

PUBLIC TRUST AND RESPECT FOR LAW ENFORCEMENT:
UNITED STATES VS. JAPAN

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Abstract

American police have broadly failed to gain public trust, which is essential to their success in protecting communities. By contrast, Japanese police excel at maintaining public trust and cooperation. Drawing on the success of the Japanese, this Note examines the shortcomings of American policing and recommends reforms for the future.

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INTRODUCTION

“Police misconduct and corruption have the potential to erode public trust and confidence in . . . policing.”¹ Law enforcement misconduct is present in every country, but a country’s ability to manage and reduce this misconduct instills confidence, trust, and respect in its citizens. According to the *Pew Research Center*, in a November 2020 study asking American adults how much confidence they have in police to act in the public’s best interests, only thirteen percent of Democrats reported having confidence in America’s current policing system.² This is compared to four-in-ten members of the Republican party who reported having a “great deal of confidence in the police.”³ This statistic will provide guidance when discerning America’s attitude toward law enforcement discussed throughout this Note.

By comparing the growing public trust and respect for Japanese policing with the current distrust and lack of respect for American policing, this Note examines contributing factors and potential reform proposals based on the Japanese policing scheme to restore public confidence, trust, and respect in American law enforcement.

Three factors will be compared throughout this Note, each section will address how: (1) a community policing structure can affect police brutality and systemic racism; (2) accountability procedures contribute to

1. Frank V. Ferdik, et al., *Citizen Oversight in the United States and Canada: An Overview*, 14 POLICE PRAC. & RES. 104, 104 (2013).

2. *Trust In America: Do Americans Trust The Police?*, PEW RSCH. CTR. (Jan. 5, 2022), <https://www.pewresearch.org/2022/01/05/trust-in-america-do-americans-trust-the-police/> [<https://perma.cc/SFS8-2DWY>].

3. *Id.*

community respect; and (3) the level and quality of police training can create a foundation of trust in law enforcement.

Part I will discuss how these factors have contributed to and exacerbated widespread distrust and disrespect for law enforcement in America. Using the same factors, Part II of this Note will discuss the public's deep respect and admiration of Japanese police forces.

Finally, Part III of this Note describes a proposed model of policing reform that will restore the American public's trust and respect in law enforcement. This part will highlight how the United States could benefit from adopting a similar policing scheme that has proven to be successful in a country of developmentally equal status. Like the United States, Japan is highly sophisticated, industrialized, and rooted in democracy. Because of Japan's comparable position as a nation, a proposed model based on the Japanese law enforcement design is particularly realistic.

I. THE UNITED STATES

A. *History*

This section begins with a brief overview of the history of policing in America that led to distrust and the promotion of police brutality. Policing in America began in the Carolina colonies in 1704 with the creation of slave patrols.⁴ Slave patrols were "responsible for capturing runaway slaves and returning them to their masters."⁵ Given the egregious nature of slavery, slave patrols were brutal in their punishment of runaway slaves. Slave patrols were the first unofficial policing in America, entrenching America's policing in discriminatory, unfair, and inhumane practices.⁶

After the Civil War, slave patrols slowly took the form of policing units; however, the military played a substantial role in law enforcement at this time.⁷ Around this time, policing in America also "consisted of voluntary watch groups formed by citizens;" however, the groups were considered unorganized and ineffective.⁸ The Reconstruction Era followed the Civil War, during which time cruelty was America's go-to policing style. During the Reconstruction Era, police units focused on

4. Jonathan Andrew Perez, *Rioting by A Different Name: The Voice of the Unheard in the Age of George Floyd, and the History of the Laws, Policies, and Legislation of Systemic Racism*, 24 J. GENDER RACE & JUST. 87, 116 (2021).

5. Kala Bhattar, *The History of Policing in the US and Its Impact on Americans Today*, UAB INST. HUM. RTS. BLOG (Dec. 8, 2021), <https://sites.uab.edu/humanrights/2021/12/08/the-history-of-policing-in-the-us-and-its-impact-on-americans-today/> [<https://perma.cc/W54F-9TZP>].

6. *Id.*

7. Olivia Waxman, *How the U.S. Got Its Police Force*, TIME MAG. (May 18, 2017), <https://time.com/4779112/police-history-origins/> [<https://perma.cc/Z2TX-ZKCD>].

8. CAROL A. ARCHBOLD, POLICING 2–11 (2013).

segregation.⁹ Police were expected to protect white communities by over-policing black communities resulting in increased violence and police brutality within black communities.¹⁰ Modern policing began in the mid-1800s, starting with the New York Police Department, St. Louis Metropolitan Police Department, and the Chicago Police Department.¹¹ These new modern policing units employed three distinct characteristics that are still included in today's police practices: (1) limited police authority; (2) local control; and (3) fragmented law enforcement authority.¹² This history of police creation has led to an increased distrust in law enforcement and public disrespect in modern communities.

B. Lack of Efficient Community Policing Combined with a History of Police Brutality and Systemic Racism has Prompted a Long-Standing Negative Attitude Toward Law Enforcement

“Police brutality is a widespread problem that causes significant physical and psychological trauma, undermines faith in the law, and disproportionately impacts communities of color.”¹³ “[W]hen it comes to public safety, Black, Latino, and Asian communities want what every community wants: a safe and secure environment where their families can live and thrive, free from the fear of violence and crime.”¹⁴ The consistent and unpunished behavior by law enforcement strengthens the publics’ lack of respect for the police force in America.

One of the first and most infamous cases of police brutality was the beating of an African American man, Rodney King, by four Los Angeles Police Officers in 1991. This incident was caught on camera, broadcast on local television, and eventually on national news.¹⁵ A year after the beating, the officers were acquitted of the charges of assault with a deadly weapon and excessive use of force.¹⁶ The city commenced “several days of civil unrest, protests, and violence that resulted in thousands of people injured and more than 50 people dead.”¹⁷ Acquittals like this have

9. *Id.* at 2.

10. *Id.*

11. *Id.* at 3.

12. *Id.* at 4.

13. Mark D. Duda, *Remedying Police Brutality Through Sentence Reduction*, 107 VA. L. REV. ONLINE 99 (2021).

14. Sudria Twyman, *What Communities of Color Want from Police Reform*, THIRD WAY (Mar. 31, 2022), <https://www.thirdway.org/memo/what-communities-of-color-want-from-police-reform> [<https://perma.cc/U2VL-AX9L>].

15. Jenesse Miller, ‘Like a stick of dynamite’: USC scholars reflect on legacy of 1992 L.A. uprising and police beating of Rodney King, USC NEWS (Apr. 28, 2022), <https://today.usc.edu/like-a-stick-of-dynamite-usc-scholars-reflect-on-legacy-of-1992-l-a-uprising-and-police-beating-of-rodney-king/> [<https://perma.cc/S7TR-P8TC>].

16. *Id.*

17. *Id.*

contributed to the public's distrust of law enforcement because it demonstrates that officers can escape punishment for actions that would have gotten a conviction had they been committed by anyone outside of law enforcement. Situations like these demonstrate to the public that officers are above the law, which alone generates a negative bias towards officers. Numerous police brutality cases followed the Rodney King case.

A more recent police brutality case that evoked riots, protests, and the proposition of defunding the police was the killing of Eric Garner in New York. Garner was the victim of an illegal chokehold committed by Officer Daniel Pantaleo. Despite Garner pleading that he could not breathe, Pantaleo did not undo his chokehold, which eventually led to the death of Garner.¹⁸ After Garner's death, "NYPD officials and officers . . . attempted to cover up the killing, first claiming that Garner died of a heart attack, illegally leaking sealed records to criminalize Mr. Garner, and lying on official reports."¹⁹ These are the events that foster distrust in the American public. Police officers are expected to be a community safeguard. Still, even in the light of a tragic event committed by one of their own, they continue to push mistrust on the public by engaging in dishonest acts. "In a survey of over 30,000 Black Americans, 73% agreed that holding police officers responsible for misconduct would improve police-community relations."²⁰ This statistic sheds light on how minority communities view law enforcement.

Minority communities are disproportionately targeted for acts of police brutality. This erodes the trust and respect for law enforcement in these communities by driving diverse individuals to fear police officers. Creating fearful encounters undermines any form of respect that police expect because minority communities anticipate being harassed by law enforcement due to the history of police brutality that has submerged our police force. Many communities envision officers as role models. Therefore, allowing officers to act dishonestly, violently target minority groups, among committing many other forms of misconduct without consequences creates a mistrust in American officers.

C. Lack of Social Accountability Leaves Victimized Communities Suspicious of Dishonest Practices Engaged by Law Enforcement

"Police abuse and lack of accountability . . . can easily erode people's respect for, and allegiance to, legal institutions."²¹ Two significant barriers to this issue of social accountability are: (1) secrecy laws; and (2) a steep qualified immunity standard.

18. *Justice For Eric Garner*, COMMUNITIES UNITED FOR POLICE REFORM (2020), <https://www.changethenypd.org/EricGarner> [<https://perma.cc/6U7A-3EQJ>].

19. *Id.*

20. Twyman, *supra* note 14.

21. Avidan Y. Cover, *Revisionist Municipal Liability*, 52 GA. L. REV. 375, 411 (2018).

1. Secrecy Laws

Many states continue to pass laws that hide police misconduct from the public view “[d]espite the centrality of police misconduct information [and] the responsibility the state holds for people killed by police.”²² Secrecy laws were enacted to protect police officers and became popular following the Civil Rights Movement. The Civil Rights Movement was the first time “police officers’ conduct was under scrutiny from official actors outside of the police department,” because of the increased interest in the constitutional rights of people accused of crimes.²³

Suppressing police misconduct information contributes to the public’s distrust in law enforcement in more ways than one. First, secrecy laws deprive grieving families of information regarding a loved one’s death. This strips families of the opportunity to “achieve accountability beyond individual officers.”²⁴ Second, hiding evidence of police violence allows officers to partake in racial biases while wearing badges.²⁵ A few states have taken steps to remedy their secrecy laws to allow state citizens access to police disciplinary records. This is a major modernization for these states. However, several states are still reluctant to dispose of secrecy laws, claiming these laws protect their officers. These unwilling states seriously threaten police reform in the United States because becoming transparent vitally contributes to building Americans’ respect, trust, and value toward law enforcement. If the American public were to have access to the disciplinary records of police officers, citizens would likely feel that officers are being held accountable for their actions. Thus, public respect for the law will be greatly enhanced because accountability will deter police misconduct.

A recent example of security law reform in the United States was the repeal of New York Civil Rights Law section 50-a. Section 50-a kept disciplinary records secret from the public. At its inception, legislatures had ample warning that this law could restrict police accountability.²⁶ The repeal of section 50-a in New York was primarily prompted by the tragic death of George Floyd in Minnesota.²⁷ Derek Chauvin, a Minneapolis Police Officer, killed Floyd. Following Floyd’s death, records containing

22. Rebecca Brown & Cynthia Conti-Cook, *Crime Without Punishment*, 46 HUM. RTS. 14 (Jan. 11, 2021), https://www.americanbar.org/groups/crsj/publications/human_rights_magazine_home/civil-rights-reimagining-policing/crime-without-punishment/ [https://perma.cc/JVC7-YATT].

23. Cynthia Conti-Cook, *Digging Out from Under Section 50-a: The Initial Impact of Public Access to Police Misconduct Records in New York State*, 18 U. ST. THOMAS L.J. 43, 52 (2022).

24. *Id.* at 51.

25. *Id.*

26. *Id.* at 53.

27. *Id.* at 44.

information regarding twenty-two prior complaints against Chauvin were released to the public.²⁸ Floyd's death had a significant impact on secrecy laws across the country. The state of New York recognized that "[u]nlike the community that watched Derek Chauvin kill George Floyd, New Yorkers "[were] unable to look at patterns of officers who are continuously beating people up in the community."²⁹ The repeal of section 50-a prompted trust and respect throughout communities in New York because the public now feels more aware of police misconduct in their area. "The communities where these incidents occur will also no longer be fearful of not knowing, for example, the names of police who shot a man in broad daylight and how the department responded."³⁰ Reforming secrecy laws can substantially impact the relationship between law enforcement and the community. This example highlighting the effects of repealing section 50-a should guide those states who refuse to reform their secrecy laws. While reforming secrecy laws will not eliminate police violence and public distrust, it will significantly change the dynamic relationship between law enforcement and the communities they regulate.

Some laws are not secrecy laws on their face but can be twisted and used to hide the identity of police officers, one of those laws is Marsy's Law. In its original capacity, "Marsy's Law seeks to give crime victims meaningful and enforceable constitutional rights equal to the rights of the accused."³¹ "[A]s police across the nation face cries for accountability amid mounting evidence of brutality and systemic racism, law enforcement agencies in Florida are using Marsy's Law to shield officers after they use force, sometimes under questionable circumstances."³² The Florida Supreme Court heard arguments on whether Marsy's Law can be used to promote police anonymity in December 2022 and is expected to make a ruling in spring 2023.³³

28. *Id.* at 58.

29. *Id.* at 59.

30. *Id.* at 61–62.

31. *What is Marsy's Law*, MARSY'S LAW, https://www.marsyslaw.us/what_is_marsys_law [<https://perma.cc/9JLG-PKWC>].

32. Kenny Jacoby & Ryan Gabrielson, *Marsy's Law was meant to protect crime victims. It now hides the identities of cops who use force*, USA TODAY & PROPUBLICA (Oct. 20, 2022), <https://www.usatoday.com/in-depth/news/investigations/2020/10/29/police-hide-their-identities-using-victims-rights-bill-marsys-law/3734042001/> [<https://perma.cc/XN83-G64D>].

33. Carissa Allen, *The Florida Supreme Court considers whether Tallahassee police identities can be kept secret under Marsy's Law*, WUSF PUBLIC MEDIA (Dec. 8, 2022), <https://news.wfsu.org/wfsu-local-news/2022-12-08/the-florida-supreme-court-considers-whether-tallahassee-police-identities-can-be-kept-secret-under-marsys-law> [<https://perma.cc/Y9CG-TMBR>].

2. Qualified Immunity

Often, community distrust arises when police officers are protected from accountability using qualified immunity. Qualified immunity can erode public trust because it establishes the notion that police officers are above the law and can circumvent consequences. Qualified immunity can be used in civil suits, not criminal suits, to shield police officers from monetary damages. Without qualified immunity, victims and their families could use § 1983 to obtain money damages as a remedy for police misconduct. Qualified immunity was developed as a defense to U.S.C. § 1983. “The doctrine of qualified immunity protects state and local officials, including law enforcement officers, from individual liability unless the official violated a clearly established constitutional right.”³⁴ Many lawsuits filed against law enforcement are filed as § 1983 claims, however, the qualified immunity defense often bars victim recovery because of the near impossible standard of proof required to overcome this defense.

3. The Relationship Between § 1983 and Qualified Immunity

Section 1983 “makes government employees and state officials personally liable for money damages if they violate a person’s federal constitutional rights.”³⁵ Qualified immunity is a defense, used by law enforcement to protect them from individual liability. “Qualified immunity is generally available if the law a government official violated isn’t ‘clearly established.’” However, what courts have considered “clearly established” has varied since the initiation of qualified immunity. Generally, “clearly established means that, at the time of the official’s conduct, the law was sufficiently clear that every reasonable official would understand that what he or she is doing is unconstitutional.”³⁶

The case of *Baxter v. Bracey*³⁷ better illustrates the relationship between a § 1983 claim and the qualified immunity defense. In this case, Officer Brad Bracey arrested Alexander Baxter after he committed an aggravated burglary and fled the scene.³⁸ A neighbor saw Baxter breaking into a home and called the police. Once Baxter heard the sirens, he hid in the basement of the house he had broken into.³⁹ When the officer arrived on the scene, he announced that he “would release the canine if Baxter did

34. *Qualified Immunity*, NAT’L CONF. STATE LEGISLATURES (Jan. 12, 2021), <https://www.ncsl.org/civil-and-criminal-justice/qualified-immunity> [https://perma.cc/AFK8-4B62].

35. *Id.*

36. *Id.*

37. *Baxter v. Bracey*, 751 F. App’x 869 (6th Cir. 2018).

38. *Id.* at 2.

39. *Id.*

not surrender.”⁴⁰ With no response, the officer released the canine, who found Baxter in the basement.⁴¹ Baxter contended that when the officers came down the stairs, he raised his arms as to surrender, but did not communicate his surrender vocally.⁴² Baxter got bit on the arm before the officer arrested him. Further, Baxter was only bitten once, which was consistent with the canine’s police training. Baxter filed a § 1983 claim against Bracey for violating his constitutional right to be free from excessive force. The court discussed the elements that needed to be satisfied when claiming under § 1983, the plaintiff needs to prove: “[f]irst, that the officer violated his constitutional rights[,] [a]nd second, that the violation was “clearly established at the time.”⁴³ To satisfy the first element a plaintiff needs to assert a violation of his constitutional right, here plaintiff argues a violation of his Fourth Amendment protection against excessive force while being arrested. For the second element, the court explained a law is “clearly established,” when “every reasonable official would understand that what he is doing is unlawful.”⁴⁴ Further, “it is not enough that the rule is suggested by then-existing precedent, - it must be beyond debate and settled law.”⁴⁵ In the court’s analysis, it compares the facts at issue to cases with similar facts to determine if it was “clearly established” law that an officer cannot release a properly trained canine to apprehend a suspect who remained quiet after a warning from the officer.

In its comparison, the court looked to *Campbell v. City of Springboro* and *Robinette v. Barnes*. *Campbell* held that “officers cannot use an inadequately trained canine, without warning, to apprehend two suspects who were not fleeing.”⁴⁶ *Robinette* upheld “the use of a well-trained canine to apprehend a fleeing suspect in a dark and unfamiliar location.”⁴⁷ The court reasoned that the current case was more like *Robinette* and was not like *Campbell* on its facts. Because it was not similar to *Campbell* which made it clearly established that “officers cannot use an inadequately trained canine, without warning, to apprehend two suspects who were not fleeing,” then not every reasonable officer would understand what he was doing was unlawful. The court held that the officer was entitled to qualified immunity because there was no clearly established law making it a violation of an individual’s constitutional

40. *Id.*

41. *Id.*

42. *Id.*

43. *Id.*

44. *Id.*

45. *Id.*

46. *Id.*

47. *Id.*

rights for an officer to release a properly trained canine to apprehend a suspect who remained quiet after a warning from the officer.

The Supreme Court held in *Ashcroft v. al-Kidd*, that to be “clearly established” law “[w]e do not require a case directly on point, but existing precedent must have placed the statutory or constitutional question beyond debate. This creates a substantially high burden of proof for plaintiffs asserting a § 1983 claim because police misconduct varies in types and degrees. Because of the high standard of proof required, qualified immunity promotes public distrust and contributes to a lack of law enforcement accountability. Qualified immunity illustrates that police officers are above the law and fosters an us-vs-them relationship between police officers and the general public.

D. Inadequate Police Training Contributes to Public Distrust Because of the Inability of Law Enforcement to Engage with Culturally Distinct Communities

“A 2018 Justice Department study of state and local law enforcement training academies found that the average length of core basic police training in the U.S. is 833 hours, or less than 22 weeks.”⁴⁸ Inadequate police training significantly contributes to public distrust in law enforcement because it does not equip police officers with the skills necessary to efficiently keep the public safe. On average, police officers in the United States spend more than three times the training hours on firearms than training on de-escalating a situation.⁴⁹ This structure of training contributes to the wide-spread disrespect for law enforcement because it encourages police officers to rapidly escalate a situation using firearms or other forces rather than use communication to dilute a high emotion situation. Common training in police academies include police strategy, weapons training, community collaboration, and various physical tests. What is not included is training on mental health and diversity awareness. These two factors specifically contribute to the distrust in American policing because police officers do not know how to handle certain situations, whether cultural or mental health related.

One example highlighting the need for police training focused on mental health, is the killing of Daniel Prude. Prude was a forty-one-year-old African American man who was visiting his brother in New York

48. Jack Date, *Why police training in the US falls short compared to the rest of the world: Report*, ABC NEWS (Feb. 15, 2023), <https://abcnews.go.com/US/police-training-us-falls-short-compared-rest-world/story?id=96729748#:~:text=A%202018%20Justice%20Department%20study,or%20less%20than%2022%20weeks> [https://perma.cc/Q4K6-C8R6].

49. Jack Horton, *How US police training compares with the rest of the world*, BBC NEWS (May 17, 2021), <https://www.bbc.com/news/world-us-canada-56834733> [https://perma.cc/7XWE-EJY4].

when he ran out of his brother's home with no shirt, no shoes, and in an "erratic state."⁵⁰ The police were called, and Prude was arrested.⁵¹ While handcuffed, Prude began spitting and the officers responded by "covering his head with a hood" and pinning him face down on the ground.⁵² Prude stopped breathing and died after about two minutes on the ground.⁵³ Prude had a very tragic life in which he dealt with many of his family members' death and used various drugs. Both of which influenced his mental health.⁵⁴ The police were not trained to handle such severe mental and substance abusive culprits. Police training in the United States has contributed to the widespread disrespect for law enforcement that Americans carry with them today. If we are to rely on law enforcement to keep our communities safe, it is imperative that police officers be trained to handle common situations which arise in low-income or culturally diverse communities.

II. JAPAN

Police misconduct is present in every country, but public distrust varies for many reasons. Japan is a country of interest in this Note because of its similarities to the United States. Japan is a "highly developed, industrialized, and urban society," as is the United States.⁵⁵ This makes the potential reform ideas and adopting a similar policing scheme more realistic for the United States.

A. History

Before the formal formation of policing in Japan, Japan had a rigid class system.⁵⁶ The class system consisted of the following groups: the Tenno-Heika, regarded as a "direct descendent of the Sun goddess," the Shotgun "who dominated imperial rule," and the Samurai, the warrior class who were accorded deep respect.⁵⁷ The lower class Samurai were responsible for protection and policing until the issuance of a formal policing system in the 1870s.⁵⁸ "In 1872, the Japanese government sent the first Superintendent General Toshiyoshi to Europe to study the police

50. Michael Gold, *What We Know About Daniel Prude's Case and Death*, N.Y. TIMES (Apr. 16, 2021), <https://www.nytimes.com/article/what-happened-daniel-prude.html> [<https://perma.cc/L8UZ-LKEV>].

51. *Id.*

52. *Id.*

53. *Id.*

54. *Id.*

55. Liqun Cao, et al., *Public Attitudes Toward the Police: A Comparative Study Between Japan and America*, 26 J. OF CRIM. JUST. 279, 280 (1998), <https://www.sciencedirect.com/science/article/abs/pii/S0047235298000154> [<https://perma.cc/RHL2-FSBW>].

56. *Id.*

57. *Id.*

58. *Id.*

system.”⁵⁹ After his return, Toshiyoshi created the Tokyo Metropolitan Police Department, which was a centralized police organization run by the national government.⁶⁰ After World War II, Japan was democratized and established the Police Act of 1948.⁶¹ At this point, the Japanese government established municipal police to ensure democratized management.⁶² This municipal police structure “caused several problems such as inefficiency of police force operations and low cost- effectiveness due to geographical segmentation of the police units and unclear distinction of responsibilities between the municipal police forces and the national government to maintain public peace and order.”⁶³ Therefore, in 1954, the Police Act was transformed into the National Police Agency, which improved the initial shortcomings.⁶⁴ The National Police Agency is still the heart of Japanese policing today.

B. *How is Japan Different from the United States?*

The Japanese policing system carries some similarities to the United States. However, respect for law enforcement is deeply rooted in the structure of Japanese culture and policing. Even before a formal police structure was established, the Samurai were regarded as honorable, with a good community reputation. Japan focus’ their policing on promoting the public trust. In Japan, respect is valued, and trust is earned and taken away. These are important aspects of the Japanese culture that the United States does not necessarily have. The United States use a militarized tactic in policing while the Japanese value personal relationships within the community.

This section will discuss police brutality, racism, and accountability by addressing the factors of Japanese policing contributing to community trust in law enforcement. These factors are: (1) community policing structures; and (2) organizations focused on police accountability.

1. Community Policing has Instilled a Deep Trust and Respect for Law Enforcement and Promote Unity Between Police and Minority Communities

“For the Japanese police, good ties with neighborhood residents and cooperation with the community are key elements of crime prevention.”⁶⁵

59. *Id.*

60. *Id.*

61. *Id.*

62. *Id.*

63. *Id.*

64. *Id.*

65. *Sharing the Community-Based Police Model: The Japanese Koban System and Residents’ Trust*, 2016 TOMODACHI 10, 10, https://www.japan.go.jp/_src/302365/spring16_10-11.pdf [<https://perma.cc/DT6C-56TN>].

The Japanese have a democratized form of policing that reenforces positive community relationships with law enforcement. The structure of the Japanese police comprises of one National Police Agency and forty-seven Prefectural Police Departments. Within these forty-seven Prefectural Police Departments are more than 6,000 neighborhood Kobans.⁶⁶

Kobans are small “police boxes” in every neighborhood in Japan.⁶⁷ Kobans help establish a foundation of public trust. While smaller, Kobans are like local police stations in the United States, except that the central idea of Kobans is to focus on promoting crime prevention through local volunteer groups. The term “Koban” means “taking turns to keep watch.”⁶⁸ This emphasizes the idea of community inclusion rather than the us-versus-them mentality that American police officers often carry. “The role of [the] Koban is for police officers to serve as a close presence in people’s lives on a regular basis—not just when an incident happens—and to offer total support so that people in the local area can live each day with safety and security.”⁶⁹ Kobans contribute to the trust and respect Japanese communities hold in their law enforcement because the officers can bond with the community, helping them better assess the community’s needs when an incident occurs. Kobans also contribute to the face-saving culture established in Japan. Japanese officers value a positive reputation. Kobans provide ample opportunity to build a reputation.⁷⁰ Because the face-saving culture is so valuable in Japan, it influences how “law enforcement officers resolve and respond to crime.”⁷¹ The face-saving culture also lessens the demand for accountability procedures because of the community relationships built through frequent association with law enforcement.

Furthermore, police brutality and racism are reduced by using Kobans for similar reasons. The officers are routinely in contact with the communities and can use a grassroots method of dealing with situations arising in minority communities. Racism is an ongoing concern worldwide, and Japan is no exception. However, operations like the Koban can also reduce racism because officers will interact with minority

66. *Id.*

67. *Id.*

68. *Japan’s Streets Are Safe and Secure Thanks to Koban*, WEB JAPAN, [https://web-japan.org/trends/11_tech-life/tec202011_police-box.html#:~:text=The%20word%20Koban%20literally%20means,%2024%2Dhours%20a%20day.&text=Koban%20have%20a%20long%20hi story \[https://perma.cc/MFD2-P8ZP\].](https://web-japan.org/trends/11_tech-life/tec202011_police-box.html#:~:text=The%20word%20Koban%20literally%20means,%2024%2Dhours%20a%20day.&text=Koban%20have%20a%20long%20hi story [https://perma.cc/MFD2-P8ZP].)

69. *Id.*

70. Katrina Tran, *How Japan’s Cultural Norms Affect Policing: A Side-By-Side Comparison with the United States*, 5 RES. J. JUST. STUD. FORENSIC SCI. 37, 48 (2017), [https://scholarworks.sjsu.edu/cgi/viewcontent.cgi?article=1051&context=themis \[https://perma.cc/W87Q-YK3Z\].](https://scholarworks.sjsu.edu/cgi/viewcontent.cgi?article=1051&context=themis [https://perma.cc/W87Q-YK3Z].)

71. *Id.*

groups for long periods. Over time, racial stereotypes will likely diminish. Finally, Kobans aid officers in their ability to help because they see first-hand how certain communities function. Japanese law enforcement “prefer[s] a moral norm as opposed to a legal one for conflict resolution.”⁷² Getting to know the community plays a major role in establishing trust and respect in law enforcement.⁷³

C. Policing Structure Focused on Accountability will Help to Strengthen Public Trust Because It Proves Police are not Above the Law

In Japan “[t]he national level police organizations are the National Police Safety Commission (NPSC) and the National Police Agency (NPA).”⁷⁴ “Since the NPSC makes basic policy and the NPA administers police affairs, the NPSC has control over the NPA.”⁷⁵ The NPSC is an independent governmental body, making the Japanese police an “apolitical” organization.⁷⁶ Being apolitical by its very nature aids in community respect and trust for law enforcement because it allows communities to feel that officers are acting in their best interest, not the best interest of their electors.⁷⁷ The Prime Minister of Japan does not even give orders to the NPSC.⁷⁸ Because of this independent structure, punishment and accountability are in the hands of the NPSC.

While there are few written sources on established Japanese law, a notable example of Japanese police punishment is when the NPSC punished Japan’s top law enforcement officer, Setsuo Tanaka, for police bungling “in the case of a woman who was abducted and held hostage for nine years.”⁷⁹ Tanaka, who was the NPA chief, received a five percent pay cut. If the requests for help were not ignored, the police would have been able to free the woman sooner than nine years after the kidnapping.⁸⁰ Tanaka oversaw supervising the Prefectural Police Departments and was punished because the Prefectural Police Department that the kidnapping occurred in, did not properly inspect the incident.⁸¹

72. *Id.* at 53.

73. *Id.*

74. John Pike & Steven Aftergood, *National Police Safety Commission (NPSC)*, FED’N AM. SCIENTISTS: INTEL. RES. PROGRAM, <https://irp.fas.org/world/japan/npsc.htm> [<https://perma.cc/NZ4R-WUAL>] (last updated Oct. 12, 2000).

75. *Id.*

76. *Id.*

77. *Id.*

78. *Id.*

79. *Kidnap Bungle: Police Head Gets Pay Cut*, INDEP. ONLINE (Mar. 2, 2000), <https://www.iol.co.za/news/world/kidnap-bungle-police-head-gets-pay-cut-29895> [<https://perma.cc/DFE2-X46J>].

80. *Id.*

81. *Id.*

This is just one way in which the NPSC punishes the officers in the NPA. In 2022, the NPA stated that 276 officers were disciplined; and in 2021 that number was 204. “Of the total [in 2021], 57 were arrested and 27 dismissed from their jobs.”⁸² The crimes that warranted disciplinary action include “theft, sexual harassment, accepting bribes, fraud, gambling at police training academies, illicit sex, fraud and causing traffic accidents.”⁸³ Furthermore, while no statutory laws govern accountability of Japanese police officers, there is an entire apolitical branch of government with the power, resources, and authority to discipline as they see fit. The NPSC has made it their mission to restore the public’s trust after these disciplinary actions.⁸⁴

While the NPSC is the top-ranking disciplinary committee designated to reforming and advancing Japanese policing, the NPA also takes steps to remedy potential misconduct brought to their attention.⁸⁵ This is significant because it proves that at each level of the policing system in Japan, there is recognition of wrongdoings and the need for reform. Racial discrimination is present in every country, but response by law enforcement varies greatly. Law enforcement acknowledgement and reformation plans in Japan help to promote trust and respect for policing. Japan has recently faced scrutiny for alleged racial discrimination by police officers.

One recent case of racial discrimination by police was the stop and search of Alonzo Omotegawa, an African American man of Japanese descent in 2021.⁸⁶ Omotegawa states that this was the third time he had been searched in six months. Coincidentally, he grew dreadlocks in the six months before these searches began. When Omotegawa asked the officer why he was being stopped, the officer admitted that Omotegawa’s appearance “influenced his decision” and that in the officer’s experience, “people wearing stylish clothes and dreadlocks tend to carry drugs.”⁸⁷ Another African American artist named Terry Wright was also vocal about his frequent encounters with Japanese police.⁸⁸ Wright states that there is

82. *Disciplinary action taken against 276 police personnel in 2022*, JAPAN TODAY (Feb. 10, 2023), <https://japantoday.com/category/crime/disciplinary-action-taken-against-276-police-personnel-in-2022#:~:text=Disciplinary%20action%20was%20taken%20against,the%20report%20released%20on%20Thursday> [https://perma.cc/9ES4-D3N7].

83. *Id.*

84. *Id.*

85. *Id.*

86. See Liselotte Mas, *Video: Japanese Policeman Admits to Searching Black Man Because of his Dreadlocks*, FR. 24 OBSERVERS (Mar. 2, 2021, 6:20 PM), <https://observers.france24.com/en/asia-pacific/20210205-japanese-police-officer-admits-to-searching-black-man-because-of-his-dreadlocks> [https://perma.cc/VQ3N-W65M].

87. *Id.*

88. *Id.*

a real fear of being targeted based on his skin color.⁸⁹ However, he states that these encounters are not like the United States' problem of police brutality. While these encounters are generally not deadly, they are discriminatory, unnecessary, and stress inducing.

The U.S. Embassy in Tokyo tweeted in December 2021, that "it had received reports of suspected racial profiling incidents."⁹⁰ Prompted by Omotegawa, Wright, and other similar incidents, the NPA issued an advisory to all Japanese prefectural police forces.⁹¹ After this advisory was released, Lawrence Yoshitaka Shimoji, a sociology researcher emphasized that the advisory is "an important first step," but that the problem could be solved at the level of the Koban.

Furthermore, Japan does not have the protective layer of qualified immunity. This allows people to truly see that police are not above the law in Japan. Japanese police can be held accountable for their actions under the State Redress Act. The State Redress Act provides "When a public employee who exercises the public authority of the State or of a public entity has, in the course of their duties, unlawfully caused loss or damage to another person intentionally or negligently, the State or public entity assumes the responsibility to compensate therefor."⁹² This means that Japanese citizens who feel wronged or believe they have been the victim of police misconduct, will be allowed to bring suit and hold the public entity, the police officer, responsible for their actions.

D. Quality Police Training Helps Establish Community Trust Because Police Officers will be Trained to Deal with Cultural Differences and Community Variability that Leads to Trust and Respect for Law Enforcement

"The conundrum facing all of law enforcement is the need to uphold the highest standards of professionalism in an increasingly violent society while ensuring that the applicant pool is sufficient to meet the needs of the communities they serve."⁹³ "It is critically important to be aware of the linkages between public trust in police and police leadership, as the

89. *Id.*

90. *Japan Police Urge Officers to Avoid Impression of Racial Profiling*, KYODO NEWS (May 12, 2022, 4:34 PM), <https://english.kyodonews.net/news/2022/05/b3bd7f651613-japan-police-urge-officers-to-avoid-impression-of-racial-profiling.html> [<https://perma.cc/PB3S-BUR8>].

91. *Id.*

92. Kokka baishōhō [State Redress Act], Law No. 125 of 1947, art. 1(1), *translated in* (Japanese Law Translation [JLT DS]), <https://www.japaneselawtranslation.go.jp/en/laws/view/3785/en> [<https://perma.cc/2PLH-7EFK>].

93. Sid Smith, *A Crisis Facing Law Enforcement: Recruiting in the 21st Century*, THE POLICE CHIEF (June 2016), <https://www.policechiefmagazine.org/a-crisis-facing-law-enforcement-recruiting-in-the-21st-century/#1> [<https://perma.cc/X9QT-PD2S>].

factors influencing public perception of police services are much bigger than officers on patrol can control.”⁹⁴

In Japan, police officers are awarded great respect and are regarded as white-collar workers. Japanese police training focuses on building community trust and encouraging continuing police education.⁹⁵ To qualify to be a police officer in Japan, an individual must have a black belt in Judo.⁹⁶ This aspect of Japanese police training is enough to aid community trust because communities will not be fearful that they will be shot when encountered with police forces.⁹⁷ Training police officers in ways other than promoting militarized violence is a major part of the police training in Japan.⁹⁸ Japanese police also must continue their police education; after one year as a police officer, the police officer “must return to the police academy to improve his skills and self-defense courses.”⁹⁹ Further, Japanese police training includes courses focused on softening their police officers. Unlike in the United States where the main way of law enforcement control is by way of force, in Japan, police officers must take courses such as flower arranging or meditation, to lighten any violent instincts.¹⁰⁰ For all these reasons, Japanese police have gained deep respect from the community, which has contributed to less police violence and a decrease in the fear held in communities.

III. THE UNITED STATES COULD BENEFIT FROM ADOPTING A SIMILAR POLICING SCHEME

American policing can benefit from adopting a strong community policing structure and a National Police Safety Commission. Both additions to American policing would help advance community trust and respect for law enforcement. The United States could accept a more local community policing plan like the Koban that would push officers in direct contact with individuals they are policing. This will aid the relationships between officers and members of the community, which will reduce police brutality and racism because officers would better understand the culture of minority communities. Understanding the culture will provide officers with the skills to apply the proper context of policing in a

94. Chris Lewis, *The Impact of Police Leadership on Public Trust*, POLICE1 BY LEXIPOL (July 5, 2022), <https://www.police1.com/chiefs-sheriffs/articles/the-impact-of-police-leadership-on-public-trust-icNhytjot4el77b1/> [https://perma.cc/WL34-QZ2C].

95. See S. Charle, *Tokyo (Japan) Police Academy*, 2 POLICE MAG. 49 (1979).

96. *Id.*

97. *Id.*

98. *Id.*

99. *Id.*

100. *Id.*

community they are less familiar with.¹⁰¹ In the United States, this concept is referred to as cultural competency. “A culturally competent law enforcement agency knows who lives in the areas in which the department polices, and it understands how to interact with various cultures in the regulatory radius.”¹⁰² The most effective way to do this would be to submerge the officers in the culture, not just for an emergency, but as a friendly face in the neighborhood who can offer help and file complaints that may arise, just like the officers in the Japanese Kobans. Kobans allow officers to learn the communities they serve. They allow for police to see first-hand what a community is sensitive to and how they interact with each other. This aids in showing officers what tactics will work best in certain communities. Some communities may be more sensitive to weapons than others and some communities may respond better to gentle guidance and prevention rather than abrupt hostility after the incident. But these things are learned from ongoing contact within a community, which Koban’s provide. The United States would greatly benefit from a system like this due to the American police reputation of being hostile to certain minority communities.

A. Accountability

Another notable adoption that could aid in establishing community trust and respect for American law enforcement is initiating a National Police Safety Commission. Like Japan’s structure, organizing a commission independent from government scrutiny would be beneficial. This commission, like the NPSC, would be apolitical and place the people’s interests at the forefront of their values. The American NPSC would be solely dedicated as the check on police behavior throughout the United States. This would minimize the police brutality, and racist encounters faced by minority communities. Overall, there are a lot of concepts rooted in the Japanese culture that make these two aspects of their policing culture successful, but the United States should use these reform strategies as a guide.

Furthermore, the United States would benefit from getting rid of qualified immunity. Qualified immunity allows officers to hide behind the law and circumvent all consequences. This promotes public distrust, of which Japan does not have to confront. The United States should allow victimized citizens to sue officers for their misconduct and reduce the standard of proof needed to succeed on a § 1983 claim. This will help to hold officers accountable and will create a sense of trust between

101. Damon J. Brown, *Community Policing in Multicultural Communities*, POLICE CHIEF ONLINE (Aug. 19, 2020), <https://www.policechiefmagazine.org/community-policing-in-multi-cultural-communities/?ref=427751ea7b20b192339f915ad4db3062> [https://perma.cc/XBQ7-M6DQ].

102. *Id.*

communities and law enforcement because communities will feel like they have some way of redressing harm, and officers have a deterrent to participating in misconduct.

B. Police Training

The United States should adopt a similar police training scheme used by Japan to promote confidence in American police officers. Given the long-standing history of militarized policing held by the United States, we should now focus most of America's police training on softening our officers and bringing them down to earth. Providing a grass roots level viewpoint for police officers will help them to better assist the communities they serve. The United States should require some sort of self-defense training that does not require weaponry. This will decrease the amount of fear in minority communities. Furthermore, America should train officers on mental health and substance abuse, to help them better understand and address the situation at hand.

CONCLUSION

Reform is achievable if the United States focuses on restoring public trust in the American public. Aspects such as community policing, accountability, and police training can make a substantial difference in the way our country views law enforcement. We should not be afraid of the people who are tasked with protecting us. Therefore, reform is not only needed but it is necessary to establish a more trustworthy police force. With trust comes easier and more organized policing. Communities will be more willing to help and work with police officers if they trust them. There are many other types of reform that the United States could benefit from, but the main ones include community policing, accountability, and police trainings. All of these aspects will help to re-instill trust in law enforcement in America.