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Police and Protests: The inequity of police responses to racial justice demonstrations

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On July 11, 2020, 26-year-old Donavan La Bella was participating in a protest against racialized police violence in Portland, Oregon when a federal law enforcement officer fired an impact munition into his face, causing severe injury including a fractured face and skull. Video footage from the event shows Mr. La Bella standing unarmed with both hands over his head, holding a speaker playing the song “Black Lives Matter” by the recording artist Dax. Federal law enforcement officers then threw a canister of smoke or tear gas toward him, which Mr. La Bella pushed away from his feet. Then, a federal officer fired the impact munition at Mr. La Bella, hitting the young man directly in the face. Mr. La Bella was rushed to the hospital for emergency surgery. He survived the assault, but he has suffered permanent brain damage, including impairments to his cognitive function and impulse control.

Donavan La Bella is one of tens of millions of people in the U.S. (and many more across the world) who participated in racial justice demonstrations during the summer of 2020 in response to police killings of Black Americans, including George Floyd and Breonna Taylor. In the U.S., there were well over 7,000 public demonstrations for racial justice across more than 2,400 locations in all 50 states, arguably the largest protest movement in the nation’s history. An overwhelming majority (an estimated 93%) of racial justice demonstrations in the summer of 2020 involved no violence, property destruction, or road blockades. However, police responses to protests varied widely, ranging from no presence at all to mass arrests, indiscriminate use of projectiles and chemical weapons (e.g., rubber bullets, tear gas, pepper spray), and driving police vehicles into crowds of protestors. Those types of police responses served as yet another example of the very police violence that protestors were calling to end.

During the summer of 2020, there were also thousands of public demonstrations about issues other than racial justice, such as protests related to COVID-19 pandemic measures, labor movements, LGBTQ rights, political candidates, support for white nationalism, and more. This presented a unique opportunity to study how police responses to protests may have varied depending on the issue being protested.

We found striking disparities in police responses to protests in the summer of 2020. At racial justice demonstrations, police were more likely to be present, more likely to have an escalated presence (i.e., riot police, state police, or national guard), and more likely to escalate their response to include arrests, projectiles, and chemical weapons, compared to similar demonstrations unrelated to racial justice.

We begin this brief by describing the significance of the right to protest and how inequitable police responses to protest can undermine U.S. Constitutional rights under the First, Fourth, and Fourteenth Amendments. We then present the findings from our analysis of protests in the summer of 2020, discuss the implications of these findings, and argue that police, ultimately, should not be tasked with managing protests.

**THE SIGNIFICANCE OF THE RIGHT TO PROTEST**

The right to protest—a tool to express dissent for illegitimate governmental actions—is a cornerstone of democracy that the First Amendment to the U.S. Constitution protects. Public demonstrations are one of the primary mechanisms for people to collectively express their
views, their interests, and their outrage and to make demands of the elected officials and institutions that are meant to be responsive to their needs. Protests also have the power to shift public opinion, mobilize voters and constituents, and contribute to tangible policy change.

Not only does the First Amendment protect the right to free speech and assembly, but the Supreme Court has also expressly stated that protecting free speech about police is particularly important for democracy. The Court has said, “[t]he freedom of individuals verbally to oppose or challenge police action without thereby risking arrest is one of the principal characteristics by which we distinguish a free nation from a police state.” Further, the Fourth Amendment to the U.S. Constitution protects a person’s right to be free from excessive police force. The Fourteenth Amendment to the Constitution requires equal protection under the law, making racially discriminatory police violence unconstitutional. When peaceful protestors are selectively met with state-sanctioned violence, this may violate protestors’ constitutional rights and undermine American democracy.

In addition to being essential for democracy, the right to protest has been essential for Black people’s struggle for racial justice in the U.S. Countless historic civil rights victories have been achieved in part through the attention and pressure created through sustained, organized public protests demanding progress on pressing issues of the times. Notable protests during the Civil Rights Movement include the Montgomery Bus Boycott of 1955-56 and the Selma to Montgomery March in 1965 among many other examples. The Montgomery Bus Boycott played a key role in Brouder v. Gayle, where the Supreme Court ruled that racial segregation on public buses was unconstitutional. The Selma March was part of a broader campaign for equal voting access and contributed to the passage of the Voting Rights Act of 1965. These historic events exemplify how the right to protest played an instrumental role in the Civil Rights Movement.

Then and now, nonviolent racial justice protestors have often been met with police violence. For example, state and local law enforcement officers blocked nonviolent protestors in the Selma to Montgomery March from crossing the Edmund Pettus Bridge. Police brutally attacked the protestors with clubs and tear gas – an event later known as “Bloody Sunday.” Without question, protests have played a key role in advancing civil rights for Black communities. Correspondingly, there is a long-standing history of police violence against protestors, particularly against Black Americans.

While the racial justice uprisings and public demonstrations in the summer of 2020 were unprecedented in scale, Americans have been protesting police violence and police murders of unarmed Black people since the inception of modern law enforcement in the U.S. For example, in July 1963, Detroit police killed 24-year-old Cynthia Scott while she was walking down the street at night. Her reported last words were, “I’m not getting in the car. I haven’t done anything, why should I get in the car?” She was then shot multiple times as she walked away. Outrage over Cynthia Scott’s murder fueled a series of large-scale anti-police brutality demonstrations in Detroit in the summer of 1963. By the mid-1960s through 1970s, the U.S. experienced a nationwide surge of protests and rebellions against anti-Black police violence. Rather than curtailing police brutality, these protests against police violence were often met with more police brutality. A recent study found that racial uprisings in the 1960s and 1970s led to an
increase in police killings of civilians, including an increase in police killings of non-white civilians nearly a decade later.\textsuperscript{25}

In response to the racial justice uprisings and rebellions in the mid-1960s, President Lyndon Johnson convened the Kerner Commission.\textsuperscript{26} Notably, the Commission identified discriminatory policing practices as an underlying cause of civil unrest, along with housing discrimination, employment discrimination, voter suppression, and other forms of racial discrimination.\textsuperscript{27} Despite the findings of the Kerner Commission, police brutality in response to protest continues to plague the U.S. more than fifty years later.

In more recent history, in response to incidents of police violence against Black people, millions of people have taken to the streets to collectively mourn and demand an end to racialized police violence. For example, the 1991 police beating of 25-year-old Rodney King in Los Angeles, and the subsequent acquittal of the four officers involved, spurred mass protests and uprisings across the country.\textsuperscript{28} In 2014, police officer Darren Wilson shot and killed 18-year-old Michael Brown in Ferguson, Missouri. Immediately after the killing of Michael Brown, protests erupted in Ferguson and St. Louis, and later, across the country.\textsuperscript{29} Police responded to many of these protests with militarized violence, including the widespread use of riot gear, pepper spray, tear gas, and rubber bullets.\textsuperscript{30} Protests and uprisings continued over the next few years as reports continued of state violence against Black people, including the police killings of Laquan McDonald in Chicago, Tamir Rice in Cleveland, Walter Scott in North Charleston, Terence Crutcher in Tulsa, and the mysterious death of Sandra Bland in a Texas jail.

Throughout history, protest has been a crucial tool to advance social justice. And throughout history, people protesting against this racialized police violence have been met with more racialized police violence.\textsuperscript{31} Under the First, Fourth, and Fourteenth Amendments to the U.S. Constitution, protestors are guaranteed equal rights to peaceful assembly without excessive police force and racially discriminatory treatment, regardless of the demonstration’s cause.\textsuperscript{32} And yet, this brief reveals stark inequities in the ways in which police responded to the racial justice protests in the summer of 2020 compared to other protests.

**FINDINGS**

The analytic findings demonstrate that racial justice protests in the summer of 2020 were policed very differently than other protests. To compare police responses to different types of protests during the summer of 2020, we used a dataset prepared by a team of researchers at Colorado College that aims to reflect all protests and public demonstrations that occurred in 27 mid-sized U.S. cities from May 1 through October 31, 2020 (see Figure 1 for a map of the 27 cities). About 1,900 protests and demonstrations were identified using news sources, social media sources, the Armed Conflict Location and Event Data Project,\textsuperscript{33} and the Crowd Counting Consortium.\textsuperscript{34} Information about each protest (e.g., protest cause, police presence, police responses, protestor behaviors, time of day, protest size, and more) was collected from news sources and social media sources. To read more about the research methods, see the Methodological Appendix.
We found that police showed up more often and with a more escalated presence (i.e., riot police, state police, or national guard) at racial justice protests. Once police showed up, they were more likely to make arrests and use projectiles and chemical weapons (i.e., pepper spray, tear gas, rubber bullets, and flash bangs) at racial justice protests. These differences in police presence and response persisted even after controlling for differences in protestor behaviors, crowd size, time of day, police use of force policies, and other factors.

**Figure 1. 27 cities included in the dataset**

For this analysis, racial justice demonstrations refer to protests that were coded in the dataset as being related to the Black Lives Matter movement and/or anti-police violence. About half (53%) of the protests in the dataset were racial justice demonstrations. Another 36% were non-racial justice demonstrations, meaning the cause was not related to the Black Lives Matter movement or anti-police violence and was instead related to another topic such as COVID-19 pandemic measures, labor movements, LGBTQ rights, political candidates, or support for white nationalism. The remaining 11% had both a racial justice and a non-racial justice presence. In this analysis, we compare the racial justice demonstrations to the non-racial justice demonstrations.
Police presence varied substantially by protest type. As Figure 2 shows, police were present at 57.3% of racial justice protests compared to just 18.4% of non-racial justice protests. That is, police were 3.1 times as likely to show up at racial justice protests compared to non-racial justice protests.

Additionally, the type of police presence varied by the type of protest. Riot police, state police, and/or the national guard were present at 23.8% of racial justice protests compared to just 3.1% of non-racial justice protests. That is, the presence of riot police, state police, and/or the national guard was 7.6 times as likely at racial justice protests compared to non-racial justice protests.

It is possible that these stark differences in police presence are explained by factors other than the type of protest. For example, differences in crowd size, time of day, or protestor behaviors may have driven differences in police presence. So, we used multivariable regression to compare police presence at racial justice vs. non-racial justice protests while controlling for differences in protestor behaviors, crowd size, time of day, police use of force policies, sociodemographic characteristics of the city, the presence of a curfew, and the presence of a counter demonstration.

After controlling for these factors, police presence and escalated police presence were still significantly more likely at racial justice protests compared to similar non-racial justice protests. Police were 2.0 times as likely to show up at racial justice protests compared to non-racial justice protests after controlling for contextual differences. The presence of riot police, state police, and/or the national guard was 3.0 times as likely at racial justice protests compared to non-racial justice protests after controlling for contextual differences.
Police actions also varied substantially by protest type. For this analysis, we looked only at the 40% of protests where police showed up at all and assessed whether their responses differed. As Figure 3 shows, police made arrests at 34.4% of racial justice protests compared to just 19.0% of non-racial justice protests. Put another way, when police were present, they were 1.81 times as likely (or 81% more likely) to make arrests at racial justice protests compared to non-racial justice protests.

Additionally, the use of projectiles and chemical weapons (i.e., pepper spray, tear gas, rubber bullets, and flash bangs) was much more likely at racial justice protests. Police used projectiles and chemical weapons at 19.4% of racial justice protests compared to just 2.4% of non-racial justice protests. That is, when police were present, they were 8.0 times as likely to use projectiles and chemical weapons at racial justice protests compared to non-racial justice protests.

After controlling for differences in protestor behaviors, crowd size, time of day, police use of force policies, sociodemographic characteristics of the city, the presence of a curfew, and the presence of a counter demonstration, police were still significantly more likely to make arrests and use projectiles and chemical weapons at racial justice protests. Police were 1.4 times as likely (or 40% more likely) to make arrests at racial justice protests compared to non-racial justice protests after controlling for contextual differences. Police were 3.8 times as likely to use pepper spray, tear gas, rubber bullets, and flash bangs at racial justice protests compared to non-racial justice protests after controlling for contextual differences.
CONSEQUENCES OF INEQUITIES IN POLICE RESPONSE TO PROTESTS

Inequities in how police responded to racial justice protests compared to other protests pose serious threats to public safety and public health. In addition, inequities in police responses to protests may undermine First, Fourth, and Fourteenth Amendment rights. This is important to recognize considering the instrumental role protests movements have played in advancing civil rights. This section provides an overview of the consequences of police presence, arrests, and violence against racial justice protestors.

Consequences of inequities in police presence at protests. First, the findings demonstrate that police were more likely to show up and were more likely to display a more escalated presence (e.g., riot police) at racial justice protests compared to other protests. This inequity in police presence, which persists even after controlling for differences in protestor behaviors and crowd size, continues a tradition of inequitable policing and police surveillance. The presence of police at protests, even if they did not make arrests or release indiscriminate weapons, may have a chilling effect on people exercising their First Amendment rights to demonstrate in support of racial justice due to fear of police encounters.

Consequences of inequities in arrests at protests. The findings also demonstrate that police were more likely to make arrests at racial justice protests. In fact, mass arrests occurred across the country: by early June, more than 10,000 arrests had been made at racial justice protests nationwide, illustrating the unprecedented scale of protestor arrests. The mass arrests of racial justice protestors during the summer of 2020 expanded the reach of the carceral system, threatened people’s health and safety during a pandemic, and likely hindered the progress of the broader racial justice movement through a chilling effect.

For individuals, facing arrest simply for exercising their First Amendment right to protest can have serious consequences for the trajectory of their life. After arrest, people may face legal fines and fees, detention in jail, attorney’s fees, and further incarceration if convicted. In addition, there are collateral consequences of having a criminal record, which include adverse impacts on future job, voting, and housing opportunities. Moreover, these mass arrests were occurring during the first year of the COVID-19 pandemic when vaccines were unavailable and infection rates were high. Police tactics of rounding up protestors into small spaces and making mass arrests likely increased the risk of virus spread. Police physically forced protestors into tight spaces in which physical distancing was impossible and, in some cases, protestors were detained for long periods in crowded vans and jail cells without access to running water, soap, hand sanitizer, or masks. Jail detention was particularly dangerous at this time because jails were among the largest epicenters of the virus in the nation. As a consequence, the arrest of thousands of protestors unnecessarily put their lives at risk through potential exposure to COVID-19.

Mass arrests of racial justice protestors also risk chilling the First Amendment rights of people participating in racial justice and anti-police violence movements. In the summer of 2020, hundreds of protestors, including those who had not committed any violence, were arrested on
felony charges, including charges of domestic terrorism. These arrests have helped fuel a false and dangerous narrative that people protesting in support of Black lives are involved in acts of domestic terrorism. In reality, these charges continue a long history of targeting racial justice activists with aggressive policing and arrests.

Consequences of inequities in the use of projectiles and chemical weapons at protests. Finally, the analysis demonstrated that police were more likely to use escalated, violent force through weapons such as rubber bullets, flash bangs, tear gas, and pepper spray at racial justice protests compared with other protests in potential violation of protestors’ Fourth Amendment right to be free from excessive force and their Fourteenth Amendment right to be free from racially discriminatory treatment by the police. As evidenced by Donovan La Bella’s story, the use of these weapons at protests poses a very serious physical threat to public health and public safety. And importantly, the widespread, indiscriminate use of projectiles and chemical weapons at protests not only threatened the physical and mental health of protestors, but also the health of local residents and bystanders in neighborhoods where racial justice protests occurred.

Chemical weapons like pepper spray and tear gas released indiscriminately into crowds can result in coughing, watery eyes, burning eyes and skin, chest tightness, difficulty swallowing, and vomiting. Exposure to these chemical weapons can also result in long-term negative health effects like blindness, menstrual changes, asthma, respiratory failure, loss of limbs, and in some cases death.

Other projectile weapons used at protests include flash bangs and rubber bullets. Flash bangs are designed to cause disorientation and panic by releasing extremely loud noises and bright lights. They can cause severe physical injury, including hearing loss and blast injuries from pressure or shrapnel. Rubber bullets also pose a serious risk of physical injury, including bruising, fractures, blindness, and other permanent disabilities.

The physical health risks of crowd dispersal tactics, especially chemical weapons, were heightened further because of the risks of the COVID-19 pandemic. Because chemical weapons cause coughing and eye-watering, the widespread use of tear gas and pepper spray during 2020 protests likely increased the spread of COVID-19, which is transmitted primarily through droplets in the air. Exposure to chemical weapons can also impact immunity and increase susceptibility to infectious diseases. In early 2020, the COVID-19 pandemic had already disproportionately impacted the health of Black Americans, and the racialized police response at protests may have further exacerbated racialized health disparities in COVID-19 spread.

Research has also documented the negative mental health effects of exposure to police force during protests, including increased risk of severe depressive symptoms and post-traumatic stress disorder.
STRATEGIES TO ADDRESS AND ELIMINATE THE RACIALIZED HARMs OF PROTEST POLICING

Given the myriad serious consequences resulting from racialized police violence at racial justice protests in 2020, organizers and lawyers have used a variety of strategies to seek relief for protestors harmed by police while also fighting for long-term changes to policing practices.

Support for protestors. In the immediate aftermath of mass protestors arrests, many communities raised funds to help protestors post bail in order to be released from jail and to help protestors cover legal fees. In addition, legal advocates have sought monetary relief for protestors who experienced the racialized harms of protest policing, which could be used to cover physical and mental health care expenses or legal expenses. Lawsuits can also result in government investments in impacted communities. For example, on behalf of West Philadelphia residents and protestors, the NAACP Legal Defense Fund (LDF) and co-counsel reached a settlement with the City of Philadelphia for the Philadelphia Police Department’s excessive use of force against protestors. The settlement included the establishment of a community fund for interdisciplinary, trauma-informed mental health resources for victims of police violence and misconduct. The funds will be distributed through a community-led grantmaking process. To learn more about this case and other LDF legal cases related to police violence against protestors, read the Spotlight below.

Changes to policing practices. In addition to supporting protestors who have experienced police violence, organizers and lawyers have worked to eliminate the racialized harms of protest policing through policy and programmatic changes. Efforts have been focused on changes to reduce the police powers that enable mass violence against protestors. For example, strategies include banning police use of all indiscriminate weapons (e.g., projectiles and chemical weapons), eliminating the federal provision of military weapons and equipment to local law enforcement agencies, and disbanding specialized protest policing units (e.g., the New York Police Department’s (NYPD) Strategic Response Group).
Spotlight: LDF legal cases defending protestors and residents who faced police violence at 2020 protests


On May 31, 2020, protestors were peacefully gathered in a predominantly Black neighborhood in West Philadelphia in response to the recent killing of George Floyd. In response to limited reports of alleged looting, the Philadelphia Police Department (PPD) arrived in tanks and indiscriminately unleashed rubber bullets, tear gas, and pepper spray against protestors, residents, and bystanders. People who were engaged in regular daily activities near and inside of their homes were subjected to the militarized attack. Families—including older adults and children—were forced to temporarily evacuate and seek treatment for tear gas exposure. Notably, during the same weekend, Philadelphia police did not use any force in predominantly white neighborhoods, including a predominantly white business district where looting occurred.

Jointly with the Abolitionist Law Center and the law firm of Kairys, Rudovsky, Messing, Feinberg and Lin LLP, LDF filed a lawsuit on behalf of West Philadelphia residents. The complaint establishes that PPD’s racialized use of militaristic violence violated residents’ Fourth Amendment rights to be free from unwarranted seizures and excessive force, their Fourteenth Amendment rights to be free from racially discriminatory police treatment, and their First Amendment rights to engage in protected speech and assembly by participating in peaceful demonstrations about the killings of unarmed Black people at the hands of police officers and discriminatory policing in their community. One of the plaintiffs in the case, Anthony Smith, stated: “The irony is that PPD has responded to protests of police brutality, racial discrimination, and excessive force, with further brutality, discrimination, and excessive force.”

On March 20, 2023, LDF and co-counsel reached an unprecedented settlement with the City of Philadelphia. The City agreed to pay monetary damages of $9.25 million to those harmed by PPD’s violence. The City also confirmed that it had disengaged from a federal program that arms state and local law enforcement with military weapons and equipment. Finally, the City committed to meeting with the West Philadelphia community every six months to present data and respond to questions about PPD’s use of force, and committed to a $500,000 fund for trauma-informed counseling to victims of police violence.

**Attica Scott et al., v. Louisville/Jefferson County Metro Government, et al.**

In Louisville, Kentucky, where three Louisville Metro Police Department (LMPD) officers shot and killed Breonna Taylor in her home, thousands of protestors gathered throughout the summer of 2020 as part of the global racial justice protest movement. Louisville protestors were consistently met with military-style violence from Louisville police, including the indiscriminate use of tear gas, flash bangs, batons, pepper balls, and long range acoustic devices (LRADs) against protestors. Police also rounded up hundreds of protestors and made mass arrests. This militarized violence led to another police killing of a Black person in Louisville – on May 31, 2020, LMPD and National Guard officers shot and killed David McAtee, a local restaurant owner.
LDF, the American Civil Liberties Union of Kentucky (ACLU-KY), and the law firm Emery Celli Brinckerhoff Abady Ward and Maazel LLP filed a complaint against the City of Louisville on behalf of people who experienced LMPD’s violence at protests. The complaint argues that LMPD’s militarized violence violated protestors’ First Amendment rights to peaceful protest and their Fourth Amendment rights to be free from excessive force. The lawsuit, which is ongoing as of September 2023, seeks monetary relief for individual protestors as well as a policy change that would bar LMPD from using indiscriminate force against crowds of protestors.

**Andrew Smith v. City of New York, et al.**

On May 30, 2020, Andrew Smith, a young Black man, joined thousands of others in a peaceful protest against police violence in Brooklyn, New York. A New York City Police Department (NYPD) officer confronted Mr. Smith, forcibly removed the mask Mr. Smith was wearing to protect himself from COVID-19, and released pepper spray directly into Mr. Smith’s face. Mr. Smith had been standing peacefully among other protestors with his hands raised overhead. The officer assaulted Mr. Smith and did not assault nearby white protestors who were also standing with their hands raised.

Along with Massena Law, Vessup Law Firm, and the Initiative for a Justice Society, LDF is representing Mr. Smith in a lawsuit challenging this incident of racialized police brutality. The lawsuit argues that the NYPD officer violated Mr. Smith’s First, Fourth, and Fourteenth Amendment rights, and seeks monetary relief as well as an end to unlawful use of force in protest responses. The lawsuit is ongoing as of September 2023.
Removing police from protest management. While strategies to repair harms and push for long-term changes to policing practices represent important steps toward addressing and eliminating racialized police violence at protests, ultimately eliminating racialized police violence at protests requires removing police from protest management. The large majority of protests during the summer of 2020 were peaceful and involved no violence or destructive activity, thus requiring no police intervention. In fact, a growing body of evidence documents how protest policing, including riot control and other coercive tactics, often incite and escalate violence at protests rather than increasing public safety.

Given the dangers of police involvement in protests, many communities have formed volunteer groups or sought a non-policing, non-violent security presence to serve as traffic control and/or first responders at protests as needed. These efforts demonstrate that communities are often well-equipped to meet their own needs for protest management and safety.

Protecting the U.S. Constitution First, Fourth, and Fourteenth Amendment rights to assemble freely without threat of excessive and racially discriminatory force and demanding an end to racist police violence remain urgent issues today. Despite being one of the largest protest movements in U.S. history, racial justice protests in 2020 were met with a strong backlash. Rather than reducing police power and protecting the right to protest, many police departments received increased funding and many lawmakers across the country introduced anti-protest laws that criminalize protesting and protect those who harm or kill protestors (see Figure 4). For example, in April 2021, Florida enacted an anti-protest law in response to the racial justice protests of 2020 that risks criminalizing peaceful protest and offers protection for those who injure or kill protestors. LDF is challenging the law in court with partners. Additionally, reports from the summer of 2020 provide evidence that police attempted to obfuscate their involvement in the violence inflicted during racial justice protests thereby limiting accountability for their actions. For example, investigations into the NYPD’s response to racial justice protests found several instances of police taking purposeful actions to conceal their identities, refuse to be interviewed remotely, and delay or ignore requests for body-worn camera footage.

Figure 4. Number of Anti-Protest Bills Introduced in the US

<table>
<thead>
<tr>
<th>Year</th>
<th>Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>2017</td>
<td>52</td>
</tr>
<tr>
<td>2018</td>
<td>18</td>
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<tr>
<td>2019</td>
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<tr>
<td>2021</td>
<td>93</td>
</tr>
<tr>
<td>2022</td>
<td>16</td>
</tr>
</tbody>
</table>

Total counts include state and federal legislation introduced in the US
Chart: Thurgood Marshall Institute • Source: International Center for Not-for-profit Law • Created with Datawrapper
Today, one of the most pressing examples of the threat of increased police power and protest suppression can be found in Atlanta, where city officials aim to build a $90 million training facility for police and fire departments, which activists call “Cop City,” on a large plot of forested land surrounded by majority Black neighborhoods. Many have raised serious concerns that the training center will result in increased militarization of police and increased use of riot control tactics. Local residents have been protesting the construction of the training center for more than a year and have been met with mass arrests, domestic terrorism charges, tear gas, and rubber bullets. In January 2023, police shot and killed an environmental activist who was protesting the development of Cop City during a raid on a protest camp.

These recent events demonstrate that the First Amendment right to assemble and protest freely is under attack. The findings from our analysis further demonstrate that police have disproportionately responded with violence and suppression at racial justice protests compared to other protests, threatening First, Fourth, and Fourteenth Amendment rights. Upholding equal protection of the constitutional rights to freedom of assembly and freedom from unlawful police violence requires removing police from protest management and allowing protestors to fight for change without the threat of harm from arrests and police violence.
**METHODOLOGICAL APPENDIX**

**Dataset**
The data used for this analysis were collected by a team of researchers from Colorado College led by Charlotte Schwebel and Daniel K. N. Johnson. The research team sought out all public protests that occurred in the 27 selected cities from May 1 through October 31 of 2020 using news sources, social media sources, the Armed Conflict Location and Event Data Project,\(^8\) and the Crowd Counting Consortium.\(^9\) The 27 cities were selected in an effort to represent geographic, demographic, and political diversity. A team of seven undergraduate researchers was trained to research and collect media reporting of public demonstrations and police responses to those events, and use photos, videos, audio, and written content to record data. The researchers were trained using a common city for which they eventually showed high agreement (84.2% agreement across all 42 recorded event characteristics). Definitions and recording protocols were iteratively adjusted until this high level of agreement was reached. For each city, two independent researchers collected protest data for each day in that city to minimize researcher bias and improve accuracy. However, all data are subject to omissions and inaccuracies present in media reporting.

**Variables**

*Independent variable*
- Protest type: racial justice (i.e., Black Lives Matter, anti-police violence), non-racial justice\(^9\) (e.g., COVID-19 measures, politics, LGBTQ+ rights, white nationalism), or combined (joint protest between allied groups or counter demonstration)

*Dependent variables*
- Police presence: yes or no
- Presence of riot police, state police, or national guard: yes or no
- Arrests: yes or no
- Use of projectiles or chemical weapons (i.e., flash bangs, rubber bullets, pepper spray, tear gas): yes or no

*Control variables*
- Protestor behaviors
  - Presence of a gun: yes or no
  - Property damage: yes or no
  - One or more roads blocked: yes or no
  - One or more highways blocked: yes or no
  - Fireworks used: yes or no
- Crowd size: small (approx. 39 or fewer participants), medium (approx. 40-99 participants), large (approx. 100-299 participants), or massive (approx. 300 or more participants)
- Times of day
  - Morning: yes or no
  - Afternoon: yes or no
  - Evening: yes or no
  - Night: yes or no
- Use of force policies of the city’s police department
  - Require de-escalation: yes or no
- Use a defined “use of force continuum”: yes or no
- Ban chokeholds: yes or no
- Mandate a duty to intervene: yes or no
- Use comprehensive reporting: yes or no
- Require a warning before use of deadly force: yes or no
- Require exhaust all alternatives before use of deadly force: yes or no
- Restrict shooting at moving vehicles: yes or no

- Sociodemographic characteristics of the city
  - Average per capita income
  - Gini coefficient (measure of income inequality)
  - Unemployment rate
  - Population
  - Population density
  - Percentage of Black resident population
  - Violent crime rate

- Presence of a curfew: yes or no
- Presence of a counter demonstration: yes or no

**Statistical models**
In this analysis, we compared racial justice protests to non-racial justice protests (effect estimates for combined protests are not reported). First, we assessed differences in police presence by protest type. The two dependent variables of interest were 1) any police presence and 2) any presence of riot police, state police, or national guard. We calculated unadjusted and adjusted risk ratios. Adjusted models included all of the control variables listed above. We fit Poisson regression models in R using robust standard errors. Because two researchers collected data for each city, creating redundancy, we weighted each observation to represent one-half of an event to ensure the standard error was not artificially small. As a sensitivity check, we also fit adjusted models using log-binomial regression and negative binomial regression. All findings were consistent.

Second, we restricted the dataset to only those protests where there was any police presence. We then assessed differences in police actions by protest type. The two dependent variables of interest were 1) arrests and 2) use of projectiles or chemical weapons. We used the same analytic approach described above.

**Supplemental tables**
Table A1 presents the characteristics of the approximately 1,900 protests and public demonstrations in the dataset.

| Table A1. Characteristics of the protests in the dataset |
|---------------------------------|----------------|
| **Protest type**                | **Percentage** |
| Racial justice                  | 53%            |
| Non-racial justice              | 36%            |
| Combined                        | 11%            |

<table>
<thead>
<tr>
<th><strong>Police presence</strong></th>
<th><strong>Percentage</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td>No police presence</td>
<td>60%</td>
</tr>
<tr>
<td>Any police presence</td>
<td>40%</td>
</tr>
<tr>
<td></td>
<td>Racial justice protests</td>
</tr>
<tr>
<td>---------------------</td>
<td>-------------------------</td>
</tr>
<tr>
<td><strong>Police presence</strong></td>
<td></td>
</tr>
<tr>
<td>Any police presence</td>
<td>57%</td>
</tr>
<tr>
<td>Presence of riot police, state police, national guard</td>
<td>24%</td>
</tr>
<tr>
<td><strong>Police actions</strong></td>
<td></td>
</tr>
<tr>
<td>Arrests</td>
<td>20%</td>
</tr>
<tr>
<td>Projectiles or chemical weapons (pepper spray, tear gas, rubber bullets, flash bangs)</td>
<td>11%</td>
</tr>
<tr>
<td><strong>Protestor behaviors</strong></td>
<td></td>
</tr>
<tr>
<td>Gun carrying</td>
<td>6%</td>
</tr>
<tr>
<td>Property damage</td>
<td>12%</td>
</tr>
<tr>
<td>Roadblocks</td>
<td>33%</td>
</tr>
<tr>
<td>Highway blocks</td>
<td>6%</td>
</tr>
<tr>
<td>Fireworks</td>
<td>4%</td>
</tr>
<tr>
<td><strong>Crowd size</strong></td>
<td></td>
</tr>
<tr>
<td>Small</td>
<td>13%</td>
</tr>
<tr>
<td>Medium</td>
<td>23%</td>
</tr>
<tr>
<td>Large</td>
<td>27%</td>
</tr>
<tr>
<td>Massive</td>
<td>37%</td>
</tr>
<tr>
<td><strong>Time of day</strong></td>
<td></td>
</tr>
<tr>
<td>Morning</td>
<td>10%</td>
</tr>
<tr>
<td>Afternoon</td>
<td>39%</td>
</tr>
<tr>
<td>Evening</td>
<td>43%</td>
</tr>
</tbody>
</table>

Table A2 presents all of the variables included in the adjusted models by protest type. Notably, some of the characteristics of protests (such as protestor behaviors or crowd size) may be in response to police actions rather than the reverse. The analysis assumes that protest characteristics temporally preceded the police response, but this is a conservative assumption.
<table>
<thead>
<tr>
<th>夜</th>
<th>38%</th>
<th>10%</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Use of force policies of the city’s police department</strong></td>
<td><strong>Percentage</strong></td>
<td><strong>Percentage</strong></td>
</tr>
<tr>
<td>要求去升级</td>
<td>55%</td>
<td>60%</td>
</tr>
<tr>
<td>使用定义“使用武力连续体”</td>
<td>87%</td>
<td>85%</td>
</tr>
<tr>
<td>禁止锁喉</td>
<td>44%</td>
<td>43%</td>
</tr>
<tr>
<td>制订明确“武力使用连续体”</td>
<td>49%</td>
<td>65%</td>
</tr>
<tr>
<td>要求在使用致命武力之前发出警告</td>
<td>79%</td>
<td>81%</td>
</tr>
<tr>
<td>要求在使用致命武力之前用尽所有替代性</td>
<td>49%</td>
<td>49%</td>
</tr>
<tr>
<td>限制射击于移动车辆</td>
<td>16%</td>
<td>27%</td>
</tr>
<tr>
<td><strong>Sociodemographic characteristics of the city</strong></td>
<td><strong>Average</strong></td>
<td><strong>Average</strong></td>
</tr>
<tr>
<td>平均人均收入</td>
<td>31,968.84</td>
<td>31,800.98</td>
</tr>
<tr>
<td>基尼系数</td>
<td>0.5</td>
<td>0.5</td>
</tr>
<tr>
<td>失业率</td>
<td>8%</td>
<td>8%</td>
</tr>
<tr>
<td>人口</td>
<td>591,127</td>
<td>583,508</td>
</tr>
<tr>
<td>人口密度（每平方公里）</td>
<td>2,092</td>
<td>2,290</td>
</tr>
<tr>
<td>黑人居民比例</td>
<td>29%</td>
<td>26%</td>
</tr>
<tr>
<td>暴力犯罪率（每人口）</td>
<td>0.01</td>
<td>0.01</td>
</tr>
<tr>
<td>其他</td>
<td><strong>Percentage</strong></td>
<td><strong>Percentage</strong></td>
</tr>
<tr>
<td>有宵禁</td>
<td>6%</td>
<td>0.2%</td>
</tr>
<tr>
<td>有反制示威</td>
<td>4%</td>
<td>10%</td>
</tr>
</tbody>
</table>

Table A3 presents the findings from the adjusted Poisson models with 95% confidence intervals.

Table A3. Findings from adjusted Poisson models

<table>
<thead>
<tr>
<th></th>
<th><strong>Risk Ratio</strong></th>
<th><strong>95% Confidence Interval</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td>任何警察在场</td>
<td>1.98</td>
<td>1.75, 2.24</td>
</tr>
<tr>
<td>有暴力警察，国家警察，或国民警卫</td>
<td>2.97</td>
<td>2.18, 4.05</td>
</tr>
<tr>
<td>被捕**</td>
<td>1.37</td>
<td>1.02, 1.85</td>
</tr>
<tr>
<td>使用弹药或化学武器**</td>
<td>3.81</td>
<td>1.69, 8.63</td>
</tr>
</tbody>
</table>

**Models estimating risk of arrest and risk of use of projectiles or chemical weapons were restricted to only those protests where there was any police presence.**
REFERENCES


2. Crombie, supra note 1.


6. Id.


18. LDF at Selma, supra note 15.


LDF played a pivotal role in ensuring the marchers were able to proceed to Montgomery as
planned. LDF and cooperating attorneys filed a lawsuit against then Alabama Governor George Wallace in *Williams v. Wallace*. In that case, U.S. District Court Judge Frank M. Johnson ordered federal protection for a later march attempt. LDF was subsequently involved in drawing up a safe and secure route from Selma to Montgomery.


22. Id.


24. Hinton, supra note 20, at 20–21, 45.


30. Id.


35. Racial justice protests for causes unrelated to the Black Lives Matter movement or anti-police violence (e.g., protests against Asian American discrimination) were not included in the category of racial justice demonstrations for this analysis. In the dataset, racial justice protests for causes unrelated to the Black Lives Matter movement or anti-police violence were coded as “human rights (excluding Black Lives Matter).” Information about the data methodology and coding were provided by the Colorado College research team.

36. The protest categories in the dataset that were coded as non-racial justice were: far right (“Stop the Steal,” “Back the Blue,” QAnon, anti-abortion, pro-Trump), human rights (excluding Black Lives Matter), anti-COVID regulations, anti-Trump political, COVID-relief, union, non-union labor, and other. Information about the data methodology and coding were provided by the Colorado College research team.

37. Multivariable regression refers to a statistical model that includes more than one independent variable. The exposure of interest (in this case, demonstration type) is one of the independent variables. The additional independent variables are covariates or controls. Bertha Hidalgo &


68. Id. at 20.

69. Id. at 2, 12–13.

70. Id. at 1–3.

71. Id. at 38.


74. Id. at 6–7.

75. Id.

76. See generally id.


Budgets Expanded in 2021, NBC News (Dec. 28, 2021),
US Protest Law Tracker, Int'l Ct. for Not-for-Profit Law,

https://www.flsenate.gov/Session/Bill/2021/1/BillText/er/PDF; Press Release, NAACP Legal Def. Fund, Federal Judge Blocks Key Portion of Florida’s Anti-Protest Law (Sept. 9, 2021),

82. Preliminary Injunction, Dream Defenders v. DeSantis, No. 4:21-cv-000191-MW-MAF (N.D. Fla. Sept. 9, 2021),

83. Civilian Complaint Rev. Bd., 2020 NYC Protests (2023),

84. Bill Chappell, What’s at Stake in Atlanta’s ‘Cop City’ Protests, NPR (Mar. 7, 2023),
https://www.npr.org/2023/03/07/1161343394/atlanta-cop-city-protests-explained; Rachel Aragon, A Closer Look at the Plans for the Atlanta Public Safety Training Center, Atlanta News First (Jan. 24, 2023),

85. Aragon, supra note 84; Keenan & Goldstein, supra note 84; Aja Arnold, Why Atlantans Are Pushing to Stop ‘Cop City’, The Appeal (Dec. 8, 2023),

86. Aja Arnold, Behind Georgia’s Authoritarian Crackdown on ‘Stop Cop City’ Protests, The Appeal (Apr. 3, 2023),

87. Id.


90. The protest categories in the dataset that were coded as non-racial justice were: far right (“Stop the Steal,” “Back the Blue,” QAnon, anti-abortion, pro-Trump), human rights (excluding Black Lives Matter), anti-COVID regulations, anti-Trump political, COVID-relief, union, non-union labor, and other.