as seen with the ricocheting of Executive Orders from one presidential administration to the next, police agencies can quickly become ensnared in political polarization.

## VI. SUMMARY AND CONCLUSION

No one pretends that democracy is perfect or all-wise. Indeed, it has been said that democracy is the worst form of Government except for all those other forms that have been tried from time to time.

—Winston Churchill<sup>404</sup>

### A. FINDINGS

Faith in our democratic form of government depends on a system of checks and balances meant to keep the state’s power in check. When citizens perceive the system as unbalanced, the banding together of likeminded persons and the insistence that the government take notice and address their criticisms can offer a remedy. To achieve this end, citizens engage in protests as one way of being seen and heard. Public demonstrations place society and the state—most often in law enforcement mode—in confrontation. The framers of the Constitution understood that divergent beliefs were an intrinsic part of human nature and bringing political conflict into the open, while confrontational, was healthier for democracy than discord concealed in darkness. The decision to safeguard citizens’ right to air their grievances with the government through *peaceful* assembly or even non-violent civil disobedience has positively shaped democracy in ways unavailable otherwise. Without the ability to protest, the 19th Amendment expanding democracy’s reach by nearly 50 percent of the population, the civil rights movement, and the dismantling of segregation would not have happened.

Protests may prod democratic society to live up to the ideals promised in the Constitution. A legitimate concern is whether democratic expansion is possible in a politically and socially polarized environment. Research conducted by Vanderbilt University attempts to measure what constitutes “unity” in our democracy by measuring the fluctuations in Americans’ general faith and trust in their political institutions.<sup>405</sup>

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<sup>404</sup> “International Churchill Society,” International Churchill Society, February 25, 2016, <https://winstonchurchill.org/about/>.

<sup>405</sup> “Vanderbilt Unity Index,” The Vanderbilt Project on Unity & American Democracy, June 8, 2022, <https://www.vanderbilt.edu/unity/about/>.

Measured according to what the study termed the Vanderbilt Unity Index (VUI), researchers noted that “the story of American politics is largely a tale of conflict rather than consensus.”<sup>406</sup> Some researchers in this area doubt that the government can sufficiently administer the affairs of the citizenry “in the face of institutionalized party warfare across so many different dimensions of public policy.”<sup>407</sup> Although a legitimate concern, the story of America reflects discord, disunity, and even internal warfare, yet, our democracy continues to evolve.

An analysis of the available research evaluated instances where protests helped advance democracy, such as the Suffragist Movement and the CRM, and instances where more harm than good—such as the MAGA movement and the events of January 6, 2021—followed them. Additionally, this thesis analyzed the impact that BLM had on the social justice movement and how it interacted with law enforcement and their state-sanctioned authority, as a focal point of the protests. The study of the interaction between protests and law enforcement allows for an exploration of the impact each has on society and acts as a litmus test for the quality of the government’s implementation of democratic principles. Additionally, it provides an opportunity to explore how protests challenging the exercise of its authority shape the institution of law enforcement.

Regarding law enforcement’s effect on political and social polarization, the research revealed a greater one at the individual officer level from both types of polarization than from an institutional perspective. In the immediate aftermath of the deaths of Michael Brown and George Floyd, the de-militarization and defunding of the police movements had a significant impact in terms of public perception and political posturing regarding law enforcement. However, as the months of social justice protests receded, communities faced rising crime rates and a considerable reduction in staffing levels within police agencies; the apparent inability of agencies to hire new officers to keep pace with their losses significantly compounded this situation. As a result, some of the efforts—for

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<sup>406</sup> Vanderbilt University.

<sup>407</sup> Frances E. Lee, “How Party Polarization Affects Governance,” *Annual Review of Political Science* 18 (May 2015): 276, <https://doi.org/10.1146/annurev-polisci-072012-113747>.

example, the plan to restructure public safety in Minneapolis without a police department—stalled or faced defeat in ballot initiatives.

Research showed that the negative stigma from protests that targeted police resulted in a drain of personnel from traditionally blue states to more conservative red states. It may have a more significant impact on an individual's decision to become a police officer in the first place. The dual effect of loss of personnel and an inability to attract new officers causes agencies to have to do more with less, which risks to the safety of the officer and the community. The reduction in staffing could result in longer response times, less proactive safety patrols, longer shifts (e.g., mandatory overtime), and generally, fewer officers available to interact with the community in non-emergency related situations, and therefore less opportunity to build trust and acceptance within the community.

The danger in this scenario is that a lack of positive interaction may lead to further discrediting and delegitimizing of law enforcement. Any impasse that prevents honest dialogue on meaningful changes is detrimental to the institution of law enforcement, the individual officers, and society. For protests and law enforcement to coevolve in our democracy, there needs to be legislative reform, adoption of best practices, a deepening of community engagement, and the strengthening of institutional transparency on the part of law enforcement.

## **B. RECOMMENDATIONS**

The research in this thesis suggests a set of recommendations aimed to contribute to the conversation on how protests and law enforcement can best coexist in a democracy. The recommendations fall into four categories: legislative reforms, best practices for policing of protests, community engagement, and transparency.

### **1. Legislative Reform**

Regarding policy reforms, the primary recommendation is to codify restrictions on the types of equipment transferred from the military to LEAs. As seen in the transition between the Obama, Trump, and Biden administrations, the political posturing affects the program. Congress should produce legislation that changes the current law to eliminate

certain items from the program, such as Mine-Resistant Ambush-Protected (MRAPs) vehicles, grenade launchers, and weapon-carrying drones that fundamentally alter the mindset and perceptions of the police. This scenario is one where the negatives must outweigh the positive regarding the needs and use of the equipment compared to public perceptions. Minimally, any new legislation should include provisions that require a state or local review of any proposed acquisition of excess military equipment including the cost (currently, LEAs pay only for the cost of shipping) and an explanation of the need(s) and proposed use of the equipment within the community.

This recommendation in no way suggests that law enforcement agencies should stop acquiring equipment via grants whose purpose is to keep their officers safe (e.g., there should be a federal program that assists all agencies that cannot afford to purchase body armor for their officers). Any proposed policy reforms in this area should consider the twin priorities of officer safety and the benefit to the community when contemplating what types of equipment is available via the 1033 program. However, equipping law enforcement agencies with apparatus designed for war zones, I would assert, is not consistent with the Constitution's prohibition against standing armies in our communities.

## **2. Best Practices**

Considering the approximately 18,000 different law enforcement agencies across the country, the many different approaches for handling First Amendment assemblies are not hard to understand. Significant differences exist between agencies' capabilities and the number of protests they may face. Still, a national dialogue should combine subject matter experts in crowd psychology, law enforcement administrators, and scholars to examine past practices and consider best practices approach to safely and effectively handle First Amendment assemblies to ensure compliance with the Constitution.

This working group could also explore differences in laws across the country that govern how local law enforcement agencies must legally respond to enable a compilation of "best practices." The agencies could then consider the best cases for their local jurisdictions to debate and implement. An additional benefit of methodologies arising from an on-going refinement of training techniques would be a safeguarding of citizens' rights

while ensuring the safety of the officers. For example, further studies could examine whether the use of less-lethal munitions are effective and safe platforms for quelling incidences of violence. Finally, having a state or federal-level mandate for training in the psychology of crowds for all command-level agency officials would assist them in managing large groups and provide them the necessary tools to de-escalate, when possible, tensions that might cause an otherwise peaceful demonstration to become violent.

### **3. Community Engagement**

Policies are essential institutionally for law enforcement at the administrative and legal level; constructive dialogue is needed to put those policies in terms relatable at the community level. Agencies need to promote an open, ongoing relationship with the community that fosters a clearer understanding of the role of the police in all aspects of their interactions with the public, especially in the realm of responses to peaceful protests. Citizens must understand that police cannot tolerate criminal conduct (i.e., destruction of property, willful injuring of officers) and, perhaps most importantly, how they must respond, depending on the level of violence faced.

An open dialogue between the state and its citizens communicates government responsiveness that involves the creation of various platforms for civic engagement. A vital aspect of these platforms must be government responses that are nonconfrontational and which show a level of adaptability and flexibility in an ever-changing landscape of societal needs and political realities. Finally, by engaging the citizenry in certain aspects of the policy-making decision process, the state can ensure that policies accurately reflect citizens' needs and aspirations, leading to more buy-in and strengthening faith in the institution of law enforcement.

### **4. Transparency In Hiring**

Inherent in a foundation for a constructive dialogue. The most important recommendation in this category would be creating a national database containing the names of officers fired for cause, especially for civil rights violations and excessive use of force, to prevent them being rehired by different agencies. In keeping with research conducted by Russell E. Wheatley, IV, there should be a centralized, independent, entity

as a central repository of records of officers fired for cause.<sup>408</sup> This body would serve as a tool for hiring agencies to validate their candidates' credentials and ensure that they were not terminated for cause or resigned for any of the pre-determined list of disqualifiers. Transparency would show policing as invested in all communities nationwide and unwilling to allow unfit persons to move from one agency to another. Law enforcement relies heavily on the level of legitimacy in the eyes of the public and should be held accountable for the degree of authority bestowed upon it by the state. Examining policies and procedures that increase the level of transparency without compromising the integrity of investigations or the safety of officers can only bolster faith in a central component of our democracy's construction.

### **C. FUTURE RESEARCH**

This research examined whether the right of citizens to protest, which is essential for democracy, changes law enforcement as state agents when they are the focus of the protests. The topic is sufficiently broad that no single thesis or scholarly examination could fully answer the question posed. With that in mind, the following topics are potential future research questions that could build upon the work presented in this thesis.

First, additional research could be investigate the mental health aspect of protests and the strain that consecutive days of long hours standing in a protest line can have on an officer's mental health. For example, the research conducted by Tammy Rinehart Kochel in Ferguson would be an excellent jumping-off place for additional research. Specifically, the impact of extended and repeated exposure to violent conduct and virulent language must wear on an officer and erode their ability to be nonreactive and to process events rationally and according to the law and department policy. Future research in this area could identify time limits for the officers to remain on the front lines before being relieved to sustain nonreactivity to non-violent confrontations, especially when the police are the focus of the protest. Additionally, the research could identify post-incident training or

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<sup>408</sup> Russell E. Wheatley, IV, "Can National Tracking of Police Misconduct Increase Police Professionalism?" Master's thesis (forthcoming). Naval Postgraduate School, 2024, 56–57.

debriefing protocols that would best assist the officers in processing events and decompressing safely and healthily.

A second recommendation for future research concerns digital activism. Considering the role that this type of activism played in the death of George Floyd and the resulting riots and protests, digital activism is a field worth additional study to assess the impact of this new medium on social awareness and direct political action arenas. Because a cellphone video taken by an uninvolved citizen sparked worldwide protests and calls for social justice, future studies could expand the extant research on the role of the media in fueling protests and how this relatively new field of digital activism compares in terms of speed in organizing opposition. The extent of the reach in terms of crossing state, national, and international boundaries, and whether the medium can extend the life cycle of protest because of the removal of certain filters found in traditional media also merits consideration.

Lastly, although various studies have covered polarization, no substantial body of research addresses how pervasive social and political polarization is within law enforcement. Future research efforts could concentrate on how the twin forces of social and political polarization affect the individual officer and the performance of his duties. Because police officers must remain neutral to secure fair and impartial justice, the potential signs of polarization and resulting impact on the individual officer and the larger institution warrant a deeper analysis.

The recommendations summarized in this thesis represent an attempt to refocus attention on several key areas where communities and law enforcement might find agreement. Democracy should involve a degree of compromise between factions to strengthen its institutions and the citizenry's faith in those institutions—especially law enforcement. By highlighting the positive and the turbulent, this research attempted to show how two vital elements of society help to shape, and are shaped by, democracy

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