# Final report: Families and justice in cases of death after police contact in the United States

<u>The purpose of this report</u>

This report presents the final findings of the research project. The recipients of this report are the families who participated in the research project, and any activist/community group that facilitated access to the research participants. The intention is to keep you informed about the findings of the research project you participated in last year. You are welcome to share this report with anyone you wish, you do not need to seek my permission to do so.

<u>Project overview</u>

The research project examined how families try to achieve justice in cases where family members die after police contact in the United States. It did this by interviewing members of 43 families who had a family member die after police contact. It aimed to:

- Understand the circumstances in which deaths after police contact occur in the US.
- Examine families' key issues of concern in these cases in the US.
- Document the actions and processes families perceive they go through in attempting to get accountability in such cases in the US.

Family members were interviewed using a semi-structured list of questions. The length of interviews varied from 35 minutes to one hour and 30 minutes. The average interview length was approximately one hour. Interviews were recorded between July and December 2016.

This report was produced by using a specialist software programme called 'Nvivo' to analyse the written transcripts of these interviews. It enables the researcher to thematically identify the most common issues raised by families during the interview process.

<u>Literature used in this report</u>

A number of academic and governmental literature sources are used as citations throughout this report to ground some of the findings and put them into the wider context of policing in the US. One key piece of literature used is the President's Task Force on Policing in the 21st Century (hereafter PTF 2015). This was published in 2015 and represents the most up to date official evaluation of where policing currently is in the US in addition to clearly articulating a vision for the future of policing in the US. A full list of reference sources is set out in full at the end of this report.

<u>What happens next on the research project?</u>

I will now focus on producing articles for academic publications. Once published, these articles will be available to any university student or teacher (Professor) in the English-speaking world

who wishes to research the issue of deaths after police contact in the US. I will also begin to give talks at major Criminology conferences on some of the key findings from this research. The first conference will be the European Society of Criminology conference on September 14th 2017, where I will give a paper titled: '"We are not the enemy": deaths after police contact in the United States.' More than one thousand Professors and PhD students from all over Europe (and beyond) attend this conference every year. Periodically I will update you with news about articles that have been published, or conference talks I have delivered.

Contextual details

The deaths in question occurred between 1999 and 2016. Of the 43 individuals who died after police contact:

37 were male, 6 were female.

24 were African-American, 13 were Caucasian, 3 were Latino, 2 were mixed-race and 1 was Native American.

The youngest victims were aged 16, the oldest was aged 59. The average age of the deceased was 26.5 years. The following age ranges detail the ages of those who died after police contact:

| Age range | Number of deaths |
| --- | --- |
| 16-20 | 10 |
| 21-30 | 22 |
| 31-40 | 5 |
| 41-50 | 5 |
| 51-60 | 1 |

The great majority of deaths (40 out of 43) occurred as a result of being shot by police. Two deaths occurred due to restraint, one person died in police custody.

Interviews were conducted in 16 states in the continental US. These included the west coast (Washington, Oregon and California); the east coast (New York, Massachusetts, Maryland and Virginia); the south (North Carolina, Georgia, Texas and Louisiana); east-central (Illinois, Ohio and Wisconsin); and west-central (Utah and Nevada)

Summary of findings

This report outlines 18 key findings, detailed on pages 4-14 of this report. The overall message from these findings is that families feel there is *little, or no accountability* in the current justice processes when citizens die after police contact in the US. Families believe that police are not held accountable for actions that lead to the deaths of citizens. This perception is partly based on the lack of information made available to families, and *lack of transparency* in the investigatory or disciplinary process in the aftermath of such deaths. Families felt that the withholding of information by criminal justice organisations meant a partial narrative was constructed in the aftermath of the death of their loved one, a narrative that did not reflect multiple evidence sources in relation to the death. A *lack of independence* in the investigatory or disciplinary processes exacerbated these concerns as families felt these were overtly biased in favour of police, rather than being demonstrably impartial processes of justice. The perceived lack of accountability, transparency, and independence combined to produce a *lack of legitimacy* in criminal justice organisations. Families did not believe that criminal justice organisations were legitimate institutions in terms of producing justice and accountability after these deaths. This led families to question their belief in other official organisations, and in many cases, their general world-view of what justice and truth was in the US.

The initial impetus for this research project came from the revelation that the US federal government did not have an accurate count of how many citizens were killed by police in the US. Beginning in late 2014, the UK Guardian Media Group constructed an interactive website ('The Counted') to calculate this number, and estimated that in 2015 it was 1146, and in 2016 it was 1093. In other words, in 2015 and 2016, approximately three citizens per day were killed by police in the US. Both the FBI and Department of Justice have accepted that these figures represent the most accurate available data and have now begun to use 'The Counted' methodology to compile statistics on this issue. Zimring (2017: 246) notes that the scale of killing was so remarkable that a foreign media group was prepared to dedicate two years of extensive research and analysis to the issue. By interviewing family members about how their loved ones had died, I aimed to try and understand this issue from the 'ground up'. There are serious concerns about the legitimacy and accountability of the police and criminal justice system from the outset when the lack of accurate data is considered. It raises questions such as: 'Do the people who die count?'; 'How can police be held accountable for deaths when there is no accurate data?'; and, 'Are these individual cases, or part of wider organisational patterns of culture and behaviour, and how can we know without accurate data?' A plethora of academic authors (Campbell, Nix, and Maguire 2017, Dunham and Petersen 2017, Hickman and Poore 2016, Marenin 2016, Klinger *et al.* 2015, Katz 2015) have noted the lamentable quality of data available on this issue. It must be noted that the accuracy of future data collected by the

Department of Justice and the FBI under their new guidelines is yet to be assessed. This report considers the human cost of deaths after police contact in the US, and aims to examine how these deaths affect wider social, political and legal issues in the US such as legitimacy, fairness, democracy and trust in public organisations.

*Headline findings from the research project*

1. **Lack of information**

**All participants stressed the lack of information made available to them from the time their loved one died, through the process of investigating their death, and including any subsequent legal or disciplinary processes. This lack of information related to any combination (or all) of the following: police initially present at the scene of death; police responsible for investigating the death, or updating the family on the process of any such investigation; the coroner/medical examiner (ME); the District Attorney (DA); and/or the judge. The lack of information covers the early stages of the death, when families were often not informed that their loved one was dead until hours after the fact, despite asking specific questions to that effect. It continued through to the coroner/ME failing to provide death certificates or autopsy reports, despite them being available. The investigation of the death and any subsequent disciplinary or legal procedures were considered by families to be fraught by delay and obfuscation by the relevant authorities. Most commonly, families felt they were denied access to documents; in some cases, it was denied that documents existed, but were then leaked to the media; in a number of cases families were allowed access to documents only to find them so heavily redacted as to be effectively unreadable. Examples of comments from families included:**

*Case 8: 'I was riding to the grocery store and heard that the death certificate had been released…and I didn't have a copy, but [the media] had a copy.'*

*Case 16: 'We kept asking questions, because I wanted to know where my son was and if he was ok…they just kept telling us to wait and to wait.'*

**The opening page of the PTF (2015: 1) states: 'Law enforcement agencies should…establish a culture of transparency and accountability to build trust and legitimacy.' Policing in democratic societies relies on the concept of procedural justice (Reiner 2010, Gaines and Kappeler 2011). In essence, this states that citizens are more likely to trust police if they follow demonstrably fair and just procedures in the course of their work. This is more likely to occur if such procedures are transparent. A lack of transparency is likely to lead to a breakdown in trust and threaten the legitimacy of the police to do their job effectively with the support of the public. Zimring (2017: 19) believes that police killing citizens is the most important issue affecting police and community relations in the US today. With an average of three citizens per day dying after police contact, such deaths clearly damage the legitimacy of the police and criminal justice system.**

2. **The deceased was not engaged in a criminal act**

**All participants stressed that their loved one was not involved in a criminal act when they died after being in contact with the police. Variously, they felt their loved ones died as a result of coincidental contact with the police, for example because they were stopped erroneously; or because police had been called for welfare purposes (particularly in cases where mental health was an issue). Families consistently raised the issue of why police reacted in the way they did when the person in front of them was not engaged in a criminal act. A common view that families held was that police had a 'comply or die' mind-set which reflected an overly aggressive approach that emphasised the use of force rather than the provision of a public service. Examples of comments from families included:**

*Case 20: 'He wasn't a criminal, he wasn't out on the streets….He was in his apartment.' Case 36: 'My son had no weapon, he had no weapon.'*

One of the most common findings in academic literature about policing is that they predominantly focus on order maintenance rather than crime control (Reiner 2010, Gaines and Kappeler 2011). It is order maintenance that leads police to stop citizens on foot or in cars. A significant number of people who die after police contact do so as a result of 'routine stops' that subsequently develop into lethal encounters (Lamont Hill 2016). A common strand in the academic literature on policing is that officers especially dislike being 'disrespected', and a key example of this is running from an officer, irrespective or whether a criminal act has been committed. It is notable that 11 of the deceased in the dataset for this research project were shot in the back. Numerous academic studies note that the most powerful predictor that determines whether police use force is resistance from the citizen (see, for example Kleining 2014, Phillips 2010, Terrill, Leinfelt and Kwak 2008).

3. Lack of independent investigation

90% of participants felt aggrieved that the investigation into their loved one's death was evidently lacking in independence. Police officers investigated the death of their loved one; sometimes from the same force, other times from other forces. A significant number of participants identified the District Attorney (DA) as being particularly partisan, noting that this was unsurprising due to the DA working closely with the police as part of their role, and thus being less inclined to prosecute or discipline police officers as a result. The lack of independence in the investigation meant that families felt it was not as legitimate, nor as accountable as it might be. They also felt that it made the whole process lack transparency (note finding 4), and that this affected the legitimacy and accountability of any justice produced. Examples of comments from families included:

*Case 11: 'the DA reviews the police investigation that they did on themselves and he has a 100% record finding that whatever the cops found was justified.'*

*Case 17: 'We had some recordings…and in the interview, it was almost like the guy that was interviewing [the officer] was leading him to the right answers.'*

Crank (2016: 286) notes that the police in the US have: 'A historically abysmal record of accountability.' This is partly due to the organisation of police departments throughout the land.

The US has nearly 18,000 different police forces, and approximately 17,000 of them employ fewer than 100 officers (PTF 2015: 29). This means that there is both limited oversight due to the huge number of policing organisations that require it, but also limited sharing of best practice. The PTF (2015: 2) states that there should be: 'External and independent investigations of officer-involved shootings and other use of force situations and in-custody deaths.' The key word here is 'should', as there is little evidence of this either occurring, or of any significant desire to implement such a change. As Zimring (2017: 120) notes: 'Quite often there is no careful or meaningful legal review after the killings occur.' Moore's (2015: xii) research into the Danziger bridge shootings in New Orleans concludes: 'The NOPD did not find that a single officer shooting so much as violated departmental policy in at least six years.' The lack of independent investigation creates suspicion from the outset about procedural justice in these cases and consequently weakens the legitimacy of the police and criminal justice system in the US.

1. Lack of transparency in justice processes

Linked to the finding above, 85% of participants believed there was a lack of transparency in the justice processes in the aftermath of such a death. This did not just relate to the lack of an independent investigation, but also to autopsy procedures, death certification, police disciplinary procedures, and court processes. In this sense, accountability is closely tied to transparency: if families felt that there was more transparency in these processes, it is likely they would feel the justice produced was more accountable and legitimate. Examples of comments from families included:

*Case 4 'He (was] in the hospital under an assumed name'*

*Case 10 'We tried to get the dash cam video from the police and the answer we got was that out of all the cars…the one that shot my son it didn't work, they couldn't provide that because they didn't have it.'*

Continuing the theme of how important procedural justice is to policing and criminal justice organisations, the PTF (2015: 13) asserts: 'One way to promote neutrality is to ensure that agencies and their members do not release background information on involved parties.' Hirschfield and Simon (2010) found that it was relatively common for police departments to give information to the media prior to notifying the family of the deceased about their death. This strengthens the view that police and justice organisations appear more concerned with how the narrative of the death is presented in the media than in undertaking a rigorous and thorough investigation, as might be the case in a homicide. On the issue of body and dashboard cameras, these were initially hailed as a panacea which might both restrain police brutality and also make them more accountable. One reasonably consistent finding in the academic literature on this issue is that first and foremost the cameras have to be switched on. Moore (2015: 190) notes that in New Orleans, the NOPD adopted body worn cameras from late 2013. When the Department of Justice reviewed their use, they found that 60% of the time either no video was recorded or preserved. At the time of writing, it remains to be seen how effective body cameras or dashboard cameras might be in reducing instances of death after police contact.

5. Shooting without reason

85% of participants whose loved one was shot dead by police believed the shooting was unnecessary. This closely relates to finding 2 in that families identified variously that the deceased was not armed, or considered to be behaving in a threatening way, nor were they engaged in a criminal act. Shooting without reason underlined what was perceived to be the changing role of the police as being more of an aggressive force than an enabling public service (note also finding 10 and 14). Examples of comments from families included:

*Case 26: 'My son turned around and said "don't shoot" and they shot him.'*
*Case 32: 'My son said "mom, I'm shot, he shot me for no reason."''*

An increasingly common finding in academic literature on policing in the US is that not all police forces have clear policies about how and under what circumstances force should be used (Terrill and Paoline 2012, Zimring 2017). There is consensus that forces with clearer policies generally have fewer shootings. In addition, the PTF (2015: 19) notes: 'Not only must there be policies for deadly and non-deadly uses of force but a clearly stated "sanctity of life" philosophy must also be in the forefront of every officer's mind.' For Zimring (2017: 169) the lack of police protocol and guidelines on force have led to 'ambiguity and permissiveness' in terms of how officers are (or are not) held accountable for its use. The lack of policies on the use of force can be seen to link to the lack of accurate data on its use. Not being able to clearly demonstrate what the problem is (due to lack of data) hampers any attempt to find even the most basic solutions to it. Similarly, a lack of reason when using force threatens trust and legitimacy in the police due them lacking procedurally just policies.

2. Media misrepresentation

80% of participants identified media misrepresentation in the way their loved one's death was reported. Typically, they felt that media repeated the official police narrative of the death without gathering other sources of evidence, either from witnesses at the scene, or from other family members. Relatives commonly believed that the character of their loved one was smeared by such representation. Usually, this led to the deceased being represented as having a criminal record; and/or of having mental health issues; and/or of being dependent on substances; and/or of behaving in a suspicious or threatening manner when interacting with police prior to their death. Participants felt that this put the fault of the death onto their loved one, by focusing on perceived flaws in their character or behaviour, rather than examining the actions of police in relation to the fatal incident. Examples of comments from families included:

*Case 7: 'The first thing they do they put up a mug shot up that had nothing to do with that incident.' Case 13: 'The media always reports the first report that they get from the police.'*

Hirschfield and Simon (2010) found that media narratives about citizens who died after police contact were typically driven by police reports and lacked other evidential sources. Furthermore, they noted that such reports tended to focus on the deceased and their character rather than how they came to die. In particular, the deceased's pre-existing health conditions, or their criminal record were focused on (the former is also noted by Lamont Hill 2016). Another example of this is the focus on the actions of the deceased, as distinct from the actions of the police. Commenting on the shooting of Walter Scott in South Carolina in 2014, Lamont Hill (2016: 52)

notes that the received interpretation of the shooting became that if Mr Scott had stayed in his car (and not fled), he would have still been alive. The reality, says the author, is that if he had not been shot by the police officer, he would still be alive.

7. Justified shooting

80% of families whose loved one was shot dead by police stated that the shooting was officially pronounced 'justified'. For those families, 'justified' was seen to be a predetermined decision that resulted from a non-independent, unaccountable and opaque investigation into the death of their loved one. It was seen as a 'rubber stamp' decision that legitimated police officers' actions while de-legitimating their loved one. This finding related to finding 2 and 5 regarding the issue of how shootings could be seen to be justified when the deceased was typically neither armed, nor acting in a threatening way, or engaged in a criminal act. It should be noted that 20% of families stated the shooting was found to be unjustified, albeit that successful prosecution as a result was rare – in one case two police officers were sentenced to prison time. Examples of comments from families included:

*Case 31: 'The [police chief] said it was a good shoot, good shoot referred to it as a good shoot. Imagine someone saying it was a good shoot.'*

*Case 21: 'I want to see [police] move from a mind-set of finding fault to a mind-set of finding what truly happened and how do we prevent it from happening again.'*

In his seminal work on police culture, Crank (2016: 128) states that the influence of guns on police training and culture 'cannot be overstated.' He goes on to note that guns effectively become an extension of officers, and that this has become intensified by training that emphasises shooting to kill: 'Grazing shots are bad shots. Guns are evaluated for their stopping power and cops for the accuracy of their aim' (Crank 2016: 130). An increased emphasis in training on officer safety means that officers are more confident of firing their weapons, safe in the knowledge that such a shooting will most likely be deemed 'justified.' Consequently, Balko (2014: 275) notes: 'These policies have given us an increasingly armed, increasingly isolated, increasingly paranoid, increasingly aggressive police force in America.' Once again, this clearly highlights the lack of procedural justice, not only in police actions, but also in criminal justice organisations responses to such shootings.

8. Trauma and trust

75% of participants talked about the trauma and grief they felt in the aftermath of the death, and how this affected their trust in individuals and organisations as a result. Trauma and grief as a result of the unexpected death of a loved one is unsurprising, but typically participants talked about more far-reaching effects. Notably, the lack of trust they felt not just in the police and criminal justice system, but in any form of official organisation, and in many cases to community groups, work colleagues, neighbours and people they had previously considered friends.

This finding appears to relate to the 'just world' hypothesis. Simply stated, individuals invest belief in a societal system that rewards those who do good, and punishes those who do bad.

Therefore, it follows that such a world is fair and just. In the aftermath of a death after police contact, this belief can be shattered, and thus certainties which were previously held are challenged, affecting one's capacity to trust in the social world. Examples of comments from families included:

*Case 9: 'Obviously, I don't trust the police anymore, I try to stay as far away from them as possible.'*

*Case 18: 'Normally, when your loved one is killed you have the police helping you solve it, we had the police working against us because it was the police that did this.'*

Whilst there is no literature available on the just world hypothesis in relation to policing, it is clear that the hypothesis could apply. The literature that is available typically focuses on the death of a loved one in tragic or inexplicable circumstances, for example in an accident or during a medical procedure. Those close to the deceased go through processes of disbelief, anger and frustration at the unjustness of the world. If the death can be attributed to a supreme being, or to nature, such a death may be easier to accept (Stroebe *et al.* 2015). However, the deaths in this project are the result of police action, and challenge families' perceptions of the stated intentions of criminal justice agencies to 'protect and serve'. Responses from participants variously fitted into Corey, Troisi and Nicksa's (2015) typology of either 'reinterpreting justice' – i.e; using the official version of events provided by the criminal justice system and reinterpreting it to make sense of it on a personal level; or of 'ultimate justice' – a belief that eventually a higher form of justice will prevail. One final comment relates to 'atonement', in the sense that one quarter of families noted they had either started an organisation or fund to remember their loved one and fight for future victims of injustice. In this sense, the just world hypothesis states that in the aftermath of being affected by a major injustice, people might want to balance the scales of justice by using their own initiative in an attempt to right future wrongs (Bastounis and Minibas-Poussard 2012).

1. <u>Education and training: the need for improved standards</u>

75% of participants believed that police needed to be better trained, and be required to pass a higher level of educational qualification than at present. A significant number of families had undertaken research into police training and were well-informed about how officers are recruited and trained. Common remarks mentioned the disproportionate amount of time spent training police officers to use their weapons compared to de-escalating situations (see finding 10); similarly, the link to the military was often mentioned as families questioned the number of ex-military personnel employed by police in terms of those officers' commitment to a service model of policing as distinct from a use of force model. Examples of comments from families included:

*Case 23: 'If they are only trained 6 months does that really give them the right to give or take life? I think more time training and more time in school and a complete understanding of psychology and social work skills need to be given to these officers.'*

*Case 25: 'They absolutely need more training, because they are scared…! mean if you are scared, why are you a police officer?'*

The PTF (2015: 56) clearly states that officer basic training should incorporate social interaction skills to ensure that officers are able to gain compliance in interactions with citizens without recourse to the use of force. One aspect of current training noted by many of the research participants was the '21 foot rule'. This effectively states that if officers feel threatened by a citizen, they are fully justified in shooting if the citizen comes within 21 feet of them. Zimring (2017) notes that this aspect of training has become common-place, despite any evaluation of it, or any evidence being produced to prove that it works. For him, the 21 foot rule: 'Indicates the inherent anarchy and lack of accountability we find in the animating principles of police use of deadly force' (Zimring 2017: 100).

10. <u>Lack of police de-escalation</u>

70% of participants identified the tendency of police not to de-escalate situations, but to approach situations from the outset with a mind-set that meant the use of force was likely, if not inevitable. A typical comment was that police arrived at the fatal incident with their guns already drawn, or that police arrived in significant numbers apparently expecting to deal with a violent incident. Families felt that this was a result of police being an increasingly paramilitary force (note finding 14) that identified members of the public as being dangerous and threatening, rather than being citizens to be protected. Examples of comments from families included:

*Case 19: 'They need to solve escalation, if they had just listened and paid attention.'*

*Case 22: 'When you are unarmed, ! don't care about black, brown, white…you don't have to shoot them to kill, that is unacceptable, it's unethical.'*

Whilst the academic literature on policing notes that it universally requires human service skills, including negotiating and empathy, it also notes that police in the US are more likely to use force than previously. The focus on de-escalating situations has shifted to controlling/dominating situations, to a point where officers are trained to actively not back down from confrontations (PTF 2015: 21). Clearly guns enable officers to avoid de-escalation, control situations, and focus on their own safety as a priority. Balko (2014: 326) quotes a former MD police officer stating: 'Your first priority is not to protect yourself, it's to protect those you've sworn to protect.' Earlier sections of this report noted that many deaths occurred in 'routine' situations and that the deceased was not engaged in a criminal act. Therefore, adopting de-escalation tactics might significantly reduce the number of citizens who die after police contact in the US.

3. <u>Racism</u>

60% of participants identified racism as being an issue relevant to death after police contact. It should be noted that this was not only confined to participants who were people of colour. A very wide spectrum of academic literature in the US identifies non-white citizens as being perceived by police as stereotypically more likely to be criminogenic, and/or a threat to societal order (Kahn *et al.* 2017, Hall, Hall and Perry 2016, Holmes and Smith 2012, Johnson and Kuhns 2009, Nelson 2000). In 2015, The Counted calculated that black citizens died at a rate double that of white citizens. When specific groups in society are stereotyped by police as being more

dangerous, or threatening than other groups, clearly they will receive a disproportionate level of police focus.

*Case 15: 'It seems like the mentality in the police department all across the board is you kill a black man, you get a raise. You get a promotion. That's what's being sent out there. You give them a couple of grand, shut them up, the case will go away.'*

*Case 31: 'The role of the police is not to protect and serve the people, it's to protect and serve the system and in that system the poverty and degradation that the system brings on people of colour.'*

A common view among participants was that police violence was not just a result of interactions between individuals, but the result of a system of oppression that encouraged racist practices. Participants made references to practices that existed during plantation slavery that could be traced directly to policing in the present day, with one noting that some communities suffered from 'Post-Traumatic Slave Disorder.' In Michelle Alexander's (2012) award winning book *The New Jim Crow: Mass Incarceration in the Age of Colourblindness* she states that oppressive systems of policing driven by the 'war on drugs' create a dragnet that target people of colour and make it disproportionately more likely that they will be arrested, charged, prosecuted, and sent to prison as a result. Balko (2014) notes that such oppressive systems of policing are increasingly aggressive and thus more likely to lead to a 'shoot first, ask questions later' approach. A wide canon of literature states that citizens of colour are more likely to have force used on them by police than white citizens (Hall, Hall and Perry 2016, Carter and Corra 2016, Holmes and Smith 2012, Johnson and Kuhns 2009, Nelson 2000). This state of affairs has undoubtedly led to a crisis of legitimacy for police and criminal justice organisations, where trust has broken down in certain communities throughout the US and is unlikely to be repaired in the near future.

## 12. The body of the deceased

50% of participants observed that they were not permitted to see their loved one's body for several days after the death, often being informed that the body was 'evidence'. Many relatives expressed their upset at being unable to say goodbye to their loved one, and felt that some degree of closure had been denied them as a result. In one case the heart of the deceased was removed post-mortem and not subsequently recovered, in another case the victim was buried without his head, also subsequently unrecovered. Examples of comments from families included:

*Case 3: 'We wanted a death certificate, we wanted a cause of death, they weren't telling us anything.'*

*Case 24: 'They didn't classify him as my son at that point, they were classifying him as a crime scene, they wouldn't let me see him.'*

I have not been able to locate literature on this issue in the US. However, there is limited literature available on this issue in the UK, principally in relation to Coroners' practices. Shaw and Coles (2007) note that during the 1980s and 1990s the practices outlined above were also relatively common in the UK. In the 21st century this began to change as Coroners noted the

fundamental importance of families having access to their loved one. In a later paper, Coles and Shaw (2012) observed that it was now more common for families to see their loved one relatively quickly after their death, and also to be allowed time with them. In the last full review into Coroners' practice in the UK, Luce (2003) observed that Coroners increasingly focused on the needs and sensitivities of families when approaching death investigations, partly due to legal requirements imposed by the European Convention on Human Rights. It appears that such a shift is unlikely to be forthcoming in the US in the immediate future.

2. Officer collusion

40% of participants talked about the way in which they felt officers colluded in the aftermath of a death in order to present a united front reinforcing a version of events that painted them as being justified in their actions. In some cases, this related to officers at the scene agreeing a narrative, in others it included the investigating officers, and/or union representatives. Typical comments from family members referred to the 'blue code', or a 'code of silence'. They felt an officer's primary duty was to cover for their colleagues, regardless of whether their actions had been justifiable, or legal. Another strand in this finding was that several participants felt there was a tendency of other officers at the scene to open fire once the first officer had fired their weapon, in order to reinforce the notion that the shooting was justified and thus legitimate. Examples of comments from families included:

*Case 29: 'There are a lot of good cops out there, but in the [deceased's] case there was a lot of covering up, and a lot of trying to hold things back.'*

*Case 37: 'They had to get all their ducks in a row, they had to make sure they had their narrative…they had to make sure everyone got their story straight.'*

The 'blue code of silence' is widely remarked upon in academic literature on policing in the US (Crank 2016, Phillips 2010). Rothwell and Baldwin (2007: 606) note that the code of silence is used by police officers to protect each other, but that it often harms third parties, and: 'the overall integrity of the justice system.' This relates back to the fundamental importance of procedural justice in maintaining a legitimate and accountable police force which has the trust of the community. Police culture is noted as being remarkably resistant to change, and this is by no means limited to the US. When police culture has a clearly defined 'us and them' streak, it can become particularly troublesome if they are able to use firearms with relative impunity. In the absence of police self-regulation, society relies upon external organisations to regulate police activity. But these organisations also rely on police officers to 'play ball' and give honest factual accounts of how citizens died. Because of the strong bond of loyalty that pervades policing, it is unusual for such an account to be forthcoming (Crank 2016).

14. Paramilitarisation of police

40% of participants highlighted what they saw as an increasing level of paramilitarisation of police in the US. This was evident in comments made about the increasing number of weapons, armour and technology used by police that are military in origin. In addition, the increasing likelihood that police were more likely to use force as a first, rather than a last option when

approaching a situation (note finding 5 and 10). A minor strand in this finding identified officers using their private weapons (whilst on duty) resulting in the deaths of family members, including one shooting that used a hunting rifle and ammunition imported from Europe. Examples of comments from families included:

*Case 5 'This [police officer] seems to be just someone who likes to shoot his gun. He's an avid hunter, he's a gun nut.'*

*Case 2: '[the police] appear to be trained to be incredibly fearful…it's a kind of us or them.'*

The PTF (2015: 1) is emphatic in stating that: 'Law enforcement culture should embrace a guardian – rather than a warrior – mind-set to build trust and legitimacy.' A number of academic authors have noted an increasingly paramilitary approach to policing in the US in the 21st century (Alexander 2012, Balko 2014, Lamont Hill 2016). Crank (2016: 113) notes that the military tone in policing is warmly received by many officers, not least because of the large number of ex-forces personnel within police forces. A key difference between the military and police is that the former relies on coercion to gain compliance, whilst the latter notionally relies on the consent of the population due to the legitimacy of the police invoked by trust in their powers. The Centre for Constitutional Rights (2012: 3) stated that: 'Entire New York City neighbourhoods exist under conditions that residents compare to a military occupation.' Clearly, this does not foster a sense of trust in policing styles, or confer a sense of legitimacy on policing, thus affecting the legitimacy of the wider criminal justice system.

## 15. Mental health

40% of participants stated that their loved one had some type of mental health issue (either underlying, or overtly manifest) when they were killed by police. Many of these participants believed that their relative had died as a result of police misreading the situation, and/or failing to risk assess the situation (note finding 10). Related to this, a common comment was the perceived failure of police to communicate with the victim's family, or refer to previous police records on the individual, both of which could have better oriented officers to deal with the person they were confronted with. A number of families referred positively to previous (non-fatal) police responses to their loved one's mental health condition, noting that many officers were trained and capable of carrying out welfare visits (sometimes called 'wellness checks') on their relative. Crisis Intervention Teams (CITs) received favourable comments, sometimes tempered with the observation that they were not always called, or that they were not available 24/7, thus resulting in less trained/aware officers being despatched on wellness checks. Examples of comments from families included:

*Case 28: 'They saw my mom first, and the [the cops] admit that instead of assessing her condition they went immediately you know to find the perpetrator.'*

*Case 33: 'We need police to…learn how to work with mental health. Mental health is people need help and not shoot, and they need to have special training and not be trained for 2 weeks.'*

The PTF (2015: 56) states that all officers should undergo CIT training, and also refresher training. Rossler and Terrill (2017) note the important of CIT trained police in terms of awareness of citizens with mental health issues, and officers being able to de-escalate situations rather than resorting to the use of force. A range of literature notes that police officers lack training on individuals who have mental health issues, and that one result of this is that officers are more likely to use force as they mis-read the situation unfolding in front of them (Rossler and Terrill 2017, Morabito *et al.* 2012, Morabito 2007, Ruiz and Miller 2004). This finding also relates to finding 10 regarding de-escalation. If officers were better able to assess incidents that are more accurately defined as healthcare crises rather than criminal justice incidents, it seems possible they might be less likely to use force.

4. Lack of first aid/medical knowledge

40% of participants believed that officers at the scene where their loved one died either did not know, or did not practice first aid which could have enabled life to be preserved. This finding appeared to split into two strands: 1) That officers were part of a service and this should be reflected in their knowledge of life preservation; 2) A belief that officers deliberately did not carry out first aid due to either apathy or contempt for the person who died. Examples of comments from families included:

*Case 15 'Why would you call your union rep? First of all, call an ambulance.'*

*Case 27: 'When the ambulance arrived, no one was working on [the deceased]…he had no heart beat and was not breathing, no one was working on him.'*

I am surprised to note that there appears to be a lack of literature on policing in relation to first aid in the US. This might reflect the low level of priority placed on this issue by policing agencies. If police are to shift from a 'warrior mind-set' to a 'guardian mind-set' then it would seem logical to imagine them focusing on life preservation (as distinct from criminal justice enforcement), and that this would include first aid training. In the UK, it is mandatory for police officers to be trained in first aid, and to receive refresher training throughout their career. The primary goal of a police officer in the UK is to preserve life (ACPO 2006).

17. Settlements

40% of participants identified financial settlements as being relevant to their case. Settlements can be used in civil cases brought against governmental authorities due to allegations of police misconduct. It is rare that officers are subject to a criminal court trial in the US when a citizen dies after police contact. It is even more rare for such a trial to result in a successful prosecution. This has led attorneys to focus principally on bringing civil suits, in an attempt to secure some form of redress for their clients. Settlements are typically offered by governmental authorities before a case reaches trial. Participants generally believed that this was a way of avoiding shaming evidence coming to light in open court. This was supported by the fact that most settlements (there were two exceptions) required participants to sign a non-disclosure agreement, meaning that accepting the financial settlement also required maintaining a vow of silence about the details of their case.

*Case 6: 'They think that if they give you money then it is ok they are going to get you to shut up, it is not ok. A life is priceless you can never put a dollar amount on a life that.'*

*Case 22: 'We were trying to seek justice, my attorney did start talking about dollar signs. My husband said we were not interested in dollar signs, we were interested in finding out why this police officer shot and killed and murdered our son.'*

Literature on settlements in relation to police activity is very limited, perhaps due to the widespread use of non-disclosure agreements in such settlements. Chaney and Robertson (2013: 498) note that according to available official statistics a total of $347 million was paid out in the form of settlements or judgements in respect of 382 police killings in the period 2009-2010. Lamont Hill (2016: 39) states that New York has an annual budget of $700 million to pay out against personal injury claims. According to a report in the Baltimore Sun in 2014, in the previous four years more than 100 citizens won financial awards for police brutality or malfeasance. This leads Lamont Hill (2016: 83) to assert that: 'Like the arrangements struck by prosecutors with criminal defendants on plea bargains, police brutality is a business negotiation resolved through deal making.' Such practices serve to undermine the sense of procedural justice in the US legal system, and to negatively affect the legitimacy of both the police and criminal justice system.

3. <u>Handcuffing the deceased</u>

25% of participants noted that their loved one was handcuffed after they died. The finding is included because although the percentage of participants reporting it is relatively low, the finding in and of itself is startling. Families felt this practice was inhuman and thus dehumanised the victim, and also that it demonstrated a lack of respect to the families of the deceased. It is not at all clear if this practice is official police policy, or if it is, why it might be so. Examples of comments from families included:

*Case 1: 'they handcuffed him and they all surrounded him, throwing him round like a rag doll.'*

*Case 12: 'he was handcuffed to the [hospital] gurney, he was a dead man…but you got him handcuffed.'*

It has not been possible to identify academic or official literature on this issue in the US. That suggests this finding represents an original contribution to the knowledge around the subject of death after police contact in the US.

<u>Concluding thoughts</u>

Death after police contact in the US is not just a story of individual deaths, nor of individual interactions between police and citizens. This report has identified a significant number of findings that indicate problems exist at a national level with regard to how the police are organised, trained, and managed in their everyday activities. This extends to serious flaws in how police are regulated in the wider justice system in the US when things go wrong during encounters with citizens. The lack of meaningful investigation into such killings, and the lack of

sanction as a result of the investigations that occur mean that the wider system of justice in the US suffers in terms of its legitimacy. When the police lose legitimacy in the eyes of the citizenry, everyone loses, because policing democratic societies relies upon legitimacy being conferred by the populace. When the system of justice also lacks legitimacy, democratic governance itself comes into question. As both police and criminal justice organisations are publicly funded, they should be accountable to the public, but a lack of legitimacy means such accountability is not seen to be forthcoming in the majority of cases. When three citizens per day die after police contact in the US, it is difficult, albeit unfortunate, not to conclude that the police killing of citizens has become normalised. Were it not normal, the public outcry might be even louder, more prolonged, and more vociferous than it currently is. Were it not normal, there might be concerted efforts by criminal justice professionals and politicians to urgently address the issue with a view to finding processes and policies that would cut the number of deaths. As stated early on in this report, the federal government had to rely on numbers provided by a foreign media group to even sketch the numbers of dead, let alone do anything about these deaths.

The effects of these deaths goes far beyond the pain and trauma felt by the participants in this research project. It seeps into future generations, and into wider families and communities in the here and now. It is shared on social media across the nation, and beyond. Were three people per day to die of an infectious disease, it seems likely that the full power of federal and state governance would be mobilised to urgently prevent a national public health catastrophe. But that is exactly what is happening in the US today – a humanitarian disaster of preventable deaths across the country that is apparently unstoppable, and until recently apparently uncountable.

The PTF (2015) and the Department of Justice believe that policing in the US should be more legitimate, more consensual and thus more accountable. It is unclear how these goals should be achieved in practice with 18,000 police agencies in the US. It seems clear that altering police training, making changes to police culture, and adopting clear policies around de-escalation and the use of force could reduce the number of citizens who die every year after police contact. Whilst moving from a 'warrior mind-set' to a 'guardian mind-set' is undoubtedly a laudable aim, actually achieving it is by no means straightforward.

If you have any questions, or comments regarding the content of this report, I would be very pleased to hear from you.

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