

Defunding and Refunding: A Harm Reduction Approach to the Police Budget

S I L A S K O U L A C K *

“If you call the cops and say ‘I’m homeless and starving, please help me!’ they are not required to (and most likely will not) help you in any way. But, if someone calls them and says ‘I saw someone taking food out of the trash and sleeping on a park bench!’ they are typically obligated to come arrest you or at least chase you away. And yet, people will swear up and down that policing is an essential service that is designed to protect us. They don’t protect people. They protect property. If you don’t have (enough) property, then your protection does not matter to them.”¹

The explosion of civil unrest around the killing of George Floyd has brought a number of previously radical policy suggestions into mainstream discourse. The seemingly ad hoc and spontaneous nature of these protests has, unfortunately, left little time for the mainstream to explore these ideas with appropriate rigour. Although they were seemingly spontaneous, a long tradition of abolitionist thought has informed these movements. Long-time activists and political groups have amassed significant resources in support of demilitarizing, defunding, and abolishing police. Winnipeg Police Cause Harm (WPCH) is one such

* Silas Koulack is a third-year law student at the University of Manitoba with a B.A. in Conflict Resolution. He grew up on Treaty 1 territory.

¹ Anarchy and D I S C O U R S E, “If you call the cops and say...” (3 November 2018), posted on *Anarchy and D I S C O U R S E*, online: *Facebook* <<https://ifunny.co/picture/anarchy-and-discourse-nov-3-2018-at-pm-if-you-dgWrKhNw7>> [perma.cc/T4SX-THW2].

abolitionist group currently active in Winnipeg, Manitoba. What follows is an exploration of some of the dominant claims by this group, as well as considerations of broad policy suggestions for changes to policing. The main arguments from WPOCH include the idea that policing is a historically violent, colonialist and classist system; that it actively harms the communities in which it operates; that it disproportionately targets marginalized communities; and that the WPS should therefore immediately be defunded with a long-term goal of complete abolition.² Although WPOCH is a relatively new organization, these arguments echo other abolitionist messaging going back decades. This is not intended to suggest that victims of an ongoing crime are not happy to see police arrive. Nor is it intended to disparage the good works of caring officers who have gone out of their way to help those in need. However, a number of reports, both recent and historic, have revealed significant issues with the current manifestation of police. This paper will begin by addressing problems with historical and contemporary policing models. Next will follow an economic analysis of the most efficient way to address harm in the community, specific to the city of Winnipeg. The total social costs of crime are measured against the cost of our current response. The costs of other systems and their potential effects on crime are then calculated to find the most efficient response. Finally, some policy changes will be suggested to address the issues raised.

I. PROBLEMS WITH POLICING

WPOCH has claimed that “There is no empirical evidence that more policing makes people safer. Conversely, police are a violent colonial institution who subject Indigenous and Black people to greater danger of death, injury, harassment, and incarceration – especially those who are homeless, using substances, and/or living with mental health issues.”³

² Winnipeg Police Cause Harm, “@WpgPoliceHarm” (September 2019), online: <https://twitter.com/WpgPoliceHarm?ref_src=twsrc%5Egoogle%7Ctwcamp%5Eserp%7Ctwgr%5Eauthor> [perma.cc/Z9YA-Z98F].

³ Winnipeg Police Cause Harm, News Release, “Members of WPOCH to Oppose Police Budget Increase at Winnipeg Police Board Meeting” (22 November 2019). See also Ross Homel, “Can Police Prevent Crime?” in K Bryett & C Lewis, eds, *Unpeeling Tradition: Contemporary Policing* (Australia: Macmillan, 1994) at 9–10.

In order to understand the colonial nature of policing it is important to understand the history of policing. Contrary to popular belief, police did not appear as a response to crime, and in many cases were only formed during periods where crime was already diminishing.⁴ Leftist critics have suggested that the formation of police was unrelated to crime, but was instead intended to solidify the ruling class's control over various populations and increase state control over social conflict.⁵ The criminalization of what was at the time considered lower class activities such as vagrancy, gambling, and public intoxication add credence to this theory.⁶ Although this certainly is contrary to what we are told the police are for, it is important to look at the effects and not just the goals of the institution.⁷

Before modern policing existed in the common law, crime control was a community responsibility.⁸ Under many Indigenous legal systems, peacemaking was done by respected community members, usually elders, who took a holistic, needs based approach.⁹ The British system evolved from the community based model with the addition of shire reeves (sheriffs) who were directly appointed by the monarch to represent the crown's interests and ensure Norman law was upheld by the recently conquered Anglo-Saxons.¹⁰ As time went on, these systems became more formal. *Topiles* and the night watch are two examples, which existed in Central American Indigenous and English cultures respectively during the

⁴ Peter Gelderloos, *Anarchy Works*, (Little Black Cart, 2010) at 89; Star Editorial Board "Less Crime, More Policing: This Disconnect Must be Fixed", *Toronto Star* (9 June 2020), online: <<https://www.thestar.com/opinion/editorials/2020/06/09/less-crime-more-policing-this-disconnect-must-be-fixed.html>> [<https://perma.cc/Q5TN-3HPL>].

⁵ *Ibid*; Kristian Williams, *Our Enemies in Blue*, (Cambridge, Massachusetts: South End Press, 2007) at 71.

⁶ Gelderloos, *supra* note 4 at 89; Williams, *supra* note 5 at 71.

⁷ Williams, *supra* note 5 at xii.

⁸ *Ibid* at 29.

⁹ Dennis Sullivan & Larry Tiff, *Restorative Justice: Healing the Foundations of Our Everyday Lives*, (Monsey, NY: Willow Tree Press, 2001) at 53-59.

¹⁰ Williams, *supra* note 5 at 30; see Richard J Lundman, *Police and Policing: An Introduction* (New York: Holt, Rinehart and Winston, 1980) at 14-15 for an explanation of the community model.

period of 1200-1750.¹¹ The night watch system, with unhappy, unsupervised, untrained, and often drunk conscripts, underwent a series of changes during the 18th century as a response to these issues.¹² Command hierarchies, wages, and record keeping were all introduced.¹³ In the early 1800s Robert Peel brought together the patchwork watch systems in London under a system based on the one he had implemented in Ireland in 1818 as the War and Colonies secretary.¹⁴ Thus was born the “modern” policing system under common law, from colonial roots based on the repression of Irish Catholics, using ancient systems made for enforcing Norman rule over Anglo-Saxons.¹⁵

Unlike their European counterparts, First Nations had no need to forcibly control large conquered populations and their systems did not adapt to do so. Although different First Nations had different systems, those captured in wars were generally taken in small numbers, and adopted into families.¹⁶ Thus it was only in the 1800s that “modern” policing first came to North America through the colonizing Nations.¹⁷ Here it merged with another system of control; slave catching.¹⁸ Although obviously racialized, these patrols also had a classist aspect, and were responsible for exerting control over poor or disorderly white people.¹⁹

¹¹ Gelderloos, *supra* note 4 at 91; Elaine A Reynolds, *Before the Bobbies The Night Watch and Police Reform in Metropolitan London, 1720-1830*, (Palgrave Macmillan UK, 1998) at 169.

¹² Williams, *supra* note 5 at 31; see also Clive Emsley, *The English Police: A Political and Social History*, 2nd ed (Routledge, 1996) at 9-12 for a history of changes.

¹³ Williams, *supra* note 5 at 31.

¹⁴ Eric H. Monkkonen, *Police in Urban America, 1860-1920*, (Cambridge: Cambridge University Press, 1981) at 37; Eric J Evans, *Sir Robert Peel: Statesmanship, Power and Party*, 2nd ed (New York: Routledge, 2006) at 8-11.

¹⁵ Monkkonen, *supra* note 14 at 37; Evans, *supra* note 14 at 8-9.

¹⁶ “Warfare in Pre-Columbian North America” (April 3, 2018), online: *Government of Canada* <www.canada.ca/en/department-national-defence/services/military-history/history-heritage/popular-books/aboriginal-people-canadian-military/warfare-pre-columbian-north-america.html> [perma.cc/K3AX-QGK2].

¹⁷ Williams, *supra* note 5 at 35.

¹⁸ Dennis C. Rousey, *Policing the Southern City: New Orleans. 1805-1889*, (Baton Rouge: Louisiana State University Press, 1996) at 3.

¹⁹ *Ibid* at 90.

These patrols searched homes and enforced a pass system on Indigenous people, slaves, and debtors.²⁰

As capitalism became entrenched in North America, new challenges rose against the social order. The new industrial working class, as intense critics of the status quo, were marked for police control, regulation, and scrutiny.²¹ The *nouveau riche* needed a system that would insulate them from the riots and protests of the time and redirect the violence and animosity against itself.²² The police became the perfect means for that end. It is hard to otherwise explain the rapid expansion and changes in policing during this time. The dominant narrative around policing seems to be that it arose as a response to exploding crime waves, assuming that “when crime reaches a certain level, the 'natural' social response is to create a uniformed police force. This, of course, is not an explanation but an assertion of a natural law for which there is little evidence.”²³ Nor does this make sense when one considers that civil disruption and harm to the community occurred in Western cities long before the 19th century. Another issue with this theory is that most early arrests were not based on danger to people or property. These early forces mostly imposed laws against loitering, disorderly conduct, drunkenness, vagrancy, or being a “suspicious person”, all crimes typical of the lower class.²⁴ Regardless of the stated purpose of the police, the effect was the criminalization of the poor, the working class, and certain minority groups. The later criminalization of previously acceptable behaviour such as profanity or loitering magnified these effects.²⁵

Alongside arrest, scrutiny developed as a powerful method of control during this time.²⁶ Police were expected not just to react to crime, but to

²⁰ Sally E. Hadden, *Slave Patrols: Law and Violence in Virginia and the Carolinas*, (Cambridge, MA: Harvard University Press, 2001) at 33-37.

²¹ Williams, *supra* note 5 at 106; William Lewis, “The Cops: Racists and Strike Breakers” (May 29, 2020), online: *Left Voice* <<https://www.leftvoice.org/the-cops-racists-and-strike-breakers>> [perma.cc/BK7M-FCEE].

²² Williams, *supra* note 5 at 68.

²³ Monkkonen, *supra* note 14 at 50.

²⁴ Roger Lane, “Crime and Criminal Statistics in Nineteenth-Century Massachusetts” (1968) 2:2 *The Journal of Social History* at 160-1.

²⁵ Williams, *supra* note 5 at 71.

²⁶ *Ibid.*

prevent it. This required the prediction of criminal behaviour, and a focus on the potential criminal.²⁷ Profiling became central to the occupation.²⁸ This profiling is well described by early instructions to the Philadelphia police: "As a general thing, any idle, able-bodied poor man has no right to complain if the eye of the police follows him wherever he roams or rests. His very idleness is an offense against all social laws."²⁹ This attitude was prevalent throughout the entire system. One illuminating example is an 1839 prison sentence handed out in Philadelphia for the act of "kissing in public." No law prohibited this behaviour, but based on the low-class nature of the neighbourhood in which the arrest occurred they were still imprisoned.³⁰ Modern laws have changed but their target has not. The war on drugs, "gang suppression", "quality of life" crimes, and "zero tolerance policies" all work to disproportionately target the lower class.³¹ Especially vulnerable are the homeless.³² Laws against panhandling, trespassing under bridges, and sleeping in public spaces disproportionately target those without homes. In Winnipeg, a bylaw mandating the removal of tents on public grounds is currently being enforced, involving the senseless destruction of houseless people's shelters and property.³³ Police elsewhere in Canada have dealt with the "nuisance" of homeless camps by using pepper spray, slashing tents, or spraying camps with chicken manure.³⁴ Using resources to harm the vulnerable instead of help them only makes sense under a system designed for supervision and control.

This control also takes another form: strikebreaking.³⁵ During strikes police typically increase patrols in working-class neighbourhoods, increase

²⁷ Monkkonen, *supra* note 14 at 41.

²⁸ *Ibid.*

²⁹ Allen Steinberg, *The Transformation of Criminal Justice: Philadelphia, 1800-1880*, (Chapel Hill: University of North Carolina Press, 1989) at 153.

³⁰ *Ibid* at 127.

³¹ Williams, *supra* note 5 at 106.

³² *Ibid.*

³³ Josh Brandon, "Removing Tents Doesn't Address Homelessness", *Winnipeg Free Press* (24 May 2019), online: <www.winnipegfreepress.com/opinion/analysis/removing-tents-doesnt-address-homelessness-510366572.html> [perma.cc/8DGE-JKNV].

³⁴ *Abottsford v Shantz*, 2015 BCSC 1909 at para 26, 392 DLR (4th) 106 [Abbotsford].

³⁵ Williams, *supra* note 5 at 107; Daniel Francis, *National Dreams: Myth, Memory, and Canadian History*, (Vancouver: Arsenal Pulp Press, 1997) at 45-47.

enforcement of public order laws, make arbitrary arrests, and attack meeting halls, picket lines, and protests.³⁶ This pattern is especially evident in the Canadian context. Although almost disbanded in the early 1900's, the RCMP was "saved" when the country was seized with paranoia of communism.³⁷ The Canadian elite feared a "Red Revolt", and the RCMP was called upon to censor the press, ban certain organizations, intercept mail, carry out deportations, and create a system of undercover agents to spy on Canadians.³⁸ The RCMP became the spearhead of a "secret conspiracy by the government of Canada against its own people."³⁹ Although overtly classist, this attack on Canadians had a racist element as well, focusing on recent immigrants from Eastern Europe.⁴⁰ With its high immigrant population and strong unions, Winnipeg was a major target. In the days leading up to the 1919 general strike, the RCMP detachment received reinforcements of ten times its normal garrison, sixty horses, and four armored vehicles equipped with weapons.⁴¹ This force put down the strike with brutal efficiency, and the RCMP followed up with raids across Canada on other organizations.⁴² Although open violence and control of the working class may no longer be so apparent, that does not mean it does not exist. This repression has merely changed forms to become more comprehensive. What was once a system of undercover spies has turned

³⁶ Sidney Harring, *Policing a Class Society: The Experience of American Cities, 1865-1915* (New Brunswick, NJ: Rutgers University Press, 1983) at 201.

³⁷ Francis, *supra* note 35 at 36; Gregory S Kealey, "The Early Years of State Surveillance of Labour and the Left in Canada: The Institutional Framework of the Royal Canadian Mounted Police Security and Intelligence Apparatus, 1918-26" (2008) 8:3 *Intelligence & National Security* 129 at 129 for why the RCMP was nearly disbanded.

³⁸ Francis, *supra* note 35 at 36-37; George Kealey, *Spying on Canadians: The Royal Canadian Mounted Police Security Service and the Origins of the Long Cold War* (University of Toronto Press, 2017) at 124-31.

³⁹ Francis, *supra* note 35 at 36-37.

⁴⁰ *Ibid* at 37 (certain "'alien enemy' languages" and organizations were outlawed, leading to steep fines and even jail); James H. Marsh, "Winnipeg General Strike: Canada's Most Influential Strike" (2015), online: *The Canadian Encyclopedia* <<https://www.thecanadianencyclopedia.ca/en/article/winnipeg-general-strike-feature>> [perma.cc/2QDN-8GTS].

⁴¹ Francis, *supra* note 35 at 44.

⁴² *Ibid*.

into a comprehensive surveillance state.⁴³ Complicit in this change is our very own court system, which has drastically undermined Canadian privacy rights and liberties.⁴⁴ This shift directs police to profile and focus on potential criminals, and not crimes themselves, regardless of the potential discrimination caused.⁴⁵

The racism of the RMCP in the 20th century was far from unprecedented. Although especially obvious in its links to slavery in the Southern United States, racism in policing has always been rampant, and Canada is no exception.⁴⁶ Although it is impractical to provide an extensive history of colonization here, it is important to understand the role that police played in this process. The RCMP's role has been described as making "sure that a new society replaced the old with as little upset as possible", which essentially encapsulates the entire colonization process.⁴⁷ Policing and settler dominance in Canada are fundamentally intertwined. The RCMP's purpose was to spread Canadian law out west, which meant supplanting Indigenous laws and traditions and crushing any resistance.⁴⁸ An early challenge to this dominance came in the form of the Red River and North-Western Rebellions. Seeking self-determination, these movements were violently crushed, setting a pattern for future responses to Indigenous movements.⁴⁹

Racism in policing is not a flaw, it is a feature.⁵⁰ The fundamental purpose of police is to enforce order, including the racial order.⁵¹ This

⁴³ Richard Jochelson, Kirsten Kramar & Mark Doerksen, *The Disappearance of Criminal Law: Police Powers and the Supreme Court*, (Winnipeg: Fernwood Publishing, 2014) at 35-36.

⁴⁴ *Ibid* at 35 and 50.

⁴⁵ Monkkonen, *supra* note 14 at 41.

⁴⁶ Akwasi Owusu-Bempah & Scot Wortley, "Race, Crime, and Criminal Justice in Canada" in Sandra M Bucerius & Michael Tonry, eds, *The Oxford Handbook of Ethnicity, Crime, and Immigration*, 1st edition (Oxford University Press, 2013) at 282.

⁴⁷ Francis, *supra* note 35 at 30.

⁴⁸ *Ibid* at 34; Colleen Bell & Kendra Schreiner, "The International Relations of Police Power in Settler Colonialism: The 'Civilizing' Mission of Canada's Mounties" (2018) 73:1 Intl J Can J Global Policy Analysis 111 at 114.

⁴⁹ Francis, *supra* note 35 at 77-79; William R Morrison, *Showing the Flag: The Mounted Police and Canadian Sovereignty in the North, 1894-1925* (UBC Press, 1985) at xiv-xv.

⁵⁰ Williams, *supra* note 5 at 77-104.

purpose and its relation to colonization is elucidated by Chris Cunneen and Juan Tauri:

“The relationship between criminal justice institutions and Indigenous peoples has been forged within the context of colonial political process and a colonial ‘mentality’. Criminalization played an important historical role in the processes of control [over First Nations]. Contemporary criminalization legitimizes excessive policing, the use of state violence, the loss of liberty, and diminished social and economic participation... The political, social and cultural rights of Indigenous peoples are easily transformed into seeing racialized groups as a ‘law and order’ threat... A major political impact arising from criminalization is that it removes the political status of Indigenous people as First Peoples, and denies the validity of Indigenous methods of governance and social control. In place of this inherent political status, Indigenous people are both racialized and criminalized. ‘Race’ becomes conflated with criminality, and the political right of Indigenous people to control their own lives as legal subjects disappears.”⁵²

The policing of people, instead of crime, is the most evident when it comes to Indigenous people.⁵³ In fact, police officer distribution in Canada is not correlated to crime rates, but rather to percentages of the population that are Indigenous or visible minorities.⁵⁴ Research done by Jason Carmichael discovered that the presence of these groups was by far the most significant predictor of police force size across Canada.⁵⁵ These findings suggest that police are not being used to control crime, but rather to respond to a perceived threat from minorities.⁵⁶

⁵¹ Paul Butler, *Chokehold: Policing Black Men* (United States: The New Press, 2017) at 3.

⁵² Chris Cunneen & Juan Tauri, “Policing, Indigenous Peoples and Social Order” in *Indigenous Criminology*, 1st ed (Bristol: Bristol University Press, 2016) 67 at 68.

⁵³ Jochelson, *supra* note 40 at 57–59; Francis, *supra* note 35 at 77–79. Jochelson’s work explains widespread surveillance strategies in society, while Francis outlines how police discretionary powers have historically focused on Indigenous peoples. See also Jeffrey Stotik, Thomas E Shriver & Sherry Cable, “Social Control and Movement Outcome: The Case of Aim” (1994) 27:1 *Sociological Focus* 53 at 64; Julian Brave NoiseCat, “Surveillance at Standing Rock Exposes Heavy-Handed Policing of Native Lands”, *The Guardian* (2017).

⁵⁴ McGill Newsroom, “Perceived Threat: Aboriginals and Visible Minorities” (2015), online: McGill <www.mcgill.ca/newsroom/channels/news/perceived-threat-aboriginals-and-visible-minorities-255277?fbclid=IwAR1jFAke-jN5uINe12Q54V7ztYatn6mKnF9jyObH17wLrjEsSSwhRhZ0LSY> [perma.cc/C6BG-XP3X].

⁵⁵ *Ibid.*

⁵⁶ *Ibid.*

Police have many tools for enforcing the social order. Police often engage in “pretextual stops.”⁵⁷ Traffic violations, drinking in public, window tints, or riding bicycles in the wrong place become excuses to stop, detain, and perform pat downs.⁵⁸ These stops come with incredible police power to try and roll a small offense into something serious in a situation with reduced rights for the suspect, and are generally only practiced against minorities.⁵⁹

Canadian police were largely responsible for enforcing overtly racial policies now considered cultural genocide.⁶⁰ The 60s scoop and residential schools have had a colossal impact on the political and social institutions of First Nations and left subsequent generations unsure of their values or identity.⁶¹ It is hard to overstate the damage this has caused. Mental health issues and drug abuse problems are particularly rampant.⁶²

People with mental health or drug abuse issues have also suffered and continue to suffer disproportionately from police activity. Mental health issues and addictions make all people, not just Indigenous people, at risk from police.⁶³ Over 70% of those killed by police since 2000 were known

⁵⁷ Butler *supra* note 51 at 59.

⁵⁸ *Ibid* at 59. See also Carol Tator et al, *Racial Profiling in Canada: Challenging the Myth of a ‘Few Bad Apples’*, (Toronto: University of Toronto Press, 2006) at 36 for the Canadian context.

⁵⁹ *R v Golden*, 2001 SCC 83 paras 26. See also *R v Fearon*, 2014 SCC 77 paras 16–26. See also Butler, *supra* note 51 at 59.

⁶⁰ The Truth and Reconciliation Commission of Canada, *Honouring the Truth, Reconciling for the Future: Final Report of the Truth and Reconciliation Commission of Canada*, (2015) (The Honourable Justice Murray Sinclair) at 1.

⁶¹ *Ibid*.

⁶² *Ibid* at 139 and 158.

⁶³ Erin Anderson, “Forced to the Frontlines of Mental Health: Police Have Become the New First Responders for Vulnerable Canadians”, *The Globe and Mail* (2019), online: <www.theglobeandmail.com/canada/article-forced-to-the-frontlines-of-mental-health-police-have-become-the-new/> [perma.cc/WN5A-HESG].

to be suffering from mental issues, substance abuse issues, or both.⁶⁴ 45% were under the influence of drugs or alcohol at the time of their death.⁶⁵ Over a four year period more than half of all British Columbia deaths related to police use of force involved a victim suffering from an acute mental health crisis.⁶⁶ People in the United States with untreated mental health issues were found to be sixteen times more likely to be killed by police than neurotypical people.⁶⁷

Women also experience policing differently from men. Attempting to control women and sexuality has been a mainstay of police activity since the 1800s.⁶⁸ Highly masculine and authoritarian organizational hierarchy, occupational culture, and sexism “form a context that promotes and encourages sex discrimination, harassment, and violence against women.”⁶⁹ Perhaps unsurprisingly, assault, torture, and sexual harassment have long been complained of by victims.⁷⁰ However, due to the risky nature and uncertain benefits of reporting these offenses through official channels it is somewhat hard to find conclusive numbers on the frequency of this phenomenon.⁷¹ What is clear is that police are rarely punished

⁶⁴ Katie Nicholson & Jacques Marcoux, “Most Canadians Killed in Police Encounters Since 2000 had Mental Health or Substance Abuse Issues”, CBC (2018), online: <www.cbc.ca/news/investigates/most-canadians-killed-in-police-encounters-since-2000-had-mental-health-or-substance-abuse-issues-1.4602916> [perma.cc/MMN3-94AC]; Jacques Marcoux & Katie Nicholson, “Deadly Force: Fatal Encounters with Police in Canada: 2000-2017” online: *CBCNews* <<https://newsinteractives.cbc.ca/longform-custom/deadly-force>> [perma.cc/DU5E-TRXM].

⁶⁵ *Ibid.*

⁶⁶ Nicholson 2018, *supra* note 64.

⁶⁷ “People with Untreated Mental Illness 16 Times More Likely to Be Killed By Law Enforcement” online: *Treatment Advocacy Center* <www.treatmentadvocacycenter.org/key-issues/criminalization-of-mental-illness/2976-people-with-untreated-mental-illness-16-times-more-likely-to-be-killed-by-law-enforcement> [perma.cc/4JUJ-WW68].

⁶⁸ Williams *supra* note 5 at 70.

⁶⁹ Philip M. Stinson et al, “Police Sexual Misconduct: A National Scale Study of Arrested Officers” (2014), online (pdf): *Crim Justice Faculty Publications* <www.bwjp.org/assets/documents/pdfs/webinars/dhhs-police-sexual-misconduct-a-national-scale-study.pdf> [perma.cc/VG3J-67DS] at 5.

⁷⁰ Williams, *supra* note 5 at 40.

⁷¹ See e.g. Stinson, *supra* note 69 at 6.

even when they are accused of a crime, especially crimes of a sexual nature and crimes against women.⁷² Certain studies have found that more than 40% of officers commit violence against their spouse, including everything from slapping to firearms offenses.⁷³ Other studies suggest that the rate of intimate partner violence among police may be as low as 28%, but this is still far above the 16% rate found in the general population.⁷⁴

It is important to remember that the various groups used for analysis in this paper do not exist in isolation from one another.⁷⁵ An Indigenous person will be treated a certain way by police. A mentally ill white person will be treated a certain way by police. A mentally ill Indigenous person may be treated entirely differently. Intersectional categories of identity may result in entirely unpredictable results. Multiple “vectors of oppression” can combine to become greater than the sum of their parts.⁷⁶ It is impossible to consider every combination of factors but it is important to recognize that they often exist together. For example, 30-35% of homeless men have mental illness, and up to 75% of homeless women.⁷⁷ 20-25% suffer from concurrent illnesses or addictions.⁷⁸ These people may become vulnerable to police oppression in ways far beyond those who only experience one or two of these vectors.

Considering the historical and contemporary problems addressed above, it is perhaps understandable why certain groups are advocating for change. However, community safety needs to be addressed. In order to

⁷² *Ibid* at 7.

⁷³ Peter H Neidig, Harold E Russel & Albert F Seng, “Interspousal Aggression in Law Enforcement Families: A Preliminary Investigation” (1992) 15 *Police Stud: Int'l Rev Police Dev* 30 at 31.

⁷⁴ Lindsey Blumenstein, *Domestic Violence Within Law Enforcement Families: The Link Between Traditional Police Subculture and Domestic Violence Among Police* (Master of Arts Thesis, University of South Florida, 2009) at 1-2 [unpublished].

⁷⁵ See Brittney Cooper, “Intersectionality” in Lisa Disch and Mary Hawkesworth, eds, *The Oxford Handbook of Feminist Theory* (Oxford University Press, 2016) at 1.

⁷⁶ George Ritzer & Jeffrey Stepnisky, *Contemporary Sociological Theory and Its Classical Roots: The Basics*, 4th ed (New York: McGraw-Hill, 2013) at 204-07.

⁷⁷ “Mental Health” (2019), online: *Homeless Hub* <www.homelesshub.ca/about-homelessness/topics/mental-health#> [perma.cc/NJA5-LK5U].

⁷⁸ *Ibid*.

appeal to the financial realities of municipal budgets these solutions also need to be cost effective.

II. ECONOMIC COSTS AND EFFICIENT PROGRAMS FOR SAFETY

A. Costs of the Criminal Justice System

There is another way that police do significant harm to communities that has not yet been addressed. Covert race and class warfare has done its own significant damage, but the incredible genius of this system is that marginalized communities are paying a premium for their own destruction. Policing is expensive. The Winnipeg Police budget is set to be \$305 million for 2020, rising to \$324 million by 2023.⁷⁹ This makes up a massive percentage of the overall budget for the city, and means less money going to other initiatives. Since 2000, the City of Winnipeg budget allocation for police has gone from 16.9% to 26.8%, and is expected to rise further in the near future.⁸⁰ This is despite the fact that Winnipeg already has a high officer to civilian ratio in relation to other Canadian cities, as well as relatively high average officer salary rates.⁸¹ Winnipeg police officers are payed on average over \$100 thousand per year.⁸²

This can be contrasted with other organizations in Winnipeg to get some context. Winnipeg Public Transit costs the city \$70 million a year, a

⁷⁹ Manitoba, Winnipeg Police Service, “2020 Operating and Capital Budget” (12 November 2019), online (pdf): Winnipeg <https://winnipeg.ca/interhom/Budget/2020Budget/pdfs/2020-Multi-year-Budget-Presentation_Winnipeg-Police-Service_20191112.pdf> [<https://perma.cc/DL4S-JL3B>] at 8.

⁸⁰ Jacques Marcoux, “16 Years of Winnipeg Budgets Show Gains by Police at Expense of Other City Departments”, *CBC News* (21 March 2016), online: <www.cbc.ca/news/canada/manitoba/16-years-of-winnipeg-budgets-show-gains-by-police-at-expense-of-other-city-departments-1.3500207> [perma.cc/8QVC-7V3X].

⁸¹ Winnipeg Police Service, *supra* note 79 at 15.

⁸² *Ibid.*

fraction of the police budget.⁸³ All community organizations combined receive about \$100 million.⁸⁴ There are two main differences in the budgets for these civic projects. Obviously, police receive more than four times as much money as transit, and three times more than community organizations.⁸⁵ The other difference is that the police budget has invisible downstream costs, while transit and services spending have downstream returns.

Police are the frontline in a system which is extremely costly. The \$305 million for next year is only the beginning. Policing sets into motion arrests and prosecutions which are immensely expensive. The first figure to investigate is the social cost of crime itself. Crime obviously does horrific damage to communities, neighbourhoods and families. Every time a crime occurs, the system has already failed, and a heavy cost is paid by stakeholders. For the most serious crimes, the estimated social cost to victims can be anywhere from \$5.3 million (mean cost to victims of homicide), to \$200 thousand (mean cost to victims of assault).⁸⁶ Adding on to these social costs is the expenses of the justice system. A homicide costs the justice system \$400 thousand.⁸⁷ Violent crimes are the most expensive, but far from the most common. Lower level crimes cause less damage to the victim, but a higher percentage of the total social cost

⁸³ Manitoba, Standing Policy Committee on Infrastructure Renewal and Public Works, *2019 Preliminary Operating Budget 2019 Capital Budget and Five Year Capital Forecast*, online (pdf): <www.winnipeg.ca/interhom/Budget/2019Budget/pdfs/2019TransitPreliminaryOperatingCapitalBudget.pdf> [perma.cc/LCJ2-R5BD] (2019) at 5. Author's note: The budget is much higher but that includes provincial funding as well as costs that have been offloaded onto consumers by way of fairs.

⁸⁴ Manitoba, Standing Policy Committee on Protection, Community Services and Parks, *2019-2021 Preliminary Operating and Capital Budgets*, online: <www.winnipeg.ca/interhom/Budget/2019Budget/pdfs/2019CommunityServicesDepartmentPreliminaryOperatingCapitalBudgetPresentation.pdf> [perma.cc/F2LN-AVMX] (2019) at 2.

⁸⁵ Winnipeg Police Service, *supra* note 79; Infrastructure Renewal and Public Works, *supra* note 83; Protection, Community Services and Parks, *supra* note 84.

⁸⁶ Thomas Gabor, "Costs of Crime and Criminal Justice Responses" (2015), online: <www.publicsafety.gc.ca/cnt/rsrccs/pblctns/2015-r022/index-en.aspx#s5> [perma.cc/WA3B-2W43] at 19-20. These figures include both tangible and intangible costs.

⁸⁷ *Ibid.*

comes from paying for the justice system. Theft costs victims on average \$1,313, while the justice system costs \$1,181 to deal with each theft case.⁸⁸ Burglary is similar. Victims of burglary are put out by \$2,745, while dealing with the case costs \$2,658.⁸⁹ For these offenses the justice system does as much damage to society as the crime itself.

These justice system costs come from a number of sources, mostly paid for by the province. First is the cost of policing. As previously mentioned, the current Winnipeg Police Budget is in the neighbourhood of \$300 million.⁹⁰ Policing for the rest of the province cost an additional \$146 million in the 2017/2018 year.⁹¹ Another \$2 million per year goes into policing related services.⁹² The Law Enforcement Review Agency, Independent Investigation Unit and Manitoba Police Commission add another \$2 million.⁹³ Prosecution is another big expense. \$38.6 million was spent on prosecutions in the 2017/2018 year for 56,823 files, for an average of \$679 per file.⁹⁴ Legal aid exists to fulfil the constitutional obligation on the government to ensure fairness when it is charging citizens in criminal matters. Legal aid runs at a cost of \$32.3 million per year.⁹⁵

There are more costs to the court system than just the lawyers. Administration, financial management, governance, reviews, planning, training, and management costs Manitobans \$7.7 million per year.⁹⁶ Other court operations add \$16.4 million.⁹⁷ Judicial services (including assistants, researches, and coordinators) cost \$25.6 million, while sheriffs

⁸⁸ *Ibid* at 24.

⁸⁹ *Ibid* at 23.

⁹⁰ Winnipeg Police Service, *supra* note 79.

⁹¹ Manitoba Justice, “Annual Report 2017-2018” (2018), online (pdf): *Manitoba* <www.gov.mb.ca/justice/publications/annualreports/pubs/annualreport1718.pdf> [perma.cc/Y5WH-QSYN] at 38.

⁹² *Ibid*.

⁹³ *Ibid* at 40-41.

⁹⁴ *Ibid* at 17-18.

⁹⁵ *Ibid* at 32.

⁹⁶ *Ibid* at 46.

⁹⁷ *Ibid* at 48.

are \$13.8 million.⁹⁸ Altogether the courts require \$63.7 million to keep running at current capacity.

After the cases are over the spending is still not done. Some offenders are kept in custody. Policy development, analysis, planning, review, information systems, internal investigations, and training for penitentiaries costs \$7 million.⁹⁹ The price for custody corrections, which holds young offenders and adult offenders sentenced to less than two years, is \$227 million.¹⁰⁰ Offenders sentenced to two years or more fall under the federal budget, the budget for which is around \$2.25 billion, but is of course shared by all Canadians.¹⁰¹ Non-custodial sentences can be expensive as well; \$29.7 million is spent on monitoring community-based sanctions.¹⁰²

At times, there can be another unexpected cost to the system. When police brutality or misconduct occurs, victims can sue the city. For some American cities over \$100 million a year is paid out in lawsuits.¹⁰³ The RCMP alone has spent over \$220 million in the last 20 years on a combination of sexual harassment claims, lawsuits and human rights complaints stemming from what the RCMP's own Civilian Review and Complaints Commission described as a "culture of dysfunction."¹⁰⁴ These are further examples of unexpected downstream expenses flowing from a high up-front police budget.

⁹⁸ *Ibid* at 49-50.

⁹⁹ *Ibid* at 35.

¹⁰⁰ *Ibid* at 36.

¹⁰¹ John Howard Society, "Financial Facts on Canadian Prisons" (23 August 2018), online: *The John Howard Society of Canada* <johnhoward.ca/blog/financial-facts-canadian-prisons/> [perma.cc/ALD2-YKEX].

¹⁰² Manitoba Justice, *supra* note 91 at 37.

¹⁰³ Jonah Newman, "Chicago Spent More Than \$113 Million on Police Misconduct Lawsuits in 2018", *Chicago Reporter* (7 March 2019), online: <www.chicagoreporter.com/chicago-spent-more-than-113-million-on-police-misconduct-lawsuits-in-2018/> [perma.cc/57WQ-B46E].

¹⁰⁴ Jane Gerster " \$220M and Counting: The Cost of the RCMP's 'Culture of Dysfunction'", *Global News* (2019); Canada, Civilian Review and Complaints Commission for the RCMP, "Report into Workplace Harassment in the RCMP" (April 2017), online (pdf): *Government of Canada* <<https://www.crccecetp.gc.ca/pdf/harassmentFinR-eng.pdf>> [https://perma.cc/5KW8-HQD4].

B. Costs and Benefits of Public Transit

Other municipal investments can have the opposite effect. One program which needs significant investment in Winnipeg is public transport. Benefits of good public transit include access to employment, access to education, access to health services, improvements in health, reduced risk of social and economic exclusion, and increased socio-economic mobility.¹⁰⁵ It can also improve the situation of people living in remote and rural areas, people with disabilities, women, people from minority ethnic communities, and single parents.¹⁰⁶

In some jurisdictions, forty percent of jobseekers report poor public transport as a key barrier to employment.¹⁰⁷ A study in San Diego indicated that those with access to a car could access 30 times as many jobs as those without.¹⁰⁸ This factor is especially relevant as a barrier to entering part time employment, as non-peak travel is generally especially poor.¹⁰⁹ Underfunded transit also makes it difficult for children from low-income families to attend schools of their choice or post-secondary education.¹¹⁰ Forty four percent of people without access to a car struggle to get to doctors or hospitals.¹¹¹ This may lead to missed appointments, and worse health outcomes. There are other health benefits from public transit. Improved service results in reduced road accidents and pollution emissions, while increasing physical fitness and mental health.¹¹² Transport can provide access to healthy food and recreational facilities.¹¹³

¹⁰⁵ United Kingdom, Department for Transport, “Valuing the Social Impacts of Public Transport: Final Report” (2013), online (pdf): <www.socialvalueuk.org/app/uploads/2016/07/DfT-final-report.pdf> [perma.cc/3VY7-Pz4]] at 13-15.

¹⁰⁶ *Ibid* at 11-12.

¹⁰⁷ *Ibid* at 13.

¹⁰⁸ Steven Higashide, *Better Buses, Better Cities: How to Plan, Run, and Win the Fight for Effective Transit*, (Island Press, 2019) at 5; James Wilt, *Do Androids Dream of Electric Cars?* (Toronto: Between the Lines, 2020) at 74.

¹⁰⁹ United Kingdom, *supra* note 105 at 13.

¹¹⁰ *Ibid* at 13 -14.

¹¹¹ *Ibid* at 14.

¹¹² *Ibid*.

¹¹³ Roselle Thoreau & Roger L Mackett, “Transport, Social Exclusion and Health” (2015) 2 J Transport & Health at 611.

Having a healthy social life is of course also important for a number of reasons and being able to show up to social events is often a requisite.¹¹⁴

i. Employment and Crime

All of these factors, aside from contributing to a more equitable society, also reduce costs for government in other areas. Increasing access to employment has fairly straightforward benefits. Employed people are not collecting Employment and Income Assistance (EIA) and are paying back into the system through taxes. Every one percent increase in employment rate also correlates to a decline in property crime of between 1.6% and 2.4%.¹¹⁵ A smaller but still significant relationship can be seen between employment rate and violent crime.¹¹⁶ Both of these links become much stronger as income per worker increases.¹¹⁷ Even a small decrease in the crime rate like this would have astronomical effects on the expenses toward criminal justice. Assuming the 5.5% Canadian unemployment rate is representative of Manitoba, and that 40% of jobseekers would be able to gain employment by the removal of this “key barrier”, proper transit could see a reduction in unemployment by as much as 2.2%.¹¹⁸ This would translate to a 4.4% reduction in property crime and a 1.1% reduction in violent crime. In Manitoba this would mean 1,972 fewer property crimes and 115 fewer violent crimes.¹¹⁹ This equals a savings (including the social cost of crime and the expense of the criminal justice system) of \$16.2 million from property crimes and \$20.7

¹¹⁴ John Hopkins, “Do You Have A Healthy Number of Friends?” online: *John Hopkins Medicine* <www.hopkinsmedicine.org/health/wellness-and-prevention/do-you-have-a-healthy-number-of-friends> [perma.cc/GU3C-4UK4].

¹¹⁵ Steven Raphael & Rudolf Winter-Ebmer, “Identifying the Effect of Unemployment on Crime” (2001) 44:1 *JL & Econ* at 271.

¹¹⁶ *Ibid* at 272.

¹¹⁷ *Ibid*.

¹¹⁸ See “Canada Unemployment Rate” (2019), online: *Trading Economics* <www.tradingeconomics.com/canada/unemployment-rate> [perma.cc/XFA8-M8EX]. See also Department for Transport *supra* note 104 at 13.

¹¹⁹ Manitoba, Standing Policy Committee on Protection, Community Services and Parks, “2018 Annual Statistical Report” (2018), online (pdf): <www.winnipeg.ca/police/AnnualReports/2018/2018_wps_annual_report_english.pdf> [perma.cc/QAK9-82LR] at 1.

million from violent crimes for a total of \$36.9 million.¹²⁰ Additionally this would mean 2.2% of the population no longer needing EIA. With Manitoba's population of nearly 1.3 million people and EIA at a minimum of \$677 per month, \$19 million of public money could be saved on EIA through proper transit.¹²¹ These individuals will of course also pay taxes. Using the average salary of single Manitoban's over the last 5 years (\$43,480), this results in extra tax revenue of \$293.4 million.¹²² Thirty four percent, or \$100 million, would go directly back to the province. This of course does not account for the likely possibility that those returning to the workforce after unemployment will be accepting lower paying jobs. This number should not be taken as a guarantee, merely an illustration of the downstream positive effects of this public investment. All of these numbers are also relying on the "removal of a key barrier" to employment as being the same as actually getting a job. While this may not be the case, it is useful for illustrating the potential scope of possible benefits. Even if the actual benefits don't reach the total figures outlined here, it is clear to see that massive returns from investment in public transit can be expected. In total, from crime reduction, EIA reduction, and increased taxes alone,

¹²⁰ Winnipeg Police Service, *supra* note 79; Gabor, *supra* note 86. Author's note: these numbers were reached by calculating the specific crimes committed in Winnipeg and assigning the monetary cost articulated by Thomas Gabor. Using this method an average cost per violent crime in Manitoba is \$133,247, while a property crime averages \$8,225.

¹²¹ Statistics Canada, "Census Profile, 2016 Census" (2016), online: *Statistics Canada* <www12.statcan.gc.ca/census-recensement/2016/dp-pd/prof/details/page.cfm?Lang=E&Geo1=PR&Code1=46&Geo2=PR&Code2=01&Data=Count&SearchText=46&SearchType=Begins&SearchPR=01&B1=All&Custom=&TABID=3> [perma.cc/JQ37-JA77]; "Income Assistance Keeps Manitobans at 50-70 Per Cent of Poverty Line: Protesters", *CBC News* (6 January 2017), online: <www.cbc.ca/news/canada/manitoba/income-assistance-keeps-manitobans-at-50-70-per-cent-of-poverty-line-protesters-1.3925158> [perma.cc/L7ZZ-CLRV].

¹²² Statistics Canada, "Income of Individuals by Age Group, Sex and Income Source, Canada, Provinces and Selected Census Metropolitan Areas" (2019), online: *Statistics Canada* <www150.statcan.gc.ca/t1/tbl1/en/tv.action?pid=1110023901&pickMembers%5B0%5D=1.10&pickMembers%5B1%5D=2.1&pickMembers%5B2%5D=3.1&pickMembers%5B3%5D=4.1> [perma.cc/R8SL-NY66]; Neuvo "Income Tax Calculator, Manitoba, Canada" (2019), online: <neuvo.ca/tax-calculator/?iam=&uet_calculate=calculate&salary=43480&from=year®ion=Manitoba> [perma.cc/GB6U-MEBF].

public transit investment could have a return of as much as \$349 million. This investment would also reduce crime more than investments in police do.¹²³

ii. Rural Populations

Benefits of public transit are disproportionately enjoyed by the vulnerable. Transport is often limited in remote areas, and for users, access to everyday opportunities and services can be difficult or impossible.¹²⁴ For Manitoba's Indigenous reserve communities the situation is especially dire after the collapse of the Greyhound Bus service.¹²⁵

iii. Disability and Minority Populations

Many people with disabilities are unable to drive, and 60% of people with disabilities do not have a car in their household.¹²⁶ For those who cannot walk far or stand for long, frequent service and nearby stops are key.¹²⁷ Those with psychological disorders such as claustrophobia may suffer if public transit is overcrowded, making it unpleasant or even inaccessible.¹²⁸ People with disabilities benefit from increased access to employment, healthcare, and public services with better transit, often even more than others.¹²⁹ Gender minorities and women are also benefited disproportionately, as they are less likely to hold full drivers licenses and own cars.¹³⁰ This is also applicable to people from minority ethnic communities, who use buses at a higher than average rate.¹³¹ For single parents public transit can be central to parenting. Reaching nurseries or

¹²³ Homel, *supra* note 3 at 9-10.

¹²⁴ Department for Transport, *supra* note 105 at 15.

¹²⁵ Will Doig "Decline of Greyhound Service Mirrors Rural Canada's Plight: Longstanding Bus Routes Will See Their Last Journeys This Month, Mirroring the Region's Struggles: 'Those who Remain are Unable to Leave'", *The Guardian* (29 October 2018), online: <www.theguardian.com/world/2018/oct/29/canada-greyhound-bus-ending-urban-rural> [perma.cc/MU2L-XUXQ].

¹²⁶ Department for Transport, *supra* note 104 at 17.

¹²⁷ *Ibid* at 18.

¹²⁸ *Ibid*.

¹²⁹ *Ibid* at 19.

¹³⁰ *Ibid* at 31.

¹³¹ *Ibid* at 26.

other childcare is vital.¹³² Attending events for the child can be difficult, as can paying for two riders once the child reaches a fare-paying age.¹³³ These passengers are also more likely to engage in multiple destinations trips compounding complications from underfunding.¹³⁴

iv. Education and Crime

Better public transit also increases access to education, making it easier for users to attend schools of their choice and post-secondary education.¹³⁵ Increases in educational attainment significantly reduce violent and property crime.¹³⁶ As many as one in five students have considered dropping out of further education in the UK based on financial difficulties, specifically transport costs.¹³⁷ The social benefits of education are many, one being an average 11%-12% decrease in both property and violent crime per one year increase in education.¹³⁸

v. Healthcare

Access to health services and improvements in health metrics also flow from a public transit investment. This is especially acute for those living in poverty.¹³⁹ Those with access to a car in rural settings had 2.29 times as many check-ins for chronic care, and 1.92 times as many regular check-ups.¹⁴⁰ Some patients will even forgo vital treatment due to issues with

¹³² *Ibid* at 28.

¹³³ Thoreau, *supra* note 113 at 4.

¹³⁴ Department for Transport, *supra* note 105 at 28.

¹³⁵ *Ibid* at 13 -14.

¹³⁶ Lance Lochner, "Education and Crime" (2007), online (pdf): *Western Social Science Department of Economics* <https://economics.uwo.ca/people/lochner_docs/educationandcrime.pdf> [<https://perma.cc/C2XL-ULKY>] at 1.

¹³⁷ Sophie Allain, "Buses Matter: a Report by Campaign for Better Transport for the RMT" (2011), online (pdf): *Campaign for Better Transport* <bettertransport.org.uk/sites/default/files/research-files/11.02.23.buses-matter.pdf> [perma.cc/2BCR-2DAV] at 4.

¹³⁸ Lochner, *supra* note 136 at 9.

¹³⁹ TA Arcury et al, "Access to Transportation and Health Care Utilization in a Rural Region" (2005) 21:1 J Rural Health 31.

¹⁴⁰ *Ibid*.

transportation.¹⁴¹ This is especially prevalent in minority communities.¹⁴² In New York, one quarter of low-income residents reported missing or rescheduling clinic appointments.¹⁴³ These factors of course translate into worse healthcare outcomes.¹⁴⁴ The thought of Canadians not receiving healthcare because there isn't adequate public transit should appall the nation. Healthcare that is just out of reach of the vulnerable is antithetical to the idea of universal healthcare. Missing appointments also costs the system money. In the US \$150 billion is wasted in missed appointments.¹⁴⁵ Missed appointments also means there is no opportunity for early intervention into health care issues, which are usually cheaper.¹⁴⁶ Patients who only get health care when things become serious necessitate the most expensive responses to these problems, problems which could have been solved sooner and cheaper if they had easier access to the system.¹⁴⁷

¹⁴¹ JJ Guidry et al, "Transportation as a Barrier to Cancer Treatment" (1997) 5:6 *Cancer Practice* 361.

¹⁴² *Ibid.*

¹⁴³ D Silver, J Blustein & BC Weitzman, "Transportation to Clinic: Findings from a Pilot Clinic-Based Survey of Low-Income Suburbanites" (2012) 14:2 *J Immigrant & Minority Health* 350 at 352.

¹⁴⁴ ST Syed, BS Gerber & LK Sharp, "Traveling Towards Disease: Transportation Barriers to Health Care Access" (2013) 38:5 *J Community Health* at 1.

¹⁴⁵ Jamie Gier, "Missed Appointments Cost the U.S. Healthcare System \$150B Each Year" (6 April 2017), online: *HC Innovation Group* <<https://www.hcinnovationgroup.com/clinical-it/article/13008175/missed-appointments-cost-the-us-healthcare-system-150b-each-year>> [<https://perma.cc/62EH-HUBL>].

¹⁴⁶ "Ridesharing May Not Reduce Number of Missed Medical Appointments, Penn Study Finds", *Penn Medicine News* (5 February 2018), online: <<https://www.pennmedicine.org/news/news-releases/2018/february/ridesharing-may-not-reduce-number-of-missed-medical-appointments-penn-study-finds>> [<https://perma.cc/6JAU-VL3F>].

¹⁴⁷ *Ibid.*

vi. Other Notes

This analysis of course does not even begin to address the well known contribution of public transit to reducing emissions and improving environmental metrics.¹⁴⁸

The fact that policing is receiving so many public resources while public transit gets so little is rather telling. Transit can address some of the root causes of crime, while simultaneously helping people in poverty, people living in remote and rural areas, people with disabilities, women and gender minority groups, people from minority ethnic communities, and single parents. These are groups that are also disproportionately harmed by police.¹⁴⁹ The fact that programs harming these groups are overfunded, and programs helping these groups have a fraction of the budget clearly shows the priorities of those in power.¹⁵⁰

C. Other Programs

Another group not traditionally represented in power is those who have been convicted of a crime.¹⁵¹ Police are often said to “solve crime”, but this is not the case.¹⁵² The police figure out who has committed a crime. They do not figure out why, nor do they offer a solution. In order to “solve crime” society needs to stop it from happening. The only people who can really do this are the criminals themselves. Interventions into the lives of people likely to commit crimes can have an enormous effect on the

¹⁴⁸ Office of Planning and Environment, “Transit’s Role in Environmental Sustainability” (2016), online: *Federal Transit Administration* <www.transit.dot.gov/regulations-and-guidance/environmental-programs/transit-environmental-sustainability/transit-role> [perma.cc/R75E-WXY6].

¹⁴⁹ Williams, *supra* note 5 at 77–121.

¹⁵⁰ Christie Jefferson, “Conquest by Law” (1994), online (pdf): *Solicitor General of Canada* <www.publicsafety.gc.ca/cnt/rsrscs/pblctns/cnqst-lw/cnqst-lw-eng.pdf> [perma.cc/WL6Z-NYNQ] at 2.

¹⁵¹ Jarrod Shook, “The Canadian Carceral State: What is to be Done? Ask Prisoners!”, *The Canadian Dimension* (5 January 2019) online: <canadiandimension.com/articles/view/the-canadian-carceral-state-what-is-to-be-done-ask-prisoners> [perma.cc/HHT7-P8Z9].

¹⁵² See e.g. “Detective” (8 February 2021), online: *Wikipedia* <en.wikipedia.org/wiki/Detective> [<https://perma.cc/5HUS-9KVL>] for examples of the use of “solving crime” as a function of detectives in popular culture.

crime rate.¹⁵³ One of the groups more likely to commit crime is people who are facing poverty (largely out of the fact that poverty has been methodically criminalized, but also out of a lack of “legitimate” avenues for meeting their basic needs).¹⁵⁴ As laid out above, ameliorating this situation through public services is a response which sees numerous benefits, including a reduction in crime.¹⁵⁵ Another group at high risk to offend is those who have already offended. The recidivism rate for Manitoba is 33%.¹⁵⁶ Although better than our neighbours to the south, this trails far behind some other countries, especially those in Northern Europe.¹⁵⁷ Community agencies have a huge role to play in supporting people (including the recently incarcerated) in finding housing, jobs, and healing.¹⁵⁸ These all reduce recidivism.¹⁵⁹ Participants in restorative justice programs were 43% less likely to re-offend than non-participants after one

¹⁵³ John G Hansen, *Swampy Cree Justice: Researching the Ways of the People*, 2nd ed (J Charlton Publishing Limited, 2019) at 208-15.

¹⁵⁴ G Roger Jarjoura, Ruth A Triplett & Gregory P Brinker, “Growing Up Poor: Examining the Link Between Persistent Childhood Poverty and Delinquency” (2002) 18:2 J Quantitative Criminology 159 at 176-78; above at 6-8.

¹⁵⁵ See Department for Transport, *supra* note 105 for a list of benefits; see below for how these benefits reduce crime.

¹⁵⁶ Manitoba Justice, “Criminal Justice System Modernisation Strategy” (March 2018), online (pdf): <https://www.gov.mb.ca/justice/pubs/criminaljusticereform.pdf> [perma.cc/Y647-6UA8] at 2.

¹⁵⁷ Christopher Zoukis “Not the Worst, but Not Norway: US Prisons vs Other Models”, *HuffPost* (9 June 2017) online: <www.huffpost.com/entry/not-the-worst-but-not-norway-us-prisons-vs-other_b_59b0772ae4b0c50640cd646d?guccounter=1&guce_referrer=aHR0cHM6Ly93d3cuZ29vZ2xlLmNvbS8&guce_referrer_sig=AQAAAFPOH1Ygst8bOztkh6MFgLtFA8xuDQuKxkSWFflwWTY4ReB5wEqb1V0dr-z_ej3uYEy6f59AEqfgMQYehQ2EQ9IR55hUd3rn0qUeOabFA4XfSi656eI030J78laVdrhwhO1lUyjR0S1aD8TSJ1mTTwhOKE_-iguxbm4_qBfrf5n> [perma.cc/27UX-M5W5].

¹⁵⁸ Manitoba Justice, *supra* note 157 at 3.

¹⁵⁹ *Ibid* at 2-3.

year, and 37% less likely after eight years.¹⁶⁰ These programs are also much less expensive than incarceration, with an average savings to the system of \$1,604 per participant.¹⁶¹ The reduced likelihood of offending (and therefore reengaging the criminal justice system) saves Canadians an average of \$660 per participant.¹⁶² That means a total of \$2,264 is saved by Canadians for every single participant in restorative justice programs.¹⁶³ This only includes savings in justice system costs, and not the reduced damage to society from fewer overall crimes.¹⁶⁴ These programs also increase feelings of comfort in victims, community engagement, and offenders wellbeing.¹⁶⁵ A monetary amount cannot be placed on these factors, but these non-quantifiable aspects should not be overlooked.

Other city initiatives can have a significant impact on crime as well. There are strong claims that boredom is largely responsible for antisocial behaviour.¹⁶⁶ The implementation of a football program in England saw a 66% reduction in youth crime around the field.¹⁶⁷ Every £1 investment in that program has generated £7 in returns for the community.¹⁶⁸

III. POLICY RECOMMENDATIONS

The general thrust of the policy changes that will be recommended here is probably clear, and roughly follows that suggested by abolitionist organizations such as WPCH. Firstly, immediately freeze funding to

¹⁶⁰ Evaluation Division - Corporate Services Branch, "Evaluation of the Aboriginal Justice Strategy December 2016" (2016), online (pdf): *Department of Justice Canada* <<https://www.justice.gc.ca/eng/rp-pr/cp-pm/eval/rep-rap/2016/ajs-sja/ajs-sja.pdf>> [https://perma.cc/BW7M-S65W] at 47.

¹⁶¹ See *ibid* at 57 for a price comparison to the traditional system.

¹⁶² *Ibid* at 59.

¹⁶³ *Ibid*.

¹⁶⁴ *Ibid*.

¹⁶⁵ Hansen, *supra* note 153 at 210.

¹⁶⁶ "Physical Activity, Antisocial Behaviour and Crime" (accessed 18 February 2020), online (pdf): *Crime and Antisocial Behaviour* <sramedia.s3.amazonaws.com/media/documents/1e00932d-5b10-4647-bea8-dab81dc88ff6.pdf> [perma.cc/4P3Q-4XP8] at 110.

¹⁶⁷ *Ibid*.

¹⁶⁸ *Ibid*.

police, with a plan to decrease future funding. Commit to safety by promoting community groups and focusing on the most damaging crimes, ceasing to police victimless crimes such as panhandling. Invest the savings from a significantly downsized criminal justice system into initiatives promoting social justice. These could include public housing, a livable EIA, strengthened tenant protections, 24-hour safe spaces, expanded public transit, renovations to sports facilities, and restorative justice.

Communities have unique insight into and power over crime.¹⁶⁹ They also have members who are more invested and better suited to solving the issues particular to their situation. Concerns about vigilante justice may arise, but if community justice is done responsibly these criticisms are not valid:

The substitution of state justice for popular justice is generally argued as the only viable alternative to mob rule and vigilantism. Counterposing state justice to vigilante justice, however, is a false dichotomy which obscures a third alternative. The alternative is organized, community forms of popular justice operated and controlled by private citizens, not by employees of the state.¹⁷⁰

Organizations such as the Bear Clan, Ceasefire, and Wiindo Debwe Mosewin enforce popular justice without vigilantism.¹⁷¹ None of these organizations are perfect, but each takes control over safety back into the community in an efficient and appropriate manner.¹⁷² In empowered communities, people can determine which acts are truly harmful, and can call on their peers to find creative solutions.¹⁷³ Another example of a

¹⁶⁹ Williams, *supra* note 5 at 224–225.

¹⁷⁰ Raymond J Michalowski, “Crime Control in the 1980s: A Progressive Agenda” (1983) 19 *Crime & Soc Justice* 13 at 18.

¹⁷¹ See *ibid.* See also Jolene Banning “Bear Clan no More: Why a Thunder Bay Safety Patrol has Turned Away from its founding Principles of Co-operating with Police”, online: *The Globe and Mail* <www.theglobeandmail.com/canada/article-bear-clan-no-more-why-a-thunder-bay-safety-patrol-has-turned-away/> [perma.cc/T53J-ZRBH]. See also “Wiindo Debwe Mosewin” online: <www.debwetbay.group/> [perma.cc/2PXZ-JLQT].

¹⁷² Michalowski, *supra* note 170 at 19.

¹⁷³ Gelderloos *supra* note 4 at 90.

successful community response is InSite.¹⁷⁴ This spontaneous response to a local problem found unique and creative solutions that the creators knew would work in their specific context. These are not organizations that can be forced on communities. What works for one will not work for all. However, when these groups spontaneously arise they should be welcomed and supported. In the meantime, the newly limited police and prosecution services should focus on the most damaging crime. Violent crimes still need to be addressed, and policing is the only solution that has been intentionally developed by the state. Until such a time as a better approach can be implemented en mass this will have to continue. Women, gender minorities, and the LGBTQ community may face extra risk during a transition period.¹⁷⁵ Community based responses to domestic and sexual violence are largely underdeveloped.¹⁷⁶ This is not to suggest that the current system is working well for these groups: the opposite is true.¹⁷⁷ Community based responses that center women and survivors of sexual violence are needed.¹⁷⁸ Victimless crimes and crimes of poverty should be decriminalized. Laws against acts like panhandling, drug possession, trespassing, and sleeping in public spaces should not be enforced. Investigation into other small crimes, like theft and vandalism, should be focused on why they happened and not just who committed the act. Incarceration should only be used where no other response can be safely implemented. Prison should not be used to address minor infractions such as parole violations, minor assaults, vandalism, drug crimes, or shoplifting. One possible alternative is fines based on income levels, which provide

¹⁷⁴ “No Impact on Neighbourhood Crime from B.C. Injection Site, Criminologist Says”, *The Globe and Mail* (5 May 2008), online: <www.theglobeandmail.com/news/national/no-impact-on-neighbourhood-crime-from-bc-injection-site-criminologist-says/article18450000/> [perma.cc/2XFV-ZNBU].

¹⁷⁵ “The Critical Resistance INCITE! Statement on Gender Violence and the Prison Industrial Complex” (2008), online (pdf): <<http://criticalresistance.org/wp-content/uploads/2012/06/Critical-Resistance-Abolition-Now-Ten-Years-of-Strategy-and-Struggle-against-the-Prison-Industrial-Complex.pdf>> [perma.cc/GJZ4-UW54] at 23-24.

¹⁷⁶ *Ibid* at 23.

¹⁷⁷ *Ibid* at 17-22.

¹⁷⁸ *Ibid* at 24.

negative incentives for unwanted activity while simultaneously raising funds in a fair way.¹⁷⁹

The twin concerns of mental illness and drug use also need to be addressed. Almost 80% of people in prison suffer from one of these two afflictions.¹⁸⁰ Both of these need to be addressed as the health issues they are, instead of criminalized. A housing first approach, or at least supported and intentional housing services should be offered to those who are struggling.¹⁸¹ Not only does this reduce their reliance on other services, but also allows participants to “focus on other areas of their lives such as mental health, addictions, or healing.”¹⁸² Other harm reduction strategies such as safe injection sites can be implemented. Safe injections sites minimize harm to addicts, reduce the spread of disease, and reduce health-care and law-enforcement budgets, while promoting rehabilitation and leading to modest decreases in crime.¹⁸³ When appropriate, social workers should be the ones responding to people in crisis, not police. As Paul Butler put it: “The reality is that in moments of extreme trauma and stress, calling a person with a gun and the power to arrest often makes things worse, not better.”¹⁸⁴ The people most likely to deescalate the situation are the ones who should be called. This is the philosophy that Eugene, Oregon has followed for nearly 30 years.¹⁸⁵ Crisis Assistance Helping Out On The Streets (CAHOOTS) responded to 20% of all 911 calls in 2018,

¹⁷⁹ Butler, *supra* note 51 at 234.

¹⁸⁰ “The Mentally Ill Are Sick So Why Do We Put Them In Jail?”, TVO (1 June 2017), online: <www.tvo.org/article/the-mentally-ill-are-sick-so-why-do-we-put-them-in-jail> [perma.cc/7373-VAD9].

¹⁸¹ Jino Distasio, Jiltender Sareen & Corinne Isaak, “Winnipeg Final Report: At Home/chez Soi Project” (2014), online: *Mental Health Commission* <www.mentalhealthcommission.ca/sites/default/files/At%252520Home%252520Report%252520Winnipeg%252520ENG_0.pdf> [perma.cc/B4M4-5DZZ] at 5-8.

¹⁸² *Ibid* at 24.

¹⁸³ “No Impact on Neighbourhood Crime” *supra* note 174.

¹⁸⁴ Butler, *supra* note 51 at 235.

¹⁸⁵ Zusha Elinson, “When Mental-Health Experts, Not Police, Are the First Responders”, *Wall Street Journal* (24 November 2018), online: <<https://www.wsj.com/articles/when-mental-health-experts-not-police-are-the-first-responders-1543071600>> [https://perma.cc/6WHZ-NP6L].

and cost the city only \$800,000.¹⁸⁶ CAHOOTS sends mental health experts to mental health-related 911 calls to deescalate situations and help those in crisis.¹⁸⁷ Another promising community-based initiative is 24-hour safe spaces. With a yearly operating cost roughly equivalent to 1 police officer's salary, young people can be safe, warm, fed, and kept away from gang activity.¹⁸⁸

Another key program is proper public transit. Transit does a surprising amount to address the root causes of crime.¹⁸⁹ Free, efficient, and comprehensive public transit should be the ultimate goal. However, concrete first steps should include free passes for anyone under the poverty line, a restoration of bus service to rural areas in Manitoba, and a significant investment in more bus lanes and a bigger fleet to reduce waiting time and improve service.

Restorative and rehabilitative justice is another essential step. By reducing recidivism rates and promoting holistic healing in offenders, we can create more efficient criminal justice and a healthier community.¹⁹⁰

Many people are understandably worried about the consequences of defunding police. An underfunded criminal justice system can lead to serious consequences. However, if done properly, defunding the police should actually lead to increased safety and better outcomes for victims. Order Maintenance Policing, in vogue for the past few decades, suggests that the proactive patrolling of communities, numerous police stops, enforcement of "quality of life" crimes, and low-level arrests deter more serious criminal activity.¹⁹¹ The other side of this theory, the "Ferguson

¹⁸⁶ *Ibid.*

¹⁸⁷ Sigal Samuel, "Calling the Cops on Someone With Mental Illness can go Terribly Wrong. Here's a Better Idea", *Vox* (15 June 2020), online: <https://www.vox.com/future-perfect/2019/7/1/20677523/mental-health-police-cahoots-oregon-oakland-sweden> [https://perma.cc/UFC2-LMER].

¹⁸⁸ Bryce Hoye, "Report Recommends City Boost Funds for 24/7 Community Safe Spaces in Winnipeg", *CBC News* (8 November 2019), online: www.cbc.ca/news/canada/manitoba/winnipeg-safe-spaces-1.5351911 [perma.cc/RB9L-LARNF].

¹⁸⁹ Department for Transport, *supra* note 104.

¹⁹⁰ Department of Justice Canada, *supra* note 161 at 47.

¹⁹¹ David Weisburd, "Does Hot Spots Policing Inevitably Lead to Unfair and Abusive Police Practices, or Can We Maximize Both Fairness and Effectiveness in the New Proactive Policing?" (2016) 2016:16 *U Chicago Leg Forum* 661 at 661-64.

effect”, suggests that disengaging from these proactive measures would embolden criminals and cause a spike in major crimes. Although openings to verify or disprove these claims are rare, an opportunity appeared in New York in 2014-15, during a 7-week police ‘slowdown’ caused by political posturing between Mayor de Blasio and the police department surrounding protests against the death of Eric Garner.¹⁹² The police decided they would only perform “the most necessary duties”, refraining from proactive policing, issuing summonses, or making arrests for low level crime. An attempted show of strength, this stunt by the NYPD backfired. Instead of an increase in major crime complaints, a 3-6% decrease was recorded.¹⁹³ Although limited in scope, the findings of this study suggest that over policing is not beneficial, and a reduction in police stops, low level arrests, and the enforcement of quality of life crimes will not lead to an increase in major crimes.¹⁹⁴ In fact, proactive policing may even disrupt communal life and interfere with community based social control over violence.¹⁹⁵ As long as cuts to the police budget do not affect investigative units concerned with high level crime, there is no reason to think these crimes will increase.

Another valid concern is raised by some communities whose police officers are integral to their emergency service system. Police respond to a myriad of issues, and cuts to their budget could impede this process. It is vital that changes go beyond simply defunding the police, and include a robust plan to create and fund systems which are more effective.

IV. CONCLUSION

As a final word, it is important to change the narrative about policing. Policing is not inevitable. Nor do we need it to avoid total chaos. Countless communities have done away with policing altogether and maintained peace and good order. Examples include the Paris Commune, the 1919 general strike in Seattle, Oaxaca City in 2006, and Exarchia.¹⁹⁶

¹⁹² Christopher M Sullivan & Zachary P O’Keeffe, “Evidence that Curtailing Proactive Policing can Reduce Major Crime” 1: *Nature Human Behaviour* 730 at 730.

¹⁹³ *Ibid* at 733.

¹⁹⁴ *Ibid.*

¹⁹⁵ *Ibid* at 730.

¹⁹⁶ Gelderloos, *supra* note 4 at 91-92.

Even more examples abound in Indigenous communities from North America to the South Pacific.¹⁹⁷ Policing in its modern form did not come to North America until the 1800's. When it did come, it was imposed in the worst possible manner. Discrimination of all kinds is, and always has been, rampant.¹⁹⁸ These issues have not grown better with time.¹⁹⁹ For Indigenous people, sovereignty over justice systems is the only solution to the problems colonial justice systems have caused.²⁰⁰ Crime is not an issue that should be addressed on a case to case basis. Comprehensive societal reforms are needed to address the chronic inequalities in society which are the root cause of a large proportion of crime.²⁰¹ Although critics may say that these problems are too expensive to solve, they are actually too expensive not to. Investments in transit and public services pay themselves back several times over, while policing has the opposite effect. Additionally, these services have more of an effect on community safety than policing does.²⁰² Reducing funding for policing and giving it to other services is not only an egalitarian policy, but also an efficient one.

¹⁹⁷ *Ibid* at 93.

¹⁹⁸ Williams, *supra* note 5 at 77-121.

¹⁹⁹ *Ibid*.

²⁰⁰ Hansen, *supra* note 154 at 208-15. See also Jonathan Rudin, *Indigenous People and the Criminal Justice System*, (Toronto: Edmond Montgomery Publications Limited, 2019) at 20-23.

²⁰¹ Rudin, *supra* note 200 at 20-23.

²⁰² Allain, *supra* note 137.

