**Policing societies with firearms: Evaluating the US and England and Wales**

***Introduction***

Comparing police use of firearms in England and Wales and the United States would not at first glance appear to be straightforward. This chapter argues that there are more similarities between police use of firearms in the two jurisdictions than might at first glance be apparent. Key similarities are shown to be the role of police – particularly the way in which force is central to that role; the relative lack of accountability for their use of lethal force; and the way in which lethal force is used disproportionately on marginalised groups. The chapter argues that the key difference between the two countries is the type of society that is policed, rather than the organisations that police them – police essentially reflect the type of society they are tasked to police.

The organisational structure of policing in both countries is spatially fragmented and heterogenous in terms of officer numbers and resources. This is particularly marked in the US with 18,000 police forces, of which fewer than 100 have more than 900 officers (President’s Task Force on 21st Century Policing [PTF] 2015). In comparison, England and Wales has 43 police forces with only one having fewer than 900 officers (House of Commons Library 2019). Policing in both countries is thus largely driven by local imperatives, albeit to varying degrees (see Reiner 2010; Gaines and Kappeler 2011). One by-product of the organisationally fragmented nature of US policing is the lack of accurate national data on issues. For example, there is no accurate national data on how often officers discharge firearms; the number of citizens shot by officers; or what type of use of force policies are used by Police Departments (PDs) (Terrill and Paoline 2012; Katz 2015; Zimring 2017). In contrast, England and Wales has a wealth of data produced by police regulators on the use of firearms, perhaps reflecting the relative level of importance placed on this issue by society (see Independent Police Complaints Commission [IPCC] 2017).

In both countries police training and policies are not determined at a national level (in the US see PTF 2015; in England and Wales see Reiner 2010). As there is no federal oversight body for policing in the US, there is no capacity to enforce policies, or best practice; albeit one might argue that the National Institute of Justice (NIJ)[[1]](#footnote-1) promulgates policy documents exhorting best practice. In England and Wales, as in the US, there is no national body to enforce national standards, but the College of Policing[[2]](#footnote-2) publishes guidance on best practice and the Independent Office for Police Conduct (IOPC)[[3]](#footnote-3) and Her Majesty’s Inspectorate of Constabulary (HMIC)[[4]](#footnote-4) encourage police forces to use this practice and also learn lessons from previous errors in practice. None of these bodies, though, can sanction police, or enforce recommendations made in relation to inquiries or investigations (Baker 2016). Consequently, the US mirrors England and Wales – there is no national body capable of enforcing recommended policies or training on any police force. The organisationally fragmented nature of police practice combined with a lack of national oversight in both countries effectively enables police to use lethal force with relative impunity, as is shown throughout the chapter.

The chapter uses a wide range of literature on policing from both jurisdictions. It considers the role of police; the centrality of force to that role, and how discretion is intimately linked to using force. It examines the need for police to be legitimate to society and the ways in which legitimacy can be damaged if lethal force is used without sufficient accountability being evident. Issues of legitimacy, discretion, consent and accountability are woven throughout the chapter as a way of evaluating how and why police use firearms in both countries, and in what ways they may or may not be held to account for their use. The use of firearms by police is shown to be affected by various factors including key historical incidents, public confidence, structural determinants in society; and the political, legal and policy driven responses to these factors. The chapter also examines relative rates of firearm ownership in both countries, in addition to considering the rates of gun-related deaths. Police do not function in a vacuum, they are essentially reactive and their activities are shaped by multiple socio-political and socio-legal factors as will be demonstrated in this chapter.

***Policing roles***

Police occupy a striking diversity of roles in both the US and England and Wales. These include: order maintenance, peace keeping, crime prevention, public reassurance and crime control (Reiner 2010; Gaines and Kappeler 2011). Police react to a complex number of issues that occur in a variety of contexts. Reactivity is a key part of their role and, to a large extent, what the public expect from them (Crank 2016; Reiner 2010). The diversity and ambiguity of their role is highlighted by an essential paradox - they can be both guarantors and extinguishers of liberty (Baker 2016; Zimring 2017). This raises the issue highlighted by Reiner (2013, 165) of whether police officers might be better termed “peace officers”. One view from the US (Shane 2013, 69) is that they might be better conceived of as “safety officers”.

Police are increasingly expected to be both a force *and* a service in both countries; to provide law enforcement *and* enable citizens’ rights - sometimes within the same encounter (Reiner 2010; Gaines and Kappeler, 2011). The contrasting roles of police as a force or service is a prominent theme throughout policing literature. For example, recent US literature has focused on whether police approach citizens with a ‘warrior’ mind-set based on law enforcement or one based on guardianship (Balko 2014; PTF 2015). The former implies a force-based approach where police view citizens through a lens of criminal justice enforcement; the latter implies a more welfare-based approach whereby individuals are viewed through a lens that prioritises their safety and well-being (Wood et al. 2011; Shane 2013). The way society, the state, and police themselves view their role has an effect on whether police act as enforcement officers or ‘safety’ officers, and this can affect how officers use force.

When called to incidents, police officers are essentially situational problem solvers (Crank 2016; Reiner 2010). They are able to exercise considerable discretion in decision-making, deciding in the moment how best to respond to ensure a rapid and effective resolution of encounters. Policing therefore requires simple and immediate solutions to complex problems. Such solutions can be manufactured because, if required, police have the legitimate authority to use coercive force (Reiner 2010; Bittner 1970). Whilst force is not commonly used by police, the possibility of its use is ever present, and it is this possibility that gives police authority to act (Reiner 2010; Bittner 1970).

Consequently, the concept of discretion is key to understanding how police use force (Crank 2016; McLaughlin 2007). Discretion is granted on the basis that officers will exercise it fairly, thus maintaining the perceived legitimacy of the police (Bronitt and Stenning 2011). An officer’s use of discretion is subjective and influenced by numerous factors - previous knowledge, experience, individual judgement and professional cultures (Crank 2016; Reiner 2010). A key similarity in both countries is officer use of discretion to make decisions about how to deal with the person in front of them (Morabito et al. 2012; Bartlett 2016). It can affect whether force is used, whether back up is summoned, and/or whether de-escalation is attempted. In the absence of clear policies, training, or alternative provision, officers unsurprisingly resort to using discretion, as doing nothing is rarely an option.

This highlights a further paradox in policing: discretion is a key tenet of policing but remains problematic due to an inherent absence of oversight (Baker 2016). In practice, this means that police use of force is difficult to regulate - it is often enough for officers to say that the use of firearms was necessary due to the suspect carrying a weapon, or that the police were in fear for their life (Osse and Cano 2017; Punch 2011). A consistent thread in literature on the police use of force is that it is disproportionately used on marginalised groups within society. In particular, force is disproportionately used on People of Colour (in the US see, for example Alexander 2012; Butler 2017; Katz 2015; in England and Wales, for example see Angiolini 2017; Baker 2016; Punch 2011); but also on citizens who are mentally unwell (in the US, see Morabito et al. 2012; Baker and Pillinger 2019a; in England and Wales, see Bartlett 2016; Baker and Pillinger 2019b). Consequently, key policy reports in both countries have emphasised the need for officers to use discretion to focus on communication and de-escalation – particularly when approaching citizens from marginalised groups - rather than resorting to the use of force to solve incidents (in the US see PTF 2015; in England and Wales see Angiolini 2017). In both countries the law permits officers to use force, but only when deemed necessary, and not as a default to secure compliance (NIJ 2016; Angiolini 2017). When police use of firearms is deemed to be disproportionate, unnecessary and unjust, it can significantly affect police legitimacy and call into question their right to use force (Zimring 2017; Hirschfield and Simon 2010).

Police legitimacy is crucial in democratic societies as it ensures societal consent, which allows police to function effectively (Katz 2015; McLaughlin 2007). Legitimacy relates to the fair and appropriate exercise of authority, and this is important as the relationship between police and public relies on trust and support in both directions. The public rely on police to maintain order and conversely, police rely on the public in a practical sense to supply information, but also by granting them legitimacy to be able to act on behalf of society (Crank 2016; Reiner 2010). This embodies the notion of policing by consent, in which “the police are the public and the public are the police” (Sinclair 2012, 57). Consent is a corollary of legitimacy and granted on the basis that police activity is regulated and held accountable when events occur that are perceived to challenge fair treatment of individuals (Zimring 2017). Simply put, the police role is diverse, dependent upon context, and ultimately grounded in the use of force (Gaines and Kappeler 2011; Reiner 2010). The way in which police use firearms, therefore, is largely dependent upon multiple contexts and how their role is seen in relation to those contexts. The following section considers this by examining the trajectory of these issues in the context of both countries.

***Police in England and Wales – ‘routinely unarmed’?***

The Metropolitan Police Service (MPS) was founded in 1829 on the notions of policing by consent and using minimum force - meaning officers were unarmed on duty (Squires and Kennison 2010). Robert Peel’s decision to not routinely arm the ‘new’ police projected a powerful symbolism – that the state was essentially benign - officers were essentially uniformed citizens with limited additional powers (Reiner 2010). The unarmed ‘bobby’ came to take on an iconic status and was celebrated as a unique virtue of policing (Robert and Innes 2009). This is somewhat of a manufactured myth however, as police still had access to weapons when required (Waldren 2007). Nevertheless, this mythical notion of citizens in uniform survived and became key to legitimating policing in England and Wales (Reiner 2010; Squires and Kennison 2010).

The latter part of the twentieth century saw a move towards arming some officers due to a number of factors emerging from the 1960s onwards (Sinclair 2012). Shifts in policy and practice were influenced by concerns over growing gun and gang violence, and the increasing prevalence of terrorist attacks (Squires 2015; Hughes 2014). One critical incident widely considered to have shaped police use of firearms was the shooting dead of 17 people by a lone gunman in Hungerford in 1987. This exposed the inadequacies of police to respond rapidly to an armed threat, but also highlighted the issue of firearms licensing within the UK (Turner 2017; Squires and Kennison 2010). It illustrated the conundrum police found themselves in, in attempting to maintain an unarmed tradition but also operational effectiveness (Punch 2011). As such, Hungerford acted as a catalyst to review and develop firearms policy which ultimately recommended Armed Response Vehicles (ARVs) as standard in forces throughout the country (Squires 2015). Officers in England and Wales are not routinely armed[[5]](#footnote-5) - only Authorised Firearms Officers (AFOs) are trained to use firearms (Police Federation 2019). According to Home Office (2018) data, approximately 5% of officers in England and Wales are AFOs. Official guidance states that deployment of AFOs should be considered only when there is reason to suppose that officers may have to protect themselves or others from a person who is in possession of a firearm, or is otherwise so dangerous that the deployment of armed officers is considered appropriate (College of Policing 2018).

In 2018 there were 18,746 police firearms operations in England and Wales but only 12 incidents in which police discharged firearms (Home Office 2018). This highlights the underlying use of police force as a threat – it is considered successful for them to attend an incident and leave without having used their weapons (Crank 2016; Punch 2011). Incidents are generally resolved without recourse to firearms, with many officers displaying reluctance towards firing their weapon (Punch 2011). A 2017 survey of officers showed that only 34% supported the idea of routine arming (Police Federation[[6]](#footnote-6) 2019). Waddington and Hamilton (1997) believed that Hungerford offered a window of opportunity in police having access to firearms in England and Wales. It allowed police to maintain public consent by portraying the widespread deployment of ARVs as a necessary reaction to crisis situations, thus enhancing police legitimacy. Legitimacy regarding police use of firearms in this sense is shown to be dependent on context and societal perceptions.

***Police in the United States – ‘warriors or guardians’?***

The development of modern, uniformed urban policing in the US was heavily influenced by the MPS model (Gaines and Kappeler 2011). Beginning in Boston in 1838 and spreading across major cities on the east coast initially, with the NYPD founded in 1845 (Balko 2014). Monkkonen (1981) notes that the role of US police evolved towards the end of the 19th century from being principally concerned with order, to being increasingly militaristic and focused on societal control - particularly the control of ‘dangerous classes’ in urban areas (see also Zinn 2003). Early variants of uniformed police in the US did not always carry firearms, but by the late 19th century it was increasingly common for them to do so (see Monkonnen 1981). Miller’s (1976) comparative historical analysis of the MPS and NYPD stated the latter was more likely to use force than the former, largely driven by a culture of dispensing justice at a local level rather than deferring to the rule of law in an abstract sense. He further asserted that this initial divergence in approach remained evident well into the 20th century - US police were more likely to use force than their counterparts in England and Wales (Miller 1976). By the early 20th century US police officers were routinely armed, typically with service revolvers (Balko 2014). Similar to England and Wales, the shift to a different type of policing model in relation to firearms came about as the result of a number of events and consequent shifts in policy from the 1960s onwards.

In 1965, extensive rioting in the Watts area of Los Angeles led to 34 deaths and stoked concerns that police were insufficiently armed or trained in dealing with large scale disorder. The following year, the ‘Texas tower sniper’ was able to kill 13 citizens firing from a 27-storey tower, largely because police lacked the necessary firepower to shoot accurately at that distance (Balko 2014, 52-60). These incidents combined with widespread rioting in urban areas in the 1960s (see, for example Alexander 2012; Zinn 2003) led to calls for police to adopt a more aggressive stance in terms of their tactics, and consequently to a re-evaluation of the weapons they used (Kraska 1999). Special Weapons and Tactics (SWAT) teams are seen to originate from this period (Gaines and Kappeler 2011). These are modelled on military units and use military-grade weapons such as machine guns, flash grenades and high-powered rifles; have access to military-grade hardware such as armoured vehicles and body armour; in addition to deploying trained specialists such as snipers. SWAT teams were 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 what Balko (2014) terms a police ‘militarisation agenda’ forward, first with the ‘War on Drugs’, and then the ‘War on Terror’ as these units were inserted within existing PDs nationwide. These developments resulted from a politically bi-partisan crack down on crime, particularly drug related crime during the George H.W Bush and Clinton eras (see Alexander 2012).

The growing prevalence of SWAT units throughout the US has been charted by numerous authors. Kraska (1999) noted that by 1996, 89% of mid-to-large city PDs and 65% of small-town PDs had SWAT teams, including towns with fewer than 20,000 inhabitants. Balko (2014) details how mission creep led SWAT units to become more frequently used on everyday police operations rather than in exceptional circumstances. The large number of SWAT units in the US has affected the occupational culture of policing in a wider sense by creating a more militarised type of organisation (see, for example Kraska 1999; Doherty 2016). This has been further amplified by training for regular officers which increasingly emphasises the dangers of being on duty and how using force early in encounters can ensure one’s safety (Baker 2021; Conti 2011). Another development is the growing number of ex-forces personnel joining the police, partly because their expertise is valued by SWAT units (see Campbell and Campbell 2010). That police in the US have become increasingly militarized since the 1990s should not necessarily be a surprise given that successive political administrations encouraged them to fight two ‘wars’ within their own borders (Baker 2019). Balko (2014, 275) states that political will and consequent policies drove: “An increasingly armed, increasingly isolated, increasingly paranoid, increasingly aggressive police force in America”. Police do not work in a vacuum, they are affected by socio-legal and socio-political factors, and also by the type of society they are tasked to police.

***Societal access to firearms and gun deaths***

The frequency with which police use firearms is driven largely by the prevalence of firearm ownership in the society in which they operate (Waddington 1999). In countries where gun ownership laws are more relaxed and gun crime more common, police are more likely to use their firearms (Baker 2021: Osse and Cano 2017). In England and Wales, the statutory response to the Hungerford massacre was the Firearms (Amendment) Act (1988) which greatly restricted access to a wide variety of firearms – notably automatic and semi-automatic weapons (Turner 2017). This is not the case in the US, largely due to the 2nd amendment granting citizens the right to bear arms (including automatic and semi-automatic weapons) despite persistent calls for gun control in the aftermath of mass shootings (Younge 2016).

The US has 12 gun-related deaths per 100,000 citizens per annum, whilst in England and Wales it is 0.0000005 per 100,000 (ONS 2019a; CDC 2019; Gunpolicy.org 2019). A report widely cited by US media in 2016 stated that the gun-related homicide rate in the US was 25 times higher than 22 other high-income nations (Grinshteyn and Hemenway 2016). In 2016, there were 11,004 gun-related homicides in the US (FBI 2016), compared to 26 in England and Wales (ONS 2016). Whilst homicides involving knives rather than guns are more common in England and Wales - with 250 deaths recorded in 2018 (ONS 2019b) - Grinshteyn and Hemenway (2016) found that homicides as a result of non-firearm use were also more prevalent in the US with an incidence of 1.7 deaths per 100,000 citizens compared to 0.3 per 100,000 in England and Wales. Further striking differences exist in the rate of firearm possession in both countries. The US has 120.5 firearms per 100 citizens (Karp 2018), in England and Wales it is 5 per 100 (Gunpolicy.org 2019).

Access to firearms is clearly linked to their use in homicides, but also other gun-related deaths. In 2018 out of a total of 39,773 US citizens killed with guns, 63% were killed in circumstances not classified as homicide (CDC 2019). Operating in this environment, US police are unsurprisingly routinely armed and responding to calls in a country with widespread access to firearms; an entrenched gun culture; and relatively high levels of violence (Crank 2016). Police using firearms on citizens in the US received relatively limited attention prior to 2014. A wide variety of US scholars noted the remarkable paucity of police data on this issue (see, for example Katz 2015; Zimring 2017). Incidents in the US and England and Wales in the early 21st century once again threw a spotlight onto how police used firearms; how this related to legitimacy; and clearly demonstrated how these issues reflect the complex mix of socio-legal and socio-political factors in both countries.

***Critical incidents and societal concerns over police use of lethal force***

If events in the 1960s produced a more militaristic type of policing in the US then the shooting dead of Mike Brown by police in Ferguson in 2014 might be seen as a potential turning point in how society viewed the police use of lethal force. Mike Brown was an unarmed Black citizen who was fatally shot a number of times by a White officer (Butler 2017). The incident was considered to be the catalyst that drove the Black Lives Matter (BLM) movement to prominence (Lindsay-Poland 2016). This sought to highlight the disproportionate number of Black citizens killed after contact with police, and the relative impunity with which police used lethal force (see Katz 2015; Zimring 2017). A combination of War on Drugs and War on Terror rhetoric; the growing prevalence of SWAT units; and training which stressed rising threat levels to officers meant the principle that officers served and protected citizens was increasingly questioned by an increasingly critical public. In the aftermath of Mike Brown’s shooting, President Obama – reacting to these public concerns - commissioned a major national review into policing. The President’s Task Force on 21st Century Policing (PTF) reported in 2015 and focused on a key paradox highlighted earlier in this chapter: were US police guardians, or warriors?

Paramilitarisation has been associated with a shift in police mindset, as tactics and training emphasise the need to adopt a ‘warrior’ mentality (Doherty 2016; Stoughton 2015). Police de-militarisation has been included in the BLM agenda (Lindsay-Poland 2016), as militarisation has been associated with both decreased public confidence in police performance and increased police brutality (Kraska 1999). This led the PTF (2015) to identify the need for policing culture to shift from being warrior based to guardian based. In part, this urgent policy review was driven by emerging data[[7]](#footnote-7) on the number of citizens fatally shot by officers: 1146 died in 2015, and 1093 in 2016 – approximately 3 citizens per day die after police contact in the US[[8]](#footnote-8) (The Counted 2015, 2016). This compared to 3 in 2015 and 6 in 2016 in England and Wales[[9]](#footnote-9) (IPCC 2017). The routinely armed nature of policing in the US produces significantly more fatal outcomes with citizens when compared to England and Wales, but this should also be seen in the context of firearm ownership in society and the relative prevalence of gun-related deaths.

Whilst police use of firearms in England and Wales became increasingly professionalised after the 1980s, their increased capacity for armed response reduced the scope for restraint, use of minimum force and de-escalation which police in England and Wales have traditionally relied upon (Punch 2011; Squires and Kennison 2010). The fatal shooting of Jean Charles de Menezes in London in 2005 is seen as a defining moment in armed policing in England and Wales (McCulloch and Sentas 2006). Following the 7/7 bombings in London in 2005, Operation ‘Kratos’ was set up to address the phenomenon of suicide bombers; the guidelines (which were kept secret) recommended that AFOs shoot to kill by firing at suspects’ heads (Kennison and Loumansky 2007). In this case, it culminated in an innocent citizen being shot repeatedly in the head in a mistaken and botched operation by the MPS (O’Driscoll 2007). This highlighted a series of wider issues facing armed police involving trust, consent, officer discretion and human rights (Squires and Kennison 2010). The representation of the iconic, generalist ‘bobby’ was revealed as being a myth - police officers in England and Wales fulfil a wide range of specialist roles with explicitly defined functions (Roberts and Innes 2009). There are, then, similarities with the increasing levels of specialisation required by police firearms units in both countries.

Punch (2011) asserts that the public in England and Wales understand force is required by police in a justifiable and necessary way when responding to danger, but that police shootings can cause considerable controversy and social unrest (Turner 2017). Whilst media representations in England and Wales typically portray armed police as responding to terrorist incidents; serious and organised crime; and gun and gang violence, the reality is that they are used relatively infrequently in these circumstances (Punch 2011). Shootings tend to fall disproportionately on persons with mental illness, those under the influence of alcohol or drugs or those undergoing crises (Squires and Kennison 2010). A number of high-profile police shootings of Black or Mixed-Heritage men in addition to the shooting of Jean Charles de Menezes clearly demonstrated the over-representation of Black and Minority Ethnic citizens in cases where police use lethal force (Angiolini 2017; Baker 2016). This increasingly raised questions in socio-legal and socio-political spheres about the extent of gun use by police in England and Wales. Changes in firearms policy occurred by stealth, without public debate or the passing of legislation. Police appeared reluctant to acknowledge changes in policy, partly to preserve the mythical status of the unarmed officer (Punch 2011; Squires and Kennison 2010). To some extent, the shift in police use of firearms in England and Wales has echoes of the incremental paramilitarisation agenda in the US. Both countries appear to have acquired specialised armed police units without necessarily making strategic decisions to do so. These changes were highlighted in the aftermath of high-profile cases where citizens were shot dead by police in contested circumstances, raising the issue of how police might be held accountable for using lethal force.

***Regulating police use of firearms***

The use of excessive force remains a perennial concern in countries worldwide despite policies and regulations in place to minimise its use (Prenzler, Porter, and Alpert 2013). In England and Wales, police use of firearms should be reasonable, necessary and proportionate to the incident (Osse and Cano 2017). Officers are expected to exhaust all other nonviolent means of managing conflict before using firearms (Squires and Kennison 2010). However, in practice, rules guiding firearm use are problematic as what is considered to be reasonable force is essentially subjective (Punch 2011). That said, the authorisation factor in police use of firearms in England and Wales is a significant point of differentiation of policing when compared to the US (Punch 2011). AFOs are deployed only when authorised by a firearms commander, usually an officer of Inspector rank or above (Squires and Kennison 2010). The great majority of operations are undertaken by ARVs, meaning that AFOs do not typically work in isolation. The operational command structure of armed units also acts as an accountability framework, demonstrating the relatively low level of discretion that characterises firearms operations in England and Wales (Beighton, Poma, and Leonard 2015).

In the US, there is increasing concern that some officers seem to use lethal force as a first, rather than final option (Baker 2021; Buehler 2017). Establishing a clear framework to regulate the use of force is considered to be key to building legitimacy and trust between communities and police (PTF 2015, 19), but the heterogeneous nature of law enforcement agencies constitutes a challenge to this (Terrill and Paoline 2012; Zimring 2017). 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 (see, for example, Crank 2016; Jennings and Rubado 2017; PTF 2015; Terrill and Paoline 2012; Zimring 2017). 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’s (2012) research found that not all PDs had use of force policies, and 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. Officers in the US are both routinely armed and have a good deal of discretion in how they use firearms compared to England and Wales.

The legal framework that aims to hold police to account in both countries is also quite different. Amnesty International (2015) found no US state complies with international law on the use of lethal force or has any statutes requiring it to be used as a last option. In contrast to this, the PTF (2015, 19) clearly asserts that: “Not only must there be policies for deadly and nondeadly uses of force but a clearly stated “sanctity of life” philosophy must also be in the forefront of every officer’s mind”. This, though, is an essentially aspirational statement due to the absence of national agencies which could provide regulation or enforce policies. In England and Wales, the duty of the state to conduct official investigations when individuals have died as a result of police use of force is imposed by Article 2 of the European Convention on Human Rights which emphasises the right to life (Baker 2016). Article 2 feeds into the policy and practice of regulatory bodies aiming to hold police to account for using lethal force.

The IOPC and the Coronial system[[10]](#footnote-10) both independently investigate deaths resulting from police contact (Angiolini 2017). They aim to regulate police activity, not by attributing blame but by focusing on lessons which can be learned from such deaths (Baker 2016). In the US it is fairly typical for police agencies to investigate such shootings, so in this sense it would appear that the process of investigation in the US lacks the legitimacy of the processes in England and Wales (see Katz 2015; Zimring 2017). That said, the outcome of investigations in both countries are relatively similar. In England and Wales there are no known cases of officers being successfully prosecuted in court for fatal shootings (Baker 2016). In the US, successful prosecutions are rare, but not unheard of. Between 2005 and 2017, 29 officers were convicted in cases related to fatal shootings, often for lesser charges such as involuntary manslaughter or official misconduct (Stinson 2017). The US has a higher rate of gun deaths than England and Wales, there are more likely to be citizens shot dead by police, but officers are also relatively more likely to be legally sanctioned in the aftermath of such shootings.

***Conclusion***

The use of force is central to the police role, and the way it is used is intimately linked to legitimacy and consent in both England and Wales and the US. When citizens die as a result of police using firearms, this legitimacy can be challenged if police are considered to have abused their powers. The need to hold police accountable for such force is of significant importance in both countries. Accountability is questioned by marginalised groups in both countries, partly due to the persistent number of disproportionate number of deaths of People of Colour after contact with the police. In England and Wales, it might be argued that police have attempted to build legitimacy around the myth that they are not ‘routinely armed’ and that relatively few citizens are shot dead by officers, albeit this myth has been dispersed to some extent in the aftermath of the death of Jean Charles de Menezes. In the US, the growth of the BLM movement and the availability of data on these deaths has increasingly put a spotlight on whether police can be held accountable for the use of lethal force, and arguably had a knock-on effect, producing more instances of police being sanctioned through legal mechanisms (see, for example Baker 2019). Whilst George Floyd’s killing in Minneapolis in 2020 did not result from an officer using his gun, the subsequent uprisings that occurred across the US ensured that the apparent unaccountability of police when using lethal force against People of Colour once again vaulted back into socio-legal and socio-political agendas (Baker 2021).

The police role in relation to firearms has been shown to be dependent on events and incidents that occur within society. In both countries, from the 1960s onwards, police use of firearms became increasingly professionalised and firearms policies evolved to reflect societal concerns. In the 21st century, in both countries, there has been a re-appraisal of their role due to societal perceptions that firearms are either being used excessively, and/or used in a way that is not being held accountable. In this sense, events can affect police use of firearms by either endorsing or attempting to restrain their use – the legitimacy granted by society is not fixed in relation to policing and the use of firearms. Similarly, the relative levels of gun ownership and gun-deaths in each country has been shown to affect how police use firearms, further underlining the fact that police do not work in a vacuum – their activities largely reflect the type of society they police.

A number of paradoxes are bound up in policing in both countries that appear to affect the way in which police use firearms. First, the police role is ambiguous, they are expected to be a force and a service, and sometimes both within the same encounter. Using firearms could apply to either role, dependent on circumstances – they can be guarantors or extinguishers of liberty. Secondly, the discretion officers use when electing to use firearms could be considered to be unaccountable, largely because of the subjective nature of decision making by individual officers. Thirdly, the principle that officers are accountable to the law when they use force is effectively circumvented by the granting of discretion. These paradoxes might explain why police use of lethal force can be so contentious in both countries – because it springs from contested bases and principles inherent within the practice of policing itself.

The paradoxes above, combined with the fact that officers are able to use lethal force in both countries with relative impunity could be seen to be a tacit mark of approval by the dominant majority in society. The organisationally fragmented nature of policing and the lack of bodies to enforce policies and training, combined with the lack of effective sanctions from regulators further reinforces this observation. One might argue that if there was sufficient societal and/or political will, structures, policies, training and regulation could change. The lack of US data on citizens who die after contact with police might also be seen to be emblematic of this. The fact that federal data on the number of citizens shot dead by police in the US did not exist suggests – whether we would like to acknowledge it or not – that the issue was of limited relevance to governmental and justice organisations, but also to the dominant majority within society. In England and Wales, the data has existed for some time, but there is little evidence its existence has altered practice. In short, there appears to be sufficient public support for the police use of lethal force in both countries, as to some degree it is seen as being a fundamental part of their role.

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1. The NIJ conducts research and advises on criminal justice policy on behalf of the US Department of Justice. In the 21st century it has delivered multiple policy recommendations on policing in the US. [↑](#footnote-ref-1)
2. The College of Policing guides and advises on policy and practice for policing organisations in England and Wales. It replaced the National Police Improvement Agency in 2013 in an attempt to provide forces with greater consistency of approach on policy and practice. [↑](#footnote-ref-2)
3. The IOPC is the principal regulatory body that investigates complaints against police in England and Wales. It also investigates every case of death after police contact that occurs. It replaced the Independent Police Complaints Commission (IPCC) in 2017. [↑](#footnote-ref-3)
4. HMIC’s role is to promote improvements in the delivery of policing by inspecting, monitoring and reporting on police efficiency. In 2017 it also took over responsibility of this mandate for the Fire Service, becoming Her Majesty’s Inspectorate of Constabulary, Fire and Rescue Services (HMICFRS). [↑](#footnote-ref-4)
5. It should be noted that police in Northern Ireland (which is also part of the United Kingdom, but a separate legal jurisdiction) are routinely armed, reflecting the axiom that police reflect the type of society they serve. [↑](#footnote-ref-5)
6. The Police Federation in England and Wales is a similar organisation to Police Unions in the US – strictly speaking police in England and Wales do not have the right to strike, but the Police Federation is the body that represents officers on issues related to their employment. [↑](#footnote-ref-6)
7. In October 2015, the director of the FBI admitted that no accurate federal data existed on these deaths, a fact he noted was ‘embarrassing’ (Davis and Lowery 2015). He acknowledged that the best available data came from websites coordinated by the Guardian Media Group (cited here as ‘The Counted’) and the Washington Post. [↑](#footnote-ref-7)
8. Due to the lack of accurate data it is not possible to be certain that every one of these deaths was the result of officers using firearms, but this is the best available data (see for example, Zimring 2017). [↑](#footnote-ref-8)
9. It should be noted that the total number of ‘deaths after police contact’ in each year was 198 and 224 respectively. These deaths include suicides within 48 hours of leaving police custody and road traffic accidents (IPCC 2017). [↑](#footnote-ref-9)
10. The function of the Coronial system is to investigate unexplained or suspicious deaths in England, Wales and Northern Ireland. It is statutorily obligated to investigate all deaths after police contact, these are typically heard as inquests in public before a jury (Baker 2016). [↑](#footnote-ref-10)