

1 Introduction

“On the Other Side of Now” . . . by Brian N. Williams

I am perplexed . . . What happens on the other side of now?

What lessons will we learn?

What reforms will be considered and discussed?

Who will be involved in this process? What will their level of involvement be? Who will decide?

What resources will be suggested? Recommended? Appropriated? Allocated? Used?

Where will those resources come from?

How will police policies, procedures and practices change?

In spite of my perplexity, I am hopeful . . .

When I recall the images of the beautiful and heart lifting mosaic of black, white, brown, he, she, we, they, trans, straight, gay, bi, queer, single, married, divorced, partner, Christian, Muslim, Jewish, Sikh, Hindu, Buddhist, agnostic, atheist, questioning, rural, suburban, urban, local, national, continental, global marching and protesting mass of shared humanity.

Yet, in the face of my hope, I am concerned . . .

When this news cycle ends, how long will we remember?

If another incident occurs, what happens then?

How much more disappointment and pain can we take?

How much longer can dreams be deferred and justice be denied?

What happens after the events of then?

Regardless of my concerns, I am resolute . . .

I must and we must embrace, lean in to, and act because of the urgency of now!

1.1 The Backdrop

The ultimate measure of a man is not where he stands in moments of comfort and convenience, but where he stands at times of challenge and controversy.

– Martin Luther King, Jr.

We are living in a time of challenge and controversy – not one of comfort and convenience. The events of 2020 reflect the emergence and reemergence of wicked problems (Head, 2008) that impact public policy and professional practices. These problems are invisible, yet visible, perplexing and pernicious, complex and intractable. The convergence and coupling of past and present viruses, racism, and COVID-19 crises have created what some describe as a pandemic within a pandemic.¹ Both viruses are highly contagious, imperceptible, hidden,

¹ Sheryl Gay Stolberg, 2020. “Pandemic within a pandemic”: Coronavirus and police brutality roil black communities.” *The New York Times*.

and deadly. Vaccines have not been developed to prevent or cure them, but strategies are emerging that limit their effects. One advocates social distancing as a mitigating approach; the other requires social engagement as a moderating stratagem, where more meaningful interactions can lead to deeper understanding and appreciation for the other. We are at a nexus, stopped at the intersection of past and present. Trying to gather our wits, still our hearts, minds, and bodies. We are troubled and tired, anguished and anxious, worried about what is on the other side of now.

We have arrived at a defining moment (Badaracco, 1997) in time. We are at a time for much-needed inquiry and analysis, a time of oppositional debate and collaborative dialogue. We are at a time of discovery and revelation; a time that exposes who we are and what we value. We have arrived at a time that requires introspection – at the individual, organizational, institutional, societal, and global level.

Much like the seminal work of Dickens (2007), we are at the best and worst of times, trying to make our way during this age of wisdom and foolishness; belief and incredulity; of Light and darkness; of hope and despair. We are at a time of technical rationality. Yet, at these crossroads, we have an opportunity to be recalled to life.

Our legacy on the other side of now has yet to be determined. We are still musing which path to take. Going back won't work – because that is a path where the past will serve as prologue. Do we turn left, right, or go blindly ahead? Or, do we critically evaluate the historic harms of our past, appreciate how those have impacted our present, and then chart a new course in our navigational devices and blaze a new trail?

This Element inspires policy makers, public and nonprofit administrators, students of public affairs, and members of the mass, general, and attentive publics to embrace and lean in to this opportunity to contemplate, interrogate, discuss, and decide where do we go from here. We can be proactive in a coactive way. We don't have to be reactive – an ounce of prevention is better than a pound of cure. With the cocreation of just and equitable, intentional and meaningful public policies, supported by professionals and members of the public who are compassionate actors who codesign policies, programs, and services, we can coproduce efforts that lead to better communities. There can be a brighter future on the other side of now. But it depends upon us.

1.2 The Mattering of Lives?

What happens to a dream deferred? What happens when justice is denied? What inner-city blues² emerge? Does it make you wanna holler?

² Marvin Gaye, 1971. "Inner City Blues (Make Me Wanna Holler)."

What happens when deaths of unarmed black and brown men like George Floyd, Sean Monterrosa, Eric Garner, and others occur while in police custody? What happens when black citizens like Botham Jean, Breonna Taylor, and Atatiana Jefferson are shot and killed by police inside their own residences?

What happens when black and brown men who are in their cars, like Mike Ramos, Philando Castille, Erik Salgado, and Samuel DuBose, are fatally shot during a nonthreatening traffic stop? What happens when black boys like Tamir Rice, Antwon Rose, and Laquan McDonald lose their lives from encounters with police? What happens when the world watches the intentional actions of homicidal officers – the firing of eight fatal shots at Walter Scott or the casual kneeling on the neck of a “suspect” by an officer and the subsequent inactions of three others that lead to the death of a man?

What happens to public trust and confidence in the profession of policing and in the criminal justice system? What happens to the morale of officers? What happens to the social fabric of America?

What happens when we see lives in black, brown, white, and blue? Do the lives of those who are white and black in blue matter more than the lives of those who are black or brown? What’s going on?³

During 2020, we witnessed what happened when peoples’ hopes and wishes waxed and waned. Out of the despair and darkness of that moment, a ray of light appeared. The lives of the socially constructed, historically marginalized, oppressed, and criminalized seem to finally matter after protests propelled discussions to modify police policies and practices.⁴ Change is in the air and some change – like reallocating police resources in New York City, engaging with members of the public to reimagine and reorganize some police departments, and dismantling the Minneapolis Police Department – has occurred within the profession of policing. But will these and related efforts be enough? Will they be replicated and sustained across law enforcement agencies? After the urgency of the present, what will happen when the media attention is no longer there? Will the black and brown lives that are not in blue matter on the other side of now?

1.3 Excessive Use of Force: A Wicked Problem and Its Environment

Police departments are essential in supporting the American concept of democracy. They have been tasked with protecting life, liberty, and property, and in order to carry out their official duties, police have a monopoly on enacting the state’s

³ Marvin Gaye, 1971. “What’s Going On.”

⁴ Lindsey Van Ness, 2020. Protests prompt policing changes, but skeptics doubt they will be enough. *PEW Charitable Trusts*.

legitimate use of force (Weber, 1994). Police officers, as street-level bureaucrats, have discretion in carrying out their responsibilities, which create individual dilemmas that can impact a department and a profession (Lipsky, 2010).

Use of force is associated with the amount of effort required by police to induce compliance by an unwilling person. This concept is linked to a continuum that includes basic verbal commands, physical restraint, less-than-lethal force, and lethal force. It is commonly agreed upon that police officers should limit the use of physical force to that which is necessary to mitigate an incident, make an arrest, or protect themselves or others from harm (Alpert & Dunham, 2004). In essence, use of force is an officer's last option to restore safety within a community when other measures fail. Yet, the level of force that an officer uses will vary due to the situation and his or her discretion. The discretion used by officers has been shown to be deadly in some encounters and highlight the failure of police use of force policies (University of Chicago Law School – Global Human Rights Clinic, 2020).

This Element centers on excessive use of force in the context of racialized policing. Even though there is no universally agreed upon definition of use of force, this concept has been critiqued for lacking basic protections for segments of the public against police violence. Shortcomings have been identified that include:

- Failing to require officers to deescalate situations;
- Failing to require officers to intervene and stop excessive force;
- Failing to restrict officers from shooting at moving vehicles;
- Failing to develop a force continuum that limits the types of weapons and force used to respond to specific types of resistance;
- Failing to request officers to give verbal warning and exhausting other reasonable means prior to resorting to deadly force;
- Failing to require that officers report each time they threaten or use excessive force; and
- Permitting officers to choke or strangle civilians.

These failures jeopardize the standing of the police as guarantors of bedrock values of American society, like promoting domestic tranquility and assuring justice that are embedded within the Preamble of the US Constitution and highlight the challenging, and in some respects, impossible job that police departments and officers have (Morrell & Currie, 2015).

Police departments operate in the midst of a socially complex, wicked problem environment (Conklin, 2006). They are expected to address complicated and thorny issues but are challenged by lack of information, an incomplete understanding of the problem and its related symptoms, limited resources, and

differing and conflicting perspectives of stakeholders with no commonly agreed-upon strategy to mitigate this issue. As public organizations, police departments operate within an open system, impacted by a web of politics, and face challenges associated with polycentricity (Grandage, Aliperti & Williams, 2018). They produce outputs like number of contacts with citizens or residents, citations written, arrests made, and cases solved that are easily quantifiable and might resonate with certain segments of the public but, in many respects, are controversial to other segments. These outputs impact public perception for the worse, especially along the American color spectrum – from black to white. Public opinion polls show that in light of recent events, favorable opinions of the police have significantly decreased across all races. Results from the Democracy Fund + UCLA Nationscape Project survey show a decrease in favorability from 47 to 38 percent of black respondents and 72 to 61 percent of white respondents (Morin, 2020). Similarly, results from the ABC News and Ipsos poll indicate people are also realizing that these events are not isolated incidents: 74 percent of respondents now agree that the deaths of George Floyd and others are representative of a greater issue (Jackson & Newall, 2020).⁵

Police departments also produce outcomes that are much more difficult to measure. These outcomes are very visible and can produce a visceral reaction. The deaths of George Floyd, Breonna Taylor, and others are dystopian outcomes that have led to global protests. Contemporary reactions may be the result of a gradual and growing outrage. Protests may be in response to the fear that America's past is prologue, considering that police interactions with black and brown people seem to perpetuate and propel the historical narrative that black and brown bodies, like black and brown lives, still don't matter. This disheartening suspicion has had a crescendo effect – that justice delayed is justice denied.

1.4 The Search for Justice as a Sisyphean Task

The current state of police-community relations is precarious due to a growing demand that America lives up to its ideals – that black and brown Americans are valued too. It's been nearly sixty years since Dr. Martin Luther King, Jr.'s famous speech in Washington. Yet, his poignant words ring true today.

In a sense, we have come to our nation's capital to cash a check. When the architects of our republic wrote the magnificent words of the Constitution and

⁵ Chris Jackson and Mallor Newall, 2020. Americans overwhelmingly view Floyd killing as part of larger problem. *ABC News/Ipsos*.

the Declaration of Independence, they were signing a promissory note to which every American was to fall heir.

This note was a promise that all men, yes, black men as well as white men, would be guaranteed the inalienable rights of life, liberty, and the pursuit of happiness.

It is obvious today that America has defaulted on this promissory note insofar as her citizens of color are concerned. Instead of honoring this sacred obligation, America has given the Negro people a bad check, a check which has come back marked “insufficient funds.” But we refuse to believe that the bank of justice is bankrupt. We refuse to believe that there are insufficient funds in the great vaults of opportunity of this nation. So, we have come to cash this check – a check that will give us upon demand the riches of freedom and the security of justice.

Black and brown people are still waiting to cash their check. Funds are still insufficient. Deaths from benign encounters cannot be explained. Consequently, the search for justice and its security remains to many, a Sisyphean task.

Much like the Greek mythical figure King Sisyphus, people of color seem to be punished perpetually – forever rolling a boulder up a hill from the depths of Hades. Whenever it seems that progress is being made – after the death of America’s first patriot and freedom fighter Crispus Attucks, after the war over slavery, after valiantly serving in the great world wars, after the civil rights movement, after the election of the first black president – the boulder rolls back into the depths of the hellish place that some see America as continuing to be. The cycle is repeated. There seems to be a symmetry or consistency between the experiences of America’s past and its present. But unlike King Sisyphus, who twice cheated death and was infamous for his chicanery, the punishment exacted upon black and brown people is undeserved and, in some instances of encounters with police, is life ending.

1.5 At the Intersection of Past and Present

The haunting, painstaking plea of “I can’t breathe”⁶ reverberates – from Eric Garner in Staten Island, New York, to George Floyd in Minneapolis, Minnesota, to Manuel Ellis in Tacoma, Washington. It attunes the ears and fixes the eyes on the problem of excessive and, in these instances, deadly use of force by those sworn to serve and protect.

“I can’t breathe” echoes and now brings to the forefront of a global consciousness audible and visual evidence from the not-so-distant past and even in the present. Bygone voices have expressed similar sentiments but were not believed. Expressions akin to “I can’t breathe” like “I can’t live where I would

⁶ H.E.R., 2020. “I Can’t Breathe.”

like to live,” “I can’t go to school where I would like to go to school,” “I can’t get the job that aligns with my credentials,” or “I can’t get the wages that are due me because of my skin color or gender” have gone unheard from the invisible, minoritized, marginalized, and dehumanized commodities before the rebellion for slavery and beyond.

“I can’t breathe . . .” yet echoes in the land of utopia – the focal location of democracy and its theoretical values of individual rights, the pursuit of happiness, and justice for all. America. Its exceptionalism and emphasis on meritocracy. America. The place where unpaid and underpaid labor⁷ has had a transgenerational impact on black people in particular. America. The focal location and laboratory for the great social experiment. In this place of utopian declarations, the dystopian cry of “I can’t breathe . . .” continues. A cascading cacophony flowing from the American past to the American present. Unmelodious. Discordant. Noise. White noise. Silence. In the land of the free⁸ yet another black man is in the bag and another stain is on its flag.

This plaintiff cry for help, for assistance, for recognition of humanity to other humans has been rebuffed, rejected, unheard, disregarded – disgustingly so by some elected and appointed public servants, by politicians, and by professionals across the criminal justice system. This seems to be the case when wails come from minoritized, marginalized, and historically harmed populations like members of the African American community. The unresponsiveness from some of those who have sworn an oath and embraced a code to protect and serve is most disheartening. Those directly involved and others in their complicity have rejected the principles of democratic policing as articulated by Sir Robert Peel.

But others have heard the plaintive cries for help. Like the lyrics of one of Bob Marley’s songs of protest, people are getting up and standing up for their rights.⁹ The cries arise from the protests of locals in cities, towns, and hamlets large and small across the United States to the gatherings of globals in countries and time zones that span the spaces and places of this earth that we share. American society is now resting at the intersection of the preceding and the existent. At this intersection choices will have to be made: Evolution or revolution? Reform or riots? To defund and divest or to deconstruct and reconstruct? Where do we go from here? Will a phoenix arise from these ashes? Will peace be found, stilled, and settled out of this storm? No more water . . . will there be more fire the next time?¹⁰ Out of this darkness, will light appear? What happens on the other side of now?

⁷ Danyelle Solomon, Connor Maxwell, and Abril Castro, 2019. Systemic inequality and economic opportunity. *Center for American Progress*.

⁸ The Killers, 2020. “Land of the Free.” ⁹ Bob Marley, 1973. “Get Up, Stand Up.”

¹⁰ James Baldwin, 1963. “The Fire Next Time (read by Jesse L. Martin).”

1.6 Goal, Resulting Approach, and Distinctiveness of Element

Race, Policing, and Public Governance: On the Other Side of Now will answer these questions by drawing upon

- the theoretical underpinnings of representative bureaucracy, network science, and cocreation and coproduction of public value;
- an approach that examines the past to understand the present and plan for the future;
- a review and unpacking of case law related to police use of force; and
- the wisdom of formal and informal community leaders, secondary and post-secondary students, and police practitioners and executives.

It offers directions and shares a pathway that can have a positive impact on relational policing efforts on the other side of now. The Element examines the past to understand the present-day impact on race, policing, and public governance. It is designed for use in the classroom, training academy, and the community to help students with a passion for public affairs, to encourage community residents involved in advocacy and action, and to motivate policy makers and police practitioners to engage collaboratively with others in understanding and addressing the problem of excessive use of force and reimagining policing. Our intent is to speak across audiences and cultures: the young, the old, the in between; those whose humanities come in shades of black, brown, and white; those who reside at the local, regional, national, continental, and global levels.

Our approach to this Element is unique. It provides an opportunity for us to model what we research and what I as a professor teach and preach: the importance of coupling members of the public with the police in reimagining and redesigning public safety, in cocreating and coproducing community well-being. Our Element takes a similar approach. It identifies, assembles, marshals, and manages needed resources, including persons from different backgrounds and experiences to assist in recognizing and acknowledging the problem and managing with sensitivity the process to develop a plan of action that mitigates that problem.

Our approach to coauthorship – coupling students at the University of Virginia with a relatively more senior researcher and scholar in problem identification, problem understanding, and mitigation – serves as a model. Our method demonstrates what we value and practice: diversity, equity, and inclusion. It encourages and actualizes the facilitation and resulting impact of a collaborative approach to knowledge, intellectual power, and freedom to act upon a shared sense of knowledge and intellectual power.

So, what lies ahead? In Section 2, we highlight the theoretical connections that guide our efforts. Attention is devoted to representative bureaucracy, network science, and cocreation and coproduction. A review of what takes place at the interplay of race, policing, and public governance will then ensue. This will allow for an examination of the past and how that past has a presence in the present while providing an opportunity for a discussion of future prescriptions.

The Element then segues into exploring the implications for the future. Special emphasis is placed on the profession of policing, new directions for research, the public policy-making process in the context of police reform, the governance challenge facing public management and, for pedagogical processes, to better prepare prepublic and nonprofit students in postsecondary institutions. We conclude the Element with a clarion call to action, followed by an epilogue, and finally an appendix with teaching aids for instruction that lists songs of “progress,” a link to a perspective-taking video, and links to all of the YouTube videos that we have embedded in this Element.

2 Theoretical Connections

We draw upon three strands of scholarship to explore race, policing, and public governance on the other side of now. Those strands are connected to representative bureaucracy, cocreation and coproduction, and network science. Each will be described in the subsequent paragraphs.

2.1 Representative Bureaucracy

The theory of representative bureaucracy concerns how the demographic characteristics of bureaucrats affect the distribution of services to clients who share these same demographic characteristics. For representative bureaucracy to affect an organization, agents of the organization must be able to act with discretion (Schuck, 2018; Baumgartner et al., 2021). Substantial research has been done on the effects of representation in bureaucracy. Many studies focus specifically on the racial profiling of black citizens and the black community’s relationships with law enforcement (Wilkins & Williams, 2008; Nicholson-Crotty et al., 2017; Riccucci et al., 2018; Baumgartner et al., 2021). This area of research is especially relevant to the topic of this Element and salient to the ongoing Black Lives Matter movement.

One important characteristic of representative bureaucracy is the difference between kinds of representation. Extant literature distinguishes between two categories of representation: passive and active. Passive representation focuses on whether the bureaucracy mirrors the demographic dynamics – sex, race,

class, religion – as the population it serves (Mosher, 1982). Active representation is concerned with how representation influences policy making and implementation in terms of the delivery of services (Pitkin, 1967).

Previous research probed the link between passive representation and active representation, specifically how passive representation is translated into active representation (Wilkins & Williams, 2008, 2009; Riccucci et al., 2014; Nicholson-Crotty et al., 2017; Schuck, 2018). Others discussed symbolic representation in terms of how representation affects citizens' judgments of law enforcement actions (Riccucci et al., 2018). All three forms of representation are important to consider when understanding the necessity of representative bureaucracy. However, Wilkins & Williams (2008, 2009) and Nicholson-Crotty et al. (2017) found that organizational socialization can override racial ties and block the transition from passive to active representation, therefore not improving (and potentially worsening) racial profiling through increased representation. Organizational socialization is especially apparent in law enforcement agencies such as police departments, demonstrating that demographic representation is not a panacea for all problems and instead must be understood through its greater context.

Representative bureaucracy is often studied in relation to race (Wilkins & Williams, 2008, 2009; Riccucci et al., 2018; Baumgartner et al., 2021; & Nicholson-Crotty et al., 2017) and gender (Riccucci et al., 2014; Schuck, 2018). Although some studies find that having more diverse police officers decreases the prevalence of racial profiling (Riccucci et al., 2018; Baumgartner et al., 2021), others have found that an increase in representation has little effect (Nicholson-Crotty et al., 2017) or even that it actually increases racial profiling (Wilkins & Williams, 2008, 2009). This disparity in results shows that there are other factors that affect racial profiling and that representative bureaucracy is a complex issue, which deserves more investigation.

Another common topic is the representation of women in police divisions, specifically when related to domestic violence and sexual assault cases (Riccucci et al., 2014; Schuck, 2018). Unlike the mixed results from studies on race and representative bureaucracy, studies on gender representation seem to be more conclusive. Both studies found that an increase in the percentage of female police officers in domestic violence units or on sexual assault cases increased the likelihood of women to report cases of sexual assault or domestic violence and increased the likelihood for sexual assault and domestic violence cases to be cleared. Therefore, increasing female representation led to more reporting and more successful cases (Riccucci et al., 2014; Schuck, 2018).