

***'Accountability in the aftermath of police related deaths in the US and England and Wales: Processes and outcomes.'***

*Purpose:*

The article examines the apparent absence of accountability in the aftermath of police related deaths (PRDs) in the US and England and Wales. It considers regulatory mechanisms such as investigations by independent regulators and internal affairs departments; and legal mechanisms such as cases heard in criminal, civil and coroners' courts. The processes used by these approaches, and outcomes produced are examined in terms of their perceived effectiveness in holding police to account.

*Methods:*

The article considers qualitative research based on interviews undertaken with the relatives of 59 people who died as a result of police contact in both countries. The research examined how families attempted to pursue justice and accountability in the aftermath of the death of a relative.

*Findings:*

Whilst the mechanisms of legal and regulatory accountability employed in each country are somewhat different, the outcomes they produce are remarkably similar: few officers are sanctioned in the aftermath of such deaths in either country. The article argues these mechanisms can provide a façade of accountability in terms of process, but not in terms of outcome. They enable systemic issues that produce police related deaths to go more or less unchanged.

*Research limitations/implications*

As the research project is highly original, there are necessarily limitations in terms of the generalisability of its findings because it represents the subjective views of participants affected by PRDs. The article suggests that further research be conducted to extend our understanding of issues related to PRDs.

*Practical implications*

The article argues that the investigation and regulation of PRDs in both countries is essentially flawed. Consequently, there needs to be a fundamental rethink of how such deaths are investigated, and how police could be better held to account for PRDs.

*Social implications*

Without significant change to the processes and outcomes that occur in the aftermath of PRDs, it is argued that the legitimacy of police and the criminal justice system will continue to be questioned.

*Originality/value:*

There is no known empirical academic research into PRDs that considers the views of family members in both the US and England and Wales. As such, the article produces unique insights from the perspectives of relatives of those who have died following police contact.

*Key words:*

Police; use of lethal force; accountability; regulation

In June 2021, Officer Derek Chauvin was sentenced to 22 years in prison for the second-degree murder of George Floyd. Four days later, Police Constable (PC) Benjamin Monk was sentenced to eight years in prison for the manslaughter of Dalian Atkinson<sup>1</sup>. Two Black men were dead after contact with police officers, one in the US, the other in England. Both unarmed, both brutalised. In the same week, the UN published a report into policing, excessive force, and rights violations against People of Colour. This urged member states to: 'end impunity for human rights violations by law enforcement officials' (UN, 2021, p.1). Evidently, there is a confluence of events on both sides of the Atlantic about policing, the use of force, and accountability for police actions. Police Related Deaths (PRDs) are at its centre. Both prosecutions were largely viewed positively by media outlets, activist groups and the families of the bereaved in terms of producing accountability in the aftermath of PRDs. Successful prosecutions in the aftermath of PRDs are rare, however, so this poses questions about what sort of processes and outcomes typically exist in cases of PRDs. This article examines how regulatory and legal processes function in the aftermath of the PRD of any citizen in the US and England and Wales, and what sort of outcomes they produce in holding police to account. It argues police are able to extinguish lives with relative impunity in both countries; examines how this state of affairs exists; and provides suggestions for change.

There are significant differences in policing between the two countries. In the US, policing is organisationally fragmented with approximately 18000 Police Departments (PDs), the great majority of which employ fewer than 25 officers; and officers are routinely armed (Gaines and Kappeler, 2021). In England and Wales there are 43 police forces, the smallest of which employs 900 officers; and officers are not routinely armed (Baker, 2021). The number of people shot dead by police in each country is markedly different. In 2019, US police shot 999 citizens dead (Washington Post, 2021), whilst in England and Wales that figure was just three (IOPC, 2020). In terms of regulatory oversight, US police are considered to have an abysmal record of accountability (Crank, 2016), while in England and Wales they are notionally subject to a considerable degree of oversight, as is highlighted positively by US authors (see Zimring, 2017, Sherman, 2018).

This article argues that whilst regulatory processes might appear to be more robust in England and Wales, these do not necessarily translate into outcomes which are perceived to hold police to account for PRDs (see for example, Loader, 2020, Baker, 2016). In the US, between 2005 and 2017, 82 officers were charged as a result of using lethal force and 29 were convicted, usually for lesser charges such as involuntary manslaughter (Stinson, 2017a, and 2017b). In England and Wales, eight officers were charged with murder or manslaughter between 2002 and 2017, with no convictions (Angiolini, 2017).

---

<sup>1</sup> Mr Atkinson died in Telford in 2016 after being tasered multiple times and kicked in the head twice by PC Monk.

The conviction of PC Monk for the manslaughter of Dalian Atkinson was a significant outlier, because the last known conviction of an officer in a PRD in England and Wales occurred in 1971 (Baker, 2016). Whilst there are apparently striking differences between the two countries, the article argues they are neither as striking, or as different as they seem to be if considered from the perspective of police being able to act with relative impunity in cases of PRDs. Unquestionably, there are instances when the police use of lethal force could be perceived to be necessary and legitimate. In response to imminent terrorist threats, for example. However, a significant number of deaths in both countries can be viewed as being preventable, which raises the issue of how governmental bodies aim to prevent PRDs.

### ***Regulatory oversight***

In England and Wales, police oversight occurs at multiple levels and via numerous fora. For example, at a local level by elected Police and Crime Commissioners, and national level by the Home Office and Her Majesty's Inspectorate of Constabulary, Fire and Rescue Services (Baker and Norris, 2021). Broadly speaking, these regulators oversee police policies and aim to promote best practice in policing. Independent<sup>2</sup> oversight is provided nationally by the Independent Office for Police Conduct (IOPC)<sup>3</sup>. The IOPC oversees complaints made against the police; its mission is to promote public confidence in policing (Baker, 2016). It is the fourth regulatory body to fulfil this role since 1976, each of its predecessors being disbanded due to a host of similar criticisms. First, that they were insufficiently independent, due to over-reliance on ex-police personnel to staff them (Smith, 2009). Secondly, that they lacked sufficient powers to compel police to cooperate with investigations (Savage, 2013). Thirdly, that they lacked sufficient resources to hold police to account (Baker, 2016). Although the IOPC has seen its legal powers and financial resources enhanced, it continues to be beset with very similar problems to its predecessors (Baker, 2021).

In the US, there is little that could be considered to be analogous to the type of regulatory provision outlined above (Gaines and Kappeler, 2021, Katz, 2015). Police chiefs can be held to account by the head of local governmental organisations in a way similar to England and Wales. Some PDs are subject to a degree of external oversight from Civilian Review Boards (CRBs), but these differ from the IOPC in that they are local rather than national, and consequently diverse in terms of composition and practices. The overwhelming majority of PDs in the US are not subject to CRB oversight, De Angelis (2016) estimated their number in 2015 at 152 out of a total of approximately 18000PDs.

---

<sup>2</sup> In relation to investigatory bodies, independence in this article means independent from policing and justice organisations.

<sup>3</sup> The IOPC came into being in 2018. It replaced the Independent Police Complaints Commission (IPCC). All findings from English participants in this article refer to the IPCC, rather than the IOPC.

The heterogenous nature of policing and governmental organisations in the US is seen as one reason for the relative lack of regulation of police practice, which exists in stark difference to England and Wales (Baker, 2021, Zimring, 2020). There is minimal federal or state power to enforce police policies, training, or recruitment (Gaines and Kappeler, 2021, Katz, 2015). One obvious exception is consent decrees<sup>4</sup> enacted by the DOJ. These are, however, infrequently used and costly (Rushin, 2017, Butler, 2017).

### ***Accountability and PRDs: processes and outcomes***

In England and Wales, every PRD is investigated in two discrete independent fora. The IOPC conducts investigations into PRDs, most of which are publicly available once complete. Coroners also investigate these deaths, and are typically considered to use more transparent processes than the IOPC, largely because the hearings are in public and before juries (Baker, 2016). Coroners perform an inquisitorial rather than an adversarial function. They conduct fact-finding inquests that cannot ascribe liability to any party. Whilst Coroners can produce reports in PRD cases recommending police change policies or practice to prevent future deaths, they cannot enforce those recommendations. Similarly, the IOPC can neither initiate criminal proceedings against officers<sup>5</sup>, nor enforce changes in police practice as a result of their investigations. This does not prevent Coroners or the IOPC producing reports which are highly critical of police practice, but such critique is of questionable utility due to its relative toothlessness in terms of effecting change (Baker and Norris, 2021).

No comparable independent structure exists to investigate PRDs in the US. Typically, investigations are undertaken by local PDs and passed on for local prosecutors to review. The District Attorney (DA) assesses whether criminal charges might be brought against officers (Lara, 2017, Lowery, 2017). Instances of officers being charged with committing a criminal offence are infrequent, although there is some evidence to suggest this might be slowly changing (Jones-Brown and Blount-Hill, 2020). In the US, then, the only realistic option of independent regulation for the overwhelming majority of PRDs is via civil or criminal courts (Zimring, 2017). While research into prosecutions in England and Wales is sparse (one example is O'Driscoll, 2008), there is extensive research in the US focusing on criminal prosecutions. This has variously examined the low likelihood of DAs indicting officers due to their symbiotic working relationship (Rushin, 2017, Lara, 2017); the failure of grand juries to indict officers (Jones-Brown and Blount-Hill, 2020, Gross, 2016); jury bias (Jones-Brown and Blount-Hill, 2020,

---

<sup>4</sup> Consent decrees constitute legal processes whereby the DOJ negotiates with PDs to change practice based on a negotiated settlement between the two parties, typically overseen and monitored by a judge (for further information, please see Rushin, 2017).

<sup>5</sup> The IOPC does, however, have the capacity to recommend that prosecution should be pursued in individual cases.

Skolnick and Fyfe, 1993); and various issues linked to legal interpretations increasingly favouring officers' use of discretion (Butler, 2017, Gross, 2016).

### **Data and reports on PRDs**

Unsurprisingly, US authors argue a lack of data on PRDs affects how lessons might be learned to reduce the number of PRDs (see, for example Zimring, 2017, Sherman, 2018). Here again, there are significant differences between the two countries. PRD data in England and Wales has been collated by the principal police regulator (currently the IOPC) since 1980. In recent years, regulators and governmental bodies have focused on PRDs. The IPCC undertook statistical reviews into PRDs; police use of force; and also produced qualitative research into its own capacity to investigate PRDs (Baker, 2016). The Home Office commissioned a major independent review into PRDs chaired by Dame Elish Angiolini (2017), aimed at improving understanding of how and why such deaths occur, and what measures could be taken to minimise them. It concluded that insufficient lessons were learned in relation to these deaths, and that regulatory and legal accountability was lacking in a number of cases.

In the US, there is no accurate national data gathered by governmental organisations on PRDs, and no indication this will change in the foreseeable future (Baker, 2021). This might explain the apparent absence of governmental research into such deaths (Rushin, 2017). There are, however, crowd-sourced databases collating the number of PRDs in the US. These are considered to produce the most accurate data available (Zimring, 2017, Lowery, 2017). This article uses US data from the Washington Post's (2021) 'Fatal Force' website, combined with data from the IOPC (2020) for PRDs in England and Wales (see table 1).

*Table 1: PRDs in the US and England and Wales 2015-2020<sup>6</sup>*

<b>Year</b>	<b>US PRDs</b>	<b>PRDs per million of population</b>	<b>England and Wales PRDs</b>	<b>PRDs per million of population</b>
2015	993	3.02	147	2.46
2016	960	2.92	203	3.40
2017	986	3.00	241	4.03
2018	990	3.01	288	4.82
2019	999	3.04	276	4.62
2020	1021	3.11	N/A	N/A

Previous US literature (see, for example, Zimring, 2017) has suggested that the number of PRDs in England and Wales compared to the US is relatively low, possibly because it focused principally on

---

<sup>6</sup> Population data used to calculate PRDs per one million of population: The US Census Bureau (2020) estimates the population in 2019 to be 328.2M. The Office for National Statistics (ONS, 2021) estimates the population in England and Wales in 2020 to be 59.7M.

police shootings. Table 1 demonstrates that when one considers the most accurate data available on PRDs per million of population, the relative numbers of PRDs in both countries are not dissimilar. Comparing the available data on PRDs is not straightforward due to the limitations already noted with the US data which appears to focus almost exclusively on officers using force against citizens, whereas IOPC data includes numerous categories unrelated to the use of force. Table 2 provides a breakdown in PRD categories in England and Wales in the period 2015-2019. During that period, ‘apparent suicides following police custody’ and ‘other deaths following police contact’<sup>7</sup> accounted for 79% of total PRDs (IOPC, 2020). Both of those categories are almost certainly not recorded in US data. That said, there are distinct commonalities between both countries in terms of the disproportionate number of deaths of citizens of Colour compared to White citizens. In the US and England and Wales, you are twice as likely to die in a PRD if you are Black, than if you are White (see, respectively, Washington Post, 2021 and IOPC, 2020). The capacity of the IOPC to collate data on a variety of deaths connected to policing practice suggests that the PRD count in the US is almost certainly underestimated, as it principally focuses on officers using lethal force (Baker, 2021).

*Table 2: PRDs by category 2015-2019 (IOPC 2020)*

Year	RTA	Shooting	Death in or following police custody	Apparent suicides following police custody	Other deaths following police contact
2015	14	1	18	71	43
2016	21	3	14	60	105
2017	32	6	14	57	132
2018	29	4	23	57	175
2019	42	3	17	63	151
<b>Total</b>	<b>138</b>	<b>17</b>	<b>86</b>	<b>308</b>	<b>606</b>

### **Methods**

The article uses rich qualitative data gathered from semi-structured interviews conducted with family members of 59 citizens who died after police contact in the period 1999-2015; 43 from the US, and 16 from England<sup>8</sup>. In total, 75 family members were interviewed. The deceased represented a variety of demographics in terms of age, gender, and ethnicity (see table 3). The research project did not focus exclusively on People of Colour, but on any individual who died in a PRD. Interviews typically lasted one hour and were principally conducted face-to-face with family members. The interviews were

<sup>7</sup> This data is also not uncontroversial, as ‘other deaths’ have been argued to include deaths during or after police contact where force was used, for example, in hospitals, psychiatric detention facilities, or private residences (Angiolini 2017).

<sup>8</sup> Whilst England and Wales is a single legal jurisdiction, the deceased considered in this study all died in England.

recorded, transcribed and then analysed using NVivo software. The research focused on families' attempts to secure justice and accountability for their loved one in the aftermath of a PRD.

The recruitment of participants was initially driven by enquiries to civil-rights or community-activist organizations. These organizations identified relevant participants based on the key criterion that they should be family members of a citizen who died after police contact. The majority of participants were recruited as a result of initial participants referring known others who had similar experiences, what Bryman (2012, pp.201-202) terms 'convenience sampling'. This type of sampling is typical when dealing with sensitive subjects (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 Coventry 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 author by phone. Participants completed informed consent forms prior to conducting the interview. They were made fully aware they could withdraw from the interview process at any time.

The data was analysed interpretatively, 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 author became familiar with the corpus of data in order to gain an overview of its contents (Ritchie and Spencer, 1994). Secondly, familiarization enabled a thematic framework to be constructed using NVivo software; this identified the key themes of independent investigations, legal processes and police cultures examined in the findings. Thirdly, a process of indexing took place, in the form of sub-nodes in NVivo to break down the themes into key issues. Fourthly, charting enabled indexing to be used to make associations within and between issues and terms. For example, the link between justice and accountability in this article. Finally, charting led to a process of mapping and interpretation. Maps emerged in the form of typologies such as transparency and legitimacy, and the relationship between independence and accountability in regard to processes and outcomes.



Table 3: Demographic composition of deceased

						<b>Gender</b>					
Male			Female			Transgender					
52			6			1					
						<b>Ethnicity</b>					
Black		Caucasian		Latino		Mixed-Heritage		Native American		South Asian	
31		19		3		4		1		1	
						<b>Age</b>					
16-20		21-30		31-40		41-50		51-60			
11		26		13		8		1			

### **Findings**

Participants perceived regulatory processes to be intertwined with legal processes. The effectiveness of processes were seen as being linked to the type of accountability that could be produced in the aftermath of PRDs, as families felt that establishing the truth of events would be more likely to enable justice. Central to this was the need for investigations into PRDs to be independent.

### **Independent investigations**

Without exception, participants explicitly commented on the lack of independent investigations into PRDs. This was identified as being biased, lacking transparency and thus damaging any sense of accountability produced in the aftermath of a PRD. English participants focused almost entirely on IPCC investigations being institutionally biased, for example:

ENG 5: *'We have no faith in the IPCC, they are not independent. They are a fraud organisation that are there to cover up for police actions. Any information we have given to the IPCC has been used against us.'*

ENG 11: *'Nothing felt independent at all. There were a lot of ex-police in the IPCC . It felt like they were investigating themselves.'*

ENG 7: *'My experience of the IPCC is that they are there to protect the police. So don't say you are independent, you are there to protect the police.'*

Given that independence is fundamental to the basis of the IPCC's existence, these findings represent a major failure. For US participants, criticisms about the lack of independent investigation focused on the police and DA. Two quotes below demonstrate typical responses about police investigations into PRDs:

US 32: *'What I don't understand [is] how police officers can investigate their own officer, it makes no sense. Of course you are going to find him not guilty of anything, because you don't want to.'*

US 38: *'The police say they did a comprehensive investigation, which I find impossible [to believe] because everyone involved is a police officer; therefore you can't do a comprehensive investigation, as you are investigating yourself.'*

Typically, US participants expressed most dissatisfaction towards the DA for accepting what they viewed to be fundamentally biased investigations into their loved one's death. The two quotes below are representative of participant responses. The former focuses on the essentially closed nature of the investigative process, the latter acknowledges that the organisation of the criminal justice system effectively mitigates against the DA indicting an officer in a PRD case.

US 16: *'The DA's office do their own investigations. That's all private, so they don't let us know what it entails, or what they found. In a nutshell, they do their own investigation and they investigate their own people.'*

US 18: *'The DA that is responsible for prosecuting is an employee of the state. There is a huge conflict of interest; I can see now why so very few of these actually go to court and why so few of these cases actually get prosecuted.'*

Participants connected the absence of independent investigations to the lack of successful legal outcomes in their cases. They believed that improved evidence gathering would produce a more accurate construction of how their loved one came to die.

### **Legal processes**

As established earlier, the types of legal processes typically used in the aftermath of PRDs in both countries differs. Table 4 sets out how many cases considered in this article were heard in criminal, civil and inquisitorial settings in each country; how many were the subject of financial settlements; and how many had no further action post the initial death investigation by police.

Table 4: Cases examined in this article broken down by types of legal processes used

Country	Number of cases	Criminal case	Civil case	Inquest	Financial settlement	No action
US	43	8	15	4 <sup>9</sup>	26	16
England	16	5	0	16	0	0

Of thirteen criminal cases brought against officers, only one prosecution (in the US) was successful, with the officer convicted of second-degree murder. From the data examined, it is evident that civil cases and settlements were used relatively frequently in the US, with the latter accounting for two-thirds of the cases, compared to none in England. Of the 26 settlements in the US, only two were the result of the conclusion of a civil trial, the others were settled without a trial. On the other hand, sixteen cases in the US had no further action taken after the initial police investigation, whereas all English cases were heard in Coroners' courts. Therefore, out of 59 cases, 28 were heard in adversarial courts, with only three of those trials resulting in a positive legal conclusion for families of the deceased.

Participants from both countries believed that until officers were held to account by legal processes, there was little chance of lesson learning by police, and numbers of PRDs would remain largely unchanged. Two English examples below are illustrative of this point:

ENG 8: *'Until [police] are held accountable through the criminal justice system, whether that be institutions or police officers for the deaths, lessons won't be learned.'*

ENG 14: *'Every time [police] kill someone, they say changes will be made, but they never are, because if you don't have truth, there is no transparency; and if you don't have that, there is no accountability, and if no one is held accountable, nothing will ever change.'*

These commonly mirrored quotes by US participants. The two below refer to qualified immunity, and are illustrative of such responses:

US 17: *'The law ensures [police] have implied immunity, which means they are never guilty, they can kill, destroy and lie without accountability.'*

---

<sup>9</sup> The four inquest cases in the US were conducted by magistrates rather than Coroners.

US 6: *'If [officers] are allowed immunity and there is excessive force, they are not learning anything. You have a situation where officers are continually creating liability and no accountability and you are allowing them to continue to work, where is the justice?'*

When considering the lack of independent investigation and the failure of legal processes to hold officers to account, a number of issues clearly emerge. First, independence is linked to transparency, and a perceived lack of either damages any notional process of accountability construction. Secondly, justice is seen to be lacking in these cases in large part because of the way the legal system is configured in both countries. Thirdly, a lack of prosecutions is seen to equate to not only a lack of accountability, but an inability to learn lessons, which means that police are viewed as acting with impunity, and effectively being enabled by legal systems to continue acting in that way.

#### ***Cultural change: 'attitudes and mindsets'***

As participants had been through regulatory and legal processes and found them wanting, the majority focused on demanding changes to policing cultures, most typically through changes to officers' attitudes and mindsets. These demands were driven by a belief that cultural change in police practice could prevent future deaths, and thus obviate, or minimise, the need for regulatory responses. Participants focused on two principal areas where they believed change could be effected. One was the need for police, prosecutors and other actors in legal and regulatory systems to embrace the fact that officers *can* make errors which lead to preventable deaths. The other was a need for officers' attitudes and mindsets about their role to change. Participants believed these changes needed to occur in order to improve the legitimacy of policing by demonstrating a capacity to learn lessons. The first quote below notes that officers *are* held accountable in the criminal justice system in England and Wales for a range of actions, but not in relation to PRDs; the second focuses on the principle of acceptance of wrong-doing or errors, and was commonly expressed by English participants.

ENG 1: *'There are a lot of police officers in prison, I have done my research. They are in prison for fraud, beating up their wives, drink-driving, but a fog comes over the police force when there is a death in custody, and they are not ending up in prison.'*

ENG 5: *'[Police] cannot admit when they are wrong, and if you can't admit when you are wrong [you] are just going to keep doing the same thing that is going to cause more deaths.'*

Similarly, US participants expressed the need for police to embrace different practices, acknowledge errors, and consequently, learn lessons. This reflects the fact that PRDs were viewed as being preventable, and focused on how the death could have been avoided.

US 28: *'I am a pilot. You don't look at an accident and say it was unavoidable, you figure out ways to make sure it doesn't happen again.'*

US 21: *'I want to see them move from a mind-set of finding fault to a mind-set of finding what truly happened, and how do we prevent it from happening again.'*

Participants in both countries commonly identified issues related to the training of officers, and of having clearer policies in place that governed their actions. In addition, participants focused on the selection and recruitment of officers, and police cultures, usually with reference to the limitations of training and policies in regulating police practice. The quotes below represent emphatic assertions to this effect:

ENG 4: *'Does someone really need to be trained that if you suffocate someone face down they will die? What more training does someone need for that?'*

ENG 8: *'It's about attitude, it's about [their] mindset. The bottom line is that you can't train officers to give a shit.'*

US 23: *'[Police] can create change. It doesn't take millions and millions of dollars to do that, it takes a changed heart to create that.'*

US 18 *'The whole mind-set needs to change, the way [police] are trained, the way they see the world. A lot of cops shouldn't be cops.'*

Much has been written on how police might be regulated in practice (see, for example, Sherman, 2018, Katz, 2015, Smith, 2009, Savage, 2013). Typically, this focuses on regulation occurring retrospectively, and prospectively. The former usually occurs via processes in the aftermath of perceived wrongdoing. The latter aims to minimise wrongdoing and prevent errors from occurring (Smith, 2009). The findings in this article indicate that participants who had experience of regulatory and/or legal processes found them wanting in terms of producing retrospective accountability in PRDs. The lack of confidence in retrospective processes of regulation led them to focus on prospective change in policing via cultural shifts. Although the regulatory processes used by both countries appear to be quite different, they are experienced by families in similar ways, largely because they produce similar outcomes in terms of infrequent prosecutions.

## **Discussion**

Independent oversight is considered to be the holy grail of police regulation, but it is fraught with practical and conceptual challenges (Savage, 2013). Smith (2009) states that a regulator's capacity to demonstrate independence relies upon a number of factors being evident. For example, having sufficient resources to function; being able to demonstrate transparent processes and decision making; and complainants having the right to access advice and representation as part of the regulatory process. All have been found to be signally absent in the workings of the IPCC (Smith, 2013). Conceptually, Savage (2013) doubts whether independence can exist ontologically. His research with IPCC investigators focused on their ultimate dependence on police agencies in enabling access to evidential sources (see also Prenzler, 2016).

The findings raise significant questions about whether independence *could* even exist in the investigation of PRDs. Independent regulation in England and Wales might be perceived to be more legitimate than in the US, largely because there are two national organisations that autonomously investigate PRDs. The wealth of data produced, and the number of recommendations this generates in terms of policy, further underlines the relative level of governmental focus on PRDs in England and Wales. In the US, there is little attempt to suggest that independent investigations occur, or that governmental institutions produce data on PRDs. Despite these differing approaches, the legal outcomes they produce are similar, as has been shown. A further similarity between the countries is that nearly all regulatory processes that exist on PRDs focus on individual cases, rather than examining the issue from systemic or structural perspectives (Baker, 2021). It could be argued that the regulatory system in England provides a patina of independent oversight that largely enables police to go about their business with relative impunity, in much the same way as US police are able to do in the absence of such a regulatory façade.

Participants from both countries felt that meaningful accountability could only be achieved via legal outcomes. The article demonstrates that officers are more likely to be found guilty of charges in the US rather than in England and Wales. There are two likely reasons for this. Firstly, the fact that each death in England and Wales is investigated by the IOPC and Coroner might mean that facts are established early on in the regulatory process which potentially diminishes the possibility of criminal prosecution. This is largely because a significant amount of evidence is gathered in these fora using a lower evidentiary bar than is the case in a criminal trial. Secondly, and largely due to widespread public protests since 2014, it might be the case that because officers are increasingly likely to be prosecuted in the US, the relative number of successful outcomes in these cases has risen as a result, although this possibility is questioned by Jones-Brown and Blount-Hill (2020). Undoubtedly, more research could be undertaken on this issue to examine how prosecutions do, or do not occur in more than one country.

In the US, authors have questioned whether criminal prosecutions are the most effective method of holding police to account in PRDs, largely due to them being so patently unsuccessful (see, for example, Zimring, 2020, Sherman, 2018, Skolnick and Fyfe, 1993). Those authors note that prosecutions should occur in egregious cases of police malfeasance or malevolence, but to achieve any serious reduction in the number of PRDs in the US, cultural change will be necessary, as is noted in the conclusion to this article. An issue that has been increasingly focused on is the decertification of officers, which has been successfully pursued by some states (for example; CA and FL) (ACLU, 2021). In England and Wales, it has been a statutory requirement since 2017 for forces to transparently list officers barred from police service as a result of being dismissed (Goodier, 2021). There is broad agreement in the US that improved gathering and analysis of data at a federal level in order to manage and monitor policies and officer performance could cut the number of PRDs (Zimring, 2020, Sherman, 2018, Rushin, 2017). Experience from England and Wales suggests this might not necessarily be the case. Knowledge and understanding of PRDs is not necessarily a precursor to successful interventions that reduce the number of future PRDs.

The relative failure of criminal justice systems to successfully prosecute PRDs should give us pause to consider alternative possible solutions. These appear to fall into two categories: the decision to prosecute; and court processes combined with legal interpretations. In both countries, special prosecutors could be statutorily appointed to consider cases of PRDs and decide whether criminal prosecutions should proceed. In this way, current links between prosecutors and PDs (in the US) and prosecutors and the IOPC (in England and Wales) could be weakened. Similarly, in both countries, the evidentiary bar used in court processes could be lowered in cases of PRDs, on the basis that police officers should be held to a higher standard than citizens due to the awesome powers they possess (Baker, 2021). Finally, as Skolnick and Fyfe (1993) note, criminal courts are notoriously blunt instruments in providing justice for the great majority of cases they process. It should not be beyond the wit of either country's government to devise an alternate method to hear these cases, or use alternate methods that offer alternate solutions. Whilst these suggestions might seem somewhat idealistic, it should be borne in mind that only ten years ago defunding or abolishing the police was relatively unheard of in mainstream societal discourse (Butler, 2017).

Our understanding of PRDs is uncertain in relation to data, reporting, investigation, regulation and legal prosecutions. There is much more that we do not know than we know. A significant similarity between both countries is that police have a good deal of latitude in practice when it comes to being held to account for people who die after contact with them. This enables policing organisations to continue without widespread changes to their practice, safe in the knowledge that change is highly unlikely to be enforced upon them (Baker, 2021, Baker, 2016). Regulatory and legal processes are not

only retrospective attempts to provide justice and accountability about PRDs: in aggregate form, they could also be used prospectively to learn lessons that prevent future deaths. The evidence presented in this article suggests that police in both countries are found wanting in this regard, and it is this, perhaps more than anything, which is seen to enable a culture of impunity. For Loader (2020, p.414): ‘the pattern of non-prosecution also sends an important cultural signal about who or what matters.’ In this sense, liberal principles of fairness, rights, accountability and a respect for the sanctity of life run up against an unspoken societal discourse which valorises police use of force in maintaining order on behalf of the dominant societal majority, at the cost of societal minorities (Baker, 2021, Loader, 2020, Fassin, 2019).

Cultural change in policing has been strongly mooted by major reviews in both countries. The President’s Task Force (PTF) on 21<sup>st</sup> Century Policing (2015, p.1) notably stated that officers should embrace a ‘guardian’ rather than a ‘warrior’ mind-set. It envisioned officers providing a service, as distinct from being principally focused on law-enforcement. This objective was unambiguously expressed: ‘Not only must there be policies for deadly and non-deadly uses of force but a clearly stated “sanctity of life” philosophy must also be in the forefront of every officer’s mind’ (PTF, 2015, p19). Similarly, in England and Wales, Angiolini (2017, p.37) emphatically stated the need for: ‘a transformation in [police] culture away from physical intervention as the default position to one of de-escalation.’ Whilst these are unequivocal and laudable aspirations, it is unclear how they will be enacted without widespread buy-in from policing agencies. Prenzler (2016) notes that globally, there is a long history of major inquiries into policing exhorting cultural change, which typically have limited effect in the long-term. Loader (2020, p.406) terms this the: ‘merry-go-round of review, recommendation and inaction.’ It is unsurprising, therefore, to see the UN (2021) report focus on measurements of police practice, rather than on policy or training initiatives. All of this should be read with the significant caveat that the UN has no power to enforce change, similar to the PTF, Angiolini, or indeed, the IOPC, or Coroners in England and Wales.

### ***Conclusion***

The findings in this article should be considered in relation to the qualitative nature of the project that produced them. It represents a highly original piece of research that examines the experiences and perceptions of participants who have intimate experience of PRDs yet are rarely considered in academic literature. As Scraton (2002, p.112) notes, there is a ‘yawning gap’ between official discourse about controversial deaths and what families affected by those deaths say. The findings in this article can be seen to negatively impact the legitimacy of both police and regulatory agencies (Baker 2021, Loader, 2020). The author does not assert generalisability from the findings of 75 semi-structured



interviews, and the issue of self-selection bias should also be noted in relation to the recruitment of participants. The inherent difficulties in comparing data between the two countries should also be acknowledged.

That said, the author does assert that no comparable academic research has been conducted on PRDs in any country, let alone a comparison between two countries. Consequently, the article produces important and original findings on the issue of PRDs. Undoubtedly, further research could be fruitfully conducted with those who have experience of navigating legal and regulatory processes in the aftermath of PRDs, possibly from the perspective of specific minorities. Future quantitative research might consider the perceptions of wider society in relation to regulatory or legal processes into PRDs. Another avenue could be to conduct qualitative research with either lawyers or regulators who have been involved in these processes in order to examine their perceptions and experiences.

The widespread uprisings that occurred in the aftermath of George Floyd's murder were similar to those in 2014 after the death of Mike Brown and Eric Garner; and in 1992 in the aftermath of LAPD officers being acquitted for Rodney King's beating (Baker, 2021). Widespread anger and righteous outrage will not necessarily produce widespread change in regulatory or legal processes in cases of PRDs, or alter police cultures. How realistic is it to believe that there will be an increase in successful prosecutions, or that policing cultures might change? There is considerable support for police from societal majorities in both England and Wales and the US, despite widespread concerns about their abuses of power and disproportionate focus on minorities (Baker, 2021). There is also, apparently, little political capital to be gained from taking on police in relation to regulatory or legal accountability, or in terms of changing cultures (Loader, 2020, Fassin, 2019, Rushin, 2017, Butler, 2017).

At the time of writing, the George Floyd Justice in Policing Act, aimed at strengthening regulatory and legal processes that manage US policing has stalled in the Senate (DeBonis, 2021). Progress has been made in removing officers' qualified immunity in three states (CO, CT and NM) and also the city of New York. The Washington Post reports that attempts to remove qualified immunity in 35 other states have failed as a result of political opposition and push back from law enforcement agencies (Kindy, 2021). In England and Wales, the Police, Crime, Sentencing and Courts Act 2021 is currently progressing through parliament. Amongst other issues, it grants police enhanced powers that restrict the right of public protest. In a recent speech to the police union conference, the Home Secretary announced that it was time for police to get back to 'zapping the really bad people out there' – this while the trial into Dalian Atkinson's manslaughter was ongoing (Hamilton, 2021). There are unlikely to be changes to regulatory or legal processes, or policing cultures until there is political and societal

will for it to occur. The successful prosecutions of Officer Chauvin and PC Monk are individual cases, and atypical for the manifold issues covered in this article.

## **References**

- ACLU (2021) 'California State Assembly Passes Police Decertification', available at: <https://aclualaction.org/2021/09/california-state-assembly-passes-police-decertification/>
- Angiolini, E. (2017), Report of the Independent Review of Deaths and Serious Incidents in Police Custody, TSO, London.
- Baker, D. and Norris, D. (2021), 'Policing societies with firearms: evaluating the US and England and Wales.' Poole, H. and Sneddon, S. (Ed.s) Firearms: Global perspectives on consequences, crime and control, Taylor and Francis, London.
- Baker, D. (2021), Police-Related Deaths in the United States, Lexington, Lanham MD.
- Baker, D. (2016), Deaths after police contact: constructing accountability in the 21st century, Palgrave-Macmillan, London.
- Bryman, A. (2012), Social Research Methods, 4<sup>th</sup> edn, Oxford University Press, Oxford.
- Butler, P. (2017), Chokehold: policing Black Men, New Press, New York.
- Crank, P (2016), Understanding Police Culture, 2<sup>nd</sup> edn, Routledge, New York.
- De Angelis, J. (2016), 'What Do Citizens Think About Police Accountability Measures? Lessons From Community Attitudinal Surveys', Criminal Justice Policy Review, Vol. 27 No. 5, pp.520-536.
- DeBonis, M. (2021), 'Police reform negotiations bog down on Capitol Hill as crime rises and midterms loom', Washington Post, 6/24/21.
- Fassin, D. (2019), 'The Police Are the Punishment', Public Culture. Vol. 31 No. 3, pp.539-561
- Gaines, L.K. and Kappeler, V.E. (2021), Policing in America, 9<sup>th</sup> edn, Anderson, Waltham, MA.
- Goodier, M. (2021) 'Secret police: A quarter of officers sacked for serious offences are hidden from public', New Statesman, 9/2/21.
- Gross, J.P. (2016), 'Judge, Jury and Executioner: The Excessive Use of Deadly Force by Police Officers', Texas Journal of Civil Liberties and Civil Rights, Vol. 21 No. 2, Pp.155-181.
- Hamilton, F. (2021), 'Priti Patel: now police can get back to zapping criminals', The Times, 6/9/21.
- IOPC (2020) Annual deaths during or following police contact statistics: 2018-19, Available at: <https://policeconduct.gov.uk/research-and-learning/statistics/annual-deaths-during-or-following-police-contact-statistics>
- Jones-Brown, D. and Blount-Hill, K-L. (2020), 'Convicted: Do Recent Cases Represent a Shift in Police Accountability? A Research Note', Criminal Law Bulletin, Vol. 56 No. 2, pp.270-299.
- Katz, W. (2015), 'Enhancing Accountability and Trust with Independent Investigations of Police Lethal Force', Harvard Law Review Forum, Vol. 128 No. 6, pp.235-245.
- Kindy, K. (2021), 'Dozens of states have tried to end qualified immunity. Police officers and unions helped beat nearly every bill', Washington Post, 10/7/21.
- Lara, I. (2017), 'Shielded from Justice: How State Attorneys General Can Provide Structural Remedies to the Criminal Prosecutions of Police Officers', Columbia Journal of Law and Social Problems, Vol. 50 No. 4, pp.551-582

- Lee, R. (1993), *Doing Research on Sensitive Topics*, Sage, London.
- Loader, I. (2020), 'A Question of Sacrifice: The Deep Structure of Deaths in Police Custody', *Social and Legal Studies*, Vol. 29 No. 3, pp.401-420
- Lowery, W. (2017), *They Can't Kill Us All: The Story of Black Lives Matter*, Penguin, London.
- O'Driscoll, C. (2008), 'Fear and Trust: The Shooting of Jean Charles de Menezes and the War on Terror', *Millennium: Journal of International Studies*, Vol. 36 No. 2, pp.149-170.
- ONS (2021), *Population estimates for the UK, England and Wales, Scotland and Northern Ireland: mid-2020*. Available at:  
<https://www.ons.gov.uk/peoplepopulationandcommunity/populationandmigration/populationestimates/bulletins/annualmidyearpopulationestimates/mid2020>
- Prenzler, T. (2016), 'Scandal, Inquiry, and Reform: The Evolving Locus of Responsibility for Police Integrity.' Prenzler, T. and den Heyer, G. (Ed.s) *Civilian Oversight of Police: Advancing Accountability in Law Enforcement*, Taylor and Francis, Boca-Raton, pp.3-28
- PTF. (2015), *Final Report of the President's Task Force on 21st Century Policing*, Office of Community Oriented Policing Services, Washington, DC.
- Ritchie, J. and L. Spencer. (1994), 'Qualitative Data Analysis For Applied Policy Research,' In Bryman, A. and Burgess, R. (Ed.s) *Analysing Qualitative Data*, Routledge, London, pp.188-209.
- Rushin, S. (2017), *Federal Intervention in American Police Departments*, Cambridge University Press, Cambridge.
- Savage, S. (2013), 'Thinking Independence: Calling the Police to Account through the Independent Investigation of Police Complaints', *British Journal of Criminology*, Vol. 53 No. 1, pp.94-112.
- Scruton, P. (2002), "Lost Lives, Hidden Voices: 'Truth' and Controversial Deaths", *Race Class*. Vol. 44 No. 1, pp.107-118.
- Smith, G. (2013), 'Oversight of the police and residual complaints dilemmas: independence, effectiveness and accountability in the United Kingdom', *Police Practice and Research: An International Journal*, Vol. 14 No. 2, pp.92-103.
- Smith, G. (2009), 'Citizen oversight of independent police services: Bifurcated accountability, regulation creep, and lesson learning', *Regulation and Governance*, Vol. 3 No. 4, pp.421-441.
- Sherman, L (2018) 'Reducing Fatal Police Shootings as System Crashes: Research, Theory, and Practice.' *Annual Review of Criminology*, Vol. 1 pp.421-449.
- Skolnick, J and Fyfe, J (1993) *Above the Law: Police and the Excessive Use of Force*, The Free Press, New York.
- Stinson, P. M. (2017a), "Charging A Police Officer in Fatal Shooting Case Is Rare, And A Conviction Is Even Rarer". *Criminal Justice Faculty Publications*, May 31.  
[https://scholarworks.bgsu.edu/cgi/viewcontent.cgi?article=1079&context=crim\\_just\\_pub](https://scholarworks.bgsu.edu/cgi/viewcontent.cgi?article=1079&context=crim_just_pub)
- Stinson, P. M. (2017b), "Police Shootings Data: What We Know and What We Don't Know." *Criminal Justice Faculty Publications*, April 20.  
[https://scholarworks.bgsu.edu/cgi/viewcontent.cgi?article=1077&context=crim\\_just\\_pub](https://scholarworks.bgsu.edu/cgi/viewcontent.cgi?article=1077&context=crim_just_pub)

US Census Bureau (2020), 2019 Population Estimates. Available at: <https://www.census.gov/search-results.html?searchType=web&cssp=SERP&q=us%20population>

UN (2021) 'Promotion and protection of the human rights and fundamental freedoms of Africans and of people of African descent against excessive use of force and other human rights violations by law enforcement officers.' Available at:  
<file:///C:/Users/notmu/OneDrive/Documents/Book/US%20research/Papers/Policing%20an%20international%20journal/UN%20report.pdf>

Washington Post. (2021), Fatal Force, Available at:  
<https://www.washingtonpost.com/graphics/investigations/police-shootings-database/?nid>

Zimring, F. (2020), 'Police Killings as a Problem of Governance.' *Annals of the American Academy*, Vol. 687 pp.114-123

Zimring, F. (2017), *When Police Kill*, Harvard University Press, London.