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Jessica Younan

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Reform Demanded by Minorities on Police's Use of Excessive Force and the U.S. Government's Resistance to Change

Jessica Younan

Innocent until proven guilty is the legal standard utilized by our justice system. Yet, recently, the use of excessive force by law enforcement, which conflicts with this legal standard, has resurfaced disproportionately against minorities. Despite the outcries for change, the issue remains unanswered by the federal government. Police protection is vital to secure the rights of the people and to enforce the law that federal, state, and local governments have purported. The recent rise of minority encounters with law enforcement resulting in excessive use of force by police officers, has left minorities unprotected. Who is left to protect the people from the excessive use of force by law enforcement?

THE PROBLEM

We have heard and seen the same news stories across the United States, from Chicago, New York, San Francisco, Ferguson, New Orleans, Philadelphia, and Baltimore.¹ In 2014, an African American male, Laquan McDonald, was fatally shot by a police officer in Chicago, Illinois.² The video footage of the shooting demonstrated the police officer's use of excessive force, but also the efforts to cover-up the systemic problem by the department and City.³ A routine cover-up occurred for more than a year, which exposed the secrecy among government officials in the City of Chicago.⁴ Mayor Rahm Emanuel's response to the video release was to fire the police superintendent and many others subsequently stepped down.⁵ Regardless, many activists are still dissatisfied with the lack of improvement to the City's governance and the lack of initiative taken by the federal government.

¹ Jeff Schweitzer, *A Troubling Response to Brutality*, HUFFINGTON POST. (May 5, 2015), http://www.huffingtonpost.com/jeff-schweitzer/a-troubling-response-to-b_b_7204398.html.

² Ben Austen, *Chicago After Laquan McDonald*, N.Y. TIMES. (April 20, 2016), <http://www.nytimes.com/2016/04/24/magazine/chicago-after-laquan-mcdonald.html>

³ Telephone Interview with G. Flint Taylor, Founding Partner, People's Law Office (Oct. 20 2016).

⁴ Austen, *supra* note 2.

⁵ *Id.*

Flint Taylor, a founding partner of the People’s Law Office and an attorney who successfully represents victims of police brutality, describes the focus of police violence as being primarily, though not exclusively, on people of color and African Americans.⁶ In an interview with Mr. Taylor, he describes the recurrence and manifestations of police violence and racially motivated policing over the scope of almost 50 years.⁷ While police violence is not as constant from 50 years ago, you still see “too much violence” and “too much abuse” by the police, whether it be shooting innocent people or systematically torturing African American suspects.⁸ This pattern arises again and again in these communities, which Mr. Taylor says makes people question whether the police are helping or hurting the community.⁹

JUDICIAL STANDARD FOR EVALUATING EXCESSIVE FORCE CASES

In *Graham v. Connor*, the United States Supreme Court held that the reasonableness inquiry into an excessive force case is an objective standard.¹⁰ When courts analyze suits brought against law enforcement, the question becomes “whether the officer’s actions are ‘objectively reasonable’ in light of the facts and circumstances confronting them, without regard to their underlying intent or motivation.”¹¹ While this standard is objective and would achieve fairness under the law, the underlying problem is that officers are rarely charged with a crime following their use of excessive force.¹²

Arresting police officers for using excessive force is an essential step to achieving the public’s trust.¹³ Chuck Canterbury, the National President of the Fraternal Order of Police (FOP), stated “nobody hates bad cops more than other cops, and the FOP doesn’t have any sympathy for a cop who crosses the line.”¹⁴ Canterbury explains that while cops who cross the line should be reprimanded,

⁶ Telephone Interview with G. Flint Taylor, Founding Partner, People’s Law Office (Oct. 20 2016). Taylor, *supra* note 3.

⁷ *Id.*

⁸ *Id.*

⁹ *Id.*

¹⁰ *Graham v. Connor*, 490 U.S. 386, 397 (1989).

¹¹ *Id.*

¹² Austen, *supra* note 2.

¹³ Schweitzer, *supra* note 1.

¹⁴ *Id.*

manded, they are still provided the right to the presumption of innocence and due process.¹⁵

STATISTICS: THE PAINFUL REALITY

Although there is an objective and reasonable standard to analyze cases like these, it is rare that police officers are charged with a crime. In fact, thousands of people have been shot and killed by police officers in the past decade, but according to a Washington Post analysis, only 65 police officers have been charged with a crime in connection to a fatal use of force.¹⁶

Chicago has had more fatal shootings by law enforcements than any other city in the United States between 2010 and 2014.¹⁷ Despite this, law enforcement in Chicago hardly faced punishment. For instance, of the 409 shootings investigated by Independent Police Review Authority (IPRA), only two were classified as unjustified.¹⁸ So what exactly is the Government and its agencies doing to address this systemic issue if it is not charging police officers for their crimes?

POSSIBLE REFORM METHODS

Mr. Taylor describes two approaches that could help reform the problem. First, a top-down reform, starting with the mayor and police superintendent down to the entire command structure, that is committed to eradicating racism and police violence.¹⁹ We saw a form of this method being utilized in Chicago following the shooting of Laquan McDonald. Mayor Rahm Emanuel's firing of the police superintendent, however, was not sufficient top-down reform to resolve the deep-rooted racism and police violence.

The second approach follows an idea put forth by organizations like Black Lives Matter and Black Youth Project 100 (BYP 100). These organizations call for a serious evaluation of the role of the police. They feel the police in African

¹⁵ *Id.*

¹⁶ Teddy Cahill, Wesley Lowery, and Niraj Chokshi, *Calls for Calm after Grand Jury Declines to Indict Officers in Death of Tamir Rice*, WASH POST (Dec. 29, 2015), https://www.washingtonpost.com/news/post-nation/wp/2015/12/28/tamir-rice-grand-jury-announcement-expected-monday/?utm_term=.19e612901400.

¹⁷ Austen *supra* note 2.

¹⁸ *Id.*

¹⁹ Telephone Interview with G. Flint Taylor, Founding Partner, People's Law Office (Oct. 20 2016). Taylor, *supra* note 3.

American and poor communities should be defunded and the funds reallocated to helping the community in other ways, like education.²⁰

THE PROPOSED SOLUTION

While there are various methods of achieving desirable results, many of them do not have what is necessary to achieve effective and long-lasting results. What is necessary to prevent this disparate impact on minorities is more efficient federal governance of the issue. A lack of federal initiative or state and local directives to achieve equal treatment and fairness under the law, has resulted in systemic racism and police violence against minorities.

While the civil rights division of the federal government has initiated investigative practices and procedures, minorities have not yet felt any positive impact. This method is most effective because the investigative committees have the authority to investigate, obtain widespread documentation, and demand cooperation from the police department.²¹ Their authority is influential because of the support they obtain from the federal government.

To achieve more permanent and effective results, the federal government should provide more resources to these investigative committees. Continued federal governance and holding police officers, police departments, and city officials accountable for the systematic violence, racism, and cover-ups would provide far more effective and permanent results than any other method of reform.

²⁰ *Id.*

²¹ *Id.*