Vera Institute of Justice

Criminal Justice Issues and Prisoners' Rights

https://www.vera.org/blog/what-can-a-police-beating-in-pittsburgh-teach-us-about-racial-bias-and-use-of-force

Public Facing Advocacy Writing

We sat down to discuss what drives violent confrontations between police and the citizens they serve with Professor David Harris whose new book, A City Divided, examines the 2010 police beating of Jordan Miles, an 18-year-old high school student with no police record, in Pittsburgh, PA. Professor Harris works at the University of Pittsburgh School of Law, is one of the foremost national experts on racial bias in policing and also hosts the podcast, Criminal Injustice.

Vera: What happened to Jordan Miles in 2010?

DH: Jordan, an 18-year-old high school senior, left his mothers house at night to walk around the block, to where his grandmother lived. The family lived in Homewood, an African American neighborhood that has experienced a high level of violent crime. Within a minute of leaving, Jordan encountered three Pittsburgh police plainclothes anti-crime officers, cruising Homewood in an unmarked car. Jordan ran, and a violent struggle occurred. Jordan emerged [from the conflict] injured and was charged with felonies. But the stories of the incident told by Jordan and the police differ in crucial respects. The officers say they identified themselves repeatedly, and they saw Jordan behaving suspiciously, and he exhibited telltale signs that he was armed. When he ran, they said had to stop him, though they never found a gun on the young man, or anywhere near the arrest. Jordan says the officers never identified themselves, instead they just jumped out of the car and ran at him, yelling, wheres your money? Wheres your gun? Wheres the drugs? He ran, he said, because he was terrified. So, what happened to Jordan depends on who you ask: him or the three officers. But what matters just as much as what happened is *why* it happened, and why does it keep happening everywhere in the country? The chief drivers of incidents like these are deeply disturbing currents of race and fear. Race has a negative impact on every encounter between African Americans like Jordan and police officers. And fear, on both sides of these encounters, makes these situations infinitely worse and more dangerous. The investigations and legal cases that followed were textbook examples of systems and laws not up to the task of finding justice in these kinds of cases. The Jordan Miles case gives us the opportunity not just to figure out what happened, but to look at the bigger, national picture, right now.

Vera: Youve said that incidents like this are quite common. What made you decide to write a book about what happened to Mr. Miles?

DH: This was in 2010 and prior to the 2014 community uprising in Ferguson, Missouri, over the police shooting of an 18-year-old man named Michael Brown. Back then many people across the country still tended to view incidents like these as isolated. But I live and work in Pittsburgh, and was able to get up-close to what unfolded. And I saw systemic issues in play. I knew some of the public officials involved in the response from various sides. The incident ignited a firestorm over the competing narratives about what happened that night. And it made many of us consider whether there were lessons to learn for the citys justice system that might be more broadly applicable across the country. I wondered: Can the justice system and the courts respond to incidents like these with a just solution? How can we prevent tragedies like this in the future?

Vera: You describe the context that the officers who confronted Mr. Miles were operating in that night: They were members of a specialized task force looking for weapons and drugs in targeted neighborhoods in the city. Should police be doing this kind of preemptive policing in the first place? Is the best way to reduce these types of confrontation simply to limit the circumstances where they occur?

DH: Specialized units are a widespread approach in law enforcement, and while these units do seize guns or make arrests, they can also put officers and the public in situations in which these fear-based confrontations can go wrong. What you find with these specialized units is that they are set apart, they dont report up the chain consistently, their supervision can be minimal, and they have a mission involved that is not simply about keeping good order and peace to serve and protect. Sometimes there are limited situations where this kind of specialized task force has a place. But to put them out regularly as you had here in Pittsburgh, one in each police zone in roving unmarked cars, leads to trouble. And Im pretty skeptical of these specialized units, given everything that weve learned about them going back to the 1990s from the Rampart scandal in Los Angeles, where police framed innocent people, to the plainclothes street crimes unit in New York that was disbanded after officers shot and killed an unarmed man, Amadou Diallo. To reduce the footprint of this type of policing will tend to limit these kinds of near catastrophes. After the incident was all over, they curtailed this activity in Pittsburgh. But because of a lack of transparency Ive not been able to establish whether they may be reintroducing it again, now.

Vera: You also argue that the laws that govern police misconduct are inadequate in addressing violence that occurs between police and citizens. However, in recent years, federal judges from a diverse range of backgrounds have questioned the doctrine of qualified immunity, which shields government officials from being sued unless they violated a clearly established statutory or constitutional right. Do you think that more robust protections against police use of force would significantly remedy some of the problems you describe in the book?

DH: I think it would help to cut back the doctrine of qualified immunity to resemble something more rational, because its still very hard for victims of police violence to get relief through the courts. Our Supreme Court wont change the law on use of force, nationally, but

you can see it beginning to happen in some states. California passed a bill just this past year, modernizing standards for use of deadly force by officers so that deadly force may only be used when necessary, not just when it is objectively reasonable, and requiring officers to use de-escalation techniques and other crisis intervention methods to address threats instead of using deadly force, when its safe to do so. Maryland had a bill under consideration, although it didnt pass, and Pennsylvania also has proposals in the hopper. These potential legal changes show that this is a problem that can be solved through state law. It doesnt have to be done at the U.S. Supreme Court.

Vera: Those are legal remedies for police accountability. But you argue that we also need to implement solutions that stop things from going wrong in the first place.

DH: Yes. Those legal remedies are on the back end of the problem. We need to think of use of force differently in three respects: One, the police must be more robust and transparent to the public when it comes to discipline and accountability for misconduct. Two, we need to address the problem of use of force on the front end, which can happen by changing the way damages get paid. In the vast majority of cases, damages are not paid by the Police Department, but by the city, or their insurers, so the police dont care. Why would they? The organization responsible for the changing the conduct the police department -- does not suffer any financial consequences, and thats just got to change. Three, we the public need to decide what kind of policing we want, and demand it. The public has to come out to say, there is a type of policing we insist on. We have to tell the city what we want, not the other way around.

Vera: What is the most substantial piece of reform at the federal or state level that would reduce the use of force by police? Is cultural change more important than policy?

DH: The old saying in policing is that culture eats policy for lunch. So, if you dont change the culture, then your policy may be for naught. There must be internal cultural change in law enforcement. What we are talking about is police departments that will say no, this kind of conduct wont do; you cant be a police officer here if you do this when they see misconduct, instead of excusing it. And that takes will. Here in Pittsburgh, what happened to Mr. Miles was followed by the city hiring the first outside chiefChief Cameron McLayin 150 years. He was brought in as the change agent, and he made some real change, but he only had two and a half years to accomplish what he could. And then there are those changes in the law. If the police begin to see those bite, then they will have to respond, because ultimately the law will tell the tale. If, for instance, we get a shift in use of force law that says that force has to not only be objectively reasonable, it must also be necessary, something like what California did, then that is going to force a reevaluation of policy and framing, and police departments will have to recalibrate.

Vera: What do you think about the state of police reform in Pittsburgh? Are you hopeful for the future?

DH: Its a mixed picture. I do hear leaders in the African American community saying that things are better, but there have still been bad incidents between police and civilians well after the 2010 confrontation between Mr. Miles and the police that have not been addressed to the satisfaction of many people who live here. Pittsburgh was one of the six sites for the National Initiative to Build Community Trust and Justice, and the department went through the rigors of the implicit bias and procedural justice training. The Urban Institutes Justice Policy Center did before and after measurement in all six pilot cities to gauge attitudes towards police behavior, and four cities saw slight improvement in what people thought of their police. In one city, attitudes remained unchanged, and in one city Pittsburgh -- the overall numbers went down. Im very sad to report that, but it reflects peoples belief that we arent seeing progress, here, yet. I think the leadership in our Department is good now, and the new chief, Scott Schubert, has doubled down on Chief McLays reforms. Its a question of time to see whether he can be successful.

STORY/CHAPTER

NEWS

STORY/CHAPTER

Transformative change, sent to your inbox.