POLICE VIOLENCE, USE OF FORCE POLICIES, AND PUBLIC HEALTH

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I. INTRODUCTION

Racialized police violence[1] is a recurring issue.[2] Recent social movements have re-centered police violence as a subject of public discourse,[3] yet there has been little progress in reducing the number of people killed by police.[4] Without further efforts in research and legal reform, this everyday crisis will continue. Thus, material interventions designed to fundamentally shift police practices away from deadly engagements are greatly needed.[5]

These interventions have the potential to disrupt current policing practices that continue to determine which lives are valued—physically and discursively—and

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[1] We employ the term "police violence," as opposed to police brutality or another similar term, because we believe this to be a systemic, generalized problem, not one that is individuated and momentary. In addition, by "violence," we mean the "intentional use of physical force or power, threatened or actual, against oneself, another person, or against a group or community, that either results in or has a high likelihood of resulting in injury, death, psychological harm, maldevelopment or deprivation." WORLD HEALTH ORGANIZATION [WHO], WORLD REPORT ON VIOLENCE AND HEALTH, at 4 (2002), http://www.who.int/violence_injury_prevention/violence/world_report/en/summary_en.pdf.

[2] See, e.g., Nancy Krieger et al., Trends in US Deaths Due to Legal Intervention Among Black and White Men, Age 15-34 Years, by County Income Level: 1960-2010, 3 HARV. PUB. HEALTH REV. 1 (2015).

[3] *See* Alicia Garza, *A Herstory of the #BlackLivesMatter Movement*, THE FEMINIST WIRE (Oct. 7, 2014), http://www.thefeministwire.com/2014/10/blacklivesmatter-2/; *see generally* JEFF CHANG, WE GON' BE ALRIGHT 3 (2016) ("Race makes itself known in crisis, in the singular event that captures a larger pattern of abuse and pain. We react to crisis with a flurry of words and, sometimes, actions. . . . The cycle turns next toward exhaustion, complacency, and paralysis. And before long, we find ourselves back in crisis.").

[4] Kimbriell Kelly, *Fatal Shootings by Police Remain Relatively Unchanged After Two Years*, WASH. POST (Dec. 30, 2016), https://www.washingtonpost.com/investigations/fatal-shootings-by-police-remain-relatively-unchanged-after-two-years/2016/12/30/fc807596-c3ca-11e6-9578-0054287507db_story.html?utm_term=.a1ad32c1ba53.

[5] Nancy Marcus, *From Edward to Eric Garner and Beyond: The Importance of Constitutional Limitations on Lethal Use of Force in Police Reform*, 12 DUKE J. CONST. L. & PUB. POL'Y 53, 106 (2016) ("The collective conscience of this nation has driven a nationwide policing-reform movement to remedy the abuses, excesses, and systemic discriminatory practices in American policing. . . . It can no longer be a common or acceptable practice in this country for police to gun down or otherwise use deadly force against unarmed civilians . . . .").

which can be lost to incessant police violence.[6] While many strategies for addressing police violence have been proposed, existing discussions do not fully engage a primary factor in police violence and major barrier to accountability: use of force policies. These are the policies that codify the rules that govern the levels and types of force that police are permitted to use against citizens, including deadly force.[7] These rules are important because they are not only used to train police and guide their engagements with the community, but are also used as benchmarks when evaluating whether their use of force is excessive.[8]

This Article examines use of force policies that often precipitate and absolve police violence as not only a legal or moral issue, but distinctively as a *public health issue* with widespread health impacts for individuals and communities.[9] This public health framing can disrupt the sterile legal and policy discourse of police violence in relation to communities of color (where conversations often focus on limited queries such as reasonableness) by drawing attention to the health impacts of state-sanctioned police violence. This approach allows us to shift the focus from the individual actions of police and citizens to a more holistic assessment of how certain policy preferences put police in the position to not treat certain civilians' lives as carefully as they should. In sum, we seek to (1) develop an empirical understanding of the substance of existing use of force policies and (2) discuss how these policies relate to police violence in general and public health in particular.

Not unlike seat belt laws or mandatory vaccinations, we see use of force policy reform as a site where a public health law sensibility can create the conditions for increasing survivability and decreasing adverse health outcomes by minimizing the likelihood of police force use and its severity. Accordingly, our research questions are aimed at understanding how use of force policies, police violence, and public health intersect. We pursue this by conducting a content analysis of use of force polices from the twenty largest U.S. cities by population. Unlike previous use of force analyses, this qualitative assessment takes a "deep" look at the language used to confer and restrain police power, which provides a basis from which to think through the link between textual articulation, police practice, and community health outcomes. This content analysis is then put in conversation with existing literature to explore and hypothesize this link and opportunities for disruption in the name of improving health outcomes.

II. LITERATURE REVIEW

This Article attempts to connect literatures on use of force polices, police violence, and public health in order to note their intersection and to contextualize this research project. We briefly describe these literatures below.

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[6] See Osagie Obasogie & Zach Newman, Black Lives Matter and Respectability Politics in Local News Accounts of Officer-Involved Civilian Deaths: An Early Empirical Assessment, 2016 WIS. L. REV. 541, 544 (discussing the representative politics of police violence, specifically in terms of respectability as a valuating process).

[7] The National Institute of Justice notes "there is no single, universally agreed upon definition of use of force. The International Association of Chiefs of Police has described use of force as 'the amount of effort required by police to compel compliance by an unwilling subject.' Officers receive guidance from their individual agencies, but no universal set of rules governs when officers should use force and how much." Police Use of Force, NAT'L INST. JUSTICE (Nov. 29, 2016), https://www.nij.gov/topics/law-enforcement/officer-safety/use-of-force/pages/welcome.aspx.

[8] Id.

[9] When we use the term "public health," we are referring to that which "promotes and protects the health of people and the communities where they live, learn, work and play." What is Public Health? AM. PUB. HEALTH ASS'N, http://apha.org/what-is-public-health.

A. POLICE VIOLENCE AND USE OF FORCE POLICIES

The literature on the relationship between police violence and use of force policies is relatively sparse.[10] Existing scholarship largely focuses on the doctrinal relationship between U.S. Supreme Court Fourth Amendment jurisprudence and use of force policies.[11] Scholars have called this case law "deeply impoverished"[12] and stated that it requires an "overhaul."[13] Recently, the non-profit advocacy group Campaign Zero made advances in this area by producing significant work that empirically examines the relationship between use of force policies and police violence.[14]

First, Campaign Zero's "Police Use of Force Project" consists of reviewing the use of force policies of the largest urban police departments across the country to determine what rules police must abide by and whether these policies prevent police violence.[15] The authors empirically evaluate how many of the departments incorporate eight particular policies on use of force.[16] The eight policies include rules that establish force continuums and require officers to intervene and prevent other officers from using excessive force.[17] With data tracking how often these eight approaches appear in department policies, the researchers examine the connection between how restrictive department policies are (i.e. how many of the eight policies are in place) and the likelihood that officers in those departments kill civilians.[18] They found that each additional restriction was associated with a 15% reduction in killings and that an average department (that had already incorporated three policies) would see a 54% reduction in killings if they implemented all eight policies.[19] Their findings ultimately suggest that a department with all eight would kill 72% fewer people than one with zero.[20]

In another assessment, law professors Brandon Garrett (University of Virginia) and Seth Stoughton (University of South Carolina) wrote *A Tactical Fourth Amendment*, which was recently published in the *Virginia Law Review*.[21] The article primarily focuses on understanding the relationship between U.S. Supreme Court case law and use of force policies.[22] As part of their discussion of doctrine, the authors include an empirical analysis of the use of force policies at the fifty largest police

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[10] *See e.g.*, DERAY MCKESSON ET AL., CAMPAIGN ZERO, POLICE USE OF FORCE POLICY ANALYSIS (2016), *available at* https://static1.squarespace.com/static/56996151cbced68b170389f4/t/57e1b5cc2994ca4 ac1d97700/1474409936835/Police+Use+of+Force+Report.pdf; Samuel Sinyangwe, *Examining the Role of Use of Force Policies in Ending Police Violence* (2016), https://static1.squarespace.com/static/56996151 cbced68b170389f4/t/57e17531725e25ec2e648650/1474393399581/Use+of+Force+Study.pdf;   Brandon Garrett & Seth Stoughton, *A Tactical Fourth Amendment*, 103 VA. L. REV. 211 (2017); WILLIAM TERRILL ET AL., FINAL TECHNICAL REPORT DRAFT: ASSESSING POLICE USE OF FORCE POLICY AND OUTCOMES (2011), https://www.ncjrs.gov/pdffiles1/nij/grants/237794.pdf.

[11] See Garrett & Stoughton, supra note 10; Rachel Harmon, When is Police Violence Justified?, 102 NW. U. L. REV. 1119 (2008); see also Marcus, supra note 5; John P. Gross, Judge, Jury, and Executioner: The Excessive Use of Deadly Force by Police Officer, 21 TEXAS J. ON CIV. LIBERTIES & CIV. RTS 155 (2016).

[12] Harmon, *supra* note 11, at 1119.

[13] Garrett & Stoughton, *supra* note 10, at 52.

[14] *See Police Use of Force Project*, CAMPAIGN ZERO (Mar. 30 2016), http://useofforceproject.org/ #project.

[15] *See id.*; Sinyangwe, *supra* note 10, at 2; MCKESSON ET AL., *supra* note 10, at 3.

[16] MCKESSON ET AL., *supra* note 10, at 11-13.

[17] *Id.* at 3.

[18] *Id.* at 8-9.

[19] *Id.* at 9.

[20] Id.

[21] *See* Garrett & Stoughton, *supra* note 10.

[22] See id.

departments, which reveals that many policies are insubstantial and do not offer much in terms of actual guidance for officers.[23] Since use of force policies largely fail to contain detailed tactical methods that can provide officers with meaningful guidelines, the authors conclude that we must seek an updated and renewed constitutional standard in order to create a "tactical" Fourth Amendment.[24]

In addition, William Terrill, Eugene A. Paoline III, and Jason Ingram produced a report in 2011 discussing use of force policies.[25] Like Campaign Zero's work, they also found that there is a broad range in terms of the restrictiveness of policies.[26] While the majority of policies contained a force continuum, they found that the continuums were articulated in a variety of ways.[27] They could not identify a "standard practice" for constructing a policy.[28]

Taken together, these three projects show that many use of force policies are lacking in specificity and rigor, which provides an entry point to continue this timely discussion of force policies by approaching their content specifically through a public health framework. Our project seeks to expand upon this discussion by producing more data through an in-depth content analysis and then using this data to deepen our understanding of how these policies engender violence and thereby harm health. Ultimately, we intend to put use of force policies and police violence in conversation with public health literature in order to grasp how these policies connect with negative health outcomes, in terms of physical, social, emotional, and psychological impacts.

In addition to these projects, reform conversations from inside and outside the federal government have similarly focused on police use of force policies. First, the Department of Justice's (DOJ) investigation and recommendations regarding the Ferguson (Missouri) Police Department provided some important suggestions on use of force policies, including a reorientation toward de-escalation; using the least force necessary (avoiding unnecessary uses of force); increasing training; improving the depth of reporting and review; and identifying racial and other disparities in force usage.[29] Second, the President's Task Force on 21st Century Policing recommended "clear and comprehensive policies on use of force," including an emphasis on the "importance of de-escalation"; a stated "sanctity of life" philosophy; ongoing training (such as on shoot/don't shoot scenarios); and data collection.[30]

The Police Executive Research Forum (PERF), a police research and policy organization, has made similar recommendations as well.[31] In a 2012 report, PERF discusses topics such as "slowing down" an encounter so as to ensure perception issues (e.g. mistaking a cellphone for a gun) do not unnecessarily escalate a situation and the importance of collecting and analyzing use of force data in noticing patterns.[32] In a 2016 report, PERF lays out a set of "comprehensive" policy proposals, including

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[23] *See id.* at 29–34.

[24] *Id.* at 52. *See also* Seth Stoughton, *Law Enforcement's "Warrior" Problem*, 128 HARV. L. REV. F. 225, 232 (2015) ("Tactical restraint . . . teaches [officers] to approach every situation in a way that minimizes the threat of having it turn violent . . . .").

[25] TERRILL ET AL., *supra* note 10.

[26] *Id.* at iv ("Departments pick and choose, and tweak and adapt, in a multitude of ways – all unfortunately, with no empirical evidence as to which approach is best or even better than another.").

[27] *Id.* at iii.

[28] Id.

[29] U.S. Dep't of Justice, Investigation of the Ferguson Police Department 93 (2015).

[30] President's Task Force on 21st Century Policing, Final Report of the President's Task Force on 21st Century Policing 1, 2, 19, 21, 87 (2015).

[31] *See* Police Exec. Research Forum, An Integrated Approach to De-Escalation and Minimizing Use of Force 35-38 (2012); Police Exec. Research Forum, Guiding Principles on Use of Force 34-35 (2016).

[32] An Integrated Approach to De-Escalation and Minimizing Use of Force, *supra* note 31, at 36–37.

emphasizing the "sanctity of human life" in a policy; considering the reasonableness standard in *Graham v. Connor* as a floor and not a ceiling by going beyond this constitutional bare minimum and implementing substantive policies; ensuring proportionality; making de-escalation a formal agency policy (especially for tactical reasons); requiring intervention when other officers use excessive force; giving first aid; prohibiting the shooting at vehicles; documenting force; and using the "Critical Decision-Making Model."[33]

B. POLICE VIOLENCE AND PUBLIC HEALTH

While there is important literature speaking to the relationship between public health and police violence broadly, much more work in this area is needed.[34] The existing literature provides a helpful starting point in thinking about police violence as a public health problem.[35] Yet, critical gaps remain. We aim to contribute to this conversation by pushing the discussion to encompass what we consider to be a fundamental cause of police violence: use of force policies.

There is a broad range of empirical arguments made that support the conclusion that police violence connects to public health. Existing literature has argued that the physical and mental impacts of police violence should lead us to regard it as a public health issue.[36] Jennifer Jee-Lyn García et al. argue that a public health perspective that recognizes that "racism is a social determinant of health" is a needed addition to the police violence discussion.[37] Similarly, Hannah Cooper and Mindy Fullilove contend

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[33] Guiding Principles on Use of Force, *supra* note 31, at 79.

[34] *See HPHR Editorial: Racism is a Public Health Problem*, HARV. PUB. HEALTH REV. (2015), http://harvardpublichealthreview.org/hphr-editorial-racism-is-a-public-health-problem/ ("[L]iterature concerning police violence has been sparse and the discourse surrounding these issues has been limited within the public health community.").

[35] Hannah Cooper et al., *Characterizing Perceived Police Violence: Implications for Public Health*, 94 AM. J. OF PUB. HEALTH 1109, 1109 (2004) ("While public health researchers have extensively documented multiple health problems associated with physical, sexual, and psychological violence, research regarding the health implications of police violence has stayed at the margins of public health."); Justin Feldman, *Public Health and the Policing of Black Lives*, HARVARD PUBLIC HEALTH REVIEW (2015), http://harvardpublichealthreview.org/public-health-and-the-policing-of-black-lives/ ("Policing is a critically important, but under-acknowledged determinant of health inequities."); Alecia McGregor, *Politics, Police Accountability, and Public Health: Civilian Review in Newark, New Jersey*, 93 J. OF URB. HEALTH 141, 142 (2016) ("A growing body of public health literature shows that police-perpetrated violence produces individual and collective trauma through neglect, physical abuse, and sexual abuse."); *Law Enforcement Violence as a Public Health Issue*, AMERICAN PUBLIC HEALTH ASSOCIATION (2016), http://apha.org/policies-and-advocacy/public-health-policy-statements/policy-database/2016/12/09/law-enforcement-violence-as-a-public-health-issue; David Love, *Racial Violence by Law Enforcement a Public Health Problem*, CNN (July 7, 2016), http://www.cnn.com/2016/07/07/opinions/racial-violence-police-public-health-problem-love/ ("[T]his violence is a public health issue, one that demands our attention and immediate action.").

[36] Cooper et al., *supra* note 35, at 1109, 1109 (2004) ("[T]he small but important body of work addressing police violence begins to provide an outline of its repercussions."); Justin M. Feldman et al., *Temporal Trends and Racial/Ethnic Inequalities in Emergency Departments: US Men and Women Age 15–34, 2001–2014*, 93 J. URB. HEALTH 797, 797 (2016) ("[P]ublic health and medical professional associations have identified police violence as an issue of concern . . . ."); Nadia Gaber & Anthony Wright, *Protecting Urban Health and Safety: Balancing Care and Harm in the Era of Mass Incarceration*, 93 J. URB. HEALTH S68, S70 (2016).

[37] Jennifer Jee-Lyn García & Mienah Zulfacar Sharif, *Black Lives Matter: A Commentary on Racism and Public Health*, 105 AM. PUB. HEALTH e27, e27 (2015) (discussing public health as "antiracist work"). *See also* Karishma Furtado & Kira Hudson Banks, *A Research Agenda for Racial Equity: Applications of the Ferguson Commission Report to Public Health*, 106 AM. J. PUB. HEALTH 1926, 1928 (2016); Chandra L. Ford, *Public Health Critical Race Praxis: An Introduction, An Intervention, and Three Points for Consideration*, 2016 WIS. L. REV. 477, 479.

that public health is about "increasing recognition that social policies shape patterns of health," which ought to include police violence.[38] Keon Gilbert and Rashawn Ray describe how important a Public Health Critical Race Praxis is in understanding racialized police violence and how it impacts health inequalities.[39]

Other scholars pinpoint precise health equity issues that manifest in certain communities that face police violence as a public health issue. Amanda Geller et al. note the implications of police violence on the mental health of young urban men, including emotional trauma and anxiety, and conclude that "less invasive tactics" are necessary to "reduce any psychological harms to individuals."[40] Marisela Gomez finds that increased police violence leads to more stress and worry, which in turn means further community fragmentation and negative health impacts.[41] Jonathan Hutto and Rodney Green speak to the intersection of police violence, mental health, and public health.[42] Last, the American Public Health Association (APHA) discusses police violence as a public health problem, calling for nine policy changes designed to reduce police violence, ranging from the collection and monitoring of statistics by public health personnel to full public disclosure of all force investigations.[43]

In sum, the existing public health discussion regarding police violence has yet to specifically engage with use of force policies. By examining use of force policies as a point of intervention and reform that can disrupt normalized police violence and improve health outcomes, our research contributes to the existing literature through developing a discussion that emphasizes use of force policies as an important factor in understanding police violence and public health. Hence, while the legal literature links use of force polices to police violence and public health literature links police violence to detrimental health impacts, we seek to extend and connect these arguments by embracing an empirically informed public health law approach that highlights use of force policies as a particular site where legal mandates to minimize force use and severity can improve public health outcomes.

III. QUALITATIVE ANALYSIS

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[38] Hannah L. F. Cooper & Mindy Fullilove, *Editorial: Excessive Police Violence as a Public Health Issue*, 93 J. URB. HEALTH S1, S1 (2016).

[39] Keon L. Gilbert & Rashawn Ray, Why Police Kill Black Males with Impunity: Applying Public Health Critical Race Praxis (PHCRP) to Address the Determinants of Policing Behaviors and 'Justifiable' Homicides in the USA, 93 J. URB. HEALTH S122, S122 (2016). See also Chandra L. Ford, supra note 37, at 477. See generally McGregor, supra note 35, at 142 ("The effects of police violence on African Americans are also among several drivers of health disparities . . . .").

[40] Amanda Geller et al., Aggressive Policing and the Mental Health of Young Urban Men, 104 AM. J. PUB. HEALTH 2321, 2321 (2014). See also R. Staggers-Hakim, The Nation's Unprotected Children and the Ghost of Mike Brown, or the Impact of Police Killings on the Health and Social Development of African American Boys, 26 J. HUM. BEHAV. SOC. ENV'T 390 (2016).

[41] Marisela B. Gomez, Policing, Community Fragmentation, and Public Health: Observations from Baltimore, 93 J. URB. HEALTH S154, S164 (2016).

[42] Jonathan W. Hutto & Rodney D. Green, Social Movements Against Racist Police Brutality and Department of Justice Intervention in Prince George's County, Maryland, 93 J. URB. HEALTH S89 (2016). See also J.E. DeVylder et al., Prevalence, Demographic Variation and Psychological Correlates of Exposure to Police Victimization in Four US Cities, EPIDEMIOLOGY AND PSYCHIATRIC SCI. 1 (2016); Abigail A. Sewell & Kevin A. Jefferson, Collateral Damage: The Health Effects of Invasive Police Encounters in New York City, 93 J. URB. HEALTH S42 (2016).

[43] *Impact of Police Violence on Public Health*, AM. PUB. HEALTH ASS'N (2016). On data collection and record-keeping, see also Nancy Krieger et al., *Police Killings and Police Deaths Are Public Health Data and Can Be Counted*, PLOS MED. 1, 2 (2015); Cooper et al., *supra* note 35, at 1116; Joseph B. Richardson et al., *Who Shot Ya? How Emergency Departments Can Collect Reliable Police Shooting Data*, 93 J. URB. HEALTH 8, 16 (2016).

The purpose of this research is to collect data that allows us to illuminate a basic question: What do use of force policies contain? The first step in connecting these policies with public health is to know what is in them—the good and bad. With this data, we can begin to answer our more normative questions concerning what these policies *should* contain. This will help us reflect on these policies' public health consequences in order to make an initial assessment of which approaches are preferable in terms of preventing violence and preserving life.

A. METHODS

In this analysis, we sought to empirically examine the similarities and differences between use of force policies through a content analysis. Campaign Zero hosts an online database of use of force policies from many US cities.[44] We used a subset of this database, focusing on the use of force policies from the twenty[45] largest U.S. cities. As discussed in Part II, we look to expand upon the work of Campaign Zero and others. To reiterate, Campaign Zero focused on the policies they found to be beneficial and then identified how often these policies were included. We intend to engage in a deeper, in-depth content analysis that looks at the frameworks and language used to understand the relationship between police violence and public health. Our codes are designed to capture a wide spectrum of practices (not just the beneficial rules) to obtain a more complete picture. While some of our codes are indeed for policies we do believe are useful, we wanted to have a sense of the range of qualities a policy might have, whether positive or harmful, for our assessment. These codes enable us to compare and contrast across policies so as to develop a more complete understanding of the differences/nuances in language and content and, thereby, understand the ways in which the text of the policies grant and restrict police power.

Specifically, this content analysis is designed to uncover the subtle as well as explicit ways policies incentivize and disincentive police behavior during an encounter. Some codes describe what an officer *should not* do (i.e. they negatively restrict a course of action by explicitly saying an officer should not do it), while others say what an officer *should* do (i.e. they positively articulate a range of actions an officer may take if reasonable to do so). Some codes capture regulations that strictly prohibit a course of action, such as a dangerous chokehold, while others provide a set of guidelines, like a force continuum. Altogether, these codes are designed to identify the range of policies that could be in a use of force policy, including both the positive (affirmative) and negative (restrictive) qualities a given policy could feature as well as the more general philosophies that a department might explicitly discuss.

The codes:
1. Reasonableness—whether the policy discusses the "reasonableness" standard.
2. Human life—whether the policy discusses the "value" or "sanctity" of human life.
3. Bias or prejudice—whether the policy states that the force policy is bias-free.

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[44] *See generally Use of Force Policy Database*, CAMPAIGN ZERO, http://useofforceproject.org/database/.

[45] The cities include (largest to smallest): New York City, Los Angeles, Chicago, Houston, Phoenix, Philadelphia, San Antonio, San Diego, Dallas, San Jose, Austin, Jacksonville, San Francisco, Columbus, Indianapolis, Fort Worth, Charlotte, Seattle, Denver, and El Paso. Population data obtained from the U.S. Census Bureau for 2016. U.S. Census Bureau, https://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?src=bkmk.

4. Force levels—whether the policy states levels of force an officer can use.

5. Resistance levels—whether the policy states levels of resistance by a citizen.

6. Force continuum or matrix—whether the policy discusses or includes a continuum, matrix, or other model describing levels of force in relation to resistance.[46]

7. De-escalation—whether the policy emphasizes de-escalation as a strategy to diminish the likelihood and severity of force.

8. Exhaustion of alternatives—whether the policy states an officer must attempt to use non-lethal force (or avoid force) before resorting to lethal force.

9. Proportionality—whether the policy states that force should be proportional to resistance.

10. Re-assessment—whether the policy states that an officer should re-assess, continuously.

11. Verbal warning—whether the policy notes that an officer should try to give a warning before using force.

12. Mental health—whether the policy includes a discussion of mental health and how mental health should influence the way an officer approaches an encounter.

13. No shooting at moving vehicles—whether the policy prevents officers from shooting at moving vehicles *unless* necessary to prevent imminent death or serious bodily injury.

14. No shooting at so-called "fleeing felons"—whether the policy prevents officers from shooting at someone who is escaping or running away *unless* they believe it is necessary to prevent imminent death or serious bodily injury.

15. No dangerous chokeholds—whether the policy discourages officers from engaging in dangerous chokeholds *unless* deadly force is authorized.

16. Reporting excessive force—whether the policy requires officers to report the use of excessive force by another officer.

17. Intervening against excessive force—whether the policy requires officers to intervene when another officer uses excessive force.

18. Medical aid—whether the policy states that aid should be given or medical personnel summoned immediately.

B. FINDINGS

Across the use of force policies of the twenty largest cities,[47] there is generally a lack of substance and depth in conferring guidance, restriction, or description beyond the constitutional bare minimum articulated by the U.S. Supreme Court in *Graham v. Connor* that police use of force must be reasonable.[48] Policies over-rely on reciting the

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[46] *See* William Terrill et al., *A Management Tool for Evaluating Police Use of Force: An Application of the Force Factor*, 6 POLICE Q. 150, 154 (2003) ("Police departments often present and use a continuum as a guideline that promotes police escalation of force in 'small increments' in reference to the level of resistance encountered. Thus, to achieve citizen compliance (with respect to a force continuum), officers are encouraged to use a level of force that is commensurate to the level of citizen resistance encountered.").

[47] For a complete chart of our findings, see the Appendix.

[48] Graham v. Connor, 490 U.S. 386, 397 (1989) ("As in other Fourth Amendment contexts, however, the 'reasonableness' inquiry in an excessive force case is an objective one: the question is whether the

basic constitutional standard for police engagements without providing key protections for citizens.[49] Specifically, as noted in Appendix 1, policies largely fail to include discussions of substantive approaches and protections like force continua (45%), de-escalation (50%), exhaustion of alternatives (30%), proportionality (25%), or continuous reassessment (25%). (See section ii for more details.) Without these types of mandates, the textual articulations of how an engagement should proceed remain insubstantial, hollow, and broad in that they lack material guidance on how to either minimize the likelihood of force or the severity of that force. In effect, the content of these policies largely misses the mark in providing descriptive or detailed discussions of force usage that could delimit police power in a meaningful way and promote public health. These findings are further discussed below.

i. The Bare Minimum: Reasonableness and Basic Protections

Not surprisingly, each policy (100%) relied on the "objectively reasonable" standard articulated in *Graham*.[50] Policies might generally refer to this standard or specifically cite it. As an example of generally referring to the standard, the New York Police Department's (NYPD) force policy states: "In all circumstances, any application or use of force must be reasonable under the circumstances."[51] Fort Worth's policy cites the standard explicitly: "The use of reasonable force, when warranted, is permitted by law and is an affirmative duty and responsibility of police officers [Graham v Connor, 490 US 386, (1989)]."[52] While the fact that all of the policies cite to this standard is not unexpected, issues arise when the policy's content does not go beyond reciting the basic standard in describing the quality and quantity of force. Some policies did not go far beyond regurgitating the *Graham* standard and leaving their force policy at that,[53] which provides little to no actual guidance for officers in determining how and when to use force. Other policies included specific discussions aimed at articulating meaningful strategies.[54]

In addition to discussing the bare minimum standard, it is common for policies to discuss force levels (85%) and resistance levels (80%), which are two fairly basic elements to include in a force policy. These policies are basic in the sense that it is unsurprising that they articulate the levels of force an officer is able to use or the levels

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officers' actions are 'objectively reasonable' in light of the facts and circumstances confronting them, without regard to their underlying intent or motivation."); *see also* Tennessee v. Garner, 471 U.S. 1 (1985).

[49] *See, e.g.*, FORT WORTH POLICE DEP'T, GEN. ORDERS § 306 (2000), https://static1.squarespace.com/static/56996151cbced68b170389f4/t/569ad6a605f8e2b24da11e46/1452988071334/Fort+Worth+Redacted+Use+of+Force+Policy.pdf.

[50] Another example of how policies refer to this standard is the San Jose Police Department's policy, which includes a discussion of what "objectively reasonable" means: "Objectively reasonable force is not judged with hindsight . . . . Important factors to be considered when deciding how much force can be used to apprehend or subdue a subject include, but are not limited to, the severity of the crime at issue, whether the subject poses an immediate threat to the safety of the officers or others and whether the subject is actively resisting arrest or attempting to evade arrest by flight." SAN JOSE POLICE DEP'T, POLICIES, RULES, AND PROCEDURES 236 (2004), https://static1.squarespace.com/static/56996151cbced68b170389f4/t/569ac02a1a520349a5086cdf/1452982356009/San+Jose+Use+of+Force+Policy.pdf.

[51] N.Y.C. POLICE DEP'T, FORCE GUIDELINES PROCEDURE NO. 221-01 at 2 (2016), https://www1.nyc.gov/assets/ccrb/downloads/pdf/investigations_pdf/pg221-01-force-guidelines.pdf.

[52] FORT WORTH POLICE DEP'T, *supra* note 53, at § 306.01.

[53] *See, e.g.*, L.A. POLICE DEP'T, USE OF FORCE POLICY, VOL. 1-556 (2015), http://www.lapdonline.org/lapd_manual/volume_1.htm (does not have *any* substantive policies like de-escalation or proportionality).

[54] *See, e.g.*, S.F. POLICE DEP'T, GEN. ORDER § 5.01 (2016), http://sanfranciscopolice.org/sites/default/files/Documents/PoliceDocuments/DepartmentGeneralOrders/DGO%205.01%20Use%20of%20Force%20%28Rev.%2012-21-16%29.pdf (includes *every* substantive policy like de-escalation, proportionality, re-assessment, exhaustion of alternatives, and a continuum).

of resistance that officer might face. As an example of text describing resistance levels, the Charlotte Police Department provides a range, from "non-verbal and verbal non-compliance" to "active aggression" to "aggravated active aggression."[55] As an example of text on force levels, the San Jose Police Department briefly states that: "When confronted by force or resistance, an officer may use an objectively reasonable *higher level of force* to overcome that resistance" (emphasis added).[56] While elementary, articulating a sense of force and resistance levels provides officers with a cognizable scale to think through in relation to the resistance presented.

It is also important to note that while a policy may technically refer to force or resistance levels, this language may be quite cursory, as noted above in the San Jose example. The Austin Police Department's policy, as another example, *technically* does contain text referring to force levels and resistance levels[57] but it fails to be explanatory in a meaningful way. In addition to not discussing these different levels in depth, the Austin policy is also an example of a policy that does not include any of the five substantive policies.[58] Thus, while many policies talk about force and resistance levels to at least a *degree*, this is a fairly simple element of a force policy that is often articulated in a superficial fashion. This leaves us with many policies (1) talking about *Graham* and (2) discussing force and resistance levels to a degree but then failing to take the next step that would provide meaningful terminology or descriptions that focus on minimizing the likelihood and severity of force.

Furthermore, there are a few core protections that speak to the permissibility of *specific tactics* that are worth noting in light of these policies largely failing to incorporate the five substantive policy commitments discussed above and in Part ii. This includes not shooting at moving vehicles (90%),[59] not using deadly chokeholds unless fatal force is allowed (40%),[60] not shooting at someone running away ("fleeing

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[55] *See, e.g.*, CHARLOTTE-MECKLENBURG POLICE DEP'T, INTERACTIVE DIRECTIVES GUIDE § 600-018 (2013), https://assets.documentcloud.org/documents/2661081/Charlotte-Police-Department-Directives-2015.pdf ("If feasible, an officer will identify him or herself as a police officer and issue a verbal warning before using deadly force."). In addition, some polices discuss other verbal engagements that go beyond merely warning someone that force will be used. For example, the Seattle Police Department's force policy emphasizes, as part of the philosophy of de-escalation, communication, verbal persuasion, and advisement, specifically referring to a verbal technique called "Listen and Explain with Equity and Dignity (LEED)." SEATTLE POLICE DEP'T, SEATTLE POLICE DEP'T MANUAL § 8.100 (2015), http://www.seattle.gov/police-manual/title-8---use-of-force/8100---de-escalation.

[56] SAN JOSE POLICE DEP'T, *supra* note 54, at 238.

[57] AUSTIN POLICE DEP'T, POLICY MANUAL 1, 49 (2015), https://static1.squarespace.com/static/56996151cbced68b170389f4/t/569abb6e25981de028ab67e6/1452981151162/Austin+Police+Policies.pdf. In terms of force levels, the Austin Police Department's offers little textual discussion about force levels but indirectly states: "*While the type and extent of force may vary*, it is the policy of this department that officers use only that amount of objectively reasonable force which appears necessary under the circumstances to successfully accomplish the legitimate law enforcement purpose in accordance with this policy . . . ." *Id.* (emphasis added). In terms of resistance levels, the discussion is also limited: it generally refers to "verbal and/or passive resistance to arrest," which distinguishes between forms of resistance. *Id.* at 64. Hence, this example demonstrates both the fact that Austin fails to provide substantive policies beyond the basics but also that, even when textually articulating a sense of force and resistance levels, the policy fails to provide much detail on how an officer should go about diagnosing a situation and selecting the proper amount of force to use in that moment.

[58] *Id.* at 48-116.

[59] *See, e.g.*, L.A. POLICE DEP'T, *supra* note 57. ("Firearms shall not be discharged at a moving vehicle unless a person in the vehicle is immediately threatening the officer or another person with deadly force by means other than the vehicle.")

[60] *See, e.g.*, SAN JOSE POLICE DEP'T, *supra* note 54, at 248 ("A chokehold may only be used by an officer as a deadly force option . . . when objectively reasonable to protect themselves or others from an imminent threat of death or serious bodily injury.").

felons") unless they might use deadly or severe force (80%),[61] and providing a warning before force is used (85%).[62] While these are all "police tactics" in the broad sense, this particular tactical guidance differs slightly from the broader substantive commitments (discussed in Part ii) in their level of implementation. Although policies may include these tactical measures, their specificity may not provide material restrictions since the relative absence of upstream substantive protections such as exhausting alternatives and continuous reassessment might unnecessarily create the conditions for using force in a way that aligns with exceptions in these further downstream, on-the-ground tactical guidelines. For example, policies that do not have substantive protections like force continua or de-escalation may be more likely to put officers in tragic situations where exceptions to the downstream tactical guidelines may permit a deadly response (e.g. shooting a fleeing felon or using a chokehold) that could have been avoided had upstream substantive commitments such as proportionality been in place.[63]

ii. Neglect of Substantive Protections Beyond the Bare Minimum: Force Continua, De-Escalation, Exhaustion of Alternatives, Proportionality, and Reassessment

Overall, the policies surveyed neglect substantive protections. First, policies contained a force continuum or matrix only forty-five percent of the time. This means that the majority of the policies did not include textual or visual aids describing some kind of continuum along which an officer should increase or decrease force relative to resistance. For example, the Chicago Police Department force policy states that it "utilizes a Use of Force Model to provide guidance on the appropriate amount of force to be used to effect a lawful purpose" and that the model "employs the progressive and reasonable escalation and de-escalation of member-applied force in proportional response to the actions and level of resistance offered by a subject."[64] The policy includes a visual aid signifying this process.[65] Thus, more than half of the policies that we reviewed fail to include this content designed to aid officers in thinking about force as a continuum along which they can operate.

Second, text on de-escalation was present just fifty percent of the time. The NYPD describes de-escalation as: "Taking action in order to stabilize a situation and reduce the immediacy of the threat so that more time, options, and/or resources become available. . . . The goal is to gain the voluntary compliance of the subject,

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[61] *See, e.g.*, HOUS. POLICE DEP'T, GEN. ORDER NO. 600-17 (2008), https://static1.square space.com/static/56996151cbced68b170389f4/t/5787446f20099e84c6357e0e/1468482674849/houston_use_ of_force_unredacted.pdf ("Officers are prohibited from . . . [f]iring at fleeing suspects who do not represent an imminent threat to the life of the officer or another."). Another reason why inclusion of the "fleeing felon" rule is that it is part of U.S. Supreme Court jurisprudence. In *Tennessee v. Garner*, the Court held that someone fleeing but who did not pose a threat could not be subjected to deadly force. Tennessee v. Garner, 471 U.S. 1, 3 (1985). See Garrett & Stoughton, *supra* note 10, at 3, for a more in-depth discussion.

[62] *See, e.g.*, SAN DIEGO POLICE DEP'T, PROC. NO. 1.04 at 6 (2013), https://static1.squarespace.com/ static/56996151cbced68b170389f4/t/569bec23be7b96bf77342043/1453059111335/San+Diego+Use+of+For ce+Policy.pdf ("A verbal warning to submit to the authority of the officer shall be given prior to the use of a firearm, if feasible, and if doing so would not increase the danger to the officer or other persons.").

[63] *See, e.g.*, CITY OF JACKSONVILLE OFFICE OF THE SHERIFF, GEN. ORDER LXXII.6, https://static1.squarespace.com/static/56996151cbced68b170389f4/t/569ad8e557eb8d0f11460d46/14529886 52459/Jacksonville+Use+of+Force+Policy (provides for three of these tactical restrictions but fails to provide *any* of the substantive protections discussed in the next section).

[64] CHI. POLICE DEP'T, GEN. ORDER 03-02-1 (2012), https://static1.squarespace.com/static/ 56996151cbced68b170389f4/t/569ad33be0327c41cd983604/1452987210800/Chicago+Use+of+Force+mod el.pdf.

[65] Id.

when appropriate and consistent with personal safety, to reduce or eliminate the necessity to use force."[66] Another example of de-escalation is from the San Francisco Police Department's policy, which states that police will "when feasible, employ de-escalation techniques to decrease the likelihood of the need to use force during an incident and to increase the likelihood of voluntary compliance."[67] This language specifically notes that de-escalation is about more than just using less force or less severe force, it is about increasing options and, ultimately, trying to avoid the use of force, fatal or non-fatal. Hence, such language is missing from half of the policies we reviewed.

Third, exhaustion of alternatives was present in only thirty percent of policies. For example, the San Francisco Police Department's (SFPD) policy states: "It is the policy of this Department to use deadly force only as a last resort when reasonable alternatives have been exhausted or are not feasible to protect the safety of the public and police officers."[68] Similarly, the Seattle Police Department's policy states: "Officers will use physical force only when no reasonably effective alternative appears to exist, and only then to the degree which is reasonable to effect a lawful purpose."[69] Yet, the vast majority of policies do not contain directives that police should seek non-violent resolutions before using force.

Fourth, proportionality is a concept included in a minority of policies as well (twenty-five percent). An example of proportionality can be found in SFPD's policy: "Proportionality. When determining the appropriate level of force, officers shall, when feasible, balance the severity of the offense committed and the level of resistance based on the totality of the circumstances known to or perceived by the officer at the time."[70] Similarly, the Seattle Police Department's force policy states that the use of force should be proportional. In order to do so, "the level of force applied must reflect the totality of circumstances surrounding the situation," which "does not require officers to use the same type or amount of force as the subject" but clarifies that the "more immediate the threat and the more likely that the threat will result in death or serious physical injury, the greater the level of force that may be proportional, objectively reasonable, and necessary to counter it."[71] Again, 3/4 of the policies we reviewed did not include a discussion of proportionality.

Fifth, only some policies require continual reassessment during an encounter (25%). For example, the Houston Police Department's force policy states: "It is the duty of all employees to constantly assess the situation and adjust the use of force accordingly."[72] Similarly, the Seattle Police Department's force policy states that officers should "continually assess the situation and changing circumstances and modulate the use-of-force appropriately."[73] Thus, most of the policies we reviewed are devoid of language mandating officers to reassess a situation throughout, which does not create the sensibility that force use can fluctuate during an encounter.

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[66] N.Y.C. POLICE DEP'T, *supra* note 55, at 2.

[67] S.F. POLICE DEP'T, *supra* note 58, at 1.

[68] *Id.* at 11.

[69] SEATTLE POLICE DEP'T, *supra* note 59, at § 8.200.

[70] S.F. POLICE DEP'T, *supra* note 58, at 2. The policy goes on to say that it "is particularly important that officers apply proportionality and critical decision making when encountering a subject who is armed with a weapon other than a firearm," which is a particularly important component of proportionality.

[71] SEATTLE POLICE DEP'T, *supra* note 59, at § 8.200, http://www.seattle.gov/police-manual/title-8---use-of-force/8200---using-force.

[72] HOUS. POLICE DEP'T, *supra* note 65.

[73] SEATTLE POLICE DEP'T, *supra* note 59, at § 8.000, http://www.seattle.gov/police-manual/title-8---use-of-force/8000---use-of-force-core-principles.

Consequently, the fact that these five important policies that encourage thoughtfulness among officers were largely absent indicates a lack of substance and depth in many use of force policies. In effect, these are policies that incentivize restraint and care. Yet, overall, the content of most use of force policies in this dataset are insubstantial and lack fundamental yet essential safeguards for individuals interacting with police. Without these protections, we are left with superficial and perfunctory policies that confer little to no guidance or tangible tactics for minimizing force severity and frequency. This allows for unnecessary loss of life and other public health harms.

iii. Other Important Qualities: Officer Intervention and Reporting, Medical Aid, and General Philosophical Statements

First, only 30% of policies mandate that an officer should intervene to stop another officer when that officer uses clearly excessive force and only 35% require an officer to report another officer using such force. In the NYPD policy, for example, officers are required to "intervene to stop another member of the service from using excessive force. Failure to intervene in the use of excessive force, or report excessive force . . . is serious misconduct that may result in criminal and civil liability and will result in Department discipline."[74] Austin, for example, includes a mandate that: "Any officer present and observing another officer using force that is clearly beyond that which is objectively reasonable under the circumstances shall . . . intercede to prevent the use of such excessive force" and "report these observations to a supervisor."[75] Hence, the majority of policies do not contain this kind of language requiring officers to intervene or report when they see excessive force.

Second, while the provision of immediate medical aid seems like an obvious duty, twenty percent of policies do *not* include language stating that officers should either perform first aid or summon medical personnel when police force results in injury.[76] Third, a number of policies include a statement regarding their general philosophy on the "sanctity of human life" (75%) and that they are bias- or prejudice-free (15%).[77] For example, the Phoenix Police Department's force policy states that the department "respects the dignity of all persons and recognizes the sanctity of human life, rights, and liberty."[78] Relatedly, a few policies include a statement on bias. The Austin Police Department's policy states that it "recognizes and respects the value of all human life and dignity *without prejudice* to anyone."[79] SFPD's policy contains a statement on "fair and unbiased policing": "Members shall carry out their duties, including the use of force, in a manner that is fair and unbiased[.]"[80] Whether these proclamations mean anything substantive is unclear. Nevertheless, it may at least be significant to police culture for a policy to self-identify as upholding these values.

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[74] N.Y.C. POLICE DEP'T, *supra* note 55, at 2.

[75] AUSTIN POLICE DEP'T, *supra* note 61, at 49.

[76] *See, e.g.*, INDIANAPOLIS METRO. POLICE DEP'T, GEN. ORDER 1.30 at 7 (2012), http://interactives.indystar.com/static/PDF/IMPD/IMPD%20use%20of%20force%20policy.pdf (stating that "medical assistance shall be obtained for any person who has sustained visible injury, expressed a complaint of injury, continuing pain or serious bodily injury" when force has been used).

[77] *See, e.g.*, PHX. POLICE DEP'T, OPERATIONS ORDER 1.5 (2016), https://www.phoenix.gov/police site/Documents/operations_orders.pdf.

[78] Id.

[79] AUSTIN POLICE DEP'T, *supra* note 61, at 48 (emphasis added).

[80] S.F. POLICE DEP'T, *supra* note 58, at 2.

C. Discussion

By focusing on use of force policies, this Article seeks to encourage intervention and reform at the earliest point in the policing process: the determination of the rules and regulations that govern police behavior. The brutality and killings we see are enabled, and encouraged, by the vague and unrestrictive language of largely *laissez-faire* policies that often fail to include substantive text beyond bare constitutional requirements. By intervening at this point in the policing process, we can directly target what we believe to be a key issue causing police violence and harmful health outcomes, i.e. inadequate policies that fail to sufficiently protect civilians from aggressive and unnecessary violence that, in turn, hurts people and communities. Targeting these problematic policies allows us to encourage a shift in the current paradigm toward a new approach whereby the frequency of force, as well as the severity of that force, is decreased through health-centered policies designed to minimize harm.

With this qualitative data, we now have a better picture of existing policies' content. It is becoming clear that these policies largely fail to contain substantive text and language that provide real guidance on how to manage a situation to potentially reduce the likelihood and amount of harm. We can empirically see that there are copious opportunities to require different behaviors from police that may lead to a decrease in the quantity and severity of use of force incidents and thus improve health outcomes. As a whole, existing policies are lacking in harm minimization and life-preservation strategies that have critical implications for public health. Such strategies can offer guidance to officers on how to understand force continuums, de-escalate situations in order to decrease the likelihood of force, use the least force possible by exhausting reasonable alternatives, focus on proportionality, and continuously re-assess how much force is necessary.

In light of this content analysis, our conclusion is that police violence is at least partially precipitated by these flawed use of force policies that allow officers to produce the quantity and severity of force that they currently do. These policies permit aggression and deadly force to be used often and, as an axis on which violence turns, are implicated in approaching police violence as a public health crisis. There are many variables that lead to violent police/community interactions, and it would be overly optimistic to conclude that policy change alone will eradicate poor decisionmaking among officers. Yet, this qualitative data suggests that changing these policies—thereby cabining police latitude—can be an important step in creating the conditions for decreasing violence and, consequently, reducing its health impacts.[81]

Simply put, because the violence enabled by these policies results in both physical and mental harm, it is an issue that impacts the public's health.[82] Police violence is violence that ends lives, cracks backs, crushes windpipes, and causes stress and trauma.[83] This violence means increased premature death and physical injury as well as decreased psychological and emotional well-being.[84] The current force paradigm

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[81] Sinyangwe, *supra* note 10.

[82] *See, e.g.*, Cooper et al., *supra* note 35; Cooper & Fullilove, *supra* note 38; García & Sharif, *supra* note 37; Am. Pub. Health Ass'n, *supra* note 35.

[83] *See generally* Ta-Nehisi Coates, Between The World And Me 9 (2015) ("Sell cigarettes without the proper authority and your body can be destroyed. Resent the people trying to entrap your body and it can be destroyed. Turn into a dark stairwell and your body can be destroyed. The destroyers will rarely be held accountable. Mostly they will receive pensions.").

[84] *See* Cooper et al., *supra* note 35; Cooper & Fullilove, *supra* note 38, at S2 ("[L]iving in conditions of excessive police violence adversely affects health.").

results in loss of life and bodily injury, community disintegration and exclusion, and psychological and emotional trauma.[85] By providing officers with tremendous leeway and by not putting specific, descriptive, and meaningful protections in place to contain force, we are left with the excessive, unnecessary, and ethically repugnant moment we are in that is having a devastating impact on minority communities' health.

Without codifying stronger and more consistent limits on police use of force, a serious public health crisis emerges. This system permits, and legally sanctions, the excessive force we see that causes physical, emotional, affective, and mental harm on a daily basis – particularly in vulnerable communities. In order to decrease the chance of an adverse health outcome stemming from a police-citizen encounter, we need to disrupt the current set of rules that allow for increased risk of death, injury, and psychological harm[86] for individuals as well as broader communities.[87] Disrupting the norm of a police violence-produced public health crisis requires altering the rules and regulations of policing contained in use of force policies.[88]

Furthermore, race and class, through social geographies of health inequity, determine who is exposed to the risks of policing, and who suffers disproportionately as a result from this structural and institutional violence.[89] Namely, the hyper- and over-policing of urban areas results in increased surveillance, police presence, and, thus, exposure to the risks and dangers of a police encounter.[90] Because "[p]olicing is inherently spatial," there is a geographical dimension to the phenomenon of police violence, wherein some community members are subjected to higher and disproportionate rates of exposure to the risks of police interaction along race and class lines.[91] As a result, police violence manifests itself against precarious, excluded, and

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[85] *See* Colin Loftin, *Underreporting of Justifiable Homicides Committed by Police Officers in the United States, 1976–1998*, 93 AM. J. PUB. HEALTH 1117, 1117 (2003) ("Justifiable homicides committed by police officers are important in regard to public health because they have a distinctive etiology and because the intentional killing of citizens by an agent of the government has consequences for communities that go far beyond the immediate loss of life.").

[86] *See, e.g.*, Geller et al., *supra* note 40, at 2324 ("Although proactive policing practices target high-crime, disadvantaged neighborhoods, affecting individuals already facing severe socio-economic disadvantage, our findings suggest that young men stopped by the police face a parallel but hidden disadvantage: compromised mental health. We found that young men reporting police contact, particularly more intrusive contact, also display higher levels of anxiety and trauma associated with their experiences.").

[87] *See, e.g.*, Gomez, *supra* note 41, at 165 ("This study supports the hypothesis that policing results in community fragmentation. The results suggest that police violence increases the risk of negative health outcomes from chronic exposure to stressful environments and therefore is a public health threat, supporting previous studies on violence and public health threat [sic].").

[88] L. Song Richardson & Phillip Atiba Goff, *Interrogating Racial Violence*, 12 OHIO ST. J. CRIM. L. 115, 123 (2014) ("[R]ethinking policing practices in order to foster closer relationships between the police and the communities they serve holds some promise of reducing implicit dehumanization and the racial violence that results.").

[89] Devon Carbado & Patrick Rock, *What Exposes African Americans to Police Violence?*, 51 HARV. C.R.-C.L. L. REV. 159, 166 (2016); Gaber & Wright, *supra* note 36, at S69; PHILLIP ATIBA GOFF ET AL., THE SCIENCE OF JUSTICE: RACE, ARRESTS, AND POLICE USE OF FORCE (2016), http://policingequity.org/wp-content/uploads/2016/07/CPE_SoJ_Race-Arrests-UoF_2016-07-08-1130.pdf. *See generally* KEEANGA-YAMAHTTA TAYLOR, FROM #BLACKLIVESMATTER TO BLACK LIBERATION 19 (2016) ("Policing has always been racist and abusive . . . . These same racist practices inform policing today . . . .").

[90] *See* Sewell & Jefferson, *supra* note 42, at S54.

[91] Cooper & Fullilove, *supra* note 38, at S5. *See also* Ford, *supra* note 37, at 480 ("A socio-ecological framework, which is a heuristic that explains how factors operate at various levels of social life—the individual level, interpersonal level, familial, community, etc.—guides the study of the social determinants of health."); Gaber & Wright, *supra* note 36, at S69 ("[A]s #BlackLivesMatter and related discussions about police brutality remind us . . . the probability of subjection to such harm is disproportionately distributed among populations."); García & Sharif, *supra* note 37, at e27.

vulnerable communities based along the intersectional axes of class and race, within "racialized risk environments."[92]

The current use of force policy paradigm allows for minority lives to be extinguished easily, often with few repercussions apart from paid administrative leave. As Ruth Wilson Gilmore notes: "Racism, specifically, is the state-sanctioned or extralegal production and exploitation of group-differentiated vulnerability to premature death."[93] In this, use of force policies allow for racialized outcomes to be permitted and perpetuated, whereby killings and harm are normalized through empty regulations.[94] Through this paradigm, certain populations are subjected to an increased vulnerability to the premature death, harm, and psychological trauma that occur due to exposure to police violence.[95] In sum, this initial content analysis shows that these policies generally fail to go beyond the bare minimum to include meaningful protections, and that this has crucial implications for enabling this racialized police violence epidemic.

IV. CONCLUSION

Public health engagement with police violence is crucial.[96] By looking at police violence as a public health issue, we can think of police use of force policies as the rules that enable or restrict officers from being able to choose a course of action that affects the likelihood someone could survive a given encounter. As we see from our findings, very few policies contain the language and practices that could minimize harm and death and increase safety and survivability. In sum, this article calls for reform of use of force policies to favor life over death, and to ensure that there is a real and substantive infrastructure of harm minimization within these policies.

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[92] Hannah Cooper et al., *Population-Attributable Risk Percentages for Racialized Risk Environments*," 106 AM. J. PUB. HEALTH 1789, 1789 (2016); PHILLIP ATIBA GOFF ET AL., THE SCIENCE OF POLICING EQUITY 1, 15 (2016), http://policingequity.org/wp-content/uploads/2016/10/Austin_PDI_Report_2016_ Release.pdf ("Even when controlling for neighborhood levels of crime, education, homeownership, income, youth, and unemployment, racial disparities in both use and severity of force remained.").

[93] Ruth Wilson Gilmore, Golden Gulag: Prisons, Surplus, Crisis, and Opposition in Globalizing California 28 (2007).

[94] *HPHR Editorial: Racism is a Public Health Problem*, *supra* note 34 ("[R]acism has driven health inequities among historically underserved and marginalized populations nationwide, evidenced not only in the extraordinarily disparate rate at which Blacks are killed at the hands of the police compared to Whites, but also through inequities in environmental exposures, limitations in access to health care, and other factors that affect optimal health and well-being.").

[95] Gaber & Wright, *supra* note 36, at S70 ("[T]he harmful effects of policing are most frequently ravaged upon specific human bodies dwelling within specific geographies."). *See also* Andres F. Rengifo & Kurt Fowler, *Stop, Question, and Complain: Citizen Grievances Against the NYPD and the Opacity of Police Stops Across New York City Precincts, 2007–2013*, 93 J. URB. HEALTH S32, S33 (2016) ("This is of interest to the public health field as grievances reflect specific instances where the public not only acknowledges a specific form of police misconduct but also mobilizes the law for assistance. Further, it matters because negative interactions between the public and the police in connection to stops may have lasting psychological and physical health effects[.]").

[96] Cooper & Fullilove, *supra* note 38, at S6 (2016) ("A concerted public health push to eliminate excessive police violence is badly needed. This is not only a question of excess mortality but also a question of taking a stand for a law-abiding democracy in which all can prosper. We can point to all too many epidemics 'redlined' because they 'affected' people of color, ignoring the deeper truth of the interrelated web of existence. Let us move forward, charting a public health that really fights for the health of the whole public."); Krieger, *supra* note 43, at 2 ("Police killings, impunity, and health inequities are not new – and neither is the struggle against them. Their newfound visibility, however, brought about by a swelling social movement, creates a critical moment in which to press for constructive change. The time for action is now.").

APPENDIX 1

Frequency of All Use of Force Policy Codes
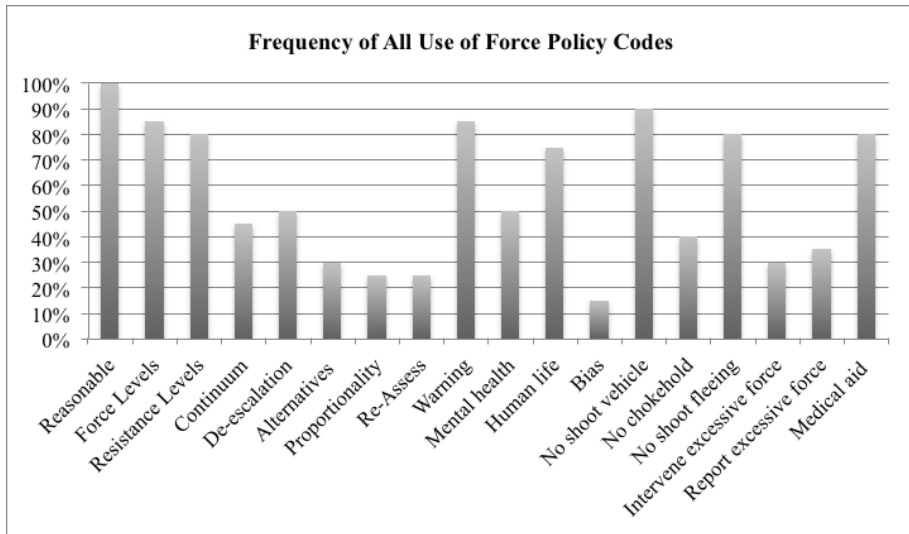
City	Reasonable	Force levels	Continuum	De-escalation	Exhaustion of alternatives	Proportionality	Re-assess	Verbal warning	Types of resistance	Mental health	Human life	Bias	No shoot vehicle	No choke holds	No shoot FF	Report E force	Intervention	Med aid
1. NYC	Y	Y	N	Y	N	N	Y	Y	Y	Y	Y	N	Y	Y	Y	Y	Y	Y
2. LA	Y	N	N	N	N	N	N	N	N	N	Y	N	Y	N	Y	N	N	N
3. CHICAGO	Y	Y	Y	Y	N	Y	Y	Y	Y	Y	Y	N	Y	Y	Y	N	N	Y
4. HOUSTON	Y	N	N	N	N	N	Y	N	N	N	N	N	Y	N	Y	N	N	Y
5. PHOENIX	Y	Y	N	Y	Y	N	N	Y	Y	N	Y	N	Y	N	Y	Y	Y	Y
6. PHI	Y	Y	Y	Y	N	Y	N	Y	Y	Y	Y	N	Y	Y	Y	Y	Y	Y
7. SAN ANTONIO	Y	Y	Y	Y	Y	Y	N	Y	Y	N	Y	N	Y	Y	Y	Y	Y	N
8. SAN DIEGO	Y	Y	Y	N	N	Y	N	Y	Y	N	Y	N	Y	N	Y	N	N	N
9. DALLAS	Y	Y	Y	Y	Y	N	N	Y	Y	N	Y	N	Y	N	N	N	N	Y
10. SAN JOSE	Y	Y	N	N	N	N	N	Y	N	N	N	N	Y	N	Y	N	N	Y
11. AUSTIN	Y	Y	N	N	N	N	N	Y	Y	Y	Y	Y	Y	N	Y	Y	Y	Y
12. JAX	Y	Y	N	N	N	N	N	Y	Y	N	N	N	Y	N	Y	N	N	Y
13. SF	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
14. COLUMBUS	Y	Y	Y	N	N	N	N	Y	N	N	N	N	Y	N	Y	N	N	Y
15. INDY	Y	Y	N	N	N	N	N	Y	Y	N	Y	N	Y	N	Y	N	N	Y
16. FORT WORTH	Y	N	N	N	N	N	N	Y	N	N	Y	N	N	Y	N	N	N	N
17. CHARLOTTE	Y	Y	Y	Y	N	N	N	Y	Y	Y	Y	N	Y	N	N	N	N	Y
18. SEATTLE	Y	Y	N	Y	Y	Y	Y	Y	Y	N	Y	N	Y	Y	Y	N	N	Y
19. DENVER	Y	Y	N	Y	Y	N	N	Y	Y	Y	Y	N	Y	N	Y	Y	N	Y
20. EL PASO	Y	Y	Y	N	N	N	N	Y	Y	N	Y	N	N	N	N	N	N	Y
	20/20	17/20	9/20	10/20	6/20	5/20	5/20	17/20	16/20	10/20	15/20	3/20	18/20	8/20	16/20	7/20	6/20	16/20