

Applying Medicine's "Never Events" Model to Law Enforcement's Disparate Killings of Black Male Civilians

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Abstract

Background: George Floyd's murder sparked nationwide and international shock, grief, and support, shedding long, overdue light on the need for dialogue and policy reform regarding how American black people are handled by police officers. Much of the outrage stems from the fact that officers have historically escaped any penalty for unjustly taking the lives of American black citizens. **Purpose:** Utilizing George Floyd's 2020 murder as a case study, this paper nests the perpetrator perspective within CRT's victim perspective to propose a model whose long-term goal is that continued practice of harshly penalizing reckless and murderous officers would aid in repairing some consequences associated with systemic racism within the criminal justice system. **Research Method:** The method described in this position paper is a model based on the medical system's "never events" policies called "Just N.O.". The proposed model is composed of four constructs and is tailored to law enforcement officers whose lives are not in danger when they kill civilians in their care.

Keywords

Police Brutality, Black Male Image, Critical Race Theory, Never Events, Law Enforcement Policy Reform

1. Introduction

The media's coverage of a series of high-profile cases involving law enforcement's seemingly disparate treatment of black Americans has sparked the recent global outcry for justice and calls for police reform. The pinnacle of this outrage came as American and international citizens watched a shocking display of

reckless disregard, as a white police officer, Derek Chauvin, suffocated a black civilian named George Floyd. Despite Mr. Floyd's pleas that he could not breathe, officer Chauvin continued to kneel on Mr. Floyd's neck until he died (Hill et al., 2021). While this case and the last decade's onslaught of killings of black men by white police officers have brought widespread attention to this issue, black Americans, particularly black men, have historically experienced a contentious relationship with the criminal justice system (Robinson, 2017).

It can be argued that law enforcement in America towards black people has undergone very minimal evolution since the days of slave patrols, the original system utilized to police African-descended enslaved persons. "Current policing tactics are not a new phenomenon but a thinly veiled reflection of policing of the past" (Robinson, 2017: p. 599). The underlying ideals actualized through slave patrols onward to current policing practices reveal a mindset that is over 300 years old. The parallels between slave patrols and modern-day policing are striking: American black communities are still heavily policed (Gilbert & Ray, 2016; Robinson, 2017); black men are still targeted and racially profiled (Pierson et al., 2020); police-black male civilian interactions still result in a disproportionate number of deaths of black men (Gabrielson, Sagara, & Jones, 2014; Horel et al., 2018; Siegel, 2020); and police officers' killings are still widely viewed within the context of "justifiable homicides", rendering them qualified immunity from accountability and consequences (Equal Justice Initiative, 2021; Ross, 2019).

But what if police officers' killings of black men were no longer automatically viewed as "justifiable homicides"? What if police officers were held accountable for killing black men when those officers' lives were not in danger? Against what standard could they be held? In the medical community, medical practitioners' reckless errors, including accidental deaths caused by unconscionable negligence, are held against the standard of "never events". What if law enforcement utilized its own standard of "never events"? Undergirded by George Floyd's 2020 murder as a case study, this position paper aims to propose a model based on the medical system's "never events" policies for law enforcement officers whose lives are not in danger when they kill civilians in their care. The paper highlights the origins of policing of black civilians by slave patrols. Next, it discusses the role that the black man's image as a menacing brute plays in officers' targeting and murdering him, and long-standing ideological traditions that have systematically facilitated the officer's ability to do so with little to no penalty. This discussion will be contextualized by the nesting of early legal studies' perpetrator perspective within critical race theory's victim perspective. Finally, the paper proposes a list of occurrences that should never happen in the criminal justice community.

2. Literature Review

2.1. The Slave Patrols

The earliest documented deaths of unarmed black men date back to the arrival

of the first slave ship in 1619—a Dutch Man-of-War vessel (Robinson, 2017). Following its arrival, every state in the antebellum South adopted the Slave Codes. Rooted out of the Barbadian Slave Codes imposed by the British, the codes were laws for governing enslaved persons, who were likened to farm animals and inanimate property (Gaspar, 1999). These codes also introduced slave patrols—organized enforcement used to police enslaved Africans, apprehend escapees, and quell revolts, with the latter objective being a deep fear of white plantation owners. Three to six white men serving as patrollers would ride on horseback throughout the night between plantations seeking out “misbehaving” black people and implementing physical punishments for “violations” (Parenti, 2001). These men were primarily composed of various middle to upper class professionals, including doctors, lawyers, merchants, prosperous farmers, and printers—the same types of men who would later form the original and resurgent Ku Klux Klan (Parenti, 2001). Due to their role in stabilizing the economic interests of slave holders from uprisings, slave patrols were highly instrumental in maintaining the social order of the institution of slavery (Robinson, 2017). However, slave patrols did not cease with the abolishment of slavery. Following the emancipation of enslaved persons, slave patrols were converted into police departments. Former Confederate soldiers assumed positions within these police departments as well as other areas of criminal justice, including serving as attorneys and judges (Hassett-Walker, 2021). History has shown that these officials did not shed their racist ideologies when interacting with black males, but rather, inculcated them into the system’s structure, from the crafting of policies through the administering of sentencings.

2.2. The Origins of the “Black Brute” Prototype

The pervasive perception of black men as a menacing threat to be feared has contributed to American society’s, and more specifically, white police officers’ disparate treatment of black civilians. This perception can currently be observed across virtually all strata of society, but it originated during slavery. During legalized slavery, if a slave holder killed an enslaved person, that slave holder avoided legal sanction by stating that “his slave” resisted during discipline and caused the slave holder to fear for his life, thus leading him to defend himself (Starkey, 2017). In contrast to the idea of the “resisting slave,” another widely accepted viewpoint was that black men (and black women) possessed a childish, imbecilic nature that required the paternalistic governing “offered” during slavery. Former thinking suggested that black men’s “savagery” was “contained” by the slave holder and plantation life, given its structured processes for daily living. (This was an argument that was used to perpetuate the institution of slavery). During the Reconstruction Era, however, without the slave holder to “contain” the black man’s “animalistic tendencies”, the black man became viewed as a menacing threat (Pilgrim, 2012). Smith (1893: p. 181) considered a “bad Negro” to be “the most horrible creature upon the earth, the most brutal and merciless”. When describing how white people relate to “the Negroes”, Winston (1901) wrote that

a black man terrifies a white woman because he is a ferocious “monstrous beast, crazed with lust”, more brutal than a tiger. In his 1902 novel, Thomas Dixon determined that emancipation had transformed black people from “chattel to be bought and sold into a beast to be feared and guarded” (Fredrickson, 1971: p. 280). Through slavery, the notion of the “fearsome nature” of the black man was birthed. Pilgrim (2012) observes the following about black caricatures following slavery from the late 1800s through the early 1900s:

“The brute caricature portrays black men as innately savage, animalistic, destructive, and criminal—deserving punishment, maybe death. This brute is a fiend, a sociopath, an anti-social menace. Black brutes are depicted as hideous, terrifying predators who target helpless victims, especially white women” (para 1).

Over the past century, long held perceptions of black males have shaped ideas regarding black criminality, depicting them as predators to be feared and if possible, eradicated. These perceptions have been upheld and persistently used to socially construct and perpetuate ideals of white racial superiority and dominance, while justifying disparate and unconscionable treatment of black people. They have also led to the deployment and weaponizing of racial stereotypes, as such depictions have transcended mere perception. For example, Hurwitz and Peffley (1997) found that white citizens posed harsher recommendations of punishments for black suspects than for white suspects. Similarly, Hetey and Eberhardt (2014) reported that extreme racial disparities resulted in increased acceptance of punitive policies within the prison system. Racial stereotypes of environments being perceived as “more black” yielded fears related to crime and safety, in contrast to penal institutions that were perceived as “less black”. In another study conducted by Eberhardt et al. (2006), the researchers found that white people perceived inmates whose features represented a stereotypical African phenotype as worthy of death. Similar to legalized lynchings, the death penalty was recommended as another form of “justifiable homicide”.

Beyond recommendations, these portrayals shape public opinion and give rise to discriminatory and deadly actions. By the late 19th century, the imagery of “the black brute” enraged with lust and an insatiable, uncontained desire for white women—to the extent that his “beastly, animalistic” nature propelled him to sexually assault her—contributed to an onslaught of “justifiable homicides” by way of lynchings from mobs. Lynchings were widely used to police black communities (Fitzgerald, 2007). Data from the Tuskegee Institute reveals that between 1882 and 1951 of the 4730 people lynched, 3437 were black. Beginning in the early 1900s, approximately 90% of all people lynched were black (Gibson, n.d.). Though not the only reason, one prevailing “justification” for lynchings was vindication for a white woman who claimed to have been raped, when often, she failed to conceal an extramarital affair (Pilgrim, 2012). Of shocking irony, lynch mobs projected onto the black man’s character the horrific and savage lynching event, in which onlookers would celebrate as the person lynched was burned alive, shot hundreds of times, were hanged, or were dismembered,

amongst other inhumane treatment. The lynching event “necessitated that the lynching victim be seen as equally brutal and savage”, annihilating the character of black people in the process (Pilgrim, 2012). Considering that law enforcement has maintained historic ideals of black men, the depiction of black men as brutal, unrestrained animals to be feared has also influenced police aggression towards them, reflecting reinforced assumptions of their danger and criminality (Oliver, 2003). I also argue that this perception has shaped current-day sentiments of death-worthiness of black males by police officers. Considering the well-documented, disproportionate killings of black males by white police officers, the author suggests that police officers’ view of black males through this same lens may contribute to their willingness to eradicate the “black peril”.

2.3. Critical Race Theory and Perpetrator Perspective

Police officers use deadly force against an average of 950 American civilians yearly, with unarmed black men being disproportionately killed (Horel et al., 2018). These so-called “deaths by legal intervention” and “justifiable homicides” result in the over-policing of black males, leading to death and represents an unaddressed public health crisis (Gilbert & Ray, 2016). Siegel (2020) found that between 2013 and 2018, nearly 28% of fatal police shootings involved black civilians, an alarming rate considering that black civilians only compose 13% of the American population, with black men making up approximately three percent of the race.

Other jarring statistics, research regarding the risk of black males being murdered in comparison to their white counterparts ranges from over six percent to 21%. Schwartz and Jahn (2020) found that black people were 6.51 times more likely to be killed through police violence. In contrast, drawing from data contained in the FBI’s Supplementary Homicide Report, ProPublica’s risk analysis revealed that young black males were 21 times more likely than their white male counterparts to be murdered by a white police officer. Put into perspective, 185 white males would have to be killed per week by white police officers for them to be placed at an equal risk to their black male counterparts (Gabrielson, Sagara, & Jones, 2014)! In some cities, the disparity is even further startling. Data from police shootings in Chicago showed that approximately 80% of the 262 people shot between 2010 and 2016 were black, in contrast to the six percent of those shot, who were white (Horel et al., 2018).

Multiple explanations address the disproportionate rate of police brutality against black civilians. One prevailing theory undergirding the disparate targeting and treatment of black civilians by law enforcement officers is the “bad apple” micro-level theory of violence, which posits that a few unsavory officers perpetuate the negative stereotype of a larger group (Horel et al., 2018). The biggest implication of “a few bad apples” is that the problem reflects individual deviant character traits, and consequently, change should be targeted with those specific individuals. Ultimately, this idea negates the need for structural change. An alternative macro-level theory purports that factors promoting racial dispari-

ties within law enforcement are rooted within the structure of American society and cannot be addressed at the individual level, as has been the primary course of action through sensitivity trainings, implicit bias trainings, and body cameras (Siegel, 2020). Professor Richardson (2015) stated the following of the structural nature of policing in America: “as a result of our nation’s sordid racial history, white supremacy and racial subordination have become embedded not only within social systems and institutions but also within our minds”. Through this lens, critical race theory can be used to explain the disproportionate rate of police killings of black civilians.

Critical race theory (CRT) originated out of legal studies and was inspired by social activists and academics, including W. E. B. DuBois, Dr. Martin Luther King, Jr., Malcolm X, Frantz Fanon, and the Black Panthers (Curry, 2020). The theory posits that racism is engrained within the infrastructure of social institutions (Siegel, 2020), including education, religion, healthcare, economics, housing, political arenas, and criminal justice, and attempts to maintain ideals of white supremacy by keeping melanated groups marginalized (Adedoyin et al., 2019; Curry, 2020; Moore et al., 2018). As noted by Janel George (2021), Khiarah Bridges observes the following: “CRT recognizes that racism is codified in law, embedded in structures, and woven into public policy”. According to Moore et al. (2018), CRT includes the following tenets:

[There is]: “(1) the primacy of racism and race in the United States; (2) a questioning of the notion of neutrality, objectivity, colorblindness, and meritocracy in laws and social interactions; (3) questioning of a historicism of the racialized order; (4) a commitment to social justice; (5) the centrality of experiential knowledge; and (6) a multidisciplinary perspective” (p. 35).

To eradicate racism, the very fiber of social institutions, yielding erroneous and potentially dangerous ideologies, must be dismantled. A mere revision of policy changes, such as incorporating inclusion and diversity practices will not suffice if the root of the entity is racist. For example, Woodson (1933) addressed this dynamic in his work, *The Mis-education of the Negro*, when speaking on integration. Using Woodson’s (1993) reasoning, integration would lead to American black civilians having greater access to resources. However, when gaining access to those resources—particularly, education—American black civilians would have to adopt a Eurocentric lens when employing those very resources. While integration, itself, is anti-racist, the idea that a black person must utilize an “anti-black” lens is racist. The very presupposition that adopting a Eurocentric lens is necessary to succeed in American society would require dismantling if integration were to truly be “anti-racist”. Professor Jones (2000) describes this type of racism as institutional, the second, and most fundamental, level of three forms of racism—the first being personally mediated and the third being internalized. She suggested that institutionalized racism could be conquered by eradicating the illogical biases of a race-conscious society.

CRT builds on this premise and further illuminates that beyond eradication, the consequences of institutionalized racism must be repaired (Siegel, 2020).

Professor Freeman (1978) identifies this component as the victim perspective. This perspective proposes that racial discrimination leads to various social conditions within society; a truly just society will be reflected when those conditions have been eliminated. CRT highlights the enduring impact that centuries-long processes have on generations to come and those past. So, even if embedded processes were dismantled, the disadvantaged group would have already reaped several, potentially enduring consequences, many of which may have been passed throughout generations. Amongst many others, some examples of enduring consequences include unfair housing laws (Pager & Shepherd, 2008), which excluded black people from adequate and comfortable housing and relegated them to housing projects (Siegel, 2020); gentrification, which stimulates communities but forces poor people out of their homes, creating housing instability and decreasing social capital (Rosell, 2019); unethical research studies which unjustly selected (and sometimes, forced) black people and other vulnerable populations to participate and subjected them to inhumane treatment (Alsan & Wanamaker, 2018; CDC, 2020); disparate educational practices which create academic achievement gaps between black and white students (Boykin & Noguera, 2011) and deny black children access to quality education, keeping them overrepresented in special education programs, potentially affecting their future employability (Gentry, 2009); and the focus of this paper, the disproportionate number of unarmed black males killed by white police officers.

Another viewpoint emerging from early thinking from civil rights legal principles highlights the perpetrator perspective. It “sees racial discrimination not as conditions but as actions, or series of actions, inflicted on the victim by the perpetrator, [and therefore, the ultimate goal is] to neutralize the inappropriate conduct of the perpetrator” (Freeman, 1978: p. 1058). This perspective’s emphasis on curtailing destructive behaviors has received criticism for its individual-level focus. While this paper supports CRT’s core notion that institutional and systemic racism must be dismantled at the root and its consequences repaired to truly eradicate racism, this paper also posits that such an idealistic aim cannot occur without first halting damaging behaviors. This is particularly relevant to criminal justice, a system in which police officers face virtually no consequences for killing civilians, in particular, black people (Ross, 2019). An NPR investigation reported several alarming data regarding police who kill unarmed black people (Equal Justice Initiative, 2021). Overall, there was disconcertingly pervasive apathy towards police officers’ unethical and criminal behavior (Equal Justice Initiative, n.d.). Several officers were hired despite previous criminal activity, while several officers kept their jobs despite policy violations, including battery and drug use. The report also found that some officers who killed unarmed black civilians had been involved in multiple shootings. (This claim is particularly disturbing when we consider that the lead officer in the case study of this paper received 17 prior complaints, including involvement in three shootings, one of which resulted in a fatality) (Hill et al., 2021). Most of the fatalities occurred in Southern states—the primary region that housed the institution of slavery. Fur-

thermore, out of only 13 officers charged with murder—the remaining 67 officers were not charged—only four were convicted. The prevailing reason that most officers are not convicted is because that officers are typically viewed in high esteem, while black victims are viewed as dangerous (Equal Justice Initiative, 2021). This unsettling data highlights the need for accountability within the criminal justice system. The perpetrator perspective is adequate in illuminating this idea since the perspective's aim is to disrupt damaging behavior—in this case, the disproportionate killing of unarmed black people.

3. Aims of the Paper

This paper nests the perpetrator perspective within CRT's victim perspective. These two perspectives need not be mutually exclusive, but rather, they support each other in that the consequences of structural racism may be alleviated, even if not immediately fully eradicated, if we can neutralize inappropriate conduct that leads to lingering consequences. This paper proposes that the aim of the victim's perspective cannot be achieved without fulfilling the aim of the perpetrator's perspective. To this end, this paper will present a model that can be used to uphold a standard of care for law enforcement officers akin to that which is seen in the medical community. The model stems from the medical community's "never events" list. The paper presents a "never events" list—a model entitled "Just N.O."—tailored to law enforcement.

4. Never Events in the Medical Field

Perhaps more so than law enforcement officers, medical practitioners, particularly physicians, surgeons, and nurses, have been traditionally held to extraordinary standards of perfection. The imposition of such standards is not without reason. With each procedure, surgery, and prescription, doctors risk significantly impacting their patients' lives—including termination of life—if they make crucial mistakes. In fact, it is estimated that approximately 251,000 patients die annually due to medical mistakes, making this the third leading cause of death in the United States (Anderson & Abrahamson, 2017). Incredible stressors faced by medical practitioners have led to several mental health issues, including substance abuse issues (Berge, Seppala, & Schipper, 2009), depression (Mata, Ranos, Bansal et al., 2015), and suicide (Anderson, 2018).

These daunting concerns have existed for several years and birthed the Institute of Health's landmark publication, *To Err is Human: Building a Safer Health System* (Kohn, Corrigan, & Donaldson, 2000). The underlying premise is that medical practitioners are humans, and like all other humans, they are fallible. Certain organizations, such as the Agency for Healthcare Research and Quality (AHRQ)—America's leading Federal agency responsible for producing research related to the improvement of patient safety and healthcare quality—use medical errors as learning tools for healthcare facilities to establish better practices. However, some mistakes have been deemed as particularly shocking and fully

unacceptable.

Dr. Ken Kizer, of the National Quality Forum (NQF), described instances of medical maltreatment that “should never” occur (AHRQ, 2019), coining the term “never events”. “‘Never events’ are errors in medical care that are clearly identifiable, preventable, and serious in their consequences for patients, and that indicate a real problem in the safety and credibility of a health care facility” (CMS, 2006: para 2). Examples of “never events” include the following: conducting a surgery on the wrong body part; leaving a foreign object in a patient; discharging an infant to the wrong person; abduction of any person; and performing the wrong surgical procedure (AHRQ, 2019; CMS, 2006). “Never events” are now a part of the guidelines to which medical practitioners are held, and they represent an unquestionable, unambiguous breach of the standard of care, leaving no room for doubt as to whether malpractice occurred. (This is significant when we consider that the law favors medical doctors in over 90% of medical malpractice cases presented to the Medical Review Panel) (Mitchell, 2010). “Never events” eliminate any possibility of ambiguity regarding liability.

5. Just N.O.

Like medical professionals, some police-civilian interactions will result in death, as law enforcement officers are expected to protect the public and protect themselves during confrontations. However, just as there are instances within the medical profession in which a person’s demise is totally preventable, I offer for consideration that the same should hold true within law enforcement. There are some instances in which a person in the care of law enforcement officers should never die. While there are guidelines outlining “police negligence”, currently, there are no such policies that present certain acts as “never events” in law enforcement-unquestionable, unambiguous acts that clearly represent a breach of the standard of care or duty by a law enforcement officer for which he or she would be held accountable. As such, I propose “never events” within the context of law enforcement. The fundamental idea is that there are certain circumstances, regardless of rationale or personal character trait, in which a civilian should not die at the hands of an officer whose life is not in danger. Since these “never events” or circumstances would occur within the criminal justice system, I present the term “Just N.O.”. These are actionable occurrences that should never happen in the criminal justice system, specifically, when people are in the care of law enforcement officers, and the law enforcement officers’ lives are not in danger.

6. Context for Just N.O.

Just N.O. encompasses the following contextual factors: the self-protection of the officer’s life, the power that the officer possesses, and the defenseless that the civilian possesses. Furthermore, these occurrences are within the context of how people are treated in the care of a police officer, and therefore, only involve hu-

man-to-human interactions. Just N.O. can be considered actionable when the officer's life is not in obvious danger, a civilian is in the care of a law enforcement officer, the officer holds a clear advantage over the civilian, and the officer has taken the life of the civilian. The following discussion will detail considerations for these four constructs.

6.1. Endangerment of Officer's Life

Often officers state that they "feared for [their] lives" after their interactions with civilians resulted in death. ProPublica reported that between 1980 and 2009, the number of officers who used the claim, "officer under attack," nearly doubled (Gabrielson, Sagara, & Jones, 2014). This statement has allowed officers to avoid criminal liability, offering them qualified immunity from consequences. But what constitutes "fear for life"? For the civilian, an officer's outfit alone—with his or her attachments, including the uniform, a badge, a taser, pepper spray, a baton, metal and plastic handcuffs, a bullet-proof vest, and a gun—may instill an immediate source of fear prior to any interaction. This does not even account for the officer's highly skilled level of both physical and weapons training. Considering their specialized skillset and robust weaponry options, the argument can be reasonably made that an officer will only likely have a fear of lost life when the civilian also has a deadly weapon and possesses equal or greater physical strength that is demonstrated during a violent interaction. So, what of officers whose lives are not in danger? When involving black male civilians, it can be furthered argued that if an officer claims to fear his or her life while having obvious advantages over the civilian, then that officer may be operating from underlying implicit biases of social constructions of black masculinity as barbarism and savagery.

Another indication that an officer's life is not in danger is reflected in police-civilian interactions which result in a civilian fleeing the officer. Two major observations are noted here. First, the person fleeing has his or her back turned toward the officer, which, as later discussed, places the officer at an immediate advantage over the civilian. Second, to prevent the civilian from fleeing the scene, many officers chase the person. Oftentimes, this results in the officer shooting and killing the civilian. ProPublica's analysis reported that of the 151 instances in which civilians were killed after fleeing the police, 67% of those persons shot were black males (Gabrielson, Sagara, & Jones, 2014). The Supreme Court ruling in 1985's *Tennessee vs. Garner* held that it is unconstitutional for a police officer to kill a fleeing, unarmed, non-dangerous civilian (Kemp & Skelton, n.d.). The implication is clear—that "an apparently unarmed, non-dangerous fleeing suspect" poses no significant threat to life or physical well-being of the officer or others, and therefore, the use of deadly force is unreasonable and violates the fourth amendment.

6.2. Civilian in Police Care

The civilian is deemed to be in the care of law enforcement whenever there is an

interaction between that person and the officer. This includes instances when a police officer stops, questions, detains, searches, arrests, or otherwise confronts a civilian. Any police-civilian verbal or physical interaction constitutes that a civilian is in police care.

6.3. Officer's Clear Advantages—Power Differential

Law enforcement officers are authoritative figures in society, and within the context of legal applications, they are vested with an extensive amount of power that ordinary civilians do not possess. The mere presence of a law enforcement officer often serves as an immediate and clear deterrent to most crimes. In fact, law enforcement is one of the most powerful professions, and their powers must be employed judiciously (McCartney & Parent, 2015). The power differential between officers and civilians is vast, in that police officers carry deadly weapons; are often accompanied by at least one other equally powerful person, if not more; have the authority to arrest civilians, divesting them of their freedom; have the authority to physically detain civilians with handcuffs, rendering the person substantially limited in their mobility and ability to defend themselves; are permitted to violate traffic rules; are entitled to utilize physical force against a civilian without penalty (albeit, a “reasonable” amount of force that is subject to various rules and conditions); can seize someone’s property; and search a person’s body, car, and home (McCartney & Parent, 2015). Given the power differential between law enforcement officers and ordinary civilians, the latter are often powerless and vulnerable against law enforcement officers. They lack the full capacity to defend themselves, when under normal circumstances, if they encountered a confrontation, there likely would be a closer gap between the power differential. Furthermore, when civilians are in the care of police officers and are made to lay on the ground, face-down on their stomachs, while wearing handcuffs, they are even more defenseless.

6.4. Officer's Clear Advantages—Civilian Vulnerabilities

Additional special consideration is warranted for people who are particularly vulnerable. While ordinary civilians are placed at an immediate disadvantage when engaged with a law enforcement officer, some individuals are posed with even greater vulnerability than ordinary citizens. Such individuals are those who are subject to inherent disadvantages, even under normal, non-hostile circumstances. These people are always disadvantaged when engaged with their counterparts. These groups include children and adolescents, pregnant women, people who have developmental disabilities, people who have obvious physical impairments, and seniors who are 70 years or older.

6.5. Officer Takes Civilian's Life

After the interaction between the police officer and the civilian, the civilian dies, and the officer is the person who ended the civilian’s life. But for the fact that the

officer utilized deadly force towards the civilian, the person would not have died. Therefore, no other person or factor is responsible for the civilian’s death apart from the officer. Taken together, the ultimate position is as follows: given these specific set of circumstances, no reason justifies why the civilian died in police custody, and therefore, the murder should be actionable. **Figure 1** displays the general assumptions of this model, and **Table 1** presents the criteria for a situation resulting in a “Just N.O.” based on the subparts of the model.

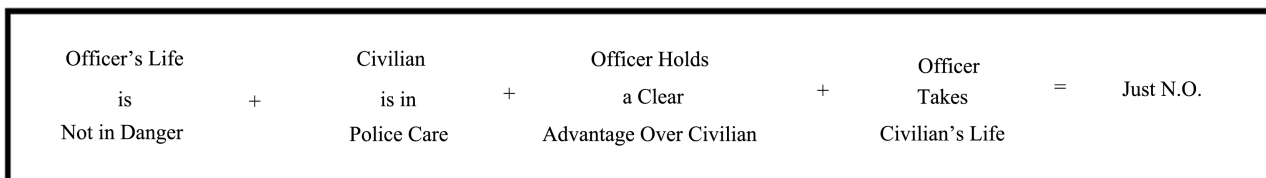


Figure 1. Just N.O. contextual model.

Table 1. Just N.O. criteria.

Criteria for Just N.O.	
Subpart A—Officer’s Life is Not in Danger <i>Criterion</i> 1) The officer’s life is in no obvious danger at any point of the interaction between himself or herself and the civilian.	Subpart B—Civilian is in Police Care <i>Criteria</i> 1) The officer has stopped, questioned, detained, searched, arrested, or otherwise confronted a civilian, and they have engaged in a verbal or physical interaction. 2) The civilian did not commit a deadly or violent crime before the officer arrived, and the civilian entered the officer’s care. 3) The civilian did not have a weapon in his or her hand while in the officer’s care. 4) The civilian presented no imminent danger to himself or herself, others, or the officer while in the officer’s care.
Subpart C1—Officer Holds a Clear Advantage Over Civilian (Power Differential) <i>Criteria</i> 1) The civilian was restrained (handcuffs, waist chains, leg irons, etc.). 2) The civilian was on the ground. 3) The civilian was face-down. 4) The civilian’s back is facing the officer. 5) The civilian’s hands are visibly empty. 6) There is more than one police officer at the scene.	Subpart C2—Officer Holds a Clear Advantage Over Civilian (Vulnerability of Civilian) <i>Criteria</i> 1) The civilian is a child or adolescent. 2) The civilian is a pregnant woman. 3) The civilian clearly has a developmental disorder. 4) The civilian has an obvious physical exceptionality (i.e. confined to wheelchair, missing a limb). 5) The civilian is a senior who is 70 years or older.
Subpart D—Officer Takes Civilian’s Life <i>Criteria</i> 1) The officer uses deadly force with the civilian. 2) The civilian dies in the care of the officer. 3) But for the fact that the officer utilized deadly force with the civilian, the person would not have died. 4) No other person or factor is responsible for the civilian’s death apart from the officer.	
Requirements for a situation to be considered a “Just N.O.” 1) The criterion in subpart A is required. 2) All of the criteria in subpart B are required. 3) The criterion in subpart D is required. 4) Included with all of the criteria from subpart A, subpart B, and subpart D, only one criterion from subpart C1 is required. OR 5) Included with all of the criteria from subpart A, subpart B, and subpart D, only one criterion from subpart C2 is required. A + B + D + C1 = Just N.O. or A + B + D + C2 = Just N.O.	

7. Application of Just N.O. to Case Study

As aforementioned, this paper uses George Floyd's interaction with officer Derek Chauvin as a case study. (While four officers were involved in this situation, this case study will focus primarily on Mr. Floyd's interaction with officer Derek Chauvin, the officer charged with murdering Mr. Floyd). Based on Hill et al.'s (2021) detailed series of actions that led to Mr. Floyd's death, the Just N.O. model can be applied in the following way. First, the officer's life was not in danger at any point during the police-civilian interaction. During the detention, officer Chauvin can be seen with his fist balled on his upper left thigh, clearly indicating that he was not defending his body from physical harm. Officer Chauvin neither displayed any obvious fear that his life was in jeopardy nor had any logical reason to fear that his life was in any danger. Second, the civilian was in police care. Mr. Floyd was arrested by officer Chauvin and three other officers. He had not committed a deadly or violent crime before the officers arrived, as he was arrested for allegedly attempting to use a counterfeit twenty-dollar bill. Mr. Floyd had no deadly weapons in his hands, and he presented no imminent danger to himself, others, or the officers. Third, the officer held several clear advantages over the civilian. There was more than one officer at the scene, including officer Chauvin; specifically, there were a total of four officers surrounding Mr. Floyd. The four officers placed an unarmed Mr. Floyd face-down on the ground, restraining him through handcuffs and placing his visibly empty hands behind his back. Additionally, while three of the officers compressed Mr. Floyd's head, neck, and chest, officer Chauvin placed his knee on Mr. Floyd's neck, positioning himself over Mr. Floyd and assuring that he was unable to move. Finally, the officer ended the civilian's life. Mr. Floyd was mobile and displayed no distress prior to interacting with the officers. Following their interaction, Mr. Floyd displayed distress. After telling the officers that he could not breathe while having officer Chauvin's knee piercing Mr. Floyd's neck for a whopping nine minutes and twenty-nine seconds, Mr. Floyd suffocated (Levenson, 2021). Officer Chauvin applied a conscious neck restraint—a move that was only to be applied if a civilian actively resisted, which was not Mr. Floyd's case—and in the process, officer Chauvin killed Mr. Floyd through asphyxiation (Hill et al., 2021). But for the fact that officer Chauvin utilized deadly force on the civilian, Mr. Floyd would not have died. Taken together, officer Chauvin murdered Mr. Floyd, an unarmed civilian who was arrested for a non-violent crime and posed no life-threatening danger to any of the police officers who held multiple advantages over him. This constitutes a "Just N.O."; the murder is an unquestionable, unambiguous act that clearly represents a breach of the standard of "care" or duty for a law enforcement officer for which he should be held lawfully accountable.

8. Discussion

George Floyd's murder in May 2020 was unique in many ways. First, the murder

was captured on video. On a worldwide platform, millions of people watched a man being murdered. People frequently witness others being murdered; however, this is rarely in person but primarily through simulated actions on film, television, or video games, where there is willful suspension of the imagination—quite different than viewing a real murder. Next, the murderer was a public servant, and the victim was a civilian. In many impoverished and disenfranchised communities, primarily those of melanin-richness, civilians regularly commit violent crimes, including murder, against each other. On rarer occasions do public servants openly commit violent crimes against the civilians that they are sworn to protect. Third, the murder-victim dynamic was interracial. Crimes, particularly those that are violent in nature, are more often committed intraracially; the most prevalent explanation for this is that people are more likely to engage with those in their own communities (Pitts, 2014). They tend to live near each other, and they have more commonalities. Specifically, black people predominantly reside in communities with other black people, just as white people, the same and so forth. Just as prosocial communal activities take place intraracially, so do antisocial behaviors, such as murder. Ultimately, black people are more likely to murder other black people, just as white people are more likely to murder other white people. It is on rarer occasion that a white person would murder a black person and likewise, simply due to communal proximity.

These three combined elements surrounding Mr. Floyd's murder yielded a collective sense of disenfranchised grief and mourning, as well as a resurgence of the need for social justice with special regard to dismantling police entitlement. Of particular concern was that Mr. Floyd, a black civilian, was murdered by Derek Chauvin, a white police officer. The outcry from the U.S. and countries abroad demanding fair treatment of black civilians in the hands of police officers was the result of an onslaught of white officer-black civilian hostile interactions (that have led to the death of the civilian). The most prolific of these interactions during the 20th century occurred with Rodney King's beating at the hands of several Los Angeles police officers. The officers' acquittals led to riots and protests decrying police brutality (Sastry & Bates, 2017). During the 21st century, a resurgence of riots and protests began with the murder of 17-year-old, 140-pound Trayvon Martin by then 28-year-old, 185 pounds, George Zimmerman (though Mr. Martin's murderer was not a police officer having been rejected from a police academy) (History.com, 2013). Murders that would follow included Freddie Gray, Eric Garner, Michael Brown, Walter Scott, Tamir Rice, Philando Castille, Breonna Taylor, Patrick Warren, Sr., Joshua Feast, Maurice Gordon, Rayshard Brooks, and a host of others. They have all yielded similar outcries for change in law enforcement policies across levels and for police officers to be held accountable for taking the lives of American citizens (Adedoyin et al., 2019; NewsOne, 2021). At the mezzo level, initiatives have been implemented to improve police relations with communities (Radebe, 2021). At the legislative level, massive changes that have been made or are currently being discussed include the banning of choke holds (Evstatieva & Mak, 2020), the

mandating of officer's use of body cameras (Norwood, 2020), and the elimination of qualified immunity for police officers (Weiner, 2021). The Just N.O. model aims to add to these policies by proposing guidelines against which police officers can be held when an unarmed person does not threaten the officer's life, but the officer uses deadly force anyway.

Just N.O. is contextualized by CRT's victim's perspective—that institutional racism creates long-lasting consequences for society—and nests within that lens the perpetrator's perspective, which encompasses individual-level behaviors and ideologies that help shape larger systematic racist structures. Gooden (2014) observed that systemic racism perpetuates a generational cycle of disenfranchisement within the American black community, thwarting upward mobility in virtually all areas of society, including education, employment, health, and criminal justice. Within law enforcement, centuries-long depictions of black males as menacing "brutes" to be feared have contributed to the development of a major function perpetuating white supremacy—implicit bias. Implicit bias can be enacted when people unintentionally discriminate, harm, or otherwise mistreat another person based on stereotypes and prejudice (Brownstein, 2019). Though implicit bias, within the context of law enforcement, functions at the individual level, it is rooted out of malignant social constructions of black masculinity. Implicit bias, a major consideration impacting institutionalized racism amidst a host of other contributing factors, results in consequences that must be repaired. These consequences are dire, impacting police stops and searches; disciplinary actions at school; harsh charging decisions within the justice system; and increased risk of wrongful convictions, amongst others (Equal Justice Initiative, n.d.). At its worst, when officers hold an implicit bias that black males are to be feared, the environment is ripe for police officers to perpetually "protect their lives" by "justifiably" killing the perceived "threat"—the black man—without any recourse. It is the aim of this model that willful disregard of black men's lives due to implicit bias and larger-scale institutional and systemic racism will be immediately addressed by creating an environment that assigns harsh and maximum penalties to murderous, discriminatory police officers. The long-term goal of this model is that continued practice of harshly penalizing such officers will deter future officers from committing these crimes against humanity, which should aid in repairing some consequences associated with systemic racism within the criminal justice system.

9. Conclusion

George Floyd's murder, which can be likened to a public lynching, sparked nationwide and international shock, grief, and support, shedding long, overdue light on the need for dialogue (and policy reform) regarding how black people in America are handled by police officers. Much of the outrage stems from the fact that officers have historically escaped any penalty for taking the lives of American black citizens, even when done so unjustly, while weaponizing racial stereo-

types, or out of sheer cruelty, as was seen in the case of Mr. Floyd. This paper offered a recommendation, based on the medical model, to hold officers accountable for unjustly murdering people in the line of duty and under the guise of defending their lives when no actual threat is posed to their lives. This recommendation is aligned with the perpetrator's perspective, but the overarching aim is that eliminating this damaging pattern of behavior will ultimately contribute to the overall dismantling of the criminal "unjust" system. No longer should police officers be permitted to commit these long-standing horrors against black Americans with no retribution or accountability. "Just N.O.!"

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Conflicts of Interest

The author declares no conflicts of interest regarding the publication of this paper.

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