

Declaration of Independence from “Law Enforcement” And the People’s Consent Decree

"But a society that protects some people through a safety net of schools, government-backed home loans, and ancestral wealth but can only protect you with the club of criminal justice has either failed at enforcing its good intentions or has succeeded at something darker."

--TA-NESHISI COATES

Declaration of Independence from “Law Enforcement”

PREAMBLE

When any of society’s institutions, designed to protect and serve the citizenry, becomes instead oppressive and fails to fulfill its stated mission, it is appropriate for the citizens to throw off that institution and design something new that functions for the betterment of the people.

We have reached such a stage with American law enforcement. In the past, police have always served two functions, the one public-service oriented and the other biased and repressive. One hand of policing protects the weaker from those stronger and more predatory; this function involves some enforcement of community standards, to be sure, but is better realized through crime prevention rather than reaction to crime. It involves strong community involvement and is best captured by the term “peace officer.” The other hand of policing, reactive “law enforcement,” protects the interests of the wealthy and privileged who write the laws that police enforce.

The average citizen has too long ignored the repression of many members of society, turning a blind eye in order to reap the benefits of personal safety and order. Many have felt protected by a racist system that creates first- and second-class citizens. Repeatedly, those most oppressed have risen up, forcing society to reform law enforcement agencies. The results, regardless of intention, tend to be cosmetic-- limited to reducing the perception of repression. Yet the institution has not fundamentally changed.

GRIEVANCES

Such a system has many individual components, each repressive in themselves, that make the the whole intolerable. These include:

Discrimination Throughout the Criminal Justice System Law enforcement officers are the tip of the spear of a criminal justice system that maintains the New Jim Crow in American life. Black and brown people are more likely to be stopped and searched while engaging in the same activities as whites.[i] They are more likely to be arrested and jailed for those same activities.[ii] They are more likely to be

tried and convicted, and sentenced to harsher penalties.[iii] These injustices start with the casting of a police net which is designed to target people of color.

Vehicle & Pedestrian Stops Black and brown people are disproportionately stopped by police while driving or walking. They are searched more often though less likely to be found with contraband. [iv] People of color are more likely to be shot and killed by police[v] in situations where whites are afforded a peaceful resolution. These facts are beyond dispute, backed by government and academic studies too numerous to enumerate.

The School to Prison Pipeline Law enforcement officers in schools have criminalized youth of color, turning educational settings for these students into arrest-and-incarcerate factories.[vi] At the same time, policies such as “hot-spot policing” have criminalized these children’s entire communities rather than targeting individual wrong-doers.

SWAT, Militarization & Surveillance For decades, but especially since Sept 11, 2001, police have increasingly militarized. Defense department contractors have profited by designing programs whereby military equipment is passed to local police. SWAT teams have proliferated and have expanded their missions to include militarized arrests for minor drug crimes. Military armored vehicles and frequent use of teargas have become common responses to police-induced civil unrest. “Intelligence-led policing” has replaced “community policing” as the guiding philosophy; with that change has come the imposition of mass surveillance in the form of street cameras and surveillance hubs named Real Time Intelligence Centers and evolved from their progenitors in Iraq and Afghanistan.[vii]

Ferguson This militarized response was evident in the response to the Ferguson, Missouri uprising in August 2014, but the other disparities outlined here are also endemic to Ferguson. Black people in Ferguson are 1.34 times more likely to be stopped in their vehicles and 2.07 times more likely to have their vehicles searched, but are 26% less likely to be found with contraband than whites.[viii] Ferguson PD engages in a pattern of unconstitutional pedestrian stops without reasonable suspicion, abuses the “Failure to Comply” law, and uses the African American community as a revenue source to fill city coffers. Some charges and practices (Walking in Roadway, Failure to Comply, use of force, canine bites) are used almost exclusively against Blacks.[ix]

A NEW ERA OF PUBLIC SAFETY

It is time to envision and create new institutions to promote the public safety and welfare. Our vision must be transformative, with the power to radically alter the current desperate state of affairs. Even the old phrase of “peace officer” may not encompass the various roles of those who keep the peace in a new era.

Peacekeepers We envision therefore, peacekeepers whose primary skills involve mediation and problem solving. Organized according to a non-military model as befits their new role, the institutions governing peacekeepers should grow organically from the communities they serve.

Peacekeepers need to be members of the neighborhoods where they work. Their first priority is to help neighbors in conflict with each other find workable and long-lasting solutions to problems. To that end, they focus on identifying problems and calling upon the most-suitable governmental and private agencies that can work together to assist neighborhoods in solving problems.

Cooperative Partnerships & Interventions Some problems may require primary intervention by mental health experts. Others might involve restorative justice programs and still others might be solved through better street lighting or other government services.

In every case, our public and private institutions must be transformed to promote co-operative partnerships between them. Underlying all these institutions must be the understanding that public safety is more than crime-busting—that social, political and economic health for everyone is vital to the safety of each of us. Arrests and use of force must be an extreme last resort, only utilized when there is probable cause to believe that the public's physical safety will be harmed otherwise.

Transparency & Accountability These same institutions, and the individuals within them, must be transparent and accountable. Activities and interventions by all agencies should be clearly documented, presented in understandable formats and widely disseminated. An informed and engaged community can then be directly involved in setting policy, hiring and firing, and review of individual peacekeeping activities to guarantee that peacekeeping is functioning in the community interest.

Anti-Bias Lens All policy must be viewed through an anti-bias framework and lens. To finally create a reality of equal justice for all, we must undo centuries of damage. Every policy or procedure must be formally evaluated to judge any potential disparate impact on communities and individuals from oppressed races, ethnic or religious background, sexual orientation or identity, and disabilities. Those same policies and practices, and individual practitioners, must be audited regularly to insure fair and impartial treatment.

Mutual Concern Finally, the community must take a greater role in serving and protecting itself. Neighbors need to participate in helping peacekeepers identify and solve community problems. Neighborhood Watch programs need to cease being the eyes and ears of law enforcement and take on the meaning of neighbors watching out in all respects for each other. In this way, mutual concern could replace the watchful eye of mass surveillance. Our existing social networks must be the primary vehicles for communities healing themselves.

The People's Consent Decree

No call for radical transformation like the one above can responsibly envision such sweeping changes without laying out a roadmap for achieving those ends. The changes envisioned above cannot happen immediately or by decree; we must grow our society from what it is now to what we want it to be. We must evolve into revolutionary change. We must move steadily from policing to peacekeeping.

To that end, police reform policies must be chosen for their ability to advance us toward our vision. Our People's Consent Decree for Ferguson, Missouri and similar situations around the nation would prioritize:

Community Empowerment & Accountability First and foremost, we call for changes that empower the community, creating opportunities for direct involvement in decision-making. These include civilian oversight boards, civilian police commissions with the ability to set policy, affect discipline etc, and citizen representation on use of force review boards, hiring and firing boards, and more. These boards and committees should be selected in the manner that each community deems fitting to achieve democratic representation.

Accountability needs to begin before consent decree changes are implemented. Community participation in consent decree negotiations is integral to its success. Just as crucial are a strong community role in choosing an independent monitor to oversee the implementation of the consent decree, and a Community Police Commission to work with the monitor in overseeing that implementation.

Problem-Solving Policing We call for changes that begin to transform the role of officers from law enforcement to problem-solving. Such changes must also be supported by complementary changes to hiring, training, promotion criteria and more to support the changed role of officers. Furthermore, changes must include not only "problem-solving policing" but also "problem-solving government."

New Training for a New Approach We call for training requirements that emphasize problem-solving, procedural justice, de-escalation and tactical retreat techniques, use of force as a last resort, and a racial lens applied to all analyses to achieve recognition and control of implicit bias for individuals and institutions. Those most affected must be involved in the training, there must be a practice of ongoing audits to catch lapses from standards in the field, and supervisors must be trained to spot problems in these areas.

Documentation We call for documentation of police/community interactions with the purpose of stopping implicit bias, discrimination of minority, disabled or LGBTQ persons, recognition of sexual identity as perceived by the individual and a prohibition against the use of pretextual stops to determine immigration status. This documentation should exist in written form capturing the details of stops,

signed consent for consent searches, and body or dashboard cameras if those cameras are accompanied by policies such as those outlined [here](#).

There is further need for internal departmental documentation such as “early intervention systems,” incorporating best practices for such systems, so that officer stress or misconduct is caught and corrected at the first opportunity.

De-Militarization We call for an end to programs that feed militarized equipment to police departments, militarized tactics for crowd control, the use of SWAT teams for anything other than the most extreme circumstances, severe limitations on government-controlled or government-used street cameras or other equipment for mass surveillance and an end to the para-military command structure of police departments.

Footnotes

[i] For example, Missouri Attorney General’s 2014 Vehicle Stop Report: Blacks were 75% more likely than Whites to be stopped and 73% more likely to be searched.

[ii] “The War on Marijuana in Black and White” ACLU 2013 “Marijuana use is roughly equal among Blacks and whites, yet Blacks are 3.73 times as likely to be arrested for marijuana possession.”

“Created Equal: Racial and Ethnic Disparities in the US Criminal Justice System Hartney and Vuong 2009 [iii] “Overall, the rates at which African Americans were arrested were 2.5 times higher than the arrest rates for Whites.” (page 3)

[iii] Ibid. “some of the factors influencing court processing decisions, including where police choose to focus their surveillance and in which cases they decide to make a formal arrest, which cases prosecutors choose to pursue and under which charges, when judges allow pretrial release and under what conditions, what agreements prosecutors and defense attorneys reach regarding pleas, and, finally, the judge and jury’s decisions on guilt or innocence and sentencing.” (page 7) and “African Americans were more likely to be sentenced to prison and less likely to be sentenced to probation than Whites. • The average prison sentence for violent crime was approximately one year longer for African Americans than for Whites. • African Americans were convicted for drug charges at substantially higher rates than those for Whites.” (page 3)

[iv] Missouri Attorney General’s 2014 Vehicle Stops Report: Whites “Contraband hit rate” is 26.87%; Blacks’ is 21.39%.

[v] Here's the Data that Shows Cops Kill Black People at a Higher Rate than White People" Mother Jones 2014 According to FBI data "black people were about four times as likely to die in custody or while being arrested than whites."

[vi] Dignity in Schools Campaign Fact Sheet 2015: "Black students are suspended and expelled at a rate three times greater than white students. • 70% of students arrested or referred to police at school are Black and Latino. While Black students represent 16% of enrollment, they represent 31% of school-related arrests."

[vii] Wikipedia Real Time Regional Gateway https://en.wikipedia.org/wiki/Real_Time_Regional_Gateway

[viii] Missouri Attorney General's 2014 Vehicle Stops Report

[ix] "Investigation of the Ferguson Police Department" Department of Justice 2015 See Summary, pages 1-5 and particularly: "African Americans accounted for 95% of Walking in Roadway charges, an 94% of Failure to Comply charges...Nearly 90% of documented use of force used by FPD officers was used against African Americans. In every canine bite incident for which racial information is available, the person bitten was African American." (pages 4 and 5)