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THE IMPACT OF POLICE UNIONS ON THE PROSECUTION OF OFFICERS,
LEGITIMACY, AND REFORM

by

Jacob Todd Halvorson

B.S., B.A., University of North Dakota, 2020

A Research Paper
Submitted in Partial Fulfillment of the Requirements for the
Master of Arts

School of Justice and Public Safety
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RESEARCH PAPER APPROVAL

THE IMPACT OF POLICE UNIONS ON THE PROSECUTION OF OFFICERS,
LEGITIMACY, AND REFORM

by

Jacob Todd Halvorson

A Research Paper Submitted in Partial

Fulfillment of the Requirements

for the Degree of

Master of Arts

in the field of Criminology and Criminal Justice

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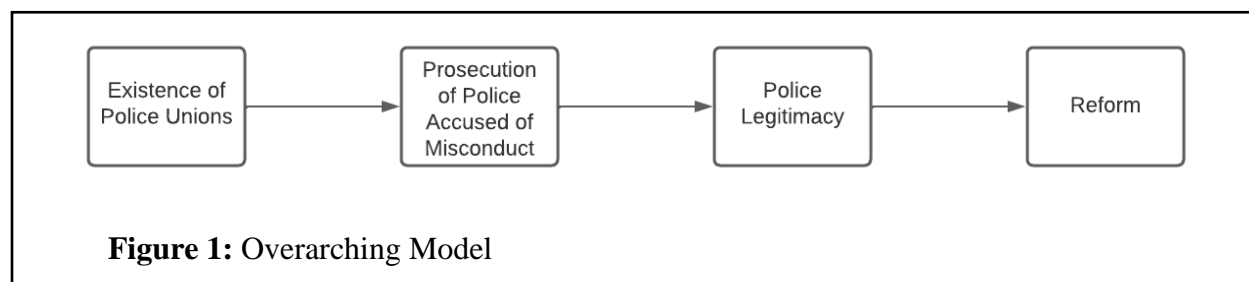
CHAPTER 1

INTRODUCTION

Between January 2013 to June 2016, there were at least 4,024 people killed by police officers in the United States. Eighty-five of these officers were formally charged with a crime, and a mere six were convicted of at least one of the crimes with which they were charged (McKesson et al., 2016). This statistic alone does not account for all forms of police misconduct, as not all police misconduct necessarily results in death (D'Souza et al., 2019). Additionally, not every instance in which an officer kills a citizen involves an act of misconduct (Culhane & Schweitzer, 2018). Although it would be impossible to account for every case, one study found that within the span of a decade, there were at least 200,000 alleged instances of police misconduct in the United States (Kelly & Nichols, 2020). Of these, there were “22,924 cases of excessive force; 3,145 allegations of rape, child molestation, and other acts of sexual misconduct; and 2,307 cases of domestic violence” (Archbold, 2021, p. 1665). It is not clear how many of these misconduct allegations resulted in a conviction. However, Kelly and Nichols (2020) found that at least 20 police officers in the United States retained employment as an officer, despite being the subject in at least 100 civilian complaints of alleged misconduct. Moreover, this study found that nearly 2,500 police officers had been the recipients of at least 10 misconduct complaints.

One reason police misconduct rarely results in prosecution and conviction could be due to police unions (Rushin, 2017). In fact, a common criticism of contemporary police unions is that they enable police misconduct by shielding police officers from facing disciplinary action for instances of police misconduct (Levin, 2020; Place, 2018). Although much attention has been paid to police misconduct in the United States, especially over the last few decades, there has

been an underwhelming amount of research into the role of police unions (Fisk & Richardson, 2017; McCormick, 2015; Walker, 2008). This is interesting, given that it seems like “virtually everyone with an interest in policing—citizens, civic leaders, reform activists, and scholars—believes that police unions are extremely powerful, have a major influence on police practices, and are a principal obstacle to change” (Walker, 2012, p. 71). Thus, this paper will aim to enhance the current understanding by highlighting the impact of police unions on the prosecution of officers, police legitimacy, and the implementation of reform. This can be seen in Figure 1, which outlines the main points of this paper. Moreover, Figure 1 displays the proposed relationships between the key variables within this article.



In this paper, I investigate what available research demonstrates about how the existence of a police union impacts the prosecution of police accused of misconduct, legitimacy, and the implementation of reform. I examine the relationship of these subjects to one another, as seen in Figure 1. I conclude that the existence of a police union leads to a failure to investigate and prosecute police officers who are accused of misconduct, which leads to lower levels of police legitimacy, and ultimately, this leads to more difficulty and resistance in implementing reform. Conversely, if police were consistently prosecuted, theoretically, this would enhance police legitimacy and allow for more comprehensive police reform. This is situated in the historical context of unionization, as well as the introduction of state laws that serve to provide officers

with extra protections, specifically when facing civilian complaints that allege that an officer engaged in some form of misconduct.

History of Police Unions

To begin, it is important to give a brief overview of the history of police unions, in order to develop an understanding of how police unions came to be what they are today. Attempts to unionize in the public sector became prevalent in the years before 1919, when police had begun to affiliate with the American Federation of Labor in larger increments every year. However in Boston (Massachusetts), police management suspended officers who were thought to be union leaders, and they openly rejected a union that was sponsored by the American Federation of Labor (Slater, 2009). On one hand, police officers at the time wanted to be able to bargain with management to improve their working conditions and wages, which was the main idea behind forming a worker's union (Heustis, 1958; Slater, 2009). On the other hand, critics of police unionization were chiefly focused on the fear that unionization would allow police to go on strike. Ironically, opposition to police unionization eventually led to the Boston Police Strike of 1919. This opposition came largely from the police commissioner, local businessmen, and government officials like the Massachusetts Governor Calvin Coolidge, who would later be elected the President of the United States. Arguments revolved largely around whether public employees should be allowed to unionize, since they were employed by the government (Slater, 2009).

The Boston Police Strike of 1919 occurred because police officers wanted better wages, fewer work hours, and better working conditions (Fegley, 2020; Hatfield, 2021; Slater, 2009). It was common for officers to work 73 to 98 hours a week, and up to 17 hours in a day (Slater, 2009). On top of that, the annual salary of Boston police officers equates to roughly \$12,000 in

today's economy (Hatfield, 2021). Other compounding factors were that officers were working in extremely unsanitary conditions (such as frequently being exposed to vermin at the station), having to pay for their own uniforms, and operating under the watchful eye of authoritarian management (Slater, 2009). Furthermore, there were deep racial ties and tension between police officers, who were mostly Irish-Catholic, and the Republican Protestants who opposed them unionizing (Hatfield, 2021; Slater, 2009).

In September 1919, 1,147 Boston police officers went on strike after 19 officers were suspended for violating an anti-union policy. This led to chaos, looting, and violence all throughout the city. All 1,147 officers who went on strike were fired and were not reinstated. Additionally, it is important to note that the Boston Police Strike also led to no-strike clauses for other public sector unions, greatly reducing their power and influence (Slater, 2009). This event was monumental for police unions, because afterwards, they were virtually absent in the United States until the 1960s (Fegley, 2020; Hatfield, 2021). The Boston Police Strike of 1919 is frequently presumed to be the cause of this hiatus, as it was commonly used as an argument against allowing police or other public sectors to form unions for several decades after the infamous strike occurred (Fegley, 2020; Hatfield, 2021; Slater, 2009).

The civil rights movement in the 1960s led the way to many changes, including the reintroduction of collective bargaining in the public sector (Bies, 2017; McCormick, 2015; Walker, 2012). Police unions, in particular, had a rapid resurgence due to officers citing issues such as public protests for independent review boards, few protections for officers who were being internally investigated, low pay, and increasing public pressure to control increasing crime levels (Fegley, 2020). Essentially, for many officers, the fear of losing their jobs was overshadowed by these pressing concerns (Slater, 2009). Additionally, the civil rights movement

led to both activists and courts calling for widespread police reform, which helped to bring about the coming of police unions, who adamantly discouraged reform efforts.

The movement to unionize police was in response to the civil rights movement that was extremely critical of police, so in some sense, an increase in anti-police sentiment led to the unionization of police (McCormick, 2015). Moreover, the police union's increase in power was often accomplished through political lobbying, where police unions in the 1960s and 1970s continuously used their bargaining power to oppose civilian review boards and to help support the drafting of Law Enforcement Officers' Bills of Rights (LEOBORs) in state legislature. Police unions have publicly spoken out against politicians who threatened to limit the power of police unions, which politicians feared would damage their reputation. Thus, both Republican and Democratic politicians have generally opted to not challenge the collective bargaining abilities of existing police unions, largely because they do not want to lose votes that could get them elected or re-elected into office (Bies, 2017).

LEOBORs essentially have the same impacts as police unions contracts, except at a larger scale, most generally at the state level. A LEOBOR is a constitution that provides protections (from investigation and prosecution) to law enforcement officers who are accused of engaging in acts of misconduct. These protections include delays before interviewing officers accused of misconduct, access to all (or most) of the evidence that might be presented against them before being interrogated, restricted public access to complaint data, prohibitions on anonymous complaints, and limits on the ability of people outside of a police department (such as civilian review boards) to investigate misconduct complaints filed by civilians (Place, 2018). Notably, these safeguards are rarely applied to criminal suspects who are not police officers (Keenan & Walker, 2005; Place, 2018; Rushin, 2017).

The first LEOBORs were passed in Florida and Maryland in 1974. Interestingly, a proposition to mandate a federal LEOBOR nearly passed in 1991, but LEOBORs have been most commonly passed at the state level. States sometimes call their LEOBORs something else other than law enforcement officer bill of rights. For example, New Mexico has a constitution that is comparable to LEOBORs in other states, but it is called the “Peace Officer's Employer-Employee Relations Act” instead. This makes measuring how many states have LEOBORs difficult (Keenan & Walker, 2005). Nonetheless, in a recent report, the National Police Accountability Project found that 23 states had a codified bill of rights that provides protections to law enforcement officers facing allegations of misconduct (National Police Accountability Project, 2021). States with and without LEOBORs are displayed in Table 1, pictured below.

U.S States <u>with</u> an existing LEOBOR	Arizona, Arkansas, California, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kentucky, Louisiana, Minnesota, Missouri, Nevada, New Mexico, Oregon, Pennsylvania, Rhode Island, Tennessee, Texas, Virginia, West Virginia, Wisconsin
U.S States <u>without</u> an existing LEOBOR	Alabama, Alaska, Colorado, Connecticut, Hawaii, Idaho, Kansas, Maine, Maryland, Massachusetts, Michigan, Mississippi, Montana, Nebraska, New Hampshire, New Jersey, New York, North Carolina, North Dakota, Ohio, Oklahoma, South Carolina, South Dakota, Utah, Vermont, Washington, Wyoming

On one hand, proponents of LEOBORs claim that police officers need to be able to perform their duties with as much discretion as reasonably possible (Keenan & Walker, 2005). Moreover, supporters of such bills claim that too much investigation will lead to officers who are

too “reluctant to take aggressive action to fight crime- and the community will suffer as a consequence - if the officers' decisions in the field are subject to scrutiny” (Keenan & Walker, 2005, p.186). However, opponents such as Place (2018) and Rushin (2017) retort that LEOBORs are typically fought for by police unions in an attempt to thwart police accountability by offering police officers special privileges that protect them from being prosecuted. Moreover, opponents to LEOBORs point out that no other group of publicly employed individuals have protections that are comparable to that of police officers (Keenan & Walker, 2005).

Following the civil rights movement, and the rejuvenation of unionization in the public sector, the power of police unions has continued to expand (Bies, 2017; Fisk & Richardson, 2017). One manner in which police unions have increased their power is by building political clout, lobbying to give themselves more power so they are better able to control their working conditions (Bies, 2017; Rushin, 2017; Thomas & Tufts, 2020). Unions have gained political clout by donating to campaign funds of political candidates that are seen as being “friendly” to police unions, or in other words, those who are unwilling to challenge the existence and/or influence of such unions (Bies, 2017; Levin, 2020). Moreover, police unions have involved themselves in politics by actively framing any opposition as being “anti-police” or “soft on crime” (Bies, 2017).

This increase of union power and political clout includes the drafting of LEOBORs, along with other impactful changes within state legislatures (McKesson et al., 2016; Place, 2018). One example of this can be seen in Illinois, where a provision dubbed the Illinois Public Labor Relations Act allows union contracts to take precedence over laws or regulations when there is a discrepancy between state law and Illinois’s LEOBOR (Smith, 2020). Moreover, statutes backed by police unions have commonly been used to keep investigations of officers

internal, which greatly limit the ability of outsiders to hold police accountable in any legitimate manner (Bies, 2017; Place, 2018; Rushin, 2017). The next chapter will add to these findings by highlighting how police unions have impacted the prosecution of police officers.

CHAPTER 2

POLICE UNIONS AND THE PROSECUTION OF POLICE OFFICERS

In 2002, approximately 9.5 out of every 100 police officers working at a large municipal police department (defined as having at least 100 police officers employed) in the United States received at least one use of force of complaint. This data was collected for LEMAS (Law Enforcement Management and Administrative Survey) by the Bureau of Justice Statistics and the Office of Community Oriented Policing Services. It was the first of its kind to report on citizen complaints concerning police use of force (Hickman, 2006). Unfortunately, it does not appear that data were collected after the 2003 and 2007 editions of LEMAS (Hickman & Poore, 2016). Additionally, only use of force complaints were measured, so other forms of complaints alleging police misconduct (for example, verbal abuse or coercion into a false confession) were not measured. These factors make it challenging to grasp if and how the prevalence of citizen complaints against police officers has changed since the time of data collection.

However, this chapter draws upon existing literature to explain what is known about how police unions have affected the processes and outcomes in the prosecution of police officers accused of police misconduct. To do so, this chapter begins by defining police misconduct and accountability. The following section discusses which American police departments (and their respective officers) are most likely to be represented by a union. Next, this chapter explores six of the most frequent provisions in police union contracts, all of which are consistently described in the current literature as problematic to achieving accountability and transparency of police in the United States. Additionally, this section introduces three other contract provisions in police contracts that could function as a barrier to achieving police accountability and transparency. Last, this chapter ends by investigating the importance of the collective bargaining process, as it

relates to the drafting of police contracts, and ultimately, to the prosecution of police officers accused of misconduct.

Key Definitions

There is no clear consensus as to what actions represent police misconduct (Frank, 2009; Manning, 2009). Definitions of police misconduct vary by jurisdiction, and they do not always include the same behaviors (Frank, 2009). For example, Manning (2009) highlights that some police departments might consider the refusal of a drug test to be police misconduct, while other departments would not. Despite varying definitions of police misconduct, some of the most commonly studied forms appear to include verbal abuse of civilians, excessive use of force, corruption, racial discrimination, and unwarranted stops (D'Souza et al., 2019). In addition, D'Souza et al. (2019) note that other forms of misconduct (e.g., perjury, evidence tampering, and improper interrogation practices) have been researched to a lesser extent. It is likely that misuse of force, being a profoundly serious form of police misconduct, is the most heavily researched form of police misconduct. Interestingly, Place (2018) argues that while police officers have been granted the ability to use force when appropriate, we should not assume the amount of force was appropriate, simply because it was used by a police officer (Place, 2018). For this study, police misconduct will be defined as any on-duty incident in which a police officer takes an action that is either illegal or improper.

The current literature is somewhat clearer on the definition of police accountability but appears equally as difficult to measure as police misconduct. As Walker (2001) notes, police accountability involves holding both individual officers and entire law enforcement agencies accountable for incidents involving police misconduct. However, the measurement of this could foreseeably be difficult, as not all allegations of misconduct are genuine or even worthy of

investigation (Lersch, 2002). Additionally, because many jurisdictions allow for the internal review of citizen complaints, it is challenging to fully understand how often police face consequences for actions that should be punished (Bies, 2017; Place, 2018; Rushin, 2017). To this point, it may also prove difficult to measure police misconduct as defined in the above paragraph, as not every instance of police misconduct is reported (Porter & Prenzler, 2016). Moreover, there is much room left for subjectivity when debating if an individual police officer's or a law enforcement agency's consequence was appropriate for each case. The implications of this problem to my inquiry are that previous research articles may utilize different definitions to measure either police accountability or police misconduct, which makes it more challenging to compare and contrast the findings of studies that look into either subject.

Union Representation

As noted in the first chapter, the prevalence of police unions in the United States increased significantly after the Civil Rights Movement in the 1960s. Additionally, the sheer number of police unions steadily increased throughout at least the mid-1990s, albeit at a slower rate. After this, there is limited data measuring the number of police unions in the United States (Frandsen, 2016). However, they seem to be more commonplace today than ever before (Bies, 2017; Walker, 2008; Walker, 2012). The 2003 LEMAS report indicated that police unions were the norm in the largest police departments, except for in the southeastern region (Walker, 2008). In fact, not a single police union was reported in the states of North Carolina, South Carolina, Mississippi, or Georgia (Walker, 2008). Notably, Walker (2008) remarked that nearly half of the more than 18,000 police departments in the United States had nine or fewer sworn police officers, meaning that many agencies have very few officers. To this point, police officers employed by police departments that serve a smaller total population are less likely to be

represented by a union than are officers working for a department that serves a larger population. Moreover, urban police departments are more likely to have an established union than are rural departments (Fisk & Richardson, 2017). Thus, it may be the case that unions do not represent most police departments; however, most officers are represented by a union (Walker, 2012). Walker (2012) found that roughly 71% of police officers were represented by a union.

Contract Provisions Hindering Accountability

One way that police unions could hinder the prosecution of police officers is by providing an “alternate justice system” that provides extra protections for officers facing accusations of misconduct, in comparison to suspects in criminal offenses (Fisk & Richardson, 2017; Levin, 2020; McKesson et al., 2016). In a 2016 study analyzing 81 police union contracts and the 14 states that had a LEOBOR, McKesson et al. (2016) found that 72 of the 81 union contracts and all of the LEOBORs had at least one of the six listed “problematic provisions” that actively worked against improving police accountability. These six provisions were listed as: early disqualification of misconduct complaints, delaying interrogations of officers accused of misconduct, giving officers access to additional information before an interrogation (in comparison to criminal suspects who are not sworn officers), limiting disciplinary consequences for officers accused of misconduct, city governments paying legal fees of officers involved in instances of alleged misconduct, and preventing the retainment of an officer’s disciplinary history.

McKesson et al. (2016) concluded that these provisions work against improving police accountability because they provide extra and unnecessary protections for police officers accused of misconduct. Furthermore, these provisions make it more difficult for both police management and civilians to prove that an officer is guilty of engaging in acts of misconduct, and they may

also lessen the impact of repercussions on individual police officers or police departments (Bies, 2017; Levin, 2020; Rushin, 2017). Notably, of the one hundred largest U.S. cities, 3 of their respective police unions refused to send their union contract for the purposes of the McKesson et al. (2016) study, and another 16 cities police departments were not represented by a union. In the following sections of this chapter, the six provisions highlighted by McKesson et al. (2016) as deflecting police accountability for misconduct are discussed and corroborated with other sources.

Disqualification of Complaints

The first “problematic and common” provision to police union contracts, as listed by McKesson et al. (2016), is disqualifying misconduct complaints that are either not submitted within a set number of days from the incident or even if the investigation takes too long to complete. Of the 81 union contracts that were studied by McKesson et al. (2016), 25 of them (30.9%) provided a limit on the number of days to submit a complaint. For example, the Columbus Police Department in Ohio allows complainants just 60 days to write a complaint (McKesson et al., 2016). Moreover, in the state of Maryland, no complaint alleging police brutality could be investigated after 90 days (Fisk & Richardson, 2017). Arguably, it may make sense that after too long of a period of time, some complaints may be extremely difficult to thoroughly investigate. However, this timeframe may be too short, as people may be hesitant to file complaints (Headley et al., 2020; Smith, 2020).

Furthermore, the second part of this provision allows for disqualifying misconduct complaints if the investigation takes too long. This seems to be somewhat unclear. McKesson et al. (2016) does not explain how much time union contracts typically require be put into investigating a misconduct complaint before it needs to be disqualified. Furthermore, the study

does not disclose what period of time would constitute a complaint from being too far removed from the date of the incident to investigate. If not monitored, it seems plausible that police departments would be able to avoid seriously investigating misconduct complaints. More research is needed in this area of police union contracts. Moreover, some police union contracts severely limit the ability of management to investigate anonymous complaints (Rushin, 2017; Smith, 2020). Of 178 union contracts studied, Rushin (2017) found that 32 of them (18%) limited the ability of police management to investigate anonymous complaints. Furthermore, some of these provisions banned anonymous complaints entirely. Rushin (2017) contended that this was problematic because civilians might opt to not file a complaint altogether due to fear of the accused officer retaliating. Additionally, the author explained that this might be especially true for undocumented individuals who might fear that they will face legal consequences (e.g., deportation) for filing a complaint against a police officer.

Smith (2020) reports that Illinois's LEOBOR stipulates that civilian complaints about police misconduct must be witnessed and signed by a sworn affidavit, unless it is about criminal conduct. However, allegations of excessive force are not considered to be criminal in Illinois, meaning they cannot be filed anonymously. Moreover, in Chicago, officers are notified of who filed a complaint against them (Smith, 2020). According to an investigatory report of the Chicago Police Department from the Department of Justice, this leads to less accountability for police officers accused of misconduct (Fisk & Richardson, 2017; Smith, 2020). One reason for this is that people who fear retaliation from officers may decide to not submit a sworn affidavit. For example, between the years of 2011 and 2014, 58% of misconduct complaints involving the Chicago Police Department were not investigated simply because there was no sworn affidavit to accompany a complaint (Smith, 2020). Place (2018) posits this is problematic, as it not only

prohibits the investigation of a significant number of complaints, but also because it might discourage any complaint from being filed. Moreover, Place (2018) claims that there likely would have been even more complaints filed against the city's police officers without this provision.

Delaying Interrogations

Of the eighty-one union contracts that were analyzed, McKesson et al. (2016) found that fifty of them (61.8%) had a provision that either prevented when an interrogation could take place, where interrogations could take place, or what questions could be asked. These types of clauses in police union contracts and LEOBORs are common but vary by jurisdiction (McKesson et al., 2016; Rushin & DeProspo, 2019). For example, union contracts might delay interrogations of accused officers anywhere from thirty minutes to thirty days after the alleged misconduct incident took place (Fisk & Richardson, 2017; Rushin & DeProspo, 2019). One stated reason for delaying interrogations is to give officers time to find legal representation, especially considering the potential severity of consequences. Officers may be compelled by police management investigating them to answer a question (even as little as 30 minutes after and alleged incident took place) or to otherwise face disciplinary action, as severe as having their contracts terminated. The United States Supreme Court has ruled (*Garrity v. New Jersey*, 1967) that in these situations, these compelled responses may not be used in future criminal proceedings against the officer in question (Rushin & DeProspo, 2019). Thus, in a way, it is to also protect the body investigating officers, by allotting them time to make sure their questions will be asked in a manner that will be useful to any potential criminal proceedings in the future.

However, critics such as Place (2018) argue that a mandated waiting period is “indefensible” because its only purpose is to allow officers accused of misconduct an

opportunity to get their stories straight before being questioned. One on hand, union representatives who support this type of provision might claim that having time between an alleged incident and an interrogation is a “basic right.” On the other hand, opponents of delaying interrogations (or at least “extensive” delays, such as over 48 hours) retort that unions have no basis for this being a “basic right”, especially considering that no such rule applies to criminal suspects who are not employed as sworn police officers (Place, 2018). Additionally, there are currently no empirical studies that examine how much time officers need to find adequate legal representation, and there are also no studies to date that support or refute the idea that officers fare better in disciplinary hearings when they have legal representation (Harris & Sweeney, 2021).

As to where interrogations may take place, Fegley (2020) and Place (2018) report that some union contracts stipulate that questioning of officers must either take place while the officer is working, or else they must be compensated with overtime pay. As to questioning police officers, Bobb (2003) claims that it can be “lawful but awful”, meaning that asking leading questions is not illegal. To this point, interrogators might phrase questions in a way that would likely elicit a particular response. For example, officers might be asked something like, “You saw the suspect reach for his waistband and withdraw a black, shiny object you thought was a gun, right?” (Bobb, 2003, p. 157). These types of rights afforded to officers are far beyond the rights afforded to criminals, and could be problematic, because they have the potential to greatly disrupt police accountability (Place, 2018).

Access to Additional Information Prior to an Interrogation

Yet another provision in police union contracts and LEOBORs is the supplementation of additional information to police officers before an interrogation. In other words, officers are

commonly given access to information not available to civilians prior to being interrogated (McKesson et al., 2016; Rushin & DeProspo, 2019; Smith, 2020). Some jurisdictions, including the state of Florida, require that officers must be able to review all existing evidence against them before an interrogation may begin (McKesson et al., 2016). Similarly, as recently as 2004, it was mandatory in the state of Maryland that officers be given at least fifteen days to review evidence against them before the initial questioning. This included all physical evidence, documentary evidence, and the entire investigative file (Keenan & Walker, 2004).

According to McKesson et al. (2016), nine state LEOBORs (California, Delaware, Florida, Illinois, Louisiana, Minnesota, Nevada, New Mexico, and Rhode Island) give law enforcement officers access to information not provided to civilian suspects, when officers are under investigation for an allegation of misconduct. Furthermore, 41 of the 81 police contracts (50.6%) that were studied had some type of provision allowing access to more information than civilian suspects. Of these, 16 cities had provisions that allowed police officers under investigation to review all evidence against them. As Rushin and DeProspo (2019) note, this is problematic in part because it makes it more difficult for investigators to determine if timelines and stories align. That is, it gives officers facing accusations of misconduct additional time (and a significant amount of evidence, if not all of it) that is not given to civilians who are interrogated by the same police departments. Arguably, this additional time gives officers the opportunity to craft a defense that is consistent with known facts.

Limiting Disciplinary Consequences

According to McKesson et al. (2016) the most frequent issue with police union contracts is that they limit potential disciplinary consequences for officers facing misconduct allegations and/or limit the ability of people outside of the police department to contribute to police

accountability (79% of contracts included in study). Rushin (2017) did a comparable analysis of police union contracts, and similarly found an abundance of provisions that made it more difficult for police managers or independent reviewers to legitimately discipline officers engaged in actions of misconduct. For example, police union contracts may not allow consideration of an officer's past misconduct history when determining the appropriate disciplinary action (Bies, 2017; McKesson et al., 2016). This is troublesome in part because studies have shown that prior misconduct is related to current misconduct and can even serve as an excellent predictor of engagement in future misconduct (Donner, 2019; Kane & White, 2009).

In addition to this, Ouellet et al. (2019) established that the more an officer is exposed to other officers who had received use of force complaints, the more likely they are to have subsequent use of force complaints against them. This seems to suggest that the more police misconduct is ignored, the more widespread it will become. Furthermore, this finding might imply that police misconduct is a learned behavior. This idea seems to match up with the findings of Trivedi and Van Cleve (2020) and Armacost (2004), who suggest that police misconduct is a systemic issue. In other words, some researchers argue that we should not blame individual officers for instances of misconduct, but rather that we should blame the system that fails to punish officers guilty of misconduct. As their argument goes, this allows for problematic police officers to repeatedly engage in acts of misconduct without being punished, and it allows for them to retain employment as a police officer (Armacost, 2004; Punch, 2003). To this point, studies suggest that a small number of police officers account for a large amount of misconduct complaints (Armacost, 2004; Paranyuk, 2021; Punch, 2003). Thus, by limiting the ability of police departments to utilize individual officer's histories of misconduct, it becomes harder to discipline problematic officers who continuously engage in police misconduct.

The other part of this provision, as highlighted by McKesson et al. (2016), is that police union contracts commonly restrict the power held by independent/civilian review boards. Most times there is outside pressure from the media and public for the creation of independent review boards after a highly publicized killing of a citizen by a police officer, especially from minority groups (Wilson & Buckler, 2010). However, it has been well established that police unions have historically resisted any type of civilian oversight (Bobb, 2003; Halpern, 1974). In a more recent study, Wilson and Buckler (2010) found that while unions have generally resisted the implementation of independent review boards, they have begun to think of them as being inevitable. Now, it seems that these types of review boards are increasingly more customary (Sklansky, 2007; Walker, 2001). In 2016, only 11.3% of all U.S. police departments had a civilian-complaint review board (Brooks et al., 2020). However, for police departments serving populations of at least two hundred and fifty thousand people, over fifty percent had one (Brooks et al., 2020).

Despite an increase in civilian oversight boards, it appears that police unions still fight to resist the power that they hold (Fegley, 2020; Rahman & Simonson, 2020). Rahman and Simonson (2020) report that civilian review boards have been historically ineffective, because they have had little to no discretionary power to impose punishments against police officers found guilty of misconduct. Moreover, there are currently no existing civilian review boards that have the power to discipline police officers (Fegley, 2020). For example, civilian review boards can generally review civilian complaints and make recommendations to police managers on what they believe would be an appropriate consequence, but they are fully reliant on police leadership or city/county executives to initiate recompense or corrective actions (Bobb, 2003; Fegley, 2020; Prenzler & Ronken, 2001). In addition to this, police unions may be able to make provisions that

supersede the power of subpoenas (McKesson et al., 2016; Olzak, 2021). In fact, the Austin (Texas) police union contract has a clause that states, “There shall be no legal or administrative requirement, including but not limited to subpoena power or an order from the City Manager or the Department, that an Officer appear before or present evidence to ... Civilian Oversight” (McKesson et al., 2016). In fact, in 2016 the U.S. Department of Justice found that just around 2.6% of U.S. police departments had a civilian-complaint review board with subpoena power for all types of complaints (Brooks et al., 2020).

Cities Covering the Costs

Research has consistently shown that police officers facing allegations of misconduct are well defended by their respective unions (Fisk & Richardson, 2017; Jacobi, 2000; Trivedi & Van Cleve, 2020). According to McKesson et al. (2016) and Fegley (2020), police union contracts commonly require that cities cover the financial costs that are handed down by the judicial system against individual officers. In addition to paying for legal fees and/or financial settlements, sometimes union contracts require cities to pay officers who are being investigated for misconduct (McKesson et al., 2016). McKesson et al. (2016) found this provision was included in 49.4% of the union contracts they studied. Emery and Maazel (2000) argue that, placing the financial burden onto the taxpayer instead of the police officer could be ineffectual in deterring future police misconduct.

However, this area needs more research, as this idea is controversial, and it is not yet clear if the removal or placement of the financial burden on the officer has any impact on future misconduct (Eitle et al., 2014). Moreover, proponents of this provision would likely argue that the system should assume that accused officers are innocent, just as criminals are. Thus, it could be argued that provisions that allow officers to draw a salary, or to receive legal counsel paid for

by the municipality, are appropriate and even necessary. Requiring officers to go without pay as soon as they receive a complaint, or to spend personal money for a lawyer, could potentially backfire, and could be viewed as unfair consequences for law enforcement officers who are the recipients of frivolous complaints.

On the other hand, this type of provision might frustrate taxpayers or people who generally support improving police accountability or reform and might further alienate the general public. To this point, research suggests that if the policing institution displays acceptance of responsibility (e.g., the firing of a police chief, or the prosecution of officers found guilty of misconduct), combined with a public apology for wrongdoings, this can increase the public's trust in police (Kochel & Skogan, 2021; O'Brien et al., 2020). This is important to note, because it may be possible that the deferment of financial liability from the officer to the taxpayer may have a backfire effect. Forcing the city to pay for instances of police misconduct could possibly be seen by the public as the police thinking they are blameless for police misconduct and for having no regard as to its impacts on the community. Put differently, if the policing institution covers the accused officers' salaries and defense costs, it may be perceived by the public that the institution is protecting the officer from prosecution and accountability, rather than acknowledging or addressing wrongdoing.

Prevention of Records Concerning Past Misconduct

The final “problematic and common” provision listed by McKesson et al. (2016) prevents the retention of files that would keep track of an officer's misconduct history. In Cleveland (Ohio), the police union contract requires police management to erase all disciplinary actions (following a misconduct complaint that was founded) against an officer two years after an incident (McKesson et al., 2016; Rushin, 2017). Furthermore, the Cleveland police union

contract also requires that the department wipe away all verbal and written reprimands six months after an incident (Rushin, 2017). Outside of Cleveland, this union-forced erasing of personnel files happens fairly often (Fegley, 2020; Smith, 2020). In fact, McKesson et al. (2016) found these types of provision in 43 of 81 (53.1%) union contracts studied, and Rushin (2017) found them in 87 of 178 (48.9%) union contracts.

Determining who can access police officer disciplinary files, and under what circumstances, can be confusing. Access to these files varies significantly by state and jurisdiction (Levine, 2018). In 23 states, officer disciplinary files are completely confidential (Bies, 2017; Levine, 2018). In 12 states, officer personnel files are considered public. In the other 15 states, access to these records falls somewhere between public and confidential, but access is based on some type of threshold, such as the severity of the infraction (Levine, 2018). Additionally, as Archbold (2021) suggests, there are no requirements for police departments to record and measure incidents of police misconduct in the first place. This means that there is no national database on police misconduct, making it extremely difficult to grasp the extent of the problem (Archbold, 2021).

Other Problematic Provisions

Another provision in some police union contracts is that officers must be given a transcription of previous interrogations of the officer before the next interrogation. According to Maryland's recently retracted LEOBOR, officers must have been given at least ten days following the time they received the transcription before a subsequent interrogation may occur (Place, 2018; National Police Accountability Project, 2021). On one hand, proponents of this provision commonly argue that police officers should be given ample time to secure counsel or other legal representation prior to answering questions (Rushin & DeProspero, 2019). However,

some critics would argue that this provision does nothing to enhance police accountability or to protect officers from unfair management practices, but only serves to give officers time to make sure that their stories line up (Keenan & Walker, 2004; Place, 2018). Inevitably, this practice could not only foster future police misconduct, but it could also lead to injustices for victims of police misconduct. Yet another provision highlighted by Place (2018) is that officers are awarded “comfortable” treatment during interrogations, including rules that prohibit “lengthy” interrogations, cursing or threatening an officer, or conducting an interrogation outside of the workplace or the officer’s working hours. Typically, these rights are not given to civilians who are questioned or interrogated by the same police departments (Rushin & DeProspero, 2019).

According to Place (2018), another existing clause in police union contracts and LEOBORs prevents public disclosure of identifying information of officers who are under investigation. Contestably, this rule might encourage secrecy and irresponsibility rather than transparency and accountability. Moran (2019) states that these provisions, along with statutes that prohibit the public disclosure of personnel files after an investigation has been complete, could make it increasingly more difficult for “civilians, journalists, and advocacy groups to identify both problematic police officers (who have, for example, received multiple or serious complaints regarding excessive force) and patterns of violence in certain police departments” (p.190). Moreover, Place (2018) claims that civilians should have a right to know which officers are accused of engaging in misconduct. On the other hand, proponents might say that public disclosure during an ongoing investigation may lead to the police officer in question being unfairly targeted or treated, especially if they are the recipients of unfounded or fabricated complaints. Additionally, it might be the worry of police officers that this might result in irreversible damage to their reputation.

Finally, another LEOBOR provision that might be controversial are do-not-call or Brady lists, which prevent unreliable officers from presenting in court (Abel, 2015; Place, 2018). It is not entirely clear what classifies an officer as unreliable, except that a prosecutor's office, judge, or police department has decided that their testimonies are unreliable or inaccurate (Abel, 2015; Trivedi & Van Cleve, 2020). Across the United States, there is truly little uniformity in deciding what actions mandate placement on these lists, or for how long individuals remain on the lists. Typically, however, police officers placed on these lists have committed some type of misconduct in the past, such as perjury or excessive use of force (Trivedi & Van Cleve, 2020).

Briefly, Brady lists are based on the Brady doctrine, formed by the U.S Supreme Court's ruling in *Brady v. Maryland* (1963), who decided that prosecutors must disclose known and favorable material evidence to the defense (Hochman, 1996; Place, 2018). Place (2018) highlights that some laws, such as Maryland's previously existing LEOBOR, prevented any officer from being punished for being placed on the Brady list. Place (2018) insinuates this is problematic, arguing that any officer who cannot be trusted by prosecutors should not have access to the same resources (such as financial compensation and/or consideration for promotion) as officers who are deemed reliable in court. However, Abel (2015) finds that officers may be placed on these lists based on flimsy evidence, and without the ability to defend themselves. If any instance of police misconduct is sustained, this may be grounds for a prosecutor's office or judge to place an officer on the Brady list. This is due to the fact that their credibility in court may be significantly diminished, as the defense can refute anything the officer might say by simply pointing to the officer's history of dishonesty, malpractice, or any other record of misconduct.

However, the Brady doctrine does not always apply to police personnel files, meaning that prosecutors are not always required to disclose an officer's disciplinary record. In other words, despite the fact that prosecutors have to disclose all known and favorable material evidence to the defense (*Brady V. Maryland* ruling), prosecutors oftentimes do not have to disclose an individual officer's history of founded misconduct complaints when the officer is testifying in a criminal case where they are not on trial. Furthermore, it is unclear how far the prosecution has to go in examining an officer's past (Abel, 2015). At least in part, this is because an officer's misconduct history may be suppressed or restricted by clauses in police union contracts or a state's LEOBOR. Notably, this varies by jurisdiction. (Abel, 2015; Bies, 2017; Levine, 2018). Typically, these provisions are made possible through the process of collective bargaining (Fegley, 2020; Place, 2018; Rushin, 2017), which is further discussed in the next section of this chapter.

Collective Bargaining Agreements

Provisions similar to the examples listed above frustrate efforts to improve accountability, because police unions can reject measures that they do not approve of (often aiming to foster reform or improve accountability) by petitioning to alter contract provisions through collective bargaining (Rushin, 2017; Smith, 2020; Thomas & Tufts, 2020). To clarify, the term collective bargaining refers to the process of "negotiation, joint decision-making, or joint regulation between groups who represent both employer and employee interests", resulting in "formal, bargained agreements or contracts to which both parties are obliged to adhere during an agreed upon period" (Doellgast & Benassi, 2020, p. 2). In simpler terms, collective bargaining refers to the negotiation of wages and working conditions through a union that represents interests of both workers and employers within a given company or organization.

Considering these definitions of collective bargaining, someone may question why police unions would reject reform efforts through collective bargaining, given that a union represents the interests of its workers. However, resistance to reform is common among people at all levels of a police department, from the top to the bottom, and including street-level officers (Archbold, 2021; Skogan, 2008). Thomas & Tufts (2020) add that by being involved in police solidarity movements such as Blue Lives Matter, police unions “repress racial justice movements that challenge police authority” (p. 126). Thus, some may argue that police unions reject reform whenever the opportunity arises. Considering this perspective, critics of police unions may question why police unions are allowed to engage in collective bargaining agreements that may impede police accountability.

First, it is important to mention that police unions vary from other public sector unions in a few major ways, including in their abilities to use force against civilians, the amount of bargaining power they possess, and their political clout (Bies, 2017; Levin, 2020). In fact, police unions often use their unique position of having the power to use force as a means for pushing an agenda that helps citizens to rationalize a perceived need for extra protections not typically afforded to other public sector workers (Bies, 2017; Place, 2018). A police union may advocate that officers need some of the provisions listed in the previous section because they have an extremely dangerous job (Fisk & Richardson, 2017; McCormick, 2015). For example, the union representing officers employed by the New York Police Department has consistently resisted reform efforts to release officer misconduct data to the public, on grounds that it would endanger officer safety by encouraging retaliatory violence against police officers (Sierra-Arévalo, 2021). Essentially, police unions retort that policing is a more dangerous job than other professions, and thus, extra protections are needed to ensure the safety of officers (Fisk & Richardson, 2017;

McCormick, 2015). The other argument is that police unions attempt to “distort democratic processes” by framing people who reject their desires as “endangering public safety” (Bies, 2017). Basically, critics of police unions (and LEOBORs) argue that while police unions claim they need these extra protections to keep officers safe, their real purpose is to hinder accountability and transparency (Levin, 2020; Place, 2018; Rushin, 2017).

Moreover, police unions have acquired a considerable amount of political power through political lobbying (Bies, 2017; Rushin, 2017; Thomas & Tufts, 2020). In turn, police unions may use their political influence in an attempt to pressure politicians into allowing for collective bargaining of police unions to go relatively unchecked (Bies, 2017). Despite resistance from the public, and especially from advocates of racial equality and police violence, police unions oftentimes are able to accomplish this by donating to political candidates who are viewed as either having the same interests, or who might be the least likely to criticize the bargaining power that unions possess (Bies, 2017; Levin, 2020). Thus, it might be theorized that politicians would generally be hesitant to openly oppose police unions, as they might fear losing supporting votes in the next election.

The hesitancy of politicians to oppose police unions has led to some collective bargaining processes and powers that might be described as absolute. One example of this can be seen in the Illinois Public Labor Relations Act, which is a state law stipulating that union contracts take precedence over laws or regulations when there is a discrepancy between state law and Illinois’s LEOBOR (Smith, 2020). It is unclear if Illinois is alone in this precedent, but this type of policy has the potential to make any effort to apply legislation to reform the police meaningless. This is due to the fact that police unions may attempt to use their collective bargaining powers to amend contracts expressly to trump a state law that is passed to cause reformations that are opposed by a

majority of police officers (Smith, 2020). Police unions may also use these strategies to lobby for LEOBOR's, which have been used to create provisions that thwart accountability efforts (Place, 2018; Rushin, 2017).

Yet another noteworthy point is that police union contracts are negotiated in private settings in 42 of 50 U.S. states (Archbold, 2021). Conceivably, it may be easier for unions to pass provisions without much resistance if the public isn't able to access any type of record of a police union's collective bargaining sessions. At any rate, it is clear that the current processes of collective bargaining have led to outcomes that are unfavorable to bolstering the accountability of police officers and police departments (Archbold, 2021; Place, 2018; Rushin, 2017). In addition to impacting the prosecution of police officers, the collective bargaining of police union contracts and the forming of LEOBORs has greatly affected police legitimacy, which will be the focus point of the next chapter.

CHAPTER 3

POLICE LEGITIMACY

An important consideration when discussing American police unions is to contemplate how their existence has impacted relationships between the police and the community in which they operate. Unfortunately, this is yet another aspect of police unions that has received an inadequate amount of research (Levin, 2020; McCormick, 2015; Walker, 2008). However, the extremely limited amount of research that is available suggests that the mere existence of a police union is likely to have a negative impact on police-community relations (Thomas & Tufts, 2020; Walker, 2008). This chapter will focus on explaining why this is the case. First, however, this chapter will begin by defining police-community relations, and by describing how researchers might better understand these relationships by examining police legitimacy. Second, this chapter will explain how the prosecution of police officers accused of misconduct may result in the police institution being seen as more legitimate (as seen in figure 2). Third, explanations for how police unions impact police legitimacy are explored.

Definitions

As was the case when attempting to define other key variables in the previous section, the definition of police-community relations appears to seldomly be defined within peer-reviewed journal articles. Perhaps the most cohesive definition can be seen in the article by Brown (1970), who states that police-community relations are, “the process by which the police work in conjunction with the community to identify the problems that cause friction between the two groups and then the working together to solve these problems”, (p. 18). This discussion went on to say that this process would need to entail police officers being open to listening to resident’s concerns, and even to their suggestions for change. Although this article is over half a century

old, more contemporary studies seem to work from a remarkably similar perspective when referencing police-community relations (Kochel & Weisburd, 2017; Nix & Wolfe, 2017).

One of the most prominent ways that research articles have attempted to measure police-community relations is by exploring issues related to police legitimacy, a key aspect of police-community relations (Brunson, 2015; Kochel, 2011; Nix et al., 2020). This may refer to the level of trust and confidence that public citizens have in police officers to do their jobs correctly. It facilitates the public's willingness to cooperate with, or to obey orders from, police officers (Hinds & Murphy, 2007; Kochel & Skogan, 2021; Tyler, 2004). In other words, studies will oftentimes rely on measurements of police legitimacy to gauge the current relationship between police departments and the communities in which they serve. These measurements seem to fit the definition provided by Brown (1970) because these guidelines aim to measure the relationship between police officers and members of the community in which they work. Furthermore, police legitimacy is helpful in understanding police-community relations because it directly measures civilian's perceptions of how accountable and transparent the police are (Kochel & Skogan, 2021). This can be tied to the prosecution of police officers, as will be discussed in the following section.

According to Yavuz & Welch (2014), transparency can be defined as, "the extent to which an organization provides explicit information about work and decision processes, procedures, events, activities, and outcomes" (p. 575). In policing studies, the term transparency refers to how easy it is for members of the public to figure out what process a police department followed in making a decision. Drawing from this definition of transparency, some researchers argue that police unions may be able to improve upon current perceptions of transparency. One way this might be undertaken is by allowing the public access to misconduct complaints that are

founded (Sousa et al., 2018). Essentially, the idea is that the public's trust of the police might grow if they have access to an individual officer's histories of misconduct complaints, or at least those that are found to be true and lead to a formal punishment. Another action that may be suggested is to include independent review boards in the decision in whether or not to prosecute an officer for misconduct, as this might cause the public to believe that the decision was not influenced by an officer's coworkers (Levine, 2016; Skolnick, 2002).

Theoretically, transparency may be measured in instances where investigations into citizen complaints of police misconduct take place. Typically, however, these investigations are not transparent, because they take place behind closed doors and are not open to the public (Place, 2018; Rushin, 2017). Additionally, police unions oftentimes use their collective bargaining power to resist the existence and/or power of independent review boards (Bies, 2017; Fegley, 2020; Rahman & Simonson, 2020). Considering that one of the main goals of independent review boards is to make the process of investigating citizen complaints against police officers (or entire departments) more transparent and open, (Bobb, 2003; Ofer, 2016), Bies (2017) suggests that resistance from police has encouraged a union agenda that is "counter to democratic values of accountability and transparency" (p. 124).

Police accountability can be defined as, "the principle that police officers are expected to maintain the highest standards of professional conduct, and to that end law enforcement agencies must maintain [policies] and procedures capable of effectively investigating allegations of officer misconduct" (Keenan & Walker, 2005, p. 186). Police accountability is the extent to which individual officers or entire police departments face appropriate consequences for engaging in acts of misconduct (Armacost, 2004; Walker, 2001). However, Figure 2 argues that perceptions of accountability shape police legitimacy, and not actual measures of accountability. The logic

behind relying on perceptions of accountability, instead of concrete measurements of accountability, is similar to the logic for using perceptions of transparency. Measuring how transparent or accountable a police department is would likely prove to be a difficult task, as it would be challenging for researchers to account for all alleged instances of misconduct. Furthermore, it would be nearly impossible for researchers to gauge if officers were truly guilty. Thus, this paper relies on perceptions of accountability and transparency, instead of concrete reality, as the latter is practically incalculable.

Moreover, Kochel and Skogan (2021) found that improvements in overall transparency and accountability positively impact overall perceptions of police legitimacy. Reportedly, one of the biggest reasons for this is that higher levels of transparency and accountability can foster greater trust and confidence in the police. Basically, higher levels of transparency and accountability can help to improve public perceptions of police. For example, members of the public will be more likely to see police as having more integrity if they appear to be following rules and policies that are in place (Kochel & Skogan, 2021; Sunshine & Tyler, 2003). In turn, this can help to improve perceptions of legitimacy, as members of the public will be more likely to have trust and confidence in the police.

If police unions are perceived by the public to not be accountable and/or transparent, they will effectively reduce levels of legitimacy. Furthermore, if the public perceives that police unions operate to shield officers from consequences (whether or not they actually engaged in misconduct), as suggested may be the case in Chapter 2, then conceivably this would lead to worsened perceptions of transparency and accountability. In other words, this may reduce trust and confidence in police, otherwise known as police legitimacy. In summary, if members of the public believe that unions work to reduce accountability, and that they also investigate officers in

a manner in which the public is not allowed to observe, then perceptions of transparency and accountability would be reduced.

Despite these findings, it is important to note that individuals who are a part of a police union may not be operating with the assumption that police unions hinder police accountability. In a study that included 648 police employee organization leaders (including union leaders), 559 of these respondents (88%) indicated that they disagreed with the statement “PEOs and unions are not accountable to the public” (Kadleck, 2003). This implies that most leaders of American police unions do not believe that police unions stymie police accountability. Remarkably, this is in direct opposition to the current literature, which suggests that police unions do hinder accountability. Thus, leaders of police unions, and perhaps other individuals involved in the union, might not see the role of police unions in the same light as the general public, especially when considering police accountability. Moreover, these findings might also suggest that union leaders may not believe that police unions have a negative influence on the probability of police officers guilty of engaging in misconduct will be held accountable for their actions, as suggested by Figure 1.

Impact of Prosecuting Officers on Police Legitimacy

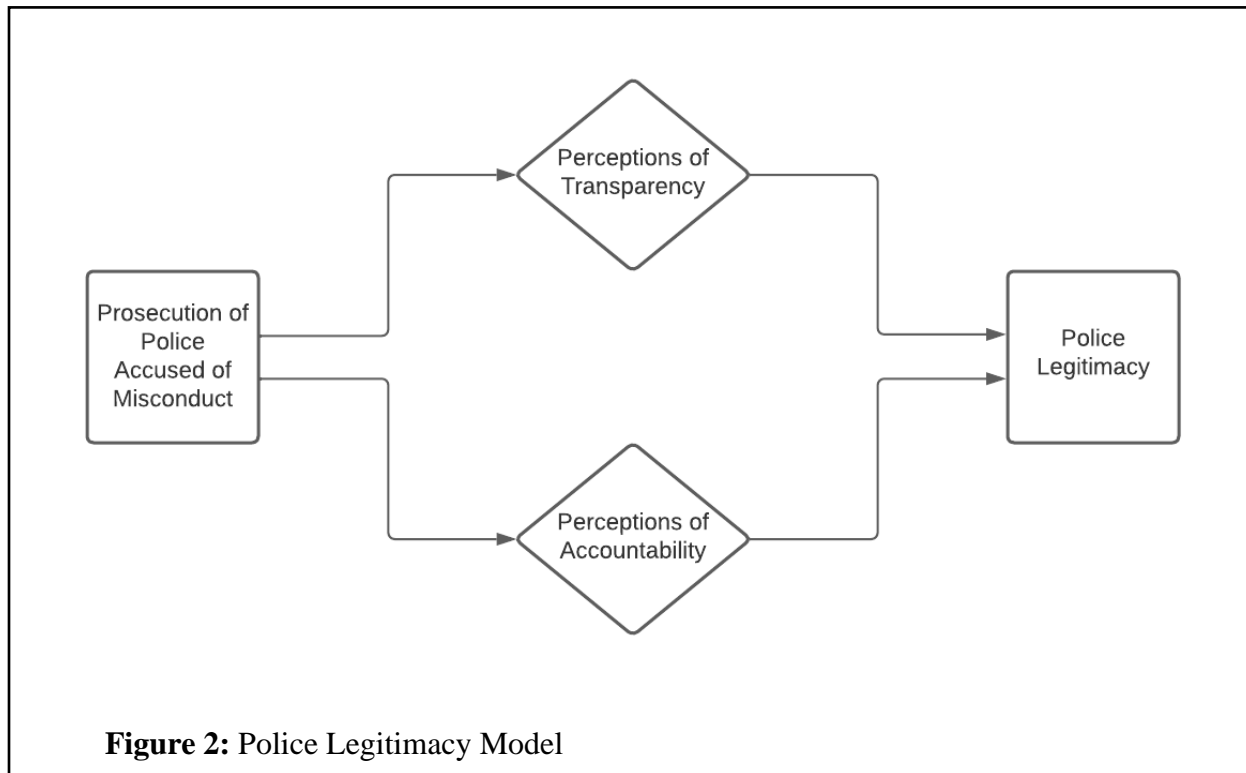
Part of the theoretical pathway for this paper (Figure 1) includes a link that suggests a positive relationship between the prosecution of police accused of misconduct and police legitimacy. In other words, this paper contends that when more police officers accused of misconduct are prosecuted, police legitimacy will improve as a result. Conversely, this paper argues that when there is a failure to prosecute officers accused of engaging in misconduct, measures of police legitimacy will worsen. Rationally, this seems to make sense. Theoretically, if members of the public largely believe that police officers accused of wrongdoing are unlikely

to be prosecuted, indeed are actively blocked by police unions, people may not view the police institution as legitimate. A reason to believe this is true is because well-documented instances of police misconduct have been demonstrated to have negative impacts on measures of police legitimacy (Weitzer, 2002). For example, the nefarious police beating of Rodney King is a commonly cited incident that decreased the public's trust and confidence in the police immediately after the incident took place (Sunshine & Tyler, 2003; Weitzer & Tuch, 2005). Another commonly cited instance of a police shooting that was shown to decrease the public's trust and confidence in the police is in the case of Michael Brown. On one hand, a grand jury ruled in favor of the officer who shot Michael Brown, implying that the jury did not feel the officer committed any misconduct. However, a large proportion of the public at the time perceived this instance as police misconduct, which could be used to explain the immediate decrease in the public's trust and confidence in the police immediately after the shooting occurred (Kochel, 2015).

Figure 2 demonstrates a closer look at the rationale for why the failure to indict officers accused of misconduct will lead to the police being seen as less legitimate. This model posits that prosecuting police officers guilty of misconduct will result in higher perceptions of transparency and accountability. However, one thing to consider is that if no accused officers are convicted and held accountable, this would conceivably also have negative impacts on measures of legitimacy, despite there being more prosecutions. Moreover, Figure 2 asserts that improvements in perceptions of transparency and accountability will lead to stronger relationships between police departments and the communities whom they serve. This proposition is based on the fact that increasing perceptions of transparency and accountability are two of the goals highlighted in the President's Task Force on 21st Century Policing for improving police legitimacy (Lum et al.,

2016; Sousa et al., 2018). Limited prior research supports that transparency and accountability are two important factors in improving police legitimacy (Demir et al., 2020; Jonathan-Zamir & Weisburd, 2013; Kochel & Skogan, 2021).

In summary, this section draws on available research to assert that prosecuting police officers accused of misconduct would likely improve public perceptions of transparency and accountability. In turn, this has the potential to improve existing levels of legitimacy. As discussed in this section, the ability to prosecute officers believed to have engaged in misconduct (especially in high profile cases), is directly tied to the public's trust and confidence in police (Kochel, 2015; Lum et al., 2016). Therefore, this section proposes that the prosecution of police accused of misconduct may have a significant impact on police legitimacy, as evidenced by the current literature. Furthermore, if police unions enact policies that reduce the capability of either police management or civilians to investigate and/or prosecute officers engaged in acts of misconduct (as described in Chapter 2), this will ultimately hinder perceptions of police legitimacy. This next section will explore the influence that police unions may have on transparency, accountability, and legitimacy.



Impact of Police Unions on Transparency, Accountability, and Legitimacy

It may be the case that police unions have a direct impact on police legitimacy (Thomas & Tufts, 2020; Walker, 2008). This can be seen in the article by Thomas and Tufts (2020), who discuss the Blue Lives Matter movement, which was largely encouraged and promoted by American police unions (Kahn, 2017; Williams, 2021). Thomas & Tufts (2020) claim that whereas the Black Lives Matter movement aimed to highlight the prominence of police brutality in the United States, the purpose of Blue Lives Matter was to detract from Black Lives Matter by painting police officers as victims of a stressful, dangerous, and unpredictable job. Furthermore, these researchers go so far as to say that Blue Live Matter was created in direct response to Black Lives Matter, and that its primary function was to repress racial justice movements, and in particular, the Black Lives Matter movement.

Additionally, Thomas and Tufts (2020) reported that the Blue Lives Matter movement may have worked to stymie reform efforts that were undesirable to police officers. This goes hand in hand with other researchers who have found that unions will use political clout to shield officers accused of misconduct from being investigated thoroughly or from facing formal consequences, which has a negative impact on police legitimacy (Bies, 2017; Levin, 2020; Place, 2018). Simply put, some researchers argue that Blue Lives Matter is a recent example of how police unions have used their political influence to halt reform efforts (Kahn, 2017; Thomas & Tufts, 2020; Williams, 2021). Ultimately, this may serve as an example of how police unions may act to stop the implementation of reform efforts, especially when police legitimacy is low, and when drastic calls for reform may be more frequent, as Figure 1 implies. As previously mentioned, cases of police misconduct that receive larger amounts of media coverage (i.e., Rodney King), cause drastically negative impacts to measures of police legitimacy, such as the public's trust and confidence in police (Callanan & Rosenberger, 2011; Graziano & Gauthier, 2018; Kochel, 2015). Thus, this paper theorizes that prosecuting officers accused of misconduct will result in improved relationships between police and the community.

It appears that most research to this point has focused on the impacts of instances of misconduct on confidence and trust in police, which is beneficial. Additionally, studies have shown that if the police publicly acknowledge their wrongdoings, they will likely be able to improve upon the community's perceptions of themselves (Kochel & Skogan, 2021; O'Brien et al., 2020). Despite these findings, there appears to be less research on what impacts the prosecution of officers (or lack thereof) involved in such instances may have on police legitimacy. Future research should strive to improve upon this gap of knowledge.

Figure 1 predicts that the existence of police unions will result in the failure to prosecute police officers who are accused of misconduct, as explained in chapter 2. In the current chapter, available research is applied to make the case that failure to prosecute could lead to worsened perceptions of police transparency and accountability. Further, it was argued that this could potentially damage existing levels of police legitimacy. The following chapter will discuss the right side of Figure 1, which focuses on modern efforts at reform, given the contemporary relationship between the police and citizens of the United States.

CHAPTER 4

POLICE REFORM

The current chapter applies available research to demonstrate that the implementation of police reforms are indirectly hampered by police unions. Additionally, this chapter discusses resources and culture as logistical barriers to implementing reform. Finally, this chapter discusses current literature that looks at the pros and cons of using police unions as a means to implement reform. First, however, it must be noted that this section works within the scope of the current relations between the police and community in the United States, in the present time. To this point, the purpose of this section is not to look at different time periods, or even different parts of the world. This is a limitation of this paper that must be acknowledged. Regardless, this chapter begins by considering the relevance of Figure 1 and continues by discussing key challenges to the implementation of police reform.

Overarching Model

The overarching model (Figure 1) predicts that police unions may impact the implementation of reform efforts in an indirect manner. If this model is correct, then a police union's existence causes fewer officers accused of misconduct to be formally prosecuted by the criminal justice system (as explained in Chapter 2). In turn, this failure to prosecute officers allegedly involved in misconduct leads to lower levels of perceived legitimacy (as seen in Chapter 3). Finally, Figure 1 predicts that lower levels of police legitimacy will hinder the implementation of reform. In summary, Figure 1 suggests that police unions act as an indirect barrier to the implementation of police reform will be investigated. This will serve as the basis for the next section of this chapter, which builds on what has been discussed throughout the entirety of this paper.

Police Unions as an Indirect Barrier

One reason to believe that police unions have an indirect impact on the implementation of reform efforts is because of what has been discussed in this paper to this point. To start, this paper has demonstrated that police unions are a major form of resistance that reform activists face in promoting police accountability and transparency, especially given their ability to influence politicians and other law-makers (Bies, 2017; Levin, 2020; Rushin, 2017). Furthermore, police officers and police unions are both quick to defend officers who are the recipients of misconduct complaints (Fisk & Richardson, 2017; Jacobi, 2000; Trivedi & Van Cleve, 2020). As highlighted in Chapter 1, this is done through the collective bargaining process, which allows unions to introduce provisions that greatly hinder the ability of outsiders and police supervisors to hold individual police officers accountable for their actions (Bies, 2017; Place, 2018; Rushin, 2017). Thus, if reformists want to improve things such as accountability, transparency, or police legitimacy, they will likely face a considerable amount of resistance by unions (Bies, 2017; Fisk & Richardson, 2017). To reiterate, reform activists may also face stark resistance from a combination of politicians who are unwilling to address the police misconduct, police unions, and even state laws. Research has suggested that police unions play a significant role in this hesitancy of elected politicians to do anything that may result in backlash from a local police union (Bies, 2017; Smith, 2020).

Legitimacy as a Barrier

A good rapport between the community and a police department (in other words, higher levels of legitimacy) would help to promote and encourage police reform because both parties would share the same values of benevolence and ethics. Both the police and the community would trust and respect one another more, when perceived legitimacy is higher. Moreover, the

police would be more dedicated to protecting and serving members of the public, all while being more accountable for their actions (Goldsmith, 2005). As mentioned previously, higher levels of legitimacy may function as a sign that less reform is needed, but it may also signal that reform is easier to attain, as the two groups would conceivably be closer in their own desires. Thus, it may be the case that by improving legitimacy, subsequent reform efforts might be easier to implement because they would likely face less resistance.

To this point, this paper theorizes that police departments and unions may be less willing to compromise if reform efforts are seen as radical. For example, police are probably unlikely to hear out specific current efforts that have gained some momentum. For example, some reformers have begun to advocate for the defunding or abolishment of the police altogether (O'Rourke et al., 2021; Simonson, 2021). As a response, we might see unions push even harder against the opposition. Unions may retort that these people are jeopardizing public safety by advocating for taking away their ability to protect and serve, or something along those lines (Bies, 2017). At the same time, if the police are seen as more legitimate, then perhaps there will be fewer calls for the implementation of such drastic reform efforts.

Yet another thing to consider is that failure to hold officers accountable for misconduct may influence public perceptions of accountability and transparency, which are important antecedents of police legitimacy. Thus, Figure 1 posits that the positive relationship between police legitimacy and reform (as shown in the overarching model) suggests that if police legitimacy is improved, reform is more likely to occur. Conversely, Figure 1 maintains that a lower level of police legitimacy would mean that reform is less likely to occur. Somewhat ironically, however, a fragmented relationship would actually suggest that reform should be pushed harder for by the community, and that it should be more of an emphasis. For example, a

substantial amount of researchers claim that lower levels of police legitimacy suggest a greater need for reform to improve police-community relations (Griffiths & Clark, 2017; Jackson et al., 2014; Kochel, 2011).

Lack of Resources as a Barrier

In addition to police unions and police legitimacy, one of the most frequent hinderances to police reform is a lack of adequate resources (Simonson, 2021; Walker, 2018). Implementing reform is expensive. Thus, police departments can ill-afford to implement every program, technology, or initiative that the police or members of the public might want to see implemented (Quattlebaum & Tyler, 2020). Additionally, not every police department has the same budget. In particular, law enforcement agencies that represent smaller populations, or more rural regions, are even less likely to have budgets that allow for the newest or most expensive implementations (Lawson Jr, 2019; Nix et al., 2020; Rushin & Michalski, 2020).

Moreover, if policies were to be passed that “defunded” the police, or slashed the budgets of police departments, it could become even more difficult for reform to be implemented, as the police would have less money at their disposal. Additionally, if budgets were to be slashed immediately, police departments would have to lay off a considerable number of officers (Koziarski & Huey, 2021). Foreseeably, having fewer employed officers would likely make implementing reform even more difficult, as there would be less time for training officers on the new practice, technology, or initiative. Consequently, both financial restrictions and a limited number of available police officers can serve as major barriers to implementing police reform.

Generally, police unions are very concerned with resource allocation and may not want to see limited resources diverted into new reforms that they do not support (Levin, 2020; Walker, 2008; Wilson & Buckler, 2010). Therefore, a finite number of resources plays a sizeable role in

forcing unions to be finicky when choosing what reform efforts to support. If police departments can only implement a limited number of reforms, it would not make sense for them to implement what they do not think will work, especially considering they have experience in the policing profession, and outsiders most often do not. Police culture is a major factor in further explaining why police unions would adapt to this mindset. Moreover, police culture may help to explain why unions commonly resist reform efforts that originate from individuals outside of the policing profession. This is further explained in the ensuing section.

Police Culture as a Barrier

As mentioned in the previous section, yet another barrier to implementing police reform is police culture (Armacost, 2004; Marks, 2007; Sklansky, 2007). Commonly, police culture has been described as one that encourages and rewards values such as racism, misogyny, aggression, hypermasculinity, isolationism, and authoritarianism. These characteristics are worthy of consideration, as these ideals shape police culture into what it is (Benson, 2001; Hatfield, 2021; Kingshott et al., 2004). To this point, Hodgson (2001) argues that the authoritarian organizational model of police departments is dysfunctional and creates a culture that is problematic. This is important, because current research suggests that organizational structure and organizational culture are co-dependent on one another (Janićijević, 2013).

This last finding supports the work by Hodgson (2001), who posits that the “top-down” approach (management makes all of the decisions, while lower-level employees, such as officers working on the street, are not included in decision making) of police departments creates a culture that encourages many characteristics that could be seen as undesirable. These police culture ideals, as described by Hodgson (2001), include: violent means to achieve goals, conformity, groupthink, and obedience to authority. The ideals, when combined, help to create a

police culture that promotes thinking that outsiders do not understand policing, and thus, that they cannot help to facilitate reform (Bayley, 2008; O'Neill & McCarthy, 2014; Skolnick, 2008). This is problematic, because it arguably leads to a culture that not only refuses to acknowledge reform ideas submitted by members of the public, but to actively resist them.

A reason to think this is true is because other members of a police department socialize new police recruits to conform to the organizational culture that already exists. This includes taking on the beliefs, values, and behaviors that are a part of an organization's existing members. For example, if veteran police officers train and condition new officers to think there is a "bad guy on every call", then newly hired officers will begin to take on these same perceptions, which may have negative repercussions. Theoretically, newly hired police officers will be influenced by the organizational culture of their respective police department, until the point in which they fully occupy their new role, just as their predecessors did before them (Giblin, 2014). In other words, even if a police officer comes in with the best intentions, the existing culture of the department will most likely have a significant impact on their attitudes and behaviors (Giblin, 2014; Hodgson, 2001). Thus, even if an officer joins a department and is open to ideas of reform from civilians who have no law enforcement experience, it may be predicted that the existing organizational culture will cause an officer to adopt the notion that outsider's opinions about policing and policing reform are misinformed, and perhaps even irrelevant.

Reformers may wish to encourage the implementation of reform through changing the culture of a police department. However, this oftentimes proves to be a strenuous task (Benson, 2001; Sklansky, 2007). As Sklansky (2007) highlights, occupational burn-out is very strong in policing, and even young college-educated officers tend to adopt some of the same attitudes and beliefs of older and more experienced officers after an extended period of time. Thus, some

scholars have recommended that reformers attempt to use police unions as a means to implement reform, as making sweeping changes to the culture of the policing profession is a task that will take a significant amount of time. For example, while policing as a whole has changed a lot since the 1960s and 1970s (different strategies such as community-oriented policing, more diversity in the work force, and more college-educated officers), some of the same issues (e.g., workplace tension between officers of different backgrounds) continue to prevail, albeit it to less of an extent (Sklansky, 2007).

Therefore, some scholars may argue that reformers should attempt to collaborate with police unions in the implementation of reform, rather than waiting for the culture of the policing institution to change significantly enough to the point where it is no longer a barrier (Fisk & Richardson, 2017; Marks, 2007; McCormick, 2015). On the other hand, this rationale may also be rejected on the basis that police culture is the very thing that encourages police officers to accept the notion that people outside of the policing institution cannot possibly help police in the implementation of positive reform (Bayley, 2008; O'Neill & McCarthy, 2014; Skolnick, 2008). This discussion is continued in the following section.

Unions as a Means to Implementing Reform

There seems to be a consensus among researchers that police unions are key culprits for the stymieing of reform efforts (Fisk & Richardson, 2017; Rushin, 2017; Skogan, 2008). Despite this, there seems to be some disagreement among scholars and researchers as to whether police unions can be used to reform the police in a significant manner. Historically, police reforms have typically been implemented using a top-down approach, meaning that it was introduced by police chiefs or management without first consulting rank and file officers (Bayley, 2008; Sklansky & Marks, 2008; Walker, 2008). Moreover, police unions have seldom been included in police

reform (McCormick, 2015; Rushin, 2015). Part of this may be because police unions have a history of resisting reform efforts and are commonly seen as a key barrier to reform (Fisk & Richardson, 2017; McCormick, 2015; Rushin, 2017).

On one hand, some studies have concluded that it is unlikely that police unions could be used to achieve reform. For example, Thomas and Tufts (2020) contend that unions are often highly exclusionary in their solidarity, meaning that individuals active within a given police union typically view the people within their group as distinctively different from the people outside of their group. Moreover, this line of thinking, encouraged by police unions, often leads police officers to adopt the mentality that outsiders cannot understand what being a police officer is like, and thus, their reform efforts are ill-informed (Bayley, 2008; O'Neill & McCarthy, 2014; Skolnick, 2008). Therefore, Thomas and Tufts (2020) contend that police unions are not a good source for reform, because unions are comprised of too many officers that share the same dismissive attitudes towards outside efforts to reform the police. Essentially, by allowing for the process of unionization, negative attitudes toward reform are likely hardened.

Additionally, Smith (2020) argues that reform efforts will be overpowered by provisions in union contracts, especially considering the government's reluctance to step on the toes of police unions. Furthermore, it has been well documented that politicians are very unlikely to be publicly criticize or attempt to reform such unions (Bies, 2017; Levin, 2020; Walker, 2008). Conceivably, without the support of politicians, it may prove difficult to sway the mentalities of entire police unions. Archbold (2021) even suggests that the only plausible way to force unions into changing problematic contract provisions is by threatening to take away a police department's tax-exempt status. The threat of revoking a department's tax-exempt status would be significant, because losing this status would result in things like union dues, donations, and

investment income becoming taxable. Moreover, this would shrink unions' operating budgets substantially (Archbold, 2021; Mogck, 2020). This could also have the potential to reduce the ability of police unions to influence political elections, as well as the actions of politicians currently in office, as police unions would not have as much money to donate to politicians who they felt would be most likely to unconditionally support them. This is a controversial idea, but it further highlights how unlikely it appears that unions would cooperate with reform efforts.

On the other hand, there are a considerable number of studies that suggest that police unions should be included in efforts to reform the police (Fisk & Richardson, 2017; Marks, 2007; McCormick, 2015). For example, Bayley (2008) posits that by involving rank-and-file officers in the planning of programs, individual officers become more accepting of reform. Other articles find that police officers are especially likely to resist reform efforts if they originate from outside of a police department (Fisk & Richardson, 2017; Skogan, 2008). Huff et al. (2018) highlight one recent example of police resisting reform, in the implementation of body worn cameras. Throughout the country, police unions fought against the implementation of body worn cameras, which was initiated from people outside of the policing profession. For example, some unions argued that this would be an infringement on an officer's right to privacy, while some unions argued that the implementation of body worn cameras would violate the conditions of collective bargaining. Thus, proponents of utilizing unions in reform efforts might argue that reform should begin by convincing a substantial number of members within a police union that certain reform efforts are necessary and beneficial for everyone. Otherwise, they may be rejected at face value, especially considering the exclusionary culture of police unions.

Theoretically, this may be a more realistic approach to achieving the implementation and long-term continuation of reform measures, as opposed to going punch for punch with police

unions, which could potentially work to further polarize the relationship between reform activists and police unions. However, it is evident that more research is needed in order to confidently determine whether or not unions should be included in reform efforts, or how big of a role they should play in the process. Additionally, more research is needed to further support the relationship between police legitimacy and reform, as found in Figure 1 and within this chapter.

CHAPTER 5

CONCLUSION

American police unions have received limited attention from scholars and researchers, despite widespread recognition that they hold significant power in shaping policing (Fisk & Richardson, 2017; McCormick, 2015; Walker, 2008). This paper seeks to summarize available research about police unions and how they have impacted and could impact prosecution of officers for police misconduct, police legitimacy, and reform. Figure 1 was presented to display the projected relationships between the key variables in this paper, drawing from the current literature. This overarching model served as the basis for this paper. Therefore, this conclusion touches upon how each chapter supported the expected relationships in Figure 1, as well as some of the biggest implications from each chapter.

In the United States, police unions were practically non-existent until the 1960s. They became increasingly more commonplace, especially in police departments that served larger populations, in response to poor working conditions and wages, as well as the civil rights movement (Fegley, 2020; Slater, 2009). However, while these privileges expanded under the reality of legitimate and pressing concerns, unions also found ways to stymie accountability. This included the promotion and drafting of state LEOBORs, which offer police officers extra protections when they are interrogated or otherwise investigated. This was done by establishing political clout, often by making large donations to political campaigns that unions felt would be sympathetic to their demands (such as extra-legal protections when under investigation). In turn, the adoptions of state LEOBORs, and subjectively “problematic” provisions in contract provisions, police unions have made holding police officers accountable for misconduct a much less likely outcome.

Through the collective bargaining process, police unions have created a significant number of problematic provisions that are now commonplace in police contracts that are represented by a union. These provisions have largely acted to protect officers from facing formal consequences after being accused of engaging in acts of misconduct (McKesson et al., 2016; Place, 2018; Smith, 2020). Examples of such provisions included: swift dismissals of misconduct complaints, delaying interrogations of officers, providing access to additional information prior to an interrogation, limiting disciplinary consequences, requirements to pay for financial penalties handed to officers working for the department, and even preventing records of an individual officer's history of misconduct. For these reasons, I concluded that when a police department's officers are represented by a union, they are less likely to be prosecuted when they are accused of misconduct. Moreover, when a police officer accused of misconduct works in a state that has a LEOBOR, then they will also be less likely to be prosecuted when they are accused of misconduct. In a city such as Chicago, which has both a police union and a state LEOBOR, then prosecuting officers accused of misconduct becomes even more unlikely. This was evidenced in the investigatory report of the Chicago Police Department from the Department of Justice, which found that provisions barring anonymous complaints led to less police misconduct victims being willing to make a formal complaint, and less accountability overall (Fisk & Richardson, 2017; Smith, 2020).

This paper also found that the failure to formally prosecute officers accused of misconduct results in worsened perceptions of legitimacy. Drawing from well-known cases of police brutality, this paper highlighted that such instances could significantly hamper perceptions of transparency and accountability (which are antecedents of legitimacy) immediately after the incident. However, this paper also found that the prosecution of officers accused of misconduct

would result in an improvement in perceptions of transparency and accountability. Thus, a positive relationship between prosecuting officers accused of misconduct and police legitimacy exists. Moreover, and because this paper found that the existence of a police union or a state LEOBOR may result in less officers accused of misconduct being prosecuted, this paper also suggests that the existence of a police union may weaken police legitimacy, albeit indirectly.

Finally, this paper finds that the existence of police unions potentially reduce the probability of reform being implemented and sustained. Lower levels of police legitimacy will result in a lower chance for the implementation of police reform, and the literature reviewed supports this idea. When perceptions of legitimacy are higher, there will be less need for reform, and calls for reform will be seen as less radical. Essentially, when police-community relations are higher (i.e., legitimacy is higher), there will be less need for drastic reform. Moreover, members of the police and the community will have a more similar outlook, and trust and respect for one another will also be higher, which may help to facilitate the implementation of reform efforts. Conversely, the police might see outsiders as the opposition even more than usual when relations are worse-off. This is at least in part because police culture encourages ideas that outsiders do not understand policing, and that their ideas of reform are uninformed and even irrelevant. Part of this is due to the fact that police only have a limited number of resources to implement reform, especially in terms of number of officers and financial restrictions. As it relates to the entirety of Figure 1, this paper also found that police unions themselves are a key barrier to reform, which was supported by current knowledge (Archbold 2021; Fisk & Richardson, 2017; Rushin, 2017).

Despite all of this, one of the implications from this paper is that police unions have the potential to be used in implementing reform. As noted, by including a police department in

efforts to implement reform, and especially officers who patrol the street, police will tend to become less resistant to reform (Bayley, 2008). This would be a good thing, because efforts to reform the police are bound to be ineffective if officers refuse to participate in these efforts. Moreover, the findings of this paper imply that attempting to collaborate with police unions may prove to be a more viable approach to implementing meaningful reform, especially considering the amount of political influence that police unions have.

However, it was clear that there was a gap in the knowledge for exactly how police unions would be used as a means for implementing reform. Additionally, future research might further examine how the implementation of reform is shaped by existing levels of legitimacy. More specifically, future studies could focus on how a police department's hesitancy or openness to implementing reform shapes legitimacy. Perhaps by doing this, researchers could better understand the potential for what improving upon variables such as police culture, or the lack of resources a department has for the implementation of reform, could have on addressing some of the issues that appear to be caused by the existence of police unions. In other words, future research into police unions could investigate the usefulness of addressing the back end of Figure 1 (the implementation of reform), rather than challenging the existence of police unions. This strategy might be used to address some of the issues indirectly caused by police, and raised throughout this paper, such as the failure to implement meaningful reform, low measures of legitimacy (accountability and transparency), and the failure of prosecute officers accused of misconduct.

Future research could also be used to further compare differences in disciplinary outcomes for police officers who are found guilty of misconduct, based on whether or not they are represented by a police union. This could prove to be beneficial, as it could help to better

understand how much of an impact police unions have in disciplinary outcomes for officers who are found guilty of misconduct. Current evidence suggests that police unions protect officers accused of misconduct from being prosecuted, and that unions make it difficult for people outside of the department to hold police accountable, but this piece of knowledge remains somewhat unclear. Furthermore, future research might compare differences in disciplinary outcomes for police officers who are found guilty of misconduct, based on whether or not they are represented by a state's LEOBOR. Further investigation into these research questions could potentially support the overarching model of this paper, or it could suggest that other intervening factors are significant enough to be added to the overarching model. Either of these findings would strengthen the current knowledge of police unions in the United States.

Available evidence was sparse on the direct impact of police unions on both police legitimacy and the implementation of efforts to reform the police. Moreover, future research could be conducted to study the impact of police unions and LEOBORS on disciplinary outcomes for officers who are found guilty of misconduct. However, this paper demonstrates that there is a chain reaction. The existence of police unions and state LEOBORs lead to fewer officers accused of misconduct being prosecuted. This leads to worsened perceptions of legitimacy. Finally, this leads to the police unions more actively resisting efforts to reform the police, specifically those coming from outside of the policing institution. Future research should continue to test and build upon this paper, which has demonstrated the current knowledge of the impact of police unions on the prosecution of officers, legitimacy, and reform.

REFERENCES

- Abel, J. (2015). Brady's blind spot: impeachment evidence in police personnel files and the battle splitting the prosecution team. *Stanford Law Review*, 67(4), 743-808.
- Archbold, C. A. (2021). Police Accountability in the USA: Gaining Traction or Spinning Wheels?. *Policing: A Journal of Policy and Practice*, 15(3), 1665-1683.
- Armacost, B. E. (2004). Organizational culture and police misconduct. *George Washington Law Review*, 72(3), 453-546.
- Bayley, D. H. (2008). Police reform: Who done it?. *Policing & Society*, 18(1), 7-17.
- Benson, R. W. (2001). Changing police culture: the sine qua non of reform. *Loyola of Los Angeles Law Review*, 34(2), 681-690.
- Bies, K. J. (2017). Let the sunshine in: illuminating the powerful role police unions play in shielding officer misconduct. *Stanford Law & Policy Review*, 28(1), 109-[vi].
- Bobb, M. (2003). Civilian oversight of the police in the United States. *Saint Louis University Public Law Review*, 22(1), 151-166.
- Brooks, C., Davis, E., & Hyland, S. (2020). Local police departments: policies and procedures, 2016. *US, Department of Justice, Office of Justice Programs, Bureau of Justice Statistics*.
- Brown, L. P. (1970). *Evaluation of police-community relations programs*. University of California, Berkeley.
- Brunson, R. K. (2015). Focused deterrence and improved police-community relations: unpacking the proverbial black box. *Criminology & Public Policy*, 14(3), 507-514.
- Callanan, V. J., & Rosenberger, J. S. (2011). Media and public perceptions of the police: Examining the impact of race and personal experience. *Policing & Society*, 21(2), 167-189.

- Culhane, S. E., & Schweitzer, K. (2018). Police shootings and body cameras one year post-Ferguson. *Policing and society*, 28(9), 1038-1049.
- Demir, M., Apel, R., Braga, A. A., Brunson, R. K., & Ariel, B. (2020). Body worn cameras, procedural justice, and police legitimacy: A controlled experimental evaluation of traffic stops. *Justice quarterly*, 37(1), 53-84.
- Doellgast, V., & Benassi, C. (2020). Collective bargaining. In *Handbook of research on employee voice*. Edward Elgar Publishing.
- Donner, C. M. (2019). "The best predictor of future behavior is...": examining the impact of past police misconduct on the likelihood of future misconduct. *Journal of Crime and Justice*, 42(3), 300-315.
- D'Souza, A., Weitzer, R., & Brunson, R. K. (2019). Federal investigations of police misconduct: a multi-city comparison. *Crime, Law and Social Change*, 71(5), 461-482.
- Eitle, D., D'Alessio, S. J., & Stolzenberg, L. (2014). The effect of organizational and environmental factors on police misconduct. *Police Quarterly*, 17(2), 103-126.
- Emery, R., & Maazel, I. (2000). Why civil rights lawsuits do not deter police misconduct: the conundrum of indemnification and proposed solution. *Fordham Urban Law Journal*, 28(2), 587-600.
- Fegley, T. (2020). Police unions and officer privileges. *The Independent Review*, 25(2), 165-186.
- Fisk, C. L., & Richardson, L. (2017). Police unions. *George Washington Law Review*, 85(3), 712-799.
- Frandsen, B. R. (2016). The effects of collective bargaining rights on public employee compensation: Evidence from teachers, firefighters, and police. *ILR Review*, 69(1), 84-112.

- Frank, J. (2009). Conceptual, methodological, and policy considerations in the study of police misconduct. *Criminology and Public Policy*, 8(4), 733-736.
- Giblin, M. J. (2014). *Organization and management in the criminal justice system: A text/reader*. SAGE.
- Goldsmith, A. (2005). Police reform and the problem of trust. *Theoretical criminology*, 9(4), 443-470.
- Graziano, L. M., & Gauthier, J. F. (2018). Media consumption and perceptions of police legitimacy. *Policing: an international journal*.
- Griffiths, T.C. and Clark, P. (2017). Building police legitimacy in a high demand environment: the case of Yukon, Canada. *Policing: An International Journal*, 40(3), 560-573.
- Halpern, S. C. (1974). Police employee organizations and accountability procedures in three cities: Some reflections on police policy-making. *Law & Society Review*, 8(4), 561-582.
- Harris, C., & Sweeney, M. M. (2021). Police union contracts: An analysis of large cities. *Policing: A Journal of Policy and Practice*, 15(1), 622-634.
- Hatfield, M. M. (2021). Can police unions help change American policing?. *UCLA Criminal Justice Law Review*, 5(1), 211-245.
- Headley, A. M., D'Alessio, S. J., & Stolzenberg, L. (2020). The effect of a complainant's race and ethnicity on dispositional outcome in police misconduct cases in Chicago. *Race and Justice*, 10(1), 43-61.
- Heustis, C. E. (1958). Police unions. *The Journal of Criminal Law, Criminology, and Police Science*, 48(6), 643-646.
- Hickman, M. J. (2006). *Citizen complaints about police use of force*. Washington, DC: US Department of Justice, Office of Justice Programs, Bureau of Justice Statistics.

- Hickman, M. J., & Poore, J. E. (2016). National data on citizen complaints about police use of force: Data quality concerns and the potential (mis) use of statistical evidence to address police agency conduct. *Criminal Justice Policy Review*, 27(5), 455-479.
- Hinds, L., & Murphy, K. (2007). Public satisfaction with police: Using procedural justice to improve police legitimacy. *Australian & New Zealand Journal of Criminology*, 40(1), 27-42.
- Hochman, R. (1996). Brady v. Maryland and the search for truth in criminal trials. *University of Chicago Law Review*, 63(4), 1673-1706.
- Hodgson, J. F. (2001). Police violence in Canada and the USA: Analysis and management. *Policing: An International Journal of Police Strategies & Management*, 24(4), 520-551.
- Huff, J., Katz, C. M., & Webb, V. J. (2018). Understanding police officer resistance to body-worn cameras. *Policing: An International Journal*, 41(4), 482-495.
- Jackson, J., Asif, M., Bradford, B., & Zakria Zakar, M. (2014). Corruption and police legitimacy in Lahore, Pakistan. *British journal of criminology*, 54(6), 1067-1088.
- Jacobi, J. V. (2000). Prosecuting police misconduct. *Wisconsin Law Review*, 2000(4), 789-854.
- Janićijević, N. (2013). The mutual impact of organizational culture and structure. *Economic annals*, 58(198), 35-60.
- Jonathan-Zamir, T., & Weisburd, D. (2013). The effects of security threats on antecedents of police legitimacy: Findings from a quasi-experiment in Israel. *Journal of research in crime and delinquency*, 50(1), 3-32.
- Kadleck, C. (2003). Police employee organizations. *Policing: An International Journal of Police Strategies & Management*, 26(2), 341-351.

- Kahn, R. (2017). Three first amendment puzzles raised by the police union response to speech criticizing police conduct in Ferguson and New York City. *Alabama Civil Rights & Civil Liberties Law Review*, 8(2), 163-196.
- Kane, R. J., & White, M. D. (2009). Bad cops: A study of career-ending misconduct among New York City police officers. *Criminology & Public Policy*, 8(4), 737-769.
- Keenan, K. M., & Walker, S. (2005). An impediment to police accountability an analysis of statutory law enforcement officers' bills of rights. *Boston University Public Interest Law Journal*, 14(2), 185-250.
- Kelly, J., & Nichols, M. (2020, June 11). *We found 85,000 cops who've been investigated for misconduct. now you can read their records.* USA Today. Retrieved May 24, 2022, from <https://www.usatoday.com/in-depth/news/investigations/2019/04/24/usa-today-revealing-misconduct-records-police-cops/3223984002/>
- Kingshott, B. F., Bailey, K., & Wolfe, S.E. (2004). Police culture, ethics and entitlement theory. *Criminal Justice Studies: Critical Journal of Crime, Law and Society*, 17(2), 187-202.
- Kochel, T. (2011). Constructing hot spots policing: Unexamined consequences for disadvantaged populations and for police legitimacy. *Criminal justice policy review*, 22(3), 350-374.
- Kochel, T. R. (2015). Assessing the initial impact of the Michael Brown shooting and police and public responses to it on St Louis County residents' views about police. *Southern Illinois University Carbondale*.
- Kochel, T. R., & Skogan, W. G. (2021). Accountability and transparency as levers to promote public trust and police legitimacy: findings from a natural experiment. *Policing: An International Journal*, 44(6), 1046-1059.

- Kochel, T. R., & Weisburd, D. (2017). Assessing community consequences of implementing hot spots policing in residential areas: Findings from a randomized field trial. *Journal of Experimental Criminology*, 13(2), 143-170.
- Koziarski, J., & Huey, L. (2021). # Defund or # Re-Fund? Re-examining Bayley's blueprint for police reform. *International Journal of Comparative and Applied Criminal Justice*, 45(3), 269-284.
- Lawson Jr, E. (2019). TRENDS: police militarization and the use of lethal force. *Political Research Quarterly*, 72(1), 177-189.
- Lersch, K. M. (2002). Are citizen complaints just another measure of officer productivity? An analysis of citizen complaints and officer activity measures. *Police Practice and Research*, 3(2), 135-147.
- Levin, B. (2020). What's wrong with police unions?. *Columbia Law Review*, 120(5), 1333-1402.
- Levine, K. (2016). Police suspects. *Columbia Law Review*, 116(5), 1197-1258.
- Lum, C. M., Koper, C. S., Gill, C., Hibdon, J., telep, C., & Robinson, L. (2016). *An Evidence-assessment of the Recommendations of the President's Task Force on 21st Century Policing: Implementation and Research Priorities*. Alexandria, VA: International Association of Chiefs of Police.
- Manning, P. K. (2009). Bad cops. *Criminology and Public Policy*, 8(4), 787-794.
- Marks, M. (2007). Police unions and their influence: subculture or counter-culture?. *Sociology of Crime, Law and Deviance*, 8(1), 229-251.
- McCormick, M. L. (2015). Our uneasiness with police unions: Power and voice for the powerful. *Saint Louis University Public Law Review*, 35(1), 47-65.

- McKesson, D., Sinyangwe, S., Elzie, J., & Packnett, B. (2016). Police Union Contracts and Police Bill of Rights Analysis.
- Mogck, B. (2020). Proposal for police reform: require effective accountability measures in police union contracts as condition of tax-exempt status. *University of Chicago Law Review Online*, 2020, 1-14.
- Moran, R. (2019). Police privacy. *UC Irvine Law Review*, 10(1), 153-198.
- National Police Accountability Project. (2021). Law enforcement bill of rights statutes: How state law limitations contribute to police harm and community distrust. National Police Accountability Project. Retrieved June 1, 2022, from <https://www.nlg-npap.org/wp-content/uploads/2021/12/LEOBOR-White-Paper-Final-Paper.pdf>
- Nix, J., Pickett, J. T., & Wolfe, S. E. (2020). Testing a theoretical model of perceived audience legitimacy: The neglected linkage in the dialogic model of police–community relations. *Journal of Research in Crime and Delinquency*, 57(2), 217-259.
- Nix, J., Todak, N., & Tregle, B. (2020). Understanding body-worn camera diffusion in US policing. *Police Quarterly*, 23(3), 396-422.
- Nix, J., & Wolfe, S. E. (2017). The impact of negative publicity on police self-legitimacy. *Justice quarterly*, 34(1), 84-108.
- O'Brien, T. C., Meares, T. L., & Tyler, T. R. (2020). Reconciling police and communities with apologies, acknowledgements, or both: A controlled experiment. *The ANNALS of the American Academy of Political and Social Science*, 687(1), 202-215.

- O'Neill, M., & McCarthy, D. J. (2014). (Re) negotiating police culture through partnership working: Trust, compromise and the 'new' pragmatism. *Criminology & criminal justice, 14*(2), 143-159.
- O'Rourke, A., Su, R., & Binder, G. (2021). Disbanding police agencies. *Columbia Law Review, 121*(4), 1327-[xii].
- Ofer, U. (2016). Getting it right: building effective civilian review boards to oversee police. *Seton Hall Law Review, 46*(4), 1033-1062.
- Olzak, S. (2021). Does protest against police violence matter? Evidence from US cities, 1990 through 2019. *American Sociological Review, 86*(6), 1066-1099.
- Ouellet, M., Hashimi, S., Gravel, J., & Papachristos, A. V. (2019). Network exposure and excessive use of force: Investigating the social transmission of police misconduct. *Criminology & Public Policy, 18*(3), 675-704.
- Paranyuk, J. E. (2021). Lessons from the military on reforming police discipline. *New York University Law Review, 96*(5), 1675-1714.
- Place, N. (2018). Double due process: how police unions and law enforcement bills of rights enable police violence and prevent accountability. *University of San Francisco Law Review, 52*(2), 275-298.
- Porter, L. E., & Prenzler, T. (2016). The code of silence and ethical perceptions: Exploring police officer unwillingness to report misconduct. *Policing: An International Journal of Police Strategies & Management.*
- Prenzler, T., & Ronken, C. (2001). Models of police oversight: A critique. *Policing and Society: An International Journal, 11*(2), 151-180.

- Punch, M. (2003). Rotten orchards: "Pestilence", police misconduct and system failure. *Policing & Society*, 13(2), 171-196.
- Quattlebaum, M., & Tyler, T. (2020). Beyond the law: An agenda for policing reform. *Boston University Law Review*, 100(3), 1017-1046.
- Rahman, K., & Simonson, J. (2020). The institutional design of community control. *California Law Review*, 108(3), 679-744.
- Rushin, S. (2015). Structural reform litigation in American police departments. *Minnesota Law Review*, 99(4), 1343-1422.
- Rushin, S. (2017). Police union contracts. *Duke Law Journal*, 66(6), 1191-1266.
- Rushin, S., & DeProspo, A. (2019). Interrogating police officers. *George Washington Law Review*, 87(3), 646-705.
- Rushin, S., & Michalski, R. (2020). Police funding. *Florida Law Review*, 72, 277.
- Sierra-Arévalo, M. (2021). American policing and the danger imperative. *Law & Society Review*, 55(1), 70-103.
- Simonson, J. (2021). Police reform through power lens. *Yale Law Journal*, 130(4), 778-861.
- Sklansky, D. A. (2007). Seeing blue: Police reform, occupational culture, and cognitive burn-in. *Sociology of Crime, Law, and Deviance*, 9(1), 1-22.
- Sklansky, D. A., & Marks, M. (2008). The role of the rank and file in police reform. *Policing & society*, 18(1), 1-6.
- Skogan, W. G. (2008). Why reforms fail. *Policing & Society*, 18(1), 23-34.
- Skolnick, J. (2002). Corruption and the blue code of silence. *Police Practice and Research*, 3(1), 7-19.

- Skolnick, J. H. (2008). Enduring issues of police culture and demographics. *Policing & society*, 18(1), 35-45.
- Slater, J. (2009). Labor and the Boston police strike of 1919. *The Encyclopedia of Strikes in American History*. Armonk, NY, 241-251.
- Smith, M. (2020). Police union contracts hinder discipline in Illinois' biggest cities.
- Sousa, W. H., Miethe, T. D., & Sakiyama, M. (2018). Inconsistencies in public opinion of body-worn cameras on police: Transparency, trust, and improved police–citizen relationships. *Policing: A Journal of policy and Practice*, 12(1), 100-108.
- Sunshine, J., & Tyler, T. R. (2003). The role of procedural justice and legitimacy in shaping public support for policing. *Law & society review*, 37(3), 513-548.
- Thomas, M. P., & Tufts, S. (2020). Blue solidarity: police unions, race and authoritarian populism in North America. *Work, Employment and Society*, 34(1), 126-144.
- Trivedi, S., & Van Cleve, N. (2020). To serve and protect each other: how police-prosecutor codependence enables police misconduct. *Boston University Law Review*, 100(3), 895-934.
- Tyler, T. R. (2004). Enhancing police legitimacy. *The annals of the American academy of political and social science*, 593(1), 84-99.
- Walker, S. (2001). Police accountability. *Belmont, CA: Wadsworth*, 199-214.
- Walker, S. (2008). The neglect of police unions: exploring one of the most important areas of American policing. *Police Practice and Research: An International Journal*, 9(2), 95-112.

- Walker, S. (2012). Institutionalizing Police Accountability Reforms: The Problem of Making Police Reforms Endure Control of Police Misconduct in a Post-Exclusionary Rule World: Can It Be Done. *Saint Louis University Public Law Review*, 32(1), 57–92.
- Walker, S. (2018). Not dead yet: the national police crisis, new conversation about policing, and the prospects for accountability-related police reform. *University of Illinois Law Review*, 2018(5), 1777-1840.
- Weitzer, R., & Tuch, S. A. (2005). Determinants of public satisfaction with the police. *Police Quarterly*, 8(3), 279-297.
- Weitzer, R. (2002). Incidents of police misconduct and public opinion. *Journal of Criminal Justice*, 30(5), 397-408.
- Williams, C. (2021). Blue racing: the racialization of police in hate crime statutes. *University of Michigan Journal of Law Reform*, 55(1), 139-174.
- Wilson, S., & Buckler, K. (2010). The debate over police reform: Examining minority support for citizen oversight and resistance by police unions. *American Journal of Criminal Justice*, 35(4), 184-197.
- Yavuz, N., & Welch, E. W. (2014). Factors affecting openness of local government websites: Examining the differences across planning, finance and police departments. *Government Information Quarterly*, 31(4), 574-583.

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