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### **Explaining the Recent Homicide Spikes in U.S. Cities: The 'Minneapolis Effect' and the Decline in Proactive Policing**

Paul Cassell

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### **Explaining the Recent Homicide Spikes in U.S. Cities: The “Minneapolis Effect” and the Decline in Proactive Policing**

*Paul G. Cassell*

*Ronald N. Boyce Presidential Professor of Criminal Law and  
University Distinguished Professor of Law*

**Forthcoming in *The Federal Sentencing Reporter* (2020)**

Research Paper No. 377  
S.J. Quinney College of Law  
University of Utah  
Salt Lake City, UT 84112  
cassellp@law.utah.edu

# Explaining the Recent Homicide Spikes in U.S. Cities: The “Minneapolis Effect” and the Decline in Proactive Policing

By Paul G. Cassell

## ABSTRACT

*Recently major cities across the country have suffered dramatic spikes in homicides. These spikes are remarkably large, suddenly appearing, and widespread. At this rate, 2020 will easily be the deadliest year in America for gun-related homicides since at least 1999, while most other major crime categories are trending stable or slightly downward.*

*This article attempts to explain why so many cities have seen extraordinary increases in murder during the summer of 2020. A close analysis of the emerging crime patterns suggests that American cities may be witnessing significant declines in some forms of policing, which in turn is producing the homicide spikes. Crime rates are increasing only for a few specific categories—namely homicides and shootings. These crime categories are particularly responsive to reductions in proactive policing. The data also pinpoint the timing of the spikes to late May 2020, which corresponds with the death of George Floyd while in police custody in Minneapolis and subsequent anti-police protests—protests that likely led to declines in law enforcement.*

*The thesis of this article is that the recent spikes in homicides have been caused by a “Minneapolis Effect,” similar to the earlier “Ferguson Effect.” Specifically, law enforcement agencies have been forced to divert resources from normal policing to patrolling demonstrations. And even as the anti-police protests have abated, police officers have scaled back on proactive or officer-initiated law enforcement, such as street stops and other forms of policing designed to prevent firearms crimes. If this thesis is correct, it is reasonable to estimate that, as a result of de-policing during June and July 2020, approximately 710 additional victims were murdered and more than 2,800 victims were shot. Of course, this estimate relies on various assumptions, and further research on the issues surrounding the homicide spikes should be an urgent priority.*

*If this article’s thesis about a Minneapolis Effect is correct, an important implication is that policymakers in major cities should proceed cautiously before taking step to “defund” the police in ways that might reduce proactive policing that is important in preventing gun violence.*

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# Explaining the Recent Homicide Spikes in U.S. Cities: The “Minneapolis Effect” and the Decline in Proactive Policing

By Paul G. Cassell\*

## I. Introduction

Major cities across the country have recently suffered dramatic increases in homicides. The increases are remarkable, suddenly-appearing, and widespread in cities across the country—although often concentrated in disadvantaged neighborhoods. For example, in mid-August, *USA Today* reported that major U.S. cities had been plagued by a “horrible increase in gun violence” this year, with shootings skyrocketing in certain neighborhoods in cities from Philadelphia, New York, and Milwaukee to Los Angeles and Denver.<sup>1</sup> At least 11,047 people have died in gun violence so far in 2020, compared to 15,208 in all of 2019. At this rate, 2020 will easily be the deadliest year for gun-related homicides since at least 1999, all the while other major crimes are trending stable or slightly downward.

This article attempts to explain why so many cities have seen extraordinary increases in murder during June and July 2020. A close analysis of the emerging patterns suggests that American cities may be witnessing “de-policing” on a significant scale, which in turn is producing the homicide spikes. Analysis of the patterns is greatly aided by an important recent report by Richard Rosenfeld and Ernesto Lopez for the Council on Criminal Justice (CCJ), which appears here in the *Federal Sentencing Reporter* in the immediately preceding pages.<sup>2</sup> As the Rosenfeld-Lopez Report demonstrates, crime rates are not increasing across all crime categories, but rather only in a few specific categories—namely homicides and aggravated assaults (and likely shooting crimes), categories that may be particularly responsive to reductions in day-to-day policing and particularly to reductions in proactive policing. The Rosenfeld-Lopez data also pinpoint the timing of the homicide spike to late-May 2020, which corresponds with anti-police protests in many cities following the death of George Floyd in Minneapolis—protests that likely led to reduced law enforcement.

The thesis of this article is that a “Minneapolis Effect”—a reduction in proactive policing similar to the earlier “Ferguson Effect” in Chicago and perhaps other cities from 2014 to 2016—caused the recent spikes in homicides. If this thesis is correct, it has important public policy implications for how policy makers should respond to protect public safety.

Part II of this article initially describes the recent homicide increases, which in many cities are shockingly large.

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\* Ronald N. Boyce Presidential Professor of Criminal Law at the S.J. Quinney College of Law at the University of Utah. I appreciate the assistance of Richard Fowles, my colleague at the University of Utah, who provided structural break analyses and answered related statistical questions. I also appreciate helpful comments from Shima Baughman, Doug Berman, Teneille Brown, Patricia Cassell, Amos Guiora, Sean Kennedy, Richard Rosenfeld, Emily Salisbury, Matt Tokson, Elizabeth Kronk Warner, and participants in a faculty workshop at the S.J. Quinney College of Law at the University of Utah. Michael Morris, Tamara Lemmon, and Kenneth Peterson provided excellent research assistance. All errors are mine alone.

<sup>1</sup> Trevor Hughes, *Record Wave of Deadly Shootings Hits US Cities. More Police Aren't the Answer, Activists Say*, USA TODAY (Aug. 15, 2020), <https://www.usatoday.com/story/news/nation/2020/08/15/shootings-chicago-denver-and-across-us-bring-new-wave-violence/3364812001/>.

<sup>2</sup> Richard Rosenfeld & Ernest Lopez, *Council on Criminal Justice: National Commission on COVID-19 and Criminal Justice: Pandemic, Social Unrest, and Crime in U.S. Cities* (July 2020), reprinted in \_\_ FED. SENT. RPTR. \_\_ (hereinafter cited as Rosenfeld-Lopez Report). Disclosure: I am a member of the CCJ but was not involved in the drafting of the report.

Part III then explains that the recent crime spikes appear to be confined to homicides and other related crime categories (e.g., shootings) and are not part of a general, across-the-board crime increase.

Part IV identifies the time when the spikes began: the last week of May 2020.

Part V turns to the question of what is causing the spikes, rejecting as possible causes factors separate and apart from police, such as the COVID-19 pandemic.

Part VI collects evidence that a reduction proactive policing explains the declines, examining information from five cities (Minneapolis, Chicago, Philadelphia, Milwaukee, and New York City) to illustrate the conclusion.

Part VII considers a counter-interpretation—that police have become de-legitimized by recent events—and finds little support for the argument in public opinion data.

Part VIII looks at the earlier homicide spikes from 2014 to 2016 and their possible connection to a Ferguson Effect, which provides support for the contention that de-policing is causing the current spikes.

Part IX steps back to look at the proverbial big picture, which also suggests that a decline in proactive policing in the wake of George Floyd’s death—a “Minneapolis Effect”—is the most likely cause of the current homicide spikes.

Part X assesses the size of the Minneapolis Effect, estimating that a conservative calculation of the “delta” or change in homicides from previous trends lines is that, during June and July 2020 alone, approximately 710 additional people were killed and 2,800 people shot as a result of the recent de-policing.

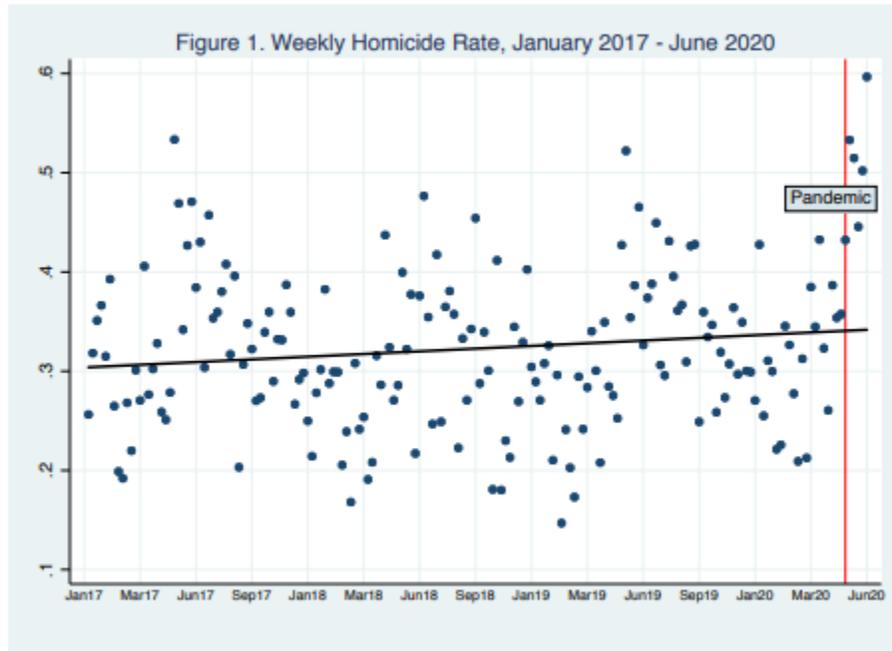
Part XI cautions that the arguments advanced here must necessarily be tentative.

Part XII draws several policy conclusions from the Minneapolis Effect, including the potential need for caution before cities take steps to “defund” the police in ways that might reduce proactive policing and increase gun violence.

## **II. Recent Homicide Spikes in U.S. Cities**

The Rosenfeld-Lopez Report contains disturbing quantification of what has been reported by some media: Homicides have increased significantly in many cities across the country since late May. The Report looks at weekly crime data from more than twenty of the nation’s largest cities, including New York, Los Angeles, Chicago, Atlanta, and Milwaukee. The report aggregates crime data from these major cities to identify trends. Figure 1 reproduces the Report’s homicide data, depicted as a scatter plot.

FIGURE 1: U.S. WEEKLY HOMICIDE RATE (JAN. 2017-JUNE 2020)



Source: Rosenfeld-Lopez Report for the Council on Criminal Justice.

With respect to homicides, using weekly aggregated data, the Report finds a structural break in the data series near the end of May 2020, after which the homicide rate increased by 37% through the end of June (a break depicted by the vertical redline).<sup>3</sup> The homicide increase was led by three cities: Chicago, Philadelphia, and Milwaukee.

The Report's homicide data ends in June 2020, but there is every reason to think that the structural break finding would be even more strongly confirmed with data extending through July, a month that appears to have seen even larger increases in homicides in many cities. For example, in Chicago, the 105 murders reported in July 2020 represented a 139% increase from July 2019—and represented the most violent month in the city in 28 years.<sup>4</sup>

Other observers have noted similar, widespread homicide increases in large cities across the United States. For example, the *Wall Street Journal* reported that, compared to the previous year, as of the end of July 2020, homicides had increased by 24% in the nation's 50 largest cities—including about 52% in Chicago, 42% in Fort Worth, 31% in Phoenix and Philadelphia, and 24% in New York City, as shown in Figure 2.<sup>5</sup>

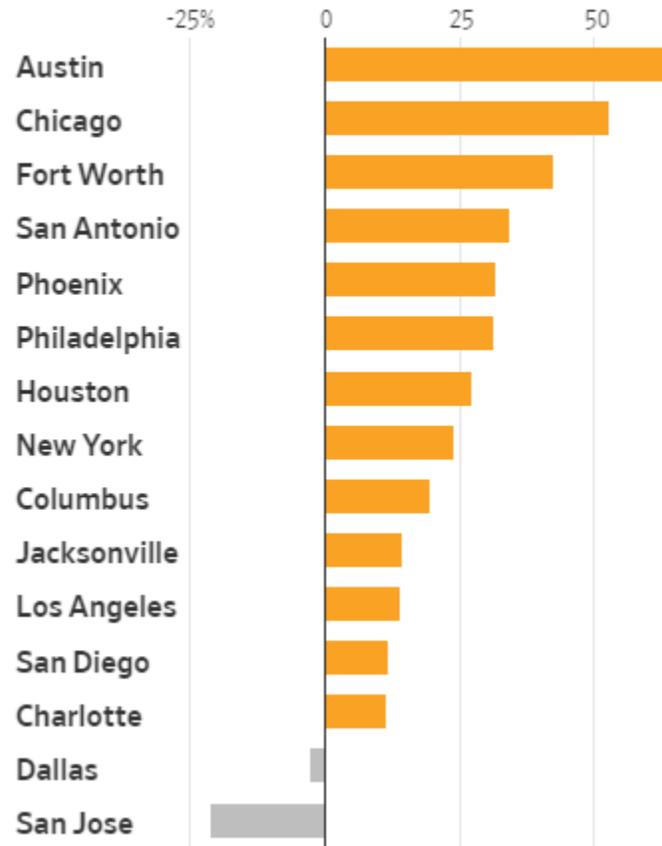
<sup>3</sup> *Id.* at 6.

<sup>4</sup> Paige Fry, *Nearly 40 People Shot in Chicago Over the Weekend as July Goes Down as the Most Violent Month in 28 Years*, CHI. TRIB. (Aug. 3, 2020), <https://www.chicagotribune.com/news/breaking/ct-weekend-shooting-20200803-xkev64unvdijfzboyyn4vowly-story.html>.

<sup>5</sup> See Jon Hilsenrath, *Homicide Spike Hits Most Large U.S. Cities: Journal Analysis Shows Double-Digit Increases in 36 of the 50 Biggest Cities Amid Pandemic, Though Other Types of Violent Crime Fell*, WALL ST. J. (Aug. 2, 2020), <https://www.wsj.com/articles/homicide-spike-cities-chicago-newyork-detroit-us-crime-police-lockdown-coronavirus-protests-11596395181>.

FIGURE 2: YEAR-TO-YEAR HOMICIDE CHANGES

Percentage change in total homicides compared with previous year in the 15 largest U.S. cities



Source: *Wall Street Journal* (based on police agency data through around the end of July).

These alarming numbers may not fully reveal the sharp increase that began almost five months into 2020, in late May 2020. The COVID-19 pandemic appears to have caused a decline in homicides (and many other crimes) during March and April 2020, which would partially offset homicide increases in June and July 2020. For instance, while Figure 2 depicts Dallas homicides as down about 2% for the entire year, they surged in July 2020—up 108% (from 12 to 25) from July of the previous year.<sup>6</sup>

An obvious question is whether homicides have continued to remain high since the end of July 2020. This paper is being finalized in early September 2020, when it appears that gun violence has

<sup>6</sup> Jack Fink, *Dallas Mayor Calls Sharp Rise in Murders, Aggravated Assaults in July “Unacceptable”*, CBS DFW (Aug. 4, 2020), <https://dfw.cbslocal.com/2020/08/04/dallas-mayor-eric-johnson-rise-murders-aggravated-assaults-unacceptable/>.

continued to remain at alarmingly high levels.<sup>7</sup> In the interests of avoiding the need to analyze an ever-moving target, this article focuses on the homicide spikes between late-May and the end of July 2020.

### III. The Homicide Spikes Compared to Trends in Other Crime Categories

While homicides have spiked since late May, many other crime categories have followed a different trajectory. For example, the Rosenfeld-Lopez Report looked at nine other crime categories—gun assault (a subset of aggravated assault), domestic violence, robbery, burglary (including the subsets of commercial and residential burglary), larceny, motor vehicle theft, and drug offenses. None of the other crime categories exhibited a structural break starting in late May. Burglaries, for example, abruptly increased (by 190%) during the last week of May and then, just as abruptly, returned to normal levels the next week. A dramatic increase in commercial burglaries in that week—coinciding with looting associated with the mass protests following George Floyd’s death—explains this pattern.

The one crime category that most closely tracked homicides was aggravated assault. Looking at 17 large cities for which data were available, the Rosenfeld-Lopez Report identifies a structural break near the end of May 2020 for that crime category as well. Aggravated assaults rose by 35% from late May through the end of June 2020. Gun assaults also showed a sharp and sustained increase after late May, although the pattern was not clear enough (at least as of the end of June) to be identified as a structural break. And robberies exhibited a structural break, but the timing was slightly earlier. Robberies exhibited a long-term downward trend, but after March 2020 the robbery rate rose by 27% through the end of June.

Other observers have reported roughly the same pattern—increases in homicides and crimes categories associated with gun crimes but not in other categories. For example, a report in the *New York Times* in early July noted that trend lines for murder and other violent crimes rarely move in opposite directions. But in 25 large American cities in 2020, overall crime was down 5.3% and violent crime was down 2%—but murder was up 16% in relation to the previous year.<sup>8</sup> The homicide increase was widespread, present in 20 of 25 cities at that time.

Based on this information, it seems fair to say that most of the largest cities in the U.S. are experiencing a homicide spike and, likely, a shooting spike—but not, generally speaking, a significant increase in other crime categories.

### IV. The Timing of the Homicide Spikes

When did homicides and aggravated assaults (and likely gun assaults) begin spiking upward? The Rosenfeld-Lopez Report identifies an upward spike for homicides “near the end of May 2020.”<sup>9</sup> This section explores the timing issue in greater detail.

#### A. The Timing of the George Floyd Protests

Before turning to the timing of the homicide spikes, it may be useful to set out for reference the timing of the protests surrounding George Floyd’s death. Floyd died on May 25, 2020 while being arrested

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<sup>7</sup> See, e.g., Mihir Zaveri, *A Violent August in N.Y.C.: Shootings Double, and Murder is Up by 50%*, N.Y. TIMES (Sept. 2, 2020), <https://www.nytimes.com/2020/09/02/nyregion/nyc-shootings-murders.html?action=click&module=Latest&pgtype=Homepage>.

<sup>8</sup> Jeff Asher & Ben Horwitz, *IT’s Been “Such a Weird Year.” That’s Also Reflected in Crime Statistics.*, N.Y. TIMES (July 6, 2020), <https://www.nytimes.com/2020/07/06/upshot/murders-rising-crime-coronavirus.html>.

<sup>9</sup> Rosenfeld-Lopez Report, *supra* note 2, at 6.

by officers from the Minneapolis Police Department.<sup>10</sup> Protests began in Minneapolis the next day, May 26, and rapidly escalated on May 27 through 29. Protests outside of the Minneapolis area were first reported on May 27 in Memphis and Los Angeles. By the start of June, protests had been held in all U.S. states. By early June, at least 200 cities in the U.S. had imposed curfews and, by the end of June, more than thirty states had activated over 62,000 National Guard personnel due to mass unrest. Anti-police protests continued through July and beyond.

### ***B. The Timing of the Minneapolis Homicide Spike***

With the timing of the protests in mind, how does it compare to the onset of the homicide spikes that occurred in cities across the country? Of course, in a nation as large as the U.S., it would be unlikely that precisely the same effects would be felt in every city. At the same time, when exploring such crime issues, using “case studies” is a helpful method—a point that the Professor Rosenfeld (among others) has helpfully developed.<sup>11</sup> For purposes of this short article, I selected five cities to investigate in detail. I first identified Minneapolis as the city in which the protests originated. Next, I added Chicago, Philadelphia, and Milwaukee, based on the note in the Rosenfeld-Lopez Report that the recent homicide spikes were led by these three cities.<sup>12</sup> Perhaps exploring these cities, where homicide increases were most evident, would more clearly reveal what has happened. Finally, I added New York City, the nation’s largest city, where considerable crime data are available.

Turning first to Minneapolis: Minneapolis suffered an incredible homicide spike. As of August 1, 2020, 41 residents of Minneapolis had been murdered, compared to 21 as of the same time in the previous year<sup>13</sup>—a 95% year-over-year increase.

When did the spike start? One convenient way of obtaining data is to look at the expansive website, [citycrimestats.com](http://citycrimestats.com), where Professor David Abrams at the University of Pennsylvania Law School has usefully assembled a valuable trove of empirical data on crime in the United States. Figure 3 depicts the homicide data for Minneapolis for 2020 (with a baseline of the average homicide data for 2015-19 shown as well in the background).

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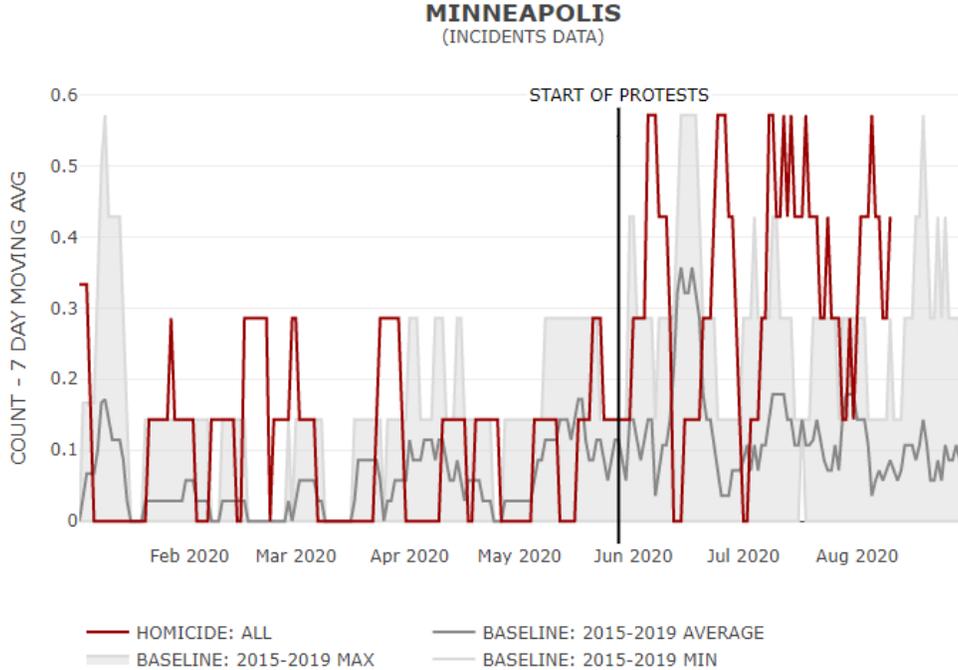
<sup>10</sup> The facts in this paragraph are taken directly from the Wikipedia entry “George Floyd protests.” See also Derrick Bryson Taylor, *George Floyd Protests: A Timeline*, N.Y. TIMES, July 10, 2020, <https://www.nytimes.com/article/george-floyd-protests-timeline.html>.

<sup>11</sup> Richard Rosenfeld et al., *Assessing and Responding to the Recent Homicide Rise in the United States*, NIJ 51067 at 23-24 (Nov. 2017).

<sup>12</sup> *Id.* at 6.

<sup>13</sup> CBS Minnesota, *Man Dies in South Minneapolis Shooting; City’s 41<sup>st</sup> Homicide of 2020*, WCCO-4 (Aug. 1, 2020), <https://minnesota.cbslocal.com/2020/08/01/man-dies-in-south-minneapolis-shooting-citys-41st-homicide-of-2020/>.

FIGURE 3: MINNEAPOLIS HOMICIDES (JAN.-AUG. 2020)



Source: Minneapolis Police Department Data (as accessed through citycrimestats.com).

The homicide spike is readily apparent, although the data is “chunky.” This is because, even during a homicide spike, homicides are (thankfully) a relatively rare event. The ability to detect trends is improved by using a seven-day moving average, as is done in the chart above.

Another approach for more clearly viewing trends in gun violence is to examine data for shootings, which often moves in parallel with homicide data. In some cases, a homicide is simply a shooting for which medical treatment arrives too late.<sup>14</sup> And because of the greater number of shootings compared to homicides, the shooting data sets may more clearly reveal trends. (However, not all cities report shooting data, because shootings are not one of the “index crimes” in the FBI’s *Uniform Crime Reports*.)

For more continuous data from Minneapolis, we can switch from homicides to gun shots fired, which is available from the Minneapolis Police Department via its acoustic gunshot detection “ShotSpotter” technology. Shots fired data has the advantage of not relying on witness reports and thus may most accurately reveal underlying crimes. Figure 4 depicts Minneapolis shots fired data, from January through July 2020.

<sup>14</sup> See Anthony R. Harris et al., *Murder and Medicine: The Lethality of Criminal Assault 1960-1999*, 6 HOMICIDE STUDIES 128 (2002).

FIGURE 4: MINNEAPOLIS SHOTS FIRED (JAN.-JULY 2020)

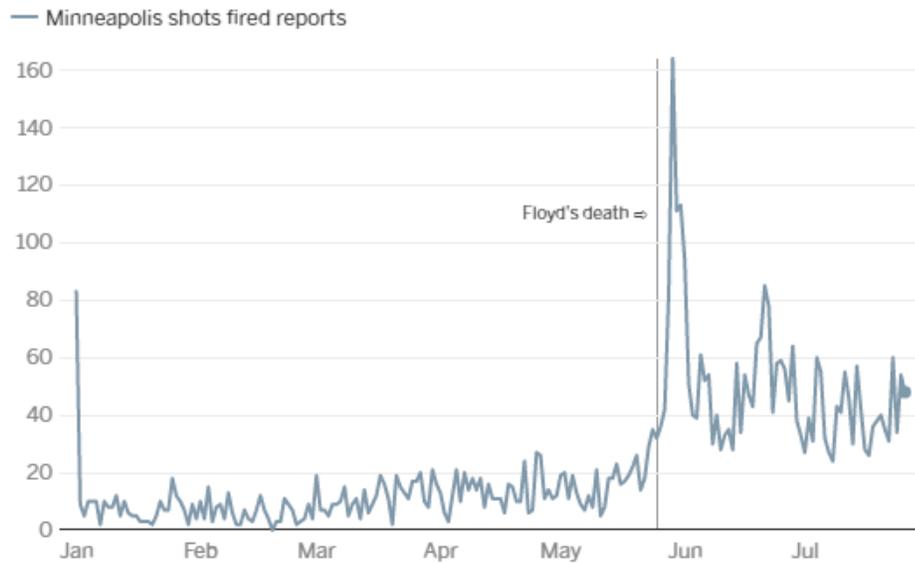


Chart: Jeff Hargarten, Star Tribune • Source: City of Minneapolis

Source: Minneapolis Police Department Data (reported by *Minneapolis Star-Tribune*).

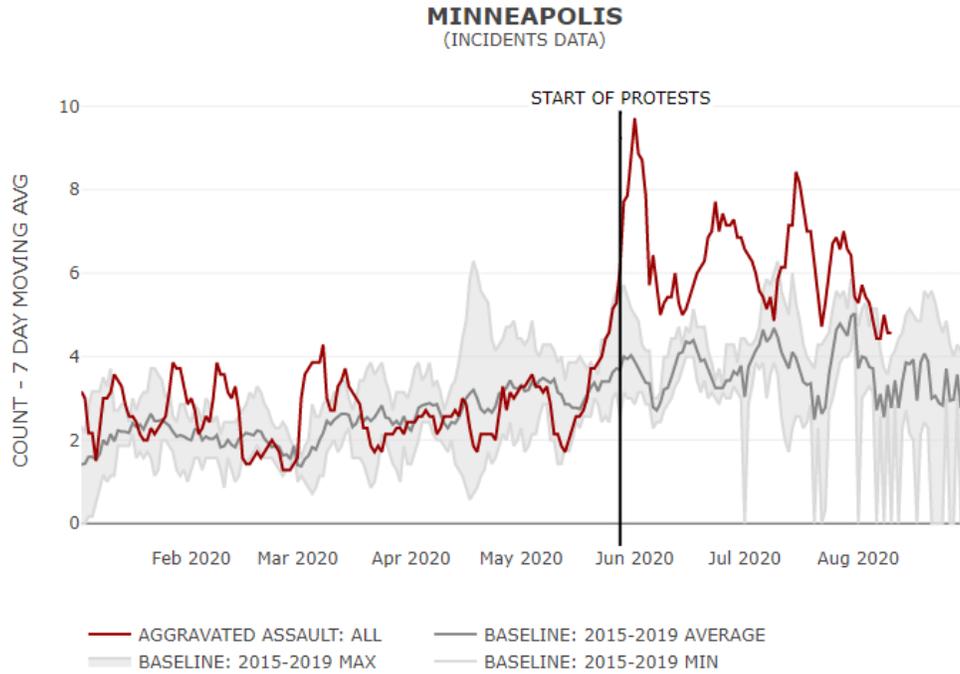
The spike following the start of the George Floyd protests is readily and starkly apparent. After the protests began, a dramatic increase in shots fired appears, followed by a sustained elevated level at least double the numbers from before the protests began. Gunfire incidents soared by 224% in June and 166% in July.<sup>15</sup> And the number of shooting victims correspondingly soared—by the end of July the number of victims was 60% higher than the five-year average for the same period.<sup>16</sup>

One other related Minneapolis crime category (with larger numbers than homicides) shows a sustained, post-protest increase: aggravated assault, depicted in Figure 5 (which includes the five-year average, as well as maximum and minimums, depicted in the background as well).

<sup>15</sup> Libor Jany, *Minneapolis Police Face Staffing Challenges as Violence Rises*, MINN. STAR-TRIB. (Aug. 1, 2020), <https://www.startribune.com/minneapolis-police-face-staffing-challenges-as-violence-rises/571982152/>.

<sup>16</sup> Libor Jany, *Minneapolis Continues to Contend with Unprecedented Gun Violence Amid Police Debate*, MINN. STAR-TRIB. (July 25, 2020), <https://www.startribune.com/record-mpls-gun-violence-comes-amid-policing-debate/571900122/>.

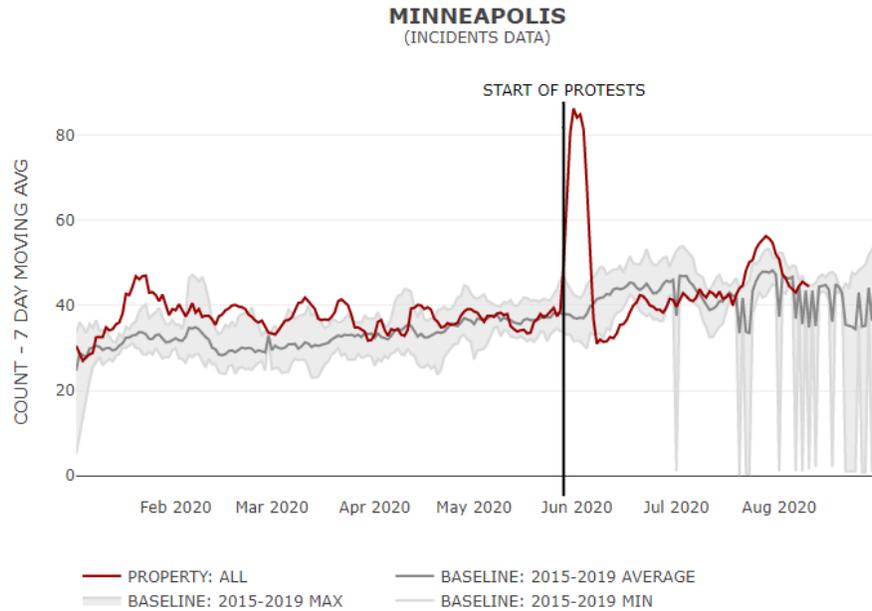
FIGURE 5: MINNEAPOLIS AGGRAVATED ASSAULTS (JAN.-AUG. 2020)



Source: Minneapolis Police Department Data (as accessed through citycrimestats.com).

While homicides and aggravated assaults significantly increased in Minneapolis, other crime categories did not. Instead, the increases appear to be confined to homicides and firearms-related crimes (such as aggravated assault and robbery). For comparison, Figure 6 depicts 2020 weekly totals for Minneapolis property crimes.

FIGURE 6: MINNEAPOLIS PROPERTY CRIMES (JAN.-AUG. 2020)



Source: Minneapolis Police Department Data (as accessed through citycrimestats.com).

Figure 6 shows that, following a dramatic spike lasting about a week after the start of the anti-police protests (when Minneapolis suffered at least \$55 million in property damage from looting and vandalism<sup>17</sup>), Minneapolis property crime rates essentially returned to normal levels.

### C. The Timing of the Chicago Homicide Spike

As mentioned above, Chicago is also suffering a horrific homicide spike. Until the last week in May 2020, Chicago’s homicides had not increased compared to the previous year. Between January 1 and May 28, 2020, Chicago had 191 homicides. During the same time frame in 2019, Chicago had an almost identical number of homicides—192.<sup>18</sup>

Then, on May 31, 2020, 18 people were murdered, making it the single most violent day in Chicago in six decades.<sup>19</sup> Violence continued through June and July. Nearly 40 people were shot in the city in the last weekend in July, as the most violent month in 28 years in the nation’s “Second City” drew to a close.<sup>20</sup> At least 107 people were killed in July 2020, more than double the number who were killed in July 2019 and the most homicides in Chicago in a single month since September of 1992.

<sup>17</sup> Vincent Barone, *Minneapolis Sees \$55M in Building Damage, Looting During George Floyd Protests*, N.Y. POST (June 4, 2020), <https://nypost.com/2020/06/04/minneapolis-sees-55m-in-building-damage-looting-during-protests/>.

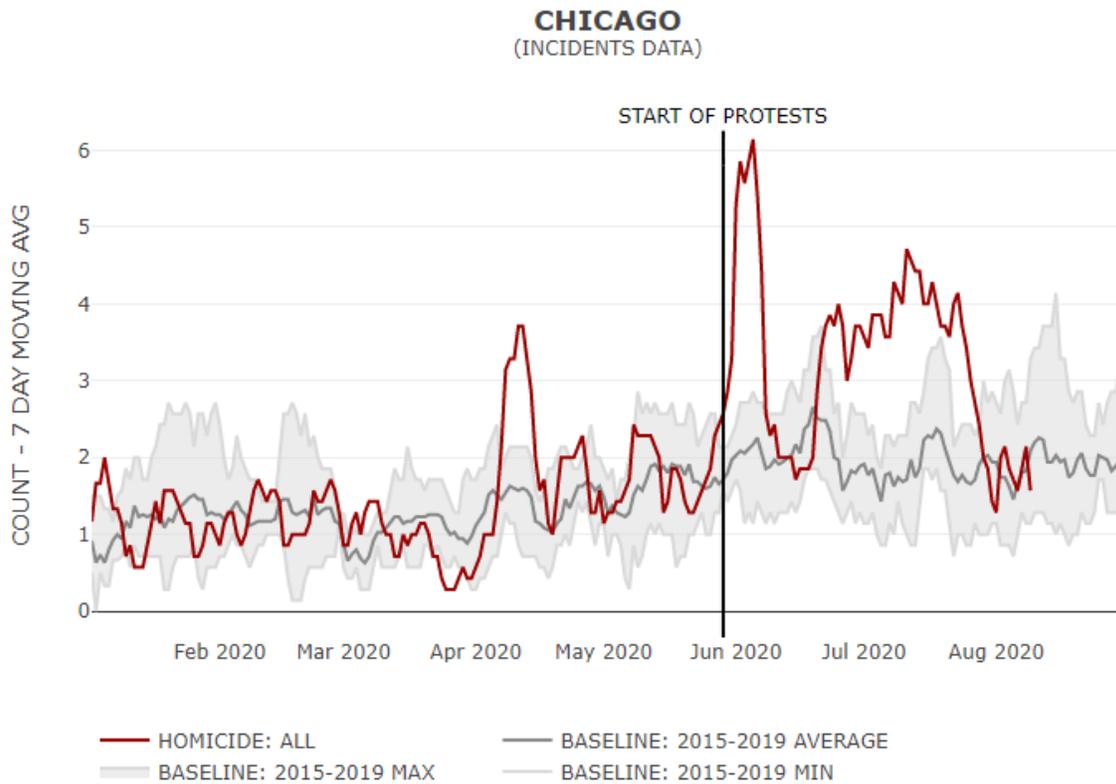
<sup>18</sup> John H. Boman IV & Owen Gallupe, *Has COVID-19 Changed Crime? Crime Rates in the United States During the Pandemic*, 45 AM. J. CRIM. JUST. 537, 541 (2020).

<sup>19</sup> Tom Schuba et al., *18 Murders in 24 Hours: Inside the Most Violent Day in 60 Years in Chicago*, CHICAGO SUN-TIMES (June 8, 2020), <https://chicago.suntimes.com/crime/2020/6/8/21281998/chicago-deadliest-day-violence-murder-history-police-crime>.

<sup>20</sup> Paige Fry, *Nearly 40 People Shot in Chicago Over the Weekend as July Goes Down as the Most Violent Month in 28 Years*, CHI. TRIB. (Aug. 3, 2020), <https://www.chicagotribune.com/news/breaking/ct-weekend-shooting-20200803-xkevk64unvdjfbzboynn4vowly-story.html>.

The homicide spike began in late May. Using the citycrimestats website to obtain data, homicide trends for Chicago for 2020 are graphed in Figure 7 (using a seven-day moving average in red, with the five-year average also depicted in the background for comparison).

FIGURE 7: CHICAGO HOMICIDES (JAN.-AUG. 2020)



Source: Chicago Police Department Data (as accessed through citycrimestats.com).

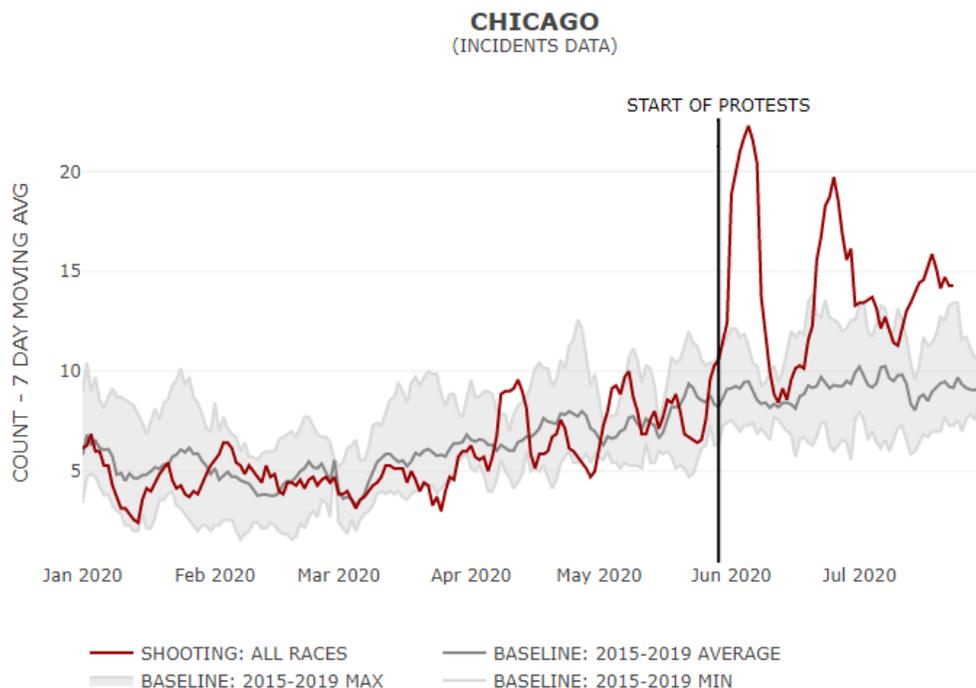
As is apparent, Chicago’s 2020 homicide spike immediately follows the start of the protests.

Of the Chicago homicide spike victims, 94% were Black or Latino.<sup>21</sup>

As with the Minneapolis data, it is possible to get a slightly smoother depiction of crime trends by switching from homicide data to shooting data—providing a larger number of data points. Figure 8 graphs the Chicago shooting data from January through July 2020 (again with a seven-day moving average).

<sup>21</sup> Alex V. Hernandez, *From Murders to Suicides to Coronavirus, An “Unprecedented” Number of People are Dying in Cook County*, BLOCK CLUB (Aug. 27, 2020), <https://blockclubchicago.org/2020/08/27/cook-county-deaths-covid-19-murders-suicide-medical-examiner/>.

FIGURE 8: CHICAGO SHOOTINGS (JAN.-JULY 2020)



Source: Chicago Police Department Data (as accessed through citycrimestats.com).

In Figure 8, the post-protest spike in shootings stands out even more starkly.

Other crimes, however, did not increase in Chicago. While homicides were spiking, as of August 1, Chicago’s overall crime rate—a category that includes murders, sexual assaults, robberies, burglaries, and vehicle thefts—had decreased by 9%.<sup>22</sup>

#### ***D. The Timing of the Philadelphia Homicide Spike***

Philadelphia, the nation’s sixth largest city, has also been hit hard by a homicide spike. As of July 26, homicides in the city totaled 247, a 32% increase compared to the same period a year earlier.<sup>23</sup> This total puts Philadelphia in second place in the nation for the number of homicides, just behind Chicago. As an example, during the Fourth of July weekend, the city’s “gun violence epidemic reached alarming heights,” according to the *Philadelphia Inquirer*, as 23 people were killed across the city—the most in a single day since 2013.<sup>24</sup> If these trends continue, the city is projected to finish 2020 with more than 1,700 shooting victims, the highest total since at least 2007.

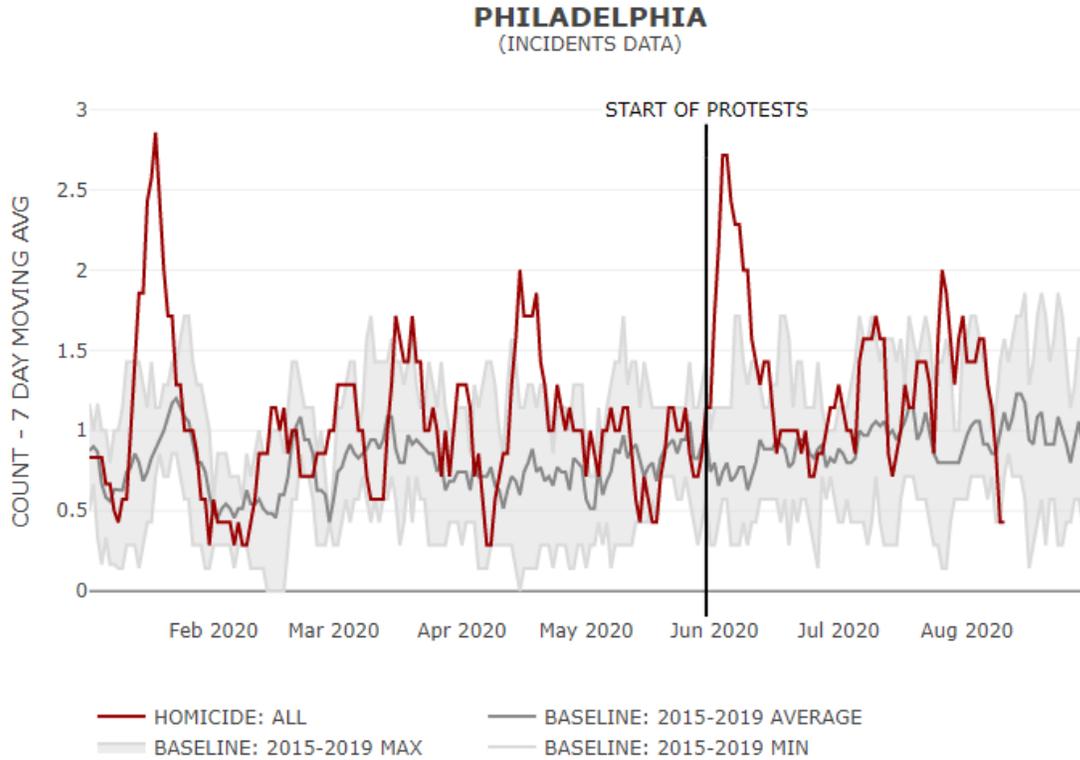
<sup>22</sup> Charly Behm, *Chicago Sees 139% Jump in Murders, Uptick in Shootings in July 2020*, CHICAGO SUN-TIMES (Aug. 1, 2020), <https://chicago.suntimes.com/crime/2020/8/1/21350547/chicago-crime-stats-july-increase-murders-shootings>.

<sup>23</sup> Theresa Waldrop & Artemis Moshtaghian, *Philadelphia Homicides Second-Highest in the Country in 2020*, *Police Say*, CNN (Aug. 11, 2020), <https://www.cnn.com/2020/08/11/us/philadelphia-shootings-homicides-2020/index.html>.

<sup>24</sup> Chris Palmer et al., *Philly Shootings Surge as 23 People Were Shot in a Single Day*, THE PHILADELPHIA INQUIRER (Aug. 27, 2020), <http://www.inquirer.com/news/philadelphia-shooting-gun-violence-increase-spike-4th-july-coronavirus-protests-20200706.html>.

Figure 9 depicts Philadelphia's homicide numbers.

FIGURE 9: PHILADELPHIA HOMICIDES (JAN.-AUG. 2020)



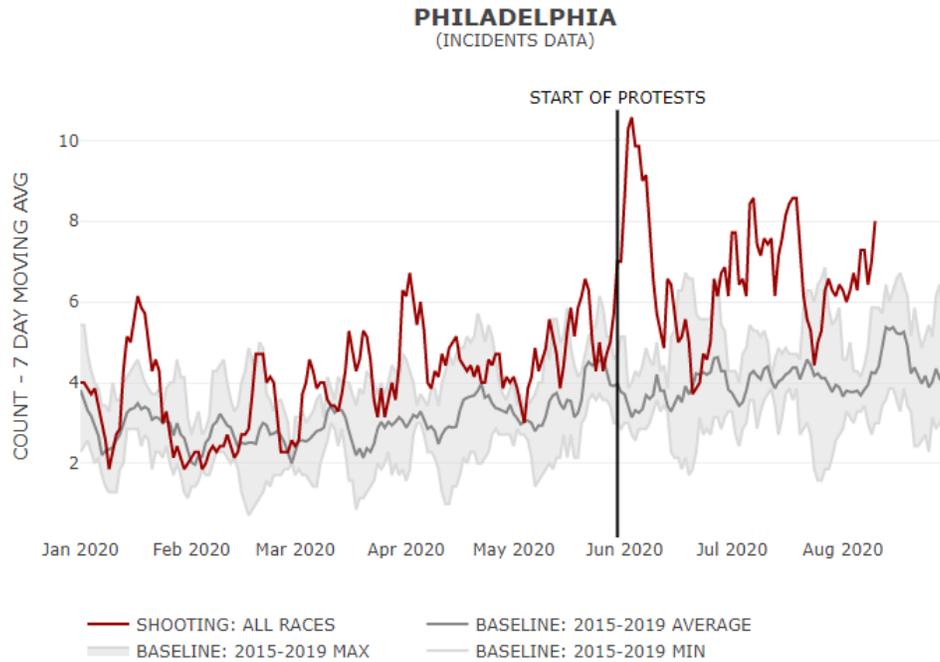
Source: Philadelphia Police Department Data (as accessed through citycrimestats.com).

As shown, a homicide spike following the start of the protests is evident (and an earlier spike in around January 2020 is also evident). About 81% of Philadelphia's homicide victims have been Black men and boys.<sup>25</sup>

The evidence of a spike following anti-police protests becomes even clearer when switching from homicide to shooting data, as shown in Figure 10.

<sup>25</sup> Ximena Conde, *More than 300 People Have been Murdered in Philly so far in 2020*, WHYY-PBS (Sept. 1, 2020), <https://whyy.org/articles/more-than-300-people-have-been-murdered-in-philly-so-far-in-2020/>.

FIGURE 10: PHILADELPHIA SHOOTINGS (JAN.-AUG. 2020)



Source: Philadelphia Police Department Data (as accessed through citycrimestats.com).

A post-protest spike in shootings is obvious. As of August 11, 2020, shootings in Philadelphia were up 55% from the previous year, leading to an emergency hearing of city leaders.<sup>26</sup>

### ***E. The Timing of the Milwaukee Homicide Spike***

Continuing down the depressing list of cities wracked by gun violence this summer, Milwaukee has also suffered a homicide spike. At the beginning of 2020, the city was touting its five-year reduction in violent crime, including a dramatic decline in homicides.<sup>27</sup> But by the Fourth of July, 86 people had been murdered in Milwaukee in 2020, which was double the number of victims at the same time in 2019.<sup>28</sup> By August 17, Milwaukee had seen a 112% increase in homicides from the previous year.<sup>29</sup>

Figure 11 graphs Milwaukee’s homicides for the year (with historical averages in the background).

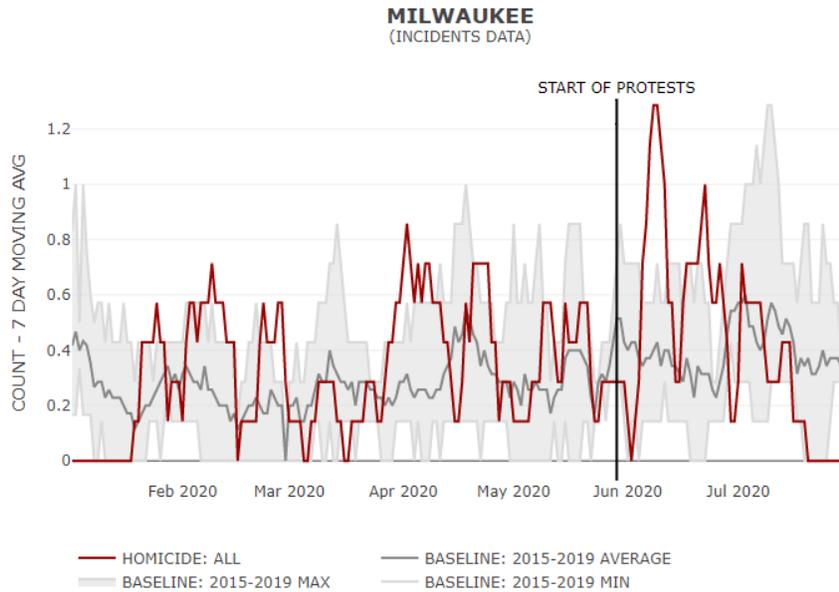
<sup>26</sup> CBS3-Philadelphia, *Philadelphia Officials Hold Emergency Hearing as City Wrestles with Extreme Rise in Gun Violence* (Aug. 11, 2020), <https://philadelphia.cbslocal.com/2020/08/11/philadelphia-officials-hold-emergency-hearing-as-city-wrestles-with-extreme-rise-in-gun-violence/>.

<sup>27</sup> Alana Watson, *“The Strategy is Working”*: Milwaukee’s Crime Rate Steadily Decreasing, Wisconsin Public Radio (Jan. 14, 2020), <https://www.wpr.org/strategy-working-milwaukees-crime-rate-steadily-decreasing>.

<sup>28</sup> Elliot Hughes & Sophie Carson, *Halfwa Through 2020, Milwaukee Homicide Rate is Highest It’s Been Since the Early 1990s*, MILWAUKEE JOURNAL SENTINEL (July 6, 2020), <https://www.jsonline.com/story/news/2020/07/06/milwaukee-homicide-rate-soars-bullets-flying-everywhere/5377337002/>.

<sup>29</sup> Stephanie Pagonis, *A Look at Cities Seeing Police Budget Cuts Amid Crime Surges*, Fox News (Aug. 18, 2020), <https://www.foxnews.com/us/cities-seeing-budget-cuts-amid-crime-surges>.

FIGURE 11: MILWAUKEE HOMICIDES (JAN.-AUG. 2020)



Source: Milwaukee Police Department Data (as accessed through citycrimestats.com).

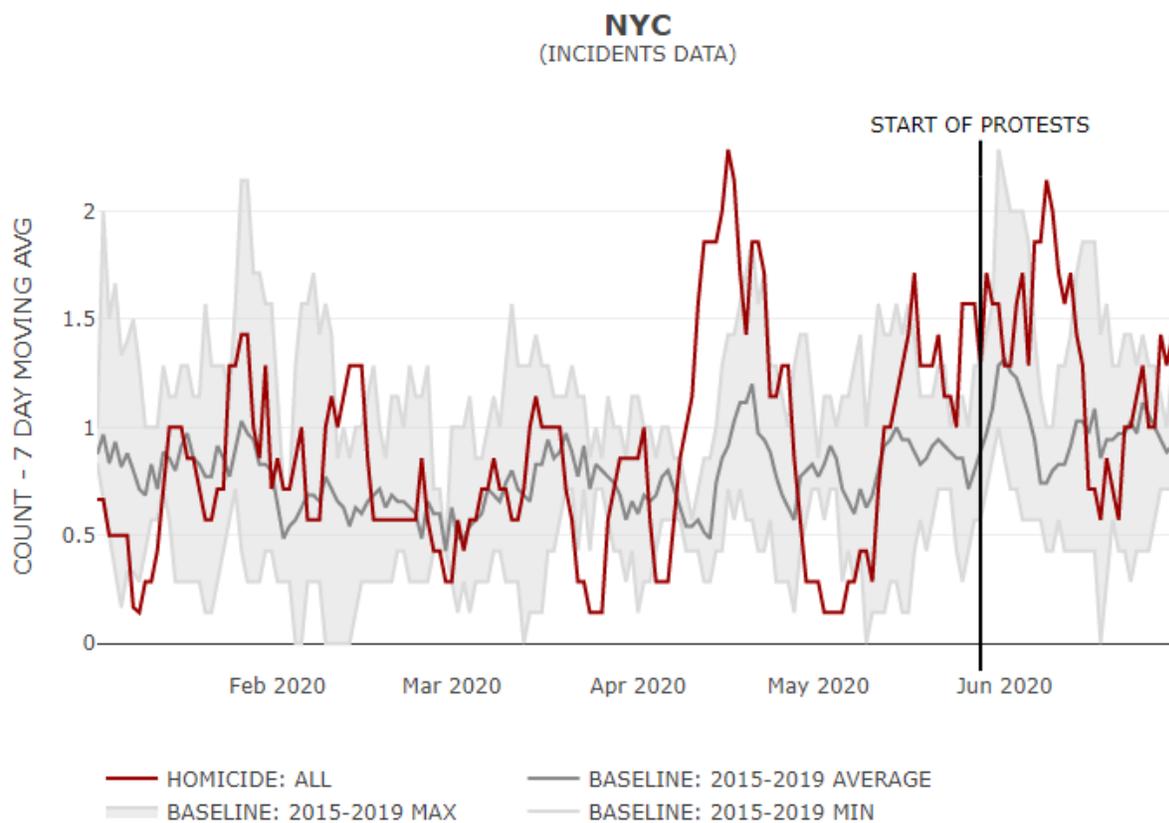
As with other charts, a spike following the start of protests is evident.

(Data from Milwaukee on shootings is unavailable on the citycrimestats.com website.)

***F. The Timing of the New York City Homicide Spike***

The nation's largest city—New York City—has also suffered an increase in homicides. Figure 12 depicts these trends.

FIGURE 12: NEW YORK CITY HOMICIDES (JAN.-JULY 2020)

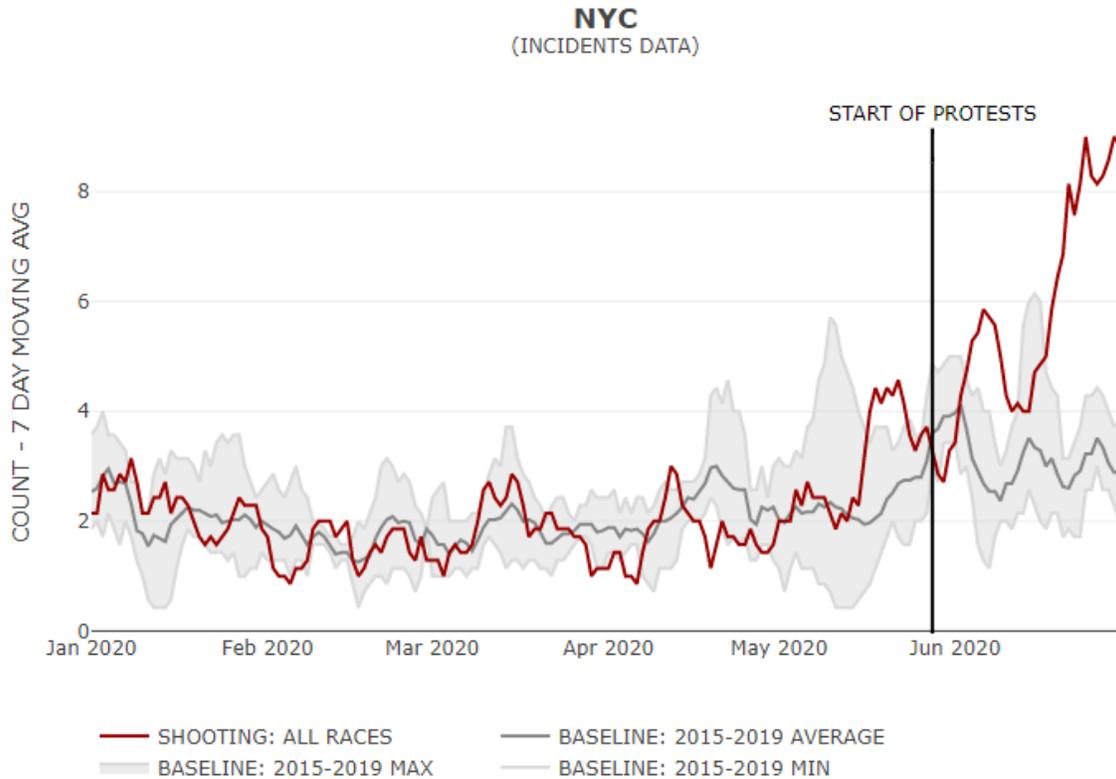


Source: New York Police Department Data (as accessed through citycrimestats.com).

An increase in homicides after the protests is evident, although there is also an increase in mid-April. (The currently available data also terminates at the end of June.)

As with other cities, the pattern becomes clearer when switching from the homicide data set to the larger numbers in shootings data set, as shown in Figure 13.

FIGURE 13: NEW YORK CITY SHOOTINGS (JAN.-AUG. 2020)



Source: New York Police Department Data (as accessed through citycrimestats.com).

Figures 12 and 13 depict data through June 2020. If July data were included, the picture would look even grimmer, because homicides and shootings continued to skyrocket in that month. New York City’s July 2020 crime statistics showed a year-over-year increase of 50% in homicides<sup>30</sup> and a 177% in shootings.<sup>31</sup> According to New York Governor Andrew Cuomo, more than 90% of the victims “are black and brown.”<sup>32</sup>

### G. Rural Areas

Having examined data from some of the nation’s largest cities, it is interesting to consider whether homicides also recently spiked in other areas. Reviewing media reports, it has been difficult to find any

<sup>30</sup> See NBC4 New York, *NY Murders Up 50% for Month of July, NYPD Stats Show* (Aug. 3, 2020), <https://www.nbcnewyork.com/news/local/nyc-murders-up-50-for-month-of-july-nypd-stats-show/2548281/>.

<sup>31</sup> Emil Davenport, *City of Bullets: Shootings Across NYC Surge by 177% in July 2020, NYPD Reports*, AMNY (Aug. 3, 2020), <https://www.amny.com/police-fire/crime-stats-show-that-shootings-are-skyrocketing-compared-to-july-last-year/>.

<sup>32</sup> Maxine Shen, *Cuomo Blame Police for Crime Wave*, Mail Online (Aug. 18, 2020), <https://www.dailymail.co.uk/news/article-8637797/New-York-Gov-Cuomo-blasts-lawlessness-state-NYC-lack-trust-fuels-urgent-crisis.html>.

mention of increasing gun violence in rural areas. While more data should become available in future months,<sup>33</sup> this absence may suggest that the recent homicide increases is more of an urban phenomenon.

## V. Explanations for the Homicide Spikes: Possibilities Other than Policing

With homicides spiking, what is the cause? Before turning to particular explanations, it is important to recapitulate precisely what the causal factor must explain—i.e., it should explain why:

- Homicides (and likely related crimes, such as shootings and aggravated assaulted) have recently spiked in many large U.S. cities;
- Other crime categories, such as property crimes, have not simultaneously increased along with homicides;
- The homicide spikes began around the last week of May 2020, and have been sustained through (at least) the next two months, June and July; and
- The spikes may well be a phenomenon confined to U.S. cities.

Popular media sources have proposed various possible explanations for the homicide spikes.<sup>34</sup> Broadly speaking, the possible explanations divide into two categories: (1) a grab bag of various ideas unrelated to policing; and (2) changes in policing, such as “de-policing” or “de-legitimizing” of police. For reasons that will be developed in the next section, the explanations associated with changes in policing seem the most plausible. But, as part of a process of elimination, this section will first consider other possible explanations, concluding that none of them appears to be a particularly strong candidate for explaining the spikes.

### A. Homicides During the George Floyd Protests

Given the timing of the homicide spikes, one possibility is that the homicides themselves came as a result of the protests, such as from shootings during the protests or by protesters or counter-protesters. This possibility can be quickly dismissed. By all accounts, the majority of the protests were peaceful.<sup>35</sup> The Rosenfeld-Lopez Study, for example, notes that while some violence has been directly connected to protests, in most cases the shooting crimes appear to have involved perpetrators other than the protesters.<sup>36</sup> Virtually all of the homicides that are occurring are taking place away from the demonstrations. The crime maps published by many cities show homicides are not in city centers where anti-police protests usually happened, but rather in low-income neighborhoods outside of those city centers.<sup>37</sup>

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<sup>33</sup> Preliminary FBI data for the first six months of 2020 show homicides in nonmetropolitan counties rose by just 2.5%, less than any other population group. For comparison, homicides in the same time period rose 22.7% in cities of one million or greater population. See FBI, PRELIMINARY UNIFORM CRIME REPORT, JANUARY-JUNE 2020, available at <https://crime-data-explorer.fr.cloud.gov/explorer/national/united-states/prelim-quarter>.

<sup>34</sup> See, e.g., German Lopez, *The Murder Spike in Big US Cities, Explained*, VOX (Aug. 3, 2020), <https://www.vox.com/2020/8/3/21334149/murders-crime-shootings-2020-coronavirus-pandemic>.

<sup>35</sup> See, e.g., Armed Conflict Location & Event Data Project (ACLED), *Demonstrations & Political Violence in America* (Sept. 2020) (concluding that in more than 93% of all demonstrations connected to the Black Lives Matter movement, demonstrators have not engaged in violence of destructive activity), [https://acleddata.com/acleddatanew/wp-content/uploads/2020/09/ACLED\\_USDataReview\\_Sum2020\\_SeptWebPDF.pdf](https://acleddata.com/acleddatanew/wp-content/uploads/2020/09/ACLED_USDataReview_Sum2020_SeptWebPDF.pdf).

<sup>36</sup> Rosenfeld-Lopez Report, *supra* note 2, at 16 (citing Derrick Bryson Taylor, *George Floyd Protests: A Timeline*, N.Y. TIMES (July 10, 2020)).

<sup>37</sup> See Jon Hilsenrath, *Homicide Spike Hits Most Large U.S. Cities: Journal Analysis Shows Double-Digit Increases in 36 of the 50 Biggest Cities Amid Pandemic, Though Other Types of Violent Crime Fell*, WALL ST. J. (Aug. 2, 2020),

It is also important to understand that the homicide spikes are not limited to a single week—such as the week surrounding May 25, when George Floyd died and the protests were most intense—but rather have continued. The homicide and shooting data from Minneapolis, Chicago, Philadelphia, Milwaukee, and New York City recounted above suggests that, in general, homicides (and shootings) continued to be substantially above average throughout the months of June and July.

### ***B. Seasonal Impacts***

Another possible factor to be considered is whether the recent homicide spikes are simply a reflection of crime “seasonality,” that is, the well-known tendency for crimes in some cities to increase in the summer.<sup>38</sup> In Chicago, for example, homicides (and shooting crimes) usually increase in the warmer summer months and decrease in the colder winter months.<sup>39</sup>

This seasonality theory is unlikely because the recent homicide spikes are far above ordinary seasonal variation. Seasonal effects are already considered, for example, in the Rosenfeld-Lopez Study, which used a structural break identifier that controlled for crime rates during the same week in the previous year. Thus, the structural break in the homicide data was in excess of what ordinary seasonal effects would predict. Similarly, in the charts above (for Minneapolis, Chicago, Philadelphia, Milwaukee, and New York City), a five-year baseline for homicides and shootings is depicted, which indicates crime levels for each particular week. The homicide spikes (and shooting spikes) are well above standard seasonal variations.

Finally, it is important to understand that the recent homicide spikes have occurred in cities across the country, harming cities with a variety of climates. For example, homicides have spiked not only in cities in the Midwest (such as Chicago) or the Northeast (such as New York City), but also in Austin, Fort Worth, San Antonio, Phoenix, Jacksonville, and Los Angeles.<sup>40</sup> Some studies find that crime seasonality is stronger in cities with colder winters and warmer summers.<sup>41</sup> The existence of homicide spikes in cities with different climates across the country confirms that something other than seasonal variation is at work.

### ***C. The COVID-19 Pandemic***

It is hard to talk about any crime trends in the U.S. right now without considering the COVID-19 pandemic and related government responses (such as stay-at-home orders and business closures). In theory, it would certainly be possible that the pandemic could cause crime changes, either increases or decreases.

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<https://www.wsj.com/articles/homicide-spike-cities-chicago-newyork-detroit-us-crime-police-lockdown-coronavirus-protests-11596395181>.

<sup>38</sup> See Elliott Davis, *Four Theories About Why Homicides Are Up in Cities*, U.S. NEWS, Aug. 6, 2020 (suggesting this possibility), <https://www.usnews.com/news/cities/articles/2020-08-06/4-theories-about-why-homicides-are-spiking-in-us-cities>.

<sup>39</sup> See Paul G. Cassell & Richard Fowles, *What Caused the 2016 Chicago Homicide Spike? An Empirical Examination of the “ACLU Effect” and the Role of Stop and Frisks in Prevent Gun Violence*, 2018 U. ILL. L. REV. 1581, 1592-93 (discussing seasonality in Chicago homicide data).

<sup>40</sup> See Jon Hilsenrath, *Homicide Spike Hits Most Large U.S. Cities*, WALL ST. J. (Aug. 2, 2020), <https://www.wsj.com/articles/homicide-spike-cities-chicago-newyork-detroit-us-crime-police-lockdown-coronavirus-protests-11596395181>.

<sup>41</sup> See, e.g., John R. Hipp et al., *Crimes of Opportunity or Crimes of Emotion? Testing Two Explanations of Seasonal Change in Crime*, 82 SOC. FORCES 1333 (2004); Shannon J. Linning et al., *Crime Seasonality: Examining the Temporal Fluctuations of Property Crime in Cities with Varying Climates*, 61 INT’L J. OFFENDER THERAPY & COMP. CRIMINOLOGY 1866, 1884-88 (2017); David McDowall et al., *Seasonal Cycles in Crime, and Their Variability*, 28 J. QUAN. CRIMINOLOGY 389, 402 (2012).

The limited available research, however, does not suggest that the onset of the COVID-19 pandemic in March 2020 generally increased crime—much less homicides. For example, the Rosenfeld-Lopez Report concluded that, in general, property and drug crimes *decreased* during the spring of 2020. The one exception was commercial burglary, which abruptly spiked upward for a single week in late May—presumably because of looting associated with the George Floyd protests. Before publishing their most recent report, Rosenfeld and Lopez also teamed up with Thomas Abt to look at monthly crime trends during 2020. Looking at data from 64 cities, they found that average homicide rates *decreased* in April and May 2020, as COVID countermeasures were put in place.<sup>42</sup>

A similar conclusion was reached by Professor Abrams, who collected data from more than 25 large cities in the U.S., looking at the short-term impact of the COVID-19 pandemic on crime. Examining data through around the end of May 2020, Abrams concluded that “[t]he onset of the pandemic led to a *decline* in both violent and property crime by 19% overall.... The decline in crime began prior to [stay at home] orders and coincided closely in time to the substantial drop in mobility.... Some types of serious violent crime seemed unaffected by the pandemic onset, notably homicide and shootings.”<sup>43</sup>

It is possible that the COVID-19 pandemic could trigger crime increases in specific crime categories. This point is illustrated by recent academic research linking the COVID-19 crisis and increasing domestic violence crimes. For example, Professors Leslie and Wilson found that, after social distancing began (and, presumably, more families were sheltering in place together), domestic violence service calls to police increased.<sup>44</sup>

But extrapolating this association to homicides is not possible because the timing does not fit. Leslie and Wilson found, for example, that the increase in domestic violence calls began around March 9, 2020, when significant social distancing started—i.e., more people were staying at home. If social distancing and related phenomenon associated with the onset of the COVID-19 pandemic were responsible for the homicide spikes, then the spikes would be expected to develop around mid-March. And yet the data show the spikes appear about ten weeks later, beginning around the last week of May.

A variation of the COVID-caused-crime argument might be that the homicide spike is due to changes in routine activities. Senior Fellow John Roman at the National Opinion Research Center explained this theory in a recent newsletter. He argues that young men are stuck at home instead of working or going to school, and that other young men are also stuck at home, nearby and with many unresolved disputes. The net result is a toxic situation that produced an explosion of pent-up violence.<sup>45</sup>

This theory has the advantage of explaining some COVID-linked crime patterns: Residential burglary crimes are down, for example, presumably because of a change in routine activity: More people

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<sup>42</sup> Thomas Abt et al, *COVID-19 and Homicide: Final Report to Arnold Ventures* (2020), [https://craftmediabucket.s3.amazonaws.com/uploads/COVID-19-Homicide\\_061520\\_Final.pdf](https://craftmediabucket.s3.amazonaws.com/uploads/COVID-19-Homicide_061520_Final.pdf).

<sup>43</sup> David S. Abrams, *COVID and Crime: An Early Empirical Look*, Univ. of Penn. Carey Law School Inst. for Law and Economics (2020), <http://ssrn.com/abstract=3674032>.

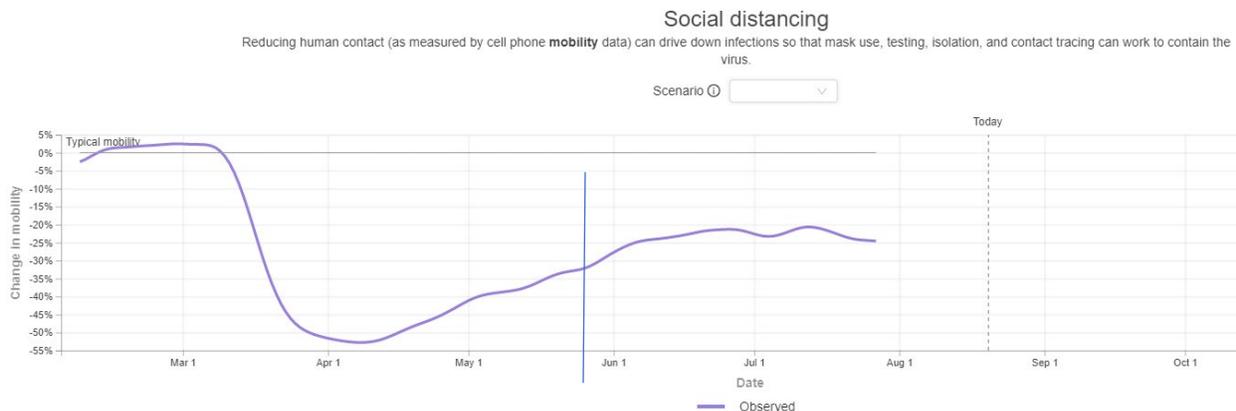
<sup>44</sup> See, e.g., Emily Leslie & Riley Wilson, *Sheltering in Place and Domestic Violence: Evidence from Calls for Service During COVID-19*, \_\_\_ J. PUB. ECON. \_\_\_ (forthcoming 2020), [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=3600646](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3600646); Lin-chi Hsu & Alexander Henke, *The Effect of Social Distancing on Police Reports of Domestic Violence*, [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=3646299](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3646299); see also Boman & Gallupe, *supra* note 18, at 541-42 (finding that, as of May 2020, homicides were not increasing in the U.S. but intimate partner batteries were increasing), <https://link.springer.com/article/10.1007/s12103-020-09551-3>.

<sup>45</sup> John Roman, *Summer of Rage? Summer of Discontent Summer at Home*, External Processing (Aug. 12, 2020), <https://johnkroman.substack.com/p/summer-of-rage-summer-of-discontent>.

are at home, keeping burglars away. But the theoretical framework for increases in stay-at-home activity triggering a sudden increase in homicides is unclear (with the important exception of domestic violence just discussed).

And, in any event, as an empirical matter, it is hard to see any data that would support the theory. For example, COVID-related data do not reveal any sudden changes in social mobility that coincide with late May. Figure 14 depicts changes in U.S. social mobility (with decreases reciprocally showing an increase in social distancing).

FIGURE 14: U.S. SOCIAL MOBILITY – CELL PHONE MOBILITY DATA (FEB.-AUG. 2020)



Source: Institute for Health Metrics and Evaluation, University of Washington.

As shown in Figure 14, social distancing in the United States began around mid-March and social mobility was at its nadir in early April. If pent-up violence due to being confined at home was a trigger for homicides, then homicides should have begun increasing somewhere around mid-March to early April—rather than weeks later. As noted above, homicides did not appear to generally increase in cities in this country until around the last week in May.

Alternatively, if the theory is that release of people from stay-at-home orders caused gun violence, then we might expect to see some sudden change in social mobility connected with the homicide spike. But social mobility gradually began moving back toward normal levels after the beginning of April and throughout May and June. It has remained at roughly the same level for July, although it has yet to fully regain its pre-pandemic level.<sup>46</sup> The vertical line in Figure 14 in late May—marking the onset of the protests and the subsequent homicide spikes—does not coincide with any sudden change in social mobility across the U.S., much less a very abrupt change that could be expected to trigger significant increases in homicides.<sup>47</sup>

It is also relevant that stay-at-home orders were imposed and expired with varying degrees of rigor and at varying times across the country. And yet the homicide spikes all seem to have originated at roughly

<sup>46</sup> See <https://covid19.healthdata.org/> (last visited Aug. 20, 2020).

<sup>47</sup> One study has reviewed changes in social distancing in cities that experienced Black Lives Matter protests and found, based on cell phone tracking data, an *increase* in distancing—perhaps because, on average, the general population choose to remain home more often. See Dhaval Dave et al, *Black Lives Matter Protests, Social Distancing, and COVID-19*, IZA Inst. of Labor Economics (June 22m 2020), [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=3631599](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3631599).

the same time in late May. Here again, a theory linked to changes in social activity does not appear to fit the homicide data well.

Finally, a problem with the COVID-based explanation is the pandemic was generally widespread in cities throughout the country.<sup>48</sup> On the other hand, the homicide spikes are often concentrated in particular neighborhoods. Without some further development, the COVID explanation does not appear to fit the data well.

To be sure, the COVID-19 pandemic and associated public health responses may well have played (and may well continue to play) a role in overall crime trends. The narrow point here is that, at least as measured by changes in social mobility, COVID-19 does not appear to be responsible for triggering the homicide spikes.

#### ***D. Increase in Firearms Purchases***

Another possible explanation for the homicide spikes is that a surge in firearms purchases lead to more gun violence. This issue has been explored in a paper by Professor Julia Schleimer and several colleagues.<sup>49</sup> They report that about 2,109,000 “excess” firearms were purchased in the U.S. during March, April, and May 2020—i.e., substantially more firearms than would have been purchased normally during that time frame. The increase was 947,000 in March 2020, another 550,000 in April 2020, and 610,000 in May 2020. They hypothesize that this increase in firearms lead to an increase in firearms violence during these three months. The authors used multivariate regression to control for possible confounding factors, although the controls they included (COVID-19 cases, stay-at-home orders, social movement, precipitation and temperature) are very limited, entirely ignoring law enforcement and other criminal justice variables—a significant omission, given the potential significance of the law enforcement issues discussed below. The authors found a small (8%) increase in firearms violence, which they attributed to the increase in firearms purchases.

Here again, as an explanation for the sharp homicide spikes appearing in late May, the increase in firearms purchases appears to be poor candidate. As the firearms purchase numbers above indicate, the most significant increase was in March 2020—well before the homicide spikes appear. Indeed, on close examination of the study, it is interesting to note that actual firearm violence in March and April 2020 was not higher than what the study’s model predicted. The only month for which actual firearm violence exceeded what the model predicted was May 2020<sup>50</sup>—when the homicide spikes began. Thus, the model they use is very sensitive to the time periods included.

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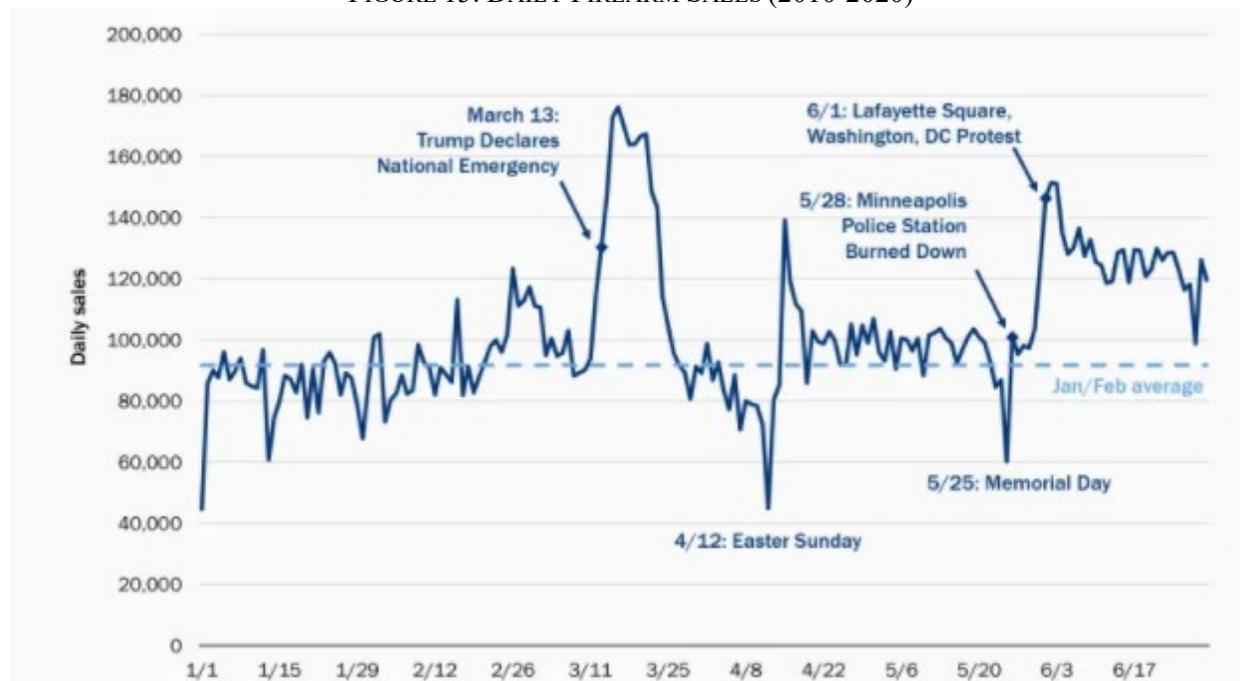
<sup>48</sup> Indeed, it is interesting to consider the fact that the COVID-19 pandemic has extended worldwide. And yet, it does not appear that the pandemic—or pandemic countermeasures and cessation of countermeasures—has produced homicide spikes in other countries. See the Wikipedia entry “Impact of the COVID-19 Pandemic on Crime” (mentioning increases in cybercrime and domestic violence in other countries due to reduced social mobility from the pandemic, but not mentioning general homicide increases). This apparent absence of similar spikes elsewhere provides further evidence against a COVID-linked trigger for the American homicide spikes, although given American exceptionalism on multiple fronts (e.g., the widespread available of firearms) this line of reasoning must be approached with caution.

<sup>49</sup> Julia P. Schleimer et al., *Firearm Purchasing and Firearm Violence in the First Months of the Coronavirus Pandemic in the United States*, MEDRxIV (2020), <https://doi.org/10.1101/2020.07.02.20145508>.

<sup>50</sup> See *id.* at 22 Figure 1B.

To look at the trends in firearms purchases more precisely, the Brookings Institute collected daily firearms sales data for January through June 2020.<sup>51</sup> The trends in firearms purchases do not appear to correspond to the homicide spikes, as shown in Figure 15:

FIGURE 15: DAILY FIREARM SALES (2010-2020)



Source: Brookings Institute (based on data from NICS database on background checks conducted).

As is apparent in Figure 15, the biggest increase in firearms sales occurred around mid-March, well before the late-May spike.

Another significant reason for rejecting the excess-firearms-purchased theory is that, from the relevant reports, firearms were broadly purchased across the entire country following the start of the pandemic.<sup>52</sup> And yet the homicide spikes appear to usually be concentrated in a few, high-crime urban neighborhoods. For example, in Chicago, many of the homicides have been committed in particular neighborhoods in the south and west sides of the city.<sup>53</sup> A general increase in firearms purchases across large geographical areas seems unlikely to explain concentrated increases in homicides.

<sup>51</sup> Phillip B. Levin & Robin McKnight, *Three Million More Guns: The Spring 2020 Spike in Firearm Sales*, BROOKINGS (July 13, 2020), <https://www.brookings.edu/blog/up-front/2020/07/13/three-million-more-guns-the-spring-2020-spike-in-firearm-sales/>.

<sup>52</sup> See Keith Collins & David Yaffe-Bellany, *About 2 Million Guns Were Sold in the U.S. as Virus Fears Spread*, N.Y. TIMES (April 2, 2020), <https://www.nytimes.com/interactive/2020/04/01/business/coronavirus-gun-sales.html>; see also Bree Lang & Matthew Lang, *Pandemics, Protests and Firearms* (finding that new firearms purchases were broadly distributed) (July 12, 2020), [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=3593956](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3593956).

<sup>53</sup> See Dan Hinkel & Jeremy Gerner, *As Violence Surges, Chicago Police Try a New Version of an Old Solution*, CHI. TRIB. (July 31, 2020), <https://www.chicagotribune.com/news/criminal-justice/ct-chicago-police-strike-force-20200731-xwgm73impzfvllhhfvfu6suea7u-story.html>. For more precise data showing specific high crime neighborhoods where homicides are concentrated, see the Chicago Data Portal at <https://data.cityofchicago.org/Public-Safety/Homicide-Map/53tx-phyr>.

Finally, the United States already has a huge number of firearms in private hands—about 400 million by some measures.<sup>54</sup> Against this backdrop, a recent increase of two million gun sales (about 0.5% of the total) seems like a poor candidate for explaining sudden and dramatic changes in homicides.

### *E. Rising Unemployment*

Another theory for the cause of the homicide spikes is the increase in unemployment caused by the pandemic. The theory is that, as unemployment increased, the result was more homicides. The theory could draw on support from other research, pointing (although not conclusively) to a link between unemployment and crime.<sup>55</sup>

To be sure, the COVID-19 pandemic caused a dramatic increase in unemployment, as shown Figure 16.<sup>56</sup>

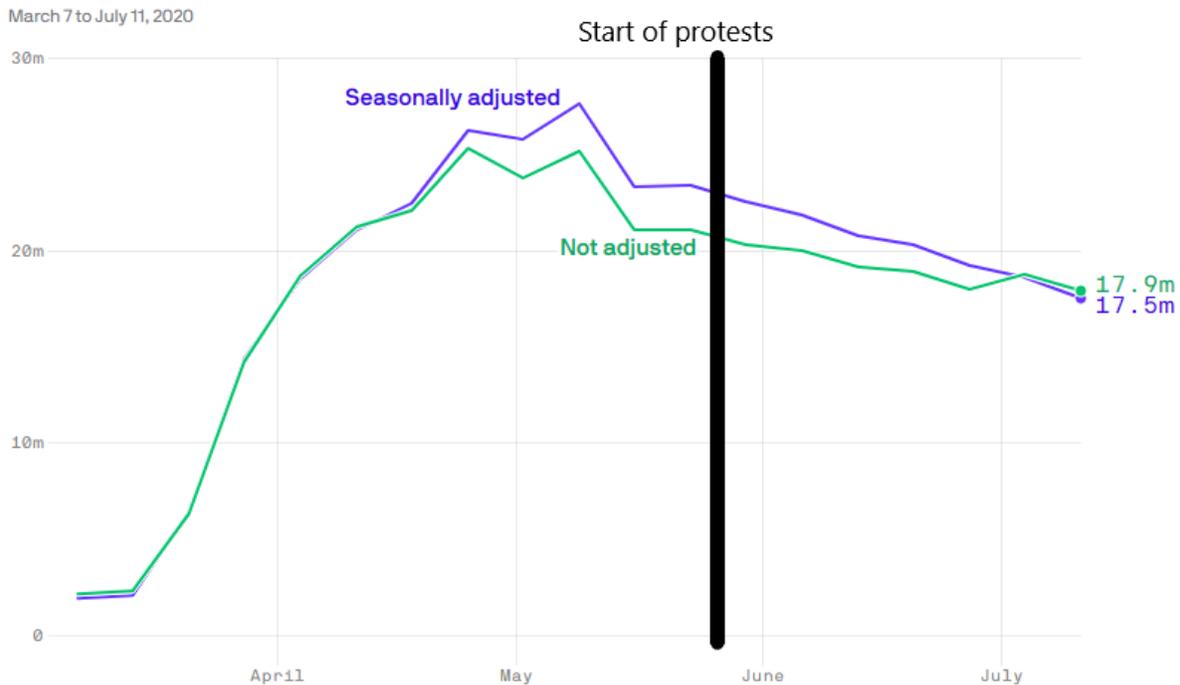
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<sup>54</sup> See Aaron Karp, *Estimating Global Civilian-Held Firearms Numbers*, SMALL ARMS SURVEY (June 2018) <http://www.smallarmssurvey.org/fileadmin/docs/T-Briefing-Papers/SAS-BP-Civilian-Firearms-Numbers.pdf>.

<sup>55</sup> See, e.g., Oliver Roeder, Lauren-Brooke Eisen & Julia Bowling, *What Caused the Crime Decline?*, BRENNAN CTR. FOR JUSTICE, 48–49 (2015), <https://www.brennancenter.org/publication/what-caused-crime-decline> (finding decline in unemployment reduced crime); but see, e.g., Gary Kleck & Dylan Jackson, *What Kind of Joblessness Affects Crime? A National Case-Control Study of Serious Property Crime*, 32 J. QUANT. CRIMINOLOGY 489 (2016).

<sup>56</sup> <https://www.axios.com/traditional-unemployment-seasonal-adjustments-070c1459-ea23-4dcf-bd2c-e5e7b3e58e1b.html>

FIGURE 16: U.S. UNEMPLOYMENT CLAIMS



Data: Department of Labor via FRED; Chart: Axios Visuals

Source: U.S. Department of Labor Statistics

But, once again, the timing of changes in unemployment does not correspond with the homicide spikes. The massive surge in unemployment began mid-March and continued to be far above average through July. Also, unemployment claims reached their peak in early May and then began *declining*. As shown by the vertical line in the graph, this pattern does link to the abrupt spike in homicides and shootings that followed shortly after late May.

In addition, in an effort to mitigate the economic consequences of the pandemic, Congress enacted federal legislation that provided unemployment assistance: The Coronavirus Aid, Relief, and Economic Security (CARES) Act. The Act provided a \$600 weekly unemployment benefit—a benefit that continued until the end of July, well after the beginning of the homicide spikes. The Act also attempted to protect low-income families from eviction, by providing a 120-day federal eviction moratorium. While the provision expired in July, landlords were not permitted to begin eviction proceedings for an additional thirty days. And ultimately the moratorium was extended as a public health measure.<sup>57</sup> These relief measures mitigated the effects of unemployment while homicides were spiking.

Another significant problem with pinning the homicide spikes to unemployment is that increases in unemployment have more often been linked to increases in crime generally or to increases in property

<sup>57</sup> Matthew Goldstein, *U.S. Orders Eviction Moratorium for Most Through Year's End*, N.Y. TIMES (Sept. 1, 2020), <https://www.nytimes.com/2020/09/01/business/eviction-moratorium-order.html>.

crimes—not to increases in homicides and related violent crimes in particular.<sup>58</sup> No substantial theoretical basis exists for projecting that rising unemployment—even sharply rising unemployment—would uniquely cause gun violence to increase while leaving other forms of crime unaffected.

Finally, it is interesting to note that the last significant economic downturn—the Great Recession of 2008—did not seem to have much of an effect on crime rates. If anything, crime rates went down.<sup>59</sup>

For all these reasons, changes in unemployment rates are a poor candidate for explaining the homicide spikes.

## VI. Law Enforcement Related Explanations for the Homicide Spikes

Having eliminated all of the other most plausible (and most commonly mentioned) explanations for the recent homicide spikes, the law enforcement possibility emerges as the most probable candidate. This may seem an unsurprisingly conclusion, since “[i]f we take it as an axiom that the police deter crime, it is natural to think that when the patterns of crime start changing systematically, the police must have played some role.”<sup>60</sup>

This section explains why reduced proactive policing (sometimes referred to in the academic literature “de-policing”) is the most logical explanation for the recent homicide spikes.

### *A. De-Policing and De-Legitimizing of Police as Possible Explanations*

The Rosenfeld-Lopez Report raises the possibility that changes in law enforcement in the wake of the George Floyd protests caused the homicide spikes. The Report compares the recent homicide spikes with the homicide increases that occurred about five years ago in some American cities, including Chicago, Baltimore, and Ferguson, Missouri.<sup>61</sup> These homicide increases also occurred in the wake of widespread protests against police violence—protests initially triggered by the police killing of Michael Brown in Ferguson, Missouri.

At the time, some observers argued that a “Ferguson Effect” was responsible for the crime increases.<sup>62</sup> The “Ferguson Effect” was a term first coined by St. Louis Police Chief Sam Dotson III in late 2014.<sup>63</sup> The essential idea was that, in the wake of anti-police protests after the events in Ferguson, officers

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<sup>58</sup> See, e.g., Mikko Aaltonen et al, *Examining the Generality of the Unemployment-Crime Association*, 51 CRIMINOLOGY 561 (2013) (finding positive effects of unemployment on property crime but not other types of crime); Chester L. Britt, *Reconsidering the Unemployment and Crime Relationship: Variation by Age Group and Historical Period*, 13 J. QUANT. CRIMINOLOGY 405 (1997) (linking unemployment and property crime among youth and young adults).

<sup>59</sup> See Richard Rosenfeld, *Studying Crime Trends: Normal Science and Exogenous Shocks*, 56 CRIMINOLOGY 5, 10 (2018).

<sup>60</sup> John M. MacDonald, *De-Policing as a Consequence of the So-Called “Ferguson Effect”*, 18 CRIMINOLOGY & PUB. POL’Y 47, 47 (2019)

<sup>61</sup> Rosenfeld-Lopez Report, *supra* note 2, at 16.

<sup>62</sup> See “Ferguson Effect,” *Wikipedia*, [https://en.wikipedia.org/wiki/Ferguson\\_effect](https://en.wikipedia.org/wiki/Ferguson_effect). For a helpful summary, see Richard Rosenfeld, *Documenting and Explaining the 2015 Homicide Rise; Research Directions*, NAT’L INST. OF JUSTICE (June 2016), <https://www.ncjrs.gov/pdffiles1/nij/249895.pdf>.

<sup>63</sup> See Christin Byers, *Crime Up after Ferguson and more Police Needed, top St. Louis Area Chiefs Say*, ST. LOUIS POST-DISPATCH (Nov. 15, 2015), [https://www.stltoday.com/news/local/crime-and-courts/crime-up-after-ferguson-and-more-police-needed-top-st/article\\_04d9f99f-9a9a-51be-a231-1707a57b50d6.html](https://www.stltoday.com/news/local/crime-and-courts/crime-up-after-ferguson-and-more-police-needed-top-st/article_04d9f99f-9a9a-51be-a231-1707a57b50d6.html).

were disengaging from discretionary enforcement activities and criminals felt empowered. Heather MacDonald further popularized the term in a *Wall Street Journal* op-ed in May 2015.<sup>64</sup>

The theory that I will advance here is that a reduction in discretionary law enforcement activities—i.e., a “Minneapolis Effect”<sup>65</sup> akin to the earlier Ferguson Effect—explains the abrupt homicide spikes that have occurred in the last several months. The theory is straightforward to articulate: In the wake of the anti-police protests surrounding George Floyd’s death, less policing has occurred. For example, police have been redeployed to manage the protests, diverting them from anti-gun patrols and other activities that deter the carrying of illegal firearms.<sup>66</sup> And even after protests began to wane, police have pulled back from some kinds of proactive policing—that is, self-initiated policing methods designed to reduce crime by using preventive strategies, such as street stops or anti-gun patrols.<sup>67</sup> These reductions have resulted from the protests or other attacks on police, as police have (for various reasons) pulled back from aggressive efforts to combat gun crimes. Likewise, law enforcement capabilities have been diminished by reduced funding and other setbacks (such as increased retirements due to demoralization). The consequence of reducing law enforcement activity directed against gun violence has been, perhaps unsurprisingly, an increase in gun violence.

In contrast to reactive policing (that is, simply responding to a crime that has already occurred), proactive policing may be particularly effective in discovering and removing illegal firearms from the hands of criminals and thus in deterring the illegal carrying of firearms in the first place. And proactive policing is one of a relatively small number of police practices that has been shown to be likely to directly reduce gun crimes, as the empirical studies collected in the note below suggest.<sup>68</sup> And some studies also similarly indicate that that proactive policing may specifically reduce firearm-related crimes but not other violent crimes or property crimes.<sup>69</sup>

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<sup>64</sup> Heather MacDonald, *The New Nationwide Crime Wave: The Consequences of the “Ferguson Effect” are Already Appearing. The Main Victims of Growing Violence will be the Inner-City Poor*, WALL ST. J. (May 29, 2015), <https://www.wsj.com/articles/the-new-nationwide-crime-wave-1432938425>.

<sup>65</sup> See Heather MacDonald, *Breakdown: The Unwinding of Law and Order in our Cities has Happened with Stunning Speed*, CITY J. (July 1, 2020), <https://www.city-journal.org/ferguson-effect-inner-cities>.

<sup>66</sup> De-policing appears to operate through reduction in *ex ante* deterrence effects rather than *ex post* changes in clearance rates and conviction rates. See Cassell & Fowles, *supra* note 39, at 1634 & n.300 (collecting studies on how proactive policing deters carrying of firearms in the first instance); cf. Shima Baradaran Baughman, *How Effective are Police? The Problem of Clearance Rates and Criminal Accountability*, 72 ALAB. L. REV. \_\_ (forthcoming 2020) (discussing the importance of police solving violent crimes).

<sup>67</sup> For further definition of the term “proactive policing,” see NAT’L ACAD. OF SCI., PROACTIVE POLICING: EFFECTS ON CRIME AND COMMUNITIES 30-32 (David Weisburd & Malay K. Majmudar eds., 2017); Paul A. Haskins, *Research Will Shape the Future of Proactive Policing*, NIJ J. 3 (Nov. 2019), <https://www.ncjrs.gov/pdffiles1/nij/252736.pdf/>.

<sup>68</sup> See generally MacDonald, *supra* note 50, at 47 (“The findings from a robust set of experimental studies show that when police are deployed to high-crime areas, commonly referred to as crime ‘hot spots,’ crime rates drop for some period of time). See, e.g., Lawrence W. Sherman, *Comment on Jacqueline Cohen & Jens Ludwig, Policing Gun Crimes*, in EVALUATING GUN POLICY: EFFECTS ON CRIME AND VIOLENCE 240–43 (2003) (discussing studies showing that intensive police efforts to discourage illegal public gun carrying reduce gun injuries and deaths); Christopher S. Koper & Evan Mayo-Wilson, *Police Strategies to Reduce Illegal Possession and Carrying of Firearms: Effects of Gun Crime*, 11 CAMPBELL SYSTEMATIC REVS. 1, 14 (2012) (six of seven studies analyzed showed that directed police patrols reduced gun crimes in high-crime places during high-risk times); LAWRENCE W. SHERMAN, JAMES W. SHAW & DENNIS P. ROGAN, U.S. D.O.J., NAT’L INST. OF JUST.: RESEARCH IN BRIEF, THE KANSAS CITY GUN EXPERIMENT 3–4 (1995) (targeted gun patrols produced a 49% drop in gun crimes); Jerry H. Ratcliffe et al., *The Philadelphia Foot Patrol Experiment: A Randomized Controlled Trial of Police Patrol Effectiveness in Violent Crime Hotspots*, 49 CRIMINOLOGY 795, 796 (2011) (clearest evidence of crime reduction occurred in areas of increased foot patrols, although evidence not conclusive). See generally NAT’L ACAD. OF SCI., *supra* note 67, at 168–76.

<sup>69</sup> See, e.g., EDUMUND F. MCGARRELL ET AL., NAT’L INST. OF JUST., CRIME CONTROL POL’Y CTR. HUDSON INS., REDUCING GUN VIOLENCE: EVALUATION OF THE INDIANAPOLIS POLICE DEPARTMENT’S DIRECT PATROL PROJECT 3

Thomas Abt recently and thoughtfully discusses a wide range of possible response to homicides. But one point is particularly relevant to the recent developments. Abt discusses “hot spot” policing, explaining that “[w]hether a hot person carries a hot gun in a hot spot depends on, among other things, supply and demand. To reduce the demand for illegal firearms among dangerous people in dangerous places, the risk of apprehension must be high.”<sup>70</sup> If recent developments have reduced the risk of apprehension for carrying illegal firearms or commitment gun crimes, then the likely result is that gun crimes increased—i.e., a Minneapolis Effect occurred.

This straightforward argument suggests that a likely cause for recent homicide spikes might be changes in proactive policing in various forms. To explore this hypothesis, it would be ideal to have comprehensive measures of all forms of policing activity, and then subsets of proactive or other the types of policing that might be particularly important in fighting gun violence. Unfortunately, such information is not readily available, although some law enforcement agencies do keep track of some forms of policing (e.g., the number of street stops or vehicle stops). This data is typically only available at a city level, suggesting that cases studies of particular cities may be required to explore the hypothesis.

The idea that a new Minneapolis Effect (like the earlier Ferguson Effect) might be causing the homicide spikes in Minneapolis and other cities was thoughtfully discussed by Rosenfeld and Lopez. But rather than immediately endorse the conclusion, they pointed to two possible ways of describing the Ferguson Effect. As they explained in connection with the homicide spikes from several years earlier, crime increases might be caused either by “de-policing” or, alternatively, by “de-legitimizing” of the police:

Analysts tied the heightened violence [in 2014-16] to two versions of the so-called Ferguson Effect. The first connects the violence to “de-policing,” a pullback in law enforcement. The second essentially turns this explanation on its head and connects the violence to “de-legitimizing,” positing that communities, disadvantaged communities of color in particular, drew even further away from the police due to breached trust and lost confidence. As a result of diminished police legitimacy, fewer people reported crimes to the police or cooperated in investigations, and more engaged in street justice to settle disputes.<sup>71</sup>

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(2012) (targeted offender gun patrols reduced gun-related crimes substantially but did not appear to reduce violent crimes without firearms); Richard Rosenfeld & Robert Fornango, *The Impact of Police Stops on Precinct Robbery and Burglary Rates in New York City, 2003–2010*, 31 JUST. Q. 96, 97 (2014) (finding no statistically significant correlations between SQF and burglary or robbery using yearly rates of crime and SQF stops across all 75 precincts in the New York City Police Department); *see also* Richard Rosenfeld et al., *The Effects of Directed Patrol and Self-Initiated Enforcement on Firearm Violence: A Randomized Controlled Study of Hot Spot Policing*, 52 CRIMINOLOGY 428, 439-40, 444-45 (2014) (finding hot spot policing reduced firearm assaults but not firearms robberies or non-firearms assaults). *But cf.* Anthony A. Braga et al., *The Effects of Hot Spots Policing on Crime: An Updated Systematic Review and Meta-Analysis*, 1 JUST. QUART. 633, 651-5 (2014) (suggesting that “hot spot” policing reduces violent crime generally). A unique spike in firearms crimes also occurred in Chicago in 2016. *See infra* notes 180-181 and accompanying text (steep decline in street stops in Chicago in 2016 led to a steep increase in homicides and gun-related crimes but not other crimes).

<sup>70</sup> THOMAS ABT, BLEEDING OUT: THE DEVASTATING CONSEQUENCES OF URBAN VIOLENCE—AND BOL NEW PLAN FOR PEACE IN THE STREETS location 2007 (2019).

<sup>71</sup> Rosenfeld, *supra* note 2, at 17. *See generally* Tom R. Tyler et al, *The Impact of Psychological Science on Policing in the United States: Procedural Justice, Legitimacy, and Effective Law Enforcement*, 16 PSYCHOLOGICAL SCI. 75 (2015) (during legitimacy-based models of policing authority).

In their July 2020 report, Rosenfeld and Lopez conclude that “[i]t remains unclear whether either of these theories explains the previous rise in violence, much less today’s increase.”<sup>72</sup> They urged further investigation of the topic—and, as they encouraged, this paper will now explore the evidence for a Minneapolis Effect, in either its de-policing or de-legitimizing forms.

### ***B. De-Policing in Specific Cities***

To analyze whether changes in law enforcement can explain what is happening today, one approach is to drill into the data in particular cities. Once again, it may be useful to look specifically at the five cities previously examined, as case studies for possible changes in policing.

#### ***1. Minneapolis***

First, consider Minneapolis—the namesake for the Minneapolis Effect and the city of origin for the George Floyd protests. What could explain the pattern of sharp and sustained increases in homicides and shots fired in Minneapolis but no parallel sustained increase in property crimes?

The sequence of relevant events strongly suggests the possibility of a decline in policing: After George Floyd’s death, anti-police protests quickly followed, which escalated to looting of businesses. As the protests turned violent, the mayor made a decision to surrender the Minneapolis Police Department’s Third Precinct headquarters to protesters. Crowds broke in and set fire to the building—which left many police officers feeling abandoned.<sup>73</sup> Shortly after the initial riots ended, nine members of the Minneapolis City Council pledged to begin the process of abolishing the Minneapolis Police Department.<sup>74</sup> And the police officers involved in Floyd’s arrest were charged with either committing or aiding and abetting murder.<sup>75</sup>

In the wake of these events, some city residents said that officers were pulling back from aggressive police work.<sup>76</sup> Following the defunding efforts in the city council (which the council approved on June 15), residents reported a notable decrease in police presence—“All you see now is them [the police] with their windows up,” one resident told reporters.<sup>77</sup> In the two months following Floyd’s death, the Minneapolis Police Department lost at least 100 officers, straining department resources.<sup>78</sup> Some of the officers resigned

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<sup>72</sup> Rosenfeld, *supra* note 2, at 17.

<sup>73</sup> Libor Jany & Liz Navratil, *Kroll, Minneapolis Police Union Head, Blasts City’s Riot Response in Letter to Officers*, MINN. STAR-TRIBUNE (June 1, 2020), <https://www.startribune.com/kroll-minneapolis-police-union-head-blasts-city-s-riot-response-in-letter-to-officers/570928532/>.

<sup>74</sup> Liz Navratil, *Most of Minneapolis City Council Pledges to “Begin the Process of Ending” Police Department*, MINN. STAR-TRIB. (June 8, 2020), <https://www.startribune.com/mps-council-majority-backs-dismantling-police-department/571088302/>. Ultimately, due to complicated government approval processes, a final decision on the issue of dismantling the police department was delayed and remains under consideration.

<sup>75</sup> Amyu Forliti & Steve Karnowski, *4 Minneapolis Cops Now Charged in the Death of George Floyd*, CHI. TRIB. (June 3, 2020), <https://www.chicagotribune.com/nation-world/ct-nw-minneapolis-george-floyd-cops-charges-20200603-pklbuy3mk5eb5dhwo7g7oep4yi-story.html>.

<sup>76</sup> Liz Navratil, *Despite a Wave of Violence, Minneapolis “Defund Police” Effort Continues*, MINN. STAR-TRIBUNE (June 25, 2020), <https://www.startribune.com/minneapolis-city-council-bid-to-end-the-police-department-proceeds-despite-wave-of-violence/571477002/>.

<sup>77</sup> Alec MacGillis, *How to Stop a Police Pullback*, THE ATLANTIC (Sept. 3, 2020), <https://www.theatlantic.com/ideas/archive/2020/09/how-stop-police-pullback/615730/>.

<sup>78</sup> Libor Jany, *Minneapolis Police Face Staffing Challenges as Violence Rises*, MINN. STAR-TRIB. (Aug. 1, 2020), <https://www.startribune.com/minneapolis-police-face-staffing-challenges-as-violence-rises/571982152/>.

because they felt lack of support from city leaders.<sup>79</sup> Additionally, another 75 took medical leave for post-traumatic stress disorder that they identified coming from the riots following Floyd's death. Police union leaders reported that Minneapolis police officers "are not going to put themselves out there to get the proactive stops to get the guns off the street ... [b]ecause they don't feel supported, after the fact."<sup>80</sup>

In addition, reports emerged of officer reluctance to enter certain high-crime areas. For example, the *Minneapolis Star-Tribune* noted that homicides began to increase at the same time as (among other things) "the reluctance of some Minneapolis officers to take initiative amid intense scrutiny."<sup>81</sup> One Minneapolis city council member questioned police officers' apparent reluctance to enter the area surrounding Floyd's memorial, an area described by the *Minneapolis Star-Tribune* as "a long troubled corner" that was the site of several shootings after Floyd's death. The council member said that "[p]eople in this area, they're not experiencing slow response [to call to police for service], they're experiencing no response. They're being told that this is called a no-go zone by MPD."<sup>82</sup> Complaints about slower response times went up, which police attributed to patrol squads throughout the city being increasingly stretched thin.<sup>83</sup>

The number of gunfire incidents also appeared to overwhelm available law enforcement units. In a class-action lawsuit filed against the city in late July, a group of neighborhood residents in a high-crime area alleged that it had been deprived of adequate policing, and regularly were told to call 311, instead of 911, whenever there were shots fired but no victims.<sup>84</sup>

These qualitative suggestions of less policing in Minneapolis clearly show up in the post-protest policing data. Figure 16 depicts the pedestrian stop data.

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<sup>79</sup> Libor Jany & Liz Sawyer, *Seven Minneapolis Police Officers Resign after George Floyd Protests, Citing Lack of Support from City Leaders*, MINN. STAR-TRIBUNE (June 21, 2020), <https://www.startribune.com/seven-mpls-police-officers-resign-after-floyd-protests/571241922/>.

<sup>80</sup> See Brandt Williams & Jon Collins, *Minneapolis Police Union Open to Community Demands, but Kroll Staying Put*, MPR NEWS (June 23, 2020), <https://www.mprnews.org/story/2020/06/23/police-union-leader-minneapolis-cops-scapegoated-for-incompetent-leadership>.

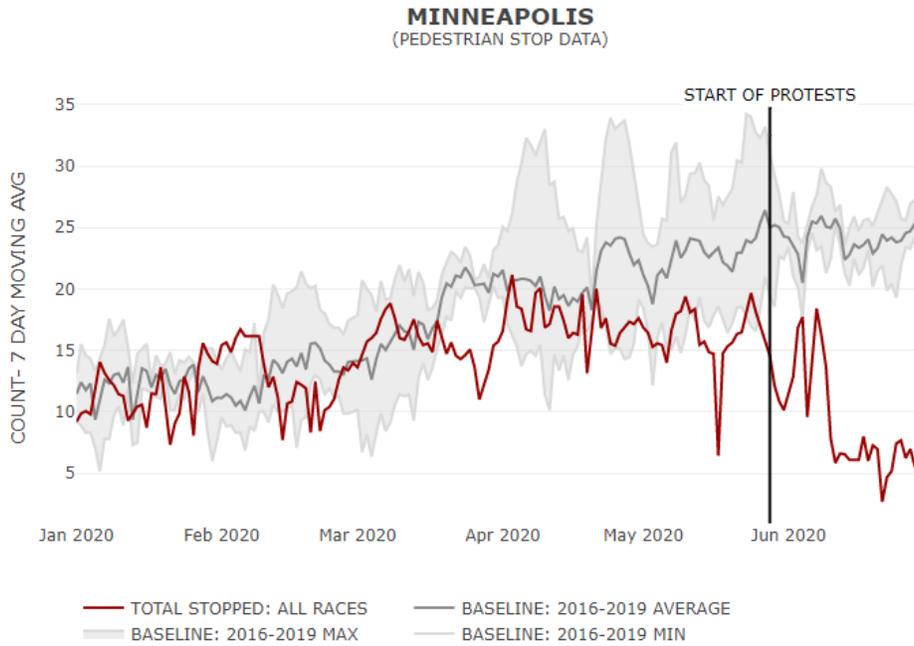
<sup>81</sup> Libor Jany & Liz Sawyer, *Gun Violence Soars Amid Crises of Health, Public Trust, Officer Reluctance*, MINNEAPOLIS STAR-TRIBUNE (June 27, 2020), <https://www.startribune.com/surge-in-gun-violence-tests-minneapolis-leaders/571524202/>.

<sup>82</sup> Jany, *Minneapolis Police Face Staffing Challenge*, *supra* note 78.

<sup>83</sup> *Id.*

<sup>84</sup> *Id.*

FIGURE 16: MINNEAPOLIS PEDESTRIAN STOPS (JAN.-AUG. 2020)

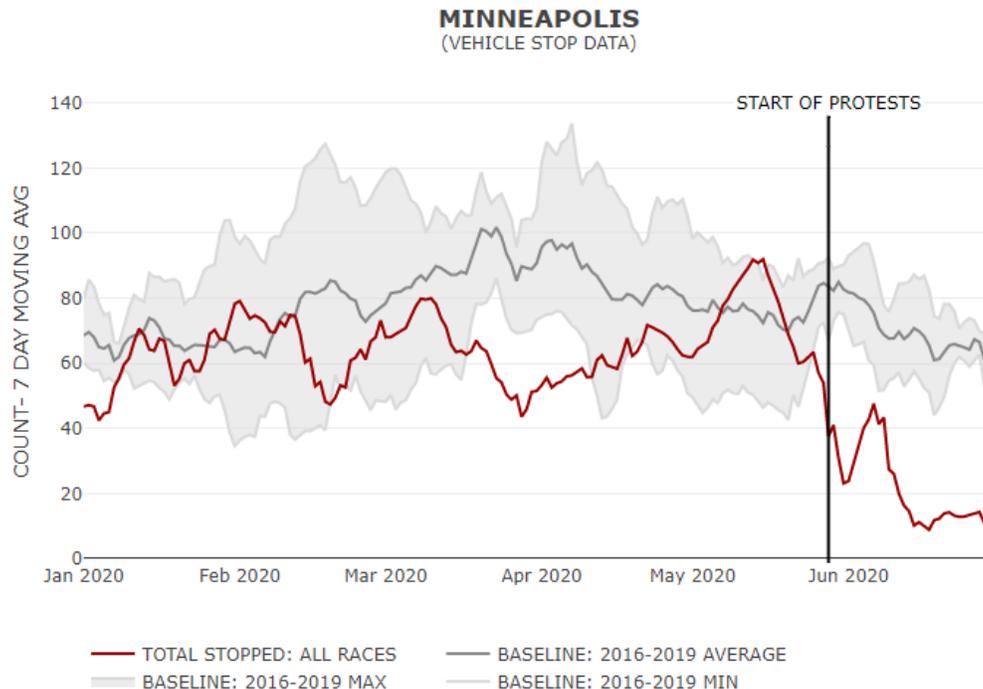


Source: Minneapolis Police Department Data (as accessed through citycrimestats.com).

By this measure of policing, Minneapolis policing was substantially below historical averages following the protests.

The same pattern of a decline in policing is seen in vehicle stop data, depicted in Figure 17.

FIGURE 17: MINNEAPOLIS VEHICLE STOPS (JAN.-AUG. 2020)



Source: Minneapolis Police Department Data (as accessed through citycrimestats.com).

The Minneapolis Effect is thus easy to see in Minneapolis data. Following the protests (and violence and looting) in the city, proactive policing fell for various reasons. The apparent consequence: Increased homicides and other gun-related crimes.

As this article was being finalized, the *Minneapolis Star-Tribune* published a data-driven story that confirmed the decline in policing in Minneapolis. On September 10, 2020, the *Star-Tribune* reported that, from June through August, apart from the fact that the National Guard was deployed in response to riots, “nearly every other metric of police activity fell sharply compared to last year, and across every precinct.”<sup>85</sup> For example, police stops and officer-initiated calls dropped more than half, use-of-force incidents fell by two-thirds while traffic-related incidents and patrols became far less common. The dramatic reduction in stops and officer-initiated calls is particularly significant for the thesis of this article, because these data suggest that the Minneapolis Police Department became significantly less proactive as shootings and homicides were spiking. Instead, the Department focused on simply responding to 911 calls, with law enforcement responses slightly lower than last year’s levels, partially due to staffing shortages (among other causes).

Could this decline in policing—the Minneapolis Effect—be the result of delegitimizing of the police? Obviously, George Floyd’s death raised significant questions about the Minneapolis Police Department. But it is also fair to note that the officers involved were swiftly charged with homicide. And

<sup>85</sup> Jeff Hargarten & Kim Hyatt, *How Minneapolis Policing Changed During a Historic Summer of Turmoil*, MINN. STAR-TRIBUNE (Sept. 10, 2020), available at <https://www.startribune.com/how-minneapolis-policing-changed-during-a-historic-summer-of-turmoil/568966731/>.

the Minneapolis City Council also rapidly considered ways to improve the police department—a department that for several years has been led by its first African-American chief, Medaria Arradondo.<sup>86</sup>

Assessing the extent to which any de-legitimization of the police affected crime rates requires some way of measuring de-legitimization. Professor Rosenfeld’s 2017 article helpfully sets out ways in which community alienation from the police can be measured. Pointing to an influential study from Milwaukee, Rosenfeld noted that calls for police service (i.e., 911 calls) can serve as a measure of police-citizen cooperation.<sup>87</sup> The idea is that, if the de-legitimizing theory is correct, then calls for police service should decline following a controversial use-of-force incident.

Before turning to the Minneapolis 911 call data, it does appear (particularly in recent months) that the main concern in the city has been that police are not responding to 911 calls quickly enough. For example, Steve Fletcher, a Minneapolis City Council member, recounted that during the first weekend of the civil unrest, he started getting calls on his cellphone from business owners who were being robbed. As Fletcher explained, “I was realizing, oh, my God, people are calling me because they can’t get through to 911, and nobody is responding even if they do get through to the police. No one is coming.”<sup>88</sup> The initial unrest produced such substantial problems with 911 calls that, a few days later, the Associated Press in Minneapolis was forced to fact-check a video, which claimed that no officers were available to respond to 911 calls—a joke video, but apparently one that many Minneapolis residents thought was true.<sup>89</sup>

In addition, in one high-crime precinct (the Third Precinct), a community outreach spokesperson for the MPD told residents in mid-July that she was unable to guarantee any pro-active policing for the area: “911 calls will be answered, but temporarily, we cannot count on directed patrols or other proactive measures”—presumably because such measures had become less of a priority in the wake of George Floyd’s death and other more urgent matters requiring police attention.<sup>90</sup>

Moreover, a recent poll (based on early August 2020 polling responses) in the *Minneapolis StarTribune* found that most city residents did not want to reduce the size of the police force, with more Black voters arguing against reducing the size of the force (50%) than voters overall (44%).<sup>91</sup> One Black

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<sup>86</sup> Aamer Madhani, *Minneapolis Mayor Looks to New Police Chief Amid Firestorm over Fatal Shooting*, USA TODAY (July 23, 2017), <https://www.usatoday.com/story/news/2017/07/23/minneapolis-mayor-betsy-hodges-justine-damond-shooting/503201001/>.

<sup>87</sup> Rosenfeld et al., *supra* note 11, at 20-21 (citing Matthew Desmond et al., *Police Violence and Citizen Crime Reporting in the Black Community*, 81 AM. SOC. REV. 857 (2016)). Rosenfeld et al. also suggest that complaints against police might serve as a similar measure of de-legitimization. I don’t pursue this intriguing suggestion because police complaint data involves a smaller number of data points than 911 calls and may be more subject to exogenous fluctuations related to administrative difficulties in filing the complaint. Cf. Emily R. Siegel et al., *He Reported Being Assaulted by Cops to Minneapolis PD. Why Did Nobody Investigate?*, NBC NEWS (Aug. 7, 2020) (explaining difficulties in filing police complaints in Minneapolis), <https://www.nbcnews.com/news/us-news/he-reported-being-assaulted-cops-minneapolis-pd-why-did-nobody-n1236128>.

<sup>88</sup> Benjamin Wallace-Well, *Can Minneapolis Dismantle Its Police Department?*, NEW YORKER (Aug. 8, 2020), [https://www.newyorker.com/news/annals-of-activism/can-minneapolis-dismantle-its-police-department;see\\_also\\_Torey\\_Van\\_Oot\\_This\\_is\\_Our\\_Livelihood\\_Minnesota\\_Senate\\_Hears\\_from\\_Businesses\\_Damaged\\_by\\_Unrest](https://www.newyorker.com/news/annals-of-activism/can-minneapolis-dismantle-its-police-department;see_also_Torey_Van_Oot_This_is_Our_Livelihood_Minnesota_Senate_Hears_from_Businesses_Damaged_by_Unrest), MINN. STAR-TRIB. (July 2, 2020), <https://www.startribune.com/minn-senate-hears-from-metro-businesses-damaged-by-unrest/571592272/> (noting complaints of “days” to respond to 911 calls).

<sup>89</sup> Amanda Seitz, *Minneapolis Police Still Accepting 911 Calls*, ASSOCIATED PRESS (June 8, 2020), <https://apnews.com/afs:Content:9016750032>.

<sup>90</sup> Libor Jany, *Trouble South Minneapolis Block Renews Calls for Help from Police, City Hall*, MINN. STAR-TRIB. (July 13, 2020), <https://www.startribune.com/troubled-south-mpls-block-calls-for-help-from-police-city-hall/571742412/>.

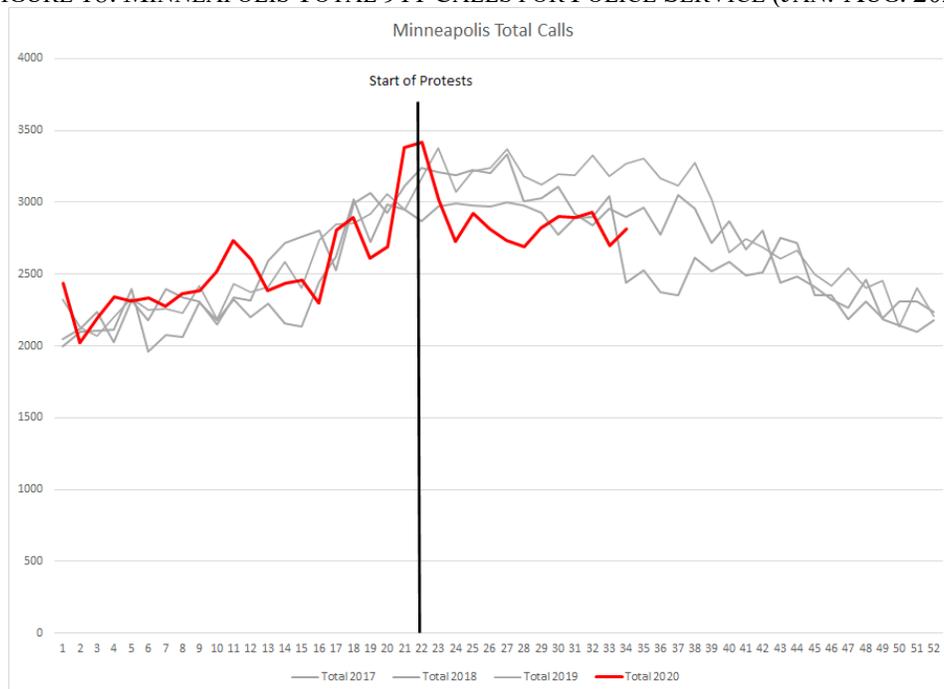
<sup>91</sup> Eric Roper, *Poll: Cuts to Minneapolis Police Ranks Lack Majority Support*, MINN. STAR-TRIB. (Aug. 15, 2020), <https://www.startribune.com/poll-cuts-to-minneapolis-police-ranks-lack-majority-support/572119932/>.

respondent was quoted in the story as worrying that fewer officers would mean delayed responses to 911 calls.

The issue of inadequate response to 911 calls even reached the courts. Residents of the East Phillips neighborhood filed a handwritten complaint in federal court, raising a 14<sup>th</sup> Amendment Equal Protection challenge to inadequate policing in their neighborhood. The complaint alleged that “[w]e as a community have been told to call 311 instead of 911 when bullets fly.”<sup>92</sup> This qualitative information does not suggest that Minneapolis residents were systemically declining to call the police.

Turning to the quantitative data, no substantial decrease in 911 calls appears around the time of George Floyd’s death and the subsequent protests. The Minneapolis Police Department has provided to me their data on weekly calls for police service in 2020 (as well as three previous years, 2017 through 2019, to provide a control for seasonality). The total volume of weekly calls for 2020 are depicted in Figure 18.

FIGURE 18: MINNEAPOLIS TOTAL 911 CALLS FOR POLICE SERVICE (JAN.-AUG. 2020)



Source: Minneapolis Police Department Data (2017, 2018, and 2019 data also depicted).

Week 22 (Tuesday, May 26 through Monday June 1) is the critical week of interest. Following Floyd’s death on May 25, protests began mid-day on May 26.<sup>93</sup> Minneapolis sustained extraordinary damage from rioting and looting from May 27 to May 29. Calls during that week were the highest of the year in Minneapolis—perhaps due to the flood of calls discussed above. Calls then returned to a roughly normal pattern. This pattern does not support a de-legitimizing theory for the Minneapolis homicide spike, which would predict a sustained decline in 911 calls due to a disaffected citizenry.

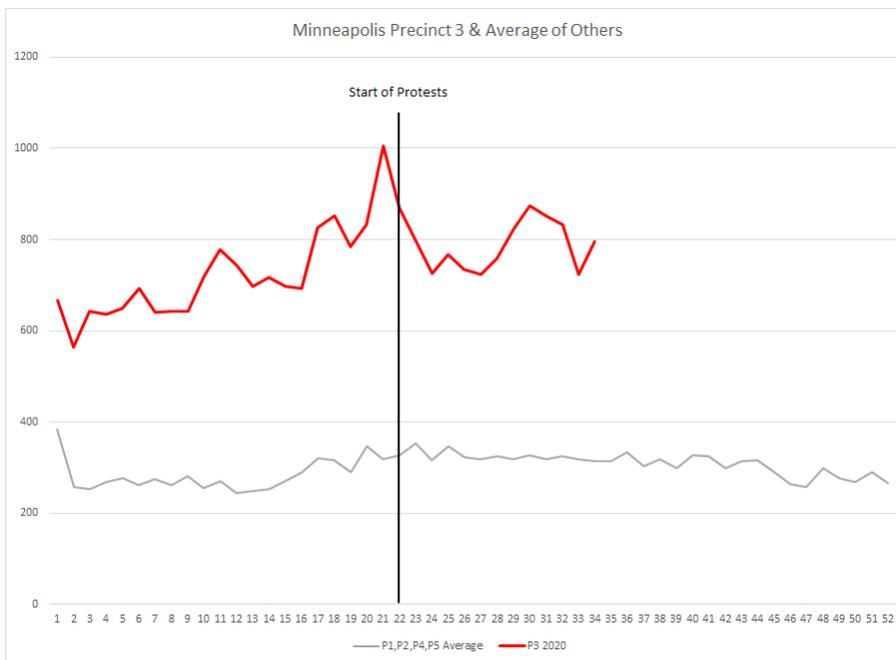
One possible criticism of this approach is that, in looking at 911 data for all of Minneapolis, a decline in legitimacy in certain neighborhoods might be obscured by data from other neighborhoods. To

<sup>92</sup> Complaint, *East Phillips Neighborhood v. City of Minneapolis*, Case No. 0:20-cv-016480ECT-KMM (D. Minn. July 28, 2020).

<sup>93</sup> For a description of the sequences of events, see *George Floyd Protests in Minneapolis-Saint Paul*, Wikipedia, [https://en.wikipedia.org/wiki/George\\_Floyd\\_protests\\_in\\_Minneapolis%E2%80%93Saint\\_Paul](https://en.wikipedia.org/wiki/George_Floyd_protests_in_Minneapolis%E2%80%93Saint_Paul).

test this possibility, more granular data is required. The Minneapolis Police Department can disaggregate its 911 call data by police precinct. (A total of five precincts exist in the city). Even viewing the precincts separately (for example, comparing the Third Precinct, where George Floyd died and where the precinct headquarters was later burned, with the average for other police precincts), no noticeable and sustained decline in 911 calls occurred, as shown in Figure 19.

FIGURE 19: MINNEAPOLIS TOTAL 911 CALLS FOR POLICE SERVICE  
PRECINCT 3 VS. OTHER PRECINCTS (JAN.-AUG. 2020)



Source: Minneapolis Police Department Data (2017, 2018, and 2019 data also depicted).

In addition, recall that the homicide and shooting spikes needing to be explained are sudden, substantial, and sustained. The 911 call data doesn't fit that pattern—suggesting that some sort of “de-legitimizing” of the police does not appear to explain Minneapolis’ homicide and shooting spikes.

## 2. Chicago

Chicago is another large American city where homicides and shootings have spiked substantially—and the spikes began immediately following large anti-police protests in Chicago that required a significant police response.

As with other major cities, Chicago witnessed substantial anti-police protests following Floyd’s death on May 25, 2020.<sup>94</sup> On May 29, demonstrators shut down several downtown streets. On May 30, protests escalated, and one person died and six others were shot. A dozen police officers were injured. Protests “evolved into criminal conduct” (as Mayor Lightfoot put it) and protesters and looters did extensive damage to businesses on Michigan Avenue. The next day, Mayor Lightfoot asked the Illinois Governor to summon the National Guard to Chicago for the first time in 52 years (the last time being the 1968 riots).

<sup>94</sup> The facts in this paragraph are taken from the Wikipedia entry “George Floyd protests in Chicago.”

The economic costs of the protests and looting in Chicago through June 1 were estimated at around \$66 million.

And, as noted above, on May 31, 2020, 18 people were murdered in Chicago, making it the single most violent day in six decades.<sup>95</sup>

Anti-police protests continued in Chicago, and a curfew was imposed through June 7.<sup>96</sup> Protesters marched through a neighborhood where Chicago police officers lived. Protests continued through June and July.<sup>97</sup> On July 17, 2020, 18 police officers were injured, as police reported “being outnumbered and unprepared.”<sup>98</sup>

Sadly, the looting in Chicago did not end in July. On the evening of August 9-10, after police shot a man in Englewood, hundreds of people rioted in Northern Chicago. They targeted Chicago’s famed “Magnificent Mile,” where dozens of stores were looted, at a cost of over \$60 million in damages. And at least 13 police officers were injured.

In light of these events, the theory advanced here is not that the protests themselves produced murders and shootings. Instead, the theory is that as police have had to respond to the protests and their surrounding violence—and subsequent policing and investigations associated with those protests—day-to-day policing (particularly proactive policing) has suffered.

Evidence suggests that ordinary policing in Chicago declined during the month of June, dropping substantially below normal levels. For example, during June 1 through 28, traffic stops dropped by 86%, street stops by 74%,<sup>99</sup> and arrests by 55% compared to the same period in 2019.<sup>100</sup> And murders were up in Chicago by a staggering 83% compared to the same period one year earlier.

But simply pointing to these changes in policing, by itself, seems unlikely to explain what is going on in Chicago. From mid-March to mid-April, policing was also down substantially. Traffic stops fell by 84%, street stops by 64%, and arrests by 70% compared to that same period in 2019. And murders fell by 13%.

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<sup>95</sup> Tom Schuba et al., *18 Murders in 24 Hours: Inside the Most Violent Day in 60 Years in Chicago*, CHICAGO SUN-TIMES (June 8, 2020), <https://chicago.suntimes.com/crime/2020/6/8/21281998/chicago-deadliest-day-violence-murder-history-police-crime>.

<sup>96</sup> *George Floyd Fallout: Lightfoot Lifts Chicago Curfew, Peaceful Protesters March Through Southside Police Neighborhoods*, CHI. TRIB. (June 7, 2020), <https://www.chicagotribune.com/news/breaking/ct-george-floyd-chicago-protests-20200606-ee4mdvafvbfhfcpr7lrzfayypu-story.html>.

<sup>97</sup> See, e.g., PAIGE FRY, *NEARLY 40 PEOPLE SHOT IN CHICAGO OVER THE WEEKEND AS JULY GOES DOWN AS MOST VIOLENT MONTH IN 28 YEARS*, CHI. TRIB. (Aug. 3, 2020), <https://www.chicagotribune.com/news/breaking/ct-weekend-shooting-20200803-xkevk64unvdijfzboyyn4vowly-story.html> (noting “continued” protests related to George Floyd’s death); Dan Hinkel & Jeremy Gerner, *As Violence Surges, Chicago Police Try a New Version of an Old Solution. Can It Work?*, CHI. TRIB. (July 31, 2020) (noting “months” of protests against Chicago police), <https://www.chicagotribune.com/news/criminal-justice/ct-chicago-police-strike-force-20200731-xwgm73impzfvllhhfvfu6suea7u-story.html>.

<sup>98</sup> Madeline Holcombe, *18 Police Officers were Hurt in a Chicago Protests. “We were Outnumbered and Unprepared,” one Says*, CNN (July 18, 2020), <https://www.cnn.com/2020/07/18/us/chicago-protest-18-police-injured/index.html>.

<sup>99</sup> These percentage figures are less significant than they would have been several years ago, since the number of street stops in Chicago fell to low levels in 2016 and has apparently remained at those low levels since. See generally Cassell & Fowles, *supra* note 39.

<sup>100</sup> Frank Main & Fran Spielman, *Chicago Police Activity Slowed Amid June’s Steep Rise in Murders; Union Blames Morale*, CHICAGO SUN-TIMES (July 1, 2020), <https://chicago.suntimes.com/politics/2020/6/30/21308935/chicago-police-activity-slowed-june-murder-rise-fop-union-blames-morale-john-catanzara>.

Precisely why policing activity diminished in Chicago from March through July is a point of contention. Chicago Police Superintendent David Brown attributed the decline to reduced social mobility due to COVID-19—arguing that fewer people were on the streets and thus fewer stops and arrests needed to be made.<sup>101</sup> But social mobility appeared to reach its nadir in late March and significantly increased throughout April, May, and June.<sup>102</sup> Thus, if policing levels dropped to a new low in March and remained low (as the numbers above suggest), then police would have had to gradually increase the number of officers on the streets to maintain constant levels of policing.

But these events involve more gradual trends extending over several months. So what caused the sudden spike in homicides beginning in late May? Here the protests seem like the most likely decisive factor—and the mechanism by which the protests caused the homicide increase is de-policing that the protests created in a variety of ways. Superintendent Brown offered a very straightforward explanation of the mechanism for his city, explaining that “[e]very time we have to drain our resources for protests, the people on the West Side and the South Side suffer.”<sup>103</sup> In that sense, what is going on might be described not such much as “de-policing” as “re-deployed policing”—the protests caused the police to be redeployed from their ordinary day-to-day work and were instead put to the task of managing protestors or to being placed in positions to deter the looting of businesses.<sup>104</sup> And while they were working on task associated with the protests, violence spiked in the areas from which they were missing.

This pattern is suggested by Chicago arrest data. As shown in Figure 20, arrests declined substantially when the COVID-19 lockdowns began but were returning toward normal levels—when the protest started. After that, through June and July, arrests in Chicago were at roughly half of their historical levels.

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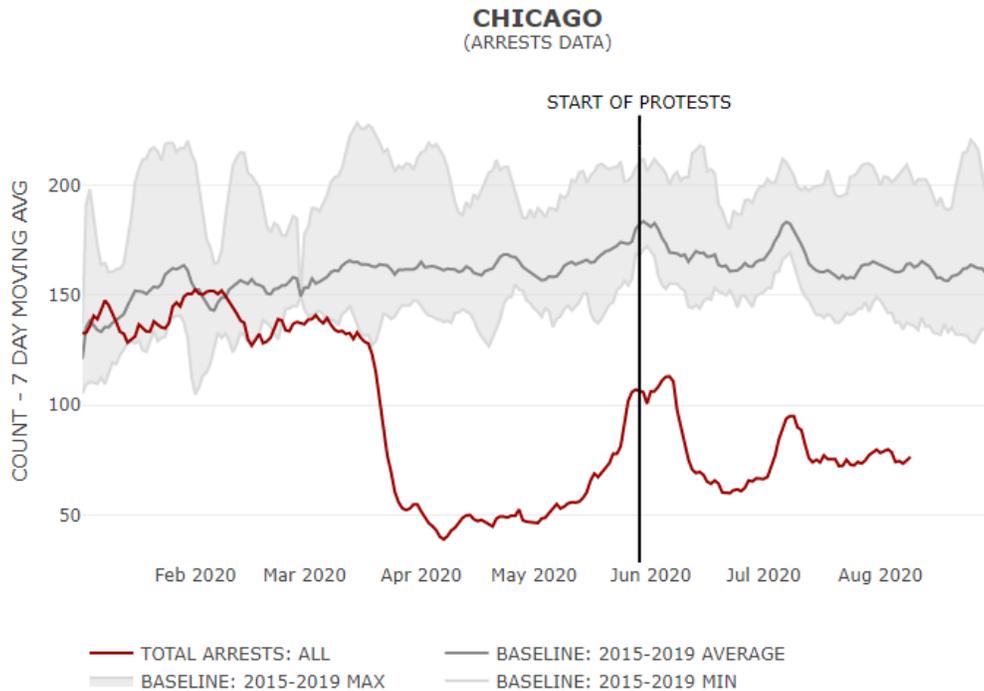
<sup>101</sup> *Id.*

<sup>102</sup> See covid19.healthdata.org (data for Illinois regarding “social distancing”).

<sup>103</sup> Don Babwin, *Chicago Police: Violence Drops after 2 New Units Rolled Out*, KMOV-4 (July 27, 2020), [https://www.kmov.com/news/chicago-police-say-violence-dropped-after-2-new-units-rolled-out/article\\_92dce412-ee1a-51f7-95a8-eb5ff9675511.html](https://www.kmov.com/news/chicago-police-say-violence-dropped-after-2-new-units-rolled-out/article_92dce412-ee1a-51f7-95a8-eb5ff9675511.html).

<sup>104</sup> See, e.g., NBC5 (Chicago), *Chicago Police Deploy 1,000 Additional Officers After Downtown Looting* (Aug. 14, 2020), <https://www.nbcchicago.com/news/local/chicago-police-deploy-1000-additional-officers-after-downtown-looting/2322295/>; see also John J. Donohue, *Comey, Trump, and the Puzzling Pattern of Crime in 2015 and Beyond*, 117 COLUM. L. REV. 1297, 1341 (2017) (noting that de-policing can be “the consequence of a police response to a riot in which police may be reassigned from other tasks to confront a mob”).

FIGURE 20: CHICAGO TOTAL ARRESTS (JAN.-AUG. 2020)



Source: Chicago Police Department Data (as accessed through citycrimestats.com).

To be sure, arrest data by itself is not a perfect measure of policing trends. As Professor Rosenfeld (among others) has observed, other things being equal, police will make more arrests when there are more crimes and fewer arrests when there are fewer crimes.<sup>105</sup> Accordingly, using a ratio of arrests to crime is a better indicator of police enforcement. But assembling such a ratio for Chicago would only increase the suggestion of de-policing presented in Figure 20: While arrests were declining or remaining stable after the start of the protests, offenses were dramatically increasing, meaning the arrest-to-offense ratio was declining.

De-policing could also have been compounded due to other factors. John Catanza, President of the Chicago Fraternal Order of Police, argued that following the protests, the police were moving into a more defensive posture, because they were under attack and not receiving support from the mayor or other leaders. As he put, the criticism of police in the wake of the protests is “going to cause officers to pause and say: ‘I want to go home today safe. I want to make sure I keep my job. And I want to make sure I don’t go to jail.’ It’s not going to be ‘react first’ unless it’s a life-and-death situation.”<sup>106</sup>

<sup>105</sup> Rosenfeld, *supra* note 11, at 14-15; see also Richard Rosenfeld & Joel Wallman, *Did De-Policing Cause the Increase in Homicide Rates?*, 18 CRIMINOLOGY & PUBLIC POLICY 51, 55-56 (2019) (discussing endogeneity between arrests and crime levels).

<sup>106</sup> Frank Main & Fran Spielman, *Chicago Police Activity Slowed Amid June’s Steep Rise in Murders; Union Blames Morale*, CHICAGO SUN-TIMES (July 1, 2020), <https://chicago.suntimes.com/politics/2020/6/30/21308935/chicago-police-activity-slowed-june-murder-rise-fop-union-blames-morale-john-catanzara>.

During the summer, Chicago police officers are also began retiring at double the normal rate.<sup>107</sup> Because of the timing involved (retirements apparently surged after the start of the protests), this factor would not explain the start of the spike, but could contribute to its continuance.

In addition to factors involving law enforcement, issues surrounding subsequent prosecutions may have played some role in the spike. Police have pointed to the fact that, due to changes in Cook County pre-trial release procedures, even where police made arrests, violent-crime suspects were more likely to be released back into their communities.<sup>108</sup> A study by Professor Fowles and me has confirmed an increase in violent crimes committed by pre-trial releasees under new and more generous release procedures adopted by Cook County in September 2017.<sup>109</sup> Because the new procedures were adopted in September 2017, they do not seem like a logical candidate to trigger the spike beginning in late-May 2020. But they certainly could have compounded all of the de-policing factors noted above, by making policing less effective in what Police Superintendent Brown has derided as a “catch-and-release” system.<sup>110</sup>

Similarly, a recent analysis by the *Chicago Tribune* found that the new Cook County State’s Attorney (Kim Foxx) has dropped substantially more cases than her predecessor.<sup>111</sup> But, again, this seems like a compounding factor, rather than an initiating factor, for de-policing that appears to have caused the spike in homicides and shootings.

Finally, what about the competing possibility that the Chicago Police Department might have become de-legitimized. It is interesting to observe that in April 2020, Chicago hired a new Police Superintendent, David Brown, an African-American who was brought in to (among other things) help improve relationship with the City’s African-American communities.<sup>112</sup> Also worth noting, as homicides spiked in Chicago, some residents of high-crime neighborhoods said that they welcomed more police presence, including the federal strike force that was sent to the city.<sup>113</sup>

In any event, there is some data that sheds light on the possibility of de-legitimization. Depicted below is Cook County, Illinois 911 call volume data. While a decline in calls is evident during March and April 2020, when Chicago (like many other large cities) largely shut down due to the COVID-19 pandemic,

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<sup>107</sup> Frank Main & Fran Spielman, *Chicago Cops are Retiring at “Unheard of” Twice the Usual Rate*, CHICAGO SUN-TIMES (Aug. 17, 2020), <https://www.chicago.suntimes.com/politics/2020/8/17/21372795/chicago-police-department-retirements-policemens-annuity-benefit-fund-michael-lappe>.

<sup>108</sup> See Frank Main, *As Murders Soar in Chicago, Judges are Freeing More Violent-Crime Suspects on Electronic Monitoring*, CHICAGO SUN-TIMES (Aug. 21, 2020), <https://chicago.suntimes.com/2020/8/21/21373707/electronic-monitoring-violent-crime-cook-county-chicago-police-department-david-brown-kim-foxx>.

<sup>109</sup> See Paul G. Cassell & Richard Fowles, *Does Bail Reform Increase Crime? An Empirical Assessment of the Public Safety Implications of Bail Reform in Cook County, Illinois*, \_\_ WAKE FOREST L. REV. \_\_ (forthcoming 2020); see also David Jackson et al., *Bail Reform Analysis by Cook County Chief Judge Based on Flawed Data, Undercounts New Murder Charges*, CHI. TRIB. (Feb. 13, 2020), <https://www.chicagotribune.com/investigations/ct-cook-county-bail-bond-reform-tim-evans-20200213-tkodxevlyvcp7k66q2v2ahboi4-story.html>.

<sup>110</sup> WBBM New Radio, *Chicago Top Cop Laments “Catch-And-Release” Court System* (Sept. 8, 2020), available at <https://www.radio.com/wbbm780/articles/chicago-top-cop-laments-catch-and-release-court-system>.

<sup>111</sup> See David Jackson et al., *Kim Foxx Drops More Felony Cases as Cook County State’s Attorney than her Predecessor, Tribune Analysis Shows*, CHI. TRIB. (Aug. 10, 2020), <https://www.chicagotribune.com/investigations/ct-kim-foxx-felony-charges-cook-county-20200810-ldvrmqv6bd3hpsuqha4duehmu-story.html>.

<sup>112</sup> See, e.g., Editorial Board, *Chicago’s New Police Chief Reinvents a Notorious Concept*, CHI. TRIB. (May 22, 2020), at <https://www.chicagotribune.com/opinion/editorials/ct-edit-chicago-police-brown-specialized-units-20200522-6hijde6xzfdrnc7wlz4lcbu44-story.html>.

<sup>113</sup> Brendan O’Brien & Tom Polansek, *On Chicago’s South Side, Some Violence-Weary Residents Open to Federal Investigators*, REUTERS (July 27, 2020), <https://www.reuters.com/article/us-global-race-protests-chicago/on-chicagos-south-side-some-violence-weary-residents-open-to-federal-investigators-idUSKCN24S1A6>.

calls returned to normal levels during May, June, and July 2020 (the last three months for which data are available).

FIGURE 21: CHICAGO 911 CALL DATA (2016-JULY 2020)



Source: Cook County, Illinois

To be sure, it would be ideal to have more granular data, perhaps tabulated weekly and disaggregated into particular neighborhoods. But the data that is available provide no support for de-legitimization causing the homicide spikes. De-policing seems more likely.

### 3. Philadelphia

Philadelphia, one of the largest cities in America, is also suffering a terrible homicide and shooting spike. For example, 180 people were shot in May, 201 in June, and 215 in July. The next-highest monthly tally over the previous five years was in August 2015, when 162 people were shot.<sup>114</sup>

While homicides and shootings were increasing, Philadelphia police were responding to a series of ongoing protests.<sup>115</sup> On May 30, a few days after the protests started, 13 officers were injured,<sup>116</sup> and the city was forced to institute a curfew. Protests continued. In mid-June, a defund-the-police rally took place near the future headquarters of the Philadelphia Police Department. Tensions rose throughout the month, and, on June 23, demonstrators tried to remove a Christopher Columbus statue—leading to a clash with counter-demonstrators chanting “U.S.A.”

In early July, Philadelphia Deputy Police Commissioner Melvin Singleton explained how police operations had been hampered by the on-going protests: “The civil unrest has been constant and ongoing in Philadelphia, and we need heavy deployment to keep opposing groups away from each other. We’ve seen more demonstrations than ever before, and it has lasted from morning into the night. It requires us to consistently pull officers into protest response, and that takes away from the street response.”<sup>117</sup> Commissioner Singleton also noted that the protests had harmed the city’s hot spot policing, observing that protest responses have “contributed to a reduced number of officers on the street in our pinpoint areas,

<sup>114</sup> Chris Palmer et. al, *At least 25 people were shot in Philly last weekend, including two 11-year-olds, as gun violence keeps surging*, THE PHILADELPHIA INQUIRER (Aug 15, 2020), <https://www.inquirer.com/news/philadelphia-25-shot-gun-violence-summer-murders-20200810.html>.

<sup>115</sup> The facts in this paragraph are taken from the Wikipedia entry “George Floyd protests in Philadelphia.”

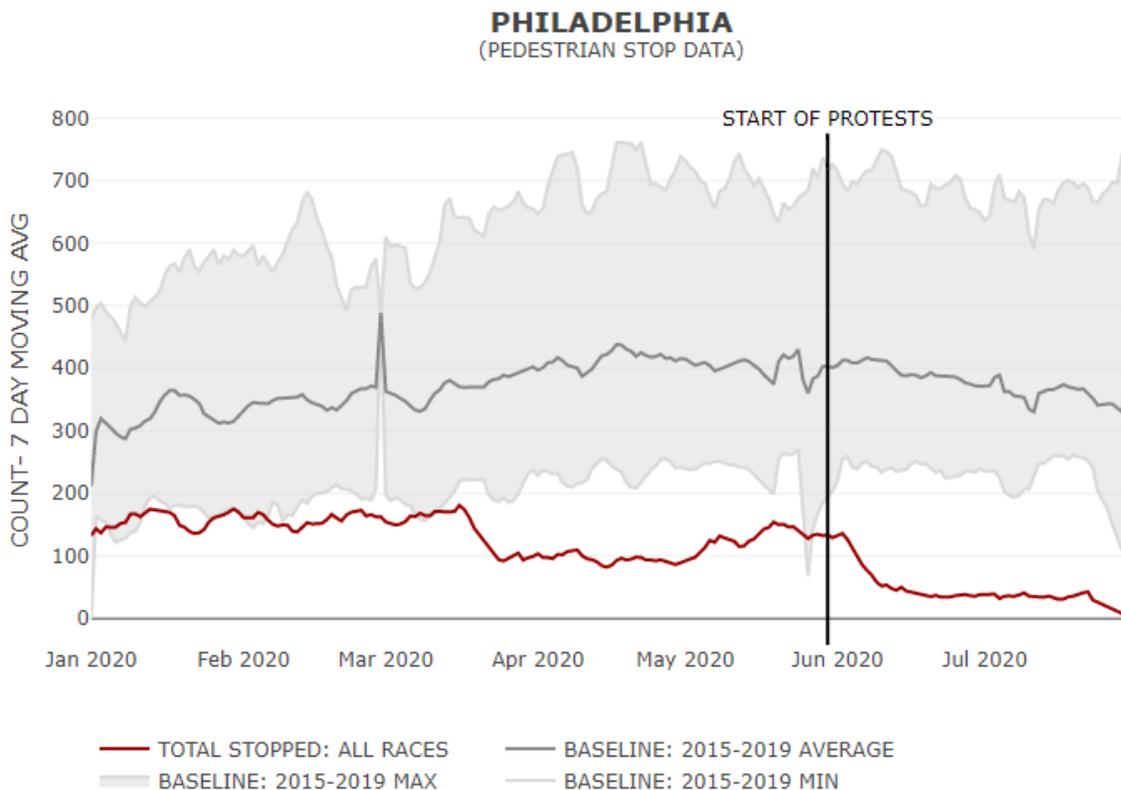
<sup>116</sup> CBS3-Philadelphia, *13 Philadelphia Police Officers Injured, 14 Arrests Made After George Floyd Protests Turn Violence* (May 30, 2020), <https://philadelphia.cbslocal.com/2020/05/30/13-philadelphia-police-officers-injured-after-george-floyd-protests-turn-violent/>.

<sup>117</sup> Police Executive Research Forum, *Critical Issues Report* (July 10, 2020), <https://www.policeforum.org/criticalissuesjuly10>.

where we are focusing our data-driven, intelligence-led, offender-focused resources. Some of those areas are not as heavily policed as they should be, and that is impacting our violence.”<sup>118</sup>

The Deputy Commissioner’s concerns are reflected in Philadelphia policing data. Figure 22 depicts the pedestrian street stop data, which illustrates that stops, already below historical trends when the protests started, fell even further in the wake of the protests.

FIGURE 22: PHILADELPHIA PEDESTRIAN STOP DATA (JAN-JULY 2020)



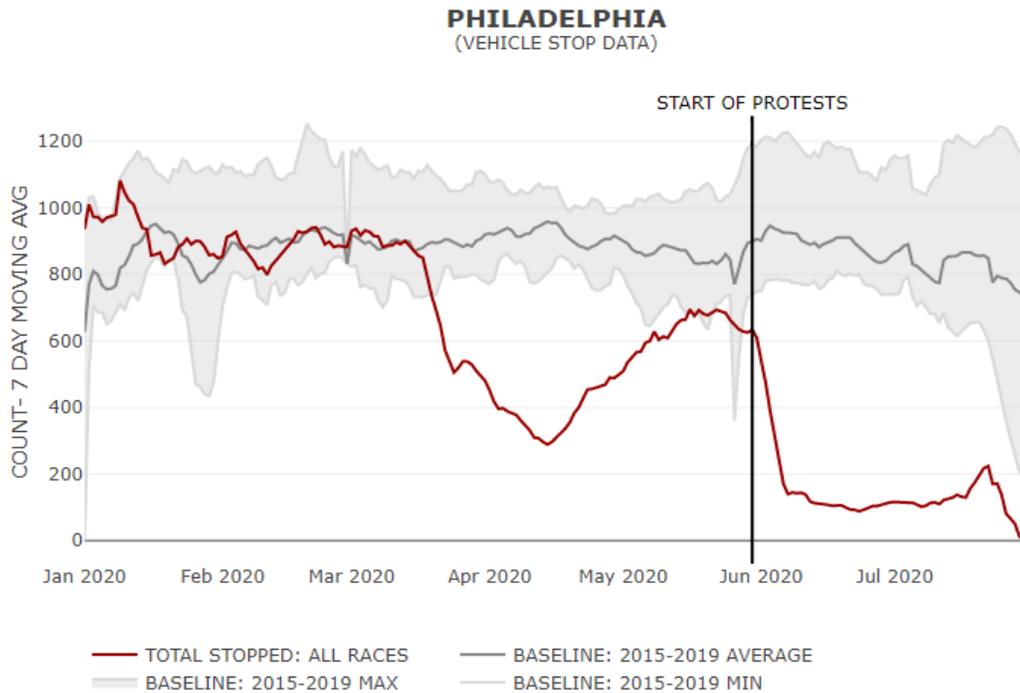
Source: Philadelphia Police Department Data (as accessed through citycrimestats.com).

Vehicle stop data shows the same general trends for 2020.<sup>119</sup> Stops declined substantial in March, as the COVID-19 shutdowns began, but then were generally returning to normal levels. Then the protests started and vehicle stops plunged, as shown in Figure 23.

<sup>118</sup> *Id.*; see also CBS3-Philadelphia, *supra* note 26 (Philadelphia Police Commissioner notes redeployment of officers during the height of civil unrest).

<sup>119</sup> As of October 2019, vehicle stops were increasing significantly in Philadelphia, particularly among Black drivers. See Samantah Melamed, *As Philadelphia Aims to Curb Racial Disparities, Why are Police Stops of Black Drivers Skyrocketing?*, PHILADELPHIA INQUIRER (Oct. 14, 2019), <https://www.inquirer.com/news/philadelphia-police-racial-profiling-stop-and-frisk-vehicle-stops-david-rudovsky-mayor-jim-kenney-20191014.html>.

FIGURE 23: PHILADELPHIA VEHICLE STOP DATA (JAN-JULY 2020)



Source: Philadelphia Police Department Data (as accessed through citycrimestats.com).

As noted above in discussing other cities, pedestrian stops and vehicle stops are only a part of the overall picture of policing in Philadelphia. But the big picture seems to be clear: In June and July 2020, Philadelphia was unable to police gun violence that way it had before—and gun violence soared at exactly the same time.

#### 4. Milwaukee

As noted above, Milwaukee is one of the cities that has seen a dramatic increase in homicides since late May. And Milwaukee also saw significant anti-police protests in the wake of George Floyd’s death.<sup>120</sup> On May 29, hundreds of protesters blocked city highways. There were reports of looting and what Wikipedia described as “mild arson.” One police officer was, as described by Wikipedia, “mildly injured by gunfire.” As of June 9, protesters had been demonstrating for twelve days.

While protests were occurring in Milwaukee, proactive policing was declining—and homicides were spiking. During the first month of protests in Milwaukee, the Police Department saw 26 sworn members either resign or retire—the general sense was that morale in the department was “terrible.”<sup>121</sup>

<sup>120</sup> The facts in this paragraph are taken from the Wikipedia entry “George Floyd protests in Wisconsin.”

<sup>121</sup> Elliot Hughes & Sophie Carson, *Halfway Through 2020, Milwaukee Homicide Rate is Highest it’s Been Since the Early 1990s*, MILWAUKEE JOURNAL SENTINEL (July 6, 2020), <https://www.jsonline.com/story/news/2020/07/06/milwaukee-homicide-rate-soars-bullets-flying-everywhere/5377337002/>.

While I have been unable to locate hard data on Milwaukee proactive policing during June and July, several leaders in the Milwaukee Police Department have discussed the trends. Inspector Leslie Thiele explained that “we’re doing the best we can. Our officers are still out there taking their assignments, and some are still trying to be proactive. But, overall, I think the feeling is that they’ll do what they have to do but proactive policing is minimal right now.”<sup>122</sup> Part of the concern is the fear of officers becoming the next viral incident of alleged police misconduct: “We’ve had younger officers who have been on for a year to 10 years, and have resigned because they’re not willing to put their families through any news stories that would come out if they were involved in anything. It has been difficult, and morale is low.”<sup>123</sup>

Similarly, Milwaukee Police Inspector Terrence Gordon noted the role of protests in diverting police: “[T]he fact that police departments in major cities are distracted right now is a contributing factor everywhere. It is definitely an issue here. Our department is distracted with politics, inquiries, demonstrations, everything you can imagine except serving the neighborhood we come to work to serve.”<sup>124</sup> And Gordon also explained that “[w]e haven’t stopped doing our shoot reviews every week, but our detectives were on the demonstration lines with riot helmets and batons for two weeks. Our police officers who would normally be on patrol were also on the line. I really think that if the city got back to doing what we’re elected and appointed to do, we could get a handle on this. I don’t think we need a new strategy. I just think we need time to do our jobs.”<sup>125</sup>

I have been unable to immediately locate 911 call data from Milwaukee, which could shed further light on possible causes of the homicide spike. But pending further information, there is at least good anecdotal support for the de-policing hypothesis in Milwaukee during June and July 2020. (Note: On August 23, 2020, an African-American man, Jacob Blake, was shot in Kenosha, Wisconsin, about forty miles from Milwaukee, leading to additional anti-police protests.)

### 5. *New York City*

In New York City, homicides—and, even more dramatically, shootings—have increased in June and July, as noted above. The debate has been over why this is happening has been contentious,<sup>126</sup> and this brief paper does not purport to definitively resolve it. But, at a minimum, New York City’s experience contains substantial support for the de-policing hypothesis.

There appears to be no debate that shootings increased substantially in New York beginning shortly after George Floyd’s death in late May and then, after a brief and modest turn toward normal levels, escalated even more dramatically in mid-June (as shown in Figure 13, above). As described by local media, “gun violence exploded across the city,” with three times as many shootings in the last two weeks of June compared to same period in 2019.<sup>127</sup> By the end of June, New York City had suffered 205 shootings, making

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<sup>122</sup> Police Executive Research Forum, PERF Daily Critical Issues Report (June 23, 2020), <https://www.policeforum.org/criticalissuesjune23>.

<sup>123</sup> *Id.*

<sup>124</sup> *Id.*

<sup>125</sup> *Id.*

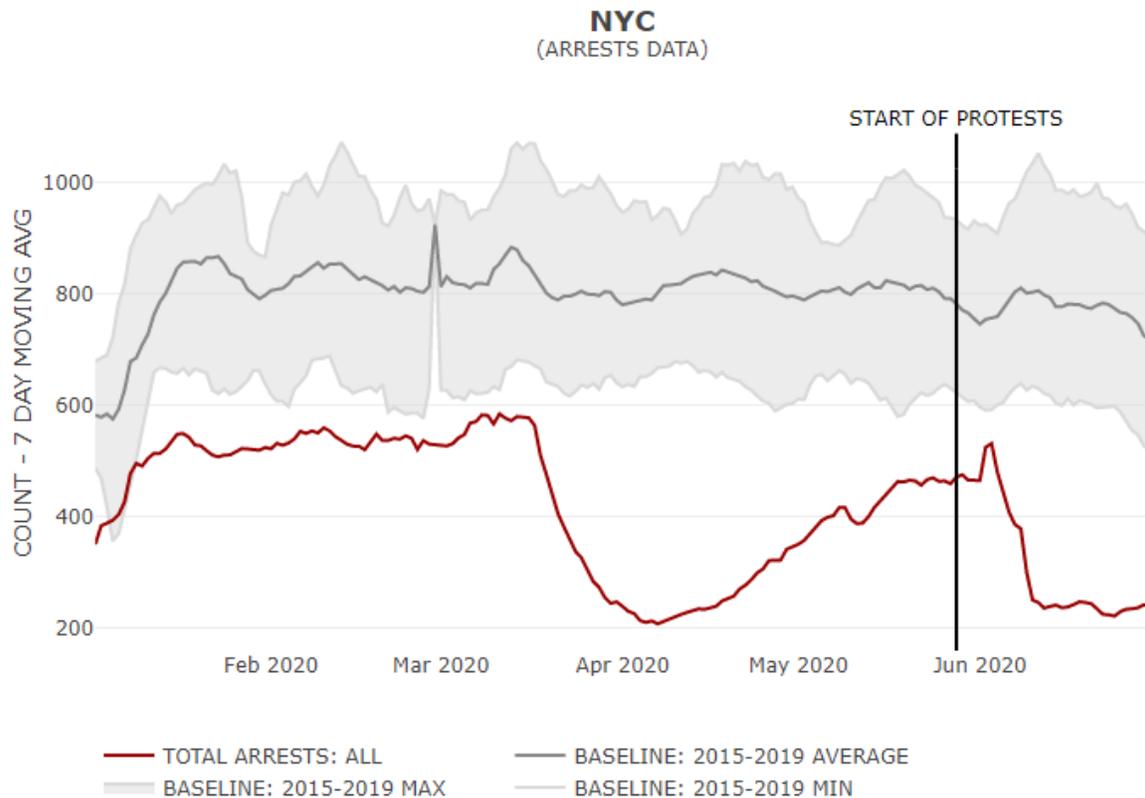
<sup>126</sup> See, e.g., THE DAILY, *A Surge In Shootings*, N.Y. TIMES (Aug. 24, 2020), <https://www.nytimes.com/2020/08/24/podcasts/the-daily/gun-violence-new-york.html>.

<sup>127</sup> Sara Dorn & Dean Balsamini, *Shootings Soar 205 Percent After NYPD Disbands Anti-Crime Unit*, N.Y. POST (July 4, 2020), <https://nypost.com/2020/07/04/shootings-soar-205-percent-after-nypd-disbands-anti-crime-unit/>.

it was the bloodiest June in 24 years. July was even worse, with 244 shootings—a 177% increase over the previous year. New York City had become the “City of Bullets.”<sup>128</sup>

Why the sharp increase in gun violence? The most straightforward answer is that policing declined—and, in particular, proactive policing declined, the very type of policing most needed to fight gun violence. Here again, as with other cities, the evidence of a decline in policing is visually obvious, as depicted in Figure 24.

FIGURE 24: NEW YORK ARRESTS (JAN-JULY 2020)



Source: New York Police Department Data (as accessed through citycrimestats.com).

As shown in Figure 24, in New York City total arrests fell beginning during the pandemic in mid-March and the beginning of April, but then were returning to close to normal levels in late April and May—until George Floyd died at the end of May and the anti-policing protests began. Within a few days of the protests beginning, total arrests declined substantially—falling by more than 50% in just a couple of weeks in the middle of June, a traditionally high crime time of year. As shown in the chart, they remained lower through June. (Not depicted in the chart is July data, which I have obtained from NYPD. Arrest totals remain lower than those before the start of the protests, although they increase slightly. There are only three days in July with arrests totaling more than 300—and none totaling more than 400.)

<sup>128</sup> Emil Davenport, *City of Bullets: Shootings Across NYC Surge by 177% in July 2020*, NYPD Reports, AMNY (Aug. 3, 2020), <https://www.amny.com/police-fire/crime-stats-show-that-shootings-are-skyrocketing-compared-to-july-last-year/>.

The decline in arrests would seem to be an obvious explanation for New York City's shooting spike that began at exactly same time. But NYPD officials have also identified other factors.<sup>129</sup> Police Commissioner Shea, for example, said "It's bail reform. It's COVID. It's emptying out of the prisons."<sup>130</sup> Commissioner Shea may well be correct that some of these other things have increased overall crime levels in New York City. There are good reasons for believing that, for example, that bail reform can increase crime.<sup>131</sup> Certainly the possibilities that Commission Shea raises urgently deserve further investigation.<sup>132</sup>

But the focus of this article is not to explain general crime rates but rather recent spikes observed following the George Floyd death—i.e., the "structural break" upwards in, for example, homicide rates that the Rosenfeld-Lopez Report identifies. As an explanation for the precipitous spike in shootings beginning in late May and accelerating even more dramatically in mid-June, these other cited reasons do not seem to fit well.

Consider the New York bail reform law. It was enacted in 2019, was implemented in many jurisdictions late in 2019, and officially took effect on January 1, 2020—more than five months before the shooting spike. Thus, the increasing pre-trial releases due to the law would have been spread out over months—rather than accelerating in late May and surging in mid-June 2020. And impacts from the bail reform changes were likely already being felt several months earlier.<sup>133</sup>

Similarly, the release of inmates from Rikers due to concerns about COVID-19 also started much earlier than the spike. On March 16, 2020, there were 5,458 inmates in the New York City jail population. By May 7, 2020, it was down to 3,898.<sup>134</sup> Jail releases beginning three months before the shooting spike might well have significant public safety implications but seems like a poor candidate for triggering the sudden and sharp spike in shootings starting in late May and then surging further beginning in mid-June.

Interestingly, according to the *New York Times*, a confidential analysis of New York City crime data by city officials reached a similar conclusion. The analysis suggested that "the state's new bail law and the mass release of inmates from city jails in recent months because of the coronavirus outbreak played almost no role in the spike in shootings."<sup>135</sup> Instead, the analysis identifies the drop in arrests for gun crimes as the explanatory factor—i.e., de-policing in the form of reduced arrests.

The decline-in-gun-crime-arrests theory fit within the general patterns identified by this article and makes a great deal of sense in explaining the New York shooting surge. The timing of the decline in arrests essentially fits with the spike in gun shootings. The NYPD arrest data show a small increase around June 2 and 3, presumably reflecting the fact that NYPD was arresting looters on June 1 and 2.<sup>136</sup> But then arrests

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<sup>129</sup> *Id.*

<sup>130</sup> Tina Moore, *NYPD Commish, Chief of Department Blame Shooting Spike on Bail Reform, Coronavirus, Protests*, N.Y. POST (June 30, 2020), <https://nypost.com/2020/06/30/nypd-chief-blames-shooting-spike-on-bail-reform-coronavirus-and-protests/>.

<sup>131</sup> See Cassell & Fowles, *supra* note 109 (reanalyzing data on Chicago bail reform to find subsequent increase in recidivism by pretrial releasees). The Cassell-Fowles analysis of the Chicago bail study also calls for careful attention to expanded releases for shooting crimes, because of the high cost to victims of those crimes. *Id.* at 34..

<sup>132</sup> I hope to be able to investigate New York's bail reform efforts in the near future.

<sup>133</sup> See Ben Chapman & Katie Honan, *New York City Police Commissioner Blames New Bail Law for Rising Crime*, WALL ST. J. (Feb. 4, 2020).

<sup>134</sup> Weekly Update, *New York City Jail Population Reduction in the Time of COVID-19*, [https://criminaljustice.cityofnewyork.us/wp-content/uploads/2020/05/COVID-factsheet\\_MAY-7-2020.pdf](https://criminaljustice.cityofnewyork.us/wp-content/uploads/2020/05/COVID-factsheet_MAY-7-2020.pdf).

<sup>135</sup> Alan Feuer, *The Mayor Blames the Virus for Shootings. Here's What Crime Data Shows*, N.Y. TIMES (Aug. 4, 2020), <https://www.nytimes.com/2020/08/04/nyregion/nyc-shootings-coronavirus.html>.

<sup>136</sup> See *After Curfew, Police Arrest Dozens of Protesters in New York City*, N.Y. TIMES (June 3, 2020), <https://www.nytimes.com/2020/06/03/nyregion/nyc-protests-george-floyd.html>.

plummeted over the next ten or so days, reaching a new and much lower “normal” around June 12 that was sustained through the rest of June (when the immediately available data series stops) and, reportedly, through the rest of July at somewhat similar lower levels.<sup>137</sup>

And, as arrests declined, shootings increased—the straightforward and expected cause-and-effect.

To be sure, as noted earlier, arrest data must be viewed with some caution as an explanatory factor for crime changes, since arrests and crimes can sometimes move in tandem. But in this case, the decline in arrests appear to reflect a decline in proactive policing—or “de-policing” of the type flagged by the Rosenfeld-Lopez Report. The likely reasons behind the decline in arrests suggest that proactive policing was particularly likely to be decline.

One simple explanation for what initially triggered the decline in arrests is that, while police were attending to protests, they were diverted from normal law enforcement. The protests extended from the end of May into the start of June.<sup>138</sup> As a consequence, as NYPD Chief of Crime Control Strategies Michael LiPetri explained, the pandemic and the need to divert investigators to cover widespread protests set back investigations.<sup>139</sup> Thus, gun arrests dropped off, because NYPD, already stretched thin because of the pandemic, needed to redeploy officers to cover protests.<sup>140</sup>

However, in addition to redeployments to cover the protests, other subsequent and compounding reasons contributed to declining arrests. For one thing, it is important to underscore the obvious—that the protests in New York in early June were *anti-police* protests on a significant scale, leading to the first curfew in the City in 75 years.<sup>141</sup> When the curfew was lifted, N.Y. City Mayor Bill de Blasio stated his support for repealing a law that maintained the confidentiality of recordings concerning officers accused of misconduct (“50-a”), stating that “[i]n New York City, it takes too long for there to be accountability for officers who do the wrong thing.”<sup>142</sup> The Mayor also said NYPD funding would be cut.

On June 12, 2020, Governor Cuomo signed state legislation, repealing 50-a and taking other reform measures such as banning chokeholds during arrests.<sup>143</sup>

The next day, on June 13, 2020, New York City Police Commissioner Dermot Shea disbanded NYPD’s anti-crime units.<sup>144</sup> About 600 officers in the elite unit, created with the mission of ridding the streets of illegal guns and stopping violent crimes, were “immediately” reassigned to other duties. The Commissioner called the re-deployment a “seismic” shift.<sup>145</sup>

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<sup>137</sup> See Feuer, *supra* note 135 (discussing gun arrests).

<sup>138</sup> See, e.g., *Protests in N.Y.C.: Latest Updates*, N.Y. TIMES (June 8, 2020) (noting 11<sup>th</sup> day of protests), <https://www.nytimes.com/2020/06/17/nyregion/nyc-protests.html>.

<sup>139</sup> See Feuer, *supra* note 135.

<sup>140</sup> *Id.*

<sup>141</sup> Dana Rubinstein & Jeffrey C. Mays, *Here’s What Led to N.Y.C.’s First Curfew in 75 Years*, N.Y. TIMES (June 2, 2020), <https://www.nytimes.com/2020/06/02/nyregion/curfew-new-york-city.html>.

<sup>142</sup> *De Blasio Lifts NYC Curfew One Day Early, Says City Will Shift Funding from NYPD to Social Services*, NBC-4 New York (June 6, 2020), <https://www.nbcnewyork.com/news/local/tens-of-thousands-march-through-rainstorm-with-2-nights-left-of-nyc-curfew/2449850/>.

<sup>143</sup> Luis Ferre-Sauri & Jesse McKinley, *N.Y. Bans Chokeholds and Approves Other Measures to Restrict Police*, N.Y. TIMES (June 12, 2020), <https://www.nytimes.com/2020/06/12/nyregion/50a-repeal-police-floyd.html>.

<sup>144</sup> Ali Watkins, *NYPD Disbands Plainclothes Units Involved in Many Shootings*, N.Y. TIMES (June 15, 2020).

<sup>145</sup> Tina Moore et al., *Shootings Surge in NYC Amid Disbanding of NYPD’s Plainclothes Anti-Crime Unit*, N.Y. POST (June 19, 2020), <https://nypost.com/2020/06/19/nyc-shootings-surge-after-nypds-anti-crime-unit-disbanded/>.

On June 16, 2020, the Mayor announced “significant changes” in the way New York City would discipline its officers.<sup>146</sup> The changes included publishing all internal decisions about allegations of misconduct and making disciplinary records, past and present, available online. Also, the Police Commissioner was required, within two days of a case involving substantial injury to a civilian, to determine whether to strip an officer of badge and gun or suspend the officer.

On June 22, 2020, a bill was introduced in the New York state senate that would strip police officers of “qualified immunity” if sued for violations of constitutional rights under the New York State Constitution.<sup>147</sup>

On June 25, 2020, a New York City police officer was criminally charged with using a banned chokehold. (Earlier that month, an officer was charged with assault and other crimes for pushing a protester to the ground during the anti-police protests).<sup>148</sup>

At the end of June the N.Y. City Council shifted about \$1 billion from the Police Department’s \$6 billion operating budget—in the wake of demands to “defund” the police.<sup>149</sup> While the significance of the cut has been debated, one immediate impact was a cut of \$352 million in overtime pay for NYPD officers.<sup>150</sup> The result was to cap work that could be done by detective units who were investigating crimes—including shooting crimes.<sup>151</sup> In other words, the cut in overtime pay had the exactly the opposite effect of “hot spot” policing by removing officers from areas where gun crimes were occurring and being investigated.

Meanwhile, in early June, in addition to the state ban on chokeholds, the New York City Council began considering what police called the “diaphragm bill.” The bill banned arrests techniques that would compress a suspect’s diaphragm. The bill did not simply criminalize chokeholds (long banned by NYPD) but also made it a criminal offense to effectuate an arrest in ways that restricted a person’s diaphragm or ability to breathe, such as sitting, kneeling or standing on someone’s chest or back. The Mayor’s Office requested that the bill contain a clause excluding “incidental contact that results in compression of the diaphragm.” But proponents rejected that clarification, saying it would “neuter” the bill. On June 17, 2020, Mayor de Blasio announced his support for the diaphragm bill as written.

The existence of the proposed diaphragm bill was widely known in NYPD. Anticipating passage of the bill, NYPD developed video training on the law, which became available on June 30, 2020. All officers were directed to watch the video. NYPD leaders attempted to secure a change in the proposal, calling it “dangerous.”<sup>152</sup> Their position was that “any cop who’s ever fought with someone on the street, trying to get him into cuffs, [knows] there’s a great possibility that your knee is going to end up on that individual’s back, and now this new law is criminalizing it.” Remarkably for a proposed criminal law, the

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<sup>146</sup> Dana Rubinstein, *Under Pressure on Policing, N.Y.C. Mayor Toughens Discipline*, N.Y. TIMES (June 17, 2020), <https://www.nytimes.com/2020/06/17/nyregion/police-reform-nypd.html>.

<sup>147</sup> N.Y.S.B. 8618 (2019-20 legislative session).

<sup>148</sup> Ashley Southall, *N.Y.P.D. Officer Charged With Using Illegal Chokehold*, N.Y. TIMES (June 25, 2020), <https://www.nytimes.com/2020/06/25/nyregion/nypd-officer-chokehold-arrest.html>.

<sup>149</sup> Dana Rubinstein & Jeffery C. Mays, *Nearly \$1 Billion Is Shifted From Police in Budget that Pleases No One*, N.Y. TIMES (June 30, 2020), <https://www.nytimes.com/2020/06/30/nyregion/nypd-budget.html>.

<sup>150</sup> Nolan Hicks & Kenneth Garger, *City Council Passes \$88.1 Billion Budget with \$1 Billion in Cuts of NYPD*, N.Y. POST (July 1, 2020), <https://nypost.com/2020/07/01/city-council-passes-budget-with-1-billion-nypd-cut/>.

<sup>151</sup> See Tina Moore et al., *NYPD Shifts Overtime Funds to Increase Presence Ahead of Holiday Weekend*, N.Y. POST (Sept. 1, 2020), <https://nypost.com/2020/09/01/nypd-shifts-overtime-funds-ahead-of-holiday-weekend/>.

<sup>152</sup> Amanda Woods & Natalie Musumeci, *NYPD’s Terrence Monahan calls portion of Anti-Chokehold Bill “Dangerous”*, N.Y. POST (July 8, 2020), <https://nypost.com/2020/07/08/nypds-monahan-calls-part-of-anti-chokehold-bill-dangerous/>.

bill's language did not contain a mens rea (criminal intent) provision—i.e., it was “strict liability.” All these police concerns were ignored and the bill was enacted and signed into law on July 15, 2020.

The new law was enormously controversial. Police alleged that the prohibition was impossible to understand. Ultimately, on August 6, 2020, nearly 20 police unions filed suit challenging the new law.<sup>153</sup> As of this writing (early September 2020), it appeared that the New York City Council is seriously considering making changes. As Mayor de Blasio explained, “There have been honest questions and concerns about what police officers can and cannot do and we need our police officers to have clear instruction.”<sup>154</sup>

Against this backdrop, it is easy to see why arrests declined in June and July in New York City. Police officers were under attack, had received less funding to engage in proactive policing, and given uncertain guidance about the kinds of tactics they could use to make an arrest. This article does not take a position on these criticisms. Instead, the narrow point here is that these are precisely the kinds of conditions that would lead police officers to avoid making discretionary decisions that could lead to the need to make a forcible arrest—in other words, would lead to a decline in proactive policing, particularly in situations involving potentially armed offenders.

To be sure, a full explanation of why arrests declined in New York City in June (and apparently into July)<sup>155</sup> remains to be developed. Some have suggested that NYPD officers are engaged in a work slowdown (the so-called “Blue Flue”) to protest the controversial criminal law restricting arrest procedures. The empirical support for the slowdown claim is thin. Any alleged “slowdown” would have seemingly started many weeks earlier, when arrests first declined—and, for example, before the chokehold law was being considered. And recently, gun arrests have increased as NYPD has placed greater focus on such crimes.<sup>156</sup> But however the debate about causes of the decline in arrests is ultimately resolved, the fundamental point remains that arrests have clearly declined.

While NYPD officers were making fewer arrests in June, on the other side of the equation, offenders began to feel empowered. NYPD Chief of Department Terence Monahan explained that, after the bail reform and COVID-19 releases from Rikers, “[t]hen came the George Floyd incident, the demonstrations, and the anti-police rhetoric that’s going on everywhere and has basically destroyed morale. It’s set off a feeling on the streets right now that it’s okay to carry a gun, settle old disputes, and start shooting at one another. We’re seeing people get sprayed at parties.”<sup>157</sup> The result was that criminals were more willing to carry guns because “[t]here’s an opinion out there that the cops aren’t going to stop them.

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<sup>153</sup> Molly Crane-Mewman, *NYPD Unions Sue NYC Over Anti-Chokehold Law, Claim “Ordinary Police Officer” is Unable to Understand it*, N.Y. Daily News (Aug. 6, 2020), <https://www.nydailynews.com/new-york/manhattan/ny-chokehold-ban-police-union-sue-20200806-13jffrvccbfxfcoaxbhfssebe-story.html>.

<sup>154</sup> Julia Marsh & Carl Campanile, *Mayor Bill de Blasio backs Controversial Changes to Chokehold Law for Police*, N.Y. POST (Aug. 27, 2020), <https://nypost.com/2020/08/27/de-blasio-backs-controversial-chokehold-law-changes-amid-shootings/>

<sup>155</sup> According to the *New York Times* article discussed here, during the week of May 24, there were 113 gun arrests; the week of June 7, 71 gun arrests, the week of June 28, 22 gun arrests. When this decline surfaced as an issue, NYPD reported redeployed officers to areas where gun crimes were spiking, and gun arrests increased. They climbed back to 54 arrests during the week of July 27—but still well below where things stood as of May 24. Alan Feuer, *The Mayor Blames the Virus for Shootings. Here’s What Crime Data Shows*, N.Y. TIMES (Aug. 4, 2020), <https://www.nytimes.com/2020/08/04/nyregion/nyc-shootings-coronavirus.html>.

<sup>156</sup> Mairead McArdle, *NYPD Hit 25-Year High in Gun Busts in First Week of September*, N.Y. POST (Sept. 8, 2020), <https://www.nationalreview.com/news/nypd-hits-25-year-high-in-nyc-gun-busts/>.

<sup>157</sup> Police Executive Research Forum, PERF Daily Critical Issues Report (June 23, 2020), <https://www.policeforum.org/criticalissuesjune23>.

There's a feeling on the street that it's safe to carry a gun, and even if you get caught with a gun, you're not going to go to prison."<sup>158</sup>

A related point is that clearance rates for shooting crimes has plummeted this summer. Historically, NYPD's shooting clearance rate (i.e., the rate at which NYPD "solves" a shooting, by an arrest or other similar means) has hovered around 30 to 33%.<sup>159</sup> However, this year, as gun crimes have been skyrocketing, clearance rates have been falling—as of late August, only about 20% of shootings have ended with an arrest. Brooklyn, for example, which has suffered the most shootings of any borough, has the lowest clearance rate of around 15%. The declining clearance rates may well be due, in part, to a rising tide of crime simply overwhelming the ability of law enforcement to respond.<sup>160</sup> But the key point remains that would-be shooters would have felt increasingly empowered to carry firearms as the odds of being apprehended declined.

Compared to this substantial evidence of de-policing as the cause of the shooting spike, what about the alternative explanation of de-legitimizing of the police? As mentioned above, one place to search for empirical support for that claim would be in 911 police call data. Following that methodology, Figure 25 depicts 2020 weekly call data to the NYPD for "critical incidents"<sup>161</sup> (with calls in 2019 in the background for comparison).

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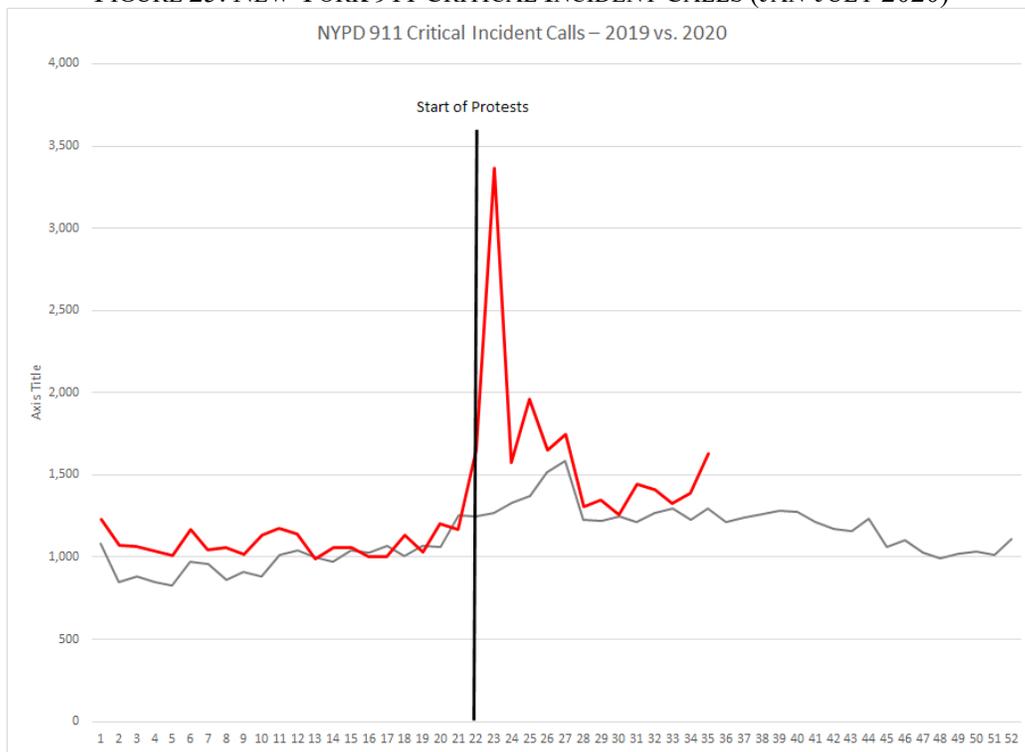
<sup>158</sup> *Id.*

<sup>159</sup> McCarthy & Feis, *NYPD Data: Only About 20 Percent of NYC Shootings Ended in Arrests this Year*, N.Y. Post (Sept. 6, 2020), available at <https://nypost.com/2020/09/06/nypd-shooting-arrest-rate-barely-tops-20-percent-as-gunplay-surges/>.

<sup>160</sup> See Cassell & Fowles, *supra* note 39, at 1656 n.422.

<sup>161</sup> The data shown is from the NYPD. Call data is also available on the New York City data portal, but the relevant series appears to be defective.

FIGURE 25: NEW YORK 911 CRITICAL INCIDENT CALLS (JAN-JULY 2020)



Source: New York Police Department.

As is readily apparent, 911 calls did not fall during or after the protests. To the contrary, there is a large spike upward in a single week around June 1, 2020—the week of the violent protests and attempted looting in the city<sup>162</sup>—followed by a return of 911 calls to NYPD to ordinary levels.<sup>163</sup>

While further investigation is obviously warranted, it seems difficult to make an empirical case that the best explanation for the sharp New York City shooting spike is de-legitimization of the police. The available evidence supports de-policing.

### 6. Other Cities

Having reviewed data from five cities in depth, it is worth briefly thinking about whether the experience of these cities is typical or unusual. Further research is needed, of course, but there are at least

<sup>162</sup> See, e.g., Michael Corkery & Sapna Maheshwari, *Macy’s Damage is Limited, but Looting Deals a Symbolic Blow*, N.Y. TIMES (June 2, 2020), <https://www.nytimes.com/2020/06/02/business/macys-herald-square-protests.html>.

<sup>163</sup> The 911 call data is interesting to look at during this time due to another event—the Central Park birdwatching incident, when a white woman (Amy Cooper) apparently attempted to capitalize on possible police suspicion of Black people, by filing a false police report of a threat by an African-American man. As a result of this event, in early June publicity swirled around these events and in mid-June the New York legislature enacted a new law, which created potential civil damages for calling the cops on a Black person or any other member of a “protected class” when there was “no reason to believe a crime or offense, or imminent threat to person or property is occurring.” As a result, it has been suggested that New York’s law might create a “Ferguson effect for civilians”—i.e., fewer calls going to 911 because of fear of possible repercussions. Stephen Eide, *Why New York’s New “Anti-Karen” Law will Backfire*, N.Y. Post (Aug. 8, 2020), <https://nypost.com/2020/08/08/why-new-yorks-new-anti-karen-law-will-backfire/>. On quick examination, the graph here does not show any such Ferguson effect.

anecdotal reasons for thinking that the reductions in proactive policing discussed in this article are occurring nationwide.

Similar reports of increasing homicides and shooting coinciding with declining proactive policing can be found from other cities. For example, Las Vegas Metropolitan Captain James LaRoche explained that murders had recently increased in Las Vegas in early June at the same time as “[w]e moved cops to the protests from patrol and kept detectives focused on detective work. Our Violent Crime Initiative teams, which we usually put in our most challenged neighborhoods, have been pulled to the protest line.”<sup>164</sup> LaRoche also noted “We’ve seen a significant decrease in officer-initiated activity over the past month. Our person stops are down 28% and our car stops are down 32%. That speaks to how many patrol officers are attending to protests.”<sup>165</sup>

Similarly, in Syracuse (N.Y.), homicides are up 33% from the previous year.<sup>166</sup> And Deputy Chief Derek McGork gave a similar explanation for homicide increases in his city: “In the beginning of all this, we dedicated a significant amount of manpower to safeguarding protesters. Those protests and marches were a daily occurrence and lasted for well over a month. While that task is certainly important, it does detract from our ability to deploy those officers where we might otherwise, such as our problem-oriented policing areas.”<sup>167</sup> He added: “A number of our officers have expressed a hesitancy to be proactive. There seems to be a very legitimate concern by the officers and detectives engaging in proactive details that, given the view of the police at the moment, if they’re involved in a lawful use of force or arrest that doesn’t look good, their jobs may be in jeopardy and their families may be dragged into media coverage. We have noticed a significant decrease in proactive stops year-to-date this year compared to last year. That was certainly the case while we had the temporary operating procedures in place for COVID, but also after we rescinded those procedures and told everyone to go back to normal operations with personal protective equipment.”<sup>168</sup>

As of early August, Cincinnati is on pace for its deadliest year ever.<sup>169</sup> And Cincinnati (Ohio) Assistant Chief Michael John noted a connection to protests: “The manpower taken away to deal with protestors is very difficult. There’s also the natural pullback by officers based on what we’re seeing in mainstream media and social media. For the last couple months, it’s almost as if policing in general has been vilified. That’s very difficult, the officers are dealing with that, and I think the proactive work has slowed down. We haven’t asked people to slow down, but I think it’s natural.”<sup>170</sup>

In sum, just as substantial evidence exists from Minneapolis, Chicago, Philadelphia, Milwaukee, and New York City that protests following George Floyd’s death reduced proactive policing—and increased in homicides and shootings—it also possible to find evidence that other cities appear to have suffered the same fate.

## VII. Delegitimization and Public Opinion Data

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<sup>164</sup> Police Executive Research Forum, Critical Issues Report (Aug. 26, 2020), <https://www.policeforum.org/criticalissuesaugust26>.

<sup>165</sup> *Id.*

<sup>166</sup> Chris Libonati, *Syracuse Crime and Coronavirus: Shootings Soar, Murders Rise, Overall Crime Drops*, Syracuse.com (Aug. 18, 2020), <https://www.syracuse.com/crime/2020/08/syracuse-crime-and-coronavirus-murders-shootings-up-but-overall-crime-plummets.html>.

<sup>167</sup> *Id.*

<sup>168</sup> *Id.*

<sup>169</sup> Jennifer Edwards Baker, *Cincinnati on Pace for its Deadliest Year Ever*, FOX-19 (Aug. 4, 2020), <https://www.fox19.com/2020/08/04/cincinnati-pace-its-deadliest-year-ever/>.

<sup>170</sup> Police Executive Research Forum, *supra* note 164.

In considering the de-policing and de-legitimizing hypotheses, one additional source of information is what public opinion polling data tell us. It is difficult to see anything in the available data that would suggest sudden, substantial, and sustained changes in views about police would explain the homicide spikes over the last several months.

A good example of the polling data comes from a recent Gallup Poll based on a survey in late June and early July 2020—several weeks after the start of the Floyd protests. When asked whether they wanted police to spend more time, less time, or about the same time in their area, 86% of U.S. adults wanted the same or more police presence, including 81% of Black Americans and 83% of Hispanic Americans.<sup>171</sup> (At the same time, however, most Americans want major reform of policing, as a separate and earlier Gallup survey found.<sup>172</sup>)

It is not hard to understand why most American, including Black and Hispanic Americans, would want to maintain police presence in the areas where they live. Police presence is commonly understood as preventing crime and thus improving quality of life. For example, in Chicago, when asked about the possibility of bringing more federal law enforcement officers to fight crime, while many Chicagoans opposed the idea, in the South and West Side neighborhoods hit hardest by the homicide spike, some residents welcomed the move.<sup>173</sup> Similarly, when calls to “defund” the police were considered by the New York City Council in August, a city council-woman from the West Bronx said that her constituents “want to see cops in the community.”<sup>174</sup>

Some time trend data does suggest that changes in public perceptions of police, but those changes have apparently occurred over several years, not several weeks.<sup>175</sup> For example, a few polls have asked roughly similar questions about whether police killings of African-American men were isolated incidents or signs of a broader problem. When the question was asked in December 2014 in the wake of the Michael Brown killing in Ferguson, Missouri, only 43% of American saw a broader problem while 51% saw isolated incidents.<sup>176</sup> When a similar question was asked in September 2016, the majority view had shifted, with 60% seeing a broader problem and 39% isolated incidents. Then in early June 2020, an even larger majority—increasing from 60% to 69%—saw a broader problem, with only 29% seeing isolated incidents. Another similar poll taken at a similar time had 74% agreeing there was a broader problem. These polls, taken in 2014, 2016, and 2020, suggest that the recent protests reflect a continuing evolution of views about

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<sup>171</sup> Lydia Saad, *Black Americans Want Police to Retain Local Presence*, Gallup (Aug. 5, 2020), <https://news.gallup.com/poll/316571/black-americans-police-retain-local-presence.aspx>; see also Shira Angert, *The Intersection of Gun Violence, Policing and mass Incarceration in Communities of Color: Research Results*, Benenson Strategy Group (Apr. 28, 2016) (in 2016 poll, 62% of African Americans and 80% of Hispanics said that the police make their communities safer and less than 1 in 10 said the police make things “less safe”), [http://www.joycefdn.org/assets/images/Memo\\_on\\_Communities\\_of\\_Color\\_Survey\\_Results\\_FIN.pdf](http://www.joycefdn.org/assets/images/Memo_on_Communities_of_Color_Survey_Results_FIN.pdf).

<sup>172</sup> Steve Crabtree, *Most Americans Say Policing Needs “Major Changes”*, Gallup (July 22, 2020), <https://news.gallup.com/poll/315962/americans-say-policing-needs-major-changes.aspx>.

<sup>173</sup> Brendan O’Brien & Tom Polansek, *On Chicago’s South Side, Some Violence-Wearry Residents Open to Federal Investigators*, REUTERS (July 27, 2020), <https://www.reuters.com/article/us-global-race-protests-chicago/on-chicagos-south-side-some-violence-wearry-residents-open-to-federal-investigators-idUSKCN24S1A6>.

<sup>174</sup> Jeffrey C. Mays, *Who Opposes Defunding the N.Y.P.D.? These Black Lawmakers*, N.Y. TIMES (Aug. 10, 2020), <https://www.nytimes.com/2020/08/10/nyregion/defund-police-nyc-council.html>.

<sup>175</sup> See John Roman, *Summer of Rage? Summer of Discontent Summer at Home*, External Processing (Aug. 12, 2020) (“While policing quality varies, what does not vary much, or at all, over short periods of time are citizen attitudes about the police.”), <https://johnkroman.substack.com/p/summer-of-rage-summer-of-discontent>. Cf. PAUL H. ROBINSON, INTUITIONS OF JUSTICE AND UTILITY OF DESERT, chapt. 8 (2013) (discussing many varying factors that influence the perceived legitimacy of the criminal justice system).

<sup>176</sup> The Washington Post-Schar School Poll, <https://context-cdn.washingtonpost.com/notes/prod/default/documents/6dae3525-b4e3-4b5c-9c26-18901aa10c25/note/0916a9ff-27b5-4671-b4d9-3a13db879199>.

police over years, not an abrupt delegitimization that would suddenly lead to significant homicide spikes across the country beginning suddenly in late May 2020.

Similarly, since 1994, the Gallup Poll has asked about Americans' confidence in police. The percentage of Americans who expressed "a great deal" or "quite a lot" of confidence was 52% in 1994, moving to a high of 64% in 2004, then declining to 52% in 2014, up to 56% in 2016, down to 53% in 2018, and dropping to 48% in June/July 2020—a record low, but not a dramatic change that could explain sudden homicide spikes.<sup>177</sup>

### VIII. De-Policing in 2020 and Parallels from the 2014-16 Homicide Spikes

The conclusion that the 2020 homicide spikes are caused by de-policing is supported by similar homicide spikes that occurred in Chicago in 2016 and perhaps in other cities in around 2014 to 2016—spikes that appear to have been caused by reduced policing.

As noted earlier, the recent Rosenfeld-Lopez Report suggests comparing the 2020 homicide spikes to homicide increases that occurred in 2014 to 2016 in some cities, such as Chicago, Baltimore, and Ferguson, Missouri. Some analysts, including Professor Rosenfeld, raised the possibility that those earlier homicide increases were due to a "Ferguson Effect"—i.e., de-policing in some form, perhaps caused by protests after the Michael Brown killing in Ferguson, Missouri. In his important November 2017 paper, Professor Rosenfeld and several colleagues discussed whether either version of the Ferguson Effect could explain the 2014-16 homicide spikes.<sup>178</sup> The paper noted the difficulties in measuring both levels of policing and community alienation and called for using city- and neighborhood-level case studies to help resolve the issue.<sup>179</sup>

Since Professor Rosenfeld's call for city-specific studies on de-policing during 2014 to 2016, arguably the single most extensive study on the subject is my 100-page co-authored paper on the 2016 Chicago homicide spike.<sup>180</sup> In that paper, my University of Utah colleague Richard Fowles and I reviewed data showing that in Chicago in 2016, homicides and shootings increased dramatically while most other crimes did not. Specifically, in Chicago in 2016, homicides spiked by 58% compared to the previous year. There were also large (more than 20%) increases in robbery and aggravated assault—but not such large increases in other index crimes. Focusing specifically on gun crimes, shootings spiked in Chicago in 2016. Fatal shootings increased by 66% and non-fatal shootings increased by 44%.<sup>181</sup>

Professor Fowles and I explained at length in our paper that the most likely cause of the 2016 Chicago homicide spike was de-policing—specifically, a reduction in street stops (often referred to as "stop and frisks"). We called this reduction the "ACLU Effect" because an agreement between the Chicago Police Department and the ACLU was implemented in December 2015, leading to about an 80% reduction in street stops conducted by Chicago police officers in 2016. Our argument was straightforward: As a result of the ACLU agreement, police significantly reduced the number of street stops they made, leading to more illegal guns on the streets of Chicago, leading to more shootings and homicides. Using multiple regression

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<sup>177</sup> Megan Brenan, *Amid Pandemic, Confidence in Key U.S. Institutions Surges*, Gallup (Aug. 12, 2020), <https://news.gallup.com/poll/317135/amid-pandemic-confidence-key-institutions-surges.aspx>.

<sup>178</sup> Rosenfeld et al., *supra* note 11. For other interesting discussions of the Ferguson Effect, compare Ronald T. Hosko, *Through Police Eyes—The Ferguson Effect Scare*, 23 BERKELEY J. CRIM. L. 9, 20–23 (2018) (pointing to de-policing occurring in various locations in 2015) with Edward R. Maguire, Justin Nix & Bradley A. Campbell, *A War on Cops? The Effects of Ferguson on the Number of U.S. Police Officers Murdered in the Line of Duty*, 33 JUST. Q. 1, 13 (2016) (finding no evidence of a Ferguson Effect on the number of police officers murdered in the U.S.).

<sup>179</sup> Rosenfeld et al., *supra* note 11, at 26.

<sup>180</sup> Cassell & Fowles, *supra* note 39.

<sup>181</sup> *Id.* at 1600-01.

analysis to control for potentially confounding variables, our paper estimated that the reduction in street stops in Chicago led to about 245 additional victims killed and about 1,108 additional victims shot during 2016.<sup>182</sup>

Our earlier paper also addressed Professor Rosenfeld's possibility that de-legitimizing of police might explain the 2016 Chicago homicide spike. As noted earlier, Professor Rosenfeld had suggested that one way of empirically detecting community alienation from police is through citizen calls for police service.<sup>183</sup> We collected 911 call data from Cook County for the relevant time period and saw no evidence that reduced calls explained the homicide spike.<sup>184</sup>

Our finding that the reduction in stop and frisks in 2016 played a prominent role in the 2016 Chicago homicide spike is supported by important research in progress by Professor Emeritus Wesley Skogan of Northwestern University. He has collected neighborhood-level data from Chicago, extending both earlier and later than our data. He also found that stop and frisks played an important role in reducing homicides, although his effect sizes that were substantially lower than ours.<sup>185</sup>

Professor Skogan also examined the same de-legitimization issue that Professor Fowles and I explored in our paper. He concluded that declining police legitimacy was an unlikely explanation for triggering the sudden spike in homicides in 2016. While deteriorating legitimacy potentially could have played a role in the crime spike, resistance to police (as measured by arrests for obstructing officers) peaked most noticeably during 2011-15, in advance of the Chicago homicide spike. And unlike the hypothesis that delegitimized policing might be reflected in declining calls for police service, 911 shooting reports *increased* following Laquan McDonald's shooting by Chicago police, from about 240 per summer month in 2015 to over 300 per month in 2016. In fact, 911 calls tracked the increase in recorded shootings imperfectly because they rose more sharply than did recorded crime during the period.<sup>186</sup>

The Cassell-Fowles analysis of what happened in Chicago in 2016 is also supported by a recent paper by Tanaya Devi and Professor Roland Fryer (a professor of economics at Harvard). Devi and Fryer analyzed federal "pattern-or-practice" investigations of police by the U.S. Justice Department or similar state authorities.<sup>187</sup> Devi and Fryer found that when an investigation was preceded by a "viral" incident of deadly force, the result was a large and statistically significant increase in homicides and total crime. They concluded that the leading hypothesis for why these investigations lead to an increase in homicides and total crime was an abrupt change in the quantity of police activity. For example, examining declines in self-initiated police activities in Chicago in 2016 as well as several other cities around that time (including St.

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<sup>182</sup> *Id.* at 1613-18. The Chicago homicide spike is also thoughtfully, albeit somewhat briefly, analyzed in Jeffrey Fagan & Daniel Richman, *Understanding Recent Spikes and Longer Trends in American Murders*, 117 COLUM. L. REV. 1235, 1277-78 (2017). The Cassell-Fowles paper, published after the Fagan-Richman paper, analyzes the various competing explanations for the Chicago homicide spike more thoroughly, by controlling for changes in (for example) temperature, unemployment rate, arrests, and 911 calls.

<sup>183</sup> Rosenfeld et al., *supra* note 11, at 26.

<sup>184</sup> Cassell & Fowles, *supra* note 39, at 1619-25.

<sup>185</sup> Wesley Skogan, *Chapter 7 – The Great Crime Spike of 2016*, in STOP & FRISK AND THE POLITICS OF CRIME IN CHICAGO (forthcoming 2021) (manuscript on file with author).

The Cassell-Fowles paper focuses exclusively on explaining the role of stop and frisk on the Chicago homicide spike of 2016, while Professor Skogan more ambitiously attempt to analyze the impact of stop and frisk over a much longer time span. We suspect that the differences in the effect sizes between our paper and his may come down to this fact—his longer time frame introduced more "noise" into the data that reduced the impact of the stop and frisk variables in his equations on the crime spike of 2016.

<sup>186</sup> *Id.*

<sup>187</sup> Tanaya Devi & Roland G. Fryer, Jr., *Policing the Police: The Impact of "Pattern-or-Practice" Investigations on Crime*, NBER Working Paper (June 2020), <https://www.nber.org/papers/w27324>.

Louis and Baltimore<sup>188</sup>), Devi and Fryer found that these declines in policing—rather than any change in community trust for police—best explained the subsequent increase in homicides. While there are reasons for questioning Devi and Fryer’s specific linkage of pattern-or-practice investigations to subsequent declines in policing activity,<sup>189</sup> the overarching connection between declines in self-initiated policing activity and subsequent crime increases supports the Minneapolis Effect theory developed here.

These three papers finding Ferguson Effects (i.e., de-policing) in Chicago 2016 should be contrasted with two papers finding no national Ferguson Effect in 2015. Professor David Pyrooz and several colleagues published a paper in February 2016, examining crime data from 81 large U.S. cities.<sup>190</sup> They compared crime trends one year before and one year after August 2014 (the month when the Ferguson protest began) to determine whether there was any general redirection in crime trends. They concluded that there was no systematic change in overall crime trends, although a few cities did suffer increases in homicides. They concluded that these findings were consistent with “longstanding criminological knowledge that changes in crime trends are slow and rarely a product of random shocks.”<sup>191</sup> A more recent paper, written by Professor Rosenfeld and Joel Wallman in 2019, likewise found no national Ferguson Effect reflected in data from 53 large cities.<sup>192</sup>

One interpretation of the Pyrooz et al. and Rosenfeld-Wallman papers is that they investigated a phenomenon (post-Ferguson changes in policing) that was simply insufficiently widespread to increase crime rates across the country. The Pyrooz paper found, for example, that between August 2014 and August 2015, homicide rates spiked in St. Louis, Missouri (where Ferguson is one of the suburbs) and Baltimore, Maryland (where a separate viral event, the death of Freddie Gray while in police custody took place). Both of these cities experienced an anomalous increase in homicides in 2015—while other cities did not. Similarly, the Rosenfeld-Wallman paper found that the lower arrest rates in 2015 increased homicide rates. But that association was driven by a few “outlier” cities<sup>193</sup> (including Baltimore, scene of Freddy Gray protests, and Cleveland, scene of protests following the acquittal of a police officer in May 2015 for shooting an unarmed black man and woman<sup>194</sup>).

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<sup>188</sup> For more information about the homicide spike in Baltimore, see Stephen L. Morgan & Joel A. Pally, *Ferguson, Gray, and Davis: An Analysis of Recorded Crime Incidents and Arrests in Baltimore City, Marcy 2010 through December 2015*, <http://socweb.soc.jhu.edu/faculty/morgan/papers/MorganPally2016.pdf>.

<sup>189</sup> For example, with regard to Chicago, Devi and Fryer refer to their Chicago data as reflecting “the number of police-civilian contacts in Chicago by month,” describing this data as including “*mostly traffic stops*, suspicious behavior, gang/narcotics related, crime victim and dispersal.” *Id.* (emphasis added). In fact, the data should be described as involving “street stops” rather than all police-civilian contacts. See Cassell & Fowles, *supra* note 39, at 1603 (collecting street stop data), 1658 (separately collecting traffic stop data). The reason that this description is important is that we provide significant evidence that the reduction in street stops triggered the Chicago homicide spike, and that DOJ’s pattern-and-practice investigation was not the cause of the decline in street stops. Instead, as part of the ACLU consent decree, the CPD redeployed their officers from doing stop-and-frisk to doing traffic stops. See *id.* at 1649-59. Devi and Fryer argue that the Justice Department’s initiation of a pattern and practice investigation (PPI) involving CPD’s *deadly force policy* somehow explains changes in CPD’s stop-and-frisk policy. That mismatch makes the PPI (which was ultimately dropped by the Department) a much weaker candidate for explaining a decline in street stops than the ACLU agreement—which dealt specifically with street stops. See *id.* at 1625-27.

<sup>190</sup> David C. Pyrooz et al., *Was There a Ferguson Effect on Crime Rates in Large U.S. Cities?*, 46 J. CRIM. JUSTICE 1, 5 (2016).

<sup>191</sup> *Id.* at 1, 4. This received wisdom may be tested in the wake of the speedy shock that is causing homicide spikes in this country this summer.

<sup>192</sup> Rosenfeld & Wallman, *supra* note 105.

<sup>193</sup> *Id.* at 62.

<sup>194</sup> *Cleveland Protests Erupt after Officer Found Not Guilty*, CNBC (May 24, 2015), <https://www.cnbc.com/2015/05/24/cleveland-protests-erupt-after-officer-was-found-not-guilty.html>.

If this interpretation is the Pyrooz et al. and Rosenfeld-Wallman papers is correct, then they can be read as consistent with a Minneapolis Effect in 2020. These earlier papers suggest that localized events caused localized de-policing and a consequent localized increase in city-wide homicide rates. And thus, when a comparable phenomenon occurred on a national scale—widespread de-policing in the wake of the George Floyd protests—it led to an increase in homicides across the country. In other words, the 2020 Minneapolis Effect is simply a more pervasive and powerful recurrence of localized Ferguson Effects from several years ago.<sup>195</sup>

The 2016 Chicago homicide spike also provides two extremely important pieces of information about the 2020 homicide spike. The first is an explanation for the puzzling pattern that we are seeing across America in the summer of 2020. This summer in major urban areas, homicides and gun-related crimes are uniquely and starkly increasing while other crimes are not. The 2016 Chicago pattern looks eerily similar—unique and stark increases in homicides and gun-related crimes. The 2016 Chicago pattern thus provides a key for unlocking an answer to why some rates for some crimes are spiking while others are not. As the Chicago’s earlier experience demonstrates, proactive policing (e.g., stop and frisks) plays a uniquely important role in deterring the carrying of illegal guns and, thus, the commission of firearms crimes. When stop and frisks plummeted in Chicago in 2016, gun violence spiked. So too in the summer of 2020: as proactive policing declined across the country, gun violence increased.

Second, the 2016 Chicago homicide spike also helps to explain an arguable difference between the criminology literature on proactive policing and the size of current homicide spikes. While the empirical studies on proactive policing demonstrate clear crime control gains, the size of those gains is sometimes described as “modest.”<sup>196</sup> But those modest effect sizes come from research involving relatively modest changes in the levels of proactive policing. What would happen if proactive policing were to change dramatically? The earlier Cassell-Fowles paper finds that during 2016, Chicago policing practices aimed at gun violence (e.g., stop and frisks) declined suddenly and sharply—by about 80% in a matter of a month or so.<sup>197</sup> This dramatic decline in an important form of law enforcement activity targeting gun violence produced a dramatic increase in gun violence.<sup>198</sup> So too in the summer of 2020: Proactive policing is not declining modestly but rather suddenly and sharply, producing significant spikes in gun violence.

## IX. The “Big Picture” Probability of a Minneapolis Effect

Having drilled into specific data from specific cities, both from June and July of 2020 as well as earlier in 2014-16, it is useful to now step back and examine the proverbial big picture: The Minneapolis Effect is far and away the strongest candidate for explaining the recent homicide spikes.

Recall that earlier this article identified four features of the recent homicide spikes that the causal factor would need to explain: (1) homicide and shooting crimes have suddenly and sharply increased across the country; (2) other crime categories have remained generally stable; (3) the spikes began in the last week of May; and (4) the homicide and shooting increases are apparently an urban, not rural, phenomena.<sup>199</sup> A Minneapolis Effect—i.e., reduced proactive policing and other de-policing—explains these four facts better than other possibilities.

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<sup>195</sup> Cf. MacDonald, *supra* note 60, at 48 (“The lack of evidence for a ‘Ferguson Effect’ does not imply that if the policy systematically disengaged from proactive policing that crime rates would not rise to a concerning level . . .”).

<sup>196</sup> See, e.g., Braga, *supra* note 69, at 658 (“Hotspots policing programs generate modest crime control gains”). *But cf.* Rosenfeld et al., *supra* note 69, at 440 (finding hot spot policing intervention “reduced the rate of firearm violence by two thirds from the level expected without the intervention”).

<sup>197</sup> See Cassell & Fowles, *supra* note 39, at 1608.

<sup>198</sup> See *id.* at 1607 n.120 (explaining that as levels of stop and frisks decline, each stop may have increasing marginal utility, and thus significant reductions in the scale of stop and frisks may significantly harm law enforcement efforts).

<sup>199</sup> See note 34 *supra* and accompanying text.

It is easy to explain the logic for homicide spikes nationally: following George Floyd's death on May 25, anti-police protests took place in more than 400 cities across the country.<sup>200</sup> Indeed, the recent protests are some of the largest and most widespread in American history.<sup>201</sup> An estimated 15 to 26 million Americans have taken to the streets to protest police violence and advocate for Black lives.<sup>202</sup> While details no doubt vary in particular cities, the overarching fact is that such extensive protests initially required police officers in many urban areas to significantly divert their attention to those protests. And in the aftermath of protests against aggressive police tactics, officers became increasingly hesitant to engage in proactive policing. The predictable result: gun violence has abruptly and starkly increased across the country, particularly in urban areas where the protests were concentrated.

This theory was recently noted by a keen observer of crime trends. Alec MacGillis, a ProPublica reporter, had previously written about de-policing in Baltimore in the wake of the Fred Gray death, a viral incident that led to the (unsuccessful) prosecution of the officers involved and a decline of policing in that city.<sup>203</sup> More recently, in September 2020 MacGillis wrote that the nationwide protests that erupted after Minneapolis police killed George Floyd suggest that the “nationwide protests that erupted after Minneapolis police killed George Floyd suggest that his death may have given rise to something relatively new, the equivalent of a viral incident in each individual city. And in some cities where municipal leaders have supplied the other ingredient researchers identified—signaling their support for broad reforms—police pullbacks appear well under way.”<sup>204</sup>

This pullback theory fits the data well. Many observers have been puzzled by increases in murders and shootings while other violent crimes have decreased. For example, on July 6, 2020, the *New York Times* ran an article headlined “It’s Been ‘Such a Weird Year.’ That’s Also Reflected in Crime Statistics,” noting that no cogent explanation had emerged for the divergent trends.<sup>205</sup> This article provides an answer: As explained above,<sup>206</sup> de-policing (particularly reductions in proactive policing) can be expected to have more pronounced effects on homicides and shootings—but not (at least in the short term) on other crimes. That same pattern was the observed consequence of the “ACLU Effect” during Chicago’s 2016 homicide spike, a pattern in crime surges that is tragically playing out across a much broader stage in 2020.

The Minneapolis Effect also provides an explanation for the geographic concentration of the 2020 homicide spikes, which are appearing in American cities but (apparently) not in rural areas. Because the protests are centered in the cities (rather than rural areas), the resulting spikes are found in cities.

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<sup>200</sup> For a listing of the cities, see Jiachuan Wu et al, *Map: Protests and Rallies for George Floyd Spread Across the Country*, NBC News (June 1, 2020), <https://www.nbcnews.com/news/us-news/map-protests-rallies-george-floyd-spread-across-country-n1220976>; see also ACLED, *supra* note 35, at 2 (protests have taken place in over 2,400 distinct locations around the country).

<sup>201</sup> Michael Tesler, *Support for Black Lives Matter Surged During Protests, But is Waning Among White Americans*, FIVETHIRTYEIGHT (Aug. 19, 2020), <https://fivethirtyeight.com/features/support-for-black-lives-matter-surged-during-protests-but-is-waning-among-white-americans/>.

<sup>202</sup> *Id.* (citing Larry Buchanan et al., *Black Lives Matter May Be the Largest Movement in U.S. History*, N.Y. TIMES (July 3, 2020)).

<sup>203</sup> See Alec MacGillis, *The Tragedy of Baltimore: Since Freddie Gray’s Death in 2015, Violent Crime has Spiked to Levels Unseen for a Quarter Century. How Order Collapsed in an American City*, PROPUBLICA (Mar. 12, 2019), <https://www.propublica.org/article/the-tragedy-of-baltimore>.

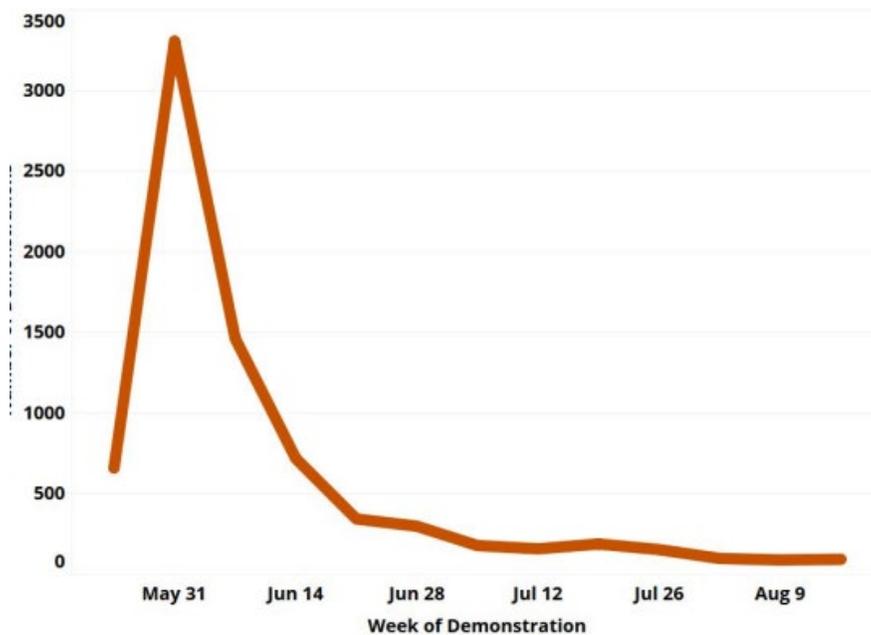
<sup>204</sup> Alec MacGillis, *How to Stop a Police Pullback: Reformers Must tackle the Challenge of Underpolicing, which has often Allowed Officers to Exercise an Effective Veto on Reform*, ATLANTIC (Sept. 3, 2020), <https://www.theatlantic.com/ideas/archive/2020/09/how-stop-police-pullback/615730/>.

<sup>205</sup> See Jeff Asher & Ben Horwitz, *It’s Been “Such a Weird Year.” That’s Also Reflected in Crime Statistics.*, N.Y. TIMES (July 6, 2020) (quoting Texas A&M Professor Jennifer Doleac) <https://www.nytimes.com/2020/07/06/upshot/murders-rising-crime-coronavirus.html>.

<sup>206</sup> See *supra* note 69 and accompanying text.

It is important to understand that this article is not simplistically arguing that protests-produce-homicides. Instead, the argument here is that the protests served as a trigger for de-policing, which then occurred in various ways in cities across the country—the causal mechanism for the homicide spikes in protests’ wakes. This trigger of protests beginning in the last week in May is easy to see in Figure 26, which tabulates the number of protests associated with Black Lives Matter on a weekly basis, beginning with May 4 and extending through late August.<sup>207</sup>

FIGURE 26: NUMBER OF DEMONSTRATIONS ASSOCIATED WITH BLACK LIVES MATTER (MAY 4-AUG. 22, 2020)



Source: Armed Conflict Location & Event Data Project

As shown, at the end of May and the beginning of June, America’s police departments were dealing with more than 3,000 protests distributed in cities across the country. To be sure, the vast majority of these protests were peaceful. But a non-trivial percentage (7%) turned violent. And the possibility of a protest turning violent at each demonstration resulted in significant police resources being shifted to policing the demonstrations.

As American police forces diverted to dealing with the anti-police protests, homicides and shootings began to increase, setting off a cascading series of events. The nature of the protests—anti-police protests—made law enforcement officers more reluctant to engage in proactive policing. That decline is often visible in such metrics such as declining street stops and vehicle stops in some cities, as discussed at length above. And those metrics declined not just on the days when the protests were occurring, but for weeks (or more) afterward.

Whether the pullback is some sort of deliberate action seems speculative. The declining police metrics seem to reflect department-wide decisions. And a decline in police morale is also evident in

<sup>207</sup> See ACLED, *supra* note 35, at 3.

indicators other than just policing metrics. For example, police officers across the country are making the decision to resign or retire early.<sup>208</sup> In addition, applications to become police officers are declining.<sup>209</sup>

It is also important to understand that simple policing data categories may not fully measure the decline in proactive policing that has taken place in the last few months. At its core, proactive policing involves officer-initiated activities, that is, a willingness by law enforcement to step forward to start a street stop or to engage a (potentially armed) gang member. Against a backdrop of fiery protests based (in part) on the premise that American police are engaged in overly aggressive tactics, it would hardly be a surprise to find police officers pulling back to some degree. It is a commonsense conclusion that with police officers under attack (in some cases, quite literally), the result was a natural reluctance to pursue difficult and sometimes contentious policing activities to the same extent as before.

And compounding all these issues, as homicides and shootings increased, police resource began to be stretched even thinner. For example, each additional shooting requires significant crime scene processing and ballistics efforts, diverting even more officers from proactive policing that might have prevented the next shooting. In other words, a rising spiral of gun violence created the conditions for even more gun violence, by making it progressively more difficult for law enforcement to respond. And on top of all this, as a result of calls to “defund” the police, some law enforcement agencies (such as the NYPD) did suffer substantial budget cuts.

While a de-policing Minneapolis Effect is a straightforward proposition, the theoretical and empirical foundations for the counter theory of de-legitimization of police are less clear. It is true that, at some overarching level, police legitimacy is important to maintaining social order and controlling crime.<sup>210</sup> But developing that abstract concept into a practical explanation for specific crime rate changes remains an uncompleted project. As Professor Rosenfeld sagely noted in 2017, “Much speculation, but little empirical research, exists regarding the mechanisms linking police legitimacy, as reflected in public attitudes and perceptions, to crime rates.”<sup>211</sup>

The commonly cited process for how changes in police legitimacy increase crime is that some communities—particularly disadvantaged communities of color—draw even further away from the police due to breached trust and lost confidence. As a result of diminished police legitimacy, fewer people report crimes to the police or cooperate in investigations, and more engage “in street justice to settle disputes.”<sup>212</sup>

This idea of escalating “street justice” is an interesting academic theory for how de-legitimization might drive crime rates higher. But that theory seems divorced from the realities of the bullets flying in urban areas today. The surge in shootings does not involve disputes that would have previously been resolved peacefully. For example, reporters from the *New York Times* recently analyzed the spike in homicides in Kansas City, Missouri this summer, where homicides have increased 35%.<sup>213</sup> The reporters concluded that “[m]uch of the violence in Kansas City has had little rhyme or reason, often stemming from petty arguments that boil over.”

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<sup>208</sup> Jocelyn Grzeszczak, *As Police Officers Across America Quit, Homicide Rates Rise in America’s Biggest Cities*, NEWSWEEK (Aug. 12, 2020), <https://www.newsweek.com/police-officers-across-america-quit-homicide-rates-rise-americas-biggest-cities-1524648>.

<sup>209</sup> *Id.*

<sup>210</sup> See Rosenfeld et al., *supra* note 11, at 17-19 (citing, e.g., Tom Tyler et al, *The Impact of Psychological Science on Policing in the United States: Procedural Justice, Legitimacy, and Effective Law Enforcement*, 16 PSYCHOLOGICAL SCI. & THE PUB. INTEREST 75 (2015)).

<sup>211</sup> *Id.* at 20.

<sup>212</sup> Rosenfeld-Lopez Report, *supra* note 2, at 17.

<sup>213</sup> John Eligoin et al., *In the Wake of COVID-19 Lockdowns, a Troubling Surge in Homicides*, N.Y. TIMES, Aug. 11, 2020, <https://www.nytimes.com/2020/08/11/us/homicides-crime-kansas-city-coronavirus.html>.

Moreover, the de-legitimizing hypothesis still needs to link changes police legitimacy to mechanisms that cause shooting spikes. It should be remembered that (like other criminal activity) gun crimes are committed by a tiny fraction of persons in any particular neighborhood.<sup>214</sup> Thus, even if hundreds of protesters are marching to show their distrust of police, that tells us little about what is driving firearms crime rates higher—i.e., why the criminals who previously did not resort to armed violence feel free to do so now. The shooters' decisions would seem to be more responsive to changes in street stops, gun patrols, and policing directed at that them rather than to more remote assessments of procedural fairness and law enforcement legitimacy.

Ultimately the big picture explanation of the recent homicide spikes is also the simplest one: as a result of the protests and their fallout, policing focused on gun crimes declined, producing an increase in gun crimes. This is not an unexpected conclusion but the logical one.

### **X. A Tentative Estimate of the Size, Distribution, and Duration of the Minneapolis Effect**

If the analysis presented here is correct, homicides and shootings have increased since late May through June and July in major cities in this country due to the Minneapolis Effect. Two questions that naturally arise are: What is the size of that Effect (i.e., how many people have been shot or murdered) and how long will it last? This section offers some tentative thoughts on these issues.

Regarding the size of the Effect, one might begin (as a conservative estimate) with the 37% increase that the Rosenfeld-Lopez Report identifies through June 2020 and assume that the same increase extended through July 2020.<sup>215</sup> It is important to understand that this is what economists call the “delta” or change from the baseline of homicides that would otherwise exist. To reiterate, this article is interested in explaining the recent homicide spikes that have occurred since late May, not the underlying levels of homicides or violent crimes. As a measure of the size of the delta, 37% seems like a reasonable starting estimate for the Minneapolis Effect.

Obviously, this conclusion about a Minneapolis Effect rests on a series of assumptions, each of which could be challenged. And specifically, with respect to the size of the effect, this estimate may ultimately prove to be too expansive ... or too narrow. In particular, in making the causal inference that de-policing is responsible for the homicide (and shooting) spikes, I do not want to assert that it is the *exclusive* factor responsible for all aspects of the increase. The more limited claim advanced here is that de-policing is the primary factor, because it best explains the pattern of increases (essentially homicides and shooting crimes), their timing (occurring after May 25, 2020), and their location (urban areas). To be cautious in estimating the size of this factor and to leave room in the estimate for the possibility of other factors, I will reduce the estimate by 20%, on the basis that other factors may have contributed to the homicide spike—i.e., I estimate the size of the effect to be a 29.6% increase in homicides (80% of the 37% increase). This appears to be a conservative hedge against the possibility of other factors, given that the spikes appeared so suddenly after a structural break in a two-month period. By way of comparison, in Chicago in 2016 following a structural break in the homicides trend, the change in stop-and-frisks by police explained about 90% of the increase through the following year.<sup>216</sup>

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<sup>214</sup> See David M. Kennedy, *Pulling Levers: Chronic Offenders, High-Crime Settings, and a Theory of Prevention*, 31 VALPARAISO UNIV. L. REV. 449, 449 (1997).

<sup>215</sup> See Rosenfeld & Lopez, *supra* note 2, at 6. This assumption is likely a conservative one. See, e.g., *supra* note 4 (noting acceleration of homicide spike in Chicago during July).

<sup>216</sup> See Cassell & Fowles, *supra* note 39, at 1585-86 (estimating that of 274 homicides in the year-over-year increase from 2015 to 2016, 245 could be explained by declining stop and frisks—i.e., 89.4% (245/274)).

From these premises, it is then straightforward to estimate the size of the Minneapolis Effect. First, it is necessary to determine the baseline monthly number of homicides in this country to which this increase would apply. The most recent year for which the FBI has complete data is 2018, during which 16,214 homicides were reported throughout the United States.<sup>217</sup> Assuming that the Minneapolis Effect applies only in the nation's Metropolitan Statistical Areas (MSA) and does not affect cities outside these areas or nonmetropolitan counties, then the relevant homicide figure (i.e., homicides within MSAs) drops to 14,575 for 2018,<sup>218</sup> which means an average of about 1,200 homicides per month.<sup>219</sup> A 29.6% increase from this baseline for two months would mean about an additional 355 homicides per month—or a total for two months of 710 additional homicides during June and July 2020.<sup>220</sup>

The reasonableness of this estimated figure can be assessed in several ways. As noted at the outset of this article, on August 2, 2020, the *Wall Street Journal* reported on a sharp rise in homicides among the nation's 50 largest cities, reporting that homicides were up 24% so far this year, to 3,612 (up from 2,912 in 2019).<sup>221</sup> Much of the increase appears to have come in the last two months, because homicides were spiking then (the “structural break” identified by Rosenfeld and Lopez). The year-to-year increase of 700 homicides reported by the *Wall Street Journal* for the nation's 50 largest cities corresponds roughly with the estimate figure of 710 homicides for the larger population area identified above.

Another cross-check can come from data from several of the cities discussed above. Chicago has the largest number of homicides in the cities discussed. In June 2020 it suffered 89 murders compared to 50 in June 2019.<sup>222</sup> In July 2020 it suffered 105 murders, more than double the 44 from July.<sup>223</sup> Thus, in those two months, Chicago alone suffered 100 additional murders from what appears to be the Minneapolis Effect. If we assume that 10% of the nationwide Minneapolis Effect occurred in just this one city, then the figure of 710 offered above is (once again) a conservative one.

It is also possible to estimate the number of additional shootings from the Minneapolis Effect. A simple (and conservative) calculation is simply to assume that the Minneapolis Effect operates to produce the same ratio of homicides and shootings as exists in cities today. For example, in Chicago, the ratio of homicides to shootings is more than four to one.<sup>224</sup> Based on a 4:1 ratio, a reasonable estimate of the number of additional shootings caused by the Minneapolis Effect is 2,840 in June and July 2020 (i.e., 710 x 4).

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<sup>217</sup> U.S. DEPT. OF JUSTICE, FEDERAL BUREAU OF INVESTIGATION, UNIFORM CRIME REPORTS: CRIME IN THE UNITED STATES-2018, Table 2, <https://ucr.fbi.gov/crime-in-the-u.s/2018/crime-in-the-u.s.-2018/topic-pages/tables/table-2>.

<sup>218</sup> *Id.*

<sup>219</sup> Since homicides increase seasonably in the summer, this is a conservative assumption.

<sup>220</sup> This calculation assumes, conservatively, that there were no increased homicides in the last week of May. And, of course, the calculation does not include months following July, an issue discussed several paragraphs below.

<sup>221</sup> See Jon Hilsenrath, *Homicide Spike Hits Most Large U.S. Cities: Journal Analysis Shows Double-Digit Increases in 36 of the 50 Biggest Cities Amid Pandemic, Though Other Types of Violent Crime Fell*, WALL ST. J., Aug. 2, 2020, <https://www.wsj.com/articles/homicide-spike-cities-chicago-newyork-detroit-us-crime-police-lockdown-coronavirus-protests-11596395181>. The article reports that the total of 3,612 was up 24% from 2019, from which the figure of 2,912 is derived.

<sup>222</sup> Emmanuel Camarillo & Sam Kelly, *Murder, Shooting Up, Overall Crime Down Halfway Through 2020*, CHI. SUN TIMES (July 1, 2020), <https://chicago.suntimes.com/crime/2020/7/1/21309399/june-crime-stats-chicago-police-david-brown-homicides-murders>.

<sup>223</sup> Paige Fry, *Nearly 40 People Shot in Chicago over the Weekend as July Goes Down as Most Violent Month in 28 Years*, CHI. TRIB. (Aug. 3, 2020), <https://www.chicagotribune.com/news/breaking/ct-weekend-shooting-20200803-xkev64unvdijfzboyyn4vowly-story.html>.

<sup>224</sup> See Eric Levenson & Jason Hanna, *Chicago's Homicide Rate Decreases for the Third Straight Year*, CNN (Dec. 31, 2019) (reporting Chicago suffered about 490 homicides and 2,139 shootings in 2019, a ratio of 4.36 shootings for every homicide), <https://www.cnn.com/2019/12/31/us/chicago-murders-drop-2019/index.html>.

Another issue is the distribution of the Minneapolis Effect. As noted above, the increase in homicides is not spread evenly across residents of the cities analyzed above but rather appears to be disproportionately concentrated in Black and Brown communities. Based on the cities for which I have been able to find data, it appears that more than 80% of the victims of the increase in homicide are minority victims. This concentration of victims is consistent with position that some observers have advanced that “demonizing the police” will disproportionately harm the poor and minorities.<sup>225</sup>

Beyond the size of the Minneapolis Effect, another significant question is how long will the Effect last. The apparent triggering event—the protests following George Floyd’s death—will presumably dissipate, at least to some degree, over time—as shown through mid-August in Figure 26 above. But it is also possible that protests will continue as new instances of alleged police violence against Black men occur, such as the police shootings of Tony McDade in Tallahassee, Florida, on May 27, 2020; Momodou Lamin Sisay in Snellville, Georgia, on May 29, 2020; Kamal Flowers in New Rochelle, New York, on June 6, 2020; Rayshard Brooks in Atlanta on June 12, 2020; Kevan Ruffin in Sheboygan, Wisconsin, on July 2, 2020; David Earl Brooks in Roxboro, North Carolina, on July 27, 2020; Salaythis Melvin in Orlando, Florida, on August 7, 2020; Anthony McClain in Pasadena, California, on August 15, 2020; Trayford Pellerin in Lafayette, Louisiana on August 21, 2020; Jacob Blake in Kenosha, Wisconsin on August 23, 2020—each of which led to subsequent anti-police protests.

Another factor to consider is possible police responses to de-policing, such as efforts to ramp up enforcement efforts against gun violence. In Chicago, for example, at the end of July, the Chicago Police Department began deploying a “Community Safety Team” designed specifically to combat the rise in shootings and homicides.<sup>226</sup> This team was designed to focus on shooting “hot spots” in an attempt to prevent gun violence. The team will not only supplement existing law enforcement efforts but will also engage in regular community projects. At the same time, a new Critical Incident Response Team was developed to handle large protests, avoiding the need to redeploy officers from other areas. The early results of these responses appear to be positive. While July 2020 was the deadliest month in recent Chicago history, with 107 murders, in August 2020 homicides declined to 63—still 28.5% above August 2019 but still a significant improvement from the previous month.<sup>227</sup> To be clear, a month in which 503 people were shot, 63 of them fatally, is still a horrific toll. But the positive trend is important to recognize.<sup>228</sup>

As another example, in New York City, beginning on August 31, police increased weekend patrols citywide, in response to the rise in shootings.<sup>229</sup> Police Commissioner Shea indicated that the new staffing policy would give the department flexibility to place more officers on street patrols when they were most needed, an “all-hands-on-deck” approach. How well this will work remains to be determined.

Not all of the countermeasures to spiking gun violence have involved on-the-street policing. For example, in Philadelphia at the beginning of August, a Group Violence Intervention program was launched,

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<sup>225</sup> See, e.g., Paul H. Robinson, *Demonizing Police Costs Black Lives*, NEWSWEEK (June 28, 2020), [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=3638553](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3638553).

<sup>226</sup> Dan Hinkel & Jeremy Gerner, *As Violence Surges, Chicago Police Try a New Version of an Old Solution. Can It Work?*, CHI. TRIB. (July 31, 2020), <https://www.chicagotribune.com/news/criminal-justice/ct-chicago-police-strike-force-20200731-xwgm73impzfvllhhfvfu6suea7u-story.html>

<sup>227</sup> Carly Behm & Jermaine Nolen, *Summer Violence Drops in August, but Murders up 50% from 2019: CPD*, CHI. SUN TIMES (Sept. 1, 2020), <https://chicago.suntimes.com/crime/2020/9/1/21409706/chicago-monthly-crime-stats-august-2020>.

<sup>228</sup> The decrease might also be due to increased federal law enforcement efforts as part of “Operation Legend,” as discussed below.

<sup>229</sup> Ben Chapman, *New York City Police to Increase Weekend Patrols in Response to Violence*, WALL ST. J. (Aug. 26, 2020), <https://www.wsj.com/articles/new-york-city-police-to-increase-weekend-patrols-in-response-to-violence-11598467848>.

targeting the small number of city residents viewed as responsible for the shootings.<sup>230</sup> The program attempts to get gang members to sit down for small group discussions with police, probation officers, and community leaders. The discussions are designed to interrupt a cycle of deadly violence by sending a message that shootings must stop. At the same time, the discussions threaten collective enforcement if the violence does not stop. As of this writing, it is unclear if the program will be successful.

This article has focused on local policing, but in some cities a federal response may also be involved. On July 8, 2020, the Justice Department announced the launching of “Operation Legend,” named after a four-year-old boy (LeGend Taliferro) who was killed by gunfire while asleep in his Kansas City home. The operation involves bringing a surge of federal agents, working closely with local police, to focus on violent crime in nine U.S. cities (including, particularly relevant to this article, Chicago and Milwaukee). Again, it is hard to tell what the ultimate impact on homicide and shooting rates will be, but the effort has resulted in 1,000 arrests (including suspects in 90 homicides) as of August 19, 2020.<sup>231</sup> And beyond Operation Legend, federal-state “task forces” have been formed or expanded, also leading to an increase in federal (and state) prosecution of gun offenders.<sup>232</sup>

With all of these conflicting forces in play, it is difficult to say how long the Minneapolis Effect may last. And, of course, since many of the forces in play—particularly the countermeasures—will vary from city to city, it may be that a Minneapolis Effect lingers much longer in some cities than others. Hopefully, of course, the Minneapolis Effect will disappear quickly. But at this point, it is difficult to say much more than that only time will tell.

## **XI. Cautions About the Minneapolis Effect**

The analysis offered above must necessarily be tentative, for multiple reasons. Of course, to the extent that the analysis here relies on the Rosenfeld-Lopez Report (or other similar analyses, such as that prepared by the *Wall Street Journal*), the cautions applicable to those sources are equally applicable here. For example, the Rosenfeld-Lopez Report draws on a limited number of cities for the study sample, raising the issue of whether the trends observed in the sample extend to other cities as well.

All of the usual cautions about crime and policing data also necessarily apply to the data on which this article relies. Of particular salience, it has often been observed that we lack good data about what police officers really do while they are on the job and how what they do affects crime rates.<sup>233</sup> This article thus necessarily relies on imperfect data for measuring “proactive” policing. More precise (and comprehensive) measures are unavailable. This article also relies on the general thrust of research about the effects of proactive policing on gun crimes. But that research is not definitive and does not yet give law enforcement agencies or the public precise guidance on how effective proactive policing is.

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<sup>230</sup> Aaron Moselle, *When It Comes to Its Gun Violence Epidemic, Philly is Struggling to Control the Spread*, WHYY-PBS (Sept. 3, 2020) (reporting that during July and August, 156 illegal firearms were seized and 22 individuals charged with federal firearms violations and related crimes by the federal-state Twin Cities Violent Crime Task Force in the Minneapolis area), <https://whyy.org/articles/when-it-comes-to-its-gun-violence-epidemic-philly-is-struggling-to-control-the-contagion/>.

<sup>231</sup> Kevin Johnson, *Barr Announces 1,000 Arrests, Including Suspects in 90 Murder Under Operation Legend*, USA TODAY (Aug. 19, 2020), <https://www.usatoday.com/story/news/politics/2020/08/19/william-barr-operation-legend-arrests-murder-suspects-cities-kansas-city/3399127001/>.

<sup>232</sup> See, e.g., Update on Twin Cities Violent Crime Task Force, U.S. Attorney’s Off. for the Dist. of Minn. (Aug. 7, 2020), <https://www.justice.gov/usao-mn/pr/update-twin-cities-violent-crime-task-force-0>,

<sup>233</sup> For a recent account of the issues in popular media, see Jeff Asher & Ben Horwitz, *How Do the Police Actually Spend Their Time?*, N.Y., TIMES (June 19, 2020), <https://www.nytimes.com/2020/06/19/upshot/unrest-police-time-violent-crime.html>; Baughman, *supra* note 66 (discussing the low crime solving rates of police—less than 10% arrest and clearance rates in several years—when accounting for unreported crimes).

It is also important to underscore the limited focus of this article. This article contends that a Minneapolis Effect is the cause of the recent homicide spikes. Even assuming that this article has been successful in providing that explanation, this article does not attempt to adumbrate all of the reasons why policy makers might nonetheless be concerned about the proactive policing and the consequences that can ensue from aggressive police work—for example, the possibility of increasing distrust of the police in minority communities.

In addition, the Minneapolis Effect discussed here began to manifest itself only about three months ago—a very limited time in which to collect data and discern trends. And the Effect manifested itself in the middle of the on-going COVID-19 pandemic, a major disrupter that complicates an already difficult enterprise of identifying trends over time.

Carefully recognizing these problems, the Rosenfeld-Lopez Report presents its data on the homicide spikes (through June 2020) and then warns that “[i]t is too early to draw strong inferences about the causes of the recent rise in urban violence . . . .”<sup>234</sup> At some general level, this caution is surely correct. The data that is streaming in from the nation’s cities has yet to be fully analyzed and trends that may seem obvious today may disappear with the arrival of new data tomorrow.

Finally, perhaps the major caution that necessarily applies to this article is that causality of events is very difficult to prove. This article collects evidence that de-policing in the wake of the George Floyd death caused homicides of more than 700 people and led to the shooting of more than 2,800 others. As with other social science research,<sup>235</sup> drawing such an inference necessarily involves a combination of quantitative and qualitative methods that will never be able to “prove” causation beyond a reasonable doubt. All the conclusions in this article are necessarily tentative—and subject to need for further research, as discussed in the next section.

But simply because the conclusions here are necessarily subject to debate should not serve as an excuse for policy paralysis, a point also made in the conclusion of the Rosenfeld-Lopez Report. Important decisions are being made daily in this country about policing, and particularly about responding to the tragic homicide spikes. These decisions can have, quite literally, life or death impacts depending on whether they are successful.<sup>236</sup> Those decision need to be made *now*—based on what we know *now*. The implications for the policy makers from the evidence collected here are discussed in the next section.

## **XII. Policy Implication**

The data presented in this paper suggests several important policy implications. The first is an obvious one—that we need more research on the current homicide spikes and whether a Minneapolis Effect or something else is causing them. It is hard to think of a criminal justice issue in recent years that has greater importance than this one. In just the last several months, hundreds of additional homicides and thousands of additional shootings have been committed across the country. The suddenness and abruptness of these widespread spikes appear to be more substantial than any crime surge that the nation has suffered recently.<sup>237</sup> To be sure, even after the recent spikes, overall homicide levels may end up being below the

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<sup>234</sup> Rosenfeld & Lopez, *supra* note 2

<sup>235</sup> See generally DAVID A. FREEMAN, STATISTICAL MODELS AND CAUSAL INFERENCE: A DIALOG WITH THE SOCIAL SCIENCES (2010).

<sup>236</sup> Of course, to the extent that those responses increase the risk of a lethal response by police, the issues involved become even more complicated.

<sup>237</sup> Cf. Andrew P. Wheeler & Tomislav V. Kovandzic, *Monitoring Volatile Homicide Trends Across U.S. Cities*, 22 HOMICIDE STUD. 119 (2017) (cautioning that high percentage rate changes in particular cities are not necessarily unusual in U.S.).

levels suffered in some earlier years, particularly during the early 1990s when America's homicide levels were near all-time highs.<sup>238</sup> But for criminal justice researchers, understanding why lethal gun violence is accelerating so dramatically in America right now should be a top priority—indeed, *the* top priority.

The questions that need to be researched include determining the size of the homicide spikes—and comparing those increases to other crime categories, including shootings, aggravated assaults, and other violent crimes. The distribution of the spikes, both as to the communities affected and the geographic distribution (urban versus rural) may shed light on the causal factors.

Another important research topic is the countermeasures that are being deployed in various cities. These countermeasures may provide something of a natural experiment about how to combat homicides and shootings. For example, as just discussed, some cities are looking to “hotspot” policing while others are trying to interrupt violence through social interventions. As another example, federal law enforcement task forces have been deployed to nine cities where homicide spikes have been particularly high. These varying approaches may provide some sense of which options are most effective in dealing with lethal gun violence. Policy makers need to know about whether any of these programs are working to reduce gun violence.<sup>239</sup>

In researching these questions, investigators should take advantage of recent improvements in the speed with which data is available. One of the remarkable things about the recent homicide spikes is how quickly data are being made available. The Rosenfeld-Lopez Report, for example, was published in July 2020 with data current through (for many cities) June 2020. Public data portals are also available in many cities, and aggregators of that data (such as [citycrimestats.com](http://citycrimestats.com), from which many of the charts used in this article are drawn) also exist. We seem to have entered a new age of nearly instant data availability, which hopefully should also lead to quicker understanding of developing crime trends. Previously, articles like this one simply could not have been written so quickly after the events that they were describing. Criminal justice researchers should take advantage of this explosion in available data to rapidly determine what is happening and pass along these conclusions to policy makers.

A second implication is also a seemingly straightforward one: the nation's homicide spikes need to be more widely discussed, as difficult tradeoffs may exist.<sup>240</sup> One of the implications of this paper is that anti-police protests, designed to help protect residents of minority communities, may in fact be leading to increased homicides and shootings within them.<sup>241</sup> This article has collected evidence that, as police have been re-deployed to the protests—and as they have pulled back from proactive policing—the result has been an increase in homicides and shootings. To be sure, as emphasized above, this suggestion is necessarily tentative. But it appears that some media and policymakers may be unwilling to candidly raise this possibility in discussions about the protests, preferring instead to focus exclusively on instances of alleged police violence. While the focus of this paper has not been on examples of police misconduct, nothing here should be taken as minimizing concern about them or discouraging a robust national conversation about how best ways of policing the police. But that said, surely it is in the best interests of the country to also have a full discussion about the tradeoffs that may result from de-policing if police are re-deployed or step

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<sup>238</sup> See generally BARRY LATZER, *THE RISE AND FALL OF VIOLENT CRIME IN AMERICA* (2016).

<sup>239</sup> See Aaron Moselle, *When It Comes to Its Gun Violence Epidemic, Philly is Struggling to Control the Spread*, WHYY-PBS (Aug. 20, 2020) (noting that city officials were unable to provide Philadelphia council members with specific information about the success of anti-violence programs), <https://whyy.org/articles/when-it-comes-to-its-gun-violence-epidemic-philly-is-struggling-to-control-the-contagion/>.

<sup>240</sup> Cf. THOMAS ABT, *supra* note 70, at loc. 479 (“When it comes to violent crime in America's cities, the reality is that most people are woefully unaware of what actually keeps the peace in urban America.”).

<sup>241</sup> Cf. Ronald J. Allen & Larry Laudan, *Deadly Dilemmas*, 41 TEX. TECH. L. REV. 65, 68 (2008) (discussing tradeoffs between advantages and disadvantages of criminal prosecution).

back from vital anti-gun crime efforts<sup>242</sup>—i.e., the possibility that more people may be shot or killed, particularly in disadvantaged minority communities.

A similar reluctance to discuss pros and cons seems to have occurred in Chicago, during the months leading up to and surrounding the 2016 homicide spike. As Professor Fowles and I discuss in our earlier article, the Chicago Police Department (CPD) and the ACLU entered into an agreement designed to, among other things, reduce the number of stop and frisks in the city. In the wake of that agreement, the number of stops declined precipitously and the CPD may have pulled back from “hot spot” policing focusing on gun crimes in minority neighborhoods.<sup>243</sup> Proceeding from some premises, these results could be regarded as “success.” But the resulting lethal homicide spike in Chicago certainly must be weighed in the balance of any realistic cost-benefit calculation. So too, in recent months, more fulsome discussion about the expected benefits—and costs—of police officers pulling back needs to be part of the public discourse.

A final and important implication of the analysis presented here is that caution is warranted before any “defunding” of police occurs that could reduce proactive policing. To be sure, police defunding advocates may have been saddled with an unfortunate term that fails to properly describe their objectives. Defunding police is an umbrella concept that can capture a variety of reforms, such as recognizing that some tasks assigned to police (e.g., dealing with persons with mental illness) may be better assigned to other social service agencies.<sup>244</sup> But some defunding advocates have urged significant reductions in traditional policing efforts—reductions that would reinforce and make permanent the kind of de-policing that appears to have recently taken place across America’s cities. The consequences of that de-policing—the Minneapolis Effect—appear to have been shocking increases in homicides and shootings. These consequences need to be carefully considered in any calculus weighing costs and benefits of reducing policing efforts.

### **XIII. Conclusion**

Homicides and shootings have spiked across the country, beginning in late May and continuing through June and July 2020. Why this has happened is a vital criminal justice issue with truly life-and-death implications. This article takes advantage of the fact that crime data and other information from public agencies is now readily available in “real time.” The quantitative data and qualitative evidence strongly suggest that a “Minneapolis Effect” has struck—i.e., in the wake of anti-police protests following George Floyd’s death in Minneapolis, police officers are being re-deployed from anti-gun efforts and are retreating from proactive law enforcement tactics. This reduction in law enforcement efforts targeted at firearms crimes has led, perhaps predictably, to an increase in firearms crimes.

This article attempts to quantify the size of the Minneapolis Effect, estimating that about 710 more homicides and 2,800 more shootings resulted because of reduced policing in June and July alone. And the victims of these crimes are disproportionately Black and Brown, often living in disadvantaged and low-income neighborhoods.

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<sup>242</sup> Cf. Erika R. George, Recent Development, *The Fourth Amendment’s Forcing of Flawed Choices: Giving Content to Freedom for Residents of Public Housing*, 30 HARV. C.R.-C.L. L. REV. 577 (1995) (discussing importance of full and fair discussion of tradeoffs in public housing context).

<sup>243</sup> Cassell & Fowles, *supra* note 39, at 1650-59.

<sup>244</sup> See, e.g., Taled El-Sabawi & Jennifer J. Carroll, *Defund and Replace the Police: A Model Act for a Behavioral Health Crisis Response Team*, <https://www.ssrn.com/abstract=3683432>. Cf. Rashawn Ray, *What Does “Defund the Police” Mean and Does It Have Merit?*, Brookings Inst. (June 19, 2020) (describing objectives of “defund the police” reform effort), <https://www.brookings.edu/blog/fixgov/2020/06/19/what-does-defund-the-police-mean-and-does-it-have-merit/>.

While these estimates are stated in the cold precision of an economic calculation, it must be remembered that behind these grim numbers lies a tremendous toll in human suffering—lives lost, futures destroyed, and families left grieving. Understanding the nation’s recent—and on-going—homicide spikes requires urgent attention. And even more urgently, the nation needs to consider all possible responses to this tragedy, including responses that involve increased and proactive law enforcement efforts directed at combatting gun violence.