

RETHINKING PUBLIC SAFETY

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ABSTRACT

To date, the prevailing model of public safety takes the form of a police-centric community policing model where police officers are first to engage with the community on issues such as aiding the homeless, responding to nonviolent mental health situations, stopping traffic, treating youth unemployment, addressing substance use disorder incidents and other societal service activities. As a result, this model encourages and increases civilian contact with armed police officers, which can ultimately result in violent responses and even shootings during nonviolent situations. A history of police violence against nonviolent offenders underscores the depth of the crisis. In May 2020, police officer Derek Chauvin responded to a call over a phony \$20 bill.

Although such an offense is a minor, nonviolent one, George Floyd was murdered by Officer Chauvin, who restrained Floyd by kneeling on his neck for over nine minutes. A few years earlier, in Staten Island, Eric Garner was killed by Officer Pantaleo when Officer Pantaleo used an illegal chokehold on Garner that ended his life for allegedly selling untaxed cigarettes. Incident

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after incident has demonstrated that there is a pressing need to rethink public safety.

This Article argues that we need to rethink public safety by (1) narrowing the scope of police responses to only violent crimes, on-going crimes, and serious felonies, and (2) creating a team of Civilian Unarmed Public Safety Responders (“CUPSR”) to respond to all other nonviolent crimes.

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“The public calls upon the police to respond to an astounding range of problems and to perform an extraordinary diversity of tasks, all while assuming that police have the expertise and resources to do so. Many of these problems and tasks fall to the police through the default of others: from gaps in government services, to the abandonment of responsibility by private citizens, corporations, and other organizations. This has always been a concern. In recent years, through a more methodical approach to policing, police are increasingly pressing for a more rational distribution of responsibilities based upon a detailed examination of the differing facets of police business.”¹

1. MICHAEL S. SCOTT & HERMAN GOLDSTEIN, CTR. FOR PROBLEM-ORIENTED POLICING, SHIFTING AND SHARING RESPONSIBILITY FOR PUBLIC SAFETY PROBLEMS 7 (2005), https://popcenter.asu.edu/sites/default/files/shifting_sharing_responsibility_for_public_safety_problems.pdf.

I. INTRODUCTION: THE PROBLEMS WITH POLICING

To date, the prevailing public safety model in the United States utilizes a police-centric community policing response.² Police-centric public safety presents police officers as the first response to all 911 dispatch requests—calls that include an extensive range of community issues such as homelessness assistance, nonviolent mental health intervention, traffic violations, noisy parties and other quality-of-life issues, substance abuse disorder incidents, and other societal service activities.³ As a result, police-centric models force daily civilian interactions with armed police officers, which increases the likelihood of violence between officers and nonviolent civilians.⁴ A history of police violence against nonviolent offenders underscores the depth of the crisis. In May of 2020, while responding to a call about a counterfeit \$20 bill, police officer Derek Chauvin, who had a history of violence towards civilians, murdered George Floyd by kneeling on Floyd's neck for over nine minutes.⁵ A few years earlier, in Staten Island, Eric Garner was killed when Officer Pantaleo used an illegal chokehold on Garner that ended his life.⁶ The dispatch call originally reported Garner to be allegedly selling untaxed cigarettes, which is also considered a minor,

2. The ethos of community policing is perhaps best exemplified by the final report of the President's Task Force on 21st century policing commissioned by President Obama. *See generally* PRESIDENT'S TASK FORCE ON 21ST CENTURY POLICING, U.S. DEP'T OF JUST., FINAL REPORT OF THE PRESIDENT'S TASK FORCE ON 21ST CENTURY POLICING (2015), <https://www.govinfo.gov/content/pkg/GOV PUB-J36-PURL-gpo64136/pdf/GOV PUB-J36-PURL-gpo64136.pdf>.

3. *See id.* at 3–4.

4. *See* Simone Weichselbaum & Jamiles Lartey, *What Are Cops Really Thinking When Routine Arrests Turn Violent?*, MARSHALL PROJECT (June 26, 2020, 6:00 AM), <https://www.themarshallproject.org/2020/06/26/what-are-cops-really-thinking-when-routine-arrests-turn-violent>; *see also* Emilee Green & Orleana Peneff, *An Overview of Police Use of Force Policies and Research*, ILL. CRIM. JUST. INFO. AUTH. (Aug. 15, 2022), <https://icjia.illinois.gov/researchhub/articles/an-overview-of-police-use-of-force-policies-and-research> (describing how communities of color and queer communities are more likely to experience police violence despite departmental policies outlining when the use of force would be permitted); *U.S. Data on Police Shootings and Violence*, UNIV. ILL. CHI. L. ENF'T EPIDEMIOLOGY PROJECT (2023), <https://policepi.uic.edu/u-s-data-on-police-shootings-and-violence/>; DEEPAK PREMKUMAR ET AL., PUB. POL'Y INST. CAL., POLICE USE OF FORCE AND MISCONDUCT IN CALIFORNIA 3 (2021), <https://www.ppic.org/publication/police-use-of-force-and-misconduct-in-california/>.

5. *See* Kim Barker & Serge F. Kovaleski, *Officer Who Pressed His Knee on George Floyd's Neck Drew Scrutiny Long Before*, N.Y. TIMES, <https://www.nytimes.com/2020/07/18/us/derek-chauvin-george-floyd.html> (Mar. 29, 2021).

6. Troy Closson, *Officers to Testify About Eric Garner's Death in Long-Delayed Inquiry*, N.Y. TIMES, <https://www.nytimes.com/2021/10/25/nyregion/eric-garner-death-inquiry.html> (Nov. 2, 2021).

nonviolent offense.⁷ Under our current police-centric model, armed police are the first responders to minor nonviolent offenses that should typically result in fines and be handled using nonviolent measures, or which might be handled by civilian, unarmed, trained public safety professionals. Notably, 911 calls reporting violent crimes are a small fraction of calls to the police when compared to the staggering list of nonviolent community needs that police officers address on-scene.⁸ We believe that police should not be the only first responders; instead, we need to create a new first responder entity, which we will call Civilian Unarmed Public Safety Responders (“CUPSR”). In this model, armed police will only respond to violent crimes, serious crimes, and ongoing crimes. CUPSR will be the first responders to all other incidents, such as quality-of-life violations, traffic offenses, mental health crises, substance abuse disorder calls, and more. In fact, many local communities show promising and positive results to limiting armed police dispatch and expanding community-based public safety teams to respond to nonviolent incidents.⁹

To heal the broken trust between police enforcement and local communities, we need to systematically improve public safety by: (1) narrowing the scope of armed police first responders and (2) creating local unarmed and trained civilian public safety forces to respond to all 911 calls except those that indicate the incident is violent, serious, or ongoing. We should not expect police officers to be effective mental health specialists, expert community liaisons, substance use disorder social workers, armed protectors, homelessness case workers, and a variety of other professional qualifications that our communities need and deserve. We propose replacing our current system by rerouting nonviolent calls to locally trained unarmed public safety professionals, which would in turn save financial resources, bolster community trust, and protect lives. Under the proposed model, the armed police would only be dealing with violent crimes, serious crimes, or ongoing crimes.

Our proposed model contains echoes of the solution advanced by Professor Barry Friedman of New York University School of Law but differs in several significant respects.¹⁰ We agree that retraining and expanding emergency dispatchers are required for effectively addressing the social problems that currently require police responses. But we disagree with his argument that generalist first responders are part of

7. *See id.*

8. Nazish Dholakia, *Most 911 Calls Have Nothing to Do With Crime. Why Are We Still Sending Police?*, VERA INST. JUST. (Apr. 22, 2022), <https://www.vera.org/news/most-911-calls-have-nothing-to-do-with-crime-why-are-we-still-sending-police>.

9. *See* discussion *infra* Section III.

10. *See* discussion *infra* Section II.A.

that solution, especially if these first responders are trained in use of force. Rather, we believe that better trained dispatchers can gather enough information from callers to determine what first responder team is the best fit for any particular public safety incident. The civilian unarmed public safety responders will not rely on the implicit threat of force, but will be trained to respond to situations without use of force, as is the case in the several alternative crisis response teams that we discuss later in this paper.¹¹ Armed police will still exist, but will only be sent to respond to situations where use of force is required, such as violent crime, serious crimes, or ongoing crimes. Most calls for law enforcement do not require the use of armed responders, and our proposed solution is responsive to that reality.

Section I describes current policing models and how they fail to properly serve the community and erode public safety. Section II outlines how armed police responses should be limited to violent, on-going, or serious crimes, and how CUPSR teams can better serve the community and improve public safety. Section III outlines how the current armed police response system fails the public it claims to protect in five areas: A) traffic violations; B) mental health crisis response; C) quality-of-life violations and minor, nonviolent offenses; D) individuals with substance use disorders; and E) individuals experiencing homelessness. Section III also outlines how civilian responders can better fill the public safety need in each of these areas.

II. CURRENT POLICING MODELS

In the last few decades, U.S. police enforcement has been divided between two philosophies of policing, one colloquially referred to as “warrior policing” and another adopted during the Obama administration focused on community-based public safety known as “guardian policing.”¹² Traditional American police training focuses primarily on warrior policing, which promotes a philosophy of taking command of community issues through force.¹³ This ultimately exposes the public as well as officers to possible harm.¹⁴ Numerous reports suggest that this form of policing, centered around life-threatening struggle and assertive force, sets the stage for negative encounters and

11. See discussion *infra* Section III (detailing CAHOOTS and other systems).

12. See PRESIDENT’S TASK FORCE ON 21ST CENTURY POLICING, *supra* note 2, at 11–12.

13. Samantha J. Simon, *Training for War: Academy Socialization and Warrior Policing*, 70 SOC. PROBS. 1021, 1024–25 (2021).

14. Seth Stoughton, *Law Enforcement’s “Warrior” Problem*, 128 HARV. L. REV. F. 225, 227 (2015).

escalation.¹⁵ As a result, the power afforded to police officers promotes an unbalanced distribution of power that threatens the safety of the community and officers alike.

A. Warrior Policing Model

Most U.S. police departments operate from the warrior policing model. This model, which teaches officers to prioritize their own safety above all else, stems from a belief that every encounter can become fatal.¹⁶ Officers who operate according to this mentality view members of the public as potential threats, and every situation as a possible encounter that will require the use of deadly force.¹⁷ A law enforcement body that sees the public they are sworn to serve as the enemy will naturally withdraw from that public, forgetting the importance of building connections to the community that the police force is intended to serve and protect,¹⁸ and will operate more as occupiers than as a public safety entity.¹⁹

B. Guardian Policing Model

The “guardian policing” model, proposed in 2015 by President Barack Obama’s Task Force on 21st Century Policing, promotes service over crimefighting.²⁰ The task force was charged with making “recommendations to the President on how policing practices can promote effective crime reduction while building public trust.”²¹ Accordingly, the report grouped its recommendations into six main topic areas that together describe a public safety-based policing model the Task Force believed would decrease violent encounters and build community trust. President Obama’s task force recommended this form of public safety-based policing for two reasons. First, this approach demonstrated a commitment to handling the short- and long-term causes of crime through joint problem-solving between law enforcement and

15. *Id.* at 229–30.

16. Val Van Brocklin, *Warrior vs. Guardians: A Seismic Shift in Policing or Just Semantics?*, POLICE1 (June 30, 2015, 2:02 PM), <https://www.police1.com/21st-century-policing-task-force/articles/warriors-vs-guardians-a-seismic-shift-in-policing-or-just-semantics-EXBkY2pEWCHi6Mni/>.

17. Stoughton, *supra* note 14, at 228.

18. Sue Rahr & Stephen K. Rice, *From Warriors to Guardians: Recommitting American Police Culture to Democratic Ideals*, in NEW PERSPECTIVES IN POLICING 2 (Nat'l Inst. Just. NCJ 248654, 2015), <https://www.ojp.gov/pdffiles1/nij/248654.pdf>.

19. *Id.* at 3–4.

20. See PRESIDENT’S TASK FORCE ON 21ST CENTURY POLICING, *supra* note 2, at 11–12.

21. *Id.* at 79.

other community entities to reduce crime rates and improve collective quality-of-life.²² Second, community-based public safety policing improved officer safety and increased the likelihood of community members to abide by the law.²³

While guardian policing emphasizes a de-escalation of confrontation-based police interactions, it does not recommend disarming or un-arming police officers. And to be clear, there are many challenges to doing so within the United States. Comparisons between U.S. armed policing models with other nation-states suggest that armed policing is no more effective at promoting public safety than non-armed officers and may even encourage more cases of violence and conflict.²⁴ In particular, there are at least nineteen countries that do not arm patrolling police officers and instead offer a philosophy that officers police by consent rather than by threat of force.²⁵ In practice, consent-based policing puts the power in civilians to call on officers for assistance and identify the crisis. In the United Kingdom, for instance, the model of policing maintains that “success is measured not in how many arrests officers have made but rather, by the absence of crime itself.”²⁶ In another example, while police officers in Japan do carry arms, their forces offer a culture of de-escalation rather than violence.²⁷ “[O]fficers rarely use guns and put much greater emphasis on martial arts—all are expected to become a black belt in judo.”²⁸ Consequently, Japanese police officers only killed two people in 2018,²⁹ one of whom was a fellow officer.³⁰ The primary

22. *See id.* at 41.

23. *See id.* at 9–10.

24. *See* Sam Levin, *US Police Have Killed Nearly 600 People in Traffic Stops Since 2017, Data Shows*, GUARDIAN (Apr. 21, 2022, 6:00 AM), <https://www.theguardian.com/us-news/2022/apr/21/us-police-violence-traffic-stop-data>. *See generally* Amelia Cheatham & Lindsay Maizland, *How Police Compare in Different Democracies*, COUNCIL ON FOREIGN RELATIONS, <https://www.cfr.org/backgrounder/how-police-compare-different-democracies> (Mar. 29, 2022, 2:45 PM) (finding the “United States far exceeds most wealthy democracies in killings by police” and that the United States differs in how it trains, arms, and disciplines police officers).

25. Mélissa Godin, *What the U.S. Can Learn from Countries Where Cops Don’t Carry Guns*, TIME (June 19, 2020, 6:18 AM), <https://time.com/5854986/police-reform-defund-unarmed-guns/>.

26. *Id.*

27. Harry Low, *How Japan Has Almost Eradicated Gun Crime*, BBC NEWS (Jan. 6, 2017), <https://www.bbc.com/news/magazine-38365729>.

28. *Id.*

29. Alexi Jones & Wendy Sawyer, *Not Just “A Few Bad Apples”: U.S. Police Kill Civilians at Much Higher Rates Than Other Countries*, PRISON POL’Y INITIATIVE (June 5, 2020), <https://www.prisonpolicy.org/blog/2020/06/05/policekillings/>.

30. *19-Year-Old Police Officer Shoots Colleague Dead in Western Japan*, KYODO NEWS (Apr. 12, 2018, 6:45 PM), <https://english.kyodonews.net/news/2018/04/f9b192050330-police-officer-shot-dead-possibly-by-missing-colleague.html>.

focus in both countries' models looks towards public safety and an overall decrease in crime as markers of success rather than combatting crime through a warrior mentality. These models are in opposition to the current U.S. model where responding officers maintain a presumption of risk and opposition.³¹ We recognize that in the United Kingdom and Japan, civilian gun ownership is severely limited.³² However, we still believe that much of current police activities can be addressed by trained civilian responders, rather than armed police.

It is important to understand that currently in the United States, police spend about 90% of their time on non-crime-related activities, such as administrative and personal activities.³³ Of the 11% of the time that officers spend responding to crime, less than half of that is spent on serious or violent criminal activity.³⁴ Three times as much time is spent on activities that we believe CUPSR should be responsible for, such as responding to traffic violations, mental health incidents, substance abuse calls, quality-of-life episodes, and calls about minor, nonviolent offenses. Professor Friedman notes that police in smaller jurisdictions may spend even less time on crime-solving activities.³⁵ Given this reality, our thesis is that most of the routine calls that police now handle should be directed to a team of civilian unarmed public safety responders ("CUPSR"). Because most 911 calls are for noncriminal events, such as mental health incidents, traffic accidents, substance use disorder incidents, and other nonviolent offenses, the majority of active police time (i.e., time not on patrol or administrative activities) is spent responding to these minor offenses.³⁶ In responding to these mundane problems, police may

31. See Weichselbaum & Lartey, *supra* note 4 ("Police are taught to dominate a situation and get someone in handcuffs as soon as tensions start to flare. If they don't, they risk ending up in a bodybag.").

32. *Plymouth Shooting: Who Can Own a Firearm or Shotgun in the UK?*, BBC NEWS (Aug. 24, 2021), <https://www.bbc.com/news/uk-58198857>; Low, *supra* note 27. See generally Godin, *supra* note 25 ("Studies have found that weaker gun laws correlate with higher rates of killings by police officers, who fear civilians may be carrying a weapon.").

33. These estimates are based on notes collected by trained observers who accompanied officers during their shifts and recorded their behavior. The full list of activities is patrol, 34.76%; administrative, 16.59%; crime-related, 10.93%; personal, 10.64%, backup, 9.34%; traffic, 4.89%; investigative, 3.56%; information gathering, 3.27%; order maintenance, 3.07% and; service, 2.94%. Christine N. Famega, *Proactive Policing by Post and Community Officers*, 55 CRIME & DELINQ. 78, 86, 89 tbl.1 (2009).

34. *Id.* at 90, 91 tbl.2; Barry Friedman, *Disaggregating the Policing Function*, 169 U. PA. L. REV. 925, 949–54 (2021) (describing the results of several studies that track police officer activities and dispatch records).

35. Friedman, *supra* note 34 at 949.

36. See Jeff Asher & Ben Horwitz, *How Do the Police Actually Spend Their Time?*, N.Y. TIMES, <https://www.nytimes.com/2020/06/19/upshot/unrest-police-time-violent-crime.html> (Nov. 8, 2021).

needlessly escalate the situation due to the threat of force that an armed officer represents and to the easy availability of weapons that officers have access to when responding to incidents.³⁷ Recognizing the need to prevent nonviolent and minor offenses from escalating and using the international alternative policing models as a guide, we recommend a third model of policing in the form of unarmed and trained civilian-based public safety forces to address all nonviolent and minor offenses. An unarmed force of trained investigators, traffic and civilian patrol monitors, mental health and social welfare professionals, and others would ensure that nonviolent offenses were met without the threat or possibility of weapon-related violence. Furthermore, this would be more effective because it is difficult to train police officers in all the services that are required to respond effectively to all public safety issues within a community.

In contrast, a team of civilian unarmed public safety responders would be trained in de-escalation, problem-solving, treatment, services, and providing care to individuals undergoing a crisis. Rather than punishment or prosecution, this civilian team would provide detoxification services and addiction specialists as the first responder to someone experiencing substance use disorder rather than having an armed police officer arrest them. Creating a civilian-based public safety model of policing would therefore reinstate the local communities as guardians of their own people and ensure that the armed police forces only respond to violent and/or on-going offenses. In addition, unlike unionized police, CUPSR would be employees at will, with regular evaluations of their work that would be accessible to the public. Community members would be encouraged to have public meetings with CUPSR members and to provide feedback on their services. A model like this ensures that members of CUPSR are accountable to the public and to their communities in ways that armed police forces are not.

C. Consequences of Over-Policing by Armed Police

A police-centric public safety model enflames the crises of gun violence and police brutality, especially within primarily Black, Indigenous, or people of color (“BIPOC”) communities.³⁸ In the last decade, there have been a rise of social movements creating community awareness in response to police brutality. Community action against

37. See Timothy Williams, *Long Taught to Use Force, Police Warily Learn to De-escalate*, N.Y. TIMES (June 27, 2015), <https://www.nytimes.com/2015/06/28/us/long-taught-to-use-force-police-warily-learn-to-de-escalate.html>.

38. See Sirry Alang et al., *Police Brutality and Black Health: Setting the Agenda for Public Health Scholars*, 107 AM. J. PUB. HEALTH 662, 662, 665 (2017).

racially motivated police brutality spiked after a series of publicly discussed police killings, including Michael Brown, who was killed by officer Darren Wilson who said he acted in self-defense.³⁹ Overall trust in police institutions dropped dramatically, with 2015 experiencing the lowest public attitude towards the police in decades.⁴⁰

With increasing public demand for police accountability,⁴¹ independent organizations began collecting data nationwide to report on the extent of fatalities and violence at the hands of police officers. One example of these efforts is the Washington Post, which started the Fatal Force Project in 2015, tracking civilian fatalities at the hands of police officers using deadly force.⁴² Using local news accounts and headlines, the Fatal Force Project found 991 fatalities at the hands of police in 2015; 984 fatalities in 2017, and 992 fatalities reported in 2018.⁴³ At least 1,201 people were killed by police officers in the United States in 2022.⁴⁴ On average, more than 1,000 civilians die each year at the hands of police officers in the United States.⁴⁵ Comparatively, in Germany and the United Kingdom combined, police kill only ten people per year.⁴⁶ The continued death of United States civilians sounds an alarm to both the continued racial bias in law enforcement, as well as the need to better understand regional differences in the use of deadly force and how that

39. Haya Panjwani, *From Ferguson to Minneapolis, AP Reporters Recall Flashpoints of the Black Lives Matter Movement*, ASSOCIATED PRESS, <https://apnews.com/article/michael-brown-george-floyd-black-lives-matter-9b78cfb1d4e7134af2e1715f04538596> (Aug. 23, 2024, 10:01 AM). See generally DEPT OF JUST., DEPARTMENT OF JUSTICE REPORT REGARDING THE CRIMINAL INVESTIGATION INTO THE SHOOTING DEATH OF MICHAEL BROWN BY FERGUSON, MISSOURI POLICE OFFICER DARREN WILSON 12 (2015), <https://www.govinfo.gov/content/pkg/GOVPUB-J-PURL-gpo55759/pdf/GOVPUB-J-PURL-gpo55759.pdf>.

40. Jeffrey M. Jones, *In U.S., Confidence in Police Lowest in 22 Years*, GALLUP (June 19, 2015), <http://www.gallup.com/poll/183704/confidence-police-lowest-years.aspx>.

41. See, e.g., Redditt Hudson, *Police Officers Who Violate Citizens' Rights Must be Punished. Accountability Is the Only Way Forward*, GUARDIAN (Dec. 30, 2014, 7:21 AM), <https://www.theguardian.com/commentisfree/2014/dec/30/police-officers-violate-rights-punished-accountability>.

42. *Fatal Force*, WASH. POST., <https://www.washingtonpost.com/graphics/investigations/police-shootings-database/> (Dec. 31, 2024).

43. *Id.*

44. *2022 Police Violence Report*, MAPPING POLICE VIOLENCE, <https://policeviolencereport.org/2022/> (last visited May 13, 2025).

45. *Number of People Shot to Death by the Police in the United States from 2017 to 2024, by Race*, STATISTA (Feb. 6, 2025), <https://www.statista.com/statistics/585152/people-shot-to-death-by-us-police-by-race/>.

46. Brendan O'Flaherty & Rajiv Sethi, *How Fear Contributes to Cops' Use of Deadly Force*, MARSHALL PROJECT (May 1, 2019, 6:00 AM), <https://www.themarshallproject.org/2019/05/01/can-understanding-fear-mitigate-police-violence>.

is influenced by historically eroded trust between officers and community members.⁴⁷

With grassroots movements such as Black Lives Matter bringing national attention to BIPOC fatalities at the hands of police, community relations have further deteriorated between community members and police departments, with police officers reporting an increase in fear for personal safety over the last decade. In a 2017 Pew study, out of 7,917 police officers surveyed, about nine out of ten of them felt less safe following the recent high-profile shootings of police officers by civilians.⁴⁸ With decreasing trust between BIPOC communities and armed police officers, both officers and civilians face fear of escalated violence during routine encounters. This is especially true in the United States where 42% of U.S. households own a firearm as of 2023, according to Statista.⁴⁹ Police are trained to believe, and experientially understand, that a confronted civilian could be armed at any time.⁵⁰ During a time of particularly low community trust, otherwise routine encounters may therefore quickly escalate to police violence when a cocktail of pre-existing racial bias and local training models mixes with increased fear and mistrust. Civilians are highly aware that a police officer is armed and could utilize their service weapon at any potential sign of a perceived threat. The combination of fear and firearms creates a significant increase in the potential for fatalities.

Major cities across the United States experience vastly different rates of racially motivated police violence. For example,

[B]lack residents of Houston are four times more likely to face deadly force than whites; [B]lack residents of New York and Los Angeles are six to seven times more likely to die in police shootings, and black residents of Chicago are 18 times more likely to be killed by police. Yet regional differences in the overall incidence of lethal force are so great that whites in Houston have a higher likelihood of being killed by police than [B]lack residents of New York City do.⁵¹

47. *See id.* (detailing racial disparities and geographic differences in the rate of killing by police).

48. RICH MORIN ET AL., PEW RSCH. CTR., BEHIND THE BADGE 5, 7 (2017), https://www.pewresearch.org/wp-content/uploads/sites/20/2017/01/Police-Report_FINAL_web.pdf.

49. *Firearms in the U.S.—Statistics & Facts*, STATISTA (Oct. 28, 2024), <https://www.statista.com/topics/1287/firearms-in-the-us/>.

50. Stoughton, *supra* note 14, at 228.

51. O'Flaherty & Sethi, *supra* note 46.

As such, historical disparities between major cities in the United States experiencing racially motivated police violence provide insight into how fear between police and local communities has escalated in the present-day and contributes to police-related fatalities.

III. PROPOSED MODEL TO RETHINK PUBLIC SAFETY AND POLICING

The first step in solving the current over-policing problem is determining what an alternative public safety model should look like. We must ask: who should respond to a mental health crisis? Who should pull drivers over for traffic violations? Who should address quality-of-life violations? Should it be armed police officers who are not extensively trained in de-escalation techniques? Or should it be unarmed professionals trained in problem-solving, mental health response, de-escalation techniques, counseling, support, and medical responses? We propose, prefer, and argue for the latter. Public safety should be reformed by: (1) narrowing the scope of our armed police forces to respond only to violent crimes, ongoing crimes, and serious felonies, and (2) creating a civilian, unarmed public safety response team to address nonviolent crimes and other 911 calls for assistance.⁵²

A. Narrowing the Scope of Police Response to Only Violent, On-going, or Serious Crimes

One of the most important steps towards promoting public safety in the United States is to limit the responsibilities of armed law police officers. Armed police should have their duties tailored to what many officers see as their main purpose: responding to ongoing crimes, violent crimes, and serious felonies.⁵³ While police training reflects this belief that police will be responding to violent crime and thus prepares trainees to respond to high-intensity situations where the use of force is required,⁵⁴ in reality, as noted earlier, police officers only spend 5% to 6% of their time addressing serious crime.⁵⁵ Most of the time, police are tasked with confronting a high quantity and broad range of problems, such as addressing individuals experiencing homelessness or dealing

52. See Derek Thompson, *Unbundle the Police*, ATLANTIC (June 11, 2020), <https://www.theatlantic.com/ideas/archive/2020/06/unbundle-police/612913/>. While Thompson's piece describes breaking out and separating the police functions into different agencies, we find that armed police in general are not necessary in most applications, and therefore, can be replaced by unarmed responders.

53. See Friedman, *supra* note 34, at 945, 954.

54. See Stoughton, *supra* note 14, at 227.

55. See Friedman, *supra* note 34, at 949.

with traffic issues, mental health crises, and substance use disorder incidents, among others.⁵⁶ Because police are trained to respond using force, it is therefore no surprise that harm results when armed police are the first responders to these situations.⁵⁷

Professor Barry Friedman argues that achieving public safety requires asking three questions of any application of armed law enforcement: 1) determining what the police are being asked to do in a given situation; 2) establishing whether an armed police response to this problem makes the issue better or worse; and 3) understanding whether the circumstances leading to the call are something that society should address without using armed law enforcement.⁵⁸ He states that truly achieving public safety will require a reconsideration of what police are supposed to do, and he makes several suggestions to narrow the scope of policing responsibilities: 1) restructuring officer training, 2) rethinking the role of police, and 3) rethinking how government responds to social problems that are the root of most crime.⁵⁹

Friedman argues that restructuring police training would allow for more specialization and effectiveness, rather than police who are trained almost exclusively in force and law and then asked to serve as “empathic interviewer and assister of victims, collaborator with communities and social service agencies, solver of crimes.”⁶⁰ We disagree. Even if under Friedman’s proposed system all these roles are not expected to be served by every officer, it is not enough to train only a few officers in nonviolent conflict resolution. The balance between force and nonviolent problem-solving cannot be addressed by mere reforms to the current policing system. We need to rethink the way we ensure public safety by separating the activities that currently take up most of an officer’s time and do not require armed police, such as responding to minor, nonviolent offenses, from the armed policing function. While we applaud Professor Friedman for highlighting the critical issue that police spend no more than 11%⁶¹ of their time responding to crime, and we agree that we need a better and different way of responding to the vast majority of 911 calls, we disagree in what that response should look like.

We believe that for the nonviolent calls outlined earlier, armed police and the use of force should not be in the background, but should be a last

56. See Thompson, *supra* note 52.

57. See Friedman, *supra* note 34, at 926.

58. *Id.* at 931.

59. *Id.* at 934.

60. *Id.* at 981.

61. Friedman, *supra* note 34, at 949.

resort and called only by the unarmed first responders.⁶² We believe that existing governmental agencies and social workers lack the resources to respond to all of the minor 911 calls that take up most of a police officer's time currently, and that a new agency, such as CUPSR is required.⁶³ We also disagree that any amount of training provided to armed police officers can equip them to respond appropriately to nonviolent and routine calls.⁶⁴ We propose that the solution is creating a new agency of civilian unarmed public safety responders ("CUPSR") that would be tasked with responding to the vast majority of calls that do not require armed police response. Our proposal builds on Friedman's work, but our ultimate proposal for dealing with the tasks that currently fall to armed police are quite different.

For example, as we stated, armed force should not be in the background when responding to the wide array of nonviolent calls that we have previously outlined. The mere presence of armed police escalates these situations, and data from nonviolent response organizations show that most of these types of calls do not require an armed police response.⁶⁵ Indeed, since 2019, CAHOOTS only required armed police backup 2% of the time.⁶⁶ The idea that we can solve some of the issues created by armed police involvement through better training for police officers cuts against all the research demonstrating that armed police presence results in situations escalating.⁶⁷ The proposal that existing government agencies

62. *Contra id.* at 956 (Some problems that people call the police for "may require the presence of force, though that force should perhaps be at the background.").

63. *Contra id.* at 986–90 (discussing how other agencies can be involved in responding to calls where police response does not serve to address the underlying issue).

64. As noted earlier, armed officers responding to unarmed civilians can create a cocktail of fear and violence, which is why we do not want them responding to these calls when they do not involve serious crime, ongoing crime, or felony crime. *See* discussion *supra* Section I.C.

65. *See* Clare Farmer & Richard Evans, *Do Police Need Guns? The Nexus Between Routinely Armed Police and Safety*, 25 INT'L J. HUM. RTS. 1070, 1083 (2021) (describing how the data supports challenging the routine presence of armed police as ensuring community safety).

66. EUGENE POLICE CRIME ANALYSIS UNIT, CAHOOTS PROGRAM ANALYSIS 2021 UPDATE (2022), <https://www.eugene-or.gov/DocumentCenter/View/66051/CAHOOTS-program-analysis-2021-update>. CAHOOTS is a nonviolent crisis intervention program in Eugene, Oregon that we discuss at length later in this Article. *See* discussion *infra* notes 168–69.

67. AM. C. L. UNION, WAR COMES HOME: THE EXCESSIVE MILITARIZATION OF AMERICAN POLICING 39–40 (2014), <https://www.aclu.org/publications/war-comes-home-excessive-militarization-american-police> ("[A]lthough some police officers often argue that excessively militarized weapons and tactics are needed to prevent violence, these wartime tools and tactics often have the opposite effect of escalating the risk of violence."). At the same time, studies show a correlation between trauma or anxiety symptoms and interactions with the

address these calls is not an adequate solution because there is no agency besides armed law enforcement that currently has the wherewithal to appropriately respond to the wide array of problems that police are tasked with resolving. With respect to Friedman's suggestion that social workers and community groups be utilized in response to these nonviolent incidents, it seems apparent that these groups also lack the capacity to engage in the full spectrum of public safety responsibilities outlined in this paper. We believe that these encounters could be more satisfactorily resolved, without resort to violence or the threat of violence if community members encountered CUPSR members, who would be focused on problem-solving, counseling, treatment options, and providing appropriate resources, rather than encountering police officers who focus on prosecution and punishment.

Several communities have found success with alternative methods of ensuring public safety that rely less heavily on armed officer response. A Brooklyn neighborhood has experimented with letting community organizations respond to 911 calls for five-day periods several times a year since 2020.⁶⁸ The Brownsville Safety Alliance, a coalition of community groups made up of local civilians, organized to prevent minor incidents from escalating into violence or further crime, while social work agencies share information on child care, addiction support, and educational opportunities.⁶⁹ This program, which has recurred several times a year since the pilot in December 2020, can be read as one cause of decreased crime in Brownsville, even as crime has risen in other neighborhoods.⁷⁰ Civilian led public safety organizations like this have also served a social work function, finding housing and providing additional resources for those in need.⁷¹

B. Creating a New Infrastructure and Architecture for a System of Civilian Unarmed Public Safety Responders

Once we narrow the scope of armed police interactions, we will need to create an alternative body of first responders for the nonviolent and minor offenses that police would no longer address. We will need to create

police. See Amanda Geller et al., *Aggressive Policing and the Mental Health of Young Urban Men*, 104 AM. J. PUB. HEALTH 2321 (2014).

68. Maria Cramer, *What Happened When a Brooklyn Neighborhood Policed Itself for Five Days*, N.Y. TIMES, <https://www.nytimes.com/2023/06/04/nyregion/brooklyn-brownsville-no-police.html> (June 12, 2023).

69. Yoav Gonon & Eileen Grench, *Five Days Without Cops: Could Brooklyn Policing Experiment Be a 'Model for the Future'?*, CITY, <https://www.thecity.nyc/2021/01/03/nypd-cops-brooklyn-brownsville-experiment-defund-police/> (Oct. 12, 2023, 7:47 AM).

70. Cramer, *supra* note 68.

71. *Id.*

an alternative first responder infrastructure. This Article proposes the creation of a system of civilian unarmed public safety responders (“CUPSR”) to address all issues except violent crime, serious crime, and ongoing crime. CUPSRs would consist of professionals including community-trained mediators, trained civilian investigators, social workers, emergency medical technicians, traffic monitors, and quality-of-life monitors. Together, CUPSRs would focus on violence prevention in areas where armed police are not necessary. Specifically, CUPSRs will respond to nonviolent 911 calls and mental health crises, address traffic violations, and monitor quality-of-life on the streets.

We recommend that CUPSRs be operated and staffed through the mayors’ offices, operating separately—financially and managerially—from the local police departments. Training would focus primarily on de-escalation techniques, negotiation skills, appropriate mental health crisis response, medical issues relating to substance use disorder, and techniques for working with homeless populations. The Civilian Unarmed Public Safety Responder system we envision would train social workers, emergency medical technicians, traffic monitors, investigators for minor nonviolent crimes, and violence prevention advocates. This would optimize the scope of the training and services CUPSR would be able to provide to the community and therefore limit police involvement in many circumstances.

1. Creating a Strategic and Intelligent 911 Dispatch System

While CUPSR might be operated through mayors’ offices, it can collaborate with the local police and fire departments and EMS by diverting calls from 911. As currently utilized with the CAHOOTS program in Eugene, Oregon and the Behavioral Health Call Diversion program in Abilene, Texas, police dispatchers can be trained to identify when calls should be diverted to CUPSR, and when they should be responded to by armed police, firefighters, or EMTs.⁷² Specifically, dispatchers would be trained in how to question individuals regarding their ongoing situation and to then ascertain whether the situation requires an armed response or a response from the CUPSR. Dispatchers would look for signs and buzz words that would indicate the situation either is or could quickly become violent, a weapon may be involved, or

72. Amos Irwin & Betsy Pearl, *The Community Responder Model: How Cities Can Send the Right Responder to Every 911 Call*, CTR. FOR AM. PROGRESS (Oct. 28, 2020), <https://www.americanprogress.org/article/community-responder-model/>. In the two programs specifically called here, dispatchers are able to direct the call to the appropriate responder, whether that is a mental health clinician over the phone or an in-person response team.

the individual is suicidal or homicidal. They would also be trained to ask questions that would indicate whether there may be an individual undergoing a mental health crisis. Unlike many police, members of CUPSR would be adequately trained in mental health issues and de-escalation techniques. The dispatchers' assessment would be key in distinguishing between circumstances requiring a member of the CUPSR as the first responder as opposed to a police officer.

To create CUPSR, we propose building upon public safety models already in place across the country, some of which have been operating for over thirty years.⁷³ We can learn from and build upon their best practices by analyzing established public safety models. These models have demonstrated that removing armed police from nonviolent situations reduces the risk of fatality and violence.

IV. UTILIZING THE PROPOSED CIVILIAN UNARMED PUBLIC SAFETY RESPONDERS TO ADDRESS FIVE TYPES OF VIOLATIONS

“Police officers are . . . trained to see people as potential threats, and they tend to view the situations they face through the prism of criminality. Their presence and behavior often escalates situations and can increase the chances of violence.”

Beth Haroules & Simon McCormack, NYCLU⁷⁴

A. Traffic Violations

Traffic stops and traffic related incidents currently account for the majority of police contact with civilians.⁷⁵ A 2020 report on police and civilian interactions by the Department of Justice and Bureau of Justice Statistics found that of the nearly fifty-four million Americans who had police contact in 2020, more than twenty million reported that the police contact stemmed from a traffic stop as a driver or passenger, with an additional eight million reporting that the contact was the result of a

73. See *infra* note 183 and accompanying text.

74. Beth Haroules & Simon McCormack, *We Can't Police Our Way Out of Homelessness and Mental Health Crises*, NYCLU (Mar. 24, 2022), <https://www.nyclu.org/commentary/we-can't-police-our-way-out-homelessness-and-mental-health-crises>.

75. Rowan Moore Gerety, *An Alternative to Police that Police can Get Behind*, ATLANTIC (Dec. 28, 2020), <https://www.theatlantic.com/politics/archive/2020/12/calebs-program-may-reduce-likelihood-of-police-violence/617477/>. See also Roge Karma, *4 Ideas to Replace Traditional Police Officers*, VOX (June 24, 2020, 7:30 AM), <https://www.vox.com/2020/6/24/21296881/unbundle-defund-the-police-george-floyd-rayshard-brooks-violence-european-policing>.

traffic accident.⁷⁶ This means that at least 54.7% of all police contacts in 2020 were due to traffic-related incidents.⁷⁷ Common traffic violations were primarily nonviolent minor public safety offenses such as failure to stop at a red light, failure to signal, passing in a no-passing zone, speeding, and failure to wear a seat belt.⁷⁸

1. Current State of Traffic Offense Policing

A *New York Times* investigation reported that at least twenty states evaluate police performance based on traffic stops per hour, and that in order to keep government grants, some departments set quotas for their officers.⁷⁹ A Virginia police chief wrote to his officers to remind them that there was “zero tolerance” on the requirement that they write at least two tickets an hour while working on patrols funded by National Highway Traffic Safety Administration (“NHTSA”) grants.⁸⁰ Despite a spokesperson for the NHTSA saying that it does not “encourage or require quotas or targets for grant recipients,” similar “grant time” quotas were reported in both Arkansas and South Dakota.⁸¹ Not only are police departments incentivized to make traffic stops in order to keep grant money, but the *Times* reporters also found that “[o]ver 730 municipalities rely on fines and fees for at least 10 percent of their revenue”; in some communities, this is enough to pay the entire police force.⁸² The *New York Times* has found that the prevalence of these stops has led to driving being “one of the most common daily routines during which people have been shot, [t]ased, beaten or arrested after minor offenses.”⁸³

If traffic stops are the leading interaction with police and the most common event leading to police use of force for a minor offense, how then, can the NHTSA justify this as a highway “safety” program? The ethos behind the usage of grant money in this way is a concept called High

76. SUSANNAH N. TAPP & ELIZABETH J. DAVIS, BUREAU OF JUST. STAT., NCJ 304527, CONTACTS BETWEEN POLICE AND THE PUBLIC, 2020, at 2 fig.1 (2024).

77. *Id.* Many of the additional eight and a half million Americans who called the police to report a noncrime emergency were responding to a traffic accident that they were not involved in. *See id.*

78. *See* Emma Johnson, *The Five Most Common Traffic Violations*, SAFER AMERICA (Apr. 13, 2023), <https://safer-america.com/five-common-traffic-violations/>.

79. Mike McIntire & Michael H. Keller, *The Demand for Money Behind Many Police Traffic Stops*, N.Y. TIMES, <https://www.nytimes.com/2021/10/31/us/police-ticket-quotas-money-funding.html> (Nov. 2, 2021).

80. *Id.*

81. *Id.*

82. *Id.*

83. *Id.*

Visibility Enforcement (“HVE”).⁸⁴ The NHTSA describes HVE as “a universal traffic safety approach designed to create deterrence and change unlawful traffic behaviors” by combining “highly visible and proactive law enforcement” to target specific traffic safety issues and “promote voluntary compliance with the law.”⁸⁵ In other words, the philosophy behind HVE is that if the punishment for traffic safety offenses are highly visible and widely enforced, the public is more likely to voluntarily abide by traffic laws to avoid certain punishments.⁸⁶ In Springfield, Massachusetts, the police chief reported seventy-nine citations (including five criminal complaints) resulting from one day’s HVE operation and over 430 citations in a five-week period of implementing HVE tactics.⁸⁷ In theory, these citations would lead to fewer violations of traffic safety laws in the future, but the cost and consequences of HVE can also be deadly.

2. Costs and Consequences of Armed Police Involvement in Policing Traffic Offenses

Professor Sarah A. Seo of Columbia Law School and author of *Policing the Open Road: How Cars Transformed American Freedom* explained the consequences that arise from police control of traffic stops: “Because everybody on the road violates traffic laws, that allows the police, who are also in charge of criminal law enforcement, to investigate crime without meeting any of the standards required for criminal investigation.”⁸⁸ This practice is known as pretextual policing.⁸⁹ According to the NHTSA, HVE’s ability to monitor traffic safety violations *and* identify and address other instances of crime is intentional and desirable.⁹⁰ Regarding the placement of HVE operations, the NHTSA HVE Toolkit previously recommended that “[h]igh visibility enforcement should be conducted in locations that are chosen based on data. . . . Using

84. *High Visibility Enforcement (HVE) Toolkit*, NAT'L HIGHWAY TRAFFIC SAFETY ADMIN., <https://www.nhtsa.gov/enforcement-justice-services/high-visibility-enforcement-hve-toolkit> [<https://web.archive.org/web/20220707155323/https://www.nhtsa.gov/enforcement-justice-services/high-visibility-enforcement-hve-toolkit>] (last visited May 13, 2025).

85. *Id.*

86. *Id.*

87. *High Visibility Enforcement Leads to 79 Citations Wednesday*, SPRINGFIELD POLICE DEP'T (Dec. 16, 2021), <https://springfieldmapolice.com/high-visibility-enforcement-leads-to-79-citations-wednesday/>.

88. McIntire & Keller, *supra* note 79. See generally Sarah A. Seo, COLUM. L. SCH., <https://www.law.columbia.edu/faculty/sarah-seo> (last visited May 13, 2025) (listing Professor Seo’s academic works).

89. See *Pretextual Traffic Stops*, POLICING PROJECT N.Y.U., <https://www.policingproject.org/pretextual-traffic> (last visited May 13, 2025).

90. *High Visibility Enforcement (HVE) Toolkit*, *supra* note 84.

geo-mapping to identify ‘hot spots’—areas of high incidence of crimes and crashes—will help you target locations where your enforcement can play two roles in fighting crime and reducing crashes and traffic violations.”⁹¹ Following this approach, instead of focusing on traffic safety alone, the NHTSA and police are now attempting to address two priorities at once—both traffic safety and the policing of crime that officers would otherwise not have had reason or ability to investigate. The combination of these priorities allows police to use their power to make traffic stops as a pretextual excuse to investigate suspected crime for which they do not have probable cause or reasonable articulated suspicion.⁹²

In particular, a pretextual traffic stop occurs when an officer suspects a motorist of a crime but does not have adequate legal cause to stop the person; instead, the officer waits for the driver to commit any minor traffic violation, such as rolling through a stop sign or seatbelt violations, in order to make a stop and open the door to investigate a possible crime unrelated to the stop.⁹³ The power of the police to engage in pretextual traffic stops is alarming and can have dire results, as shown by the cases of Philando Castile and Daunte Wright, who were killed by police during pretextual stops.⁹⁴ Not only do pretextual traffic stops often lead to police use of force, but the Policing Project at the NYU School of Law found that they do little to reduce crime.⁹⁵ The Policing Project found, for instance, that in the case of the Metropolitan Nashville Police Department, the HVE tactic of “making large numbers of stops in high crime neighborhoods does not appear to have any effect on crime.”⁹⁶ In addition

91. *Id.* The language quoted here has since changed to remove the statement about fighting crime but is available at the archival link provided in note 84.

92. See Max Carter-Oberstone, *America’s Traffic Laws Give Police Way Too Much Power*, TIME (May 11, 2022, 4:45 PM), <https://time.com/6175852/pretextual-traffic-stops/>.

93. *Id.*

94. *Id.*

95. *Id.*; see also *Reevaluating Traffic Stops in Nashville*, POLICING PROJECT N.Y.U., <https://www.policingproject.org/nashville> (last visited May 13, 2025).

96. *Reevaluating Traffic Stops in Nashville*, *supra* note 95. “Stop and frisk” has likewise been found to be ineffective at actually reducing crime rates and the sources below are provided as a basis for comparison. Ames Grawert & James Cullen, *Fact Sheet: Stop and Frisk’s Effect on Crime in New York City*, BRENNAN CTR. FOR JUST. (Oct. 7, 2016), <https://www.brennancenter.org/our-work/research-reports/fact-sheet-stop-and-frisks-effect-crime-new-york-city>; Floyd v. City of New York, 959 F. Supp. 2d 540, 573 (S.D.N.Y. 2013) (finding that 88% of the 4.4 million stops conducted by the NYPD between January 2004 and June 2012 did not result in further law enforcement action). *But see* Kevin Petersen et al., *Police Stops to Reduce Crime: A Systematic Review and Meta-Analysis*, CAMPBELL SYSTEMATIC REVIEWS, 2023, at 1, 36 (finding that high-volume pedestrian stops may have an impact in reducing crime while also leading to negative effects on individuals subject to the stops, such as worsening health and attitudes towards police, and elevated levels of delinquent behavior).

to being ineffective and dangerous, pretextual traffic stops disproportionately impact Black and Hispanic drivers.⁹⁷ The Stanford Open Policing Project found that across the country, Black drivers are typically stopped at higher rates than White drivers.⁹⁸ Furthermore, the project found that in almost every jurisdiction, once stopped, Black and Hispanic drivers are searched more often than White drivers.⁹⁹ Despite the evidence that pretextual police traffic stops are ineffective and dangerous, the law allows officers to engage in this sort of stop.¹⁰⁰

The NHTSA currently issues over \$500 million in grant money annually as a part of the Department of Transportation's Highway Safety Grants Program.¹⁰¹ The code that dictates how these funds are to be used contains language that favors the use of armed police officers, and in some cases entirely bans alternative approaches.¹⁰² States are explicitly prohibited from using grant money "to carry out a program to purchase, operate, or maintain an automated traffic enforcement system" including "any camera which captures an image of a vehicle for the purposes only of red light and speed enforcement, and does not include hand held radar and other devices operated by law enforcement officers to make an on-the-scene traffic stop."¹⁰³ The clause seeks to ensure that police authority is the sole enforcement mechanism for traffic safety. This policy arbitrarily limits alternative approaches backed by research,¹⁰⁴ instead prioritizing the number of hours available for police to work.

Despite NHTSA restrictions on how funds can be used, technology, such as cameras and speed monitors, should be used to automatically

97. *See Findings*, STAN. OPEN POLICING PROJECT, <https://openpolicing.stanford.edu/findings/> (last visited May 13, 2025); *see also "Driving While Black" in Maryland*, ACLU, <https://www.aclu.org/cases/driving-while-black-maryland> (Feb. 2, 2010); *Color of Driver is Key to Stops in I-95 Videos*, ORLANDO SENTINEL, <https://www.orlandosentinel.com/1992/08/23/color-of-driver-is-key-to-stops-in-i-95-videos> (July 25, 2021, 2:02 PM); *Reevaluating Traffic Stops in Nashville*, *supra* note 95.

98. *Findings*, *supra* note 97.

99. *Id.*; *see also* Eugenia H. Rho et al., *Escalated Police Stops of Black Men are Linguistically and Psychologically Distinct in Their Earliest Moments*, PNAS, 2023, at 1, 1 ("In addition to being stopped at higher rates, Black drivers are more likely to be handcuffed, searched, and arrested than any other racial demographic.").

100. *See Whren v. United States*, 517 U.S. 806, 812–13 (1996); *see also* Carter-Oberstone, *supra* note 92; *Reevaluating Traffic Stops in Nashville*, *supra* note 95.

101. *Highway Safety Grant Programs*, NAT'L HIGHWAY TRAFFIC SAFETY ADMIN., <https://www.nhtsa.gov/highway-safety-grants-program> (last visited May 13, 2025).

102. *See* 23 C.F.R. § 1300.13(g) (2023).

103. 23 U.S.C. §§ 402(c)(4)(A)–(B). We read the prohibition on automated traffic enforcement systems to only permit speed enforcement when operated by law enforcement officers. Our proposal would allow for civilian traffic monitors, who appear to be prohibited by this statute, depending on the definition of the term "law enforcement."

104. *See* discussion *infra* Section III.A.iii.

monitor traffic behavior and issue citations.¹⁰⁵ This would significantly reduce violent incidents where police harass people of color due to minor traffic violations. Moreover, such automatic monitoring would reduce the ability of police to use traffic stops as a pretense to search vehicles and the individuals driving them. To address the deadly consequences arising from pretextual police stops, a reallocation of funds is required. One way to accomplish this is to separate funds for traffic safety enforcement from funds allocated to policing and criminal enforcement. With this solution and revision, the same principles that underlie HVE could be implemented without being married to enforcement of criminal activities. In particular, through the use of non-police traffic safety teams and automated traffic enforcement systems such as speed cameras, the two programs could coexist.¹⁰⁶ Furthermore, language limiting the use of technology and civilian traffic monitors should be eliminated from the federal code governing the use of grant money.

3. Promising Practices in Traffic Policing

The bulk of traffic offenses do not require the response of armed police officers. When armed officers do respond, they often make traffic stops more dangerous, as in the killings of unarmed civilians like Duante Wright and Terrence Sterling.¹⁰⁷ Instead, traffic offenses can be dealt with by unarmed traffic monitors who can issue citations, or by technology.¹⁰⁸ This is not a novel concept; some countries already do this.¹⁰⁹ For example, in the United Kingdom, the officers assigned to public safety and traffic monitoring do not carry weapons.¹¹⁰

105. *See generally What's the Difference Between Traffic Cameras, Red Light Cameras, and Speed Cameras?*, RADENSO (May 11, 2018), <https://radenso.com/blogs/radar-university/what-s-the-difference-between-traffic-cameras-red-light-cameras-and-speed-cameras>.

106. VERA INST. JUST., INVESTING IN EVIDENCE-BASED ALTERNATIVES TO POLICING: NON-POLICE RESPONSES TO TRAFFIC SAFETY 2 (2021), <https://www.vera.org/downloads/publications/alternatives-to-policing-traffic-enforcement-fact-sheet.pdf>.

107. *See, e.g.*, Carter-Oberstone, *supra* note 92; Keith L. Alexander, *District Reaches \$3.5 Million Settlement with Family of Unarmed Motorcyclist Shot Dead by Police Officer*, WASH. POST (Feb. 21, 2018), https://www.washingtonpost.com/local/public-safety/dc-settles-with-family-of-fatally-shot-unarmed-motorcyclist-by-police-officer-for-35-million/2018/02/21/4a732138-159e-11e8-8b08-027a6ccb38eb_story.html (detailing wrongful death suit against officer who shot and killed Terrence Sterling after being pulling him over for reckless driving).

108. VERA INST. JUST., *supra* note 106. *See generally* CHUCK DEWEESE, GOVERNORS HIGHWAY SAFETY ASS'N, AUTOMATED ENFORCEMENT IN A NEW ERA 5 (Katherine R. Hutt ed., 2023), https://www.ghsa.org/sites/default/files/2024-12/AE_newera_12-5-23_0.pdf (outlining how best to implement automated enforcement technology).

109. Karma, *supra* note 75.

110. *Id.*

The concept of unarmed, civilian traffic safety monitors has been making its way into the United States as well, with multiple cities creating proposals to begin replacing police as first responders with trained professionals in various specialized fields.¹¹¹ In July 2020, city council members in Berkeley, California approved a reform measure calling for “the creation of a separate city department to handle the enforcement of parking and traffic laws.”¹¹² Also in 2020, two city councilors in Cambridge, Massachusetts proposed a reform which would let Cambridge city workers take over traffic enforcement duties from Cambridge Police.¹¹³ Similarly, the city of Boston, Massachusetts, uses unarmed, civilian Parking Clerks to enforce parking violations within the city.¹¹⁴ The Parking Clerk department specifically handles parking tickets and all resident parking.¹¹⁵ Many other towns and cities in Massachusetts have created similar departments.¹¹⁶ Following the example of these municipalities, these departments could easily be expanded to include monitoring other traffic-related offenses rather than simply focusing on parking alone.

4. How the CUPSR Can Better Address Traffic Offenses

Using these models as an example, we plan on building a system that combines automated traffic enforcement with trained unarmed traffic monitors. This would fall under the umbrella of CUPSR and could be funded using existing NHTSA grants. As noted above, the existing grants require law enforcement to monitor traffic violations.¹¹⁷ Updating the definition of law enforcement officers to include members of CUPSR would allow our proposed system of unarmed civilian monitors to access funds that are currently used to support armed police traffic monitoring. These traffic monitors would not have formal arrest powers or search

111. See, e.g., Sam Levin, *California City Moves to Replace Police with Unarmed Civilians for Traffic Stops*, GUARDIAN (July 15, 2020, 9:48 PM), <https://www.theguardian.com/us-news/2020/jul/15/berkeley-police-california-unarmed-civilians-traffic-stops>; *Cambridge Proposal: Let Unarmed City Employees Make Traffic Stops Instead of Police*, CBS NEWS (July 29, 2020, 6:00 PM), <https://www.cbsnews.com/boston/news/cambridge-police-officers-traffic-stops-proposal-city-employees/>.

112. Levin, *supra* note 111.

113. *Cambridge Proposal*, *supra* note 111.

114. See *Parking Clerk*, CITY OF BOSTON, <https://www.boston.gov/departments/parking-clerk> (last visited May 13, 2025).

115. *Id.*

116. See, e.g., *Parking Clerk*, TOWN OF WELLESLEY, MASS., <https://www.wellesleyma.gov/263/Parking-Clerk> (last visited May 13, 2025); *Office of the Parking Clerk*, CITY OF REVERE, <https://www.revere.org/departments/parking-clerk> (last visited May 13, 2025).

117. See 23 U.S.C. §§ 402(c)(4)(A)–(B). See generally 5 U.S.C. § 8311(20), 5 U.S.C. § 8401(17) (sections of the U.S. Code that define the term “law enforcement officer”).

powers—powers that significantly increase the tension and fear that can arise between the armed police and civilians who get pulled over. Instead, these unarmed civilian traffic monitors would merely have the power to issue citations and draft accident reports, allowing them to effectively address public safety traffic concerns while also decreasing the level of tension and fear that may occur when someone gets pulled over.

Incorporating automation into this system would also increase the effectiveness of traffic enforcement, reducing the incidence of traffic offenses.¹¹⁸ Automated traffic enforcement systems are both effective and unbiased.¹¹⁹ We believe that automated traffic enforcement should be funded by the NHTSA grant system.

B. Mental Health

1. Current State of Mental Health Crisis Policing

While traffic stops may be the most common interaction between civilians and the police,¹²⁰ police are also frequently called to respond to people in mental health crises. A study by the Treatment Advocacy Center found that “21% of total law enforcement staff time was used to respond to and transport individuals with mental illness in 2017.”¹²¹ The decline of government-run mental health facilities and deinstitutionalization has ultimately forced police to become the first responders to individuals experiencing a mental health crisis. As a result, the shutdown of state-run hospitals, and the ensuing decline of mental health services causes there to be fewer options readily available for

118. See DEWESE, *supra* note 108, at 10–13 (describing how implementation of automated enforcement has led to decreased rates of traffic violations).

119. Christian MilNeil, *Legislature’s Latest Attempt for Automated Traffic Enforcement Is Missing the Bus*, STREETSBLOG MASS (Oct. 30, 2023, 4:32 PM), <https://mass.streetsblog.org/2023/10/30/legislatures-latest-attempt-for-automated-traffic-enforcement-is-missing-the-bus> (“An increasing body of evidence suggests that automated enforcement cameras can be significantly more effective than police officers at encouraging safer driving behavior . . .”); CHUCK DEWESE, *supra* note 108, at 17–18 (finding automated enforcement technology can lead to more equitable outcomes by reducing in-person interactions between police and drivers). *But see id.* at 18 (warning “camera placement itself can be biased” and thus worsen existing disparities in historically marginalized communities).

120. Thaddeus Johnson & Natasha Johnson, *If We Want to Reduce Deaths at Hands of Police, We Need to Reduce Traffic Stops*, TIME (Feb. 3, 2023, 1:36 PM), <https://time.com/6252760/reducing-fatal-police-encounters-traffic-stops/>.

121. TREATMENT ADVOC. CTR., ROAD RUNNERS: THE ROLE AND IMPACT OF LAW ENFORCEMENT IN TRANSPORTING INDIVIDUALS WITH SEVERE MENTAL ILLNESS, A NATIONAL SURVEY 9 (2019), <https://www.tac.org/wp-content/uploads/2024/01/Road-Runners.pdf>.

people struggling with mental health issues.¹²² Consequently, mental health problems frequently escalate in severity until police are required to respond.¹²³ This is clearly demonstrated by the fact that people with mental illness often do not feel safe or secure when approached by police, but instead feel a sense of distress.¹²⁴

2. Costs and Consequences of Policing Mental Health

Significantly, people with mental health issues are far more likely to have negative outcomes from these police interactions. Nearly 25% of people killed by police officers have had a known mental illness.¹²⁵ While figures vary, the proportion of calls to the police that involve an individual experiencing mental health issues ranges from 10% to 20%.¹²⁶ The American Journal of Preventative Medicine published a November 2016 study that estimated between “20% and 50% of fatal encounters with law enforcement involved an individual with a mental illness.”¹²⁷ Similarly, a study by the Treatment Advocacy Center found that “[p]eople with untreated mental illness are 16 times more likely to be killed during a police encounter than other civilians approached or stopped by law enforcement.”¹²⁸ This is reflected by the fact that in 2022, 109 people were killed by police after officers responded to reports of someone having a mental health crisis or behaving erratically.¹²⁹

122. Daniel Yohanna, *Deinstitutionalization of People with Mental Illness: Causes and Consequences*, 15 AM. MED. ASS'N J. ETHICS 886, 886–90 (2013).

123. Spotlight Team, *Families Failed by a Broken Mental Health Care System Often Have No One to Call but Police*, BOS. GLOBE (July 6, 2016), <https://apps.bostonglobe.com/spotlight/the-desperate-and-the-dead/series/police-confrontations/>.

124. Nicholas Turner, *We Need to Think Beyond Police in Mental Health Crises*, VERA INST. JUST. (Apr. 6, 2022), <https://www.vera.org/news/we-need-to-think-beyond-police-in-mental-health-crises>.

125. Eric Westervelt, *Mental Health and Police Violence: How Crisis Intervention Teams Are Failing*, NPR (Sept. 18, 2020, 5:00 AM), <https://www.npr.org/2020/09/18/913229469/mental-health-and-police-violence-how-crisis-intervention-teams-are-failing>.

126. See DORIS A. FULLER ET AL., TREATMENT ADVOC. CTR., *OVERLOOKED IN THE UNDERCOUNTED: THE ROLE OF MENTAL ILLNESS IN FATAL LAW ENFORCEMENT ENCOUNTERS* 5 (2015), https://www.tac.org/reports_publications/overlooked-in-the-undercounted-the-role-of-mental-illness-in-fatal-law-enforcement-encounters/.

127. *What is CAHOOTS?*, WHITE BIRD CLINIC (Oct. 29, 2020), <https://whitebirdclinic.org/what-is-cahoots/>.

128. *People with Untreated Mental Illness 16 Times More Likely to be Killed by Law Enforcement*, TREATMENT ADVOC. CTR., <https://tac2.secure.nonprofitsoapbox.com/key-issues/public-service-costs/2976-people-with-untreated-mental-illness-16-times-more-likely-to-be-killed-by-law-enforcement> (last visited May 13, 2025).

129. *2022 Police Violence Report*, *supra* note 44.

For example, in March 2020, forty-one-year-old Daniel Prude was killed by police in Rochester, New York while experiencing a mental health crisis during a visit with his brother where he began “behaving erratically, accusing his brother of wanting to kill him.”¹³⁰ His brother took him to the hospital for an evaluation but he was released a few hours later.¹³¹ After Prude returned to his brother’s home, he bolted out of the house dressed in long johns and a tank top.¹³² Officers found Prude in the street naked around 3:00 a.m., and after handcuffing him without incident, he began spitting in the street, prompting police to place a “spit hood” over his head.¹³³ Prude asked for the hood to be removed, but officers refused—when Prude attempted to stand, three officers pinned him to the ground as his “words turned to gurgles.”¹³⁴ Prude had no heartbeat when paramedics arrived.¹³⁵

Even when a police encounter does not end fatally, there may still be adverse consequences for the mentally ill person.¹³⁶ Police rely on the tools that they are most familiar with when responding to a disturbance, which are arrest, citation, or relocation; however, these tactics are not always effective for individuals experiencing mental illness.¹³⁷ Requiring people suffering from mental health issues to undergo psychiatric treatment under threat of institutionalization does not help them resolve those issues more effectively than non-coercive approaches to treatment.¹³⁸ For example, a 2015 survey conducted by Coalition on Homelessness San Francisco indicated that after being approached by police, citations were issued to respondents reporting mental disabilities in nearly 80% of cases.¹³⁹ These citations may have serious impacts on mentally ill persons. Of those survey respondents, 6% reported that their citations led to incarceration, and 52% led to warrants being issued that would likely lead to eventual incarceration.¹⁴⁰ In addition, these issued

130. Michael Gold & Troy Closson, *What We Know About Daniel Prude’s Case and Death*, N.Y. TIMES (Apr. 16, 2021), <https://www.nytimes.com/article/what-happened-daniel-prude.html>.

131. *Id.*

132. *Id.*

133. *Id.*

134. *Id.*

135. *Id.*

136. S.F. COAL. ON HOMELESSNESS, PUNISHING THE POOREST: HOW THE CRIMINALIZATION OF HOMELESSNESS PERPETUATES POVERTY IN SAN FRANCISCO 60 (2017), <https://www.coahsf.org/Punishing.pdf>.

137. *See id.* at 1–3.

138. *See* Henry J. Steadman et al., *Assessing the New York City Involuntary Outpatient Commitment Pilot Program*, 52 PSYCHIATRIC SERVS. 330, 335 (2001).

139. S.F. COAL. ON HOMELESSNESS, *supra* note 136, at 60.

140. *Id.* at 61.

citations fail to address the prevalence of mental illness or the lack of solutions and resources for those experiencing mental illness.

Even a short incarceration can be detrimental for someone experiencing mental illness. While periods of incarceration for misdemeanor bench warrants are usually less than a week, this short period can interrupt access to mental healthcare and additionally cause housing and employment to be lost—resulting in serious harms to people with mental illness.¹⁴¹ A record of incarceration can also cause difficulty in obtaining future housing and employment, which can present an obstacle to maintaining care for a mental health disorder.¹⁴² The prison environment has high rates of mental illnesses, with 43% of state prisoners and 23% of federal prisoners reporting history of mental health issues.¹⁴³ Persons with mental health issues are also subject to higher rates of abuse from guards as well as other inmates while incarcerated.¹⁴⁴ Despite these documented challenges to the mental health of incarcerated persons, prisoners are unlikely to receive counseling, therapy, or medication for mental health issues while incarcerated.¹⁴⁵

As noted earlier, Friedman argues that improving police training is an effective response to the concerns that he identifies.¹⁴⁶ But providing officers with additional training does not always work and may not be enough to prepare them to support a person in crisis.¹⁴⁷ In Massachusetts, like most states, few officers have in depth training on how to handle mental health crises.¹⁴⁸ Per a 2017 survey, eleven of the forty-two responding states certify or provide officers with forty-hour

141. Tony Sparks, *Reproducing Disorder: The Effects of Broken Windows Policing on Homeless People with Mental Illness in San Francisco*, 45 SOC. JUST. 51, 64–65 (2018).

142. *Id.* at 65; see also Jack Duran, *Finding Housing Is Hard—But for People Leaving Prison and Jail, It's Almost Impossible*, VERA INST. JUST. (Aug. 30, 2018), <https://www.vera.org/news/finding-housing-is-hard-but-for-people-leaving-prison-and-jail-its-almost-impossible>.

143. LAURA M. MARUSCHAK ET AL., BUREAU OF JUST. STAT., NCJ 252643, INDICATORS OF MENTAL HEALTH PROBLEMS REPORTED BY PRISONERS 1 (2021).

144. Sparks, *supra* note 141.

145. See MARUSCHAK, *supra* note 143, at 2.

146. See Friedman, *supra* note 34, at 981.

147. See Westervelt, *supra* note 125.

148. Spotlight Team, *supra* note 123. See generally Chin Tung Tan, *We Can Figure This Out: Police, Public and Policymakers Work to Improve Responses to Mental Health Crises*, CRONKITE NEWS (Oct. 12, 2022), <https://cronkitenews.azpbs.org/2022/10/12/police-responses-mental-health-crisis-calls-reexamined/> (“A 2018 Department of Justice survey of nearly 770 training academies across the country found that new recruits receive an average of 14 hours of mental health response training, compared with 68 hours of firearms training.”).

Crisis Intervention Team training, but not all of them require it.¹⁴⁹ Even when police have received the training, they sometimes encounter situations where mental health training conflicts with their general police training.¹⁵⁰ In fact, a 2019 article reported that there is no measurable difference in use of force between officers who have received crisis intervention training and officers who have not received such training.¹⁵¹ However, such officers are likely to perceive themselves as less likely to use force in an encounter.¹⁵²

An example of this phenomenon is a Lanesborough officer, the only person in his department sent to take a mental health crisis intervention training, who said that the training changed him, helping him realize that people with mental health issues are “legitimately sick.”¹⁵³ However, the training was of limited use when he encountered a person experiencing a mental health crisis in 2011 who threatened him with a knife.¹⁵⁴ The officer said that he tried to defuse the situation and rely on his training, but that the encounter quickly escalated to the point where he felt using lethal force was necessary.¹⁵⁵

Unfortunately, this case is not an outlier. One needs to merely look at the news to find examples of officers using excessive and often fatal force to respond to unarmed individuals who may have been in mental health crisis: from Arlington, Virginia, where five officers tackled Delgado Franklin II in response to his mental health episode as his father watched the encounter in shock,¹⁵⁶ to Salt Lake City, Utah, where officers shot thirteen-year-old Linden Cameron multiple times after responding to his mother’s 911 call about his mental health episode.¹⁵⁷ While the victims in both of these cases were lucky enough to survive,

149. MARTHA PLOTKIN & TALIA PECKERMAN, COUNCIL OF STATE GOV'TS JUST. CTR., THE VARIABILITY IN LAW ENFORCEMENT STATE STANDARDS: A 42-STATE SURVEY ON MENTAL HEALTH AND CRISIS DE-ESCALATION TRAINING 6 (2017).

150. See Spotlight Team, *Keith Carnute Was Spiraling into Crisis. Officer Tim Sorrell was Trained to Help*, BOS. GLOBE (July 6, 2016), <https://apps.bostonglobe.com/spotlight/the-desperate-and-the-dead/series/crisis-in-the-woods/>.

151. Michael S. Rogers et al., *Effectiveness of Police Crisis Intervention Training Programs*, 47 J. AM. ACAD. OF PSYCHIATRY. & L. 414, 418 (2019).

152. *Id.*

153. Spotlight Team, *supra* note 150.

154. *See id.*

155. *Id.*

156. Salvador Rizzo & Nilo Tabrizy, *Video Shows 5 Officers Tackling Mentally Ill Man. Experts Question Why*, WASH. POST, <https://www.washingtonpost.com/dc-md-va/2023/07/25/video-officers-tackle-mentally-ill-man/> (July 26, 2023).

157. N’dea Yancey-Bragg, *A Mom Called 911 to Help Her 13-Year-Old with Autism, Utah Police Shot Him*, USA TODAY, <https://www.usatoday.com/story/news/nation/2020/09/08/utah-police-shot-13-year-old-autism-after-mom-call/5745028002/> (Sept. 9, 2020, 9:47 AM).

the case of Elijah McClain, in Aurora, Colorado, is an unfortunate example of officers using fatal amounts of excessive force. Officers responded to reports of McClain wearing a ski mask and waving his arms, and twice put him in a chokehold, causing him to lose consciousness.¹⁵⁸ When paramedics arrived, they injected McClain with a dose of ketamine that was almost twice what would be recommended for someone of his size.¹⁵⁹

These four incidents are only a few examples of armed officers responding to mental health episodes with force instead of more appropriate care and consideration. As we argue, armed officers often default to use of force, even if they have received crisis intervention or de-escalation training, as had the officers who tackled Delgado Franklin and the officers who shot Linden Cameron.¹⁶⁰ These cases demonstrate the importance of having civilian mental health specialists respond to mental health calls, with police available to serve as backup, if necessary.¹⁶¹

3. Promising Practices in Mental Health Crisis Response

Some cities and states have begun experimenting with a model where a team of trained civilian crisis responders answer calls specifically related to people experiencing mental health crises.¹⁶² For example, Eugene, Oregon is commonly acknowledged as the leader in this approach, with the Crisis Assistance Helping Out on the Streets (“CAHOOTS”) program.¹⁶³ The CAHOOTS program pairs a medic and

158. Lucy Tompkins, *Here's What You Need to Know About Elijah McClain's Death*, N.Y. TIMES (Oct. 13, 2023), <https://www.nytimes.com/article/who-was-elijah-mcclain.html>.

159. Rae Solomon & Michael de Yoanna, *Medics in Colorado Dosed 902 People with Ketamine for “Excited Delirium” in 2.5 Years, Including Elijah McClain*, COLO. SUN (July 23, 2020, 5:00 PM), <https://coloradosun.com/2020/07/23/ketamine-use-paramedics-elijah-mcclain/>. It is unclear whether or not McClain was actually experiencing any mental health episode at the time. Paramedics claimed McClain was suffering from “excited delirium” at the time, although the McClain family lawyer argued McClain did not show any signs of excited delirium. *Id.*

160. Rizzo & Tabrizy, *supra* note 156; N'dea Yancey-Bragg, *Utah Police Must Now Try De-escalation First After Officer Shot 13-Year-Old with Autism*, USA TODAY, <https://www.usatoday.com/story/news/nation/2020/09/10/utah-police-require-de-escalation-after-boy-autism-shot/5767759002/> (Sept. 15, 2020, 10:12 AM).

161. See E. FULLER TORREY ET AL., TREATMENT ADVOC. CTR & NAT'L SHERIFFS' ASS'N, JUSTIFIABLE HOMICIDES BY LAW ENFORCEMENT OFFICERS: WHAT IS THE ROLE OF MENTAL ILLNESS? 8 (2013), <https://web.archive.org/web/20150130191610/http://tacreports.org/storage/documents/2013-justifiable-homicides.pdf>.

162. Turner, *supra* note 124.

163. *Id.*

crisis worker together to respond to mental health crisis calls.¹⁶⁴ These teams, which can provide initial contact and transport for people who are struggling with mental illness, are funded through the Eugene Fire Department and divert up to 8% of calls from police.¹⁶⁵ Calls are routed through the same emergency dispatch that is used to route police, fire, and EMS responses.¹⁶⁶ Therefore, even when police are the first responders to a scene, they may summon a CAHOOTS team when they determine that a medic and crisis worker would be a better match for the situation.¹⁶⁷ CAHOOTS teams may also summon other emergency responders to the scene of a call if it is determined that their services are better matched to resolve the situation, such as if a weapon or some other threat to safety is involved.¹⁶⁸ However, this occurs a distinct minority of the time, with CAHOOTS requesting armed police backup 2% of the time since 2019.¹⁶⁹

San Francisco has also developed a similar program called the Street Crisis Response Team (“SCRT”) where teams composed of a paramedic, a clinician, and a peer specialist with lived experience respond to mental health calls instead of police.¹⁷⁰ This program, which is organized and supported by emergency medical dispatch, recognizes that mental health issues require responses by medical professionals, rather than law enforcement officers.¹⁷¹ By placing an emphasis on connecting clients to care and organizing follow-ups, SCRT is able to connect to its target population in a way that results in 56% of their engagements being resolved safely on the scene.¹⁷² In 17% of responses, the client experiencing a mental health episode was transported to a hospital, with another 13% of engagements connecting the client with social or

164. CAHOOTS, EUGENE, <https://www.eugene-or.gov/5129/CAHOOTS> (last visited May 13, 2025). Before July 2023, the program was funded through the local police department. *Id.*

165. *Id.*

166. *Infographic: How Central Lane 911 Processes Calls for Service*, EUGENE, <https://www.eugene-or.gov/DocumentCenter/View/56581/911-Process-Infographic> (last visited May 13, 2025).

167. CAHOOTS, *supra* note 164.

168. *See What is CAHOOTS?*, *supra* note 127.

169. EUGENE POLICE CRIME ANALYSIS UNIT, *supra* note 66, at 5.

170. MENTAL HEALTH S.F. IMPLEMENTATION WORKING GRP., S.F. DEPT. OF PUB. HEALTH, STREET CRISIS RESPONSE TEAM ISSUE BRIEF 1 (2021), https://www.sf.gov/sites/default/files/2021-07/SCRT_IWG_Issue_Brief_FINAL.pdf; *see also Street Crisis Response Team*, CITY & CNTY. OF S.F., <https://sf.gov/street-crisis-response-team> (last visited May 13, 2025).

171. MENTAL HEALTH S.F. IMPLEMENTATION WORKING GRP., *supra* note 170.

172. *Street Crisis Response Team (SCRT) December 2022 Update*, CITY & CNTY. OF S.F., <https://www.sf.gov/sites/default/files/2023-02/SCRT%20December%202022%20Update.pdf> (last visited May 13, 2025).

behavioral services.¹⁷³ Only 12% of situations where SCRT responded resulted in either involuntary psychiatric hold or some other resolution.¹⁷⁴

These two programs provide examples of how mental health crises can be addressed constructively, in a way that responds to the needs of the affected individuals. Other cities have taken note, with civilian mental health response programs appearing in cities all over the United States, like New York City, New York; Portland, Oregon; St. Petersburg, Florida; Olympia, Washington;¹⁷⁵ Albuquerque, New Mexico; and others.¹⁷⁶ These programs all focus on the demonstrated needs of individuals in mental health crises, making efforts to address their needs, rather than, at best, displacing them and separating them from the networks that they may have relied upon for their mental health, or at worst, incarcerating or killing them.¹⁷⁷

4. How the CUPSR Can Better Address Individuals Experiencing Mental Health Crisis

We argue for an alternative to police in situations involving those experiencing mental health issues—reserving police intervention for only dangerous calls. By taking armed police out of the equation when a mental health crisis is underway, some sources estimate that up to 38% of calls could actually be addressed by community mental health specialists instead of police officers to avoid these deadly outcomes.¹⁷⁸

But civilian response teams are only a part of the solution.¹⁷⁹ Programs like CAHOOTS, SCRT, and the others listed above lean heavily on their ability to provide access to mental health care, housing, and other resources that are frequently not available in the necessary amounts.¹⁸⁰ The efficacy of programs like this could be dramatically improved by making additional resources, like psychiatric services and supportive housing, available to the people whose needs these programs address.¹⁸¹ Since increasing funding to armed police officers does not serve to help those with mental health issues and those experiencing

173. *Id.*

174. *Id.*

175. Turner, *supra* note 124.

176. Murat Oztaskin, *Sending Help Instead of the Police in Albuquerque*, NEW YORKER, (Feb. 4, 2023), <https://www.newyorker.com/news/dispatch/sending-help-instead-of-the-police-in-albuquerque>.

177. Sparks, *supra* note 141, at 62.

178. Irwin & Pearl, *supra* note 72.

179. See Haroules & McCormack, *supra* note 74.

180. See Oztaskin, *supra* note 176.

181. *See id.*

mental health crises,¹⁸² we argue that those funds should be reallocated to create a non-police unit of medical and mental health professionals as a part of CUPSR that would solely respond to individuals experiencing mental health crisis.

Over the past thirty years, civilian response teams have proven to be able to de-escalate situations involving individuals with mental illness countless times without the need for weapons or violence.¹⁸³ Based on these outcomes, we argue that our CUPSR would be able to effectively de-escalate the vast majority of situations without use of force. These responders would also be able to work with individuals who are actively undergoing a mental health crisis, which would also reduce or eliminate the need for a violent or armed response. However, we recognize the risks that still may occur when unarmed civilians respond to ongoing mental health crises, and thus we propose that unarmed trained civilians working as part of CUPSR wear body cameras while responding to calls. These body cameras would have the capability to livestream to 911 dispatchers upon the push of a button—providing an extra safeguard for the safety of all involved.¹⁸⁴ It would allow for the 911 dispatchers to quickly and effectively identify whether responders need backup from the armed officers, fire department, or EMTs and eliminate the need for CUPSR members to take the extra time to call in for backup. As such, dispatchers can monitor the body footage cameras and send armed backup if a situation turns violent and requires additional responders. However, as noted earlier, we believe that in the overwhelming majority of cases, armed police support will not be required or requested by unarmed safety responders.¹⁸⁵

To increase public safety in our community, we must decrease the number of times that armed police interact with the public. Any interaction between an armed police officer and a civilian has the potential to escalate into a violent or deadly encounter.¹⁸⁶ In this

182. Haroules & McCormack, *supra* note 74.

183. CAHOOTS, which was developed over thirty years ago, reported that in 2019 “out of a total of roughly 24,000 CAHOOTS calls, police backup was requested only 150 times.” *What is CAHOOTS?*, *supra* note 127.

184. See Harry Markley, *Livestreaming Body Cameras over FirstNet*, FIRSTNET AUTHORITY (Oct. 10, 2023), <https://firstnet.gov/newsroom/blog/livestreaming-body-cameras-over-firstnet>.

185. EUGENE POLICE CRIME ANALYSIS UNIT, *supra* note 66, at 5. See also *Street Crisis Response Team (SCRT) September 2023 Update*, CITY & CNTY. OF S.F., <https://www.sf.gov/sites/default/files/2023-10/September%20Dashboard%20v1.pdf> (last visited May 13, 2025) (reporting that calls to SCRT resulted in involuntary commitment or some other nonpeaceful resolution only 9% of the time).

186. AM. C. L. UNION, WAR COMES HOME: THE EXCESSIVE MILITARIZATION OF AMERICAN POLICING 39–40 (2014), <https://www.aclu.org/publications/war-comes-home-excessive>.

proposed model, armed police are no longer the first to respond to every call for mental illness. By limiting police presence only to situations where they are needed, there is a smaller chance for violence to occur because of deficiencies in training and response.

C. *Quality-of-Life Violations and Minor, Nonviolent Offenses*

Other areas that can greatly benefit from a CUPSR response rather than a police response are quality-of-life violations and minor, nonviolent offenses. Quality-of-life violations are misdemeanors or civil offenses that generally reflect societal discomfort with the behavior of individual citizens.¹⁸⁷ Quality-of-life violations include civil offenses like loitering, vandalism, panhandling, public drunkenness, noise complaints, turnstile jumping, fruit vending without valid permits, illegal parking, graffiti, congregating people or motorcycles obstructing passage, or public urination.¹⁸⁸ Minor nonviolent offenses are criminal low-level misdemeanors such as trespassing by homeless people sleeping in public places, minor damage to property, drug possession and other minor narcotics offenses, recycling thefts, and traffic accidents with no injuries. Police, who are trained to make decisions and act as quickly as possible,¹⁸⁹ spend the vast majority of their time responding these sorts of nonviolent civil and criminal offenses.¹⁹⁰ However, arrests and prosecution for these categories of offenses may result in disruptions to community members' lives, greater costs of police resources, and increased distrust and interactions with police that can lead to deadly results. In contrast, CUPSR members would take different approaches preventing quality-of-life offenses and responding to minor, nonviolent

militarization-american-police. *See also* Farmer & Evans, *supra* note 65, at 1072; Araceli Marquez, *The Rise of Police Militarization and Impact on Civilians*, 9 THEMIS: RSCH. J. JUST. STUD. & FORENSIC SCI. 167, 179 (2021).

187. *See* Timothy P. O'Neill, *Confronting the Overcriminalization of America*, 48 J. MARSHALL L. REV. 757, 766 (2015).

188. *Id. See also* J. Phillip Thompson, *Broken Policing: The Origins of the "Broken Windows" Policy*, 24 NEW LAB. F. 42, 43 (2015); Matthew J. Parlow, *The Great Recession and Its Implications for Community Policing*, 28 GA. ST. U. L. REV. 1193, 1195 (2012); Alexandra Natapoff, *The Cost of 'Quality-of-Life' Policing: Thousands of Young Black Men Coerced to Plead Guilty to Crimes They Didn't Commit*, WASH. POST (Nov. 11, 2015), <https://www.washingtonpost.com/news/the-watch/wp/2015/11/11/the-cost-of-quality-of-life-policing-thousands-of-young-black-men-coerced-to-plead-guilty-to-crimes-they-didnt-commit/>; Robin Steinberg & Skylar Albertson, *Broken Windows Policing and Community Courts: An Unholy Alliance*, 37 CARDOZO L. REV. 995, 998 (2016).

189. Stacey McKenna, *Police Violence Calls for Measures Beyond De-escalation Training*, SCI. AM. (Jun. 17, 2020), <https://www.scientificamerican.com/article/police-violence-calls-for-measures-beyond-de-escalation-training/>.

190. *See* discussion *supra* Section II.A.

offenses, but in neither case would use force. Quality-of-life offenses can be resolved through ensuring that potential perpetrators are aware that CUPSR can serve as an avenue for outreach and providing support. In the case of a minor, nonviolent offense, CUPSR would be charged with investigation, documentation, and citation as necessary.

1. Current Models for Policing Quality-of-Life Violations and Minor, Nonviolent Offenses

Advocates of a “broken window” style of policing demand that police handle quality-of-life violations and minor, nonviolent offenses, arguing that these are gateway offenses that lead to more serious crimes occurring in a community. Specifically, broken windows, trespassing, and crack vials on the street are seen as visual demonstrations of apathy in the community which is purported to attract criminals who commit more serious offenses.¹⁹¹ These advocates argued that permitting the commission of these minor, nonviolent, quality-of-life offenses create a space for criminal activity to thrive, and the only way to stop it is vigorous enforcement against minor crime.¹⁹² Policing these violations was ultimately about maintaining order and control in neighborhoods with degraded social and economic conditions.¹⁹³ Therefore, adherents of this policing philosophy believe that the only way to end the growth of violent crime in a neighborhood is to vigorously enforce quality-of-life violations.¹⁹⁴ Proponents suggest that by cracking down on low-level offenses, a community is able to maintain a perception of orderliness and prevent the further destruction that leads to more serious crime.¹⁹⁵

Advocates for broken windows policing also argue that police on the street increase the sense of safety in the neighborhood.¹⁹⁶ However, those opposing broken windows policies point out the fact that patrols have

191. Thompson, *supra* note 188, at 44. See also Parlow, *supra* note 188, at 1201.

192. Thompson, *supra* note 188, at 44.

193. Donna Lieberman & Kara Dansky, *The Degradation of Civil Society and Hyper-Aggressive Policing in Communities of Color in New York City*, 37 CARDOZO L. REV. 955, 960–61 (2016).

194. Thompson, *supra* note 188, at 44; Press Release, N.Y. Police Dep’t, NYPD Announces Citywide Crime and Quality-of-Life Enforcement Initiative (Mar. 23, 2022), <https://www.nyc.gov/site/nypd/news/p00040/nypd-citywide-crime-quality-of-life-enforcement-initiative>; Parlow, *supra* note 188, at 1995, 1201.

195. Parlow, *supra* note 188, at 1195.

196. K. Babe Howell, *The Costs of “Broken Windows” Policing: Twenty Years and Counting*, 37 CARDOZO L. REV. 1059, 1060 (2016) (“The theory behind Broken Windows is to make public spaces safe so that law-abiding people feel comfortable spending time in such public spaces.”).

little impact in reducing neighborhood crime and increasing safety.¹⁹⁷ Further, residents of areas with high levels of crime report having negative views of police that may limit the effectiveness of patrol officers in responding to crime.¹⁹⁸ Proponents may say that strict enforcement of quality-of-life offenses creates an “atmosphere of order and lawfulness” that puts would-be offenders of more serious crimes on notice.¹⁹⁹ Proponents will also say that when criminals see arrests for drunkenness, driving violations, and disruptions of order, they will believe arrest is more likely and be deterred from committing crimes.²⁰⁰ However, opponents of broken windows policing argue that research has shown that the possibility of arrest and incarceration has a minimal deterrent effect on potential offenders, weakening support for this form of policing, especially by armed officers.²⁰¹

2. Consequences of Policing Quality-of-Life Violations and Minor, Nonviolent Offenses

Offenders who end up being arrested can have their lives completely thrown off course, because being arrested hurts one’s ability to get or keep a job, and time in jail can disrupt family relationships, schooling, and housing.²⁰² Being incarcerated also inherently leads to adverse psychological effects, including dependence on institutional structure, hypervigilance and interpersonal distrust, alienation and psychological distancing, social withdrawal and isolation, incorporation of exploitative norms of prison culture, and a diminished sense of self-worth and personal value.²⁰³ Policing and incarcerating offenders for minor, nonviolent offenses or quality-of-life violations leads to these offenders

197. James H. Auten, *Crime Prevention and Police Patrol*, 48 POLICE CHIEF 60, 62 (1981). See also Aaron Chalfin et al., *Does Proactive Policing Really Increase Major Crime?*, J. COMMENTS & REPLICATIONS ECON, Aug. 7, 2024, at 5.

198. See NANCY LA VIGNE ET AL., URB. INST., HOW DO PEOPLE IN HIGH-CRIME, LOW-INCOME COMMUNITIES VIEW THE POLICE? 10–11 (2017), https://www.urban.org/sites/default/files/publication/88476/how_do_people_in_high-crime_view_the_police.pdf.

199. O’Neill, *supra* note 187. See also Steinberg & Albertson, *supra* note 188.

200. Parlow, *supra* note 188, at 1201.

201. See NAT’L INST. OF JUST., NCJ 247350, FIVE THINGS ABOUT DETERRENCE 2 (2016), <https://www.ncjrs.gov/pdffiles1/nij/247350.pdf>.

202. Lieberman & Dansky, *supra* note 193, at 969; Howell, *supra* note 196, at 1065, 1071–72.

203. Craig Haney, *The Psychological Impact of Incarceration: Implications for Post-Prison Adjustment*, “FROM PRISON TO HOME” CONFERENCE, Jan. 30, 2022, at 77, 80–83, <https://www.urban.org/sites/default/files/publication/60676/410624-The-Psychological-Impact-of-Incarceration.PDF>.

suffering negative psychological consequences.²⁰⁴ A carceral approach to addressing quality-of-life offenses also disproportionately impacts people of color.²⁰⁵ Further, policing these minor infractions increases interactions with police that may lead to tragic or even deadly results. Policing quality-of-life and minor, nonviolent offenses is also expensive and labor-intensive, requiring having more armed officers on the streets, a resource-intensive approach to policing.²⁰⁶ This approach to policing increases the number of people involved with the criminal justice system, which raises the costs associated with jailing a defendant, providing them representation, prosecutorial resources, and court costs.²⁰⁷ Over-policing of minor offenses can also instill distrust in the justice system, leading to increased lawbreaking and violent interactions with armed police.²⁰⁸

In addition, the increase of arrests in some areas is particularly concerning as most individuals currently in jail are not convicted but rather awaiting trial.²⁰⁹ A large portion of these arrests are for nonviolent offenses like drug offenses which account for over one million arrests each year.²¹⁰ However, while almost half of people in prison or jail are there for offenses classified as violent, once released, they are less likely to be rearrested for another violent offense than for a public order offense.²¹¹ Thus, an overwhelming proportion of individuals currently incarcerated in prisons and jails do *not* pose a direct threat of violent harm to the general public.²¹²

As such, increasing the role of police in the lives of average law-abiding citizens has additional consequences. Specifically, more daily interactions between mistrusted, armed police and citizens leads to more opportunities for violent and potentially deadly tragedy. Even if we are to believe the underlying theory that policing quality-of-life violations through a broken windows approach makes communities safer, the question is: safer for whom? If communities are made safer at the cost of

204. *See id.* at 79–80.

205. Steinberg & Albertson, *supra* note 188, at 998; Howell, *supra* note 196, at 1059, 1065, 1067, 1073.

206. *See* Lieberman & Dansky, *supra* note 193, at 964.

207. *See* Steinberg & Albertson, *supra* note 188, at 998–99.

208. *See* Lieberman & Dansky, *supra* note 193, at 969 (detailing research showing that “people are more likely to obey the law when they perceive authority figures as legitimate, and that legitimacy is linked to being treated fairly”).

209. Wendy Sawyer & Peter Wagner, *Mass Incarceration: The Whole Pie 2022*, PRISON POL’Y INITIATIVE (Mar. 14, 2022) <https://www.prisonpolicy.org/reports/pie2022.html>.

210. *Id.*

211. *Id.*

212. *Id.*

more fatal encounters between police and communities of color, then “unnecessary policing under zero-tolerance policies [is] dangerous.”²¹³

The killing of Eric Garner is merely one example of the potential negative outcomes of this approach to policing minor, nonviolent offenses and quality-of-life violations. On July 17, 2014, Garner was approached by a plainclothes police officer who accused him of selling loose cigarettes, a violation of New York state law.²¹⁴ As officers attempted to handcuff and arrest Garner, he pulled his arms away, and one of the officers placed him in a chokehold and pulled him to the ground, where they held Garner’s head to the ground while continuing to pin him down.²¹⁵ Garner protested, saying that he could not breathe eleven times while on the ground, and an ambulance was called.²¹⁶ Garner entered cardiac arrest en route to the hospital and was pronounced dead at the hospital an hour after the original encounter with law enforcement.²¹⁷ An autopsy found that he had died of compression of the neck and chest during physical restraint by police.²¹⁸

Garner’s death is not the only one to occur at the hands of overzealous law enforcement officers. The cases of Michael Brown and George Floyd are also instances where allegations of minor offenses (stealing cigarillos and passing counterfeit bills, respectively) led to an immediate execution by law enforcement.²¹⁹ Although quality-of-life violations are committed all throughout the country, communities of color are those that experience the highest level of enforcement, ultimately leading to higher rates of arrest and incarceration. And as is demonstrated by these cases, the presence of armed police—which occurs at a higher rate in communities of color—can lead to these situations escalating and leading to fatal outcomes for members of these communities.

213. Howell, *supra* note 196, at 1061.

214. Al Baker et al., *Beyond the Chokehold: The Path to Eric Garner’s Death*, N.Y. TIMES (June 13, 2015), <https://www.nytimes.com/2015/06/14/nyregion/eric-garner-police-chokehold-staten-island.html>.

215. *Id.*

216. *Id.*

217. *Id.*

218. Joseph Goldstein & Marc Santora, *Staten Island Man Died from Chokehold During Arrest, Autopsy Finds*, NY TIMES (Aug. 1, 2014), <https://www.nytimes.com/2014/08/02/nyregion/staten-island-man-died-from-officers-chokehold-autopsy-finds.html>.

219. DEPT OF JUST., *supra* note 39, at 6, 15; Barker & Kovaleski, *supra* note 5.

3. Promising Practices for Responding to Quality-of-Life Violations and Minor, Nonviolent Offenses

Alternative policing approaches that rely less on armed police have critics, who argue that reducing the number of armed police officers would lead to longer response times during emergencies that require an armed police presence or that the reduction of police presence would result in serious criminals feeling free to commit crimes with less fear of being caught.²²⁰ However, these concerns can be addressed through a more efficient administration of police resources. For example, Professor Matthew Parlow analyzed the effect the Great Recession had on municipal budget cuts and the challenges municipal governments faced to “stretch their resources to do more with less” and found many creative solutions used by governments to more efficiently budget police resources while preserving public safety.²²¹

Some of the programs explored by Parlow could also prove effective in reducing the police imprint on quality-of-life violations. For instance, as a result of budget cuts that reduced the number of sworn police officers, the San Jose Police Department established a “modified response policy” in order to reduce police response to non-emergencies.²²² The department stopped responding to noise complaints, recycling thefts, traffic accidents with no injuries, fruit vending without valid permits, and illegal parking.²²³ Some police departments began requiring residents, rather than police officers, to file their own reports online or in-writing for low-level offenses.²²⁴ While we do advocate for decreases in armed police response, we do not want to completely eliminate responses to low-level offenses like this. We instead envision that a small CUPSR team will respond to non-emergency calls, and write citations and file reports as necessary. Because the use of force is entirely uncalled for in these situations, an unarmed response where the incident is documented and addressed by unarmed civilian responders should be sufficient for most of these issues.

220. See, e.g., Jacqueline B. Helfgott, *The Movement to Defund the Police is Wrong, And Here's Why*, SEATTLE TIMES (June 9, 2020, 4:26 PM), <https://www.seattletimes.com/opinion/the-movement-to-defund-the-police-is-wrong-and-heres-why/>; Jack Elbaum, *Calls to Abolish Police Ignore the Harsh Reality of Crime*, GW HATCHET (May 10, 2021), <https://gwhatchet.com/2021/05/10/calls-to-abolish-police-ignore-the-harsh-reality-of-crime/>.

221. Parlow, *supra* note 188, at 1229, 1237–38.

222. Parlow, *supra* note 188, at 1211.

223. *Id.*

224. *Id.* at 1211–12.

One approach that may be helpful in responding to quality-of-life issues and minor, nonviolent offenses is expanding the use of restorative justice approaches and pretrial diversion programs. Both of these approaches have been shown to benefit those who would suffer from being incarcerated, through reduced recidivism, improved satisfaction with outcomes, or increased accountability.²²⁵ Diversion in particular allows offenders to learn from their mistakes and to acquire new skills and obtain employment, which will allow them to improve their economic and social outcomes.²²⁶ Indeed, the populations that are most impacted by arrest for minor, nonviolent offenses are those who are most likely to benefit from diversion.²²⁷ Avoiding even short periods of incarceration reduces the risk of recidivism for offenders.²²⁸ The Cook County State's Attorney Office observed that after increasing the amount of offenders referred to diversion programs, 82% of pre-plea diversion program participants successfully completed their program.²²⁹

Beyond figuring out who can deal with quality-of-life issues once they have occurred, there is more that can be done to prevent quality-of-life issues from occurring. CUPSR can also serve as problem-solvers to prevent these quality-of-life issues from arising, or to help resolve them nonviolently as they occur. The close relationship with community members that CUPSR would be able to develop would also help to identify and prevent issues from arising, and would allow CUPSR to route issues to the appropriate agency for resolutions. For example, used syringes being left in the street could be partially prevented with the implementation of safe injection sites, which are being explored in several states.²³⁰ CUPSR could flag these areas for the jurisdiction's

225. See Michael Mueller-Smith & Kevin T. Schnepel, *Avoiding Convictions: Regression Discontinuity Evidence on Court Deferrals for First-Time Drug Offenders* 25 (IZA Inst. Labor Econ., IZA DP No. 10409, 2016), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2886780; Lindsay Fulham et al., *The Effectiveness of Restorative Justice Programs: A Meta-Analysis of Recidivism and Other Relevant Outcomes*, Criminology & Crim. Just., Nov. 23, 2023, at 22.

226. Mueller-Smith & Schnepel, *supra* note 225, at 3.

227. *Id.* at 25.

228. See Emily Leslie & Nolan G. Pope, *The Unintended Impact of Pretrial Detention on Case Outcomes: Evidence from New York City Arraignments*, 60 J.L. & ECON. 529, 550 (2017).

229. RECLAIM CHICAGO ET AL., DECARCRATING COOK COUNTY 5 (2021), <https://www.chicagoappleseed.org/wp-content/uploads/2021/03/22021-03-CCSAO-Diversion-Report-FINAL.pdf>.

230. Jeffrey C. Mays & Andy Newman, *Nation's First Supervised Drug-Injection Sites Open in New York*, N.Y. TIMES (Nov. 30, 2021), <https://www.nytimes.com/2021/11/30/nyregion/supervised-injection-sites-nyc.html>; Bobby Allyn, *Cities Planning Supervised Drug Injection Sites Fear Justice Department Reaction*, NPR (July 12, 2018, 5:21

Department of Health to create a safe injection site, and could ensure the safety of people at the site, as well as neighbors and community members. Public urination could be prevented by more widespread access to public restrooms as is being explored in multiple cities.²³¹

Minor, nonviolent offenses can be addressed and reduced using a similar, community-focused approach. Officers could conduct the preliminary investigative work on these offenses and issue civil citations to offenders. While some prosecutors have stated that they are not interested in prosecuting these offenses,²³² it may make sense to craft a pretrial intervention strategy in order to provide treatment for any underlying problems. Jurisdictions could also consider using restorative justice protocols to craft community-based solutions.²³³

4. How the CUPSR Can Better Address Quality-of-Life Violations and Minor, Nonviolent Offenses

Addressing quality-of-life violations and minor, nonviolent offenses using a CUPSR team rather than armed police officers would reduce the amount of police intervention in communities already facing over-policing and racist police tactics. At least 240 million 911 calls are made each year, and most are not related to a crime in progress.²³⁴ Studies suggest that 23% to 45% of 911 calls are for minor concerns such as noise complaints, behavioral health issues, or other noncriminal and nonviolent incidents.²³⁵ As noted earlier, emergency dispatchers could be

AM), <https://www.npr.org/sections/health-shots/2018/07/12/628136694/harm-reduction-movement-hits-obstacles>.

231. See, e.g., *Cambridge Opens First Outdoor Public Bathroom in Harvard Square*, WBUR, <https://www.wbur.org/news/2016/02/12/cambridge-public-bathroom> (Feb. 12, 2016).

232. Clark Merrefield, *Choosing Not to Prosecute Low-Level Crimes May Reduce Future Crime, Research Finds*, JOURNALIST'S RES. (Feb. 14, 2023), <https://journalistsresource.org/criminal-justice/prosecution-choices-future-crime/>.

233. See generally Ctr. for Restorative Just., *Resources*, SUFFOLK UNIV. BOSTON, <https://www.suffolk.edu/cas/centers-institutes/center-for-restorative-justice/resources> (last visited May 13, 2025).

234. TRANSFORM911, TRANSFORMING 911: ASSESSING THE LANDSCAPE AND IDENTIFYING NEW AREAS OF ACTION AND INQUIRY 4 (2022), https://bpb-us-w2.wpmucdn.com/voices.uchicago.edu/dist/e/2911/files/2022/07/Transforming-911_-Assessing-the-Landscape-and-Identifying-New-Areas-of-Action-and-Inquiry.pdf.

235. Irwin & Pearl, *supra* note 72. See also Cynthia Lum et al., *Can We Really Defund the Police? A Nine-Agency Study of Police Response to Calls for Service*, 25 POLICE QUARTERLY 255, 259 (2022) (“Analyzing thousands of calls for service from computer-aided dispatch (CAD) data from three metropolitan areas, they found that most calls were for non-emergencies, including information requests (21%), non-violent crimes (17%), requests for assistance (12%), public nuisances (11%), and traffic problems (9%).”).

trained to identify the appropriate response team for each of these calls, and send them to the site, rather than the current default response of sending an armed police officer to the location of the call. In the case of calls regarding quality-of-life violations, dispatchers could send trained civilian responders who are empowered to issue civilian citations to effectively address these calls. These responders would be trained to show up to the call and resolve the issue kindly, without violence, and de-escalate any situation that may stem from a quality-of-life violation. CUPSR members would also focus on addressing the root cause of these offenses, by working to connect offenders with resources that can provide supportive services, limiting the negative effects experienced by those who are frequently arrested for nonviolent episodes.

In addition to connecting offenders to resources, CUPSR could also take the lead in investigating nonviolent offenses, reducing the likelihood that these incidents will escalate and end with a violent or fatal resolution. One study found that 62.6% of 911 calls involved noncriminal situations where there were no safety concerns.²³⁶ The reality that the majority of 911 calls are not for violent incidents demonstrates how infrequently an armed police response is required.²³⁷ For the cases where a different response is required, an unarmed member of CUPSR would be able to respond. In situations where a nonviolent crime has occurred, or where the call is not for an ongoing, serious, or violent crime, a CUPSR team can respond and conduct the necessary interviews, collect evidence, and issue citations. An armed police officer is not necessary in this case, and in fact, may lead to dangerous escalation.²³⁸

Quality-of-life violations and minor, nonviolent offenses rarely require the application of armed force. While most officers would agree that these offenses do not require the use of force, or even for arrests to be made, the possibility that such incidents can result in incarceration or even death requires us to reconsider whether force should be our default response. We believe that the wisest course of action is to eliminate the use of force in these situations, and that therefore the use of armed law enforcement to resolve quality-of-life issues is inappropriate. CUPSR responders who are trained to resolve these calls would be the best alternative to our current state of affairs. They should also be trained to

236. Dholakia, *supra* note 8.

237. VERA INST. JUST., 911 ANALYSIS: CALL DATA SHOWS WE CAN RELY LESS ON POLICE 3 (2022), <https://vera-institute.files.svcdn.com/production/downloads/publications/911-analysis-we-can-rely-less-on-police.pdf> (finding only 3% to 5% of 911 calls involved violent crime).

238. AM. C. L. UNION, *supra* note 67.

serve as problem-solvers and address the underlying causes of quality-of-life infractions in order to prevent their reoccurrence.

The George Floyd case demonstrates how a nonviolent situation can easily become fatal with the involvement of armed police officers, and how an alternative response would be more appropriate. Officers were called to respond to a report of a customer, George Floyd, passing a counterfeit \$20 bill.²³⁹ As was widely reported, once officers arrived, the officers pulled Floyd out of his car, handcuffed him, and kneeled on his neck for more than nine minutes until he died.²⁴⁰ Had CUPSR been called to respond, they could have interviewed the store clerk, Floyd, and any witnesses, collected the counterfeit bill and sealed it for future fingerprinting, collected identification evidence and taken photographs if necessary. If a crime were determined to have occurred, CUPSR responders would have issued Floyd a citation or a subpoena to a future grand jury proceeding. An armed police response was not necessary here, and for this case, it needlessly escalated and ultimately caused Floyd to lose his life. CUPSR is far better situated to address minor, nonviolent offenses, or quality-of-life violations where there is no ongoing, violent, or serious crime indicated. Replacing armed officers with unarmed civilian responders to investigate and address these incidents eliminates the possibility of fatal or disabling harm. Further, CUPSR teams will reduce the over-policing and over-prosecution of nonviolent crimes, which will lead to a decrease in unwarranted negative outcomes for both offenders and affected communities at large. Implementing CUPSR throughout the United States may lower the violent interactions between police and nonviolent offenders. It may also lower recidivism rates while still helping to provide solutions for the victims of these offenses.

D. Individuals With Substance Use Disorders

Overdose has become the leading cause of death in the United States and continues to contribute to the decline in quality-of-life and life expectancy of marginalized individuals.²⁴¹ Substance use disorders (“SUDs”) are “treatable, chronic disease[s] characterized by a cluster of cognitive, behavioral, and physiological symptoms indicating that the individual continues using the substance despite significant substance-related problems.”²⁴² As of June 2022, 107,370 individuals have died as a

239. Barker & Kovaleski, *supra* note 5.

240. *See id.*

241. Brendan Saloner et al., *A Public Health Strategy for the Opioid Crisis*, 133 PUB. HEALTH REPORTS 24S, 24S (2018).

242. *Treatment of Substance Use Disorders*, CTRS. FOR DISEASE CONTROL & PREVENTION (Apr. 25, 2024), <https://www.cdc.gov/overdose-prevention/treatment/>.

result of substance use overdose.²⁴³ One in six Americans aged twelve or older reports experiencing a SUD and about 6.1 million people in the United States report suffering from opioid use disorder.²⁴⁴

1. Current Models for Policing Substance Use Disorder

Surveillance and punishment are embedded into SUD treatments.²⁴⁵ Roughly 25% of clients in a publicly funded treatment were referred from the criminal justice system.²⁴⁶ The theory behind enforcing legal controls on SUDs “coerce[s] clients to either comply with treatment or face other harsh consequences, like incarceration, termination of parental rights, or loss of public benefits.”²⁴⁷

As a local, state, and federal priority, the government moved to invest heavily into drug enforcement.²⁴⁸ Their investment has reproduced itself in the creation of robust punitive systems for those who struggle with substance use disorder.²⁴⁹ Drug offenses are the leading cause of arrest in the nation.²⁵⁰ Studies revealed that over 1.1 million drug-related arrests were made in 2020.²⁵¹ The research also shows that Black and

243. *Provisional Drug Overdose Death Counts*, CTRS. FOR DISEASE CONTROL & PREVENTION, <https://www.cdc.gov/nchs/nvss/vsrr/drug-overdose-data.htm> (last visited May 13, 2025).

244. *Treatment of Substance Use Disorders*, *supra* note 242; *Preventing Opioid Use Disorder*, CTRS. FOR DISEASE CONTROL & PREVENTION (May 8, 2024), <https://www.cdc.gov/overdose-prevention/prevention/preventing-opioid-use-disorder.html>.

245. Aliza Cohen et al., *How the War on Drugs Impacts Social Determinants of Health Beyond the Criminal Legal System*, 54 ANNALS MED. 2024, 2025–26 (2022). In 1971, President Richard Nixon started the War on Drugs by signing the Controlled Substances Act. *Id.* at 2025. During its initial enactment, the War on Drugs prioritized and justified the expansion of drug prohibition, criminalization, and punishment. *Id.* These efforts were largely fueled by the push for more drug surveillance and control, leading to “mandated drug reporting and monitoring systems in treatment and healthcare settings, compulsory drug testing in employment and for the receipt of social services, the proliferation of zero-tolerance workplaces and school zones, [and] mandated treatment in order to receive resources or avoid loss of benefits.” *Id.* at 2025–26.

246. *Id.* at 2030.

247. *Id.*

248. *Id.* at 2025. See also Hannah L.F. Cooper, *War on Drugs Policing and Police Brutality*, 50 SUBSTANCE USE & MISUSE 1188, 1189 (2015).

249. Cohen et al., *supra* note 245, at 2025.

250. *Id.*

251. Majority of offenses were for personal possession alone. *Id.*

White Americans use²⁵² and sell drugs at similar rates,²⁵³ but Black individuals, who compose about 13% of the United States population, made up 28% of those arrests in 2022.²⁵⁴ Although we have seen a decrease in incarceration rates, estimates still suggest that roughly 20% of people who are incarcerated are there for a drug charge, and racial disparities in incarceration persist.²⁵⁵

2. Consequences of Armed Police Involvement in Substance Use Disorder

In addition to arrest and incarceration, armed police involvement in substance use disorder calls may result in involuntary commitment. Involuntary commitment permits the courts to commit someone who has an alcohol or substance use disorder when there is a likelihood of serious harm as a result of their alcohol or substance use.²⁵⁶ Although modeled as an effective way to address substance use disorder, it has proven to intersect dangerously with the criminalization of substance use disorder. Responding with punitive criminal punishment to public health issues can further bolster the public health concern and does not serve the long-term restorative experience the individual should be experiencing with their communities.

Although well intentioned, involuntary commitment does not address the issues that people with mental health issues may struggle with, but further criminalizes those individuals, who need professional assistance and services. Some may argue that certain individuals may benefit from involuntary treatment, but a 2016 review of available data did not find

252. SUBSTANCE ABUSE AND MENTAL HEALTH, BEHAVIORAL HEALTH BY RACE AND ETHNICITY: RESULTS FROM THE 2021–2023 NATIONAL SURVEYS ON DRUG USE AND HEALTH 6 (2024), <https://www.samhsa.gov/data/sites/default/files/reports/rpt47097/2023-nsduh-race-eth-companion.pdf> (finding the rate of illicit drug use in the past year was 27.2% for White Americans and 26.4% for Black Americans).

253. See Leah J. Floyd et al., *Adolescent Drug Dealing and Race/Ethnicity: A Population-Based Study of the Differential Impact of Substance Use on Involvement in Drug Trade*, 36 AM. J. DRUG & ALCOHOL ABUSE 87, 89 (2010) (finding similar rates of drug dealing between Black and White adolescents between the ages of twelve and seventeen).

254. *Arrests Reported in the United States*, FBI CRIME DATA EXPLORER, <https://cde.ucr.cjis.gov/LATEST/webapp/#/pages/explorer/crime/arrest> (last visited May 13, 2025); *Our Changing Population: United States*, USAFACTS, <https://usafacts.org/data/topics/people-society/population-and-demographics/our-changing-population/> (July 2022).

255. Sawyer & Wagner, *supra* note 209.

256. See, e.g., MASS. GEN. LAWS ANN. ch. 123, § 35 (West 2024) (permitting the courts to involuntarily commit someone where that person has an “alcohol or substance use disorder and there is a likelihood of serious harm as a result of the person’s alcohol or substance use disorder”). “Such commitment shall be for the purpose of inpatient care for the treatment of an alcohol or substance use disorder in a facility.” *Id.*

improved outcomes from compulsory treatment and people forced to undergo this treatment additionally run the risk of experiencing potential harm.²⁵⁷ Further, we cannot ignore the reality of the treatment gap, which is “the difference between the need for and the utilization of treatment.”²⁵⁸ The treatment gap for substance use disorder stems from stigma, lack of effective wrap around services, and the inability of some individuals to seek treatment voluntarily.²⁵⁹ Although involuntary commitment provisions can help initiate a treatment plan, there needs to be a balance between others wanting to impose a choice on an individual and the necessity to protect their privacy and freedom of choice. Services and treatment plans should be readily accessible for individuals with substance use disorder so that they can exercise their right to choose.

3. Promising Practices for Addressing Substance Use Disorder

Shrinking and disaggregating the police function in regards to substance use disorder issues is a tangible and executable goal. In the United States, several states have begun to adopt frameworks that work to disrupt the police function as it serves nonviolent SUDs offenses. In an effort to reduce the policing footprint in behavioral health matters, the Central City Concern Hooper Inebriate Emergency Response Service (“CHIERS”) is a local public safety group in Portland, Oregon.²⁶⁰ CHIERS is available to pick up individuals experiencing acute reactions from drugs or extreme intoxication and deliver the person to a Sobering Station.²⁶¹ This provides an opportunity for individuals to sober up safely.²⁶² CHIERS staff members assist individuals at the Sobering Station on their path to recovery by connecting them to recovery resources.²⁶³ The Crisis Assistance Helping Out On the Streets (“CAHOOTS”) program, based in Eugene,²⁶⁴ Oregon and operated by

257. Deborah Becker, *What to Know About Section 35 Civil Commitments in Mass.*, WBUR (July 3, 2019), <https://www.wbur.org/news/2019/07/01/section-35-substance-addiction-treatment-commitments>.

258. *Involuntary Commitment for Substance Use Disorders*, HAZELDEN BETTY FORD FOUND. (July 2017), <https://www.hazeldenbettyford.org/education/ber/addiction-research/involuntary-commitment-edt-717>.

259. *Id.*

260. Emily Green, *If Not 911, This is Who Responds to Portland Street Homelessness*, STREET ROOTS (Mar. 15, 2019), <https://www.streetroots.org/news/2019/03/15/if-not-911-who-responds-portland-street-homelessness>.

261. *Id.*

262. *Id.*

263. *Id.*

264. CAHOOTS has also expanded into nearby Springfield, Oregon. *CAHOOTS FAQ*, WHITE BIRD CLINIC, <https://whitebirdclinic.org/cahoots-faq/> (last visited May 13, 2025).

Eugene's White Bird Clinic, is also equipped to deliver support to people in substance use disorder crises.²⁶⁵ All services provided are voluntary and if the situation escalates to a crime in progress or there is a life threatening emergency, police are dispatched to arrive as primary or co-responders.²⁶⁶ This approach limits potential distress to the individual while decriminalizing behavioral health matters.²⁶⁷ Programs like CAHOOTS²⁶⁸ and CHIERS²⁶⁹ have shown great success and should be used as models for the CUPSR.

DynamiCare and other tele-treatment/telemedicine and contingency management programs present another possible solution for responders. DynamiCare utilizes technology to expand the scope of addiction coaching and recovery services.²⁷⁰ Its digital platform, which can be accessed through a smartphone, connects you to a personal recovery coach and provides the individual with financial rewards as they begin to meet their sobriety goals.²⁷¹ As a growing program, DynamiCare could offset some of the costs associated with providing wrap-around services for those struggling with SUDs. In addition, its recovery services can reach a wide demographic because it is accessible through a smartphone. Smartphones, although an expensive commodity, have been largely accessible through the Obama Phone program.²⁷²

265. *See id.*; *see also* Jackson Beck et al., *Case Study: CAHOOTS*, VERA INST. JUST. (Nov. 2020), <https://www.vera.org/behavioral-health-crisis-alternatives/cahoots>.

266. Beck et al., *supra* note 265.

267. *Id.*

268. *Id.* (identifying the reasons for the success of CAHOOTS).

269. While CHIERS shut down in January 2020, since 1985 it had successfully provided an option for Portland police and fire department members who were responding to calls regarding intoxicated community members. Prior to its closure, the program noted that a growing share of its patients required a higher level of medical care, due to being in the midst of a mental health crisis exacerbated by opioids or other drugs. *See* Green, *supra* note 260; Everton Bailey Jr., *Central City Concern Closes Portland Sobering Station*, COLUMBIAN (Jan. 6, 2020, 6:05 AM), <https://www.columbian.com/news/2020/jan/06/central-city-concern-closes-portland-sobering-station/>.

270. *How It Works: Program Overview*, DYNAMICARE HEALTH, <https://www.dynamicarehealth.com/program-overview> (last visited May 13, 2025).

271. *Id.*

272. *See What Is the Obama Phone?*, OBAMA PHONE, <https://www.obamaphone.com/what-is-the-obama-phone> (last visited May 13, 2025). The Obama Phone program provides low-income individuals with free cell phone, voice minutes, and texting. *Id.* As of December 2, 2016, internet connection on these phones have also been made widely accessible. *Id.* *See also* Richard Ouyang, *Lifeline, "Obama Phone," and the Affordable Connectivity Program Explained*, GEN MOBILE (June 26, 2024), <https://www.genmobile.com/blogs/news/obama-phone-and-lifeline-explained> (offering "free smartphone service" for eligible customers in the Obama Phone program).

4. How the CUPSR Can Better Address Substance Use Disorder

A potential solution can also be found in equipping civilian responders from CUPSR with Naloxone. Fatal SUD overdoses, especially among heroin users, are a growing public health problem.²⁷³ Research shows that overdose incidents “take place with other users present and that death occurs 1–3 hours after the initial injection.”²⁷⁴ Allowing trained civilians to medically intervene could prevent a number of fatalities.²⁷⁵ Naloxone, an effective opiate antagonist, is a Class 3 substance that can be injected or nasally-administered to a victim of an opiate overdose in order to prevent fatal occurrences.²⁷⁶ It works to mitigate the effects of opiates without placing the victim at risk of further deterioration in their condition.²⁷⁷ Naloxone’s effectiveness is such that it is already a tool that first responders rely on when summoned to address a drug overdose.²⁷⁸ In addition to simply administering Naloxone when necessary, CUPSR can also engage in training other community members how to administer Naloxone.²⁷⁹

By connecting with programs like DynamiCare and other telemedicine or contingency management systems, CUPSR can shrink the cost and reduce the burden of transportation for low-income individuals. Allowing for remote treatment and increased testing can enable more treatment of substance use disorder by civilian responders, especially if other forms of treatment are unavailable. CUPSR can also follow the lead of CHIERS and take intoxicated individuals to Sobering Stations, instead of arresting them. At these stations, the individuals can be given a space to recover from whatever substance they have taken and can be provided resources on recovery. These non-carceral and non-punitive measures can, when adopted by CUPSR, help to reduce the negative consequences of policing substance use disorders.

E. Individuals Experiencing Homelessness

According to the U.S. Department of Housing and Urban Development, more than 582,000 people in the United States were

273. See Leo Beletsky et al., *Physicians' Knowledge of and Willingness to Prescribe Naloxone to Reverse Accidental Opiate Overdose: Challenges and Opportunities*, 84 J. URB. HEALTH 126, 126 (2006).

274. *Id.* at 127.

275. *See id.*

276. *Id.*

277. *See id.*

278. *Id.*

279. *But see id.* (“Naloxone is a prescription drug, so physician participation is a necessary element in any naloxone distribution program in the U.S.”).

unhoused in 2022.²⁸⁰ Of this population, roughly 40%, or almost 234,000 people, are unsheltered.²⁸¹ That means that while over half of the homeless individuals can find temporary accommodations within the community, “[o]n any given night in 2019, roughly 210,000 people endured living and sleeping outside on sidewalks and in parks, in cars, or in abandoned buildings.”²⁸² While the number of unsheltered individuals experiencing homelessness has decreased over the past two decades—from a 2007 peak of 255,857 unsheltered individuals—the unsheltered population has been steadily increasing since its 2015 low of 173,268.²⁸³

1. Current Models for Policing Homelessness

Unfortunately, rather than focusing on building housing, connecting unhoused people with shelter, attempting to provide follow-up services, or identifying and addressing the root causes of homelessness, cities have largely relied on their police forces to respond.²⁸⁴ These responses have for the most part been punitive, with legislatures drafting ordinances that criminalize homelessness, mayors and city councils issuing orders to clear homeless encampments, and arresting people for actions necessitated by living outside, like sleeping and lying down in public.²⁸⁵ To illustrate, unsheltered individuals are more likely to receive citations or to be arrested for low-level offenses that would not be considered crimes if done inside a home, like public drinking.²⁸⁶ As such, individuals experiencing homelessness are directly criminalized for their inability to obtain shelter. Unsurprisingly, this can force vulnerable populations into cycles of homelessness and jail.²⁸⁷

280. TANYA DE SOUSA ET AL., THE 2022 ANNUAL HOMELESSNESS ASSESSMENT REPORT (AHAR) TO CONGRESS PART 1: POINT-IN-TIME ESTIMATES OF HOMELESSNESS 10 (2022), <https://www.huduser.gov/portal/sites/default/files/pdf/2022-AHAR-Part-1.pdf>.

281. *Id.*

282. SAMANTHA BATKO ET AL., ALTERNATIVES TO ARRESTS AND POLICE RESPONSES TO HOMELESSNESS, at v (2020), <https://www.urban.org/sites/default/files/publication/103158/alternatives-to-arrests-and-police-responses-to-homelessness.pdf>.

283. DE SOUSA ET AL., *supra* note 280.

284. Emily Peiffer et al., *Policing Doesn’t End Homelessness. Supportive Housing Does.*, URB. INST. (Oct. 25, 2022), <https://apps.urban.org/features/ending-homelessness-through-supportive-housing-not-policing/>.

285. Eric S. Tars, *Criminalization of Homelessness*, in NAT’L LOW INCOME HOUS. COAL., ADVOCATES’ GUIDE ‘21, at 6-36 (2021). See also Deborah Becker, *Mayor Wu Files New Ordinance to Remove Tents from Mass. and Cass’*, WBUR, <https://www.wbur.org/news/2023/08/28/mayor-wu-files-new-ordinance-to-remove-tents-from-mass-and-cass> (Aug. 28, 2023).

286. Peiffer et al., *supra* note 284.

287. BATKO ET AL., *supra* note 282.

Currently, law enforcement agencies are the most likely government actors to encounter people experiencing homelessness because of how easily they can be summoned via public complaints, or simply through regular patrolling.²⁸⁸ In particular, police may be called to situations that involve homelessness “(e.g., conflicts over use of and behavior in public spaces), which can result in arrests, citations, or other coercive measures, or ‘complaint-oriented policing.’”²⁸⁹ In addition, encampments of unsheltered individuals typically draw attention from the surrounding community, with both businesses and residents demanding that police and local governments remove such encampments.²⁹⁰ To respond to these complaints, police often conduct “sweeps” of the homeless encampments to try and disperse the population, in the name of maintaining order and public safety.²⁹¹ While jurisdictions may attempt to perform sweeps in a compassionate manner, providing significant notice for encampment residents, “because sweeps are often conducted by or with the participation of police, they increase the likelihood that a person experiencing homelessness will have a negative interaction with police and receive a citation or be arrested.”²⁹² Furthermore, even specialized police units may not be adequately trained to address issues relating to homelessness, especially where a disability, mental illness, or substance use is involved. In Orange County, California, for instance, a Black man with a disability experiencing homelessness named Kurt Andras Reinhold was killed by two police officers who were specifically “part of a team trained in de-escalation and outreach to people experiencing homelessness.”²⁹³

2. Consequences of Armed Police Response to Homelessness

Significantly, research has shown that “court orders do not increase compliance, nor do they lead to any reduction in symptoms or problematic behavior”—dispelling any argument that law enforcement efforts are advantageous in curbing the mental health issues potentially experienced by homeless individuals.²⁹⁴ These policing efforts are not only ineffective in curbing the number of homeless individuals, but they

288. SEAN E. GOODISON ET AL., THE LAW ENFORCEMENT RESPONSE TO HOMELESSNESS: IDENTIFYING HIGH-PRIORITY NEEDS TO IMPROVE LAW ENFORCEMENT STRATEGIES FOR ADDRESSING HOMELESSNESS 14 (2020), https://www.rand.org/pubs/research_reports/RRA108-6.html.

289. BATKO ET AL., *supra* note 282, at 7.

290. *Id.* at 8.

291. *Id.*

292. *Id.*

293. *Id.* at v.

294. Haroules & McCormack, *supra* note 74.

have proven to be extremely costly for cities. Just to enforce the city's anti-homelessness ordinances, Denver reportedly spent approximately \$750,000 in 2014.²⁹⁵ In 2016, Los Angeles County spent an estimated \$100 million on "homelessness-related activities."²⁹⁶

As another "punitive" and ineffective measure, cities are spending large amounts of money to disincentivize homelessness, rather than service unsheltered individuals. For example, cities implement "hostile architecture," which can include metal teeth, bars on benches, spikes along ledges, and fencing to make public areas less accessible and welcoming to public use, especially for people enduring unsheltered homelessness.²⁹⁷ Tactics like these must be reversed and reimaged to adequately address homelessness.

What makes this ineffective, punitive response to homelessness even more concerning is the disparate impact it has on minorities and communities of color.²⁹⁸ BIPOC people are overrepresented among populations experiencing homelessness, as well as among unsheltered populations.²⁹⁹ Experiencing unsheltered homelessness is more likely to result in a law enforcement encounter, and therefore higher rates of involvement with the criminal legal system.³⁰⁰ According to a study of self-reported data, unsheltered homeless individuals "have 10 times the average number of interactions with police as people in sheltered locations and are 9 times as likely to have spent a night in jail (81 percent of unsheltered people versus 9 percent of sheltered people)."³⁰¹ Specifically, unsheltered individuals had an average of seven "jail stays," while the average sheltered individual experienced zero jail stays.³⁰² This relationship between incarceration and homelessness creates a vicious cycle, where individuals who have been incarcerated more than once are

295. BATKO ET AL., *supra* note 282, at 8–9.

296. *Id.* at 8.

297. Winnie Hu, *'Hostile Architecture': How Public Spaces Keep the Public Out*, N.Y. TIMES, <https://www.nytimes.com/2019/11/08/nyregion/hostile-architecture-nyc.html> (Nov. 14, 2019). Findings like this serve to emphasize the importance of providing housing to unhoused individuals. A paper from the Seattle University School of Law noted that providing permanent supportive housing for people experiencing homelessness can lead to net savings of more than \$31,000. See LAVENA STATEN & SARA RANKIN, HOMELESS RTS. ADVOC. PROJECT, PENNY WISE BUT POUND FOOLISH: HOW PERMANENT SUPPORTING HOUSING CAN PREVENT A WORLD OF HURT (2019), <https://digitalcommons.law.seattleu.edu/cgi/viewcontent.cgi?article=1016&context=hrap>.

298. Megan Welsh Carroll et al., *Black Lives Experiencing Homelessness Matter: A Critical Conceptual Framework for Understanding How Policing Drives System Avoidance Among Vulnerable Populations*, 25 PUB. INTEGRITY 285, 286–87 (2023).

299. DE SOUSA ET AL., *supra* note 280, at 2, 12.

300. See Carroll et al., *supra* note 297, at 298.

301. BATKO ET AL., *supra* note 282, at 5.

302. *Id.* at 6.

thirteen times more likely to experience homelessness.³⁰³ Specifically, any sort of blemish on one's criminal record will make it that much harder for them to obtain housing—elongating the homelessness cycle and issue.³⁰⁴

In addition, the penalties that the criminal legal system imposes once someone has a police encounter exacerbates the already-existing issues. For instance, individuals experiencing homelessness are less able to pay court-related fines and appear for court dates.³⁰⁵ In turn, homeless individuals incur additional charges, which are sometimes coupled with new charges and/or bench warrants—further entrenching them into the criminal legal system and cycle of incarceration and homelessness.³⁰⁶ Most significantly, arresting someone does not address the underlying problem for those individuals experiencing homelessness, with 70% of those arrested for a homelessness-related offense in 2017 being arrested again a year later.³⁰⁷ As an Urban Institute report concludes, simply arresting people experiencing homelessness does not solve the underlying problem.³⁰⁸

3. Promising Practices for Responding to Homelessness

Communities in Wichita, Kansas and Colorado Springs, Colorado have created specialized police units, both called Homeless Outreach Teams (“HOT”), that are in charge of responding to all calls and activities concerning homelessness.³⁰⁹ Using these models, specific officers serve as liaisons between police, those experiencing homelessness, and service providers.³¹⁰ In Wichita, the team of three to four police officers responds to forty to sixty calls a day.³¹¹ The team has a dedicated phone number for calls relating to homelessness and “[o]nly members of the specialized unit can enforce the city’s anticamping ordinance.”³¹² However, the unit

303. *Id.* at 7.

304. See Jamiles Lartey, *How Criminal Records Hold Back Millions of People*, MARSHALL PROJECT (Apr. 1, 2023, 12:00 PM), <https://www.themarshallproject.org/2023/04/01/criminal-record-job-housing-barriers-discrimination>; see also Jabo Lake, *Preventing and Removing Barriers to Housing Security for People with Criminal Convictions*, CTR. FOR AM. PROGRESS (Apr. 14, 2021), <https://www.americanprogress.org/article/preventing-removing-barriers-housing-security-people-criminal-convictions/>.

305. BATKO ET AL., *supra* note 282, at 7.

306. Tars, *supra* note 285, at 6-37.

307. Peiffer et al., *supra* note 284.

308. *Id.*

309. BATKO ET AL., *supra* note 282, at 17-18.

310. *Id.* at 18.

311. *Id.*

312. *Id.*

additionally responds to 911 calls and participates in “typical law enforcement responsibilities.”³¹³ This indicates that the team is not solely focused on addressing individuals experiencing homelessness. Rather, homelessness is just one facet of law enforcement the team is tasked with. This is concerning and ultimately a problematic solution, as the later sections of this Article will describe the in-depth and coordinated responses needed to adequately address homelessness. By looking at the numbers alone, homelessness is a significant and large enough issue, requiring a dedicated task force to address it.

The Colorado Springs program also has a three-person police unit that works with shelters, advocates, and other service providers to connect homeless individuals with housing and services.³¹⁴ While the city had passed a no-camping ordinance and cleared encampments in the area, the specialized unit did not arrest anyone for violating the ordinance.³¹⁵ Instead, the team worked with its community partners to connect 229 families with shelter, 117 individuals with their out-of-state family members, and 100 people with meaningful employment opportunities.³¹⁶ While this program has had success, the limited number of staff that the police force extends to addressing homelessness creates a barrier to systemic and meaningful solutions.

In contrast, a program in Portland, Oregon uses civilian public safety teams, primarily to respond to public safety concerns arising among their homeless population.³¹⁷ These public safety teams consist of a few different groups of people, all focusing on a different aspect of public safety in the community.³¹⁸ One of these groups is called Portland Street Medicine (“PSM”—a team consisting of all volunteers who respond to and proactively outreach to assist with non-life-threatening medical issues that affect Portland’s homeless population.³¹⁹ This group, which consists of a registered nurse, a social worker, and a licensed independent provider, offers clinical services, first aid, and can write one-time prescriptions.³²⁰ Another local group is called Project Respond—a twenty-four-hour mobile crisis unit that responds to referral calls from local police and the Multnomah County Mental Health Call Center.³²¹ However, Project Respond usually arrives with a police escort, in

313. *Id.*

314. *Id.*

315. *Id.*

316. *Id.*

317. Green, *supra* note 260.

318. *Id.*

319. *Id.*

320. *Id.*

321. *Id.*

comparison to other programs where unarmed responders may summon police if necessary.³²²

Furthermore, some outreach organizations and initiatives have prioritized helping those living in encampments “understand how to keep a low impact campsite (e.g., orderly and tidy with trash well-managed, not obstructing other public uses, no immediate health or fire hazards).”³²³ This kind of education and outreach provides individuals experiencing homelessness with the ability to maintain the public space in a way that the rest of the community responds to and respects. In this way, both the local community and those experiencing homelessness have an active role in creating inclusive public spaces for all.

There are some areas in the nation that have already adopted models of inclusive public space management. In Santa Barbara County, California, the county has created a designated parking place (known as the Safe Parking Program) for homeless individuals to sleep, access hygiene resources, and connect to rapid re-housing services.³²⁴ Such a service is particularly important in Santa Barbara County, as 27% of the region’s homeless population lives in a car.³²⁵ This indicates the importance of creating inclusive public spaces specific to the region being addressed, as homelessness can manifest in various iterations depending on the state’s geography and demographic.

Efforts to connect unhoused people with shelter also have demonstrated success in reducing the population of individuals experiencing homelessness. New York City’s Frequent User Service Enhancement (“FUSE”) initiative, a program launched by the Corporation for Supportive Housing (“CSH”), is a program designed to identify individuals who are repeat clients of multiple public service systems, such as jails, hospitals, and shelters, and connect them with supportive housing in order to help them avoid crisis services.³²⁶ The FUSE II evaluation reported that over the two year period of the program, participants spent 40% fewer days in jail.³²⁷ Another study from Seattle had similar outcomes, where individuals had an average of three

322. *Id.*

323. ARNOLD VENTURES, TAKING MANY ROADS TO ‘A HOME FOR EVERYONE’ 3 (2020), <https://craftmediabucket.s3.amazonaws.com/uploads/AV-homelessness-portland.pdf>.

324. BATKO ET AL., *supra* note 282, at 15.

325. *Id.* See also ARNOLD VENTURES, AFFORDABILITY AS THE DEFINING CHALLENGE 2 (2020), <https://craftmediabucket.s3.amazonaws.com/uploads/AV-homelessness-Santa-Barbara.pdf>.

326. ANGELA A. AIDALA ET AL., FREQUENT USERS SERVICE ENHANCEMENT ‘FUSE’ INITIATIVE, at ii (2013), https://www.csh.org/wp-content/uploads/2014/01/FUSE-Eval-Report-Final_Linked.pdf.

327. *Id.* at v. See also BATKO ET AL., *supra* note 282, at 11.

jail admissions pre-housing and only one admission post-housing, with the amount of days spent in jail decreasing from thirty-one days pre-housing to eighteen days post-housing.³²⁸ Strategies like this demonstrate that positive results can come from connecting individuals experiencing homelessness with housing, and that it is often more cost-effective than enduring repeated citations, arrests and incarcerations, and hospitalizations, instead allowing chronically unhoused people to break that cycle.

Finally, there are systems that are designed to connect those experiencing homelessness with services. Minnesota, for instance, employs an organized, collaborative effort to deal with homelessness. Known as the Minnesota Continuum of Care (“CoC”), the program utilizes state and federal resources to employ the Housing First practice described above.³²⁹ In addition, the program is successful because “[t]here is a strong collaboration across the multiple nonprofit and government agencies that actively participate in case conferencing and housing placement.”³³⁰ Specifically, the CoC uses a Coordinated Entry System (“CES”) as an “initial point of contact for those seeking either temporary or permanent housing services.”³³¹ Many community members and organizations, such as law enforcement departments, schools, workforce centers, and community programs, are knowledgeable about the CoC’s efforts and therefore direct at-risk individuals to the Coordinated Entry Points when possible.³³² Individuals may call the program’s 2-1-1 community resources helpline, which is staffed twenty-four hours a day.³³³ Operators will then “direct callers to the intake point for their county based on their specific situation, including those who are facing homelessness, foreclosure, or imminent homelessness due to domestic violence.”³³⁴

In a public report from 2017, CoC successfully transitioned 76% of individuals to permanent housing destinations—leaving emergency

328. BATKO ET AL., *supra* note 282, at 11.

329. ARNOLD VENTURES, RURAL COMMUNITIES WORKING TOGETHER TO END HOMELESSNESS 2, <https://craftmediabucket.s3.amazonaws.com/uploads/AV-homelessness-southwest-minnesota.pdf>.

330. *Id.* at 3.

331. *Id.*

332. *Id.*

333. *Id.*

334. *Id.* See generally Evan Mintz, *Research & Results: Nine U.S. Localities Offer Human-Centered Approaches to Unsheltered Homelessness*, ARNOLD VENTURES (Mar. 5, 2020), <https://web.archive.org/web/20250123090946/https://www.arnoldventures.org/stories/research-results-nine-u-s-localities-offer-human-centered-approaches-to-unsheltered-homelessness> (describing similar 2-1-1 line in Syracuse, New York).

shelters, safe havens, transitional housing units, and rapid re-housing units.³³⁵ One of the reasons the CoC is so successful is because of the weekly outreach events the staff participate in and hold at libraries, schools, parks, and other publicly known locations.³³⁶ In the areas that the CoC does not cover, the team trains the sheriff departments and municipal police forces so that they know where the Coordinated Entry Points are in each county, making it easy for law enforcement officials to refer individuals to the available housing and social services resources.³³⁷

Overall, these studies and examples indicate that inclusive, non-carceral approaches to homelessness can be successful. However, in order to make such approaches more widespread and politically feasible, public education and effective communication around unsheltered homelessness is essential.³³⁸

4. How the CUPSR Can Better Address Homelessness

While specialized police units that partner with social service providers to respond to homelessness activities may be more effective than pure law enforcement efforts, the real solution depends on the creation of *non*-law-enforcement interventions.³³⁹ This is especially true when responding to calls concerning individuals needing mental health services.³⁴⁰ Experts have called on states to create crisis intervention models that utilize trained, mental health professionals—as opposed to police—to respond to mental health calls.³⁴¹ By creating a completely different avenue of intervention, one that does not view homelessness as another form of crime, CUPSR teams can begin to address the root causes and begin to try and problem solve the issues that lead to people going without shelter. For these non-law-enforcement measures to be impactful and successful, CUPSR must be able to coordinate with service providers and other agencies to provide services to unhoused people that the teams may encounter.

In a non-law-enforcement intervention model, CUPSR teams would make contact with people experiencing homelessness, rather than police officers, and would be responsible for connecting them with resources and

335. ARNOLD VENTURES, *supra* note 329, at 2.

336. *Id.*

337. *Id.*

338. BATKO ET AL., *supra* note 282, at 16.

339. *Id.* at 19.

340. See Shelly Nortz, *Fact Check on Homelessness and Mental Health Care*, COAL. FOR HOMELESS (Feb. 23, 2022), <https://www.coalitionforthehomeless.org/wp-content/uploads/2022/02/Fact-Check-on-Homelessness-and-Mental-Health-Care.pdf>.

341. See Haroules & McCormack, *supra* note 74.

agencies that can then connect them with housing and other services that they might need. This approach reinforces the understanding that in most cases, non-punitive initiatives may sufficiently address issues relating to homelessness. Residents can also alert CUPSR to a person experiencing homelessness using an alert number. The dispatcher would determine what the call is about and then direct the correct branch of CUPSR to the scene to respond.

While CUPSR cannot and should not be responsible for providing housing, it should also adhere to the “Housing First” model of homelessness response, which is built on the idea that people should be provided with housing as a foundation for addressing their other needs.³⁴² An approach using this model will not impose sobriety or medication use requirements, nor focus on incarcerating unhoused individuals.³⁴³ A public safety approach designed under a Housing First model results in a lower amount of arrests, a decrease in the number of jail stays, and a reduction in the amount of police interactions.³⁴⁴ CUPSR can utilize this research to design an approach to addressing homelessness that allows these responders to provide treatment and serve a problem-solving function for individuals who are experiencing homelessness, while also decreasing the amount that cities and states spend on homelessness response.³⁴⁵

While it may be beyond the scope of CUPSR to provide housing for unhoused individuals, the response team can serve as a first point of contact and connect these individuals with services and agencies in a way that armed police cannot and do not. CUPSR teams can also help by locating the family members of unhoused individuals and connecting them with the goal of providing bridge housing, as the Colorado Springs program does.³⁴⁶ CUPSR can also work to educate encampment residents on how to maintain an orderly campsite, free from safety obstructions and fire hazards.³⁴⁷ Many unhoused individuals report feelings of anxiety at the presence of police, stating that officers are often overly punitive in their interactions with these communities.³⁴⁸ CUPSR teams should focus

342. Michael Kimmelman, *How Houston Moved 25,000 People from the Streets into Homes of Their Own*, N.Y. TIMES, <https://www.nytimes.com/2022/06/14/headway/houston-homeless-people.html> (June 15, 2023).

343. Nortz, *supra* note 340. While some schools of thought believe that people must receive mental health and substance use treatment *before* securing housing, Housing First is based on the idea that an individual cannot address these challenges until *after* they secure housing. *See* Kimmelman, *supra* note 342.

344. Peiffer, *supra* note 284.

345. *See id.*

346. *See* discussion *supra* notes 314–316.

347. *See* discussion *supra* note 323.

348. Carroll et al., *supra* note 298, at 292–93, 295.

on not replicating the combative and negative approach to these interactions that armed police have taken, but using a more empathetic and compassionate response. In creating these programs, it may be advantageous to hire individuals that have themselves experienced homelessness—specifically to fill outreach roles.³⁴⁹ Doing so would aid in effectively addressing the issues that homeless individuals face and could additionally provide homeless individuals with meaningful employment.

V. CONCLUSION

Police often complain that they are asked to do too much.³⁵⁰ We agree. The performance of their duties in various areas, from traffic safety,³⁵¹ responding to homelessness,³⁵² solving minor nonviolent incidents,³⁵³ and more are indicative of a force that is overextended and underprepared to fulfill the wide array of duties that they are given. Armed police are not trained to respond to most of the incidents that they are called for, with most of their training being focused on weapons and defensive tactics.³⁵⁴

These skill sets do not prepare armed officers to respond to incidents that don't require the use of force. Some have advocated for reforming police training to encompass responding to nonviolent incidents that officers may encounter on the job, or to be more in line with the amount of training that law enforcement in other countries receive.³⁵⁵ While

349. BATKO ET AL., *supra* note 282, at 15.

350. Jackson Beck et al., *Behavioral Health Crisis Alternatives: Shifting from Police to Community Responses*, VERA INST. JUST. (Nov. 2020), <https://www.vera.org/behavioral-health-crisis-alternatives>.

351. See, e.g., Christian MilNeil, *The Cops' Directing-Traffic Racket Is Delaying Safety Projects*, STREETSBLOG MASS (June 22, 2023, 10:23 AM), <https://mass.streetsblog.org/2023/06/22/the-cops-directing-traffic-racket-is-delaying-safety-projects>.

352. See Marisa Westbrook & Tony Robinson, *Unhealth by Design: Health and Safety Consequences of the Criminalization of Homelessness*, 30 J. SOC. DISTRESS & HOMELESSNESS 107, 112–13 (2021); see also TRISTIA BAUMAN ET AL., NAT'L L. CTR. ON HOMELESSNESS & POVERTY, NO SAFE PLACE: THE CRIMINALIZATION OF HOMELESSNESS IN U.S. CITIES 38 (2014), https://homelesslaw.org/wp-content/uploads/2019/02/No_Safe_Place.pdf.

353. See STATISTA, *Crime Clearance Rate in the United States in 2023, By Type*, <https://www.statista.com/statistics/194213/crime-clearance-rate-by-type-in-the-us/> (last visited May 13, 2025) (showing the clearance rate for nonviolent offenses, including larceny, in the United States is less than 15%).

354. See EMILY D. BUEHLER, BUREAU JUST. STAT., NCJ 255915, STATE AND LOCAL LAW ENFORCEMENT TRAINING ACADEMIES, 2018 – STATISTICAL TABLES 10 tbl.7 (2021), <https://bjs.ojp.gov/sites/g/files/xyckuh236/files/media/document/slettea18st.pdf>.

355. See Jake Horton, *How US Police Training Compares with the Rest of the World*, BBC (May 17, 2021), <https://www.bbc.com/news/world-us-canada-56834733> (noting that the amount of training that U.S. police are required to receive is among the lowest in a

these are all necessary reforms, they do not address the most serious issue: that armed police officers are trained to use force and will resort to using it by default in most situations. The solution is not to provide more training, but to limit the number of situations where armed officers are the first responders.

Emergency dispatchers can make a distinction between situations that require armed police and those that do not. We believe that this ability can be used to limit deployment of armed officers.

As Professor Friedman and others have identified, police spend only about 5% of their time on violent crime.³⁵⁶ Therefore most of their time is spent on responding to nonviolent offenses, or on administrative activities. We built upon Friedman's work, arguing that most of the work that police are currently responsible for doing can be done by a new entity, while Friedman argues that it can be done by existing police, nonprofits, and others. We believe that this work could and should be done by a new entity of CUPSRs. In this Article, we have disaggregated the time that police spend on different tasks, and identified how it could be better addressed by a team of civilian unarmed public safety responders. These are the reasons that we think that this is a better solution than having police take responsibility for these areas: the mere presence of police escalates a situation.

Replacing armed officers with civilian, unarmed, public safety responders ("CUPSR") will increase public safety by reducing the likelihood of law enforcement response fatally escalating, as is frequently the case with armed officers. These responders will be able to respond to situations in a nonviolent manner, which will increase the trust that community members have in them. CUPSR responders will also be trained in de-escalation tactics, in problem-solving techniques, and the availability of other resources and social services organizations that might help resolve the situation. We are not advocating for replacing armed police entirely. CUPSR teams will be able to summon armed officers if necessary, but armed police will no longer need to be the default first responders to all emergency calls, especially when the data shows that most of the time, an armed police response is not necessary.³⁵⁷ Our proposal simply responds to the reality, which is that armed police are

study of 100 countries); *see also* BUEHLER, *supra* note 354, at 2 (describing that U.S. law enforcement recruits receive, on average, 833 hours of basic training).

356. *See* Famega, *supra* note 33, at 91 tbl.2 (using notes collected by trained observers who accompanied officers during their shifts and recorded their behavior); *see also* Friedman, *supra* note 34, at 949 (describing the results of several studies that track police officer activities and dispatch records).

357. *See* VERA INST. JUST., *supra* note 237.

asked to do too much,³⁵⁸ make citizens feel unsafe,³⁵⁹ and cause situations to escalate dangerously and often fatally.³⁶⁰ Limiting their use to only ongoing, serious, or violent crimes acknowledges that there are some situations where armed officer response is necessary, while also recognizing that in the majority of cases, public safety does not require the use of force. It is necessary to rethink public safety, to see that a new system is necessary, a novel approach, one that replaces armed police officers with civilian, unarmed, public safety responders.

358. *See* Friedman, *supra* note 34, at 981 (“Of course, no single human being can be all this—forceful crime-fighter, empathic interviewer and assister of victims, collaborator with communities and social service agencies, solver of crimes.”).

359. *See* Geller et al., *supra* note 67, at 2321.

360. *See* Christian Spencer, *Activists Warn Police Presence Escalates Tensions In Protests Over Andrew Brown Killing*, HILL (May 3, 2021), <https://thehill.com/changing-america/respect/equality/551537-activists-warn-police-presence-escalates-tensions-in/>.