

Police Mental Health

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ABSTRACT: Mental health intervention is a critical tool for preventing police violence. In recent years, activists have pointed to a tragic pattern of police misinterpreting civilian mental health crises and responding with deadly force. People with untreated mental illness are sixteen times more likely to die at the hands of police. Today, a growing number of co-responder programs successfully deploy social workers alongside police to assess, intervene, and de-escalate.

This Article turns the mental health spotlight in a different direction: from the victims of police violence to the police themselves. Police officers experience a range of mental illnesses at rates many times the base rate for the general population. They are among the professions at the highest risk for suicide, substance abuse, sleep deprivation, and PTSD. In police officers, these disorders are each associated, whether directly or indirectly, with an increased risk of perpetrating violence. These statistics point to a law enforcement landscape that abjectly fails to adequately assess officers' mental health and emotional stability before arming them.

The dangerous state of police wellness is critical to the fight against police violence, whatever one's theoretical or advocacy stance. For those who would abolish policing entirely, the correlation between police mental illness and police violence offers a new advocacy angle. If officers come to be perpetrators of violence through their inevitable exposure to it, what hope can there be for law enforcement as an institution? For those who favor reform over abolition, the Article uncovers inadequate mental health screening in police departments, formulaic mental health resources, poor recordkeeping, an unrelentingly traumatic work environment, and a machismo culture that mistakes emotional struggle for frailty. Acknowledging psychological vulnerability in police does

* Professor, The University of Iowa College of Law. I owe especial thanks to Jessica Davis for invaluable research support throughout this project. For helpful feedback at various stages, I am grateful to Michal Buchhandler-Raphael, Tom Gallanis, Justin Gross, and audiences at the University of Iowa Faculty Workshop Series, the Law and Society Annual Conference, and Markelloquium at Brooklyn Law School. Several practitioners who engage police well-being on a daily basis generously made time in their busy schedules to speak with me, including Kevin Bailey (Iowa City Police Department), Tamara Cummings (Illinois Fraternal Order of Police), Ephraim Eaddy (Chicago Civilian Office of Police Accountability), Nicholas Greco (C3 Education and Research), Sharday Jackson (Chicago Civilian Office of Police Accountability), Ashley Jay (Iowa City Police Department), Matthew Jones (Chicago Civilian Office of Police Accountability), Andrew McKnight (formerly Iowa City Police Department), Kathie Pham (Covenant Family Solutions), Joachim Seelos (CommUnity Crisis Services Iowa City), David Schwindt (formerly Iowa City Police Department), and Unity Stevens (CommUnity Crisis Services Iowa City).

not justify police violence. But it does demand an open conversation about police wellness, among both criminal justice reformers and law enforcement personnel.

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“[P]olice who commit violence against citizens remain . . . a third rail.”¹
 “No one ever talks about how many dead people you see.”²

1. Kate Levine, *Police Prosecutions and Punitive Instincts*, 98 WASH. U. L. REV. 997, 1007 (2021).

2. Interview with Colin Fowler, Officer, Iowa City Police Dep’t, in Iowa City, Iowa (Dec. 20, 2023).

INTRODUCTION: THE NEXUS BETWEEN POLICE VIOLENCE AND
MENTAL HEALTH

On March 23, 2020, Rochester police killed Daniel Prude as he sat naked on the street asphyxiating in a “spit hood.”³ In September of the same year, police in Salt Lake City shot unarmed Linden Cameron several times in the stomach, arm, and leg; he was thirteen years old.⁴ Just three months later, Antioch police killed a restrained Angelo Quinto by placing their knee on his neck for over four minutes.⁵

More than tragedy unites these victims. Each was experiencing a mental health episode that police were not trained to recognize nor equipped to handle: Prude from ingesting PCP,⁶ Cameron from autism and separation anxiety,⁷ and Quinto from paranoia.⁸ In a twist of terrible irony, police were responding to calls from family members to *help* all three.⁹ Each death was entirely preventable.¹⁰

Prude, Cameron, and Quinto are not isolated cases. In just the last four years, police have killed over one thousand people who were suffering mental health crises.¹¹ Overall, police are sixteen times more likely to kill people with untreated mental illness.¹² Statistics for nonfatal police shootings and beatings are harder to come by, but incidents of unnecessary violence against people

3. 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> (on file with the *Iowa Law Review*).

4. Tim Elfrink, ‘He’s a Small Child’: Utah Police Shot a 13-Year-Old Boy with Autism After His Mother Called 911 for Help, WASH. POST (Sept. 8, 2020, 3:30 AM), <https://www.washingtonpost.com/nation/2020/09/08/linden-cameron-utah-autistic-shooting/> (on file with the *Iowa Law Review*).

5. Jacey Fortin, *California Man Died After Police Knelt on Him for 5 Minutes, Family Says*, N.Y. TIMES (Feb. 25, 2021), <https://www.nytimes.com/2021/02/25/us/angelo-quinto-death-police-kneel.html> (on file with the *Iowa Law Review*).

6. Gold & Closson, *supra* note 3.

7. Elfrink, *supra* note 4.

8. Fortin, *supra* note 5.

9. Elfrink, *supra* note 4; Fortin, *supra* note 5; Sarah Maslin Nir, *Rochester Officers Will Not Be Charged in Killing of Daniel Prude*, N.Y. TIMES (Mar. 6, 2021), <https://www.nytimes.com/2021/02/23/nyregion/daniel-prude-rochester-police.html> (on file with the *Iowa Law Review*).

10. See 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> [<https://perma.cc/CSJ5-ULMH>].

11. See *1,128 People Have Been Shot and Killed by Police in the Past 12 Months*, WASH. POST (Jan. 31, 2024), <https://www.washingtonpost.com/graphics/investigations/police-shootings-database/> (on file with the *Iowa Law Review*). The Washington Post has kept a log of “every person shot and killed by an on-duty police officer in the United States.” *Id.*; John Sullivan, Liz Weber, Julie Tate & Jennifer Jenkins, *Four Years in a Row, Police Nationwide Fatally Shoot Nearly 1,000 People*, WASH. POST (Feb. 12, 2019, 11:26 AM), https://www.washingtonpost.com/investigations/four-years-in-a-row-police-nationwide-fatally-shoot-nearly-1000-people/2019/02/07/ocb3b098-020f-11e9-9122-82e98f91ee6f_story.html (on file with the *Iowa Law Review*).

12. Andrew Selsky & Leah Willingham, *How Some Encounters Between Police and People with Mental Illness Can Turn Tragic*, PBS (Sept. 2, 2022, 2:26 PM), <https://www.pbs.org/newshour/health/how-some-encounters-between-police-and-people-with-mental-illness-can-turn-tragic> [<https://perma.cc/QZK2-7P4X>].

experiencing mental health episodes are surely much higher. Nearly half of all victims of police violence have a mental disability.¹³

There is growing consensus that police are the wrong response to mental health crises.¹⁴ In the wake of the movement to “Defund the Police,” municipalities across the country have dedicated resources to establish co-responder programs.¹⁵ Through these programs, social workers with mental health expertise arrive on the scene instead of or alongside police.¹⁶ Co-responders assess the situation and intervene to de-escalate where they feel they can safely do so. By almost all accounts, this type of mental health intervention has been an unmitigated success in helping to prevent unnecessary police violence.¹⁷

This Article starts a different, and in some ways more difficult, conversation about mental health and police violence. It is a conversation about illnesses that afflict police themselves, disorders that often correlate with violence. As discussed below, police officers experience much higher rates of Post-Traumatic Stress Disorder (“PTSD”) and other psychological and emotional disorders than the general population and most other professions.¹⁸ Criminologists have long known about the strong relationship between PTSD and violence.¹⁹ It should be no surprise that these insights apply even when the violent offender in question is an officer of the law.²⁰ Police are just people.

13. At Liberty Podcast, *Why Are Police the Wrong Response to Mental Health Crises?*, ACLU, at 00:39 (Oct. 8, 2020), <https://www.aclu.org/podcast/why-are-police-wrong-response-mental-health-crises-ep-122-0> [<https://perma.cc/SL4J-ZQGV>].

14. *Id.* at 01:33.

15. *Id.* at 12:14; Laura Fabius, *Developing and Implementing Your Co-Responder Program*, CSG JUST. CTR. (Feb. 2021), https://csjusticecenter.org/wp-content/uploads/2021/02/CSGJC_Fields-Notes_Law-Enforcement_Co-Responder-Program.pdf [<https://perma.cc/8KZN-N3DE>].

16. Fabius, *supra* note 15, at 2.

17. *Id.* at 1.

18. See Todd Brimm, *Police and PTSD Are Part of a Growing Epidemic*, COURIER J. (Jan. 4, 2019, 5:15 PM), <https://www.courier-journal.com/story/opinion/contributors/2019/01/03/police-ptsd-part-growing-epidemic-pulse-shooting-orlando/2464765002> [<https://perma.cc/G26U-JQRN>]; Michelle Lilly & Shawn Curry, *Survey: What Is the State of Officer Mental Health in 2020?*, POLICE 1 (Sept. 14, 2020), <https://www.police1.com/health-fitness/articles/survey-what-is-the-state-of-officer-mental-health-in-2020-0XldKxzNnuebFluY> [<https://perma.cc/J6XB-T45J>] (“In total, [forty-seven percent] of the sample screened positive for PTSD, which is approximately [nine] to [ten] times greater than the prevalence seen in the general population.”).

19. See generally Elizabeth A. Mumford, Bruce G. Taylor & Bruce Kubu, *Law Enforcement Officer Safety and Wellness*, 18 POLICE Q. 111 (2015) (giving an overview of studies dating back from 1979 about the inherent qualities of a law enforcement job on individuals); Marie E. Reuve & Randon S. Welton, *Violence and Mental Illness*, 5 PSYCHIATRY 34, 36 (2008) (“Mental illness may increase the likelihood of committing violence in some individuals, but only a small part of the violence in society can be ascribed to mental health patients. Overall, those psychiatric patients who are violent have rates of repeated aggression somewhere between the general population and a criminal cohort.” (citations omitted)).

20. Aaron Ross Coleman, *Police Reform, Defunding, and Abolition, Explained*, VOX (July 16, 2020, 8:00 AM), <https://www.vox.com/21312191/police-reform-defunding-abolition-black-live-matter-protests> [<https://perma.cc/CH6X-D8YB>].

Both sides of the police reform movement could find the topic of police mental health unpalatable. On one side, police departments are often inflected with counterproductive cultural norms surrounding mental health. These norms inhibit officers from acknowledging or talking openly about their own vulnerability and psychological struggle.²¹ Senior police officials have strong incentives—due to budget constraints²² and public relations pressure²³—to overlook the prevalence of mental illness among their ranks. On the other side, some criminal justice reform advocates lock themselves into a narrative that paints “police” as the villain.²⁴ Accepting that police, too, can be vulnerable to mental illness requires a measure of empathy that is sometimes in short supply.

The conversation about police mental health is all the more necessary because it is difficult. We can empathize while still fighting for change. This Article’s primary contention is that we *must* do so. Indeed, stamping out unjustified police violence will require us to go beyond empathy. We must understand, diagnose, and heal. By failing to do so, we blind ourselves to one important determinant of police violence, all but guaranteeing that more innocent lives will be cut short.

This Article begins by contextualizing its inquiry into police mental health (Part I). Other researchers have already drawn attention to socially destructive mental illness in professions whose psychological well-being has historically been ignored, e.g., farmers and corporate executives. However, legal scholars have yet to seriously inquire into the prevalence and cause of psychological abnormalities in police. At even a cursory glance, the state of mental and emotional well-being among police officers is deeply troubling (Part II). They are at higher risk of substance abuse and marital disruption and experience rates of some mental illness that are many times greater than the general population. The statistics discussed below reveal an overlooked mental health crisis among the nation’s nine hundred thousand sworn police officers. This should be concerning in and of itself for mental health advocates.

21. Amy K. White, Gregory Shrader & Jared Chamberlain, *Perceptions of Law Enforcement Officers in Seeking Mental Health Treatment in a Right-to-Work State*, 31 J. POLICE & CRIM. PSYCH. 141, 142 (2016) (“[L]aw enforcement culture is comprised of . . . higher standards than other professions. The members must protect each other from a hostile and unpredictable environment, and they expect the other[s] to have their back. It creates a closed culture that does not trust outsiders Police officers fear they will not measure up to their peers if they engage in displays of emotion and subsequently experience shame and guilt.” (citations omitted)).

22. See George Gascón & Todd Foglesong, *Making Policing More Affordable: Managing Costs and Measuring Value in Policing*, NAT’L INST. JUST., Dec. 2010, at 1, 1 (“[I]n the last [ten] years, the rate of increase in spending on policing has exceeded the spending rate for corrections and judicial functions.”).

23. See generally Rashawn Ray, *What Does ‘Defund the Police’ Mean and Does It Have Merit?*, BROOKINGS (June 19, 2020), <https://www.brookings.edu/blog/fixgov/2020/06/19/what-does-defund-the-police-mean-and-does-it-have-merit> [<https://perma.cc/K7G5-DBU2>] (outlining the “Defund the Police” movement).

24. See generally Mariame Kaba, Opinion, *Yes, We Mean Literally Abolish the Police*, N.Y. TIMES (June 12, 2020), <https://www.nytimes.com/2020/06/12/opinion/sunday/floyd-abolish-defund-police.html> (on file with the *Iowa Law Review*) (“Enough. We can’t reform the police. The only way to diminish police violence is to reduce contact between the public and the police.”).

But for populations subject to police stops, searches, and arrests, the poor state of officers' psychological well-being is literally a matter of life and death.

Having demonstrated the dangerous state of police wellness, the Article draws out implications for different stances in the police reform debate (Part III). Abolitionists will find below yet another argument that law enforcement is an incorrigible profession. Policework can destroy not only the targets of unjustified police violence but also the police themselves, rendering them dangerous to the very public they are meant to serve. Reformists, by contrast, will find themselves charged with an additional task critical to their agenda of making policing safer: to identify the forces that concentrate mental illness in police departments. These forces appear throughout the arc of an officer's career, from social dynamics that determine who decides to join law enforcement all the way through to deficient institutional recordkeeping after termination.

As a tangible example of what incremental change could look like, the Article offers a case study of the Iowa City Police Department ("ICPD") (Part IV). The statistics and trends discussed throughout the paper reflect nationwide generalizations that play out with different nuances in every municipality. ICPD is no exception. Its officers experience the full range of familiar mental health and emotional challenges—PTSD, burnout, and substance abuse—exacerbated by familiar labor and social dynamics. ICPD has the good fortune of being a relatively well-funded, relatively small department with attentive leadership. Its proactive approach to police well-being offers some hints of what a start to taking mental health seriously might look like.

For the reform-minded, the Article offers sober proposals tailored to disrupting the path from police illness to police violence (Part V). To address the problem, both "sides" will need to put aside convenient soundbites. We may need to accept that, in some respects, police departments require more funding, not less. Proper psychological evaluations, better mental health resources, and improved recordkeeping will be critical tools. These are far from free. At the same time, we must also recognize that our standards for arming the people who should be protecting us have been too lax. A higher percentage of police than we would like to admit are presently unfit for service. Police violence is an ugly, complex problem. We should not expect that the medicine that cures it will be simple or even palatable.

The Article concludes on an optimistic note. Disrupting the pathway from police illness to police violence will require a multipronged intervention over many years. Prospects would ordinarily be grim for an initiative as fraught as police reform. Police wellness, though, can unite all sides. The Article's final paragraphs report conversations with various stakeholders—community representatives, police union leaders, and mental health advocates—who all agree that investing in police mental health is a critical step for improving the criminal justice system.

I. EXISTING WORK ON PROFESSIONAL MENTAL HEALTH

There is a broader body of work about psychology and professional life. Of particular relevance here is research into professions whose well-being the public has historically overlooked, whether due to a lack of sympathy or resistance

within the profession itself. But overlooking mental illness does not make it go away. As an interconnected society, we ignore it at our own peril.

Legal scholarship on police psychology has so far focused on police cognition. It has uncovered compelling connections between cognitive bias in police officers and racialized police violence. This research has yet to live up to its lofty goals because, unlike the mental illnesses discussed in the next Part, there are no reliable ways to treat or prevent cognitive bias.

A. MENTAL HEALTH IN OTHER PROFESSIONS

One of the darkest days for any new law school graduate is the day they join the bar. On that day, or shortly thereafter, the American Bar Association (“ABA”) sends a large envelope.²⁵ In it are many pamphlets advising newly minted lawyers that, due to the stresses and demands of their chosen profession, they are at elevated risk of depression, substance abuse, and suicide.²⁶ On the back, the pamphlets offer various numbers to dial for help.²⁷

In a sense, lawyers are lucky. Mental health is a relatively open issue in the profession. Educators note its importance early in law school orientation.²⁸ Mental illness (at least in forms prevalent in the profession) is not as stigmatized among attorneys as it once was. As the ABA flyers attest, resources are available.²⁹ Many attorneys have the financial and professional flexibility to take a period of leave to tend to their psychological needs.

Other professions have much further to go. All professionals—whether urban or rural, rich or poor, powerful or marginalized—are just people coping in their own way with the same human frailties that we all must navigate. Consider farmers. In 2016, farmers were in the occupational category at highest risk of suicide.³⁰ The suicide rate among male farmers that year was

25. See *Well-Being in the Legal Profession*, Am. Bar Ass’n, https://www.americanbar.org/groups/lawyer_assistance/well-being-in-the-legal-profession [<https://perma.cc/M2GP-RU3T>].

26. *New Study on Lawyer Well-Being Reveals Serious Concerns for Legal Profession*, Am. Bar Ass’n (Dec. 2017), <https://www.americanbar.org/news/abanews/publications/youraba/2017/december-2017/secretcy-and-fear-of-stigma-among-the-barriers-to-lawyer-well-being> [<https://perma.cc/WA5F-QUXM>] (illustrating that, in a survey filled out by more than 13,000 working lawyers, “[twenty-eight] percent of lawyers suffered from depression,” “[nineteen] percent of lawyers had severe anxiety,” and “11.4 percent of lawyers had suicidal thoughts in the previous year”).

27. AM. MED. ASS’N, LAWYERS AND SUBSTANCE ABUSE PREVENTION, <http://www.nylat.org/publications/brochures/documents/ababrochure.pdf> [<https://perma.cc/QL74-J65G>].

28. See *Law Deans Clearinghouse for Student Mental Health*, ASS’N AM. L. SCHS., <https://www.aals.org/mental-health-clearinghouse> [<https://perma.cc/T2NX-XEPU>].

29. See AM. MED. ASS’N, *supra* note 27.

30. *These Jobs Have the Highest Rate of Suicide*, CBS NEWS (June 30, 2016, 5:22 PM), <https://www.cbsnews.com/news/these-jobs-have-the-highest-rate-of-suicide> [<https://perma.cc/5KDZ-U3UH>].

about forty-three per one hundred thousand per year,³¹ and rising.³² This is more than three times the current suicide rate in the general U.S. population.³³ “[M]ental illness is more prevalent in rural areas than in urban communities.”³⁴ Farming life in particular presents several impediments to mental and emotional well-being. These include factors inherent to the profession, such as “economic uncertainty, vulnerability to weather events, and isolation,” as well as factors that commonly arise in rural communities, like “limited access to healthcare and mental health services.”³⁵ The main barriers to seeking mental health treatment among farmers are “cost, availability, and accessibility of help or treatment.”³⁶ According to two-thirds of farmers,³⁷ the COVID-19 pandemic exacerbated these challenges.³⁸

Though the vast majority of rural adults think mental health is important,³⁹ three-quarters report that a culture of stigma around mental illness remains a significant concern.⁴⁰ Nearly seventy percent of farmers identify embarrassment as a leading barrier to seeking treatment.⁴¹ “[Stigma] is particularly relevant for farmers and ranchers because of the small rural communities in which they live. Sometimes, farmers and ranchers do not want to be seen walking into a mental health services building.”⁴² Even when farmers can overcome social stigma and have mental health resources available to them, the demands

31. Cora Peterson et al., *Suicide Rates by Industry and Occupation—National Violent Death Reporting System, 32 States, 2016*, 69 MORBIDITY & MORTALITY WKLY. REP. 57, 61 (2020), <https://www.cdc.gov/mmwr/volumes/69/wr/mm6903a1.htm> [<https://perma.cc/8WVE-W3DK>] (this statistic measures civilian, noninstitutionalized working persons aged 16–64 years).

32. *Rural Response to Farmer Mental Health and Suicide Prevention*, RURAL HEALTH INFO. HUB (Nov. 30, 2021), <https://www.ruralhealthinfo.org/topics/farmer-mental-health> [<https://perma.cc/TCW9-EXXT>].

33. *Suicide Statistics*, AM. FOUND. FOR SUICIDE PREVENTION, <https://afsp.org/suicide-statistics> [<https://perma.cc/S2CT-XUS3>].

34. *Rural Response to Farmer Mental Health and Suicide Prevention*, *supra* note 32; see also Matt Perdue, *A Deeper Look at the CDC Findings on Farm Suicides*, NAT’L FARMERS UNION (Nov. 27, 2018), <https://nfu.org/2018/11/27/cdc-study-clarifies-data-on-farm-stress> [<https://perma.cc/Q9HA-5VUR>] (discussing farmers’ mental health challenges and the shortcomings of available statistics on the issue).

35. *Rural Response to Farmer Mental Health and Suicide Prevention*, *supra* note 32; see also Morning Consult & Am. Farm Bureau Fed’n, PowerPoint Presentation, Impacts of COVID-19 on Rural Mental Health, at slide 2 (Dec. 2020), *available at* https://www.fb.org/files/Impacts_of_COVID-19_on_Rural_Mental_Health_1.6.21.pdf [<https://perma.cc/6HVD-7GR9>] (describing how mental health was particularly strained by the COVID-19 pandemic).

36. Morning Consult & Am. Farm Bureau Fed’n, *supra* note 35, at slide 14.

37. *National Poll Shows COVID-19 Taking Heavy Toll on Farmers’ Mental Health*, AM. FARM BUREAU FED’N (Jan. 6, 2021), <https://www.fb.org/newsroom/national-poll-shows-covid-19-taking-heavy-toll-on-farmers-mental-health> [<https://perma.cc/78AA-Z6YL>].

38. *Farmer Stress*, AM. PSYCH. ASS’N, <https://www.apa.org/events/farmer> [<https://perma.cc/APS3-YTZE>].

39. Morning Consult & Am. Farm Bureau Fed’n, *supra* note 35, at slide 2.

40. *Id.* at slide 8.

41. Morning Consult & Am. Farm Bureau Fed’n, PowerPoint Presentation, Rural Stress Polling Presentation, at slide 23 (Apr. 16, 2019), *available at* https://www.fb.org/files/AFBF_Rural_Stress_Polling_Presentation_04.16.19.pdf [<https://perma.cc/RD3V-2TWg>].

42. *Rural Response to Farmer Mental Health and Suicide Prevention*, *supra* note 32.

of their job can keep them from being able to seek help—the growing season has no pause button.⁴³

There are some public mental health resources available to farmers,⁴⁴ but they do not go nearly far enough. For example, the National Suicide Prevention Hotline is active across the United States and available to anyone with a phone.⁴⁵ However, it is unclear how effective generic mental health programs can be at addressing the unique cultural and professional circumstances of agricultural communities: “A program must also take into consideration the unique lifestyle of farmers and ranchers.”⁴⁶ In recent years, the federal government has initiated some measures directed specifically at farmers. The Department of Agriculture created the Farm and Ranch Stress Assistance Network, whose purpose “is to establish a network that connects individuals who are engaged in farming, ranching, and other agriculture-related occupations to stress assistance programs.”⁴⁷ National nongovernmental organizations like the Bipartisan Policy Center have also turned some attention to the problem of social isolation in rural communities.⁴⁸ And some states with large agriculture sectors have instituted their own programs.⁴⁹ Despite these initiatives, the vast majority of rural adults still feel there are significant barriers to seeking treatment of a mental health condition.⁵⁰

Although the public pays some attention to farmers’ mental health,⁵¹ there is another profession whose perennial struggle with mental health still elicits

43. Morning Consult & Am. Farm Bureau Fed’n, *supra* note 35, at slide 37; see Elizabeth Rembert, *Mental Health Among Farmers Is a Concern, Especially in the Midst of Turbulent Weather and Markets*, NPR (May 21, 2022, 4:00 AM), <https://www.kcur.org/2022-05-19/farmer-mental-health> [https://perma.cc/BFU3-ZZFD].

44. See Morning Consult & Am. Farm Bureau Fed’n, *supra* note 35, at slide 14.

45. 988 SUICIDE & CRISIS LIFELINE, <https://988lifeline.org> [https://perma.cc/D9D3-GZ8R].

46. *Rural Response to Farmer Mental Health and Suicide Prevention*, *supra* note 32.

47. *Farm and Ranch Stress Assistance Network (FRSAN)*, NAT’L INST. FOOD & AGRIC., <https://www.nifa.usda.gov/grants/programs/farm-ranch-stress-assistance-network-frsan> [https://perma.cc/CV3R-FUQJ].

48. See generally BIPARTISAN POL’Y CTR., *RURAL AGING: HEALTH AND COMMUNITY POLICY IMPLICATIONS FOR REVERSING SOCIAL ISOLATION* (July 2018), <https://bipartisanpolicy.org/download/?file=/wp-content/uploads/2019/03/Rural-Aging-Health-and-Community-Policy-Implications-for-Reversing-Social-Isolation.pdf> [https://perma.cc/FFL5-378L] (detailing an understanding of the impact of social isolation on the aging population, particularly in rural access).

49. See Jane Strommen, *Nourishing Your Mind and Body: Manage Stress for Better Health*, N.D. STATE UNIV. 1 (Aug. 2014), <https://www.ag.ndsu.edu/publications/health-fitness/nourishing-your-mind-and-body-manage-stress-for-better-health> [https://perma.cc/DT4E-EADD] (detailing North Dakota’s program providing activities to understand the psychological and physiological effects of stress). See generally *TransFarmation*, RED RIVER FARM NETWORK, <https://www.rfrfn.com/transfarmation> [https://perma.cc/558Z-A72Y] (Minnesota radio and podcast series featuring farmers); *Resilient Farms & Families: Responding to Stress*, UNIV. WIS.-MADISON, FARM MGMT., <https://farms.extension.wisc.edu/farmstress> [https://perma.cc/8MX-YSE6X] (outlining Wisconsin’s program to help farmers learn how to manage stress and use planning tools to make sound decisions and create a road map for the future).

50. *Rural Response to Farmer Mental Health and Suicide Prevention*, *supra* note 32; see Morning Consult & Am. Farm Bureau Fed’n, *supra* note 35, at slide 13.

51. See *Stress and Mental Health Resources Available to Farmers, Ranchers*, TEX. FARM. BUREAU, <https://texasfarmbureau.org/stress-and-mental-health-resources-available-to-farmers-ranchers> [ht

very little sympathy: corporate executives. High-level corporate managers are among the top ten occupations at risk for suicide,⁵² seventh for alcohol abuse, and third for illicit drug use.⁵³ Yet these clear indicators of distress draw little compassion from onlookers. Corporate executives are today's feudal lords; they often play the role of "villain" in our modern fables⁵⁴ and news reporting.⁵⁵ We view their suffering as due comeuppance or as the dark side of the devil's bargain they made to achieve their places of prominence. Some corporate executives are indeed villains.⁵⁶ As I have argued elsewhere, more of them should be in prison and facing stiffer penalties than they currently do.⁵⁷

But the villainous corporate executive is in the slim minority.

We ignore mental health concerns in corporate executives at our collective peril, and especially at the peril of the most vulnerable members of society. Executives' decisions, for good and for ill, reverberate through their corporate fiefdom and beyond.⁵⁸ Addiction disorders are concerning in this context because they can lead to inattention and lagging performance.⁵⁹ When business goes poorly, all stakeholders—from fellow managers, to employees, to shareholders—suffer too. "[W]hen the corporation catches a cold, someone else sneezes."⁶⁰

Substance abuse in the C-suite is just the start of the problem. Consider the startling statistic that psychopathy among corporate managers is *ten-fold*

tps://perma.cc/GU5A-LHJG]; Chris Essex, *New Indiana Program Works to Improve Mental Health for Farmers*, WTHI-TV 10 (Nov. 14, 2022), https://www.wthitv.com/news/new-indiana-program-works-to-improve-mental-health-for-farmers/article_6d5cab72-6433-11ed-aaa5-27b09e126984.html [<https://perma.cc/2WLD-3XZF>]; Cora Dickey, *A Mental Health Helpline for Farmers Comes to Virginia*, WHSV 3 (Nov. 3, 2022, 5:37 PM), <https://www.wHSV.com/2022/11/03/mental-health-helpline-farmers-comes-virginia> [<https://perma.cc/T4PU-R4QA>].

52. *These Jobs Have the Highest Rate of Suicide*, *supra* note 30.

53. DONNA M. BUSH & RACHEL N. LIPARI, SUBSTANCE ABUSE & MENTAL HEALTH SERVS. ADMIN., SUBSTANCE USE AND SUBSTANCE USE DISORDER BY INDUSTRY 3 (2015), https://www.samhsa.gov/data/sites/default/files/report_1959/ShortReport-1959.pdf [<https://perma.cc/U5Y6-W7T7>].

54. One example of this is Wilson Fisk, the Marvel businessman and villain in Daredevil and Spiderman. *Wilson Fisk, Kingpin*, MARVEL, <https://www.marvel.com/characters/kingpin/in-comics> [<https://perma.cc/QQL2-LCSG>].

55. *E.g.*, Nancy LeTourneau, *Why Business Executives Tend to Make Bad Presidents*, WASH. MONTHLY (Dec. 13, 2019), <https://washingtonmonthly.com/2019/12/13/why-business-executives-tend-to-make-bad-presidents> [<https://perma.cc/X2AB-8XNA>].

56. *E.g.*, Joanna Walters, *Pharmaceutical (and Wu-Tang) Villain Martin Shkreli Has Courtied Controversy*, GUARDIAN (Dec. 17, 2015, 3:36 PM), <https://www.theguardian.com/business/2015/dec/17/pharmaceutical-entrepreneur-martin-shkreli-drug-controversy-wu-tang> [<https://perma.cc/DG7A-ZTCS>].

57. Mihailis E. Diamantis, *White Collar Showdown*, 102 IOWA L. REV. ONLINE 320, 321 (2017); Mihailis E. Diamantis, *The Law's Missing Account of Corporate Character*, 17 GEO. J.L. & PUB. POL'Y 865, 865 (2019).

58. *See About the Stakeholder Theory*, STAKEHOLDER THEORY, <http://stakeholdertheory.org/about> [<https://perma.cc/HBY2-2CG3>].

59. Wendy Manwarren Generes, *The Effects of Substance Abuse in the Workplace*, AM. ADDICTION CTRS. (Mar. 8, 2024), <https://americanaddictioncenters.org/rehab-guide/workforce> [<https://perma.cc/3WJQ-FJDP>].

60. John C. Coffee, Jr., *"No Soul to Damn; No Body to Kick": An Unscandalized Inquiry into the Problem of Corporate Punishment*, 79 MICH. L. REV. 386, 401 (1981).

higher than the general population.⁶¹ So-called “corporate psychopaths”⁶² do not merely foster generalized workplace toxicity;⁶³ they undertake destructive and unlawful behavior.⁶⁴ “Corporate [p]sychopathy correlate[s] significantly and negatively with the construct of [corporate social responsibility].”⁶⁵ It is bad for victims and also bad for business.⁶⁶ “[U]ndiagnosed or misdiagnosed pathologies in our leaders are a precursor to ever escalating organizational dysfunction,”⁶⁷ which “adversely affect[s] productivity and ha[s] a negative impact on . . . organizational effectiveness.”⁶⁸ Some business scholars argue that the negative effects of corporate psychopathy can reach beyond individual firms to undermine entire industries.⁶⁹

Several factors contribute to the prevalence of undiagnosed mental and emotional illness in upper-level management. Corporate management is a highly stressful profession characterized by boom-and-bust swings in fortune.⁷⁰

61. *Catalyst: Corporate Psychopaths* (ABC television broadcast May 5, 2005), <https://www.abc.net.au/catalyst/corporate-psychopaths/11008598> [<https://perma.cc/XR6A-Z22W>]; Jack McCullough, *The Psychopathic CEO*, FORBES (Dec. 9, 2019, 6:00 AM), <https://www.forbes.com/sites/jackmccullough/2019/12/09/the-psychopathic-ceo> (on file with the *Iowa Law Review*) (“[T]he extent of the presence of psychopaths in corporate America with most other estimates landing between [eight percent] and [twelve percent].”); Simon Croom, *12% of Corporate Leaders Are Psychopaths. It’s Time to Take This Problem Seriously*, FORTUNE (June 6, 2021, 8:00 AM), <https://fortune.com/2021/06/06/corporate-psychopaths-business-leadership-csr> (on file with the *Iowa Law Review*).

62. Clive R. Boddy, *The Corporate Psychopaths Theory of the Global Financial Crisis*, 102 J. BUS. ETHICS 255, 256 (2011) (“Some psychopaths are violent and end up in jail, others forge careers in corporations. The latter group who forge successful corporate careers is called Corporate Psychopaths.”).

63. Alan Goldman, *Personality Disorders in Leaders: Implications of the DSM IV-TR in Assessing Dysfunctional Organizations*, 21 J. MANAGERIAL PSYCH. 392, 392 (2006).

64. Pamela H. Bucy, *Corporate Ethos: A Standard for Imposing Corporate Criminal Liability*, 75 MINN. L. REV. 1095, 1126 (1991) (providing an overview of executive interviews about environmental factors leading to white-collar crimes).

65. Clive R. Boddy, Richard K. Ladyshevsky & Peter Galvin, *The Influence of Corporate Psychopaths on Corporate Social Responsibility and Organizational Commitment to Employees*, 97 J. BUS. ETHICS 1, 8 (2010).

66. Croom, *supra* note 61 (“[I]t doesn’t take a great leap of the imagination to see how a high percentage of unrecognized psychopathy in senior management could lead to all kinds of problems for organizations, their employees, their customers, and society at large—including billions of dollars of losses annually and reduced shareholder wealth.”); Paul Babiak & Mary Ellen O’Toole, *The Corporate Psychopath*, FBI L. ENF’T BULL. (Nov. 1, 2012), <https://leb.fbi.gov/articles/featured-articles/the-corporate-psychopath> [<https://perma.cc/U693-MWT5>] (“Evidence suggests that when participating in teams, corporate psychopaths’ behaviors can wreak havoc. In departments managed by psychopaths, their conduct decreases productivity and morale. These issues can have a severe impact on a company’s business performance.”); Boddy, *supra* note 62, at 255 (“[T]he study of dark, dysfunctional, or bad leadership has emerged as a theme in management research.”).

67. Goldman, *supra* note 63, at 410.

68. Boddy, *supra* note 62, at 256; *see also* Clive Boddy, *Corporate Psychopaths and Productivity*, MGMT. SERVS., Spring 2010, at 26, 26 (explaining a “clear link between lower productivity and the presence of corporate psychopaths in an organisation”).

69. *See* Boddy, *supra* note 62, at 255 (arguing that corporate psychopaths are responsible for the 2008 financial crisis).

70. Naira Velumyan, *The Two Levels of Stress Management Within the Corporate World*, FORBES (May 14, 2021, 7:20 AM), <https://www.forbes.com/sites/forbescoachescouncil/2021/05/14/t>

Without healthy stress outlets available, many managers turn to self-medication with alcohol, prescription medications, and illegal narcotics.⁷¹ Machismo culture exacerbates this dynamic.⁷² Acknowledging and addressing one's own stress is viewed as a weakness on Wall Street,⁷³ except insofar as it fits the "work hard, play hard" paradigm that is all too familiar.⁷⁴

Substance abuse in corporate managers can go undetected for far too long. Managers use flexible schedules, financial resources, and good workplace performance to hide their chemical dependencies (or to induce others to look the other way).⁷⁵ "While the stigma surrounding mental health has lifted somewhat, it remains dangerous territory for high-level executives, more accustomed to solving problems than having them."⁷⁶ Executives are acculturated to turn a blind eye to their own struggles. And so are we, the public. We tend instinctively to vilify corporate executives. Acknowledging their struggle requires an inconsistent posture of concern.

The situation is even more dire with respect to corporate psychopathy. Corporate psychopaths have been on psychologists' radars for decades,⁷⁷ but we have done very little to dismantle the structural mechanisms that concentrate and hide psychopathy high up in corporate management. Classical Elite Theory views corporate psychopathy as an unavoidable consequence of the value business places on characteristics like "polish, charm, and cool decisiveness."⁷⁸ Although executives may have "relatively easy access to psychiatric treatment,"⁷⁹

he-two-levels-of-stress-management-within-the-corporate-world/?sh=2bee29cf18e3 [https://perma.cc/2HU9-JYF6].

71. See Eva Benoit, *Stress and the Quest for Success: When Executives Need Help with Substance Abuse*, RTOR (Sept. 6, 2018), <https://www.rtor.org/2018/09/06/executive-stress-and-substance-abuse> [https://perma.cc/3HZ5-EGAF].

72. Riley Farrell, *Taking on 'Macho' Culture: Banks Launch Wall Street's First Mental Health Initiative*, NY CITY LENS (Feb. 17, 2022), <https://nycitylens.com/macho-culture-mental-health> [https://perma.cc/9KS2-MY2P].

73. See Max Reyes, *Wall Street Firms Join Mental Health Program Fighting Stigma*, BLOOMBERG (Feb. 9, 2022, 3:41 PM), <https://www.bloomberg.com/news/articles/2022-02-08/wall-street-firms-join-mental-health-program-amid-burnout-woes> (on file with the *Iowa Law Review*).

74. David Gura, *'Absolute Meltdown': Wall Street's Work till You Drop Culture Under Attack*, NPR (May 7, 2021, 7:00 AM), <https://www.npr.org/2021/05/07/993938573/absolute-meltdown-wall-streets-work-till-you-drop-culture-under-attack> [https://perma.cc/TE35-ZP4J].

75. Jeanne Sahadi, *Addiction in the C-Suite*, CNN BUS. (Oct. 17, 2018, 10:29 AM), <https://www.cnn.com/2018/10/17/success/addiction-c-suite-executives> [https://perma.cc/3TP7-VMYE].

76. Lisa Bertagnoli, *Mental Health and the C-Suite: Who's at Risk?*, CRAIN'S CHI. BUS. (June 21, 2019, 2:48 PM), <https://www.chicagobusiness.com/health-care/mental-health-and-c-suite-whos-risk> [https://perma.cc/8DZE-7AHW].

77. See generally MICHAEL MACCOBY, *THE PRODUCTIVE NARCISSIST: THE PROMISE AND PERIL OF VISIONARY LEADERSHIP* (2003) (discussing prevalence of one important psychopathic trait—narcissism—among corporate elites); Paul Babiak, Craig S. Neumann & Robert D. Hare, *Corporate Psychopathy: Talking the Walk*, 28 BEHAV. SCIS. & L. 174 (2010) (charting the history of the rise of corporate psychopaths).

78. Boddy, *supra* note 62, at 257; see also Alasdair Marshall, Denise Baden & Marco Guidi, *Can an Ethical Revival of Prudence Within Prudential Regulation Tackle Corporate Psychopathy?*, 117 J. BUS. ETHICS 559, 562 (2013) (discussing Pareto's classical elite theory).

79. MARTIN BLINDER, *PSYCHIATRY IN THE EVERYDAY PRACTICE OF LAW* § 8.1 (5th ed. 2019), Westlaw (database updated Oct. 2023).

psychopathy and sociopathy are not self-presenting. In other words, psychopaths and sociopaths often cannot recognize that anything is wrong.⁸⁰ Consequently, self-initiated treatment is unlikely. We, the outsiders, only make matters worse when we see a diagnosis of psychopathy in a corporate executive as a justification for animosity rather than a call for curative attention.

The point of discussing farmers and corporate executives is that remote people, successful people, and powerful people, people who differ from us or whom we may distrust, are not immune to mental illness.⁸¹ We can recognize mental and emotional strife in another and offer help, without endorsing them, their values, or their actions. Our collective progress demands it. Farmers sustain us, and their struggles with suicide and addiction imperil our food supply. With them, we have made some incremental progress. Rural norms are shifting, and farmer mental health is now part of the conversation. More than eighty percent of farmers are at least “somewhat confident” that they can identify a mental health issue in a close friend or family member.⁸² But with respect to mental and emotional illness in corporate executives, we have yet to take our first collective step. We must be willing to look past the external markers of their professional success to see the untreated ailments that may be bound up with it. Doing so is not just an act of empathy. It is also an act of self-preservation.⁸³ The missteps of corporate executives tend to fall on those beneath and around them, that is to say, on the rest of us.

And then there is police mental health, too . . .

B. PRIOR WORK ON POLICE PSYCHOLOGY

Over the last decade, legal scholars have made important inroads into understanding some of the connections between police psychology and police violence. Most recently, Madalyn Wasilczuk has leveraged developmental psychology to argue compellingly for raising the minimum age for police recruits.⁸⁴ In many states, police can be as young as nineteen, just as they are entering the “life stage known as emerging adulthood.”⁸⁵ “Emerging adult brains . . . [have limited] capacity to self-regulate and control their impulses.”⁸⁶ As such, emerging adults are often ill-equipped for policework, which “require[s]

80. Arthur Freeman & Ray W. Christner, *Personality Disorders*, in *ENCYCLOPEDIA OF COGNITIVE BEHAVIOR THERAPY* 280, 280–81 (Arthur Freeman, Stephanie H. Felgoise, Arthur M. Nezu, Christine M. Nezu & Mark A. Reinecke eds., 2005) (“Patients with personality disorders usually do not present for treatment to address underlying personality problems . . . They often hold little insight about how they became the way they are, how they contribute to their life problems, or how to change their actions, what they experience, and how they think.”); *see also* Marshall et al., *supra* note 78, at 562 (discussing “dark leader attributes—lack of empathy, ruthless preoccupation with self-promotion, treacherous disloyalty to persons, groups and collective beliefs”).

81. Sahadi, *supra* note 75 (“Addiction is an equal-opportunity nightmare.”).

82. Morning Consult & Am. Farm Bureau Fed’n, *supra* note 35, at slide 12.

83. *See* Mihailis E. Diamantis, *The Corporate Insanity Defense*, 111 J. CRIM. L. & CRIMINOLOGY 1, 5 (2021).

84. Madalyn K. Wasilczuk, *Developing Police*, 70 BUFF. L. REV. 271, 339 (2022).

85. *Id.* at 279.

86. *Id.* at 279–80.

mature psychosocial capacities with little oversight.”⁸⁷ They “are still easily swayed by their emotions to distort their thinking in self-serving and self-protective ways.”⁸⁸ As a consequence, younger officers use more force in making arrests⁸⁹ and are susceptible to the negative psychological effects of trauma.⁹⁰

A longer-standing inquiry into police psychology demonstrates how cognitive bias leads officers to misperceive situational threat levels and drives them to respond with racially targeted lethal force.⁹¹ Cognitive bias is a universal and largely subconscious feature of human psychology.⁹² As we “make observations and reach conclusions” about the world around us, our brains develop deductive shortcuts that help to make our reasoning more efficient.⁹³ But more efficient reasoning is not always more accurate reasoning. We all find ourselves saddled with “a degree of overconfidence that we do not even recognize” and with “tendenc[ies] to see patterns that do not actually exist.”⁹⁴ When these deductive shortcuts are “counterproductive and [contribute] to errors,” they become “biases.”⁹⁵ Although “bias” is a four-letter word, *cognitive* bias is not necessarily the result of a character flaw. Cognitive biases are the normal byproducts and catalysts of decision-making, meaning “they cannot be willed away.”⁹⁶ “There’s no doubt plenty of overt bigotry exists . . . but . . . most of us also harbor bias without knowing it.”⁹⁷

Even if cognitive biases do not necessarily impugn the characters of people who harbor them, they can still have serious negative effects. “It stems from our brain’s tendency to categorize things—a useful function in a world of infinite stimuli, but one that can lead to discrimination, baseless assumptions, and worse, particularly in times of hurry or stress.”⁹⁸ People subconsciously create cognitive categories “based on all sorts of characteristics—skin color, age, weight, ethnic origin, accent, disability, height, gender,” but those that

87. *Id.* at 282.

88. Gisela Labouvie-Vief, *Emerging Structures of Adult Thought*, in *EMERGING ADULTS IN AMERICA: COMING OF AGE IN THE 21ST CENTURY* 59, 79 (Jeffrey Jensen Arnett & Jennifer Lynn Tanner eds., 2006).

89. Christopher Chapman, *Use of Force in Minority Communities Is Related to Police Education, Age, Experience, and Ethnicity*, 13 *POLICE PRAC. & RSCH.* 421, 424–25, 433 (2012).

90. Adriel Boals, Shana Southard-Dobbs & Heidemarie Blumenthal, *Adverse Events in Emerging Adulthood Are Associated with Increases in Neuroticism*, 83 *J. PERSONALITY* 202, 203 (2015).

91. *PRINCIPLES OF THE L., POLICING* § 8.05 (AM. L. INST., Tentative Draft No. 3, 2021).

92. Mihailis E. Diamantis, *White-Collar Showdown*, 102 *IOWA L. REV. ONLINE* 320, 322–23 (2017).

93. *PRINCIPLES OF THE L., POLICING*, *supra* note 91, § 8.05 cmt. a.

94. *COMM. ON IDENTIFYING THE NEEDS OF THE FORENSIC SCI. CMTY., NAT’L RSCH. COUNCIL, STRENGTHENING FORENSIC SCIENCE IN THE UNITED STATES: A PATH FORWARD* 122, 124 (2009).

95. *PRINCIPLES OF THE L., POLICING*, *supra* note 91, § 8.05 cmt. a.

96. *COMM. ON IDENTIFYING THE NEEDS OF THE FORENSIC SCI. CMTY.*, *supra* note 94, at 122.

97. Douglas Starr, *The Bias Detective*, *SCI.* (Mar. 26, 2020), <https://www.science.org/content/article/meet-psychologist-exploring-unconscious-bias-and-its-tragic-consequences-society> [https://perma.cc/ESV9-RE7X].

98. *Id.*

relate to race can be especially concerning.⁹⁹ “[O]ne of the strongest stereotypes in American society associates blacks with criminality. . . . [T]he mere presence of a black face, even one that appears so fleetingly we are unaware of it, can cause us to see weapons more quickly—or to imagine weapons that are not there.”¹⁰⁰ Police, like all people, are subject to cognitive bias. The difference is that when they misperceive the presence of weapons, the consequences can be dire.

Several mechanisms embedded in the practice of policework can systematically foster race-based cognitive bias. For example, “computer-generated lists that feature some suspects ahead of others” may prioritize black suspects.¹⁰¹ Once cognitive bias enters a police department, it becomes self-reinforcing through the way in which police frame questions or present data.¹⁰² In other words, cognitive biases are bi-directional: “Not only does the evaluation of evidence affect an evaluator’s emerging conclusion, but that emerging conclusion feeds back to influence the evaluation of evidence.”¹⁰³

Cognitive bias has significant negative effects on policework.¹⁰⁴ Studies demonstrate that nonconscious racial bias leads police to misinterpret behavior in non-white suspects.¹⁰⁵ The effects cascade from there. Officers’ initial perception of a suspect informs their interpretation “of accumulating ambiguous and imperfect evidence” throughout an investigation or interaction.¹⁰⁶ Interpretations and beliefs often inform conduct. “Some officers may unintentionally treat citizens with aggression as a result of cognitive bias. Others may engage in aggressive policing tactics as a means of controlling citizens”¹⁰⁷ An officer may conduct racially targeted “failed search[es] or . . . unnecessary stop[s].”¹⁰⁸ Subconscious cognitive bias may “set into motion a . . . [course] of events that leads to a wrongful conviction.”¹⁰⁹ Worse, it may result in a needless shooting when an officer mistakenly perceives that a person is armed.¹¹⁰ The risks go beyond individual encounters. “Ignoring the

99. See JENNIFER L. EBERHARDT, *BIASED: UNCOVERING THE HIDDEN PREJUDICE THAT SHAPES WHAT WE SEE, THINK, AND DO* 7 (2019).

100. *Id.* at 6.

101. Saul M. Kassin, Itiel E. Dror & Jeff Kukucka, *The Forensic Confirmation Bias: Problems, Perspectives, and Proposed Solutions*, 2 J. APPLIED RSCH. MEMORY & COGNITION 42, 43 (2013).

102. COMM. ON IDENTIFYING THE NEEDS OF THE FORENSIC SCI. CMTY., *supra* note 94, at 122–23.

103. Steve D. Charman, Melissa Kavetski & Dana Hirn Mueller, *Cognitive Bias in the Legal System: Police Officers Evaluate Ambiguous Evidence in a Belief-Consistent Manner*, 6 J. APPLIED RSCH. MEMORY & COGNITION 193, 194 (2017).

104. *Id.*

105. L. Song Richardson, *Cognitive Bias, Police Character, and the Fourth Amendment*, 44 ARIZ. ST. L.J. 267, 268 (2012).

106. Charman et al., *supra* note 103, at 194.

107. Richardson, *supra* note 105, at 302 (footnote omitted).

108. Andrew E. Taslitz, *Police Are People Too: Cognitive Obstacles to, and Opportunities for, Police Getting the Individualized Suspicion Judgment Right*, 8 OHIO ST. J. CRIM. L. 7, 30 (2010).

109. *Id.*

110. Cynthia Lee, *Race, Policing, and Lethal Force: Remedying Shooter Bias with Martial Arts Training*, 79 L. & CONTEMP. PROBS. 145, 149–50 (2016).

influence of cognitive biases on police decision-making creates perverse results at odds with [the fundamental protections of] the Fourth Amendment[.] . . .”¹¹¹

The “little research [that] has focused specifically on experienced police officer decision-making”¹¹² suggests that there are limits to how much progress can be made with on cognitive bias. Since cognitive bias is universal and relatively hardwired,¹¹³ there is little point to testing for it and little to gain from trying to train it out of officers.¹¹⁴ The most promising solutions involve changing the institutions within which police work, rather than trying to reprogram individual personnel. Some efforts target transparency. Illinois, for example, is trying to mitigate the effects of police bias by implementing public accountability laws that allow residents to file anonymous complaints against police.¹¹⁵ Changing police incentives by using a reward system based on the “number of quality arrests and resulting convictions” might also help.¹¹⁶ So might requiring officers to explain their conduct and judgments based on evidence rather than “officer hunches, instincts, and bare reliance on generalizations.”¹¹⁷

The problem with these institutional reforms is that they target police officers’ conscious thought processes during calm moments when they have the time and peace of mind to think about salary or recordkeeping. Under the best of circumstances, “[o]fficers may face large caseloads that place great demands on their time and that make efficiency a high priority.”¹¹⁸ In the field, police must “make quick and confident judgments . . . based on a very limited data sample.”¹¹⁹ Cognitive bias has its greatest grip during split-second decisions that occur with little or no conscious deliberation.¹²⁰

None of this is to say that there is no point in understanding police cognitive bias. Police departments should do whatever they can to mitigate its impact. The fact that cognitive bias is largely hardwired in individuals has two important implications. First, reform to address cognitive bias must focus on

111. Richardson, *supra* note 105, at 268 (“Rather than protecting individuals against arbitrary police intrusion, the . . . [Fourth Amendment] unintentionally creates incentives for policing that encourages it.”).

112. Charman et al., *supra* note 103, at 194.

113. See Taslitz, *supra* note 108, at 17 (describing the widespread “tendency, especially in American culture, to judge an individual’s actions as stemming from fundamental personality traits”).

114. Richardson, *supra* note 105, at 297–99 (discussing the use of implicit association tests on police); Lee, *supra* note 110, at 168–69 (discussing the use of martial arts as a tool for improving cognitive bias).

115. 50 ILL. COMP. STAT. ANN. 727/1-35 (West 2023); see also Desmond Mantle, *Transparency Laws Improve Accountability, Trust in Law Enforcement*, REASON FOUND. (July 29, 2021), <https://reason.org/commentary/transparency-laws-improve-accountability-trust-in-law-enforcement> [https://perma.cc/7UL9-T2VS].

116. Taslitz, *supra* note 108, at 60–61.

117. *Id.* at 31–32.

118. PRINCIPLES OF THE L., POLICING, *supra* note 91, § 8.05 reporters’ notes.

119. Taslitz, *supra* note 108, at 17.

120. Indeed, the implicit association test that tests for cognitive bias works by pressing subjects to make rapid decisions under increasing cognitive load. Lois James, *The Stability of Implicit Racial Bias in Police Officers*, 21 POLICE Q. 30, 31–32 (2018).

institutions rather than individuals. And second, focusing on cognitive bias can only be a partial strategy for preventing unjustified police violence. The remainder of this Article urges an additional strategy that targets more malleable aspects of police psychology.

II. DANGEROUS STATE OF POLICE WELLNESS

Behind the pressed blue uniforms and resolute countenances, police departments across the United States are in a state of crisis. The statistics speak for themselves. In Texas, for example, one out of four officers presently suffer from a diagnosable mental illness, and of those, fewer than one in five will seek treatment.¹²¹ A wide range of more specific metrics of mental and emotional well-being consistently rank police near or at the absolute bottom. According to one recent survey, police are two to ten times more likely to experience mental illness than the general population.¹²² This Part collects and offers a sober assessment of several metrics of police mental and emotional health. For each metric, the Part also explains why police fare so poorly and the connection to police violence.

The figures below rarely feature prominently in mainstream media or legal scholarship, but they should not surprise us. As recent high-profile convictions of police illustrate,¹²³ unjustified police violence is often criminal (even if it is still too rarely prosecuted).¹²⁴ Many legal scholars have highlighted the general connection between criminal behavior and psychological health.¹²⁵ Police are no exception. Their brains, their behaviors, and their outlooks are subject to the same limitations as everyone else's. Kate Levine recently drew

121. Katelyn K. Jetelina, Rebecca J. Molsberry, Jennifer Reingle Gonzalez, Alaina M. Beauchamp & Trina Hall, *Prevalence of Mental Illness and Mental Health Care Use Among Police Officers*, JAMA NETWORK OPEN, Oct. 2020, at 1, 1, 4, 6.

122. Lilly & Curry, *supra* note 18.

123. Josiah Bates, *Officer's Guilty Plea in Breonna Taylor Case Raises Questions About Possible Cooperation with Feds*, TIME (Aug. 29, 2022, 4:57 PM), <https://time.com/6208891/breonna-taylor-officers-charged-status-updates> [<https://perma.cc/W97U-Y4XU>] (Three former Louisville Metro Police officers were "charged with violating [Breonna] Taylor's civil rights, which carries a maximum of up to life in prison if they are convicted"); Jay Senter & Shaila Dewan, *Killer of George Floyd Sentenced to 21 Years for Violating Civil Rights*, N.Y. TIMES (July 7, 2022), <https://www.nytimes.com/2022/07/07/us/derek-chauvin-george-floyd-sentence.html> (on file with the *Iowa Law Review*) (Derek Chauvin was convicted of murdering George Floyd in 2021); Jonathan Franklin & Russell Lewis, *5 Memphis Ex-Police Are Charged with Murder and Jailed over the Death of Tyre Nichols*, NPR (Jan. 26, 2023, 6:39 PM), <https://www.npr.org/2023/01/26/1151721800/memphis-officers-charged-tyre-nichols-murder> [<https://perma.cc/T6NZ-3QXB>] ("Five former Memphis police officers have been indicted and jailed in the beating death of Tyre Nichols, who died days after a traffic stop on Jan. 7.").

124. Shaila Dewan, *Few Police Officers Who Cause Deaths Are Charged or Convicted*, N.Y. TIMES (Nov. 30, 2021), <https://www.nytimes.com/2020/09/24/us/police-killings-prosecution-charges.html> (on file with the *Iowa Law Review*).

125. See David J. Vinkers, Edwin De Beurs, Marko Barendregt, Thomas Rinne & Hans W. Hoek, *The Relationship Between Mental Disorders and Different Types of Crime*, 21 CRIM. BEHAV. & MENTAL HEALTH 307, 308 (2011); Mark A. McCormick-Goodhart, *Leaving No Veteran Behind: Policies and Perspectives on Combat Trauma, Veterans Courts, and the Rehabilitative Approach to Criminal Behavior*, 117 PENN ST. L. REV. 895, 906 (2013); C. Peter Erlinder, *Paying the Price for Vietnam: Post-Traumatic Stress Disorder and Criminal Behavior*, 25 B.C. L. REV. 305, 305-06 (1984).

attention to the “inherent tension between advocating for large[-]scale reduction in the criminal legal footprint, while at the same time ratcheting up the system’s harshness toward the police.”¹²⁶ This Part similarly observes that “cops are [just] people too.”¹²⁷ We know that the psychological well-being of those subject to criminal enforcement must be a consideration in any serious initiative to reduce crime; so too must we reckon with police mental health to have any real hope of eliminating unjustified police violence.

A. SUICIDE

More police officers die by suicide than in the line of duty.¹²⁸ In one single week toward the end of 2022, three unrelated officers in Chicago took their own lives.¹²⁹ These individual tragedies are symptomatic of a broader, bleak picture. Overall, law enforcement is the profession with the sixth highest risk of suicide.¹³⁰ In 2019, the general suicide rate in the United States was 13.5 per hundred thousand;¹³¹ the rate among police officers is three times higher.¹³²

We know remarkably little about the causes and circumstances of police suicide. To date, “there has been no national counting.”¹³³ As a result, “there is a gap in information regarding law enforcement officer suicides.”¹³⁴ Many police departments do not report or will misreport suicide because of worries

126. Levine, *supra* note 1, at 1023.

127. Nicholas Greco, *A Letter to the American Public: Cops Are People Too*, POLICE1 (Oct. 25, 2022, 8:03 PM), <https://www.police1.com/health-wellness/articles/a-letter-to-the-american-public-cops-are-people-too-TrXVQqJPvU2aOodn> [<https://perma.cc/2YCU-7REJ>].

128. Cady Stanton, *Police, Firefighters Die by Suicide More Often Than in Line of Duty. Why Rates Remain High*, USA TODAY (June 10, 2022, 6:00 AM), <https://www.usatoday.com/story/news/nation/2022/06/10/high-suicide-rate-police-firefighters-mental-health/7470846001> [<https://perma.cc/BQK8-BEJY>].

129. Andrew Mark Miller, *3 Chicago Police Officers Died by Suicide in One Week, Total of 7 in 2022: Experts React*, FOX NEWS (Jan. 1, 2023, 2:00 AM), <https://www.foxnews.com/us/3-chicago-police-officers-died-suicide-one-week-total-7-in-2022-experts-react> [<https://perma.cc/JR9W-R29M>]. By contrast, only two Chicago Officers died in the line of duty in all of 2022; their cause of death was COVID-19. *Find a Fallen Officer*, OFFICER DOWN MEM’L PAGE, <https://www.odmp.org/search?state=Illinois&from=2022&to=2022&filter=nok9> [<https://perma.cc/6KWC-XH8U>].

130. *These Jobs Have the Highest Rate of Suicide*, *supra* note 30.

131. *Suicide*, NAT’L INST. MENTAL HEALTH, <https://www.nimh.nih.gov/health/statistics/suicide> [<https://perma.cc/5NUP-JN2C>].

132. *Compare Veera Korhonen, Number of Full-Time Law Enforcement Officers in the United States from 2004 to 2022*, STATISTA (Oct. 10, 2023), <https://www.statista.com/statistics/191694/number-of-law-enforcement-officers-in-the-us> [<https://perma.cc/KA8D-6GYQ>] (showing number of police officers in 2019), with Luke Barr, *Record Number of US Police Officers Died by Suicide in 2019, Advocacy Group Says*, ABC NEWS (Jan. 2, 2020, 2:29 PM), <https://abcnews.go.com/Politics/record-number-us-police-officers-died-suicide-2019/story?id=68031484> [<https://perma.cc/9EDK-RB8P>] (noting number of police suicides in 2019).

133. Tara Perine, *The Law Enforcement Suicide Data Collection*, POLICE CHIEF (May 26, 2021), <https://www.policechiefmagazine.org/the-le-suicide-data-collection> [<https://perma.cc/HQ3L-8L5C>].

134. CRIM. JUST. INFO. SERVS. DIV., U.S. DEPT. OF JUST., LAW ENFORCEMENT SUICIDE DATA COLLECTION: REPORT TO CONGRESS 3 (2022).

about stigma.¹³⁵ “At many agencies, the topic [of suicide] is avoided altogether.”¹³⁶ The federal government is trying to help. In 2020, Congress passed the Law Enforcement Suicide Data Collection Act, which directed the FBI to create a data collection system for recording information about officer suicides and suicide attempts.¹³⁷ The database’s prospects for success are slim since police department reporting is voluntary.¹³⁸ The system went online in early 2022.¹³⁹ That year, it received on average one report of officer suicide per month.¹⁴⁰ That is just a fraction of the number of suicides known through other sources, such as the nonprofit reporting and support system Blue H.E.L.P.¹⁴¹

The high rate of officer suicide merits compassion and attention in its own right;¹⁴² it also relates indirectly to the immediate concern of this Article: police violence. To see the connection, one has to understand the factors that, on our best available accounts, drive police suicide. Suicide risk and violent propensity are not inherently connected.¹⁴³ However, the former can be symptomatic of psychological and emotional distress that does correlate to the latter. For example, “[s]tudies show that suicide risk is higher in persons with PTSD. Some studies link suicide risk in those with PTSD to distressing trauma memories, anger, and poor control of impulses.”¹⁴⁴ Additionally, sleep deprivation, stress, and anxiety are significant factors behind police

135. Stanton, *supra* note 128 (“Researchers and advocates say the discrepancy in suicide rates among the general population and first responders is rooted in unaddressed shame and stigma associated with suicide . . .”).

136. Nicholas Greco, *Be Honest: We’re Not Doing Enough About Law Enforcement Officer Suicide*, CORDICO (Apr. 14, 2021), <https://www.cordico.com/2021/04/14/not-doing-enough-about-law-enforcement-suicide> [<https://perma.cc/85KC-JZH5>].

137. *Law Enforcement Suicide Data Collection (LESDC)*, FBI, <https://www.fbi.gov/how-we-can-help-you/more-fbi-services-and-information/ucr/law-enforcement-suicide-data-collection> [<https://perma.cc/RYL9-FRRD>].

138. See Tom Jackman, *For a Second Year, Most U.S. Police Departments Decline to Share Information on Their Use of Force*, WASH. POST (June 9, 2021, 8:00 AM), <https://www.washingtonpost.com/nation/2021/06/09/police-use-of-force-data> (on file with the *Iowa Law Review*).

139. *Law Enforcement Suicide Data Collection (LESDC)*, *supra* note 137.

140. CRIM. JUST. INFO. SERVS. DIV., U.S. DEPT. OF JUST., *supra* note 134, at 11.

141. *Officer Suicide Statistics*, BLUE H.E.L.P., <https://bluehelp.org/the-numbers> [<https://perma.cc/L659-gGUH>].

142. Advocacy groups propose various measures to address police suicide directly, such as expanding programs to promote mental health awareness, mental health monitoring, and mandatory reporting. MIRIAM HEYMAN, JEFF DILL & ROBERT DOUGLAS, RUDERMAN FAM. FOUND., *THE RUDERMAN WHITE PAPER ON MENTAL HEALTH AND SUICIDE OF FIRST RESPONDERS* 15–16, 29–31 (2018), [https://dir.nv.gov/uploadedFiles/dirnvgov/content/WCS/TrainingDocs/First%20Responder%20White%20Paper_Final%20\(2\).pdf](https://dir.nv.gov/uploadedFiles/dirnvgov/content/WCS/TrainingDocs/First%20Responder%20White%20Paper_Final%20(2).pdf) [<https://perma.cc/8FY5-8g6K>].

143. Tori DeAngelis, *Mental Illness and Violence: Debunking Myths, Addressing Realities*, 52 *MONITOR ON PSYCH.* 31, 31–33 (2021).

144. *PTSD: National Center for PTSD*, U.S. DEP’T VETERANS AFFS. (Dec. 6, 2022), https://www.ptsd.va.gov/understand/related/suicide_ptsd.asp [<https://perma.cc/62JY-5JF9>]; see also Andrew McAward, *Law Enforcement Officer Suicides: Risk Factors and Limitations on Data Analysis*, AM. COLL. EMERGENCY PHYSICIANS (Jan. 10, 2022), <https://www.acep.org/talem/newsroom/january-2022/law-enforcement-officer-suicides-risk-factors-and-limitations-on-data-analysis> [<https://perma.cc/9ASV-HTFT>] (“Predictably, exposure to traumatic events at work is associated with increased risk of suicide.”).

suicide.¹⁴⁵ I discuss each condition and its connections to police violence in more detail below.

B. SUBSTANCE ABUSE

Before moving on to the prevalence of psychological ailments that are known to correlate directly with violent propensity, one other alarming indicator of mental/emotional distress in police bears mention: substance abuse. Up to thirty percent of police struggle with substance abuse.¹⁴⁶ This is more than three times the average across other professions.¹⁴⁷ “Many drugs an officer might turn to have the ability to slow down an overactive mind pushed to the limit by stress, worry, and trauma.”¹⁴⁸ The most common substances police abuse are alcohol, marijuana, prescription painkillers, prescription sedatives, and heroin.¹⁴⁹ The irony that police, who are tasked with enforcing drug laws, turn to drugs themselves is not lost.¹⁵⁰ It does, however, prevent police from seeking help when they develop their own dependency.¹⁵¹

Although some studies identify police violence as a cause of substance abuse,¹⁵² none have asked whether substance abuse in police can lead to police violence. As with police suicide, there is a regrettable shortage of detailed research on chemical dependency in police.¹⁵³ We do know that substance abuse in police is tied to stress factors that correlate with violence, like stress and PTSD.¹⁵⁴ “Over the long-term, this type of stress . . . can build and develop

145. Miller, *supra* note 129; Stanton, *supra* note 128 (“And historically, the stress of being in these jobs and what they experience has led to a higher rate of suicide . . . but suicide is not really talked about.” (quoting Jay Ruderman, president of the Ruderman Family Foundation)).

146. *Substance Abuse Among Police & Law Enforcement*, AM. ADDICTION CTRS. (Mar. 1, 2024), <https://americanaddictioncenters.org/rehab-guide/police> [<https://perma.cc/4HGF-UN3D>]; *see also* Maria M. Timpani-Martin, *The Mental Health of Police Officers: A Critical Review of the Evidence 18–20* (May 2014) (M.A. dissertation, University of Hawai‘i at Hilo) (ProQuest).

147. BUSH & LIPARI, *supra* note 53, at 1 (“9.5 percent [of full-time workers aged 18 to 64] were dependent on or abused alcohol or illicit drugs in the past year.”).

148. *Substance Abuse Among Police & Law Enforcement*, *supra* note 146.

149. *See id.*

150. *See* Peter Hermann, *How an FBI Agent Who Arrested Drug Addicts Became One Himself*, WASH. POST (June 28, 2015, 10:17 PM), https://www.washingtonpost.com/local/crime/how-an-fbi-agent-who-arrested-drug-addicts-became-one-himself/2015/06/28/4bd15492-1438-11e5-9518-f9e0a8959f32_story.html (on file with the *Iowa Law Review*).

151. *See* *Why First Responders Struggle to Seek Help and Why It Matters*, FORGE HEALTH (May 22, 2021), <https://forgehealth.com/blog/why-first-responders-struggle-to-seek-help-and-why-it-matters> [<https://perma.cc/799S-DPEA>].

152. Delvon T. Mattingly et al., *Change in Distress About Police Brutality and Substance Use Among Young People, 2017–2020*, DRUG & ALCOHOL DEPENDENCE, Aug. 1, 2022, at 1, 1–2.

153. *See* PREVENTING PROBLEMATIC ALCOHOL USE AMONG POLICE: CREATING A CULTURE THAT ENCOURAGES HEALTHY HELP-SEEKING, INT’L ASS’N OF CHIEFS OF POLICE 2, https://www.theiacp.org/sites/default/files/Alcohol%20Use%20Agency_Final.pdf [<https://perma.cc/S5BN-WM4Y>].

154. *See* Robert Yagoda, *Understanding the Link Between Stressful Occupations and Addiction*, U.S. NEWS & WORLD REP. (Sept. 26, 2016, 6:00 AM), <https://health.usnews.com/health-news/patient-advice/articles/2016-09-26/understanding-the-link-between-stressful-occupations-and-addiction> [<https://perma.cc/KK9X-P3AZ>].

into PTSD. If the officer tries to address this by self-medicating[,] the chances for substance abuse and addiction grow.”¹⁵⁵

C. SLEEP DEPRIVATION

By some measures, policework is the third most sleep-deprived occupation.¹⁵⁶ One factor that leads to sleep deprivation is the inherent stress of the profession. As one trauma therapist noted, police are “in this constant state of fight or flight and their cortisol is pumping And when they are off, it takes so long to decompress from that constant engagement of fight or flight . . . [that] they don’t sleep well.”¹⁵⁷ The other main driver of sleep deprivation in police is an unforced error: Departments schedule police work shifts in ways that exacerbate abnormal sleep patterns.¹⁵⁸ Staffing nationwide is at its lowest point in decades, thanks to COVID-driven retirements and lower applicant numbers.¹⁵⁹ To make up the difference, departments schedule long shifts, require frequent overtime, and cancel days off.¹⁶⁰ “[O]fficers in some departments are routinely putting in 12-hour shifts, sometimes working 12–15 days straight. And because of staffing shortages, these same departments are canceling days off just to maintain minimum staffing levels.”¹⁶¹ This leaves officers with precious little downtime to destress and, crucially, to sleep.

Sleep deprivation contributes to police violence in two ways. First, lack of sleep makes it harder to cope with stress and anxiety.¹⁶² As discussed in the next Section, unmanaged stress can induce police violence. Second, lack of sleep impairs judgment.¹⁶³ Studies equate being awake for seventeen hours to a blood alcohol content of 0.05 percent and being awake for twenty-four hours

155. *Substance Abuse Among Police & Law Enforcement*, *supra* note 146.

156. Brad Tuttle, *Top 10 Most (Yawn) Sleep-Deprived Jobs*, TIME (Feb. 24, 2012), <https://businesstimes.time.com/2012/02/24/top-10-most-yawn-sleep-deprived-jobs> [<https://perma.cc/8KCS-85TN>]; *Substance Abuse Among Police & Law Enforcement*, *supra* note 146.

157. Richard Knox, *Many Police Officers Are Sleep Deprived, Risky For Them and Us*, NPR (Dec. 20, 2011, 6:33 PM), <https://www.npr.org/sections/health-shots/2011/12/20/144034730/many-police-officers-are-sleep-deprived-raising-risks-for-them-and-us> [<https://perma.cc/8WGZ-RTZE>]. In Britain, law enforcement is the second most sleep deprived profession, clocking in with just an average of four and a half hours of sleep per night. Jessica Davis, *These Are the Most Sleep-Deprived Professions*, HARPER’S BAZAAR (Mar. 21, 2018), <https://www.harpersbazaar.com/uk/beauty/mind-body/a19514296/these-are-the-most-sleep-deprived-professions> [<https://perma.cc/284E-WASY>].

157. Miller, *supra* note 129.

158. McAward, *supra* note 144.

159. Tim Henderson, *Retirements Cut Ranks of Scarce Frontline Workers*, STATELINE (Feb. 4, 2022, 12:00 AM), <https://www.pewtrusts.org/en/research-and-analysis/blogs/stateline/2022/02/04/retirements-cut-ranks-of-scarce-frontline-workers> [<https://perma.cc/F4DH-SRJW>]; INT’L ASS’N OF CHIEFS OF POLICE, *THE STATE OF RECRUITMENT: A CRISIS FOR LAW ENFORCEMENT 2*, https://www.theiacp.org/sites/default/files/239416_IACP_RecruitmentBR_HR_o.pdf [<https://perma.cc/5BL4-KVH3>].

160. Miller, *supra* note 129.

161. Greco, *supra* note 127.

162. Eric Suni & Alex Dimitriu, *Anxiety and Sleep*, SLEEP FOUND. (Nov. 16, 2023), <https://www.sleepfoundation.org/mental-health/anxiety-and-sleep> [<https://perma.cc/SGQ2-ETC2>].

163. Drew Dawson & Kathryn Reid, *Fatigue, Alcohol and Performance Impairment*, 388 NATURE 235, 235 (1997).

with a blood alcohol content of 0.1 percent.¹⁶⁴ For context, the threshold for drunk driving is usually 0.08 percent.¹⁶⁵ “If [police] are stressed and tired before [their] shift, [they] may be less alert and more prone to make a mistake.”¹⁶⁶ The mistakes of armed officers are often fatal.¹⁶⁷

D. STRESS AND TRAUMA

Police encounter stressful events with “great[] frequency[;] . . . horrible scenes and scenarios . . . can knock down an officer’s mental wall—a sheer volume of negative memories can have a dire impact.”¹⁶⁸ A 2015 survey of rural and small-town officers found that forty-three percent had been threatened with a gun, thirty percent had been shot at, and twenty-six percent had been seriously injured intentionally.¹⁶⁹ Police also routinely come into contact with third party trauma, such as child sexual assault (forty-two percent) or death in the line of duty (also forty-two percent).¹⁷⁰ As discussed above, unrelenting stress impacts officers’ personal wellness metrics, like suicide risk, substance abuse, and sleep deprivation.¹⁷¹ But officer stress also impacts how officers respond to others. Unaddressed, it can develop into PTSD, which clouds judgment, distorts emotion regulation, and provokes impulsive behavior.

The Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition defines PTSD as an anxiety disorder that develops after experiencing, witnessing, or being exposed to traumatic events.¹⁷² As many as forty-seven percent of police officers have some form of PTSD.¹⁷³ That is approximately nine times greater than the prevalence seen in the general population.¹⁷⁴ Other studies

164. A.M. Williamson & Anne-Marie Feyer, *Moderate Sleep Deprivation Produces Impairments in Cognitive and Motor Performance Equivalent to Legally Prescribed Levels of Alcohol Intoxication*, 57 OCCUPATIONAL & ENV'T MED. 649, 649 (2000).

165. Fiona Campbell, *How Long Does a DUI Stay on Your Record?*, FORBES (Feb. 6, 2023, 11:01 AM), <https://www.forbes.com/advisor/ca/car-insurance/how-long-does-dui-stay-on-record> [https://perma.cc/E6Y9-7KMJ].

166. Nicholas Greco, *Take Care of Yourself: Why Law Enforcement Officers Need Self-Care*, CORDICO (May 21, 2021), <https://www.cordico.com/2021/05/21/take-care-of-yourself-why-law-enforcement-officers-need-self-care> [https://perma.cc/WT7K-T972].

167. See *supra* Introduction.

168. Barr, *supra* note 132 (quoting Jon Adler, the former Director of the Bureau of Justice Programs at the Department of Justice).

169. Brian A. Chopko, Patrick A. Palmieri & Richard E. Adams, *Critical Incident History Questionnaire Replication: Frequency and Severity of Trauma Exposure Among Officers from Small and Midsize Police Agencies*, 28 J. TRAUMATIC STRESS 157, 157–61 (2015).

170. *Id.*

171. Elizabeth Velazquez & Maria Hernandez, *Effects of Police Officer Exposure to Traumatic Experiences and Recognizing the Stigma Associated with Police Officer Mental Health: A State-of-the-Art Review*, 42 POLICING: INT'L J. POLICE STRATEGIES & MGMT. 711, 718–19 (2019).

172. AM. PSYCHIATRIC ASS'N, DIAGNOSTIC AND STATISTICAL MANUAL OF MENTAL DISORDERS 274–80 (5th ed. 2013); SUBSTANCE ABUSE & MENTAL HEALTH SERVS. ADMIN., CTR. FOR BEHAV. STATS. & QUALITY, IMPACT OF THE DSM-IV TO DSM-5 CHANGES ON THE NATIONAL SURVEY ON DRUG USE AND HEALTH 100 (June 2016), <https://www.ncbi.nlm.nih.gov/books/NBK519704/table/ch3.t14> [https://perma.cc/979D-ENUK].

173. Lilly & Curry, *supra* note 18.

174. *Id.*

report a lower but still concerning incidence of PTSD in the range of twelve percent to eighteen percent, three times the general rate.¹⁷⁵ These figures do not include the thirty-four percent of law enforcement officers who have some subsyndromal PTSD.¹⁷⁶

Police often develop what psychologists refer to as cumulative PTSD.¹⁷⁷ Eighty-five percent of police officers say their wellness is negatively affected by stress.¹⁷⁸ On-duty stressors can lead to isolation, as well as relationship or financial problems.¹⁷⁹ This in turn degrades support structures that are important resources for stress management.¹⁸⁰ A 2017 study found that cumulative career traumatic stress produces a slow and subtle deterioration of officers' emotional and psychological stability.¹⁸¹ The collective stress and exposure to trauma that comes with policework can lead to PTSD.¹⁸² Indeed, there is a reliable correlation between years of service and post-traumatic stress symptoms.¹⁸³

PTSD and job stress can interact with the disorders discussed previously, exacerbating their negative influence on officers' behavior. As noted above, untreated PTSD and poorly managed stress are drivers of officer suicide, substance abuse, and sleep deprivation. These latter maladies, in turn, exacerbate PTSD and its effects on third parties. For example, a 2019 study found that the average officer will see thirty suicide scenes over the course of a career and that such exposure significantly correlates with future PTSD.¹⁸⁴ A 2014 study found that individuals who suffer both PTSD and a substance abuse disorder are consistently more likely to perpetrate violence than individuals with just one of the disorders.¹⁸⁵ Finally, a 2021 study demonstrated that sleep

175. See *id.*; Sara Soomro & Philip T. Yanos, *Predictors of Mental Health Stigma Among Police Officers: The Role of Trauma and PTSD*, 34 J. POLICE & CRIM. PSYCH. 175, 181 (2019); McAward, *supra* note 144 (reporting that officers are five times more likely than civilians to have PTSD).

176. Stephen M. Soltys, *Officer Wellness: A Focus on Mental Health*, 40 S. ILL. U. L.J. 439, 439-40 (2016).

177. Katja Ridderbusch, *Violence, Stress, Scrutiny Weigh on Police Mental Health*, GA. PUB. BROAD. (June 14, 2021, 11:20 AM), <https://www.gpb.org/news/2021/06/14/violence-stress-scrutiny-w-eigh-on-police-mental-health> [<https://perma.cc/WgBD-3CE4>].

178. *This is How Stress Can Affect Police Officers' Health*, MASS GEN. BRIGHAM HEALTH PLAN (June 22, 2022), <https://blog.massgeneralbrighamhealthplan.org/this-is-how-stress-affects-a-police-officers-health> [<https://perma.cc/BGA2-TSWJ>].

179. McAward, *supra* note 144; Greco, *supra* note 166 ("Stress from work spills over into home life, and vice versa.").

180. See generally Donald G. Unger & Douglas R. Powell, *Supporting Families Under Stress: The Role of Social Networks*, 29 FAM. RELS. 566 (1980) (overviewing the available research supporting the beneficial effects of human relationships on social well-being).

181. Lupo Geronazzo-Alman et al., *Cumulative Exposure to Work-Related Traumatic Events and Current Post-Traumatic Stress Disorder in New York City's First Responders*, 74 COMPREHENSIVE PSYCHIATRY 134, 134-35 (2017).

182. Velazquez & Hernandez, *supra* note 171, at 718-19.

183. Tina B. Craddock & Grace Telesco, *Police Stress and Deleterious Outcomes: Efforts Towards Improving Police Mental Health*, 37 J. POLICE & CRIM. PSYCH. 173, 174 (2022).

184. Julie Cerel, Blake Jones, Melissa Brown, David A. Weisenhorn & Kyra Patel, *Suicide Exposure in Law Enforcement Officers*, 49 SUICIDE & LIFE THREATENING BEHAV. 1281, 1283-85 (2019).

185. Emma L. Barrett, Maree Teeson & Katherine L. Mills, *Associations Between Substance Use, Post-Traumatic Stress Disorder and the Perpetration of Violence: A Longitudinal Investigation*, 39

deprivation interferes with the brain's ability to process fear memories,¹⁸⁶ which puts officers at greater risk of developing PTSD.¹⁸⁷

Individuals with PTSD exhibit four clusters of symptoms: heightened reactivity, intrusion, avoidance, and altered cognition.¹⁸⁸ Each of these symptom clusters is concerning in armed police officers. Heightened reactivity can lead to “generally irritable behavior [and] angry outbursts . . . [Officers become] hypervigilant in most situations and have an exaggerated, startled response.”¹⁸⁹ Intrusion can lead to flashbacks, triggered by environmental cues, that cause officers to “respond to the situation based on the past traumatic events.”¹⁹⁰ Avoidance and altered cognition can make it difficult to persuade officers to seek treatment.¹⁹¹

Individuals with PTSD are significantly more likely to commit violent acts.¹⁹² Generally speaking, PTSD is associated with anger difficulties.¹⁹³ Previous trauma impacts anger and aggression through social information processing mechanisms.¹⁹⁴ Several studies establish a connection between PTSD and anger.¹⁹⁵ Veterans with PTSD experience increased physiological arousal and hypervigilance that place them at heightened risk for threat misperception and for greater violence disinhibition.¹⁹⁶ Furthermore, PTSD contributes to misperceptions, producing biases and deficits in social information processing that place individuals at risk for aggression.¹⁹⁷ Consequently, PTSD

ADDICTIVE BEHAVIORS 1075, 1076–78 (2014). This interaction can be especially dangerous for the spouses of police officers. A 2012 study found “a strong association among PTSD, alcohol abuse, and perpetration of domestic violence that suggests that when one is reduced, the others might also be reduced for some officers.” Karen Oehme, Elizabeth A. Donnelly & Annelise Martin, *Alcohol Abuse, PTSD, and Officer-Committed Domestic Violence*, 6 POLICING: J. POL'Y & PRAC. 418, 425 (2012).

186. Jeehye Seo, Edward F. Pace-Schott, Mohammed R. Milad, Huijin Song & Anne Germain, *Partial and Total Sleep Deprivation Interferes with Neural Correlates of Consolidation of Fear Extinction Memory*, 6 BIOLOGICAL PSYCHIATRY 299, 307 (2021).

187. James Kingsland, *Sleep Loss May Disrupt the Brain's Ability to 'Unlearn' Fear*, MEDICALNEWS TODAY (Nov. 17, 2020), <https://www.medicalnewstoday.com/articles/sleep-loss-may-disrupt-the-brains-ability-to-unlearn-fear> [<https://perma.cc/6TBS-N73X>].

188. See SUBSTANCE ABUSE & MENTAL HEALTH SERVS. ADMIN., *supra* note 172, at 100–04.

189. Soltys, *supra* note 176, at 441.

190. *Id.* at 443.

191. *Id.* at 441.

192. See generally Jean C. Beckham, Michelle E. Feldman, Angela C. Kirby, Michael A. Hertzberg & Scott D. Moore, *Interpersonal Violence and Its Correlates in Vietnam Veterans with Chronic Posttraumatic Stress Disorder*, 53 J. CLINICAL PSYCH. 859, 861 (1997) (evaluating “whether there is increased interpersonal violence in combat veterans with PTSD as compared to non-PTSD veterans” and identifying “possible demographic and psychological variables associated with interpersonal violence in veterans with PTSD”).

193. Casey T. Taft, Suzannah K. Creech & Christopher M. Murphy, *Anger and Aggression in PTSD*, 14 CURRENT OP. PSYCH. 67, 67 (2017).

194. *Id.* at 68–70.

195. See *id.* at 67–70.

196. Casey T. Taft et al., *Social Information Processing in Anger Expression and Partner Violence in Returning U.S. Veterans*, 28 J. TRAUMATIC STRESS 314, 320 (2015).

197. See *id.*

symptomatology strongly predicts intended microaggression,¹⁹⁸ general aggression,¹⁹⁹ and constant hypervigilance.²⁰⁰ The connection between PTSD and anger/aggression is even stronger in military veterans,²⁰¹ who account for one out of every five police.²⁰² As psychiatrist Stephen Soltys observes, perpetrators of police violence “could have untreated PTSD and [violent police] could be a result of an untreated psychiatric disorder.”²⁰³

III. WHAT TO DO: ABOLISH, REFORM, REASSESS

The facts just presented uncover widespread emotional and psychological distress among police officers. Where does that leave us? Regardless of one’s policy orientation, mental illness in police is a pressing concern. But there are different directions the concern could cut. This Part does not aim to decide between them. Rather, it demonstrates the relevance of police mental health to a range of perspectives by drawing out possible conclusions for each. One of the most interesting results of deciding how to address police mental health is that it reveals potential edges of sympathetic overlap between traditionally antagonistic perspectives on police.

A. A FUNDAMENTALLY NEW ARGUMENT FOR ABOLITIONISM

Abolitionists generally believe that institutionalized policing is so inherently and incorrigibly harmful, degrading, and dehumanizing toward enforcement targets that it must end.²⁰⁴ Part II’s discussion of mental and emotional illness is fodder for this familiar line of argument. The cumulative toll of policework’s stress, trauma, and life-or-death encounters leads large segments of the police population to develop PTSD. Untreated, the disorder makes officers a danger to both themselves and to those around them. Policing may seem, for this

198. Soomro & Yanos, *supra* note 175, at 180–81.

199. Vincent W. Savarese, Michael K. Suvak, Lynda A. King & Daniel W. King, *Relationships Among Alcohol Use, Hyperarousal, and Marital Abuse and Violence in Vietnam Veterans*, 14 J. TRAUMATIC STRESS 717, 723 (2001); Casey T. Taft et al., *Posttraumatic Stress Disorder Symptoms, Physiological Reactivity, Alcohol Problems, and Aggression Among Military Veterans*, 116 J. ABNORMAL PSYCH. 498, 504 (2007).

200. Soltys, *supra* note 176, at 441.

201. Casey T. Taft, Laura E. Watkins, Jane Stafford, Amy E. Street & Candice M. Monson, *Posttraumatic Stress Disorder and Intimate Relationship Problems: A Meta-Analysis*, 79 J. CONSULTING & CLINICAL PSYCH. 22, 28 (2011).

202. Simone Weichselbaum, *Police with Military Experience More Likely to Shoot*, MARSHALL PROJECT (Oct. 15, 2018, 3:22 PM), <https://www.themarshallproject.org/2018/10/15/police-with-military-experience-more-likely-to-shoot> [<https://perma.cc/qJG5JLBF>]; Jennifer M. Reingle Gonzalez et al., *Does Military Veteran Status and Deployment History Impact Officer Involved Shootings? A Case-Control Study*, 41 J. PUB. HEALTH 245, 251 (2019) (“[T]here is a critical need for additional studies on the relationship between veteran status, deployment history, and combat experience, and officer-involved shootings.”).

203. Soltys, *supra* note 176, at 443.

204. See generally ALEX S. VITALE, *THE END OF POLICING* (2017) (arguing for a reform of the current militarized and prejudiced tactics of the police); ZACH NORRIS, *WE KEEP US SAFE: BUILDING SECURE, JUST, AND INCLUSIVE COMMUNITIES* (2020) (highlighting the framework of fear, suspicion, and punishment under which the current police operates); Amna A. Akbar, *An Abolitionist Horizon for (Police) Reform*, 108 CALIF. L. REV. 1781 (2020).

reason, an irredeemably dangerous threat to civil society. Abolitionists would replace police departments with various forms of community intervention²⁰⁵ or expanded social support services targeted at the root causes of crime.²⁰⁶

But the facts about police mental health offer abolitionists another line of attack that proceeds from a radically reoriented posture toward police: empathy. Just as policework is dangerous and dehumanizing to policed communities, it is also dangerous and dehumanizing for police themselves. In their roles as perpetrators, victims, and witnesses of violence, police can find themselves rutted into a pathway that leads toward self-destructive thoughts and behaviors. How can we morally sustain a profession that has such damaging effects on its workers?

Consider an analogy. A similar discussion has arisen around another profession that exposes workers to extreme third-person suffering—content moderators. Digital platforms like YouTube and Facebook hire content moderators to screen videos and photos for violations of the platforms' terms of service.²⁰⁷ Content moderators must navigate a dark world of child porn, animal cruelty, and snuff film. This “tak[es] an ugly toll on many of its workers.”²⁰⁸ When speaking of their experiences, content moderators report: “We were doing something that was darkening our soul,”²⁰⁹ and “I don’t think it’s possible to do the job and not come out of it with some acute stress disorder or PTSD.”²¹⁰ The destructive effects of being exposed to others’ suffering has led some commentators to call for an end to prevalent models of content moderation.²¹¹ If the profession of policing is similarly damaging to its own workers, maybe it is time to fundamentally rethink policing as a profession.

B. POLICE WELLNESS AS AN ESSENTIAL REFORM

Focusing on police mental health also erects a new rhetorical platform from which to advocate for police reform. Just about everyone working on police violence is a reformist at some level.²¹² Most critics of police see

205. See generally V. Noah Gimbel & Craig Muhammad, *Are Police Obsolete? Breaking Cycles of Violence Through Abolition Democracy*, 40 CARDOZO L. REV. 1453 (2019) (suggesting that programs led by former incarcerated individuals could reduce violence).

206. *Id.* at 1468–84.

207. Casey Newton, *The Trauma Floor: The Secret Lives of Facebook Moderators in America*, VERGE (Feb. 25, 2019, 8:00 AM), <https://www.theverge.com/2019/2/25/18229714/cognizant-facebook-content-moderator-interviews-trauma-working-conditions-arizona> [<https://perma.cc/F4PP-6T29>].

208. *Id.*

209. *Id.*

210. *Id.*

211. Adrian Chen, *The Laborers Who Keep Dick Pics and Beheadings Out of Your Facebook Feed*, WIRED (Oct. 23, 2014, 6:30 AM), <https://www.wired.com/2014/10/content-moderation> (on file with the *Iowa Law Review*).

212. See Rashawn Ray & Clark Neily, *A Better Path Forward for Criminal Justice: Police Reform*, BROOKINGS (Apr. 2021), <https://www.brookings.edu/articles/a-better-path-forward-for-criminal-justice-police-reform> [<https://perma.cc/2PJW-HQ8H>]; Emilee Green, Brian Kuczynski, Morgan McGuirk & Jessica Reichert, *The Effectiveness and Implications of Police Reform: A Review of the Literature*, ILL. CRIM. JUST. INFO. AUTH. (Oct. 27, 2022), <https://icjia.illinois.gov/researchhub/articles/the-effectiveness-and-implications-of-police-reform-a-review-of-the-literature> [<https://perma.cc/C47V-DQH2>].

institutional reform as an essential part of any effective strategy for addressing police violence. They identify violence-enabling structures within policing as an institution.²¹³ Since these structures transcend any individual's involvement, trying to tackle police violence on a case-by-case basis misses the root of the problem.²¹⁴ Even most abolitionists are interested in reform at some level. They often see abolition as a "horizon" toward which their work tends²¹⁵ and acknowledge that the horizon, if it ever comes, is a long way off.²¹⁶ They support measures to reduce police violence and spare innocent lives while we wait.²¹⁷

Much of the current discourse of reform alienates and antagonizes police.²¹⁸ Defaulting to combative language is understandable. Unjustifiable violence continues to unfold at police officers' hands.²¹⁹ Retributive instincts can drive extreme reactions.²²⁰ For example, reformists have argued that arming police with military-grade hardware is unnecessary and dangerous.²²¹ But the conclusion that we should "defund" police departments to prevent the purchase of such equipment is a step beyond what the concerns that animated the original argument can justify.²²² Predictably, police who encounter "defund" language in popular media feel antagonized and professionally threatened by that

213. Monica C. Bell, *Police Reform and the Dismantling of Legal Estrangement*, 126 YALE L.J. 2054, 2065 (2017).

214. Sam Levin, *It's Not About Bad Apples: How US Police Reforms Have Failed to Stop Brutality and Violence*, GUARDIAN (June 16, 2020, 6:00 AM), <https://www.theguardian.com/us-news/2020/jun/16/its-not-about-bad-apples-how-us-police-reforms-have-failed-to-stop-brutality-and-violence> [https://perma.cc/D8AW-U52H]; Levine, *supra* note 1, at 1046 ("[The] abolitionist ethic should also encourage us to look at police crimes as systemic rather than individual . . .").

215. Akbar, *supra* note 204, at 1783-85.

216. See Allegra M. McLeod, *Prison Abolition and Grounded Justice*, 62 UCLA L. REV. 1156, 1161 (2015) (listing an extensive number of actions needed to be taken to reach the abolition horizon).

217. See Mike Cummings, *Resistance to 'Defund' or 'Abolish' the Police Rooted in Policy Proposals*, YALE NEWS (Feb. 4, 2022), <https://news.yale.edu/2022/02/04/resistance-defund-or-abolish-police-rooted-policy-proposals> [https://perma.cc/C8N6-PB5E].

218. Angela Workman-Stark, *Rethinking Police Reform: From Defunding to Promoting Sustainability*, PHYS.ORG (Dec. 10, 2021), <https://phys.org/news/2021-12-rethinking-police-reform-defunding-sustainability.html> [https://perma.cc/B2YR-JDNX].

219. See Andrea Marks, *The Year Just Started and Cops Have Already Killed at Least 7 Unarmed People*, ROLLING STONE (Jan. 31, 2023), <https://www.rollingstone.com/culture/culture-features/tyre-nichols-unarmed-cop-death-shooting-1234671669> [https://perma.cc/5VFE-NNMS].

220. See Janice Nadler & Mary-Hunter McDonnell, *Moral Character, Motive, and the Psychology of Blame*, 97 CORNELL L. REV. 255, 301-02 (2012).

221. Bill Hutchinson, *Providing Police with Military Gear Does Not Reduce Crime or Protect Officers: Studies*, ABC NEWS (Dec. 8, 2020, 4:48 PM), <https://abcnews.go.com/US/providing-police-military-gear-reduce-crime-protect-officers/story?id=74518923> [https://perma.cc/ED9J-LG9D].

222. Adam Andrzejewski, *Democratic Mayors Defunded Their Police, While Spending Millions on Their Own Police Protection*, FORBES (July 20, 2021, 9:00 AM), <https://www.forbes.com/sites/adam-andrzejewski/2021/07/20/democratic-mayors-defunded-their-police-while-spending-millions-on-their-own-police-protection/?sh=5591ffd6d86b> (on file with the *Iowa Law Review*); Russ McNamara, *Defunding Police Is About Investing in Community, Says Detroit Justice Center Attorney*, WDET (May 23, 2022), <https://wdet.org/2022/05/23/defunding-police-is-about-investing-in-community-says-detroit-justice-center-attorney> [https://perma.cc/5NN5-8J76]; *We Reject the Proposed Increases to Baltimore's Police Budget*, CMTYS. UNITED (Apr. 15, 2021), <https://www.marylandcu.org/cu-in-the-news/we-reject-the-proposed-increases-to-baltimores-police-budget> [https://perma.cc/DB37-KNRL].

framing of the reformist project.²²³ What if it were possible to turn police into partners for reform, rather than opponents of it?

Ultimately, the reformist agenda is future-oriented and pragmatist. The goal is to create a more just police force and to eliminate unjustified police violence. From a practical standpoint, it is worth considering whether language that engages police rather than alienates them would lead to speedier progress. Focusing first on agendas where reformist and police interests align might do the trick.

Police wellness offers a rare opportunity for such collaboration. Improving police mental health and addressing the job stressors that degrade it would both make police better off and, at the same time, reduce the risk of unjustified police violence. Focusing on mental health opens space for a new framing of the reformist project that engages police. Rather than “defunding,” reformists might speak of “re-funding”: shifting resources from heavy weaponry to police wellness.²²⁴ Unlike some other proposals—like those that seek criminal accountability for abusive police officers—re-investing in police wellness does not legitimate the criminal justice system that reformists seek to change and abolitionists seek to dismantle.²²⁵ It improves but does not approve. Collaborations over police wellness could prompt a constructive rhetorical reset in the reformist agenda without requiring compromise on pragmatic goals.

C. A PROGRESSIVE REASSESSMENT OF POLICE WHO ARE VIOLENT

We must put an end to unjustified police violence, whether through abolition or reform. Institution-level interventions still leave open the question of how we should react to individual police officers who engage in unjustified violence. The prevalence of mental and emotional illness among police calls for a more nuanced progressive picture.

Even though, as argued below, early intervention to prevent unjustified police violence is preferable, we must still decide how to respond when instances of such violence nonetheless occur. There is a range of options available. At a minimum, the police department must confiscate involved officers’ weapons pending investigation and psychological evaluation. A more maximal response would involve criminal prosecution, harsh punishment, and public excoriation. As Kate Levine has observed, many progressive commentators reflexively call for this latter approach.²²⁶ The instinct is understandable. Unjustified police violence is morally repulsive. It perpetuates historic injustices.²²⁷ Sometimes,

223. Interview with Kevin Bailey, Sergeant, Iowa City Police Dep’t, in Iowa City, Iowa (Nov. 30, 2023).

224. Ray, *supra* note 23.

225. See Levine, *supra* note 1, at 1033, 1056 (“Those who wish to stem this cycle must face the fact that prosecuting individual police officers both legitimizes the criminal legal system and further clouds the causes of police violence.”).

226. See *id.* at 1046–47.

227. Katie Nodjimbadem, *The Long, Painful History of Police Brutality in the U.S.*, SMITHSONIAN MAG. (May 29, 2020), <https://www.smithsonianmag.com/smithsonian-institution/long-painful-history-police-brutality-in-the-us-180964098> [<https://perma.cc/TM9M-BA9R>].

it is purposeful, sadistic, and racially motivated.²²⁸ Criminal prosecution can secure some measure of justice for victims while dismantling the mechanisms that have, in the past, insulated police from inquiry.²²⁹ Progressive principles, however, demand that we pause a moment and complicate our retributive instincts. Levine pointed to the obvious conflict in advocating for prosecuting police under a criminal justice system that progressives concede is unjust, racist, and unduly harsh.²³⁰

Progressive thought on the relationship between mental illness and criminal culpability also calls us to recalibrate our moral evaluation of police violence. Reformers working at the intersection of law and psychology have argued for centuries that mental illness can undermine criminal culpability.²³¹ The most universal and visible manifestation of their work is the insanity defense, which is available under the vast majority of state criminal codes.²³² PTSD does not automatically qualify a person for the insanity defense.²³³ Yet for decades, feminists have advocated for recognition of so-called “battered woman syndrome” (which the DSM-IV recognized as a subcategory of PTSD)²³⁴ as a defense for women who kill abusive intimate partners.²³⁵ Rachel Liebert has argued that PTSD should be a mitigating factor for criminal defendants who have experienced community violence.²³⁶ Several criminal courts recognize the mitigating impact of PTSD on military veterans who commit crime.²³⁷

Progressive scholars believe that PTSD should, at a minimum, be a mitigating factor at sentencing because it causes violent behavior.²³⁸ “[E]xposure to psychological trauma leads to a host of devastating psychological and behavioral consequences—including violence—through multiple common

228. See Stephan A. Schwartz, *Police Brutality and Racism in America*, 16 EXPLORE 280, 280 (2020).

229. Rachel A. Harmon, *Legal Remedies for Police Misconduct*, in 2 REFORMING CRIMINAL JUSTICE: POLICING 27, 43 (Erik Luna ed., 2017).

230. Levine, *supra* note 1, at 1001–03.

231. See generally Stephen J. Morse, *Craziness and Criminal Responsibility*, 17 BEHAV. SCIS. & L. 147, 147 (1999) (explaining “why mental disorder is relevant to criminal responsibility”); Bernard L. Diamond, *Criminal Responsibility of the Mentally Ill*, 14 STAN. L. REV. 59, 59 (1961) (offering a psychiatric perspective on the legal implications of “mental illness”); Ralph Slovenko, *The Meaning of Mental Illness in Criminal Responsibility*, 5 J. LEGAL MED. 1, 1 (1984) (examining different legal definitions of “mental illness”).

232. See generally Suresh Bada Math, Channaveerachari Naveen Kumar & Sydney Moirangthem, *Insanity Defense: Past, Present, and Future*, 37 INDIAN J. PSYCH. MED. 381 (2015) (providing an overview of how the insanity defense is used in criminal prosecutions).

233. *United States v. Duggan*, 743 F.2d 59, 81 (2d Cir. 1984); *United States v. Whitehead*, 896 F.2d 432, 433–34 (9th Cir. 1990).

234. AM. PSYCHIATRIC ASS’N, DIAGNOSTIC AND STATISTICAL MANUAL OF MENTAL DISORDERS (4th ed., rev. 2000).

235. Katherine O’Donovan, *Defences for Battered Women Who Kill*, 18 J.L. & SOC’Y 219, 231 (1991); Amin R. Yacoub & Becky Briggs, *The Future of Criminal Culpability: Posttraumatic Stress Disorder’s (“PTSD”) Effect on a Defendant’s Actions and State of Mind*, 56 U.S.F. L. REV. 425, 427–28 (2022).

236. Rachael Liebert, *Trauma and Blameworthiness in the Criminal Legal System*, 18 STAN. J.C.R. & C.L. 225, 257–58 (2022).

237. *Id.* at 250–51.

238. Omri Berger, Dale E. McNeil & Renée L. Binder, *PTSD as a Criminal Defense: A Review of Case Law*, 40 J. AM. ACAD. PSYCHIATRY & L. 509, 509 (2012).

pathways.”²³⁹ As explained above, the most important of these pathways is chronic hyperarousal, “[a] distorted sense of always being under extreme threat,” which disposes people to misinterpret circumstances as unduly threatening.²⁴⁰ Consequently, those with PTSD are much more likely to engage in violent responses.²⁴¹ The psychological mechanisms that lead from PTSD to harmful behavior are substantially similar for military veterans, for people who grow up with community violence, and for victims of domestic violence. Like cases should be treated alike.

As discussed in Part II, police exhibit PTSD at extraordinarily high rates. Some officers, nineteen percent of whom are former military personnel, join the force with PTSD as a pre-existing condition.²⁴² Many more develop PTSD as a consequence of the first- and third-person trauma they experience in the course of their work.²⁴³ We must, of course, protect our communities from all unjustified police violence. But before we decide how forcefully to condemn and punish individual officers, we should consider the contributing role of mental illness.

IV. A CASE STUDY: THE IOWA CITY POLICE DEPARTMENT

All politics may be local. So too, in a sense, is all policing. Community attributes determine the situational context in which police work, and situational context determines the impact that policework has on officers’ mental and emotional well-being. Local police cultures also vary, shaped by municipal norms and the outlook of command.

To humanize and reify the abstract statistics discussed above, this Part offers a case study of one police department—the ICPD. Although the stories and dynamics surrounding mental health arise in countless departments across the country, I selected ICPD for two reasons. First, I live in Iowa City. So, I have some of my own local knowledge. More importantly, I could conduct in-person interviews with knowledgeable personnel, who, because I am a member of the community, were more disposed to be open and trusting. The second reason I chose ICPD is that, as I learned early on, the department is ahead of the curve in terms of responding to officers’ mental and emotional health needs. It still has a long way to go, but it exemplifies some steps that other departments might consider taking to improve officer wellness. The quotations that appear throughout the remainder of this Part come from interviews with Iowa City police officers and people who work with them.

239. Kathleen Wayland, *The Importance of Recognizing Trauma Throughout Capital Mitigation Investigations and Presentations*, 36 HOFSTRA L. REV. 923, 927 (2008).

240. Lois Beckett, *The PTSD Crisis That’s Being Ignored: Americans Wounded in Their Own Neighborhoods*, PROPUBLICA (Feb. 3, 2014, 3:21 PM), <https://www.propublica.org/article/the-ptsd-crisis-thats-being-ignored-americans-wounded-in-their-own-neighbor> [https://perma.cc/7GCF-U2GP].

241. Sachiko Donley et al., *Civilian PTSD Symptoms and Risk for Involvement in the Criminal Justice System*, 40 J. AM. ACAD. PSYCHIATRY & L. 522, 527 (2012).

242. See Weichselbaum, *supra* note 202.

243. See *supra* Section II.D.

Iowa City is not unlike many other college towns across the United States. It has a mid-sized (seventy-five thousand people), mostly white (seventy-six percent) population,²⁴⁴ bolstered by a large student body during the school year (thirty thousand).²⁴⁵ Though nearly all adults twenty-five and older graduated from high school (ninety-seven percent), the median household income (\$52,000) is only two-thirds the nationwide median, and the poverty rate (twenty-seven percent) is double the national average.²⁴⁶ Iowa City's politics leans progressive in a state that, though historically purple, has turned to the right in recent years.²⁴⁷

Crime rates in Iowa City are, relatively speaking, low across the board. In 2020, ICPD received nearly sixty-two thousand calls for service, of which 3,500 led to arrest.²⁴⁸ Police activity peaked on gamedays, and many of the most frequent arrests were for crimes one might associate with major sports events: simple assault (547), destruction of property (394), driving while intoxicated (247), and public intoxication (186).²⁴⁹ Serious crime arrests did occur—murder (three), robbery (twenty-seven), aggravated assault (141), although at per capita rates lower than the national average, with the exception of forcible rape (thirty-three).²⁵⁰ Burglary (275), drug violations (249), and various forms of larceny (368) also played significant roles.²⁵¹

ICPD is relatively well-resourced. Its budget is just under \$21 million, with \$18.3 million coming from property taxes and \$1.3 million from federal support.²⁵² Employee wages and benefits account for eighty-seven percent of the budget.²⁵³ As a result, officers are relatively well compensated. The entry-level wage is \$57,000, with starting salaries as high as \$90,000 for experienced officers.²⁵⁴ One senior officer reported that his annual salary was over \$110,000 and that he expected to retire with an annual pension of over

244. *QuickFacts: Iowa City city, Iowa*, U.S. CENSUS BUREAU (2022), <https://www.census.gov/quickfacts/fact/table/iowacitycityiowa/RHI525222> [<https://perma.cc/AN5P-7C6W>].

245. *Data, IOWA: DIV. DIVERSITY EQUITY & INCLUSION* (2021), <https://diversity.uiowa.edu/data> [<https://perma.cc/3Z9M-G97P>].

246. *QuickFacts: Iowa City city, Iowa*, *supra* note 244; *National Poverty in America Awareness Month: January 2024*, U.S. CENSUS BUREAU (Jan. 2024), <https://www.census.gov/newsroom/stories/poverty-awareness-month.html> [<https://perma.cc/HH9S-LCUD>].

247. *Iowa City, IA Political Map — Democrat & Republican Areas in Iowa City*, BEST NEIGHBORHOOD, <https://bestneighborhood.org/CONSERVATIVE-VS-LIBERAL-MAP-IOWA-CITY-IA> (on file with the *Iowa Law Review*).

248. *2020 Annual Report*, IOWA CITY POLICE DEPT. 15–16 (2020), <https://www.iowa-city.org/W ebLink/DocView.aspx?id=2016253&dbid=0&repo=CityofIowaCity> [<https://perma.cc/695F-MGB9>].

249. *Id.* at 16–17.

250. *Id.* at 17.

251. *Id.*

252. *Id.* at 4.

253. *Id.*

254. *Police Officer Recruitment*, IOWA CITY, <https://www.icgov.org/government/departments-and-divisions/human-resources/employment/police-officer-recruitment> [<https://perma.cc/2Y9E-NZDW>].

\$80,000.²⁵⁵ Generally, police feel they are “[c]ompensated in [their] community fairly well.”²⁵⁶

In 2020, the Black Lives Matter (“BLM”) protests that swept the nation in the wake of George Floyd’s death also came to Iowa City.²⁵⁷ The first rally occurred on May 30, 2020, on the Pentacrest, a central and iconic location for the city and the University of Iowa.²⁵⁸ It was a planned event with participation by community leaders (including Mayor Bruce Teague).²⁵⁹ Police were on standby but not on the scene and did not intervene.²⁶⁰ In the days that followed, protests continued with growing incidents of vandalism and property damage.²⁶¹ Tensions came to a head on June 11 when hundreds of protestors marched towards a busy intersection on Interstate 80.²⁶² After orders to disperse were ignored, ICPD (supported by the University of Iowa Police Department and the Iowa State Patrol) responded with tear gas and flash-bangs.²⁶³ In the coming months, the Iowa Freedom Riders, who had become the public face of the protests, shifted tactics, putting political pressure on the Iowa City Council to defund ICPD by ninety percent.²⁶⁴ Though these demands were never met, defund proponents still sit on the council.²⁶⁵

The political ramifications of the protests in Iowa City have largely run their course, but the impact on the police department persists. Public confidence

255. Interview with Kevin Bailey, *supra* note 223.

256. Interview with Andrew McKnight, formerly Sergeant, Iowa City Police Dep’t, in Iowa City, Iowa (Nov. 30, 2023).

257. Unity Cheyenne Stevens, *From Controversy to Collaboration: How Iowa City’s Police Department Adapted to the Changing Landscape of American Policing* (May 2023) (M.A. thesis, University of Illinois Springfield) (on file with the *Iowa Law Review*); Josie Fischels, *Black Lives Matter — Two Weeks of Protests in Iowa City*, DAILY IOWAN (June 16, 2020), <https://dailyiowan.com/2020/06/16/black-lives-matter-two-weeks-of-protests-in-iowa-city> [<https://perma.cc/FSE4-NXEU>].

258. Fischels, *supra* note 257.

259. *Id.*

260. See Michaela Ramm, *Iowa City Rally in Response to George Floyd Death Draws Hundreds to Downtown Iowa City*, GAZETTE (May 30, 2020, 10:55 PM), <https://www.thegazette.com/community/iowa-city-rally-in-response-to-george-floyd-death-draws-hundreds-to-downtown-iowa-city> [<https://perma.cc/H7RE-F86T>].

261. Fischels, *supra* note 257.

262. *Id.*

263. *Protesters March Through Iowa City, Coralville; I-80 Briefly Closed*, KCRG (June 11, 2020, 5:49 PM), <https://www.kcrg.com/2020/06/11/protesters-marching-through-iowa-city-coralville-approaching-i-80-at-1st-ave> [<https://perma.cc/4ACU-L2AU>].

264. Lee Hermiston, *These Are the Iowa Freedom Riders’ Demands in Iowa City and the Status of Each*, GAZETTE (July 13, 2020, 7:50 AM), <https://www.thegazette.com/crime-courts/these-are-the-iowa-freedom-riders-demands-in-iowa-city-and-the-status-of-each> [<https://perma.cc/DMP3-JUKS>]; IOWA FREEDOM RIDERS’ DEMANDS 3 (2020), [https://www.iowafreedomriders.org/assets/IFR%20Demands%20\(1\).pdf](https://www.iowafreedomriders.org/assets/IFR%20Demands%20(1).pdf) [<https://perma.cc/HK4Q-9XH3>].

265. See Hillary Ojeda, *Three Community Leaders on Iowa City Activism One Year After George Floyd’s Murder*, IOWA CITY PRESS-CITIZEN (May 28, 2021, 4:20 PM), <https://www.press-citizen.com/story/news/local/eastern-iowa/2021/05/28/george-floyd-murder-death-iowa-city-leaders-freedom-riders-raneem-hamad-fred-newell-lisa-covington/7438398002> [<https://perma.cc/F8TH-7PME>].

in police has eroded,²⁶⁶ and so has police confidence in the public. Iowa City police feel professionally vulnerable. “[Y]ou can come to work, do your job, follow policy, and [you can still] end up fired and in jail.”²⁶⁷ At the same time, many of them are “stuck [in their jobs] and would try something different if they could.”²⁶⁸ Police feel emotionally vulnerable. Many officers identify the BLM protests as the moment that things turned. Some expressed a sense of betrayal and despair. “We had one guy [an officer] who said with tears in his eyes, ‘I went above and beyond for that woman on a domestic violence call[,] and now she’s over there [among the protestors] telling me what a piece of shit I am. She doesn’t know me.’”²⁶⁹ Things are a bit better now. “Today I don’t feel as hated,”²⁷⁰ but still, “[h]ow does that help you carry a calm demeanor into the next call when you’re told you’re unvalued?”²⁷¹

It is little surprise, then, that despite the generous compensation attached to policework, ICPD faces a recruiting shortage. “It seems the [department] is always playing catchup as it relates to staffing.”²⁷² Official numbers back up this impression. The department is authorized to hire eighty-four sworn officers but currently has only seventy-eight.²⁷³ These are overwhelmingly white (ninety-two percent) and male (ninety-one percent).²⁷⁴ The pool of applicants for each recruiting season has decreased from three hundred to twenty-five.²⁷⁵ Only eight to nine will pass background checks, and, of these, at least half will go to other departments.²⁷⁶ “This was absolutely predictable.”²⁷⁷

Staffing challenges impact policework at ICPD at institutional and individual levels. Although officers generally express high confidence in their colleagues and the service they provide, the logic of recruiting numbers is unavoidable. “When you go from having a large and diverse applicant pool to a low applicant pool, it stands to reason that you don’t have as reliable access to the same caliber of person.”²⁷⁸ Union head Colin Fowler registered a similar concern: “[R]educed applicant pools have led to hiring people that normally wouldn’t be hired.”²⁷⁹ Personnel shortages can become so dire that

266. “Perception of the police needs a major rehabilitation job.” Interview with Andrew McKnight, *supra* note 256.

267. *Id.*

268. *Id.*

269. *Id.*

270. Interview with Kevin Bailey, *supra* note 223; Interview with Colin Fowler, *supra* note 2 (“People don’t hate us like they used to hate us.”).

271. Interview with Andrew McKnight, *supra* note 256.

272. *Id.*

273. *Police Department, IOWA CITY*, <https://www.icgov.org/government/departments-and-divisions/police-department> [<https://perma.cc/87UG-ZWYQ>]; 2020 *Annual Report*, *supra* note 248, at 11.

274. 2020 *Annual Report*, *supra* note 248, at 11.

275. Interview with Andrew McKnight, *supra* note 256.

276. Interview with Kevin Bailey, *supra* note 223.

277. Interview with Andrew McKnight, *supra* note 256.

278. *Id.*

279. Interview with Colin Fowler, *supra* note 2.

leadership must sometimes disregard the union's recommendation that an officer be let go.²⁸⁰ At an individual level, staffing shortages mean officers that remain must "assume the burden of missing officers."²⁸¹ Even officers with more than twelve years' experience are perennially "engaged in forced [overtime] scenarios."²⁸² To adequately relieve staffing pressures and implement a regular work schedule, ICPD would need an additional twenty to twenty-five officers.²⁸³ Faced with irregular hours, community antagonism, and forced overtime, observant officers who worked both before and after the protests felt like they were "watching the erosion of officers' mental health."²⁸⁴

ICPD officers today exhibit much of the same mental and emotional distress as officers across the nation.²⁸⁵ Marital dysfunction and divorce rates are exceptionally high.²⁸⁶ PTSD and sleeping disorders are common, and substance abuse is prevalent (especially alcohol, but sometimes prescription medications too).²⁸⁷ "A lot of people will self-medicate because of trauma."²⁸⁸ Officers attribute their mental health struggles to the stresses of policework: "We're OK when we start. We only get garffed up after seeing a ton of incidents."²⁸⁹ Even officers who do not recognize stress symptoms in themselves notice a difference when they finally leave the force. Many come to learn, "the best thing I [ever] did was leave."²⁹⁰

Like police everywhere, ICPD officers face death and danger on a regular basis. Harm to others seemed to impact them more than risk to themselves. The officers I interviewed described retrieving bloated corpses, administering CPR to bloodied infants, and investigating crime scenes in which their own neighbors had been bludgeoned to death. "You get hyperaware of mortality."²⁹¹ Most described detailed encounters that prompted uncharacteristic coping responses: blackouts,²⁹² alcohol dependency,²⁹³ and morbid hallucinations.²⁹⁴ Officer Ashley Jay, for example, recounted being unable to pack her suitcase to travel for her wedding after investigating a case in which a female had been killed and put in a bag: "I thought, I don't want to [put my dress in there] because it'll smell like a dead body."²⁹⁵

280. *Id.*

281. Interview with Andrew McKnight, *supra* note 256.

282. *Id.*

283. Interview with Kevin Bailey, *supra* note 223.

284. Interview with Andrew McKnight, *supra* note 256.

285. Interview with Kevin Bailey, *supra* note 223.

286. *Id.*

287. *Id.*

288. Interview with Colin Fowler, *supra* note 2.

289. *Id.*

290. Interview with Kevin Bailey, *supra* note 223.

291. Interview with Colin Fowler, *supra* note 2.

292. *Id.*

293. Interview with Kevin Bailey, *supra* note 223.

294. Interview with Ashley Jay, Officer, Iowa City Police Dep't, in Iowa City, Iowa (Jan. 9, 2024).

295. *Id.*

ICPD has been ahead of the curve in acknowledging the importance of mental health to policing. The last three police chiefs have been supportive of mental health initiatives.²⁹⁶ This may be due to the presence of the GuideLink Center, which “is a community-initiated collaborative” that offers a range of services targeted to providing “an effective alternative for those in need who, until now, may have had no other choice than to go to an emergency room or be sent to a jail.”²⁹⁷ The center gave police leadership something tangible to be involved in.²⁹⁸ In the words of Deputy Sergeant of the Johnson County Sheriff’s Office (Iowa City is in Johnson County), “Our community should be proud of the effort to better serve those experiencing mental health or substance abuse crises.”²⁹⁹

The visible successes of the GuideLink Center cultivated support for mental health initiatives among ICPD leadership.³⁰⁰ Though some form of peer-led crisis intervention training—“verbal judo”—had long been part of ICPD’s officer curriculum, the department formally requested city funding for a crisis intervention team (“CIT”) program in 2016.³⁰¹ CITs are “community partnership[s] of law enforcement, mental health and addiction professionals, individuals who live with mental illness and/or addiction disorders, their families, and other partners to improve community responses to mental health crises.”³⁰² Iowa City sent three officers to an out-of-state seminar to learn more.³⁰³ Though there was a consensus among officers and leadership in support of CITs, the implementation of a co-responder model failed to take root likely due to budget concerns.³⁰⁴

Things changed in 2020 in the wake of the BLM protests when, due to the shifting political winds, “everyone wanted CIT and co-responders.”³⁰⁵ Co-responders are mental-health-trained social workers who work in the field alongside police officers, ready to intervene when their expertise can help de-escalate a situation. ICPD implemented formal CIT training, and the county’s first co-responder program took off soon thereafter. It now has two social workers trained in mental health who work for the nonprofit CommUnity but sit in ICPD.³⁰⁶ They dress in civilian clothing and drive civilian cars. Both have

296. Interview with Andrew McKnight, *supra* note 256.

297. GUIDELINK CTR., <https://guidelinkcenter.org> [<https://perma.cc/DR2T-UST2>]; Interview with Andrew McKnight, *supra* note 256; Interview with Kevin Bailey, *supra* note 223.

298. Interview with Andrew McKnight, *supra* note 256.

299. GUIDELINK CTR., *supra* note 297.

300. Interview with Andrew McKnight, *supra* note 256.

301. *Id.*

302. *CIT Is More Than Just Training...It's a Community Program*, CIT INT'L, <https://www.ciunternational.org/What-is-CIT> [<https://perma.cc/DL29-JX94>].

303. Interview with Andrew McKnight, *supra* note 256.

304. *Id.*

305. *Id.*

306. Interview with Joachim Seelos, Mental Health Liaison, CommUnity Crisis Servs., in Iowa City, IA (Oct. 21, 2022).

police radios and monitor dispatch.³⁰⁷ When they hear a scenario where mental health intervention seems like it would be beneficial, they drive to the scene directly.³⁰⁸ If they assess they can safely and productively intervene, they ask the officer to wait at a distance.³⁰⁹ They then talk to the subject of the dispatch call to de-escalate the situation and direct him/her to resources that would provide the most immediate help.³¹⁰

Joachim Seelos, ICPD's first co-responder, reports that, after some rockiness early on, he now has a very good working relationship with the officers. They respect his judgment in the field and his presence in the department.³¹¹ "Oh, Joah. I love Joah!" is a frequent refrain among officers.³¹² The feeling is mutual. Seelos regards many of them as friends, too. They feel he "has our back," and they have his.³¹³

Seelos's presence and CIT training have changed the conversation around mental health in ICPD.³¹⁴ Most officers now see social work, and mental health specifically, as a critical component of the city's response to a range of issues like homelessness, drug use, and other forms of mental and emotional distress. As importantly, officers are now much more likely to recognize the importance of attending to their own and their peers' psychological needs.³¹⁵ The work skills police receive from crisis intervention training translate into general life skills.³¹⁶ "This stuff will change your life if you allow it . . . it'll just make you a better person, a more effective person too."³¹⁷ It teaches police to pause, consider, and ask: "What does this person need right now?" These techniques apply off the field, too. When used at home, they help police foster healthy relationships with their spouses and children. This turns one common source of stress—family dysfunction—into a stress management resource—positive social engagement. In addition to becoming better partners and parents, CIT-trained police become better peers. By "normalizing conversations

307. *Id.* One ambition CommUnity has is to divert 911 calls for mental health emergencies to an entirely separate line specifically for the co-responder program. Interview with Unity Stevens, Mobile Crisis Response Program Manager, CommUnity Crisis Servs., in Iowa City, IA (Nov. 28, 2023). Some other cities have a similar model. See Rob Lawrence, *The Fourth 911 Option: Mental Health Services*, EMS1 (Aug. 11, 2022, 12:50 PM), <https://www.ems1.com/communications-dispatch/articles/the-fourth-911-option-mental-health-services-zsPESRMBXR01XqaZ> [<https://perma.cc/3JP2-EW2>].

308. Interview with Joachim Seelos, *supra* note 306.

309. *Id.*

310. *Id.*

311. Interview with Andrew McKnight, *supra* note 256; Interview with Kevin Bailey, *supra* note 223.

312. Interview with Kevin Bailey, *supra* note 223.

313. *Id.*

314. Interview with Andrew McKnight, *supra* note 256.

315. See *Peer Support for Officer Wellness*, DISPATCH (Feb. 2023), https://cops.usdoj.gov/html/dispatch/02-2023/OSW_peer_support.html [<https://perma.cc/RF4R-BZLX>].

316. The contents of this paragraph and the next come primarily from an interview with Andrew McKnight. Interview with Andrew McKnight, *supra* note 256.

317. *Id.*

about how are you doing,” CIT gives police the tools they need to look around and tend to each other’s mental and emotional needs.³¹⁸

The benefits of crisis intervention and co-responder programs came full circle when police started to apply them to themselves. From asking, “How are you?”, many officers began asking “How am I?” “Slowly and surely, as [mental health] discourse was started in the department, people started to talk about it in a normal way. CIT was pivotal to that.”³¹⁹ Seelos has noticed a change across the three years of his work with ICPD.³²⁰ Officers will stop by his office, sometimes on the pretense of some work necessity, and stay to relate thoughts or experiences that are troubling them.³²¹ Even older officers in the department described the change in attitude they have witnessed in themselves. Ten months from retirement, Sergeant Bailey of ICPD now speaks openly about mental health challenges that he previously repressed with a stiff upper lip.³²² In speaking openly of his own struggle with subsyndromal PTSD, he said he would not have had this conversation ten years ago: “[T]he taboo is gone.”³²³ Tone from the top also helped: “We did have solid command support for normalizing conversations about mental health.”³²⁴ Today, Sergeant Bailey is “the best [he’s] ever been.”³²⁵ As a new believer in the importance of mental health, “I don’t like everybody I work with, but I would absolutely bend over backwards for their mental health.”³²⁶

Though policies enacted in the wake of the BLM protests accelerated the conversation about mental health in police departments across the country, ICPD has “been doing officer mental health since long before.”³²⁷ Thanks to Officer Jay’s efforts, the department has had a peer support counseling program since 2017.³²⁸ At the same time, she was having her own struggles with PTSD, but she knew that “wasn’t unique to [her].”³²⁹ After learning about peer support (she was one of the three officers who went to the out-of-state CIT training in 2016), she decided to tailor a program for ICPD. “To be able to [police] well, we have to be able to take care of ourselves.”³³⁰ After getting leadership approval, she selected her initial team (which she felt had to include some “very manly

318. *Id.*

319. *Id.*

320. Interview with Joachim Seelos, *supra* note 306.

321. *Id.*

322. Interview with Kevin Bailey, *supra* note 223.

323. *Id.*

324. Interview with Andrew McKnight, *supra* note 256.

325. Interview with Kevin Bailey, *supra* note 223.

326. *Id.*

327. Interview with Andrew McKnight, *supra* note 256.

328. Interview with Ashley Jay, *supra* note 294; *see also* Stephen Gruber-Miller, *In a High-Stress Job, Iowa City Officers Seek to Add Support Systems*, IOWA CITY PRESS-CITIZEN (Apr. 7, 2017, 7:12 PM), <https://www.press-citizen.com/story/news/2017/04/07/iowa-city-police-officers-peer-program-counseling-support-systems/100140584> [<https://perma.cc/73F6-L9FE>] (reporting on Officer Jay’s involvement in the adoption of a counseling program).

329. Interview with Ashley Jay, *supra* note 294.

330. *Id.*

guys” to get broader buy-in among officers) and invited an expert from the state capital to train them.³³¹ The team composition has changed over the years, but Officer Jay still leads it today on a fully voluntary and uncompensated basis.³³² Officers seeking peer support know who is on the team.³³³ Meetings are informal and often occur in the field, patrol cars parked side-by-side. By design, there is a “blurry line between peer support and friendly conversation.”³³⁴ Peer support counselors offer a willing ear and, when more is called for, let officers know about professional resources available to them.³³⁵

Officer Jay feels the peer support program has had a positive impact. At first, officers did not really know what to make of it, but “it’s more accepted now.”³³⁶ Just starting the conversation about mental health is important: “I encourage people to be more open with others, and I feel more and more like it’s happening.”³³⁷ By her estimate, at least half of the department has engaged a peer support counselor at one time or another.³³⁸

Some members of the department have more mixed feelings about the effectiveness of peer support.³³⁹ Supervisors are not present during counseling sessions,³⁴⁰ but according to a former sergeant involved in the program, many officers are worried about confidentiality and professional repercussions.³⁴¹ “Cops talk,” and not everyone has the same capacity to keep information confidential.³⁴² “[A] peer support program means nothing if people don’t utilize it.”³⁴³

For years, ICPD officers have also had access to external therapists through their employee assistance program (“EAP”). Leadership even encourages officers to attend six therapy sessions.³⁴⁴ In general, though, “not many folks express benefits of EAP; lots of folks had less than complimentary things to say.”³⁴⁵ One officer offered some insights about why. First, the place where the therapists are located is “a challenging area for officers, an area that is often the source of their angst.”³⁴⁶ Second, the therapists themselves are often freshly

331. *Id.*

332. *Id.*

333. *Id.*

334. *Id.*

335. *Id.*

336. *Id.*

337. *Id.*

338. *Id.*

339. Interview with Andrew McKnight, *supra* note 256.

340. Interview with Kevin Bailey, *supra* note 223.

341. Interview with Andrew McKnight, *supra* note 256.

342. *Id.*

343. *Id.*

344. Interview with Kevin Bailey, *supra* note 223.

345. Interview with Andrew McKnight, *supra* note 256.

346. Interview with Kevin Bailey, *supra* note 223; Interview with Ashley Jay, *supra* note 294.

qualified and unfamiliar with policework and police culture.³⁴⁷ One officer described a therapy session in which, while he related a story about seeing a child die, the therapist began crying. Although the officer appreciated the empathetic response, he left feeling that the therapist was not equipped to help him process the traumas that are a regular part of his world. A final reason the EAP has had limited success is that the therapists available through it are not trained in advanced techniques for addressing trauma.³⁴⁸ Several officers reported benefits from eye movement desensitization and reprocessing therapy,³⁴⁹ which they could access only through alternate channels.³⁵⁰

When traumatic events do occur, ICPD command can call for a stress debrief. There is no official definition of the sort of “critical incident” that will trigger a stress debrief,³⁵¹ so command makes a discretionary determination. These are opportunities to talk about the incident with each other and with peer counselors without supervisors around. There are mixed impressions about whether attendance is optional (and helpful)³⁵² or mandatory (and hence unproductive).³⁵³

There are some formal systems in place that ICPD can draw on if officers develop psychological conditions that would compromise their job performance; however, they are rarely utilized. If an officer exhibits Personal Early Warning Signs (“PEWS”), command can order consultation with a medical professional.³⁵⁴ However, the current senior officer in charge of officer wellness was not aware of an instance where the PEWS system had ever been used.³⁵⁵ He was also skeptical about the effectiveness of coerced treatment: “You’re ready when you’re ready.”³⁵⁶ Others in the department feel that the PEWS system is “not used early enough or frequently enough.”³⁵⁷ Command can also order Fitness for Duty Evaluations (“FFDEs”); however, these are uncommon and ordinarily for physical (rather than psychological) concerns.³⁵⁸

The general sentiment, among both officers and the social workers who work with them, is that ICPD has had a longstanding interest in officers’ mental well-being and has come a long way in the last decade to do something about it. For many officers, the BLM protests in 2020 were a breaking point. Job

347. Interview with Kevin Bailey, *supra* note 223; Interview with Kathie Pham, Mental Healthcare Provider, Covenant Fam. Sols., in Coralville, IA (Jan. 9, 2024).

348. Interview with Ashley Jay, *supra* note 294.

349. Interview with Kevin Bailey, *supra* note 223; Interview with Colin Fowler, *supra* note 2; Interview with Ashley Jay, *supra* note 294.

350. Interview with Ashley Jay, *supra* note 294.

351. Interview with Kevin Bailey, *supra* note 223.

352. *Id.*

353. Interview with Colin Fowler, *supra* note 2.

354. Interview with Kevin Bailey, *supra* note 223.

355. *Id.*

356. *Id.*

357. Interview with David Schwindt, Prod. Manager - Analytics, Mark43 (formerly Officer and Crime Analyst, Iowa City Police Dep’t), in Iowa City, Iowa (Jan. 9, 2024).

358. Interview with Kevin Bailey, *supra* note 223.

stressors blew up (like mandatory overtime to compensate for recruiting shortages) just as the sustaining assurance that they were the community's protectors was being called into doubt. However, policy responses to the protests (like increased emphasis on CIT and collaboration with co-responders) also planted the seeds for the most positive development for police mental wellness—an awareness about mental health as a live and legitimate concern. Officers now inhabit a work culture that is much more encouraging of self-care and empathetically attuned to peers' mental and emotional needs.

Despite this progress, more work is needed. The general sense remains that ICPD is “probably better than most for dealing with traumatic events, but it could do better.”³⁵⁹ One concern is the pace of policework. Officers still experience the daily traumas that are an unavoidable part of their job, but mandatory overtime leaves them with too little time to process and de-stress. A second is finding the right mental health resources for officers, in particular, therapists who are experienced with and attuned to police culture.³⁶⁰ A third is institution building. The department owes its progress to the voluntary efforts of individual officers, but only institutions can sustain it.³⁶¹ For example, Officer Jay started the peer support program but worries, “[i]f I quit, the team will fall apart.”³⁶² A final concern is the perception that employee benefits administrators do not recognize cumulative PTSD as a work-related injury.³⁶³ This forces officers with the condition to choose between the paycheck they need to support their families and addressing a disorder that poses a danger for them and their communities. According to David Schwindt, who headed the local police union for approximately fifteen years, “[S]tate and local governments need to provide job and/or disability protections out there for people to be comfortable utilizing mental health resources.”³⁶⁴

At least one major barrier to addressing mental health in ICPD seems to be taking care of itself—stigma. “Tearing down the stigma is important” for enabling officers to feel comfortable about being open with their own struggles and seeking help when needed.³⁶⁵ Individual senior officers are doing their part by being open with emotional vulnerability,³⁶⁶ relating their own difficulties processing traumatic experiences,³⁶⁷ and sharing their struggle with substance

359. Interview with Andrew McKnight, *supra* note 256. “We do better than most, but it is not enough.” Interview with Kevin Bailey, *supra* note 223.

360. Interview with Kathie Pham, *supra* note 347; Interview with Ashley Jay, *supra* note 294; Interview with Kevin Bailey, *supra* note 223; Interview with David Schwindt, *supra* note 357; Zoom Interview with Nicholas Greco, President, C3 Educ. & Rsch., Inc. (Nov. 19, 2023).

361. Interview with David Schwindt, *supra* note 357.

362. Interview with Ashley Jay, *supra* note 294.

363. Interview with Colin Fowler, *supra* note 2.

364. Interview with David Schwindt, *supra* note 357.

365. Interview with Colin Fowler, *supra* note 2.

366. Interview with Ashley Jay, *supra* note 294 (“More and more I’m getting them to talk about what’s going on with them, and letting them know that it’s okay to have feelings.”).

367. Interview with Colin Fowler, *supra* note 2 (“I tell that story to officers to try to make it okay to talk about that stuff.”).

dependency.³⁶⁸ But there are also bigger forces at work. Every single person I interviewed in Iowa City remarked that the younger generation of officers are much more knowledgeable about, open with, and accepting of the importance of mental health to their job and themselves.³⁶⁹

V. STEPS TO IMPROVE MENTAL AND EMOTIONAL HEALTH IN POLICE

From politicians to the general public, police departments to individual police, too few people pay meaningful attention to police well-being. That must change if we are to make real progress against unjustified police violence. This Part considers what change could look like. The first Section considers the few halfhearted efforts that have been tried to date . . . and failed. The next Section introduces several concrete measures that would improve the state of mental and emotional health in police. There is no cure-all and no single responsible actor. Police well-being will require collective effort: investment from politicians, understanding from police departments, attention from the public, and a culture shift from police officers.

A. WHAT HAS BEEN TRIED (AND FAILED)

There have been a handful of mental health initiatives directed at police officers in recent years. With the exception of nongovernmental undertakings like Blue H.E.L.P.,³⁷⁰ these efforts have been pro forma and ineffectual. One challenge they have faced is poor design. For example, I have already discussed the FBI's effort to collect data about officer suicide.³⁷¹ Because it relies on voluntary reporting, the database records fewer than seven percent of officer suicides.³⁷²

Another problem is the lack of real political will. There was a hopeful moment in 2017 when it looked like the tides might be shifting. Former Senator Joe Donnelly from Indiana sponsored the Law Enforcement Mental Health and Wellness Act of 2017 ("LEMHWA").³⁷³ It passed with bipartisan support.³⁷⁴

368. Interview with Kevin Bailey, *supra* note 223.

369. Interview with Andrew McKnight, *supra* note 256; Interview with Kevin Bailey, *supra* note 223; Interview with Ashley Jay, *supra* note 294 ("Younger officers accepting that mental health is an okay thing to address."); Interview with Colin Fowler, *supra* note 2 ("I think that's changing. With the age of the officers.").

370. *About Blue H.E.L.P.*, BLUE H.E.L.P., <https://bluehelp.org/about-us> [<https://perma.cc/2SQN-K9T5>] ("It is the mission of Blue H.E.L.P. to reduce mental health stigma through education, advocate for benefits for those suffering from post-traumatic stress, acknowledge the service and sacrifice of law enforcement officers we lost to suicide, assist officers in their search for healing, and to bring awareness to suicide and mental health issues.").

371. *See supra* Section II.A.

372. *Compare Officer Suicide Statistics*, *supra* note 141 (reflecting 169 officer suicides in 2022), with CRIM. JUST. INFO. SERVS. DIV., *supra* note 134, at 11 (reflecting approximately twelve reported officer suicides in 2022).

373. OFF. OF CMTY. ORIENTED POLICING SERVS., U.S. DEP'T OF JUST., 2021 LAW ENFORCEMENT MENTAL HEALTH AND WELLNESS ACT (LEMHWA) PROGRAM AWARDS, https://cops.usdoj.gov/pdf/2021AwardDocs/lemhwa/Award_List.pdf [<https://perma.cc/EBX3-64QR>]; Law Enforcement Mental Health and Wellness Act of 2017, S. 867, 115th Cong. (2017).

374. *See* S. 867.

The Act had many purposes: to develop evidence-based therapies for law enforcement officers, to fund research into the efficacy of annual mental health checks, and to educate mental health providers about the particularities of federal, state, tribal, and local law enforcement culture.³⁷⁵ Hope quickly faded. In 2020³⁷⁶ and 2021,³⁷⁷ no police department received any grant money under LEMHWA. By 2022, Congress's total per-officer expenditure under the Act was just \$9.40.³⁷⁸

Many states and municipalities have tried to make mental health resources available to police.³⁷⁹ Several LEMHWA grantees—such as those in DuPage County,³⁸⁰ Illinois,³⁸¹ New Mexico,³⁸² Omaha,³⁸³ Rapid City,³⁸⁴ and Wisconsin³⁸⁵—report³⁸⁶ that they used their funds to integrate mental health into peer support (by training some officers in basic counseling techniques)³⁸⁷ or EAPs (by making designated mental health professionals available). Although it is hard to rigorously evaluate LEMHWA-funded initiatives (departments implementing them do not employ evidence-based review

375. *Id.*; DEBORAH L. SPENCE, MELISSA FOX, GILBERT C. MOORE, SARAH ESTILL & NAZMIA E.A. COMRIE, LAW ENFORCEMENT MENTAL HEALTH AND WELLNESS ACT: REPORT TO CONGRESS 1 (2019), <https://cops.usdoj.gov/RIC/Publications/cops-p370-pub.pdf> [<https://perma.cc/MKQ8-U5U9>].

376. OFF. OF CMTY. ORIENTED POLICING SERVS., U.S. DEP'T OF JUST., 2020 COPS OFFICE LAW ENFORCEMENT MENTAL HEALTH AND WELLNESS ACT PROGRAM AWARDS, https://cops.usdoj.gov/pdf/2020AwardDocs/lemhwa/Award_List.pdf [<https://perma.cc/H86S-XBLX>].

377. OFF. OF CMTY. ORIENTED POLICING SERVS., *supra* note 373.

378. Congress allocated \$7,084,835 in 2022 toward LEMHWA efforts. OFF. OF CMTY. ORIENTED POLICING SERVS., U.S. DEP'T OF JUST., 2022 LAW ENFORCEMENT MENTAL HEALTH AND WELLNESS ACT (LEMHWA) PROGRAM AWARDS, https://cops.usdoj.gov/pdf/2022AwardDocs/lemhwa/Award_List.pdf [<https://perma.cc/S8YR-J9T4>]. There are approximately 800,000 federal, state, local, and tribal law enforcement officers in the United States. DEBORAH L. SPENCE ET AL., *supra* note 375.

379. Jarrod Sadulski, *Mental Health Services and Getting Officers to Seek Help*, AM. MIL. UNIV. (Jan. 25, 2023), <https://amuedge.com/police-mental-health-services-law-enforcement-officers-help> [<https://perma.cc/JR6V-NY5S>].

380. Dan Bilodeau, COPS Office Award Performance Report, Award Number 2020-MH-WX-Ko23, 2–3 (July 26, 2022) (unpublished FOIA report) (on file with the *Iowa Law Review*).

381. Anne Conwill, COPS Office Award Performance Report, Award Number 2020-MH-WX-Ko29, 3 (Aug. 26, 2021) (unpublished FOIA report) (on file with the *Iowa Law Review*).

382. Chanin Kelly, COPS Office Award Performance Report, Award Number 2020-MH-WX-Koo2, 3 (Apr. 5, 2022) (unpublished FOIA report) (on file with the *Iowa Law Review*).

383. Amber Parker, COPS Office Award Performance Report, Award Number 2020-MH-WX-Koo6, 3 (Aug. 30, 2021) (unpublished FOIA report) (on file with the *Iowa Law Review*).

384. Dave Kinser, COPS Office Award Performance Report, Award Number 2020-MH-WX-Ko16, 3 (Aug. 19, 2021) (unpublished FOIA report) (on file with the *Iowa Law Review*).

385. Stacy Lenz, COPS Office Award Performance Report, Award Number 2020-MH-WX-Ko37, 2–3 (Mar. 21, 2021) (unpublished FOIA report) (on file with the *Iowa Law Review*).

386. LEMHWA award recipients must submit quarterly reports to the federal government. OFF. OF CMTY. ORIENTED POLICING SERVS., U.S. DEP'T OF JUST., 2019 COPS OFFICE LAW ENFORCEMENT MENTAL HEALTH AND WELLNESS ACT (LEMHWA) PROGRAM: AWARD OWNER'S MANUAL 12 (2019), <https://cops.usdoj.gov/pdf/2019AwardDocs/lemhwa/AOM.pdf> [<https://perma.cc/M7Q2-FPM6>].

387. See *Crisis Intervention Team (CIT) Programs*, NAT'L ALL. MENTAL ILLNESS, [https://www.nami.org/Advocacy/Crisis-Intervention/Crisis-Intervention-Team-\(CIT\)-Programs](https://www.nami.org/Advocacy/Crisis-Intervention/Crisis-Intervention-Team-(CIT)-Programs) [<https://perma.cc/8TB4-PARK>].

methodologies),³⁸⁸ the insiders' anecdotal perspective is that peer support and EAPs are underutilized.³⁸⁹ A major problem with EAPs is that therapists are often uninformed about police culture (or, worse, antagonistic towards it). This is a significant obstacle for the ninety percent of police officers who already report that there are cultural barriers to seeking psychological help.³⁹⁰ Another major problem is that officers do not trust the confidentiality of the EAPs and fear that seeking assistance will harm their job.³⁹¹ As a result, many EAPs have become mental health window dressings that provide cover to command staff when tragedy strikes. Nicholas Greco, a police wellness trainer and consultant, summed it up:

I am tired of the empty platitudes from politicians and command staff. Once again, the brass and the politicians are encouraging officers to seek help from their [EAPs]. You know the drill: "Just reach out if you need someone to talk to." Let's not forget the "We love you and care about you and the city needs you" sound bites.³⁹²

Peer support programs obviate some of the cultural barriers but exacerbate confidentiality concerns. Plus, there is only so much that amateur mental health counseling can offer. Police officers' mental and emotional health needs more than platitudes and sound bites. Part II presented the best evidence that today's programs are failing, with abysmal statistics on officer suicide, substance abuse, and stress disorders.

B. NEW MEASURES THAT COULD MAKE A DIFFERENCE

There is no silver bullet or single actor that could make meaningful improvements to police officers' mental and emotional well-being. It will require active involvement at multiple levels, from politicians to police officers. This Section discusses several necessary interventions.

There are some obvious changes that would help. For example, psychological assessments should play a more significant role in recruitment. There are no mandatory psychological tests for federal agents.³⁹³ Although

388. COLLEEN COPPLE ET AL., OFF. OF CMTY. ORIENTED POLICING SERVS., LAW ENFORCEMENT MENTAL HEALTH AND WELLNESS PROGRAMS: ELEVEN CASE STUDIES 22 (2019), <https://cops.usdoj.gov/RIC/Publications/cops-p371-pub.pdf> [<https://perma.cc/2HN8-JZ2E>]; Bilodeau, *supra* note 380, at 3.

389. Zoom Interview with Nicholas Greco, *supra* note 360.

390. David Black, *Vetting Therapists for the Sheriff's Office*, CORDICO (July 22, 2020), <https://www.cordico.com/2020/07/22/vetting-therapists-article-featured-in-sheriff-deputy-magazine> [<https://perma.cc/XH3V-DTN9>].

391. David B. Goldstein, *Employee Assistance for Law Enforcement: A Brief Review*, J. POLICE & CRIM. PSYCH., Mar. 2006, at 33, 35.

392. Greco, *supra* note 127.

393. Simone Weichselbaum, Emily R. Siegel & Hannah Rappleye, *Most Police Departments Make Recruits Undergo Psychological Evaluation. Federal Law Enforcement Agencies? Not So Much.*, NBC NEWS (June 10, 2022, 3:33 AM), <https://www.nbcnews.com/news/crime-courts/police-departments-make-recruits-undergo-psychological-evaluation-fede-rcna32850> [<https://perma.cc/Z7ZA-j3D4>].

state officers do undergo psych evaluation, the results are not determinative.³⁹⁴ Departments frequently override psychologists' recommendations to hire officers, even though these recommendations predictably correlate with job performance.³⁹⁵ Officers who are hired despite a poor psychological rating are 8.5 times more likely to be terminated.³⁹⁶

This Section offers some less obvious interventions that will require recalibration and compromise from all sides. In some regards, we must acknowledge that we have failed police officers when it comes to officer wellness. This message may not go over well in corners of the current political climate that regard police and policing with deep skepticism. But police must also recognize that they are presently failing us (and themselves) when it comes to acknowledging their own mental and psychological vulnerability. That too may be a difficult pill to swallow.

1. Remove Barriers to Seeking Help

An important first step is to remove barriers that prevent officers from seeking mental and emotional help when they want it. Consider, for example, an officer who experiences symptoms of PTSD and would like professional help. There are effective psychotherapeutic and medical treatments for PTSD.³⁹⁷ Though such treatments are key to preventing bad outcomes, they may be unavailable to police. Consider stellate ganglion block, a medication that has helped many military veterans with PTSD.³⁹⁸ The treatment requires two injections and costs around two thousand dollars.³⁹⁹ That is more than many officers can afford out-of-pocket. Shockingly, municipal health insurance does not cover it either.⁴⁰⁰ As Chicago Alderman Anthony Napolitano has argued, politicians must step in.⁴⁰¹ If we are going to have armed police officers, all effective treatments that promote their soundness of mind must be freely available.

394. Ryan Roberts & Michael Roberts, *Psychological Assessment of Police and Public Safety Personnel Using the PAI*, at slide 17 (June 2021) (unpublished presentation), https://www.jra-assessment.com/uploads/5/1/4/8/51486567/psych-assess-of-police-and-public-safety-personnel-pai-ppt_06_21_final_reduced.pdf [<https://perma.cc/EgLV-A7P9>].

395. *Id.*

396. *Id.*

397. *PTSD Treatment Basics*, U.S. DEP'T OF VETERANS AFFS., https://www.ptsd.va.gov/understand_tx/tx_basics.asp [<https://perma.cc/789L-8VKG>].

398. KIM PETERSON, DONALD BOURNE, JOHANNA ANDERSON, KATHERINE MACKEY & MARK HELFAND, *EVIDENCE BRIEF: EFFECTIVENESS OF STELLATE GANGLION BLOCK FOR TREATMENT OF POSTTRAUMATIC STRESS DISORDER (PTSD)* 3 (2017), <https://www.ncbi.nlm.nih.gov/books/NBK442253> [<https://perma.cc/YFQ2-RDFD>].

399. Alexandra Benisek, *What is a Stellate Ganglion Block?*, WEBMD (Mar. 17, 2022), <https://www.webmd.com/pain-management/stellate-ganglion-block> [<https://perma.cc/8HNB-Q3ZR>].

400. Fran Spielman, *PTSD Treatments Could Reduce Cop Suicides, Help First Responders*, *City Council Member Says*, CHI. SUN TIMES (Oct. 27, 2022, 2:55 PM), <https://chicago.suntimes.com/city-hall/2022/10/27/23427116/chicago-police-suicides-first-responders-ptsd-treatments-city-insurance-council-hearings-napolitano> [<https://perma.cc/A2A3-6SAZ>].

401. *Id.*

Officers also face obstacles to receiving professional diagnoses and referrals. Early detection is “the best way to prevent violence by people with severe mental illness.”⁴⁰² EAPs could be treatment on-ramps, but they are poorly calibrated to the social and cultural realities of policework.⁴⁰³ Officers sometimes distrust their own department command structure, which they increasingly feel will abandon them when politically expedient.⁴⁰⁴ They believe there would be professional repercussions for seeking even confidential mental or emotional health treatment.⁴⁰⁵ To be clear, in some cases, professional consequences should follow a mental health diagnosis.⁴⁰⁶ Officers who are a danger to themselves or others should not carry firearms. But a preferable outcome is to encourage officers to be forthcoming and offer them effective treatment before things get to that point. As the Supreme Court has recognized, conversations between police officers and therapists should be confidential and privileged.⁴⁰⁷ Illinois law has taken this a step further by automatically privileging even conversations between officers and unlicensed peer counselors; there are adverse professional consequences for anyone who breaches the privilege without consent.⁴⁰⁸

So-called “hybrid” EAPs are one way to thread the needle between officer need and distrust.⁴⁰⁹ Hybrid models offer casual internal resources while still giving officers mechanisms to seek help through an external EAP.⁴¹⁰ The Los Angeles County Sheriff’s Department may be leading the way on such hybrid programming. It presently provides employees and their families with confidential, off-site mental health and wellness services through the

402. DEATH PENALTY DUE PROCESS REV. PROJECT, AM. BAR ASS’N, SEVERE MENTAL ILLNESS AND THE DEATH PENALTY 18 (2016), https://www.prisonpolicy.org/scans/aba/SevereMentalIllnessandtheDeathPenalty_WhitePaper.pdf [<https://perma.cc/Sg79-NP78>].

403. Nicholas Greco, *Why Command Must Represent a Foundation for Wellness*, POLICE1 (July 28, 2021, 8:35 AM), <https://www.police1.com/health-wellness/articles/why-command-must-represent-a-foundation-for-wellness-700WEFkDXhyYalkE> [<https://perma.cc/B68D-UZ4W>] (“Remember, the function of peer support is to listen to another employee’s feelings after a critical incident or crisis situation, respond to requests for peer support or assistance regardless of cause or topic, facilitate or assist in diffusing critical incidents, conduct critical incident stress management debriefings, provide information or referrals to other resources . . .”).

404. Eric Westervelt, *Cops Say Low Morale and Department Scrutiny Are Driving Them Away from the Job*, NPR (June 24, 2021, 2:53 PM), <https://www.npr.org/2021/06/24/1009578809/cops-say-low-morale-and-department-scrutiny-are-driving-them-away-from-the-job> [<https://perma.cc/SFZ3-PJBQ>].

405. Press Release, Univ. Phx., University of Phoenix Survey Finds 93 Percent of First Responders Say Mental Health Is as Important as Physical Health, (Sept. 11, 2018), <https://www.phoenix.edu/press-release/university-of-phoenix-survey-finds-93-percent-of-first-responders-say-mental-health-is-as-important-as-physical-health.html> [<https://perma.cc/4WUQ-Y5L3>]; see KIMBERLY D. HASSELL, POLICE ORGANIZATIONAL CULTURES AND PATROL PRACTICES 173–74 (LFB Scholarly Publ’g LLC, 2006).

406. See Ted R. Miller & Deborah M. Galvin, *Assessing and Responding to Substance Misuse in Law Enforcement*, 40 S. ILL. U. L.J. 475, 483 (2016).

407. *Jaffee v. Redmond*, 518 U.S. 1, 9–10 (1996).

408. H.B. 2766, 101st Gen. Assemb., Reg. Sess. (Ill. 2019).

409. Goldstein, *supra* note 391, at 35. “[Meaningful counseling] has to come from somewhere other than the employer.” Zoom Interview with Tamara Cummings, Gen. Couns., Ill. Fraternal Ord. of Police Lab. Council (Oct. 3, 2022).

410. Goldstein, *supra* note 391, at 33.

Psychological Services Bureau.⁴¹¹ The Bureau has 24/7 emergency protocols for officers who experience critical incidents (like a shooting or seeing a death).⁴¹² Los Angeles officers can immediately access confidential, external treatments that temper lasting effects of job trauma.⁴¹³

Hybrid EAPs can have only a limited impact if officers are reluctant to use them. The next section discusses cultural barriers to seeking mental health treatment in police departments. Even before those barriers are dismantled, there are measures for paving the pathway to mental health treatment. For example, police officers need mental health counselors who are familiar with the idiosyncratic challenges police face. “[Police] are a kind of special breed. They have special issues that need to be addressed.”⁴¹⁴ Police also need counselors who are relatable and conversant with police culture, which can be both formalistic and playful, rough and respectful.⁴¹⁵ One particularly concerning aspect of police culture is officers’ unwillingness to acknowledge (whether to their peers or themselves) that they are going to a mental health counselor. By mandating regular mental health consultations, police leadership would give officers seeking help the ready excuse that they are just following orders. Departments concerned that mandatory measures would backfire⁴¹⁶ could make check-ins voluntary and reward officers who participate with half a day’s leave: “That allows folks to say I’m only going to this for the time off.”⁴¹⁷

2. Double Down on Crisis Intervention and Co-Response

Politicians and police departments are not the only obstacles to officers seeking treatment; officers themselves often stand in the way. “The police force is notorious for crafting a culture of repression and omission,” including when it comes to repressing experiences of trauma and omitting psychological vulnerability.⁴¹⁸ As Jim Russell, deputy chief of police at Florida State University, has said: “We’re cops. We can cover stuff up.”⁴¹⁹ Officers are hesitant to share their mental and emotional struggles because police culture equates such struggle with “weakness [that] could put another officer’s life on the line.”⁴²⁰ The dominance of machismo culture within the profession likely amplifies this effect.⁴²¹ “Expectations of heroism and selflessness also create a culture

411. COPPLE ET AL., *supra* note 388, at 47.

412. *Id.* at 49–50.

413. *Id.* at 50.

414. Zoom Interview with Tamara Cummings, *supra* note 409.

415. Interview with Kevin Bailey, *supra* note 223.

416. *Id.*

417. Interview with Andrew McKnight, *supra* note 256.

418. *Substance Abuse Among Police & Law Enforcement*, *supra* note 146.

419. Joan Hope, *Recognize Challenges of Mental Illness in Law Enforcement, Support Officers Seeking Help*, CAMPUS SEC. REP., Sept. 2017, at 6, 6.

420. *Substance Abuse Among Police & Law Enforcement*, *supra* note 146.

421. See Angela P. Harris, *Gender, Violence, Race, and Criminal Justice*, 52 STAN. L. REV. 777, 793 (2000) (“Police work has traditionally been coded hypermasculine. . . . The cultural image of a police officer is a uniquely valuable and rare kind of man: tough and violent, yet heroic, protective,

that discourages showing weakness or admitting to struggles.”⁴²² The problem is self-reinforcing and self-fulfilling. “Officers who push their feelings down on the job and continue to hide those feelings . . . become adept at feeling nothing at all in key moments of crisis.”⁴²³

A change in police culture can only come from police. “Part of being human is being able to talk about one’s emotions and mental health. It’s time to normalize officer health and wellness.”⁴²⁴ Nonprofit efforts, like retired police officer Mick Yinger’s First Responders’ Bridge,⁴²⁵ should be celebrated and supported. Yinger “work[s] to dispel the misconception among first responders that seeking mental health treatment is a sign of weakness.”⁴²⁶ As part of that effort, First Responders’ Bridge hosts retreats for officers experiencing depression, anxiety, post-traumatic stress, or suicidal ideation.⁴²⁷ Police culture seems to be moving slowly in the right direction.⁴²⁸ Younger generations of police officers “are more used to talking about feelings, more diverse, and more aware of their emotional needs.”⁴²⁹ Yinger’s retreats fill up forty percent faster now than before the pandemic.⁴³⁰

Generational culture shifts in attention to mental health can be uneven and slow-moving. ICPD’s experience points to an unexpected accelerant—use-of-force alternatives like CITs and co-responder programs that police critics have long advocated. Through both programs, Iowa City police received direct and passive exposure to mental health as a vital concern. They also learn about the important indicators of mental or emotional distress, as well as nonviolent techniques for intervention.

Organically, exposure to mental health training normalizes mental health conversation and surfaces it as a live concern. The genius of this dynamic is that it injects a culture of attention to mental health into policing without focusing directly on police—crisis intervention and co-responder programs are for the immediate benefit of police *targets*. This helps mental health normalization side-step existing cultural barriers within police departments.

and necessary to society’s very survival.”). *But see* Stephen Rushin, *Masculinity in Policing: The Need to Recruit More Women in American Police Departments*, 89 GEO. WASH. L. REV. 1512, 1514 (2021) (“[T]he overall body of empirical literature . . . is mixed, with some studies failing to find any connection between officer gender and policing outcomes . . .”); Frank Rudy Cooper, “Who’s the Man?,” *Masculinities Studies, Terry Stops, and Police Training*, 18 COLUM. J. GENDER & L. 671, 694 (2009) (“An overarching characteristic of policing . . . is its definition as a masculine job.”).

422. Stanton, *supra* note 128.

423. *Substance Abuse Among Police & Law Enforcement*, *supra* note 146.

424. Greco, *supra* note 127.

425. FIRST RESPONDERS’ BRIDGE, <https://firstrespondersbridge.org> [<https://perma.cc/M2J8-KFKZ>].

426. Stanton, *supra* note 128.

427. *About Us*, FIRST RESPONDERS’ BRIDGE, <https://firstrespondersbridge.org/about> [<https://perma.cc/3G8U-7B9A>].

428. Zoom Interview with Tamara Cummings, *supra* note 409; Zoom Interview with Nicholas Greco, *supra* note 360.

429. Zoom Interview with Tamara Cummings, *supra* note 409.

430. Stanton, *supra* note 128.

Other departments have had similar experiences. Consider the City of Fresno, which recently implemented new mental health initiatives in its police department. It reports that⁴³¹:

[The programming] enabled our officers the ability to accept it is okay to hurt, talk about your feelings and know that there are people who care about their well-being. . . . [Our o]fficers [are now in a position] to address issues in the community with more compassion and understanding as the training has provided another look at issues some people in the community are facing.⁴³²

This is not an isolated experience. Rapid City, South Dakota recorded a measurable decrease in police violence after training officers on self-care and emotional intelligence.⁴³³ They found that “[o]fficers [who] become trauma informed can better understand their own trauma as well as the community they serve.”⁴³⁴

It is difficult to over-emphasize the importance of changing police cultural norms surrounding mental health. Individuals who do not want treatment will not seek it out, and compelled treatment is not effective. Culture is also critical at an institutional level. Nicholas Greco has worked with scores of police departments across the country to improve wellness initiatives.⁴³⁵ According to him, the single biggest challenge is succession planning.⁴³⁶ It takes just one effective and motivated officer to start raising mental health awareness in a police department. Often, such officers will consult with Greco and then invest years into building mental health initiatives in their departments. But when that officer retires or transfers, there must be another officer with the motivation, capacity, credibility, and competence standing by to take the helm. That leaves the continuity of the program to chance. In Greco’s experience, more often than not, that chance fails, and programs atrophy. The only solution is to create a shared expectation among all officers that mental wellness is one measure of a department’s success. According to Sergeant Andrew McKnight, a retired officer who helped institute mental health programming in ICPD, “I think [culture shift] is the only succession plan.”⁴³⁷ Otherwise, “you just hope people will take the torch. You can create a position, but that doesn’t guarantee success.”⁴³⁸

431. Desiree Perry, COPS Office Award Performance Report, Award Number 2020-MH-WX-Ko11, 3 (Mar. 3, 2022) (unpublished FOIA report) (on file with the *Iowa Law Review*).

432. *Id.* at 4.

433. Dave Kinser, COPS Office Award Performance Report, Award Number 2020-MH-WX-Ko16, 4 (Jan. 1, 2022) (unpublished FOIA report) (on file with the *Iowa Law Review*).

434. *Id.*

435. Zoom Interview with Nicholas Greco, *supra* note 360.

436. *Id.*

437. Interview with Andrew McKnight, *supra* note 256.

438. *Id.*

3. Improve Discourse Around Policing

By any objective measure, policework is not an appealing profession. It is physically dangerous and, as demonstrated in Part II, often psychologically damaging. Average police life expectancy is twenty-one years shorter than the general population.⁴³⁹ One main reason for this discrepancy is the “[p]sychosocial hazards [of policework, which] result from a complex interplay of job demands, decision-making latitude, work organization, and social interactions.”⁴⁴⁰

The extraordinary risk officers take to body and mind generally goes uncompensated. Although policing once was a comfortably blue-collar profession, police now make, on average, about \$1,500 less than high school teachers.⁴⁴¹ Only eleven percent of officers join the force because they want a steady job.⁴⁴² A higher percentage join because they had no other job prospects.⁴⁴³ One Atlanta police officer who retired early explained his decision process: “It would be foolish for me to stay for \$48,000. When I have a wife and three kids to feed for \$48,000. I can almost qualify for public assistance. . . . Basically we’re one bullet away from death . . . why roll the dice with my future when I can go do something else?”⁴⁴⁴

The changing material and social context of policework is thinning out police departments. Applications have declined dramatically,⁴⁴⁵ with two-thirds of police departments reporting that they have too few applicants.⁴⁴⁶ Retirements are up forty-four percent, and resignations are up eighteen percent.⁴⁴⁷ Police departments across the country are facing a “staffing emergency.”⁴⁴⁸

Although these developments may be music to abolitionists’ ears, the difficulty filling police positions worsens the collective state of officers’ mental health, which, in turn, exacerbates police violence. “[L]egal scholarship has

439. John M. Violanti et al., *Life Expectancy in Police Officers: A Comparison with the U.S. General Population*, 15 INT’L J. EMERGENCY MENTAL HEALTH 1, 5 (2013).

440. *Id.* at 6.

441. *Compare Police Officer Salary in the United States*, SALARY.COM, <https://www.salary.com/research/salary/alternate/police-officer-salary> [<https://perma.cc/5DG7-WHCH>], with *High School Teacher Salary in the United States*, SALARY.COM, <https://www.salary.com/research/salary/alternate/high-school-teacher-salary> [<https://perma.cc/YE67-HQT9>].

442. *Why Do People Become Cops?*, DOLAN CONSULTING GRP. (July 9, 2019), <https://www.dolanconsultinggroup.com/news/why-do-people-become-cops> [<https://perma.cc/CFV5-9VYV>].

443. *Id.*

444. Ryan Young & Devon M. Sayers, *Why Police Forces Are Struggling to Recruit and Keep Officers*, CNN (Feb. 3, 2022, 12:03 PM), <https://www.cnn.com/2022/02/02/us/police-departments-struggle-recruit-retain-officers/index.html> [<https://perma.cc/Q9D9-FYPY>].

445. *See id.*

446. INT’L ASS’N OF CHIEFS OF POLICE, *supra* note 159, at 3.

447. Young & Sayers, *supra* note 444. *See generally* Marilyn Price, *Psychiatric Disability in Law Enforcement Officers*, 35 BEHAV. SCIS. & L. 113 (2017) (discussing the significant mental health issues facing police departments and the solutions advanced by certain departments).

448. Roberto Klemko, *Police Agencies Are Desperate to Hire. But They Say Few Want the Job.*, WASH. POST (May 27, 2023, 7:00 AM), <https://www.washingtonpost.com/national-security/2023/05/27/police-vacancies-hiring-recruiting-reform> (on file with the *Iowa Law Review*).

neglected police selection as a driver of harm.”⁴⁴⁹ There are two main ways that recruiting difficulties contribute to worse mental health outcomes in police departments. The first is that it is harder for departments to find quality candidates. “To get good cops you need quantity.”⁴⁵⁰ Seventy-eight percent of departments presently experience difficulty recruiting qualified candidates.⁴⁵¹ Most of these departments also report having to change their recruiting policies.⁴⁵²

Although new recruiting standards may be a positive step in some instances—e.g., removing prohibitions on tattoos⁴⁵³—they become worrisome when they concern officer quality. Over fifty percent of public safety psychologists surveyed in 2018 and 2019 believe that their police department “lowered its selection standards within the last [twelve] months.”⁴⁵⁴ They also reported that the gap between their current rate of candidate rejection and their desired rate of candidate rejection is increasing; agencies are hiring more “‘borderline’ or potentially ‘psychologically-unfit’ officers in recent years in order to fill . . . vacancies.”⁴⁵⁵ The challenge is particularly acute for smaller departments, which may not have enough resources to vet properly.⁴⁵⁶

A second way that recruiting difficulties worsen police mental health is that staffing shortages place greater demands on the police who remain. Police staffing is in a state of “crisis.”⁴⁵⁷ Some agencies, like Chicago, are experiencing historically low staffing levels.⁴⁵⁸ “The 911 calls don’t stop. People are still having emergencies, the emergencies don’t stop[,] and certainly the emergencies don’t care if you are [sixty percent] staffed or below.”⁴⁵⁹ To cover these emergencies, police officers must skip breaks, work overtime, and cancel time off.⁴⁶⁰ This naturally increases officer burnout and stress.⁴⁶¹ After traumatic

449. Wasilczuk, *supra* note 84, at 297–98.

450. Joe Vargas, *Why Would Anyone Want to Be a Cop Today?*, BEHIND BADGE (May 12, 2022), <https://behindthebadge.com/why-would-anyone-want-to-be-a-cop-today> [<https://perma.cc/L58E-W5CS>].

451. INT’L ASS’N OF CHIEFS OF POLICE, *supra* note 159, at 3.

452. *Id.*

453. *Id.* at 5.

454. Robin Inwald & Nathan Thompson, *A 2018–2019 Snapshot of Psychological Screening Rejection Rates: Perceived Trends Reported by Police/Public Safety Psychologist*, 36 J. POLICE & CRIM. PSYCH. 149, 154, 155 (2021).

455. *Id.* at 149, 155.

456. See McAward, *supra* note 144.

457. *Survey on Police Workforce Trends*, POLICE EXEC. RSCH. F. (June 11, 2021), <https://www.policeforum.org/workforcesurveyjune2021> [<https://perma.cc/X85H-J55M>].

458. Miller, *supra* note 129 (noting that “staffing levels in the Chicago Police Department had reached their lowest in recent history”).

459. Young & Sayers, *supra* note 444 (quoting the Durham, North Carolina, Chief of Police).

460. See e.g., *Local Police Department Down 150+ Officers, Offers Triple Overtime*, WSB-TV (Aug. 8, 2022, 8:44 PM), <https://www.wsbtv.com/news/local/dekalb-county/local-police-department-down-150-plus-officers-unique-plan-fight-crime/GRTWI22E6NDFLFMBSC2CLUDQBU> [<https://perma.cc/5CGW-GSZB>]; Fola Akinnibi, *New York City Police on Pace to Blow Past Overtime Budget by 73%*, BLOOMBERG (Apr. 29, 2022, 9:02 AM), <https://www.bloomberg.com/news/articles/2022-04-29/new-york-city-police-on-pace-to-blow-past-overtime-budget-by-73> (on file with the *Iowa Law Review*).

461. Greg Mellen, *Why Law Enforcement Is Facing Unprecedented Challenges in Hiring and Keeping Recruits*, POLICE1 (Nov. 22, 2021, 10:41 AM), <https://www.police1.com/police-recruiting/article>

experiences, officers jump immediately to the next call. This elevates police stress levels because they have no opportunity to recover between traumatic episodes with healthy opportunities for stress relief (like time for family and exercise). Departments should strive to implement “flexible work schedules, incorporating exercise into daily activities, adjusting and rotating assignments while helping officers attain true work-life balance.”⁴⁶² As one police psychologist opined, “[t]oo much overtime can be a bad thing. Sometimes we need to look out for one another and encourage appropriate distance and time away from the job.”⁴⁶³ Officer stress and burnout builds on itself. “Law enforcement officers have been applying for early disability retirement pensions at an increased rate for stress-related psychiatric and medical conditions.”⁴⁶⁴ This, in turn, means more harried work schedules and less sleep for the police they leave behind.

The only way to unwind this destructive dynamic is to make policing a more attractive profession for prospective recruits. Even if we should have fewer police overall, the police we do have should be highly qualified stewards of the power entrusted to them. Improving the conditions of policework to a point that disrupts the negative spiral in police mental health will require a multipronged intervention by a range of actors. The most obvious reform would be to pay police more. But increasing salaries would be expensive and require political will (which is presently in short supply). Fortunately, higher police pay need not be a top priority reform. Police salaries are not desperately low (they hover at about the U.S. median),⁴⁶⁵ and, in any case, compensation is only a marginal motivation for new recruits. “It’s not about the money. It’s about job satisfaction and appreciation.”⁴⁶⁶

More impactful than the material conditions of policework are its evolving social and moral standing. In recent years, the public has become witness to egregious instances of police violence—brutal beatings and killings of often unarmed, often Black, men.⁴⁶⁷ This ignited the BLM movement, widespread demonstrations, and the broad demand for police accountability.⁴⁶⁸ Increased

s/why-law-enforcement-is-facing-unprecedented-challenges-in-hiring-and-keeping-recruits-pFit KCXrne6ccNfB [https://perma.cc/SKQ9-6D4F].

462. Greco, *supra* note 127.

463. Greco, *supra* note 136.

464. Price, *supra* note 447.

465. Andrew DePietro, *Here’s How Much Money Police Officers Earn in Every State*, FORBES (Apr. 23, 2020, 2:02 PM), <https://www.forbes.com/sites/andrewdepietro/2020/04/23/police-office-r-salary-state/?sh=323933802010> (on file with the *Iowa Law Review*).

466. John Simerman, *New Orleans Officers, Leaving in Droves, Air Grievances in Exit Interviews*, POLICE1 (July 25, 2022, 3:24 PM), <https://www.police1.com/patrol-issues/articles/new-orleans-officers-leaving-in-droves-air-grievances-in-exit-interviews-cFBn7k1Ntkr4QApN> [https://perma.cc/M99L-DZS3].

467. See Jonathan Franklin & Emma Bowman, *What We Know About the Killing of Tyre Nichols*, NPR (Jan. 28 2023, 4:50 PM), <https://www.npr.org/2023/01/28/1151504967/tyre-nichols-memphis-police-body-cam-video> [https://perma.cc/64S4-UZXP]; *Mapping Police Violence*, MAPPING POLICE VIOLENCE, <https://mappingpoliceviolence.org> [https://perma.cc/gPZQ-NQAW].

468. Larry Buchanan, Quoctrung Bui & Jugal K. Patel, *Black Lives Matter May Be the Largest Movement in U.S. History*, N.Y. TIMES (July 3, 2020), <https://www.nytimes.com/interactive/2020/07/03/us/george-floyd-protests-crowd-size.html> (on file with the *Iowa Law Review*).

scrutiny of police activity, acknowledging historic patterns of police abuse, and dismantling officers' functional immunity from prosecution have all been positive and necessary developments.⁴⁶⁹ It has also had an undeniable effect on the appeal of the profession.⁴⁷⁰ Most officers join the force because they "want[] to help people in society."⁴⁷¹ But, according to a Massachusetts Police Chief, "[t]his job has changed . . . Nobody wants this job anymore."⁴⁷² As Colonel Paul Humphrey, the head of Louisville's Accountability and Improvement Bureau put it, "[n]obody wants to be the world's villain."⁴⁷³

From a mental health perspective, we must also recognize the potentially counterproductive impacts of some of the rhetoric that finds its way into the police accountability movement. Most officers join the force because of a desire to serve their communities and to help those in need. That prosocial motive is hard for potential recruits to reconcile with messaging that paints all police with a broad and morally tarred brush. Many police have come to feel alienated from the public they signed up to serve.⁴⁷⁴ "The historic calls for police accountability, reform and attempts at racial reckoning have left police departments nationwide struggling to keep the officers they have and attract new ones to the force."⁴⁷⁵ The pursuit of police accountability and racial justice must proceed apace. But advocacy strategy should also take count of the fact that "[t]he current rhetoric and negativity surrounding law enforcement is having a negative impact on the . . . quality of applicants [police departments] recruit."⁴⁷⁶

The most promising strategy for improving police recruitment is free and starts with us, the public, who are rightfully critical and indignant of unjustified police violence. If armed law enforcement is to be part of our medium- or long-term future, then we need the fittest candidates in its employ. It is worth being cognizant of the extent to which our rhetoric can undermine that goal.

469. Margalynne J. Armstrong, *Are We Nearing the End of Impunity for Taking Black Lives?*, 56 SANTA CLARA L. REV. 721, 760–61 (2016).

470. Barbara A. Schwartz, *State of the Troops*, CALIBRE PRESS (Nov. 29, 2023), <https://calibrepress.com/2023/11/state-of-the-troops> [<https://perma.cc/gDER-GY9Y>] ("The media depiction of police officers has resulted in what a consensus of officers consider the biggest challenge facing law enforcement today—recruiting qualified candidates.").

471. *Why Do People Become Cops?*, *supra* note 442; see also Samantha S. Clinkinbeard, Starr J. Solomon & Rachel M. Rief, *Why Did You Become a Police Officer? Entry-Related Motives and Concerns of Women and Men in Policing*, 48 CRIM. JUST. & BEHAV. 715, 722 tbl.2 (2021).

472. Westervelt, *supra* note 404 (quoting Watertown, Mass., Police Chief Michael Lawn).

473. Jamie Thompson, *'Nobody Wants to be the World's Villain'*, N.Y. TIMES (Feb. 28, 2023), <https://www.nytimes.com/2023/02/28/magazine/louisville-police-department.html> (on file with the *Iowa Law Review*).

474. Greco, *supra* note 166 ("There is no other profession I can think of that is as regularly blamed and scapegoated for political and societal failures. Too often, law enforcement is automatically assumed at fault before due process has even begun.").

475. Westervelt, *supra* note 404; Greco, *supra* note 127 ("Their split-second decisions are second-guessed and armchair quarterbacked by the media as well as an ambivalent and oftentimes judgmental public. Is it any wonder why recruitment and retention are low? Does it come as a surprise when some officers feel such despair that they take their own lives?").

476. Westervelt, *supra* note 404.

As we advocate, we should also ask: “[I]s this bringing us any closer to a fair and just society, to officers whose emotional tanks are filled?”⁴⁷⁷ To be clear, we should not blunt our judgment, our demand for accountability, or our program of reform. But we should consider whether we are using the most effective language to voice our indignation and to demand change. There is no doubt that the institution of policing is structurally broken and in desperate need of reform. There is no doubt that there are individual officers, historically immune from scrutiny, who have perpetrated racist violence. We cannot, and should not, return to the before times when policework too often went unquestioned and uncriticized. But “1312” (a common numerical representation of “ACAB,” an abbreviation of “all cops are bastards”) and like rhetoric conveys a different message that exacerbates the problem we are trying to address. It leads to departments populated with less fit officers and alienates those well-intentioned actors who could, from within, be some of the most effective agents of change. One officer asked about the mutual distrust between police and the public: “How do you take milk out of coffee?”⁴⁷⁸ It will not happen if we do not try.

4. Collect Data About Police Mental Health and Violence

“If you can’t measure it, you can’t manage it.”⁴⁷⁹ Without data, researchers cannot identify points of concern, and policymakers cannot direct resources where they are most needed. It would be an understatement to say we do not fully understand the drivers of police mental illness and the connections between police well-being and police violence. The general statistics and proposals outlined above were based on the best available numbers and general information about mental and emotional health disorders. The fact is, though, there is almost no rigorous data or recordkeeping specifically about police mental health. The problem shows up at both population and individual levels.

We have no meaningfully complete data about officers’ mental health or the correlation between officer well-being and escalated confrontations with civilians.⁴⁸⁰ The Federal Bureau of Investigation Crime Data Explorer is one resource for information on the use of force.⁴⁸¹ However, in 2021, fewer than half of police agencies participated,⁴⁸² and, of those, only twenty-seven percent

477. Interview with Andrew McKnight, *supra* note 256.

478. *Id.*

479. A common saying that is often misattributed. Robert A. Berenson, *If You Can’t Measure Performance, Can You Improve It?*, 315 *JAMA* 645, 645 (2016).

480. See generally DORIS A. FULLER, H. RICHARD LAMB, MICHAEL BIASOTTI & JOHN SNOOK, *OVERLOOKED IN THE UNDERCOUNTED: THE ROLE OF MENTAL ILLNESS IN FATAL LAW ENFORCEMENT ENCOUNTERS* (2015), <https://www.treatmentadvocacycenter.org/wp-content/uploads/2023/11/Overlooked-in-the-Undercounted.pdf> [<https://perma.cc/4P9G-GJ4D>] (exploring the reasoning and rationale as to why there are not comprehensive databases to track confrontations).

481. *How We Can Help You*, FBI, <https://www.fbi.gov/how-we-can-help-you> [<https://perma.cc/C394-2JDF>].

482. *Id.*

actually supplied data.⁴⁸³ The reason is obvious. As with the FBI's attempt to collect information about officer suicide,⁴⁸⁴ reporting is voluntary.⁴⁸⁵

Last year, President Biden issued an executive order directing the Attorney General and the Secretary of Health and Human Services to create a National Law Enforcement Accountability Database.⁴⁸⁶ The database will create “a centralized repository of official records documenting instances of law enforcement officer misconduct.”⁴⁸⁷ The National Association for the Advancement of Colored People (“NAACP”) has long supported similar initiatives,⁴⁸⁸ as have progressive criminal law scholars.⁴⁸⁹ Although it is not yet available, the outlook for the database is not good. Reporting by state, local, and tribal authorities will still be voluntary.⁴⁹⁰ What is more, it will not include any data about the mental health of officers involved in misconduct. Biden's executive order only directs the collection of officers' demographic data and years of employment.⁴⁹¹ The order mentions the mental health of the targets of police violence in seven places; it does not mention the mental health of violent police officers even once.

When it comes to individual officers, police departments' inadequate data collection and sharing also raises serious concerns. By way of illustration, consider the case of Timothy Loehmann, a police officer in Cleveland, Ohio.⁴⁹² Before working for the Cleveland Police Department, Loehmann “resigned” from his job with the police department in Independence, Ohio.⁴⁹³ Following a series of incidents in late 2012,⁴⁹⁴ “supervisors determined he was unfit to be a police officer.”⁴⁹⁵ The Deputy Chief wrote a disciplinary letter for

483. Jackman, *supra* note 138.

484. See *supra* Section II.A.

485. *Id.* The George Floyd Justice in Policing Act of 2021, H.R. 1280, 117th Cong. § 104 (2021), which would have funded state attorneys general to investigate incidence of police violence, may have helped to some extent, but it did not pass in the Senate.

486. Exec. Order No. 14,074, 87 Fed. Reg. 32945 (May 25, 2022).

487. *Id.*

488. *Demand Uniformed Police Reform*, NAACP, <https://naacp.org/actions/action-alert-uniformed-police-reform> [<https://perma.cc/NCH4-TE9P>].

489. See, e.g., Jonathan Abel, *Cop Tracing*, 107 CORNELL L. REV. 927, 934 (2022) (“This simple proposition is what I call ‘cop tracing’: a systematic and systemic effort to identify the universe of old cases handled by a now-discredited cop.”).

490. “[T]he Attorney General shall encourage State, Tribal, local, and territorial LEAs to contribute to and use the Accountability Database.” Exec. Order No. 14,074, 87 Fed. Reg. 32945 (emphasis added).

491. *Id.*

492. Timothy Williams & Mitch Smith, *Cleveland Officer Will Not Face Charges in Tamir Rice Shooting Death*, N.Y. TIMES (Dec. 28, 2015), <https://www.nytimes.com/2015/12/29/us/tamir-ric-e-police-shooting-cleveland.html> (on file with the *Iowa Law Review*).

493. Joshua Barajas, *Cleveland Police Officer Who Shot Tamir Rice Was Unfit for Duty Years Ago, Records Show*, PBS (Dec. 3, 2014, 7:15 PM), <https://www.pbs.org/newshour/nation/cleveland-police-officer-shot-tamir-ric-unfit-duty-years-ago-police-reports-show> [<https://perma.cc/U3LY-FV33>].

494. *Id.*

495. Adam Ferrise, *Cleveland Officer Timothy Loehmann Fired in Wake of Tamir Rice Shooting*, CLEVELAND.COM (May 30, 2017, 4:57 PM), https://www.cleveland.com/metro/2017/05/cleveland-officer-timothy-loeh_1.html [<https://perma.cc/4B4N-YXJB>].

Loehmann's personnel file, stating that Loehmann was emotionally immature, with "an inability to emotionally function."⁴⁹⁶ The letter also referenced a breakdown episode Loehmann had on the gun range: "He could not follow simple directions, could not communicate clear thoughts nor recollections, and his handgun performance was dismal."⁴⁹⁷ The Deputy Chief "[did] not believe time, nor training, [would] be able to change or correct the deficiencies."⁴⁹⁸ Shortly after leaving Independence, Cleveland hired Loehmann.⁴⁹⁹ Later that same year, Loehmann shot and killed twelve-year-old Tamir Rice.⁵⁰⁰ Had Cleveland been aware of Loehmann's performance in Independence, the tragedy might never have happened. After leaving Cleveland, Loehmann attempted to join a police department in Pennsylvania, but widespread media reports preceded him.⁵⁰¹

Solving the information gap requires three steps: data creation, data aggregation, and data sharing. The framework for the first step—creating data about officer mental health—already exists. Police departments are supposed to evaluate officers' mental health at multiple stages.⁵⁰² Every prospective state police officer goes through a series of reviews.⁵⁰³ A pre-employment psychological evaluation assesses applicants' "emotional stability and relevant personality characteristics such as social competence, adaptability, assertiveness, dependability, attention to safety, integrity/ethics, stress tolerance," etc.⁵⁰⁴ The evaluation involves both a standardized psychological questionnaire and an interview with a psychologist.⁵⁰⁵ "[T]o insure that the security and integrity of the tests are not compromised," details about the tests are not publicly available.⁵⁰⁶

After hiring, Fitness-for-Duty Evaluations ("FFDEs") are another point where police departments create data on officers' mental health. A department may order an officer to undergo an FFDE when it has a reasonable belief, based on objective evidence, that the officer may have a psychological

496. *Id.*

497. Adam Ferrise, *Cleveland Officer Who Shot Tamir Rice Had 'Dismal' Handgun Performance for Independence Police*, CLEVELAND.COM (Dec. 3, 2014, 4:55 PM), https://www.cleveland.com/metro/2014/12/cleveland_police_officer_who_s.html [<https://perma.cc/2SPM-W2QA>].

498. *Id.*

499. Barajas, *supra* note 493.

500. Williams & Smith, *supra* note 492.

501. Timothy Bella & James Bikales, *Officer Who Killed Tamir Rice Resigns Two Days into New Police Job*, WASH. POST (July 7, 2022, 6:27 PM), <https://www.washingtonpost.com/nation/2022/07/07/tamir-rice-timothy-loehmann-officer-hired> (on file with the *Iowa Law Review*).

502. *The Hiring Process*, DISCOVER POLICING, <https://www.discoverpolicing.org/about-policing/the-hiring-process> [<https://perma.cc/C28G-JXFK>].

503. *Id.*

504. *Q&A: More Information About Psychological Testing*, DISCOVER POLICING, <https://www.discoverpolicing.org/about-policing/qa> [<https://perma.cc/JW47-VUJH>].

505. *Id.*

506. *Id.*

condition that impairs an essential job function or poses a direct threat.⁵⁰⁷ Departments can order FFDEs when they learn about domestic violence, substance abuse, lack of alertness, or a myriad of counterproductive behaviors.⁵⁰⁸ Officers who use violence or excessive force account for twenty-nine percent of FFDEs.⁵⁰⁹ Officers with identified psychological conditions (like depression or PTSD) account for 17.3 percent.⁵¹⁰ FFDEs can lead to different outcomes, including being found fit for duty (57.4 percent of the time), fit only for modified duty (12.8 percent of the time), and not fit for duty with possible recovery requiring leave (18.3 percent of the time).⁵¹¹ Just under six percent of FFDEs find officers not fit for duty with little chance of return.⁵¹² The reasons for the “unfixable finding” can include chronic PTSD, chronic substance abuse, chronic mood or anxiety disorder, thought disorder, suicide attempt, and personality disorder.⁵¹³

Biden’s Executive Order establishing the National Law Enforcement Accountability Database is a good opportunity to make progress on the second step—data aggregation. But the order needs two critical amendments. First, it must do more than “encourage” police departments to provide information. Under prior voluntary reporting initiatives, only about one in four departments meaningfully participated.⁵¹⁴ Reporting should be mandatory, perhaps as a condition of the federal funding on which local departments increasingly rely.⁵¹⁵ The second critical amendment to the National Law Enforcement Accountability Database is that it must include reporting about police mental

507. See *Brownfield v. City of Yakima*, 612 F.3d 1140, 1146–47 (9th Cir. 2010) (“Police officers are likely to encounter extremely stressful and dangerous situations during the course of their work. When a police department has good reason to doubt an officer’s ability to respond to these situations in an appropriate manner, an FFDE is consistent with the [business necessity standard under the] ADA.” (citation omitted)); Martin J. Mayer & David M. Corey, *Current Issues in Psychological Fitness-for-Duty Evaluations of Law Enforcement Officers: Legal and Practice Implications*, in *POLICE PSYCHOLOGY AND ITS GROWING IMPACT ON MODERN LAW ENFORCEMENT*, 93, 94–95 (Cary L. Mitchell & Edrick H. Dorian eds., 2017).

508. Sepideh A. Souris, *Pre-Employment and Fitness-for-Duty in the Law Enforcement Arena*, in *FORENSIC MENTAL HEALTH EVALUATIONS IN THE DIGITAL AGE: A PRACTITIONER’S GUIDE TO USING INTERNET-BASED DATA* 169, 177–78 (Ashley B. Batastini & Michael J. Vitacco eds., 2020).

509. *Id.* at 178.

510. Lewis Schlosser, *Psychological Fitness for Duty*, at slide 32 (2020) (unpublished presentation), <https://www.njsacop.org/Files/2020%20NJSACOP%20FFD%20PresentationFULL.pdf> [<https://perma.cc/HM23-SY76>].

511. *Id.* at slide 33.

512. *Id.*

513. *Id.* at slide 34.

514. Jackman, *supra* note 138.

515. See Brian Naylor, *How Federal Dollars Fund Local Police*, NPR (June 9, 2020, 5:10 AM), <https://www.npr.org/2020/06/09/872387351/how-federal-dollars-fund-local-police> [<https://perma.cc/SWV6-7JSE>]. But see Roger Michalski & Stephen Rushin, *Federal (De)Funding of Local Police*, 110 GEO. L. REV. ONLINE 54, 54–55 (2021) (presenting an empirical analysis that only twenty percent of all nonfederal law enforcement agencies received federal funds). Making federal funding conditional on police departments reporting about mental health helps to avoid constitutional concerns under the anti-commandeering doctrine. See *South Dakota v. Dole*, 483 U.S. 203, 206 (1987) (“Congress may attach conditions on the receipt of federal funds . . .”).

health. The order presently only instructs the Attorney General and the Secretary of Health and Human Services to publish “best practices” for departments to support officers’ psychological well-being.⁵¹⁶ It should also mandate (again, as a condition of federal funding) that departments report mental health conditions uncovered via pre-employment evaluation, FFDEs, voluntary officer disclosure, or post use-of-force investigation.

The third and final step to improving data collection about mental health is to make the data available where it is needed. There are at least three parties that have a particular interest in the data: the federal government, which aspires to create programs that improve officer mental health; researchers, who aim to understand how to prevent and cure officer mental illness; and other police departments, which want to ensure they hire only the most capable officers. Of course, reporting raises privacy concerns. Mental health is a core privacy interest⁵¹⁷ that federal law protects.⁵¹⁸ For the federal government and researchers, who do not need to know individual officers’ identities, technical methods can preserve officers’ privacy by de-identifying mental health information.⁵¹⁹ For inter-departmental sharing and hiring, police departments would need personally identifiable information to help evaluate possible recruits.⁵²⁰ When it comes to armed officers, the community’s interest in its own safety outweighs applicants’ privacy interests.⁵²¹

5. Adopt More Balanced Responses to Mental Illness

Police should be held to very high standards, and strict measures should be in place to protect the community when those standards are breached. But needlessly punitive policies towards police can breed counterproductive distrust and resentment. For example, Illinois state officials recently sought to remove a Hispanic female officer for a minor theft she committed fifteen years earlier before she even joined the force.⁵²² Police will not be transparent with their

516. Exec. Order No. 14,074, 87 Fed. Reg. 32945 (May 25, 2022).

517. See Scott L. Fast, *Breach of Employee Confidentiality: Moving Toward a Common-Law Tort Remedy*, 142 U. PA. L. REV. 431, 435 n.18 (1993).

518. Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191, 110 Stat. 1936 (codified as amended in scattered sections of 18, 26, 29, and 42 U.S.C. (2018)).

519. See 45 C.F.R. § 164.514(b) (2005) (describing how to de-identify health information).

520. Chicago recently implemented a system which effectively accomplishes this. Under the 2021 SAFE-T Act, officers who leave their job for any reason lose their certification to do policework. The officer or a new department can apply for recertification, which requires a review of the officer’s disciplinary record. See Grace Kinnicutt, *What’s in the SAFE-T Act? A Look At the 2021 Criminal Justice Reform and How It Has Evolved*, CAPITOL NEWS ILL. (May 18, 2022), <https://capitolnewsillinois.com/NEWS/whats-in-the-safe-t-act-a-look-at-the-2021-criminal-justice-reform-and-how-it-has-evolved> [<https://perma.cc/Z2H6-ZN3N>].

521. Ordinarily, the Americans with Disabilities Act would prohibit an employer from asking about a candidate’s mental health. Pub. L. No. 101-336, 104 Stat. 327 (1990) (codified at 42 U.S.C. §§ 12101–12213 and scattered sections of 29, 47 U.S.C.). There is an exception when (as I argue is the case for police officers) mental health is directly relevant to the job being performed.

522. CBS Chicago Team, *Riverside Leaders Back Officer Who Lost Certification over Minor Theft 15 Years Earlier*, CBS NEWS (Aug. 25, 2023, 10:43 AM), <https://www.cbsnews.com/chicago/news/riverside-police-officer-zenna-ramos-decertified> [<https://perma.cc/SgKJ-4NV3>].

superiors if they fear that minor infractions or mental struggle can trigger automatic and permanent removal. Unaddressed, minor infractions can become major infractions, and mental struggle can become mental illness. Left to fester, these pose a greater danger to the community.

There are intermediate approaches that balance the needs for immediate community safety and for transparent police governance (which protects community interests in the long term). Lawmakers should consider measures that address both short-term and long-term mental illness. Illinois lawmakers recently made an important step with respect to the former. Anyone (including police) who wants to possess a firearm in Illinois must have a Firearm Owners Identification (“FOID”).⁵²³ Individuals who seek mental health treatment once risked immediate termination of their FOID.⁵²⁴ Although recertification is possible, the process in Illinois is perpetually backed up and delayed. For police, this used to be career ending; without a FOID, they could not be deployed in the streets. With such high stakes, even police who wanted mental health treatment were deterred. Today, things are different. Under pressure from the police union, Illinois lawmakers changed the rules. Now, officers who lose their FOID due to mental illness can be reassigned to different responsibilities, but they cannot be fired if their doctor determines they do not pose a danger while unarmed. Though there is still some stigma associated with being on the “rubber gun squad,” Illinois officers no longer need to choose between their mental health and providing for their families.

A balanced response to long-term mental illness in police may require a different approach. Consider PTSD, which often arises as a predictable consequence of policework and can render police unfit for duty. The Fraternal Order of Police (“FOP”) has argued that officers diagnosed with work-related PTSD should have the same protections as officers who experience work-related physical injuries.⁵²⁵ Otherwise, police will conceal symptoms of PTSD. Workers compensation law has been slow to recognize parity between physical and mental health.⁵²⁶ In Illinois, parity would mean that officers diagnosed with work-related PTSD should receive up to a year of sick leave with full benefits.⁵²⁷ Officers whose PTSD persists after a year of treatment should be welcomed back to work with appropriate accommodations or receive workers compensation.

Police seeking leave, accommodations, or compensation for PTSD face a further difficulty—proving that the PTSD is work-related.⁵²⁸ When PTSD symptoms present shortly after an officer undergoes a recognizable traumatic

523. *Firearm Owners Identification (FOID)*, ILL. STATE POLICE: FIREARMS SERVS. BUREAU, <https://www.ispsfb.com/Public/FOID.aspx> [<https://perma.cc/B5FC-SgUJ>].

524. Zoom Interview with Tamara Cummings, *supra* note 409.

525. Jay McDonald, *Opinion: Officers with PTSD Deserve Benefits*, CINCINNATI.COM (Jan. 27, 2016, 11:14 AM), <https://www.cincinnati.com/story/opinion/contributors/2016/01/27/opinion-officers-ptsd-deserve-benefits/79400640> [<https://perma.cc/F87F-YKVB>].

526. See Josh Cunningham, *Mental Health and Workers' Compensation Snapshot*, NAT'L CONF. STATE LEGISLATURES (Oct. 14, 2022), <https://www.ncsl.org/labor-and-employment/mental-health-and-workers-compensation-snapshot> [<https://perma.cc/RBD8-NH8Q>].

527. Illinois Public Employee Disability Act, 5 ILL. COMP. STAT. 345/2 (2021).

528. Zoom Interview with Nicholas Greco, *supra* note 360.

experience, proof may be less of a challenge. But symptoms can be delayed by a year or more.⁵²⁹ PTSD can also result as the cumulative effect of repeated stress and micro-trauma so that there is no singular event on which to pin the causal story. To complicate things further, many officers have PTSD or subsyndromal PTSD before they even start, perhaps as a result of military service.

One solution to the causation problem would be to presume that policework caused any PTSD that officers exhibit. This would solve the problem of under-inclusiveness and remove a significant disincentive for seeking treatment. There is, of course, a risk of over-inclusiveness in that officers whose PTSD is not work-related could still receive leave and compensation. This, though, is a feature rather than a bug. PTSD in police is a serious concern regardless of how it arose, and departments should facilitate diagnosis, treatment, and leave by all available means. The presumption would also give departments a strong incentive to implement more robust psychological evaluations for potential recruits and to detect/address emerging signs of mental strain throughout officers' careers.

CONCLUSION

Mental health is even more relevant to police violence than law scholars have previously appreciated. Far too many lives have been lost at the hands of police who misinterpreted their targets' mental health episodes. That point is familiar. This Article introduced and defended the further proposition that far too many lives have been lost at the hands of police undergoing their own mental health episodes.

Police departments across the country are silently sliding into a state of mental and emotional crisis. Policework induces some of the worst mental health outcomes of any profession. Police are nine times more likely to have PTSD and three times more likely to commit suicide than the general population. Untreated stress, unaddressed trauma, overwork, sleep deprivation, and self-medication cumulatively destabilize many officers' judgment and capacity for emotional regulation. With their deteriorated condition unacknowledged and untreated, these officers carry firearms into the field.

It is past time to intervene. Our collective concern about police violence demands it. Only officers who are in a healthy state of mind can be entrusted with lethal power. The culture and institution of policing are presently ill-equipped to screen recruits for concerning mental health conditions or to identify mental health issues as they arise. There is no adequate treatment infrastructure. This Article proposed a series of reforms, such as making it easier for officers to seek help, improving police working conditions, and gathering data about police mental health.

⁵²⁹. Zoom Interview with Tamara Cummings, *supra* note 409; Interview with Kevin Bailey, *supra* note 223.

Though progress will require buy-in from multiple stakeholders,⁵³⁰ the many interviews I conducted with people from a range of professional and ideological backgrounds have left me hopeful. Consider, for example, the perspective of Tamara Cummings, General Counsel for the Illinois FOP Labor Council. Police unions tend to be anathema in criminal justice scholarship (I could not find a single overtly positive reference to them in law journals⁵³¹), but they are a critical and overlooked partner for addressing the mental health crisis among police.⁵³² Following instances of excessive force, police unions are invariably on the wrong side of the narrative because of their duty to ensure due process for their members. But Cummings revealed that the bigger picture is more nuanced.⁵³³ She described the many institutional failures that had to occur before a “bad” cop gets to her desk: insufficient background checks at recruitment, inadequate mental health resources, and superficial wellness follow-ups after traumatic “critical incidents.”⁵³⁴ “[W]e don’t recruit them, we don’t hire them, we don’t train them, we don’t supervise them, we don’t discipline them. By the time we get them, if the employer has failed in all those steps, then we have to do the best with what we have.”⁵³⁵ Cummings is concerned that staffing shortages pressure police leadership to lower recruitment standards and overlook red flags that arise on the job.⁵³⁶ She would support initiatives like those proposed above—more rigorous mental health screening at the recruitment stage, expanded confidential mental health resources, and mandatory periodic mental health evaluations—that keep problematic individuals from joining the force and help good cops cope with the inevitable stressors that can slowly deplete the emotional reserve they need to do their job well.⁵³⁷

I also spoke with representatives of Chicago’s Civilian Office of Police Accountability (“COPA”), a perennial courtroom adversary to the local police union (Chicago FOP Lodge 7). The Chicago City Council created COPA in

530. Anna Davidson Abella, Monica Landers, Flandra Ismajli & Yaritza Carmona, *Stakeholder Perspectives on Implementing a Police-Mental Health Collaborative to Improve Pathways to Treatment*, 49 J. BEHAV. HEALTH SERVS. & RSCH. 299, 300 (2022).

531. The closest I could find was Miller & Galvin, *supra* note 406, at 496 (“Union contract language required management to shift from firing substance misusing employees to working with the unions to support them in becoming healthy, productive, and reliable workers. . . . [T]he program substantially reduced injuries and eliminated crashes involving employee alcohol or illicit drug use. Those savings alone covered the cost of the program.”).

532. Kimberly J. Mitchell, Ateret Gewirtz-Meydan, Jennifer O’Brien & David Finkelhor, *Practices and Policies Around Wellness: Insights from the Internet Crimes Against Children Task Force Network*, FRONTIERS PSYCHIATRY, June 2022, at 1, 10 (“Another major predictor of health-promotion practices was union support. Agencies with union support for wellness had a two- to three-fold greater likelihood of proactive programs or practices. The role of police unions has been a neglected component in research . . .”).

533. Zoom Interview with Tamara Cummings, *supra* note 409.

534. *Id.*

535. *Id.*

536. *Id.*

537. *Id.*

2016 to provide civilian oversight of the Chicago Police Department.⁵³⁸ COPA investigates civilian complaints and all incidents in which an officer discharges a firearm or taser.⁵³⁹ Matthew Jones, a young attorney at COPA, shared his personal observations (not on behalf of COPA). Despite COPA's antagonistic relationship with Illinois FOP, he agreed that police mental health is a "problem."⁵⁴⁰ He regularly encounters officers with mental illness or substance use disorders who are reluctant to seek treatment because they fear professional repercussions.⁵⁴¹ That dynamic is "not helpful," particularly in light of the repeated exposure to trauma that is inherent to police work.⁵⁴² Jones noted that mandatory overtime and canceled days off due to police staffing shortages compound the problem: "A lot of incidents [of excessive force] happen during mandatory overtime assigned with other officers."⁵⁴³

COPA leaders agree that the mental health toll police work has on officers needs urgent attention. Deputy Chief Administrator Sharday Jackson works for COPA's special victims unit, which handles allegations of domestic abuse and child abuse.⁵⁴⁴ She has an intimate window into officers' struggles because her investigations necessarily give a window into life at home.⁵⁴⁵ "Suicidal ideation, threats to kill, threats to harm other people, and substance abuse" are far too common.⁵⁴⁶ They seem to crop up particularly after officer-involved shootings and back-to-back mandatory overtime.⁵⁴⁷ COPA does what it can, such as incorporating trauma-informed interview techniques and recommending counseling to officers in need.⁵⁴⁸ The problem is so pervasive, though, that the Chicago Police Department should "mandate regular therapy for officers."⁵⁴⁹ COPA's First Deputy Chief Administrator Ephraim Eaddy affirmed: "COPA is in support of a healthy Chicago police department."⁵⁵⁰ Mentally well police are more reliable stewards of the City's trust. Focusing on "accountability" is not enough. Sometimes, it is departmental policies that put officers in harm's way or stress them to the breaking point. "You can't discipline your way to an officer being better mentally and emotionally."⁵⁵¹

538. *Our History*, CIVILIAN OFF. POLICE ACCOUNTABILITY, <https://www.chicagocopa.org/about-copa/our-history> [<https://perma.cc/C49F-D5QM>].

539. *Id.*

540. Zoom Interview with Matthew Jones, Att'y, Civilian Off. of Police Accountability (Nov. 15, 2023).

541. *Id.*

542. *Id.*

543. *Id.*

544. Zoom Interview with Sharday Jackson, Deputy Chief Adm'r, Civilian Off. of Police Accountability (Dec. 20, 2023).

545. *Id.*

546. *Id.*

547. *Id.*

548. *Id.*

549. *Id.*

550. Zoom Interview with Ephraim Eaddy, First Chief Deputy Adm'r, Chi. Civilian Off. of Police Accountability (Dec. 14, 2023).

551. *Id.*

Mental health advocates who support policed communities agree. I had multiple meetings with representatives from CommUnity Crisis Services, an Iowa-based nonprofit that, since 1970, has “provide[d] immediate and non-judgmental support for individuals facing emotional, food or financial crisis.”⁵⁵² Unity Stevens, the Mobile Crisis Response Program Manager,⁵⁵³ works with Joachim Seelos, the Mental Health Liaison, who carries out the county’s first co-responder program from his office in the Iowa City Police Department.⁵⁵⁴ Though their formal mandate emphasizes the needs of Iowa City’s civilian population, they all expressed deep concern about the toll policework takes on officers’ mental and emotional health.⁵⁵⁵ They see firsthand the cumulative effect that unaddressed stress and trauma have on officers and, by extension, the communities in which they work.⁵⁵⁶ From a place of empathy for both, both CommUnity employees strongly endorse any effort to improve mental and emotional wellness in police. “Seeing the person beyond the badge has been such an impactful experience for [us], and has helped deepen the sense of collaboration and connection [we] feel with [our] law enforcement team.”⁵⁵⁷

Focusing on police mental health offers an opportunity for all sides to recalibrate the rhetoric surrounding police reform. Presently, an antagonistic posture predominates. In its loudest and most publicly salient expression, reformist language excoriates not only policing but also police officers. Police officers often feel attacked, which can move them to disengage from reform initiatives whose good sense they would otherwise see. Temporarily shifting reformist attention to police wellness could flip this script. It would be an empathic gesture from reformists, acknowledging that police officers, like everyone else, are products of their surroundings. From police, it requires an admission of vulnerability and fallibility, but would also promise the quality of life reforms they have long desired. Addressing police mental health will not by itself cure the ill of police violence. But it could be a reset—an opportunity for reformers and police to get off on the right foot as they take the next step.

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552. *Mission*, COMMUNITY CRISIS SERVS., <https://builtbycommunity.org/about> [https://perma.cc/YL7W-RJNU].

553. Interview with Unity Stevens, *supra* note 307.

554. Interview with Joachim Seelos, *supra* note 306.

555. Interview with Unity Stevens, *supra* note 307.

556. Interview with Joachim Seelos, *supra* note 306.

557. Email from Unity Stevens, Mobile Crisis Response Program Manager, CommUnity Crisis Servs., to Mihailis E. Diamantis, Professor of L., Univ. of Iowa Coll. of L. (Jan. 14, 2024, 11:42 AM) (on file with author).

Empathy is contagious.⁵⁵⁸ Compassion is curative.⁵⁵⁹ This Article was inspired by my friend, Joachim Seelos, who presently serves as Johnson County, Iowa's first Mental Health Liaison.⁵⁶⁰ His job is to reduce unnecessary arrests and police violence toward community members experiencing crisis. As a biracial, deaf, gay man who for several years followed the vocation as a Benedictine Monk, Joah has had contact with a wide range of communities. In speaking to my class of first-year criminal law students, he emphasized the importance of empathy to his present work and to his justice mission. He shared his concern for the targets of police enforcement, on whose behalf he intervenes when there is an opportunity for de-escalation. To the surprise of my students, he also shared his concern for police officers, in whom he sees the mental and emotional toll of policework. He believes we need more compassion, not less.

558. See generally James H. Fowler & Nicholas A. Christakis, *Cooperative Behavior Cascades in Human Social Networks*, 107 PROC. NAT'L ACAD. SCI. U.S. Am. 5334 (2010) (showing experimentally that cooperative behavior for the public good compounds in human social networks); Sara B. Algoe & Jonathan Haidt, *Witnessing Excellence in Action: The 'Other-Praising' Emotions of Elevation, Gratitude, and Admiration*, 4 J. POSITIVE PSYCH. 105 (2009) (suggesting that elevation motivates prosocial and affiliative behavior, gratitude motivates improved relationships with benefactors, and admiration motivates self-improvement).

559. See generally STEPHEN TRZECIAK & ANTHONY MAZZARELLI, COMPASSIONOMICS: THE REVOLUTIONARY SCIENTIFIC EVIDENCE THAT CARING MAKES A DIFFERENCE (2019) (considering the positive health effects of compassion).

560. Emily Delgado, *Joachim Seelos Joins Iowa City Police Department as Mental Health Liaison*, DAILY IOWAN (Aug. 26, 2021), <https://dailyiowan.com/2021/08/26/joachim-seelos-joins-iowa-city-police-department-as-mental-health-liaison> [<https://perma.cc/MZ2A-GTZ9>].