



Don't Abolish the Police – End Their Monopoly

Why Confronting Police Brutality Requires Decentralized Departments

November 12, 2020

Akiva Malamet

After a rash of violent incidents and unjustified killings at the hands of public servants, culminating in the public death of George Floyd, the past months have seen a rising wave of calls to radically transform American policing.

Many across the political spectrum have recognized that police in America are distressingly abusive, unaccountable, exploitative, and often a danger to the very communities they are meant to serve. Statistically, this is especially the case for poor communities and for people of color, as well as those who identify as LGBTQIA+ and/or have mental health challenges or disabilities. The Cato Institute's Clark Neily calls the US criminal justice system "rotten to the core", and a "raging dumpster fire of injustice."

Among the calls for change have been proposals to "defund" or "abolish" the police. Evaluating either idea is challenging, since they are often used as slogans without substance. People disagree significantly on what they mean in practice. However, some aspects appear common. Advocates of defunding want to limit the budgets of police and reallocate those resources to other programs. Many current police functions can be better handled by local community groups, social workers, mental health professionals, animal control and shelters, and others.

Police deal constantly with issues of mental health, family conflict, and other areas for which they have zero training, and that historically have had alternative solutions. More troublingly, the training they do receive is oriented towards aggressive confrontation, and even extreme desensitization to the very act of killing.

Some versions of "defunding the police," however, are little different from abolition. Advocates of abolition want to get rid of the police entirely. Their alternative is to have no clear dedicated forces to providing law and order. For them, the systemic oppression of African Americans and others is so severe, that *no* institutionalized policing would be better than some.

To properly understand all this, it is crucial to recognize what police *are*. Police are the physical, real-world manifestation of the state. They are legally empowered to be the executors of state violence. They *enforce* laws. States are institutions that exist through the messy combination of brute force and public legitimacy. They can make us do things, but we elect or support many of the people who set out what those things are.

Liberal democratic states are restrained by both laws and social norms in what kinds of actions they may take, ensuring protection of human rights. When our rights are violated, and public officials fail to respond, the state's legitimacy decays and could even collapse. This is crucial, because legitimacy is perhaps the most important factor for raising compliance with the law and lowering crime. Without legitimacy, social cooperation decays, and only brute force remains. The current status quo is bedeviled by police armed to the teeth, frequently at odds with the communities they are supposed to protect. This is not an equilibrium easily open to reform, the rebuilding of trust, and the provision of essential services.

Crucially, many American communities are both *over* and *under-policed*. Police in America are heavily militarized. They spend vast resources harassing nonviolent individuals that are often considered socially deviant, with the tragic consequences that are *not* randomly distributed, but severely impact minority communities and other groups. Police routinely arrest, harm, and even kill people, often for low-level infractions in the name of the “war on drugs”, the “war on crime”, and other militant, moralist campaigns. Many US police departments act not dissimilarly to local gangs running a protection racket, through abuse of fines for minor infractions and/or by stealing from people outright via “civil asset forfeiture.”

However, police are needed to protect people from assault, robbery, and murder, and in limited fashion, lessening civil disturbances generally. Deterrence seems to have a real effect on lowering crime. Some prominent scholars have found that absence of police from communities appears to have had a negative impact. Yet many departments have a horrendous track record when it comes to solving crimes and protecting people from harm, seemingly ignoring violence and wrongdoing in their midst. In this regard, police are present where they should never have been, and absent from where they are needed.

A third alternative is available beyond defund and abolish. This is to *decentralize*.

Police are currently organized as part of a centralized system of state and municipal departments. As such, they hold an institutional monopoly on dealing with issues of law and order. As is the case for any monopoly, exclusivity breeds both complacency *and* abuse. Police have little incentive to improve, in either decreasing their harm or providing superior service because communities are not presented with any alternatives. Two forms of decentralization are possible.

One is the model suggested by economists like David Friedman and Bruce Benson, in which police are fully privatized, and replaced by private security firms hired by local communities. This proposal is intriguing, given the relatively positive record of security guards compared with state policing. It is not unimportant to stress that police abuse becomes more likely due to the monopoly they hold over the provision of public safety. However, such privatization is far outside the Overton window. It requires engaging with much larger questions about the fundamental role of government, and how we think about addressing social problems.

A second form of decentralization is that discussed by the late Nobelist in Economics, Elinor Ostrom. In her work on police departments, she found that smaller, less centralized departments are more accountable to residents, have better on-site community relations, and generally

distribute budgets more fairly to other companion services, such as social work. This is especially significant when comparing smaller communities with big city departments.

Following on Ostrom's research, breaking up police departments could help achieve some of these results. It provides much needed competition over best practices, strongly tying employment to genuine public service. Splitting up police departments offers citizens alternatives in governance, without wholly deconstructing the state.

Under this model, a city or state would have multiple departments responsible for governing different areas. The departments would compete against each other for greater jurisdiction, based on independent metrics of public service such as adherence to rule of law. Departments with a bad track record would be abolished. Another current problem is that oversight is largely internal, and corruption is often covered up by departments. Metrics should be established by an independent reform committee at the state level, and overseen by the state judiciary or another separate, relatively impartial branch.

Decentralization is not wholly sufficient. Any restructuring must be accompanied by legislative reform, in order to chain and restrict what police can do. Real reform also involves ending qualified immunity, strongly constraining the use of force, and abolishing police unions, or at minimum, heavily limiting their collective bargaining powers. It also involves retraining for peaceful rather than combative engagement and reassigning many duties to social services or others. However, such changes will have limited impact if department structures remain the same. More is needed to move us from a world of police as gangs to a world of police as community servants. Ending departmental monopolies offers a potential alternative.