

Issue: AZ Police Reform

## Backsliding on Police Reform in Arizona

In 2020, throughout the entire country citizens galvanized by the death of George Floyd participated in Black Lives Matter marches and protests. As a result, state lawmakers across the country passed legislation to change policing standards in a number of problematic areas. *Stateline*, an initiative of The Pew Charitable Trusts, recently reported that: “Since May of 2020, when Floyd’s death became a national cause, more than 3,000 law enforcement-related bills have been introduced by state lawmakers, according to the National Conference of State Legislatures. Nineteen states have limited or eliminated neck restraints. Fifteen states addressed statewide standards for the use of force, and 15 created a duty to intervene for officers who witness a fellow officer using excessive force.”<sup>1</sup> But not so Arizona. Instead, the Republican-controlled Arizona legislature has voted down bills intended to increase police accountability and instead has affirmatively passed bills further shielding police officers and departments from oversight and accountability. So, while most of the country is moving forward on police reform and addressing racist and excessive use of force, Arizona has been backsliding to even further shield police officers accused of unnecessary violence against the public they are supposed to serve.

### Actions Nationwide on Police Reform

The deaths of Philando Castile, Breonna Taylor, and countless others prior to that of George Floyd, all at the hands of police officers, ignited a mass movement protesting a history of racial oppression by the police. “While comprising only 13 percent of the country, Black people face 21 percent of police contact, make up 33 percent of people behind bars, and are over three times more likely to be killed by the police than their white counterparts.”<sup>2</sup>

In response, more than 30 states have passed new police oversight and reform laws.<sup>3</sup> The reforms include:

- limiting officer immunity
- mandating or funding body cameras
- restricting neck restraints
- restricting no knock warrants
- requiring officers to intervene, report, or render medical aid in instances of police misconduct
- policies relating to law enforcement misconduct reporting and revocation of a person’s authorization to serve as a police officer<sup>4</sup>

Amber Widgery, a policy expert at the National Conference of State Legislatures, said, “many of the laws—restricting the use of force, overhauling disciplinary systems, installing more civilian oversight and requiring transparency around misconduct cases—give states far more influence over policing practices that have typically been left to local jurisdictions.”<sup>5</sup>

These states include Democratic states like Maryland, Washington, and California, but also states with a split between a Democratic governor and a Republican dominated legislature, including Kentucky,

Louisiana, and North Carolina.<sup>6</sup> But some states controlled by Republicans have moved in the opposite direction.<sup>7</sup>

## Arizona's Need for Police Reform

A database of deadly use of force by police over the past eight years, from 2013 through 2021, has been compiled by “Mapping Police Violence.” Arizona ranks fourth among all the states, with a rate of 60 deaths per one million for that time period.<sup>8</sup> Even worse is the record for Phoenix, Arizona’s biggest city. “When adjusting for the population of the 10 largest cities Phoenix has a deadly incident rate of 75 people killed per one million. This is nearly double San Antonio, the city ranked at number two that has a rate of 42 deaths per 1 million people. Phoenix’s rate is more than double the remaining eight cities on the list.”<sup>9</sup> The Phoenix police department has the highest rate for the use of deadly force of the ten most populous cities in America. Phoenix had the second highest rate of any department tracked in the data base.<sup>10</sup> In December the Arizona Republic reported that, “In 2018, Phoenix officers shot at more people than any other police agency in the nation. And 10 years of Phoenix police records released in 2020, revealed its officers were significantly more likely to use force against Hispanic, Black and Native American residents than white ones.”<sup>11</sup> In 2019, for example, Black and Native Phoenix residents faced force by the police at five times the rate white residents did.<sup>12</sup>

In 2021 this record resulted in the Department of Justice adding Phoenix to its list of cities being investigated for “pattern or practice” of discriminatory policing.<sup>13</sup> The DOJ is looking at five areas of concern:

1. Excessive and deadly force
2. How police handle protesters and journalists covering them
3. Discriminatory policing
4. City’s response to people with disabilities
5. Police response to homeless people<sup>14</sup>

## Police Reform Bills Which Failed in Arizona in 2021 and 2022

In the 2021 legislative session, the following bills, all proposed by Democrats, died in committee because the Republican majority refused to let them be considered for a vote:

- SB 1592, restrictions on use of force by police officer
- SB 1745, restrictions on use of force by police officer
- SB 1746, police officer database of disciplinary records
- HB 2591, elimination of qualified immunity as defense for police officers violating rights
- HB 2767, duty to intervene by a police officer against another
- HB 2768, creation of a police officer database of disciplinary records

In the 2022 legislative session House Democrats tried again to enact reforms rejected in 2021, with the following proposed bills which the Republicans would not vote out of committee:

- HB 2517, restrictions on use of force by police officer
- HB 2519, duty to intervene by a police officer against another

Also in this year’s session, the House Republicans actually proposed HB 2650, which passed in the House with bipartisan support. This bill would have established a new agency or division of the

Arizona Dept. of Public Safety to investigate police shootings and any other use of deadly force. It was essentially the same as proposals introduced in prior legislative sessions by the Democratic Minority Leader, Reginald Bolding, which the Republicans did not allow to advance. Apparently, the House Republicans only supported the proposal once one of their own proposed it.<sup>15</sup> However, the Senate Republicans evidently did not agree as the bill died in committee.

## Anti-Police Reform Bills Which Passed in Arizona in 2021

In contrast, here are bills which the Republican majority passed unanimously in 2021, with no votes from Democrats:

HB 2295 allows police officers to appeal decisions by prosecutors to place their names on the Brady list of dishonest officers that prosecutors must maintain as result of a 1963 Supreme Court ruling.

HB 2462 created a new requirement for service on civilian review boards which is that members must have 80 hours of law enforcement training.

HB 2550 requires that before taking a complaint about police misconduct, officers must provide the complainant with a notice that states that making false allegations to a police officer is a felony.

HB 2567 requires that 2/3 of any board or entity that investigates police misconduct be composed of police officers from the same department as the officer being investigated.

The ACLU described these actions in 2021 as follows:

“Advocates, community members, and public officials across Arizona have been reimagining our policing model to create greater transparency, accountability, and justice for people harmed by police violence. Unfortunately, leadership at the Arizona legislature literally worked overtime this session to undermine and destroy the positive progress groups have made toward reigning in the worst police practices.”<sup>16</sup>

At the very end of the 2022 session, Republicans passed yet another bill intended not to protect the public but to protect police officers from accusations by the public and from accountability for potentially illegal or discriminatory actions. HB 2319 prohibits the filming of police officers closer than eight feet unless given permission. A few exceptions were added to the bill at the end, presumably to try to protect it from First Amendment constitutional challenges: filming by the person being questioned, filming in an enclosed space on private property, and filming by the occupant of a car during a traffic stop. But even those exceptions are only allowed when not interfering with law enforcement activity, a judgment presumably left to the law enforcement officers present. Governor Ducey signed HB 2319 into law on July 6, with an effective date in September.

## Police Reform in Arizona Requires a Democratic Majority in both Houses

In summary, a majority of other states have passed laws in the past two years to address use of excessive force and lack of accountability by police officers, particularly with respect to their policing of minority communities. Arizona in particular has demonstrated a history of discriminatory and inappropriate policing, requiring police reform. Yet Arizona not only has not enacted police reform, as proposed by the Democrats in the legislature, but recently has passed a number of bills intended to further shield police officers from consequences for their actions. It is clear that the only way for Arizona to move toward equal and fair treatment of all its citizens by the police is to elect a majority

of Democrats in both the House and the Senate. It is Democratic legislators who will face up to Arizona's shameful history of police misconduct and protect its citizens going forward.

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<sup>1</sup> <https://www.pewtrusts.org/en/research-and-analysis/blogs/stateline/2021/07/27/summer-of-protest-prompted-spring-flurry-of-policing-bills>

<sup>2</sup> <https://www.brennancenter.org/our-work/research-reports/state-policing-reforms-george-floyds-murder>

<sup>3</sup> <https://www.brennancenter.org/our-work/research-reports/state-policing-reforms-george-floyds-murder>; <https://www.nytimes.com/2021/04/18/us/police-reform-bills.html>

<sup>4</sup> <https://www.brennancenter.org/our-work/research-reports/state-policing-reforms-george-floyds-murder>; <https://www.nytimes.com/2021/04/18/us/police-reform-bills.html>

<sup>5</sup> <https://www.nytimes.com/2021/04/18/us/police-reform-bills.html>

<sup>6</sup> <https://www.pbs.org/newshour/nation/states-diverge-on-police-reforms-after-george-floyd-killing>

<sup>7</sup> <https://www.pbs.org/newshour/nation/states-diverge-on-police-reforms-after-george-floyd-killing>

<sup>8</sup> <https://www.abcl5.com/news/in-depth/phoenix-police-ranks-1-in-deadly-use-of-force-compared-to-other-major-departments>

<sup>9</sup> <https://www.abcl5.com/news/in-depth/phoenix-police-ranks-1-in-deadly-use-of-force-compared-to-other-major-departments>

<sup>10</sup> <https://www.abcl5.com/news/in-depth/phoenix-police-ranks-1-in-deadly-use-of-force-compared-to-other-major-departments>

<sup>11</sup> <https://www.azcentral.com/in-depth/news/local/phoenix/2021/12/15/doj-investigation-into-phoenix-louisville-puts-all-police-notice/8516878002/>

<sup>12</sup> <https://www.azcentral.com/in-depth/news/local/phoenix/2020/08/10/phoenix-police-use-force-data-black-latino-native-impact/5407299002/>

<sup>13</sup> <https://www.azcentral.com/in-depth/news/local/phoenix/2021/12/15/doj-investigation-into-phoenix-louisville-puts-all-police-notice/8516878002/>

<sup>14</sup> <https://www.12news.com/article/news/local/valley/5-things-feds-investigating-phoenix-police-for/75-a9b17e6c-9ae0-413b-b91d-98ecaa8c54db>

<sup>15</sup> <https://apnews.com/article/business-police-arizona-phoenix-police-reform-31a974847bec4ecd12a62f26983d75c3>

<sup>16</sup> <https://www.acluaz.org/en/news/wins-progress-and-hard-fought-losses-recapping-2021-arizona-legislative-session>