“It’s not OK to shoot and kill Americans”: Families’ perceptions of police use of lethal force in the United States.

This article examines police use of lethal force against American citizens from the perspective of families affected by these deaths. It is based on qualitative research undertaken with family members who lost loved ones after police contact in the United States. The article examines how organizational practices and cultures are perceived to enable the use of lethal force, and how multiple narratives are employed to legitimize its use in the aftermath of a citizen’s death. It considers how procedural justice might provide a framework that enables an understanding of how these deaths are perceived by sections of US society. Key findings are that families believe police use lethal force with relative impunity due to an aggressive mindset and a lack of effective regulation. The article further finds that symbolic legitimation strategies reward officers for using lethal force, and denigrate the deceased enabling these deaths to be classified as justified.

Keywords: police use of lethal force, procedural justice, justified killing, militarization, legitimacy

# Introduction

Police use of lethal force is considered by Zimring (2017) to be the principal issue affecting police-community relations in the US in the 21st century. To date, academic literature has considered this issue via analysis of existing survey data (see Campbell, Nix and Maguire 2018; Klinger et al. 2015); literature reviews (see, for example Desmond, Papachristos, and Kirk 2016; Dunham and Petersen 2017; Marenin 2016); and theoretical pieces (see, for example Katz 2015; Kleinig 2014). There is, however, no known primary academic fieldwork-based research on this issue involving the families left behind in the aftermath of police related deaths. Writing about contested deaths in the UK, Charman and Savage (2009) note that families of the deceased possess special knowledge about these deaths, whilst Scraton (2002, 112) notes that there is a “yawning gap” between official discourse about controversial deaths and what families say. The article investigates this gap by examining the experiences of families whose loved ones died after police contact in the US and considering their perceptions about how police use lethal force. It argues that these families perceive police use of lethal force to be largely enabled by a lack of effective regulation, the construction of symbolic narratives, and an increasing paramilitarization of policing.

 If police use force in a manner perceived to be disproportionate, unnecessary, and unjust, it throws into question their legitimate right to use it (Kleinig 2014). Similarly, if police actions that result in lethal incidents are perceived to be unaccountable, then these factors in combination can create a lack of societal trust and confidence in the police (Marenin 2016; Zimring 2017). The lack of accurate data on police killings has exacerbated societal concerns about why governmental and policing authorities are unable to quantify the number of cases of citizens who die after police contact annually (Campbell, Nix, and Maguire 2018; Dunham and Petersen 2017; Klinger et al. 2015; Marenin 2016). This article examines how legitimate the police use of lethal force is perceived to be; and whether officers might be held accountable if its use is considered to be disproportionate to the threat posed. It uses the framework of procedural justice to examine these issues in light of participant responses. The article considers how police legitimacy is constructed and perceived by citizens, and how using lethal force might affect this legitimacy. Numerous authors have noted that ‘post-Ferguson’[[1]](#footnote-1) there has been a significant increase in the academic, media and public focus on police related deaths in the US (see, for example, Campbell, Nix and Maguire 2018; Dunham and Petersen 2017; Zimring 2017; Marcus 2016; Marenin 2016). This has largely been driven by a perceived sense that police are able to use lethal force with relative impunity (see, for example Stinson 2017; Desmond, Papachristos and Kirk 2016; Gross 2016). The article reveals original insights from participants intimately affected by these deaths that can assist our understanding of an increasingly relevant issue to academia and society in general.

# Procedural justice and police use of force

The potential to use force is central to police being able to resolve encounters, but its actual use is still considered to be relatively infrequent (Bittner 1970; Crank 2016; Reiner 2010). Force should only be used if suspects pose a serious threat to officers and/or the life of others (National Institute of Justice 2009). Police killings have the capacity to spark strong public reactions since they can typify situations in which force is perceived to be used disproportionately relative to the threat posed by the suspect (Katz 2015; Zimring 2017). These incidents can severely impact police-community relationships, as the perceived lack of accountability fuels distrust and resentment amongst certain communities (Reiner 2010). Accountability is central to legitimacy, as it relates to the belief that police deserve the authority society vested in them if they treat citizens justly and their decisions are fair (Tyler 2004).

Procedural justice has been the focus of a significant amount of interest from policing scholars; partly due to diminishing public confidence in policing as a result of perceived failures in the ways in which police operate (Gau et al. 2012). It focuses on the perceived fairness of procedures involved in decision-making by police (Tyler and Huo 2002). Procedural justice comprises four key principles of police behavior: dignity and respect, trustworthy motives, neutrality, and participation. When police are perceived to treat citizens with respect; demonstrate trustworthiness by showing care for the wellbeing of citizens; are unbiased in their decision-making; and allow citizens a voice in decision-making processes, then they are more likely to be seen as acting in a procedurally just manner (Schulhofer, Tyler and Huq 2011). In this sense, legitimacy is established by fair and appropriate exercise of authority (Tyler 2004).

Within the domain of policing, much of the key literature indicates that procedural justice is central in shaping public perceptions of police legitimacy (see, for example, Hinds and Murphy 2007; Jackson et al. 2012; Jonathon-Zamir and Weisburd 2013; Kochel, Parks and Mastrofski 2013). Research generally demonstrates that a procedurally just approach to policing is more important in shaping public perceptions of the police than instrumental concerns such as police performance and situational outcomes (Sargeant, Murphy and Cherney 2014). On this account, procedural justice acts as the key antecedent for police legitimacy as there is a causal link between positive perceptions of procedural justice, levels of satisfaction with the police and police legitimacy (Sunshine and Tyler 2003; Hinds and Murphy 2007; Hough 2013).

# Regulating use of force

Establishing a clear framework to regulate the use of force is considered to be part of procedurally just practice (see Headley, D’Alessio and Stolzenberg 2017), and also in promoting legitimacy and trust between communities and police (President’s Task Force on Policing [hereafter PTF] 2015, 19). The heterogeneous nature of law enforcement agencies in the US, however, constitutes a challenge to this (Terrill and Paoline 2012; Zimring 2017). There are more than 18,000 law enforcement agencies in the US, which not only vary in size but also operate under different jurisdictions (PTF 2015). The Department of Justice (DoJ) provides guidelines around the use of lethal force stating it should not be used if it is believed that lesser force would be sufficient to achieve a desired outcome (US DoJ Archives 2017). However, these guidelines lack clarity as the line between what constitutes ‘reasonable’ and ‘excessive’ force is subjective. The amount of force used appears to ultimately depend on officer discretion (Crank 2016).

From a procedural justice perspective, the use of force is open to subjective interpretation. What officers consider to be objectively fair may not be subjectively perceived that way by others (see Dai, Frank and Sun 2011). As a result, numerous authors have noted the relevance of use of force policies by US law enforcement agencies in regulating how and why lethal force is used in an attempt to minimise the use of officer discretion in encounters with citizens (see, for example, Crank 2016; Jennings and Rubado 2017; PTF 2015; Terrill and Paoline 2012; Van Craen and Skogan 2017; Zimring 2017). Regulation is explored in relation to the principles of procedural justice by Headley, D’Alessio and Stolzenburg (2017) who state that police-community relations can not only be damaged by the initial action of perceived misconduct by officers, but further affected by the perceived lack of an effective regulatory system to ensure police are held responsible for their actions. A lack of accountability mechanisms holding officers to account might also explain how and why police are able to use lethal force (Katz 2015). The difficulty in successfully prosecuting officers in the aftermath of instances of lethal force could be seen as an enabler of police use of it, as actions can become justified through the use of discretion (see, for example Fyfe 1989).

Jennings and Rubado (2017) assert that departments requiring officers to notify superiors every time they draw or use their weapon have significantly lower numbers of gun deaths. Terrill and Paoline (2012) found that not all PDs had use of force policies, and that those that did varied wildly in terms of how specific the policies were, and also in terms of how they might be applied or interpreted, underlining the fragmented, discretionary and heterogenous nature of policing in the US. Whilst there is general agreement that clear policies on the use of force are likely to make its use less frequent, a dissenting view comes from Van Craen and Skogan (2017) who hold that whilst policies can be useful, ultimately the high level of discretion entrusted to officers combined with the low level of supervision they operate under ultimately means that the utility of such policies is limited. In addition to this, the increasingly militarized nature of police (McMichael 2017; Ajilore 2015) contributes to a growing perception that American policing has changed, with police placing a greater emphasis on the use of force (McMichael 2017, 116).

# Police militarization and the use of force

Hall and Coyne (2013) assert that indirect militarization refers to domestic police adopting military features over time. For example, Special Weapons and Tactics (SWAT) teams were originally created to deal with extraordinary situations such as hostage taking, armed offenders, and terrorists (Kappeler and Kraska 2015). Their consequent national expansion, largely driven by political rhetoric, was instrumental in driving the ‘militarization agenda’ forward, first with the ‘War on Drugs’, and later the ‘War on Terror’ (Balko 2014). Rather than purely performing their original functions, SWAT teams not only started to carry out proactive drug raids, but also regular police tasks such as conducting investigations and gathering evidence (Campbell and Campbell 2010; Kraska 2007). This convergence of police and military roles raises questions about the conflicting purpose of both occupations. The former is oriented towards protecting and serving communities, whereas the latter are trained to resolve situations through force (Doherty 2016; Kraska 2007).

Police use of military tactics is perceived to have become more common (Campbell and Campbell 2010), and this could be problematic given the impact it can have upon police-community relationships. Police de-militarization has been included in the BLM movement agenda (Lindsay-Poland 2016), as militarization has been associated with both decreased public confidence in police performance (Ajilore 2015), and increased police brutality (Cooper 2015; Hall and Coyne 2013). Policing focused on resolving issues through the potential threat of force is some distance removed from the core tenets of procedural justice (see Schullhofer, Tyler and Huq 2011). In particular the principles associated with showing care for the wellbeing of citizens and allowing citizens to have a voice in encounters; both could be argued to be at odds with the principles of paramilitary policing.

Military values and tactics appear to have affected police culture (Doherty 2016), it is therefore unsurprising that this has been focused on by activists and regulators as being relevant to the police use of lethal force (see, for example PTF 2015). Police recruitment can also set unrealistic expectations for applicants by portraying the job as revolving around danger, a sense of mission and action (White and Escobar 2008). Training reinforces these beliefs by socialising and shaping new recruits according to police culture (Conti 2011; Malmin 2013). This involves overtly emphasizing the potential danger for officers in encounters with citizens (Marenin 2016). Officers learn to be afraid because, in this world-view, anyone is a potential lethal enemy (Stoughton 2015). Training and equipping officers for worst-case scenarios can inevitably result in the use of force in situations which might not necessarily warrant such a response (Doherty 2016; Lindsay-Poland 2016). In the ‘post-Ferguson era’ (Campbell, Nix and Maguire 2018) the issues highlighted here have received significantly more focus as more accurate data on police related deaths has become available (see for example, The Counted 2015, 2017). The widespread use of social media to stream incidents of lethal force against citizens has further exacerbated concerns about the legitimacy of police use of force (see, for example Dunham and Petersen 2017, Zimring 2017)

# Methods

The article uses qualitative data gathered from semi-structured interviews conducted in 2016 with families of 43 citizens who died after police contact in sixteen states in the US in the period 1999-2015. The deceased represented a variety of demographics in terms of age, gender, race and sexuality (see table 1 for further detail). Interviews typically lasted one hour and were principally conducted face to face with individual family members, or in pairs. Family members were typically parents, partners and/or siblings. A total of 58 participants were interviewed in relation to the deaths of their loved ones. The interviews were transcribed and analysed using NVivo software. Of the 43 cases, 40 were shot dead by police, and 39 were deemed ‘justified’ killings. The research focused principally on how the deceased met their death, and how families attempted to secure justice for their loved one in the aftermath of that death.

The recruitment of participants was initially driven by enquiries to locally based civil-rights or community-activist organizations in the relevant US states. Personnel within these organizations identified relevant participants based on criteria supplied by the researchers. The key criterion of the research project was that participants should be family members of a citizen who died after police contact in the US. In addition, the organizations made their own assessment about the suitability of the participant to undergo the interview process. The majority of participants were recruited largely as a result of initial participants referring to known others who had similar experiences with deaths after police contact, what Bryman (2012, 201-202) terms ‘convenience sampling’. This type of sampling is typical when dealing with sensitive subjects and special populations (Lee 1993; Bryman 2012). Lee (1993) notes this technique often represents the only way of obtaining a sample on some issues.

The project received ethical approval from Xxxxxx University’s Ethics Committee. In advance of the interviews, participants were made aware of the aims of the project by email via a participant information sheet and spoke with the Principal Investigator by phone. The Principal Investigator used these calls as a way of informally assessing the participant’s emotional state and their suitability to be interviewed. Participants signed informed consent forms prior to conducting the interview. Before each interview, participants were made aware of the availability of counselling in the event of any distress they might feel during or after the interview process. Participants were made fully aware they could withdraw from the interview process at any time. Data recorders were used in the interview phase, and this data was later transcribed.

The data was analysed interpretatively, using framework analysis, with the aim of uncovering subjective meanings and interpreting them within a variety of contexts. In this sense, a specific version of reality was revealed by the process of research as distinct to any definitive statement of such a reality (Bryman 2012). Applying framework analysis, first, the authors became familiar with the corpus of data in order to gain an overview of the nature of its contents (Ritchie and Spencer 1994). Secondly, familiarization enabled a thematic framework to be constructed using NVivo software; this identified the key theme of use of force examined in this article. Thirdly, a process of indexing took place, in the form of sub-nodes in NVivo to break down the themes into case numbers and key issues or terms. Fourthly, charting enabled indexing to be used to make associations within and between issues and terms. For example, the link between accountability and legitimacy in this article. Finally, charting led to a process of mapping and interpretation. Maps emerged in the form of typologies such as the use of force and militarization, and the relationship between the ‘fear defense’ and legitimation strategies.

# Findings

The authors do not claim generalisability about findings from a sample of 43 cases, but argue the research should be understood in the context of its originality, as the findings extend knowledge about a subject of significant interest to academia and society. At the time of the interviews, all cases had been subject to official investigations, with the majority subject to more than one investigation. Twenty-eight cases were subject to civil proceedings, of which twenty-six resulted in financial settlements[[2]](#footnote-2) being awarded to families. Eight cases were considered in criminal proceedings before a grand jury and did not progress beyond that point, whilst four proceeded to criminal trials. A further three were examined in coroners’ courts.

In short, all of the cases examined in this article, to one degree or another, had been subject to administrative and/or legal processes which the research participants had been engaged in. As a result, the participants have a wealth of first-hand knowledge about the events that led to their loved one’s death, and to the justice processes that unfolded in the aftermath of that deaths. Numerous authors have noted the depth of specialized knowledge that such families possess in relation to such deaths (see, for example Scraton 2002; Snell and Tombs 2011; Charman and Savage 2009; Coles and Shaw 2011). Whilst the views of families affected by these deaths might be considered to be partial, their voices are very seldom heard in academic literature, and in this piece of research they were talking largely about cases where facts had been established in a variety of fora.

## Justified killings and the ‘fear defense’

The review of literature established that whilst police can legitimately use force, it should be kept to a minimum and also be proportionate to the threat posed. The perceived level of threat, then, can be considered a significant factor in cases in which lethal force is used. It can be argued that if policing is portrayed as a dangerous occupation, in addition to policing becoming more militarized, then threat is a relative and subjective factor in police interactions with citizens. The relatively low number of officers indicted and convicted in these cases means that the great majority of these deaths are classified as ‘justified shootings’.

 Shootings appear to be considered ‘justified’ because officers are legitimately entitled to use discretion to make split-second decisions (Fyfe 1989). As a result, fear is often used as a justification to shoot someone (Marenin 2016). This ‘fear defense’ was perceived by families as enabling a narrative that implied officers were confronted by life-threatening situations and thus justified in using lethal force. The first quotation, below, sums up the view of many participants – that the construction of such a narrative begins as soon as their loved one dies:

**Case 1:** ‘the first thing the lawyers do when they talk to the police officer [is say] “well, your total defense relies on you saying that you feared for your life”.’

**Case 25:** ‘[police] absolutely need more training because they are scared, just like the [officer] in Texas [on the TV news], she killed somebody - I mean if you are scared, why are you a police officer? I think there needs to be some other level, maybe a test or whatever test they take to become a police officer.’

**Case 42:** ‘I am not against the police, for a long time I was an [army] officer defending my country and carrying a weapon, and if the issue is fear, then there is a problem. I mean, there were times in Iraq and Afghanistan when I was scared, but I didn’t take off my weapon and start shooting. There has to be appropriate reaction to fear, and as an officer there are going to be many moments like this. So…to use fear as a reason for deadly force is in itself problematic.’

The second and third quotations directly refer to the ‘fear defense’. Case 25 identifies that policing is a profession carrying a degree of risk, and that officers need to be trained to respond accordingly to it. Case 42 takes this further by explicitly putting this into the context of their own experience as an army officer and reflects on how fear can be used as a way of enabling a ‘justified killing’ decision.

The ‘fear defense’ and subsequent low rate of convictions spark feelings of injustice amongst families, as they contribute to the perception that investigations do not prevent future deaths or hold to account officers who use lethal force, thus echoing Headley, D’Alessio and Stolzenburg’s (2017) findings that police legitimacy can also be damaged by a perceived lack of procedural justice in accountability systems. The ‘fear defense’ appears to enable the construction of a plausible narrative that justifies the use of lethal force (see, for example Xxxxx 2019; Hirschfield and Simon 2010). Families felt the outcome of ‘justified shooting’ was effectively pre-determined, and that opaque investigations combined with the DA’s unwillingness to prosecute officers prevented them from ‘getting justice’, as typified in the following examples:

**Case 11:** ‘The DA is essentially wired at the hip to the police, and they all worked together to make sure the cops were exonerated…The DA reviews the police investigation that they did on themselves and he has a 100% record finding that whatever the cops found was justified.’

**Case 24:** ‘[My attorney] warned me up front that nothing would be done. He warned me that in the history of [state redacted], in any police involved shooting, there has never been one declared unjustified, so he said, “he will get away with it, nothing will be done”, which is really pathetic.’

This finding is consistent with literature suggesting successful prosecution of officers following on-duty shootings is rare (Marenin 2016; Stinson 2017; Zimring 2017). Nationwide, between 2005 and 2017, 82 officers were charged as a result of using lethal force, and 29 were convicted (Stinson 2017). The following finding considers why lethal force is used, by exploring families’ perceptions that police increasingly adopt a militarized approach in interactions with citizens.

## Militarization: ‘Comply or die’

Approximately three-quarters of participants believed officers escalated, rather than de-escalated situations. Force should be used proportionately to the threat posed by individuals (Crank 2016), but participants often stated police arrived at the incident heavily armed and in significant numbers, and/or approached the scene with their guns already drawn. A common view amongst participants was that officers viewed their loved ones as adversaries, and that this adversarial mindset led to a relative disregard for human life. Participants typically commented on the significant disparity between the amount of time spent training police on firearms and self-defense compared to training on de-escalation[[3]](#footnote-3). The two quotations (below) highlight a view commonly expressed by families - that officers use their weapons in the way that they are trained to - it is not an aberration that leads to the death of their loved one:

**Case 18:** ‘There is an officer that spoke [on TV] and she said that “you know when we approach a car, we have to approach that car like…they have weapons, and they are going to kill us.” And maybe that’s true to a certain extent in some cases, but if you go into every situation assuming they are going to have a gun and kill you…they are going to be more inclined to be defensive.’

**Case 24:** ‘My mom did ask [the investigators] at one point: Why didn’t they use the Taser, why didn’t they just shoot to injure [my brother] and the DoJ [official] that was interviewing [her] told her because that’s how they are trained now, it’s shoot to stop - if you have to kill them, you kill them, you do whatever it takes to stop them.’

**Case 2:** ‘There is an awful change that does not value human life. More punitive and more trying to catch people at things [rather] than support people and their needs.’

**Case 29**: ‘For me now, if a cop comes to me, I will be scared. But if you do what you are supposed to do, if you don’t do anything wrong, then you should not be scared of a police officer. And these days everybody is because [the police] know they can get away with it, and I would just really like to see that change.’

The third quotation talks about the general role of the police and how – in the view of this participant – it has become more focused on enforcement and control. The final quotation takes this further and states the use of lethal force can occur because systems enable police to ‘get away with it’.

 Approximately half of participants thought the tendency to use lethal force related to police being increasingly militarized. This was perceived to influence officers’ view of citizens as potential threats. Consistent with this, participants believed that the wide range of military equipment and tactics being used in routine policing seemed to have affected the likelihood of police using force. The first three quotations below make direct reference to the type of policing style that led to the death of their loved one:

**Case 5:** ‘It looked like a scene from “Die Hard”. I mean, there were 30 cop cars or fire engines… [my son] had gotten up to the front door and [said] “you guys are dressed for a riot. This isn’t a riot.”’

**Case 20:** ‘Today there are some trained military style, like “stop the threat, stop the threat” … we’re not Iraq or Afghanistan or worse. We’re not civilians, we’re citizens, we’re people. And you can’t, it’s not OK to shoot and kill Americans.’

**Case 8:** ‘Now they are going to start wearing army stuff, why do police need a helmet? Think about it.’

**Case 35:** ‘[The officer] was “afraid for his life” - how was you afraid for your life when [the deceased is] a block and a half away from you and you are on the balcony with a rifle, his personal one - he paid $5000 for that gun - he ordered it from Switzerland. He went [home] and got his personal gun.’

**Case 19:** ‘There was multiple shots but [the officer who killed my husband] was the only one with an assault rifle - he used his own personal rifle, [the police] initially took it off him but then they gave it back to him 2 weeks after. If you become a cop you are not meant to have a weapon like that, and yet he still has his.’

The final two quotations make it clear that their loved one was killed by officers using their own military type weapons. This raises questions about why officers believe they need extra firepower whilst working on a regular response shift, but also invokes aspects of the fear defense in terms of officers feeling potentially justified in using lethal force.

 The phrase ‘comply or die’ is widely recognized amongst US communities and social justice organizations (see, for example Stoughton 2015). It was very commonly used by participants in this research, who believed it often led to the unnecessary use of lethal force. A significant number of participants stated that police had shifted from a ‘protect and serve’ to a ‘comply or die’ mindset. Numerous authors have noted that a key determinant in police using force is whether citizens comply with officers’ requests (see, for example Kleinig 2014; Marcus 2016) One quarter of the deceased considered in this article were shot in the back by police, echoing findings by Marcus (2016) and emphasizing why participants believed the perceived ‘comply or die’ phenomenon accounted for their loved one’s death. The final finding identifies additional legitimation strategies that appear to enable the use of lethal force. Not only is a narrative constructed that effectively justifies why a citizen was shot dead, it can also be extended to valorize the officer who shot the citizen.

## Legitimation strategies

The overwhelming majority of participants felt the criminal justice system failed to hold officers to account when lethal force was used. A number of participants stated that those responsible were either awarded for bravery and/or promoted in the aftermath of the death of their loved one. The first quotation talks about how the officer responsible for killing his uncle has since been promoted twice:

**Case 13:** ‘the same police officer [name redacted] who murdered my uncle, had murdered somebody two years before…and you know, he is still working on the force, he been getting promotions, he had been getting awards.’

**Case 18: ‘**[The officer] actually got a medal of honor for killing [my son]…which makes me very angry, and when you read the story of what happened, it’s a lie and it’s not even close to telling the whole story, it’s just unbelievable. You get things like the medal of honor…you know to me they have no credibility anymore because I can’t trust I can’t the police.’

**Case 42:** ‘You have the baton as a backup, why do you need to kill someone? That’s the bottom-line question…Because I can, because it’ll look good to my superiors or I will get promoted, or I will get another job in the force. Someone who uses their weapon rises in the force rather than being held accountable.’

Case 18 makes clear reference to the fact that the officer who killed their loved one received an official award in the aftermath of the death of their loved one. The final quotation refers to an officer who has since shot another citizen dead. Literature on symbolic legitimation suggests police organizations may use highly-visible strategies to present themselves in a way that appears consistent with societal expectations, whilst maintaining their conformity to organizational culture (Terpstra and Trommel 2009). For example, the policy of Saint Louis County Police (2017) states only the bravest officers are rewarded, so awards could be interpreted as an institutional strategy to symbolize the idea that policing is inherently dangerous.

 An institutional example of this can be seen in the unusual stance taken by Alamance County Police (North Carolina) when threatened by the DoJ with a federal consent decree[[4]](#footnote-4), largely due to an alleged history of excessive use of force and racial profiling. The police chief refused to cooperate with the DoJ, leading not only to the DoJ not pursuing action against the PD, but also to the Governor of North Carolina awarding the police chief a prestigious civilian honor as a result. It would seem that rejecting federal attempts to regulate alleged excessive use of police force can result in the conferral of official awards (Rushin 2017). News stories can facilitate this construction of legitimacy, since media tend to portray victims as essentially being responsible for their deaths, while police are portrayed as behaving in a rational and justified manner (Xxxx 2019; Hirschfield and Simon 2010). This was commented on by numerous participants, for example:

**Case 29:** ‘99% of the time the media gets all their information from the police department, and the police department are going to say everything bad about that person. They are going to demonize them, so the public don’t have any sympathy for the person they have just shot.’

Similar to bravery awards and the ‘fear defense’, biased media portrayals of these deaths are viewed by families as a strategy which dehumanizes the deceased and constructs a narrative that justifies officers’ use of lethal force, hence strengthening their symbolic legitimacy. Hirschfield and Simon (2010) found that not only were media likely to denigrate the deceased in these cases, they also tended to venerate the officer involved. A further finding appears to be connected to this. One quarter of participants stated that their loved ones had been handcuffed following their death, as detailed in the comments below:

**Case 1:** ‘They handcuffed him and they all surrounded him, throwing him round like a rag doll [on the CCTV footage].’

**Case 12:** ‘We go down to the morgue, they roll him out, they got handcuffs on him to the gurney. Why? Why would you handcuff a dead man? Is that procedure? I want to know why you would do that?’

It has not been possible to find literature about why handcuffing after death occurs, so the reasons behind this practice remain unclear. However, it could be argued that handcuffing the deceased constructs a narrative which implies the deceased was still viewed as being dangerous. From this standpoint, handcuffing the deceased could be seen as another symbolic tactic that aims to enhance police legitimacy in the aftermath of these deaths.

# Discussion and conclusion

This article has argued that perception can significantly affect the way in which police are able to legitimately use lethal force in the US. The framework of procedural justice suggests that police should be cognizant of citizens’ perceptions of how police operate because this can affect the perceived legitimacy of police practice. The findings in this article demonstrate that participants perceived police to lack legitimacy when using force for a number of reasons. Participants felt police practice was partly enabled by an absence of clear policies and guidelines on the police use of force, coupled with a lack of effective regulation and an increasingly aggressive police mindset. This enabled legitimation strategies to be constructed through multiple narratives that effectively justified the use of lethal force: the ‘fear defense’; biased media representations of the deceased; and the valorization of officers who used lethal force. As a result, the perceived lack of effective regulation in the aftermath of such deaths is also seen to be the result of a failure of procedural justice in the systems intended to hold police to account.

 Whilst perceptions are central to the findings in this article, the circumstances in which police operate in the US should not be discounted. Evidence suggests citizens own around 283 million firearms, and these ‘can be found in approximately one of three US households’ (Azrael et al. 2017, 39). Police reflect the communities they serve (Reiner 2010), so the substantial number of firearms owned by citizens might explain why officers are taught to be afraid, and why their organizational culture emphasizes the idea that every shift can be the last (Stoughton 2015). Violent environments might trigger more violent responses (Zimring 2017), therefore one cannot necessarily always expect officers to attempt to de-escalate situations when there is potential for danger in every encounter. The focus on policy and training about use of force is not necessarily unsurprising given the challenging circumstances in which police work.

A further issue which might be considered when examining police related deaths is the potential effect of community policing on legitimacy. Community policing was increasingly adopted by PDs across the US from the 1980s onwards (see, for example Gaines and Kappeler 2011; Morabito 2010). The PTF (2015) notes that community policing should be central to building trust between police and communities, and that consequently police need to work in partnership with citizens. Community policing is considered to be an underlying philosophy as distinct to a template for practical application (Morabito 2010; Gaines and Kappeler 2011; Herbert 2006). As such, it can be said to mirror aspects of procedural justice discussed earlier in this article.

Whilst community policing has been broadly welcomed by PDs in the US, numerous authors note that its application has been patchy (see, for example Herbert 2006; Willis 2011). Acknowledging this, the PTF (2015, 43) states that: ‘Community policing must be a way of doing business by an entire police force, not just a specialized unit of that force.’. Although the findings in this article argue that US police have become increasingly paramilitarized, it could be argued that community policing has also been increasingly adopted during a similar time-span. Whilst paramilitarization and community policing appear to represent paradoxical approaches to policing practice, Koslicki and Willits (2018) argue the latter can effectively provide a buffer against the former. Further research might usefully consider how community policing could affect citizens’ perceptions of police legitimacy in relation to the use of lethal force.

The findings from this article establish that the use of lethal force by police is often perceived to be unaccountable despite it being routinely classed as ‘justified’. The lack of accurate governmental data on these deaths adds to the growing unease over how and why police are legitimately allowed to use lethal force against citizens in the US. Data from The Counted (2015, 2017) indicate that more than 1000 citizens are killed by police each year, further compounding this sense of unease. It is reasonable to extrapolate that more than 20,000 US citizens have been killed by police since the turn of the century, and the lack of indictments and prosecutions in these cases combined with a perceived disproportionate use of force in many cases underline how serious a challenge this is to the legitimacy of policing in the US.

By considering the issue from the perspective of relatives of citizens who die after police contact, the article has produced rich first-hand qualitative data from research participants and adds to the canon of academic literature on this issue. Further research could be usefully undertaken to broaden and extend our knowledge of police related deaths. The great majority of participants in this study were related to loved ones who died in what might be termed the ‘pre-Ferguson era’. Given that the national narrative has altered somewhat in the ‘post-Ferguson era’ (see, for example Campbell, Nix and Maguire 2018; Dunham and Petersen 2017; Zimring 2017; Marcus 2016; Marenin 2016), it could be fruitful to conduct further qualitative research with relatives of the deceased on this issue in order to examine the extent to which perceptions may have changed. Similarly, research could be usefully undertaken with members of community groups or activist networks to understand the effect police related deaths have on the wider community in terms of perceived legitimacy.

The framework of procedural justice is increasingly apparent in the formulation of policing policy. The key policy document on US policing in the ‘post-Ferguson era’ unambiguously states that ‘pillar one’ in the relationship between police and citizens is ‘building trust and legitimacy’ (PTF 2015, 1). It goes on to unequivocally assert that: ‘The public confers legitimacy only on those whom they believe to are acting in procedurally just ways’ (PTF 2015, 1). Issues such as policy, recruitment, training, culture, and processes of regulation and accountability all relate to some degree to the principles of procedural justice and could affect policing practice. This article demonstrates that if police legitimacy is to be restored, then attending to the perceptions of the citizens served by police is likely to be key in any restoration project. Policy makers’ use of the procedural justice framework appears to indicate this is one likely possibility.

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1. Michael Brown was shot dead by officer Darren Wilson in Ferguson (MI) in 2014 sparking widespread disorder. The incident is seen to be the catalyst to the Black Lives Matter (BLM) movement and an increased focus on police related deaths (Dunham and Petersen 2017) [↑](#footnote-ref-1)
2. Financial settlements are commonly used in the aftermath of these deaths. As the result of bringing civil cases, families receive payments in return for signing non-disclosure agreements which prevent them from talking about aspects of the case which the PD or DA would rather not make public (see, for example Gaines and Kappeler 2011; Marcus 2016; Zimring 2017). [↑](#footnote-ref-2)
3. 2. Officers in training academies received a median of 60 hours of training on firearms, 51 hours on self-defense, and 8 hours on mediation skills/conflict management (Reaves 2009). [↑](#footnote-ref-3)
4. 3. Rushin (2017) notes that consent decrees have been used by the DoJ as a way of enabling federal intervention into local policing in the US since 1994. He further notes (2017, 68) that such decrees give federal authorities the power to ‘define what constitutes legitimate policing’. [↑](#footnote-ref-4)