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Policing Police

Anti-police sentiments have been steadily gathering steam, gaining new followers, and leading to calls for Civilian Review Boards. But such boards are counterproductive.



On October 20, 2014, Chicago Police Officer Jason Van Dyke — along with at least eight other officers — responded to a call of a young black man breaking into cars. When Van Dyke arrived on the scene, that young man, Laquan McDonald, who was carrying a small folding knife, was walking down the street away from officers who had him mostly surrounded. Though no other officer on the scene felt the need to use lethal force, Van Dyke drew his weapon as soon as he exited his vehicle and began walking toward McDonald. Seconds later, he began firing at McDonald, who was walking away from him and was more than a road lane’s width away. By the time Van Dyke had been on the scene 30 seconds, he had fired 16 rounds into McDonald — the last 14 of those as McDonald lay dead or dying on the asphalt.

Because of the evidence, including an autopsy and a dash-cam video — which both conflicted with accounts offered by Van Dyke and some of the other officers in their official reports — Van Dyke was indicted by a grand jury on December 16, 2015. The charges were first-degree murder and official misconduct. When the case went to trial in September 2018, the charges were first-degree murder, official misconduct, and 16 counts of aggravated battery, one for each shot Van Dyke fired into McDonald.

On October 5, 2018, the jury found Van Dyke guilty of second-degree murder and 16 counts of aggravated battery with a firearm, but not guilty of official misconduct. They deliberated for less than eight hours and said the verdict only took as long as it did because they debated between first-degree murder and second-degree murder.

Van Dyke was sentenced to almost seven years in prison.

The murder of McDonald happened just two and a half months after the justifiable shooting of Michael Brown in Ferguson, Missouri, which sparked riots around the nation and led to increased interest in the Black Lives Matter movement and other anti-police campaigns. It also gave rise to the false “hands up, don’t shoot” narrative. That anti-police sentiment has only increased in the months and years since then.

Part of the anti-police climate that holds America in its grip is the narrative that *all* police officers and departments are corrupt and have free rein to run roughshod over the life, liberty, and property of citizens — especially minority citizens — because there is a lack of oversight. Enter, from stage left, the Civilian Review Boards (CRBs) being formed across the nation. Only they can provide that much-needed and sorely lacking oversight, according to those who reiterate the narrative.



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That narrative is based on several false assumptions. While the space allowed to this article does not allow a complete response to all of those, the most egregious of them should suffice to make the point.

First, while there are certainly police officers who violate both departmental policies and the law (as the example of Van Dyke shows), the assumption that *all* police officers are corrupt rests on an irreconcilable dichotomy — while it is understood by almost everyone that it is wrong to paint any group of people with a broad brush, that understanding is jettisoned if the group in question happens to be made up of men and women from various classes, races, and socio-economic backgrounds who all have in common only the simple fact that they wear a police uniform.

That broad brush ignores the salient fact — shown time and again — that the vast majority of police officers are dedicated professionals who stay within the boundaries of both departmental policy and the law in the performance of their duties.

Second, the “solution” of creating CRBs to provide oversight assumes — wrongly — that such oversight is not already in place.

It is correct that those entrusted with power need to be held accountable and kept in check — as Lord Acton said, “Power tends to corrupt, and absolute power corrupts absolutely” — but the reality is that there are already multiple layers of oversight in place to hold police accountable. Checks and balances abound.

For instance: Police departments have internal review boards; police chiefs investigate their own officers’ conduct; state police investigate criminal complaints against police officers; elected officials — including county commissions, city councils, mayors, and county sheriffs — have authority to hold police officers and departments accountable; state and county grand juries are able to hear cases and deliver indictments; and district attorneys can bring charges.

All of these can and do happen as a matter of routine. Again, the example of Van Dyke illustrates this point. Even with what appears to be an attempted coverup (including police refusing to release the video until a court order compelled the release), Van Dyke was indicted by a grand jury, prosecuted by a district attorney, judged by a jury of his peers, and found guilty. The system — comprised of those layers of oversight and other elements — worked.

Furthermore, the idea that CRBs are needed to provide oversight for police departments is itself a faulty idea. When a doctor is suspected of having acted improperly, he or she can be brought before a medical review board to determine the facts of the case. Those review boards are made up of doctors. Lawyers suspected of improper actions are brought before the Bar Association, made up of lawyers. Other professions have similar review boards made up of men and women in those professions.

When it comes to police, though, the plan for CRBs ignores the basic principle that review boards are best when they are made up of those who understand the requirements of the job. They know what the standards are and can recognize when they *are* and *are not* being met. Instead, CRBs are made up of a panel of civilians who have never worn a badge or had to make life-and-death decisions in a fraction of a second, but are empowered to judge that which they know not. While juries in -trials are likewise comprised of civilians who are not police officers, the differences are important: Juries are made up of randomly chosen peers while CRBs are made up of people who — usually for political reasons — volunteer for the position; juries hear all of the available evidence, for both the prosecution and the defense (including expert testimony), while CRBs routinely only consider “evidence” indicating the guilt



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of officers; and jury trials are presided over by a judge, whose job is to keep the trial on track and inform the jury of what can and cannot be considered “evidence,” while CRBs are given free rein to make up their own rules and define their own powers. In a jury trial, the power is divided between the prosecutor, the defense, the judge, and the jury. A CRB acts as prosecutor, judge, and jury while the “defense” is usually non-existent. Fortunately, its power stops short of that of executioner.

To make matters worse, since the narrative is that all police officers and departments are corrupt and untrustworthy, CRBs undoubtedly attract those who accept that false premise. In other words, an anti-police element is given authority over local police departments.

This is proving to be a bridge too far for many police officers. Case in point: Charlottesville, Virginia. Having withstood the constant barrage of anti-police sentiment from major media and within their own communities in the wake of the Unite the Right Rally that thrust their city and their department into the national spotlight in August 2017, officers are leaving the department over the newly formed CRB.

Police Chief RaShall Brackney told Charlottesville’s *Daily Progress* that her department is experiencing a “mass exodus.” “It seems like, I think, on average, one to two officers a week are leaving the department,” said Brackney, who took over the department in June 2018. She replaced Al Thomas, who “retired” in December 2017 due to criticism over the way his department handled the violence that broke out during the Unite the Right Rally.

Chief Brackney — the department’s first black female chief — has more than 30 years’ experience in law enforcement. She served as a member of the Pittsburgh Police Bureau command staff before serving as police chief for the George Washington University Police Department for three years. From Pittsburgh to D.C., Chief Brackney has served in some of America’s toughest cities. Her experience in serving those communities means that she likely understands the divisive issues facing Charlottesville.

She was hired after the city council had already voted to form a CRB. At the city council meeting where she was introduced to the community, it was immediately apparent that she was inheriting a hornet’s nest. Comments from citizens were dominated by discussion of the August 2017 rally and violence. Brackney was challenged by pro-CRB activists. As the *Daily Progress* reported:

In her brief remarks after she was introduced, Brackney asked the public to be patient during her transition to the police department, “and remember there are human beings behind each and every one of the statements we make toward and about each other.”

One activist, Rosia Parker, addressed the council, saying that she no longer has any patience for police and city officials. Then, she addressed Brackney directly, saying, “I appreciate you coming, but are you truly ready?”

This is the climate in which CRBs are created: distrust, frustration, and anger based on the false narrative that all police are corrupt and city officials will not hold them accountable. Evidence of this is seen in the fact that when CRBs are impaneled, they are populated by the very people who see the police as enemies, as we will show later in this article.

To make matters worse, the first order of business for the new CRB is to write its own bylaws and choose a model for how much authority it will have.

Matthew Murphy at the Charlottesville Clerk of Council’s Office told *The New American* that the CRB there is still formulating its bylaws, which will spell out the authority of the CRB. He said that those



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bylaws will be submitted to the council for approval once they are finalized. The council will have the final say as to the approval of those bylaws and the CRB's authority.

In explaining the "mass exodus" in her department, Chief Brackney addressed what she calls a "toxic" environment for police officers. "Officers in our community are routinely verbally assaulted, they're cursed at. There's a lot of not feeling as though they're appreciated," she said. "We have it on video where people are cursing our officers, calling them names for no other reason than walking down the street."

That "toxic" environment has found a home in the newly formed CRB. Brackney said board members have been "vocal and biased" against officers on radio and television, saying officers' days are numbered and that the CRB is coming after them. "The officers do not believe that there's going to be any fair, impartial oversight," Brackney said. "It's well-documented how some of them have treated our officers, including me."

In fact, the Charlottesville CRB is made up largely of the usual suspects: anti-police activists.

Board member Katrina Turner, for instance, has made a name for herself as such. She was an active participant at the "counter-protest" during the Unite the Right Rally in August 2017. She has said, "No matter if we almost lost our life that day we're going to continue this fight — for as long as we can." Setting aside the overdone hyperbole of almost losing her life (there is no indication that Turner was the victim of *any* violence at the rally), one thing is clear: Turner is an activist with strong views about what it means to "continue this fight." And strong views about who the enemy is. Days after the rally, she addressed a group of activists while wearing a Black Lives Matter shirt. "About the police," she said, "We didn't trust the police before the rallies got here."

Carrying the "fight" onward, Turner has filed a complaint against Chief Brackney for approaching her outside a city council meeting in November 2018 while Turner was "helping a sick child." She claims Brackney attempted to intimidate her. She also claims that her son was pulled over for being black. Police stopped him and issued a warning for running a stop sign. Turner claims he got off with a warning "because ... I came out there and let them know I was with the CRB." Apparently, she does not understand the finer points of a conflict of interest. Or perhaps that conflict is her reason for being on the board.

Other board members, including Gloria Beard, Guillermo Ubilla, and Don Gathers (who recently resigned from the board due to health concerns) are leftist activists who have made similar anti-police statements.

So rather than stay in a community that is hostile toward them and their families while a CRB is preparing to stack the deck against them, officers are leaving to take positions in other communities. Predictably, replacing those officers is proving difficult. Recruitment is down for the same reasons attrition is up.

"We talk about that we want a diverse force, but if a person feels like they're not going to be welcomed in that community, that they're coming into a community where it's actively hostile towards them, it makes it a challenge to recruit," Chief Brackney said. "I think there's this assumption that these kinds of things are going to be heaped on our officers and that they're never going to say anything. They have family, they have friends and things of that nature."



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The net result is that with a declining police force, the communities most in need of police will have fewer police. If the trend continues, crime — especially violent crime — will likely increase in those communities. If the trend does not continue, it will be due entirely to the leadership of people such as Chief Brackney and the sacrificial dedication of those willing to weather the storm of a “toxic” environment. In other words, it will be in spite of — not because of — the CRB.

Law-enforcement agencies in communities are taking Charlottesville’s experience with its newly formed and not-quite-empowered CRB as a cautionary tale. On November 6, 2018, Nashville, Tennessee, approved the creation of a CRB for that city. The next day, the Nashville Fraternal Order of Police (FOP) issued a statement, e-mailed by President James Smallwood, that “the FOP ... believes that an expensive oversight board is an unnecessary redundancy that we simply cannot afford,” and, “While it is our intention to respect the rule of law and work with the administration as they implement this new legislation, we fully intend to stand alongside our members and ensure that their rights are preserved. They deserve nothing less.”

When the creation of the board was still in the works and awaiting approval, the FOP voiced concerns. Former FOP President Robert Weaver said, “It appears this board is not set up for fact finding and truth finding. It appears this board is set up for some means of retaliation and retribution for a problem that doesn’t seem to exist.” Weaver’s claim of “a problem that doesn’t seem to exist” is a reference to what this writer pointed out earlier in this article: Layers of accountability and oversight already exist. As Weaver explained, “You already have the ability to file a complaint with an officer’s supervisor. You have the ability to file with the district attorney’s office, the US attorney’s office, or the TBI and the FBI. There is even recourse through civil courts if you believe you have been wronged.”

Weaver’s logical and correct argument was ignored by the powers that be. The CRB was approved and is moving forward. And that is causing concern for some in Nashville.

The *Tennessee Star* recently reported to its readers about the experience of Charlottesville and drew a comparison to what Nashville could expect once its CRB is impaneled and officially operating. The article pointed in particular to the “mass exodus” of police officers in Charlottesville.

And Metro Nashville Council member Steve Glover told the *Tennessee Star*, “They (the officers) will leave us. They will say bye. They already have a hard-enough job.” He added, “I’m not just talking about police. I am talking about first responders. Everyone. They will say bye because we apparently don’t appreciate them. I do appreciate them, but if we keep pushing and pushing and pushing as we are doing now then this is a dangerous place to go.”

Glover is correct in that the job police officers do is hard enough already. To add to that already difficult job the danger of being raked over the coals by unelected, unaccountable, anti-police activists is to ask too much. Of course, the anti-police activists that make up too-large a percentage of CRBs don’t care what police have to do. They see them as the enemy.



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