

# NixDONE

Wed, Mar 15, 2023 4:00PM • 50:40

## SUMMARY KEYWORDS

police, data, paper, legitimacy, disparities, officers, police shootings, fatal, violence, study, cops, deadly force, agencies, policing, clear, war, police officers, researchers, terms, gunfire

## SPEAKERS

Justin Nix, Jenn Tostlebe, Jose Sanchez

### Jenn Tostlebe 00:14

Hi everyone. Welcome back to The Criminology Academy podcast where we are criminally academic. My name is Jenn Tostlebe.

### Jose Sanchez 00:21

And I'm Jose Sanchez.

### Jenn Tostlebe 00:22

And today we have Professor Justin Nix's on the podcast to speak with us about police use of force and police legitimacy.

### Jose Sanchez 00:30

Justin Nix is a distinguished associate professor in the school of criminology and criminal justice at the University of Nebraska Omaha, where he co directs the Violence Intervention and Policing Research Lab, teaches classes on policing and coordinates the Master of Arts degree program. His research interests include police legitimacy, and officer decision making. To date Justin has authored or co-authored more than 40 peer reviewed journal articles on these topics, as well as several book chapters, research briefs, and op eds. He was the 2020 recipient of the Early Career Award from the ASC division of policing, and the 2021, recipient of the Outstanding Young experimental criminologist award from the ASC division of experimental criminology. Justin, thank you so much for joining us, we're excited to have you.

### Justin Nix 01:14

Thank you for having me. I'm also excited.

### Jenn Tostlebe 01:15

Alright, so for today's episode, we're talking about something that's been high profile and really contentious issue within the United States. So we're gonna start off with this more broad discussion on police use of force. Then we're gonna dive into a paper authored by our guest, Justin Nix on police

shooting mortality, and then wrap up with a short discussion on legitimacy and the war on cops. So Jose, why don't you get us started?

**Jose Sanchez** 01:44

All right, thank you, Jen. Normally, the first question we'd like to kick off with is usually this broad definitional type of question, and we're going to get there. But for right now, we want to actually start this podcast by asking you about some of the numbers and really start painting a picture for our listeners. And So Justin, can you tell us approximately how many people are killed by police gunfire each year in the United States, regardless of whether it's justified or not?

**Justin Nix** 02:12

I can and it's interesting, if you'd asked me 10 years ago, or any other criminologist or the director of the FBI 10 years ago, none of us could have but today, we can tell you that approximately 1100 people were killed by police gunfire last year. And I say approximately because the databases we have as much of an improvement as they are over the FBI data we used to rely on they're still not capturing the universe of police shootings. And they vary in terms of their definitions of what constitutes a police shooting in terms of whether they track off duty on duty shootings, etc. But we know that that number is somewhere in the ballpark of 1000 to 1100 per year over the last eight years.

**Jenn Tostlebe** 02:49

Okay, just out of curiosity, did we get like a new data set in the last 10 years? So we could track that? Or did the data set just improve?

**Justin Nix** 02:58

So the FBI had been tracking this information for a long time as part of the UCR. But we knew that the data weren't comprehensive, and circa 2013 2014, fatalencounters.org and mapping police violence began tracking fatal police encounters, they vary in their definitions, right? But fatal encounters was started by a former journalist who was just driving home from work one day, saw a bunch of cops on the side of the road thought that something might have happened. Curious, he Googled how often do cops kill people, and he couldn't get an answer. And he learned about some of the struggles we've had to collect this data. And so he decided he would just start doing it himself using a bunch of Google key phrase searches. Similarly, mapping police violence was started by some of the folks who are at Campaign Zero, frustrated at the inability of the federal government to get good numbers. They started tracking it. The Washington Post, started the database in 2015. After famously, Jim Comey, who's the FBI director at the time, said on the record, he nor anyone else in his agency knew how often events like Ferguson happen because they had failed to compile the data. So when I refer to the old data, I'm typically talking about the FBI's data. And when I refer to new data, I'm generally talking about Washington Post and Mapping Police Violence, etc. And those databases capture at least twice as many police killings as we thought that there were based on the FBI data.

**Jenn Tostlebe** 04:17

Quite a jump. Okay, so Jose brought this up. Can you explain to our audience the difference between a justifiable homicide by a police officer versus one that's an I don't know the term for it unjustified? There's probably a correct term for it. I don't know what it is.

**Justin Nix** 04:33

Well, certainly we could speak about legally justified shootings. Right? That's a thing. But it won't be a satisfying answer to many right? Like we can reasonably debate what justified means what unjustified means. I think a heuristic that people often use when they think about this is whether the person had a weapon or not right or whether the person was actively attacking an officer or someone else right whether there was an imminent deadly threat to a person's life, because at the end of the day, police officers do have the authority to use deadly force in a limited set of circumstances. So of those 1100 police shootings, fatal police shootings last year, some percentage of them were legally speaking, justified. Some percent were not. And it's just really hard to hone in on what that exact percentage is, but you can look to contextual information, such as was the person who was shot pointing a gun or shooting a gun at officers, right? Were they doing something else that reasonably could be interpreted as an imminent threat to the officer or to someone else? If you're asking me to put an exact percentage on it, it's really hard to do given the data that we have. But fortunately, we have good hard numbers on how often it occurs. And from there, we can sort of work toward understanding, you know, what percentage or it's so hard to use good terminology, but like, what percentage of those are justified? Or that we might think were unavoidable? Right, and what percentage were unjustified? And what percentage were avoidable? So that we can work to reduce the overall number, if that makes sense?

**Jose Sanchez** 06:00

So something that has really come up, or I guess the last decade or so has been racial bias when it comes to police shootings, and that often seems to be like a driving force in like the discourse when one of these does occur. And so we're going to want to dig into it a little more, a little later, but just enough to get that started. Do we see any ethnoracial disparities in who is killed by the police?

**Justin Nix** 06:23

Yes, full stop. Yes, there are disparities and who was killed by the police now, we could have a whole nother conversation, a whole nother episode on whether those disparities are driven by or what percent of that disparity is driven by bias on the part of officers or policing. But if the question is, are there differences in the rate at which groups are killed by the police? The answer is a hard yes and there's no debating that. I'm thinking specifically of a paper by Frank Edwards in the Proceedings of the National Academy of Sciences, and more recent paper by Gabrielle Schwartz and Jacqueline John in PLOSOne that show clear disparities, right, black men are something like two and a half times more likely to be killed by police over their life course than white men, black women, about 1.4 times more likely than white women over the course of their lives. The estimates are less precise for other groups, for example, American Indian men, somewhere between 1.2 and 1.7 times more likely than white men to be killed by police over the life course. Interesting for Latino man, it's 1.3 to 1.4 times more likely, but for Latino women, they're actually maybe 12 or 20%, less likely than white women to be killed by the police. And then Asian and Pacific Islander men and women are 50% less likely than white men and women to be killed over the life course. And so that's coming from Edwards's paper, if you look at the Schwartz and John paper, they break it down into metropolitan statistical areas and show clear disparities, not just in who was killed, but in the extent of those disparities across geographic space. Right? So this is, again, a tip of the hat to specifically fatal encounters. I believe that what both of those

papers use. These data have enabled us to shed light on the extent of these disparities and where they're most problematic, or at least where they're most pronounced.

**Jenn Tostlebe** 07:57

Okay, so I know you said that we didn't have a lot of this data 10 years ago, but is there any sense of how the number of fatal shootings by police have changed over the last 5-10 years? And if they have changed? How have they changed?

**Justin Nix** 08:13

I'm so glad you asked me this, Jenn. Because all morning, I've been thinking really hard about this. I'm working on something right now with a colleague. I don't know what it'll turn into. But you know, last week, I was quoted in The Washington Post in a story that I think the title was, like, "Fatal police shootings continue to go up, and no one knows why." And I was quoted in that story as saying, it's hard to know if it's meaningful, or if it's just noise. And as these things often go, right, it's not an hour and a half podcast, it's a 20 minute phone interview that gets condensed down to one sentence. And so a lot of context gets lost. And that's just the name of the game, right. But what I meant there is that there's some noise that goes into tracking these statistically rare events across time, right. So 1100 people are fatally shot. And last year, and this is the result of 10s of millions of interactions and however many arrests right, the number is not going to be precisely the same every year, it's going to bounce around a little bit. So how much of that bounce is meaningful versus just what a rare number does over time? We don't know. And I think an interesting complication here is that though Washington Post claims to track every fatal police shooting, they're not tracking every fatal police shooting, they're probably on the order of 90 to 95% complete, Mapping Police Violence claims to be 92%, complete on its website, Fatal Encounters, has done some digging in 11 states and compare their data to official records, and their data are about 97% complete. So Washington Post is doing great. They're doing great work, but they're not getting the universe of fatal police shootings. And so even if we just were to plot the number with some error bars, that would introduce some of the uncertainty here. It does appear like it's going up. But we've got to account for that uncertainty because it's certainly plausible if not likely that over the last eight to 10 years, fatal police shootings have become more newsworthy events. Certainly when you think about Ferguson as an anchor point, George Floyd, Tyree Nichols more recently, when things like this happen, we pay more attention. And local news stories are more likely to be written and therefore caught up in the Washington Post and Fatal Encounters with their web crawlers, they're more likely to pick it up for their databases. So there's that problem. And then as we're going to talk a little bit later, in this episode, the problem of only tracking fatal police shootings to the exclusion of non-fatal police shootings. And so just like the number of fatal shootings bounces around from year to year, it's probable if not likely, that the fatality rate, so conditional on police shooting someone, what's the likelihood that they die? And what is that in the aggregate that probably bounces around from year to year too? So the number of fatal shootings went up year over year from 2021 to 22? Is that a real rise? Or does that reflect the fatality rate going up just a percentage point or two, or Washington Post getting just a little bit better capturing just a few more than they otherwise would have year over year? If so these very small changes could explain away what appears to be an increase. So, my best guess is that it's been largely stable, if it's going up, it's going up at a very slow, very small rate, I don't want to dismiss it as not a concern, not something to pay attention to. But I'm also not ready to freak out about it and say that it's getting worse. And you know, there was a similar story in The Guardian a couple

months ago about, you know, the headlines said, it's the highest on record, or something which was true, they were looking at Mapping Police Violence data. And it was the highest since they started in 2013. But we know from 50 years ago, major cities were shooting way more people, we don't have good national data going back that far. But dozens of major cities, there are documented numbers that you can go pull and you can see that the trend line is definitely going are has gone down over time. So make a bit what you will just think it's really hard with all of this noise to make sense of these statistically rare outcomes and what they're doing.

**Jenn Tostlebe** 11:47

Okay, and especially when you look at all of the noise put together, because it could be all of these factors. And that's right there for who knows.

**Justin Nix** 11:55

That's right.

**Jose Sanchez** 11:56

So, so far, we only discussed individuals that get killed by police gunfire, but we know that the use of deadly force is broader than this. And so as we promised our listeners at the top of this episode, we're about to get into the definitional question. So, can you provide us with a definition of police use of deadly force and whether this has to require the use of a firearm?

**Justin Nix** 12:21

Sure, that's a great question. It does not require the use of a firearm. But I think using the definition that I'm going to put forward that others before me, long before me have put forward, it most often does involve a gun. So looking at some of the aforementioned databases, 90 to 95% of the deaths are caused by gunfire. But as far as the definition of the use of deadly force goes, I prefer the one put forward by James Fife and his seminal dissertation of that study police shootings by the New York Police Department. He said that the deadly force is physical force that is capable of or likely to kill. And he explicitly said it does not always kill, right? So when police shoot a gun in someone's direction, they're using deadly force, whether that bullet strikes and kills them or not. It's great that we have all this data now and fatal police shootings. But we know that police often miss or shoot and injure but don't kill people. And all of the above are uses of deadly force. So it's important to track every time officers discharge their firearms, with the intent of striking person. Now, like you said, there are other ways that police can use deadly force that don't involve shooting a gun, right? See Eric Garner, see George Floyd, see Tyree, Nichols, there are documented cases, but those tend to be the exception rather than the rule. Like, again, 90 95% of uses of deadly force or gunfire incidents,

**Jose Sanchez** 13:42

You've dropped this quote, before that we kind of want to ask about a little bit, and it's that that non fatal police shootings are the dark figure of police violence. And so based on that, and prior research, is the number of people who are killed by police gunfire, is a good representation of police use of deadly force, or is that a number an under representation of how often police use deadly force?

**Justin Nix** 14:08

Yeah, it's a clear under representation of the universe of incidents that we're interested in. I don't mean to suggest that we shouldn't study fatal police shootings or fatal police encounters. Obviously, we should. I just think that we've got to do better about understanding that I've likened it to trying to put a puzzle together, where you only got 30 to 40% of the pieces, and there are non random sample of the pieces, and then trying to make sense of what's on the cover of the box. Right? What's this puzzle a picture of when we're missing 60 or 70% of the pieces? Not at random? It's challenging, right? I do a lot of publishing that involves or a lot of my research involves survey research and reviewers hang me to dry or 20 and 30% response rates, they freak out and they dismissed everything because I had a bad response rate. Well, if we think of police shootings, as like this universe of things we're interested in or police encounters that involve deadly force. And we only get the ones that resulted in a person dying, which we know is probably in the ballpark of 30 or 40%. And I would just push back and say that, you know, I would question everything we think we know, based on studies that only have the fatal outcomes, for reasons we'll get into, I'm sure.

**Jenn Tostlebe** 15:14

Yeah, well, let's get into it. So we're gonna move into our paper for this episode authored by our guest, Justin and his colleague, John Shjarback, and it's titled "Factors associated with police shooting mortality of focus on race and a plea for more comprehensive data." It was published in PLOSOne in 2021. And just to give a quick summary in this paper, Justin and John quantify non fatal injuries police shootings and examine the factors associated with victim mortality to do so they use victim level data on 2968 fatal and non fatal injuries, police shootings from Florida, Colorado, Texas in California. So just to start off this discussion, can you tell us Justin, what made you decide to write this paper?

**Justin Nix** 16:02

Yeah, so I think the motivation was twofold. First was that, in addition to my own work on this topic, I often get asked to review papers that increasingly draw on these new databases. And that, at least from my vantage point, increasingly are authored by non criminologist or non sociologists, which is fine, but I just get the sense review in these papers by public health researchers, by medical doctors, by folks in other fields that they just don't really appreciate the data that they're working with, they don't seem to fully grasp some of these issues that we've been talking about. And so I was frustrated with some of the things I was seeing during the peer review process. And, more importantly, author's dismissal of some of my concerns, right. And then, in early 2020, I was invited to write a response essay to the aforementioned Schwartz and John paper, the authors and I went back and forth, like they reviewed my response. And we had a little back and forth in the peer review process before my piece was published. And so there was just on my part, a little bit of frustration, with researchers, at least in the circles that I'm running in not seeming to get the importance of studying non fatal police shootings, just chalking it up to the well, these are the best data that we have, which is true, right, but at least throw me a bone and be honest that it's still really far from complete. And so there was that and then John, and I had previously worked with data that have begun to be collected by Texas and California, right. So they now have state level systems that require agencies to submit data in Texas to the Attorney General's Office. Forgive me in California, I don't know that quite what the mechanism is. But it's a state level system that is doing a much better job of tracking both fatal and non fatal police shootings. So we've worked with those data before we knew that at least for two states, we could sort of dig into some of these issues. But turns out that Colorado also had been doing it for a while, although



they've since repealed that law that required that, unfortunately, and down in Florida, the Tampa Bay Times had compiled some data. So now we're like, alright, well, we've got four states several years worth of data, could we go in and just sort of see if we only worked with their fatal police data, which is what we have at the national level, and we asked us a couple of research questions with those data, would we get the same answer as if we then include shootings that don't result in death? And that was sort of the point of the paper was just sort of like a thought exercise? Like, let's quantify how often this happens in the first place? And then let's see, when we add this data into the poll, which we need to be doing, does it change some of our conclusions about the use of deadly force, specifically around the issues of race and place?

**Jose Sanchez** 18:25

So I think that sort of sets up our next question up pretty nicely, because one of the arguments, one of your core arguments in this paper is that we are lacking comprehensive data on police shootings. And we've kind of been alluding to this throughout the episode. And this is especially true if they do not result in death. And this lack of data can be problematic and may bias research results. And so can you tell us more as to why data that only includes fatalities may produce results that are statistically biased when we are examining police shootings or use of force?

**Justin Nix** 18:58

Right? I mean, as I'm sure you all know, and most of your listeners will know, if it was completely random. If fatal shootings were a random sample of all shootings, we wouldn't have to be concerned about it right. If the non fatal data was missing completely at random, then it wouldn't be a problem, at least to run some of the studies that we've been running. And to be sure there is some degree of randomness in terms of whether a shooting is fatal. A bullet could miss a vital organ by centimeters or millimeters and a person could live as opposed to dying if the bullet had just been a little to the right or to the left. There's some chance there. But there's also non random factors at work, such as distance or time to get to the nearest level one or level two trauma center agency policies on how soon officers can administer aid or on scene how safe is it for officers to move in and administer aid. Some agencies like Philadelphia for example, encourage scoop and run so rather than wait on EMS, if you can throw the person in the back of the car, get them to the emergency room ASAP, because we know seconds matter, right? When responding to gunshot trauma. And Philadelphia PD, by the way has a low mortality rate versus You know, some other agencies that may or may not have these policies, quite frankly, we don't have a good understanding of how widespread policies like that are. But other things like the number of rounds that cops fire off at suspects could vary according to the suspects race, for example. But to be clear, we'd need much better data to test that hypothesis. The point is, if we're only studying the fatalities, the results that we get might be telling us more about factors that predict mortality, as opposed to factors that predict the use of deadly force, which I think is what we're interested in as researchers trying to understand the scope of this problem, and how to make improvements where we can. So yeah, that's my soapbox about why we need the better data.

**Jenn Tostlebe** 20:39

And you started to dig into this, but you just mentioned situational, organizational, ecological characteristics that can influence mortality. So given all of these things, is it possible then that mortality rates and police shootings could differ among racial and ethnic groups? And if so, how? Or why?

**Justin Nix** 21:00

Yeah, I believe so. So we already know there's already research to tell us that, for example, urban areas have much better access to level one and level two trauma centers, right, which are much better equipped to respond to gunshot trauma at any hour of the day, right? So if certain groups are more likely to live in urban versus rural areas, then their odds of survival on average might be just a little bit higher than other groups, right? There's also some evidence that police killings have declined over the last 10 years in urban areas. Meanwhile, they've held steady or even increased in suburban and rural areas. So this might be signaling, for example, that reforms that successfully reduce police killings, may have worked in urban areas, but have also been disproportionately adopted by cities serving or agency serving these urban areas, right. Meanwhile, the rural and suburban areas haven't faced the same pressure to reform. But again, the point is, we have reasons to believe that mortality could vary across place, or across racial and ethnic groups.

**Jose Sanchez** 22:04

Alright, so based on everything that we've been discussing, I think it's fair to say that we would expect for you to find a fairly large portion of your total sample in this paper, across the four states were shot, but not killed by the police. And out of the almost 3000 individuals in your sample, what percentage of them were shot, but not killed?

**Justin Nix** 22:27

45%, we found 1322 people who were shot by a police officer and survived. And to be clear, this doesn't include people that perhaps shot out and missed. So this is only people who were injured, or killed by police gunfire, and the mortality rate just on those two outcomes was 55%, meaning 45% survived. Another sort of motivation for this study was that Vice News had done a study of major cities, the 50 largest jurisdictions in the US, we observed that mortality rates vary extensively across cities, in some of those cities, they were able to get shots and misses by officers. And so, you know, we knew going into this, that there were going to be a lot of non fatal shootings captured by these systems that we're not getting at the national level.

**Jose Sanchez** 23:11

And when it comes to the actual mortality rates, what did you find, like across the geographic regions that you study?

**Justin Nix** 23:19

Yeah, so Colorado stood out with the highest mortality rate at 63%. And the other states were all in the 53 to 56% range. So I don't really know what to make of that it could be again, we talked about some of them teasing out the noise and meaningfulness of some of these numbers. So I don't really know what to make of it. But it is interesting, when you look at the agency level, for example, with some of that Vice News data, or if you go in and get the data from annual reports, or data dashboards, there's this interesting phenomenon where agencies west of the Mississippi tend to have higher mortality rates than agencies east of the Mississippi, so called the Mississippi hypothesis, I don't know, maybe it's something about western cities being a little more sprawled out during more geographic space, right? Whereas cities on the East Coast are sort of more compact and dense. So maybe that's something to



do with distance to trauma care, on average, I don't know. But for what it's worth, Colorado had the highest mortality rate for the study period.

**Jenn Tostlebe** 24:16

The Mississippi hypothesis I actually didn't know that. I'd never heard of that before. It's interesting.

**Jose Sanchez** 24:22

What did your results show when it came to any ethnorracial disparities in injurious, police shootings and fatal police shootings?

**Justin Nix** 24:29

So in every state, there were clear black white disparities in police shootings, and the disparities in non fatal shootings were larger than the disparities that we observed just in fatal shootings. In California in Colorado, there were less pronounced Hispanic White disparities than the Black White disparities. And then in Florida and Texas, there actually were no Hispanic White disparities. But we caution here that there's a little bit of ambiguity in terms of how systems are coding or how they're recording and coding Hispanic in their datasets, right? So having no control over how that information is captured, we're less confident in drawing conclusions on those disparities versus the Black White disparities. But yeah, in every state, it's clear that there are differences in the rate that black people are shot and killed by the police, and as well as shot and not killed by the police.

**Jenn Tostlebe** 25:16

All right, so starting to dive then into your logistic regression models, and on the podcast, we try to steer away from being super statistical, so we're not going to go into exactly what all of that is. But these were models predicting police shooting fatalities in all four states, in the first set of models, you only included ethnorracial categories, and the intersect, then you included a variety of covariates. So based on the model with covariates, who did you find was most likely to die as a result of a police shooting and who was least likely to die?

**Justin Nix** 25:53

Yeah, so I'll say up front, we didn't use any interaction terms for concerns about statistical power, right? So we can't get super specific in terms of like age and race and gender. But in those models, conditional on being struck by police gunfire, those who were in possession of a weapon were about 16% more likely to die than those who were unarmed. And those who were 46 or older, were about 16% more likely to die than those who were 25 and under some of these categories, we're constrained by the data systems that we're working with. But that is interesting, right? It suggests maybe officers are firing more rounds when a person has a weapon, right, because there's greater fear for their safety. Maybe none of this is super surprising. But I think it's important to have some firm estimates from some good quality data. So we see those armed unarmed differences and those age differences. And then we actually found that Black victims were significantly less likely to die condition on being shot about seven percentage points less likely to die than White victims.

**Jenn Tostlebe** 26:49

Were you surprised by that?

**Justin Nix** 26:50

A little bit. I mean, we did expect that it was possible that we'd see differences, but we felt like it would be explained away by access to trauma care. Unfortunately, our trauma care variable was coarse right, we would like to have been able to map the geographic distance or plot. The average drive time, for example, like my colleagues, Michael Sierra-Arevlo, and Bradley O'Quinn did for a recent paper looking at officers who were shot in the line of duty. Fortunately, the data just weren't rich enough that we could actually plot the distance and map out the times. So our trauma care variable was very crude. It was an ordinal variable capturing the number of trauma care center's in the county. As we've already discussed, counties out west might be way more sprawling on average than counties over in Florida, for example. And so admittedly, that's a limitation of our study. But the fact that we see racial disparities, even after capturing a crude measure of trauma care access was a little surprising. And I would call back to that Frank Edwards paper that gives us the best sort of life course estimates of the risk of being killed by police officers. And the group that they found are the were the highest risk were black men, and young black men of the ages of the 25 to 29 range was where their risk of being killed by police peaked. Our studies suggest that studies like Edwards and others that use these data might actually be underestimating racial and age disparities, right? So that black men in the 25 to 29 age range, their risk might be a lot higher than what that paper suggests, because it only has fatalities.

**Jose Sanchez** 28:15

Right, given your findings, and how much discussion please use of force has received lately. What are some of the implications of your research, not just for future research, but also for policy and practice?

**Justin Nix** 28:29

For policy, we're still sitting here waiting on better data. I'm not the first to bring this up, right? Criminologist and sociologists have been clamoring for it for decades. My old mentor Geoff Alpert, his father wrote a paper in like the 1930s or 40s, screaming for better data from the government on criminal justice issues, right. So this is not new. And yet here, we are still waiting on it. The FBI in 2019 launched a new use of force data collection effort, it sounds great. Unfortunately, nobody outside of the FBI knows because we haven't publicly seen any of the data that would be useful. Like right now, we're still just tracking how many agencies are actually submitting data. And until it hits some arbitrary threshold that was set when they started, nobody outside the FBI will see the data. So it's probably a tall order to get data from 18,000 some odd local and state police departments. And yet a journalist who was curious one day when he got home from work, and a couple of activists with Campaign Zero and journalist with the Washington Post, have started doing a way better job than the federal government at collecting fatalities, data and releasing it in a timely fashion. You know, that's the other strike against the federal data, for example, is like with our crime data, we still rely on NIBRS and UCR, right. And until September 30 of this year, we won't get 2022 data, I get the need to be careful and dot your i's and cross your t's. But there also should be some urgency and these new databases have provided much more real time access to data. The other thing I would say is if Texas and California can get this done, two of the largest states and two states that maybe couldn't be more different if you were to draw two states at random, are both getting it done. It's a great success. Why can't the other states do it? Maybe that's what we need to be focusing our efforts, right, instead of imploring the federal government to do this, whose they've never been able to get it done. To our satisfaction. It's a neat state, we could do

what Texas and California are doing, at least then we've just got 50 databases that we've got to marry up and make conclusions from right. So I think policy implications are clear there that at the state level, this can get done if there's political will, and if our politicians are willing to pony up the money to get it done to train and prepare agencies to participate, because keep in mind, even in Texas, in California, right there, your large agencies, right, your Houston police departments and your LA police departments, but there are also small agencies to an across the board, they're getting it done. So that would be the policy implication that I would say stems from this. And then for researchers, you know, I'm just begging you, all of us who study this right to be clear about the difference between the use of deadly force and death as a result of force or death as a result of police action or inaction. Let's be clear about the terms that we're using and how we're measuring them. I'm begging you, again, I review studies all the time that seem to at least understand that there are forces beyond officer decision making that generates some of the disparities we see in fatal outcomes. But then their discussion section has a laundry list of things that police need to do to fix the problem. And so be clear, I'm not saying the police don't need to fix some things, obviously they do. But if your study is possibly telling us more about the factors that predict mortality than the factors that predict police decision making, or if your findings are telling us that proximity to trauma care predicts these disparities, or that old bodies aren't as good as young bodies at responding to the trauma of a gunshot wound, then police decision making, then why should we hold your study up as evidence that changing police behavior is the best approach to fixing these problems are the most effective of all the alternatives to fixing these problems? That's all I'm saying. We had a reviewer on a study that we did, I think it was that study, actually, push back and said we were getting too preachy about researchers needing to be clear about this. So you know, it's still worth studying fatal police encounters, and you guys need to tone it down a little bit. And we were like, we're literally just asking you to write a couple sentences explaining that this is a limitation. I don't think that that's too much of an ask. We did not back down with that paper. And I'll continue to get up on the soapbox and preach about it. Because I think it's important.

**Jose Sanchez** 32:21

Yeah, I think JenN and I here at TCA were very much fans of definitions and getting your definitions right. Actually, I think we've been at this for what, two and a half years, and I think almost every episode, we get into either directly or indirectly about how there's definitional debates over whatever it is, our guests and ourselves are studying. And yeah, I think, like you said, just being very clear and explicit of how you're defining something, how you're measuring it. And sort of the pros and cons of that is very important, not just for policy and practice. But for other researchers, I tend to specialize more in community violence and gang research. And if researcher A is defining gangs a certain way, and researcher B is defining gangs in a completely different way. And then you have states and the federal government defining gangs a completely different way, then it makes it hard to really start untangling what exactly it is that we're looking at?

**Justin Nix** 33:18

Absolutely. It's our responsibility, as researchers to be clear, to say what we mean, and to be clear about what other definitions are out there and how ours is superior, or at least suffice for what we're doing.

**Jenn Tostlebe** 33:29

Right. And I think we've even had some episodes on where it's like the discussion comes up that the researcher may be defining their topic one way, but measuring it a completely different way. And so to try and stay consistent across your study, as well, and the importance of that.

**Justin Nix** 33:46

And I would say, you know, to young researchers who are listening to this, right, like, it's also okay to update your priors. Over time, I've been accused of changing my stance on what a disparity tells us or doesn't tell us. And my only response is like, Look, I've continued to read and be immersed in the issues. And occasionally I've read things, they challenge my assumptions, right? And I have to look in the mirror and say, okay, like, am I being biased here? Or am I really considering all of the evidence and so like, it's not a bad thing. If over the course of your career, you update your beliefs. That's what we're supposed to be doing here as scientists.

**Jenn Tostlebe** 34:17

Yeah, absolutely.

**Jose Sanchez** 34:18

We want to start moving into a discussion over one of your other research interests, and that's regarding police legitimacy. And so and this relates also to use of force. Now, we've talked about legitimacy on the podcast before one of our early episodes, two or three, I can't remember exactly with Lee Slocum and Andres Rengifo was on police legitimacy. So you wrote a paper with Justin Pickett and Scott Wolfe titled "Testing a theoretical model of perceived audience legitimacy, the neglected linkage in the dialogic model of police community relations", and this paper was published in the Journal of Research in Crime and Delinquency in 2020. And so in this paper, you talk about perceived audience legitimacy. Can you tell us more about what perceived audience legitimacy is and why it's important?

**Justin Nix** 35:08

Yeah, I really enjoyed working on this paper with those two, this was me revisiting a topic that I wrote about for my dissertation with six or seven more years of experience and lessons learned and better data at my disposal this time around. So I'd imagine as you said, you already had a guest on talking about legitimacy. So I'll assume most of your audiences at least familiar with the concept of audience legitimacy, even if they've only referred to it as legitimacy, right? So it's the idea that people trust the police or whatever the authority is in question. And they feel that that authority is entitled to or ought to be obeyed, right? That's the concept of audience legitimacy. But one of the papers I read in grad school, and probably at least a dozen times since that has had a huge influence on me, as a scholar was titled, "Beyond procedural justice, a dialogic approach to police legitimacy" by Anthony Bottoms, and Justice Tankebe, I hope I'm saying that right, Justice, where they develop what they call a dialogic model of police legitimacy. And so it's a fantastic paper, they hold criminologists, his feet to the fire a little bit for failing to read outside of their field. Again, I'm gonna call back to, Alpert, one of my mentors, he would get on us all the time, like, you can't just read criminology, you've got to read from sociology, political science, you've got to read from other fields that are doing work that runs parallel to or adjacent, what you're doing. And so they draw on a broader literature to develop this model. And the basic idea, right, is that legitimacy is an ongoing dialogue, right? It's the circular process, where the very first thing that happens is power holders, like the police make a claim to have legitimate authority,

right, they do something to suggests this is what we ought to be doing. We are legitimate power holders. And this is perfectly within the scope of what we should be doing. And so then the people who are subject to their authority, citizens of this case, they interpret, react and respond accordingly. And this is the perfect way to describe policing in a democracy like the United States, right? So after they've now interpreted and responded, however, they will, the police, the other subject to this conversation, or to this dialogue, react and interpret and respond to citizens. So that has implications for their own self legitimacy, how they view their own power and what it means for them to be a police officer, as well as for the future claims to legitimacy that they make. And so anyway, for this paper, it's the point at which officers are trying to understand how the public views them that we refer to as perceived audience legitimacy. And so it ultimately stems from that paper by Bottoms and Tankabe, Tal Jonathan-Zamir did a paper in Israel that tested some of these ideas for my dissertation, I did this here with a sample of us police executives. And then finally, circa 2018 2019, I returned to the idea again, with this time two samples, a southwestern police department and then a national sample of police chiefs there.

**Jenn Tostlebe 37:58**

Yeah, pretty much like you said, all of our prior guests on the podcast, we've really just been focused on audience legitimacy and how the public is viewed police. So this is a really cool way I think of thinking about legitimacy. And actually, even though I've written a paper on legitimacy and corrections, not something that I've really thought of before.

**Jose Sanchez 38:19**

Okay, so you were interested in the antecedents of these perceptions of audience legitimacy. Can you give us the quick and dirty regarding what your findings suggested as far as the antecedents of whether the police believed they were seen as legitimate by the public?

**Justin Nix 38:33**

Again, maybe no huge surprises, but in both studies, direct experience with hostile or disrespectful citizens was associated with significantly lower perceived audience legitimacy, right? That's consistent with classic work by John van Manen and others who studied the police culture. Both studies, both samples perceived or actual rates of violence had similar effects, right? They were associated with lower perceptions of audience legitimacy. Again, consistent with Skolnick's classic work or my colleagues more contemporary work, Michael Sierra-Arevalo on the danger imperative. And then in study two, which was the national sample of police executives, we found that received hostility of local media coverage lowered or was associated with lower perceptions of audience legitimacy. So here this is similar to [INAUDIBLE] classic work with the NYPD and some of my more recent work with Scott Wolfe and Justin Pickett. And it suggests that over the last 10 years or so, as Pew Research Center, for example, has shed light on officers having more and more experience with disrespect while on the job right? And as there have been high profile incidents of police violence that have led to the diffusion of the Black Lives Matter movement or led to calls to defund the police, as there has been this negative attention on the profession. This has the potential to you know, cops take notice, right, this doesn't happen in a vacuum. They see this and they understand that people are challenging their legitimacy in this mode. on it. And that has implications for the way they view their jobs, and the way they go out and do their jobs. That's all we're saying here. It deserves to be studied alongside perceptions of audience legitimacy, the way we've studied legitimacy over the last 30 years, the way Tom Tyler and others had

right, we should absolutely be asking citizens about their views of the police. But we argue it's also important to understand the way police view their own authority and the way they think citizens view their authority.

**Jenn Tostlebe** 40:24

Do we know what some of the implications of this are like if the police are seeing that the public don't view them as legitimately, like, do we know what the implications of that are?

**Justin Nix** 40:36

If you go back to the classic literature on police culture, this mechanism would explain for example, officers who choose to lay low and avoid trouble for a while after an event like Tyree Nichols, right? So if other officers in the Memphis Police Department for a sustained period, do less on the job, that doesn't necessarily mean they're throwing a tantrum, or that they're being lazy, or that they're trying to show the public get back at them because they got their feelings hurt because of the bad publicity. I think it's a human response to an increasingly bright spotlight. And again, the cultural literature shows this, that officers sense that things are hot right now. And so why would you do anything to call additional attention to yourself? Why would you put yourself at risk, you want to earn your paycheck, you want to get home safe? I'm not saying it's rational, but I'm saying it's a calculated decision that I understand. So just avoid the heat for a little while until things blow over. Right? We've known this for decades. And so this particular mechanism, we argue, could explain phenomenons like de-policing. Or it could explain different manifestations of the police culture, right? You hear people talk about, for example, the warrior mentality or the guardian mentality, right, or the different types of police officers who are more aggressive or more service oriented. It's the way that they feel the public views of them and what they think the public wants from them, that's going to, at least in part, dictate the way they do their jobs.

**Jenn Tostlebe** 40:36

So as we've been talking, it seems pretty clear, at least to me that legitimacy would relate closely to how the public may act toward the police, and have a whole host of implications for that. And recently, I think like within the last couple of weeks, you had a manuscript accepted at Criminology, titled "The war on cops retaliatory violence and the murder of George Floyd", congratulations, by the way, but can you tell us about the war on cops and whether it's still ongoing?

**Justin Nix** 42:29

Right, so speaking of definitions, the war on cops appears to be an amorphous concept. It was made popular circa 2016 in part by Heather McDonald, with the Manhattan Institute with her book entitled "The war on cops", sometimes it appears to literally mean more and more targeted violence against police officers, for example, ambushes like we saw in Dallas in 2016. Other times, it's more rhetorical, such as when Heather sort of backpedaled after a series of studies did not find evidence of increased violence against police officers. And here, she said, well, it was always rhetorical, it was always meant to mean increased antagonism toward the police, increased hostility toward the police, and it serves to make policing more dangerous, more difficult, etc, etc. And I've written some papers with, for example, Ed McGuire, John Shjarback, done some papers, Michael Sierra-Arevalo has done some papers. And they've never shown clear evidence that violence against cops is up with this paper. We were testing



whether because a lot of that work was done pre George Floyd. And it was testing whether Ferguson had this sort of effect, because that's what Heather McDonald claimed, and others claimed. And so, in theory, the George Floyd protests were huge, by some estimates, one of the largest protest movements on record, right, at least since maybe the civil rights movement. In terms of magnitude, it was comparable, or at least the closest we've seen in our lifetimes. I'll put it like that. And so it stands to reason you know, that that level of scrutiny, and that level of shift and public attitudes toward the police might reignite flames about a war on cops. And sure enough, if you go to any FOP social media account, right, anytime an officer is assaulted in a line of duty or killed in the line of duty, to be clear, it is a tragic incident. But you'll see actors invoke this language about the war on cops, right, and this war on police needs to stop. So that's what we set out to do with this papers, okay, was the murder of George Floyd in May of 2020, associated with an uptick in violence and uptaking gun violence against police officers?

**Jose Sanchez** 44:30

And so the goal of the war on cops paper was to assess if and how patterns of farm assault on police officers in the US were influenced by the murder of George Floyd, which was obviously complicated by COVID-19. Every time we talked to someone that's done any research over the last couple of years, you always had to have that caveat of well, my study got impacted by COVID-19. And so this was happening simultaneously, along with protests. You know, I remember very, very clearly worrying about this pandemic, and then watching the news of protests in downtown Denver, and sort of all of this converging. And can you tell us about what it is that you found in this paper?

**Justin Nix** 45:11

So yeah, it's a tall order to try to tease out these exogenous shocks that occurred to policing into citizens in the United States in 2020. But we did our best here, right, we ran some Bayesian structural time series models, that sort of predicted what would have happened in a world where there was a pandemic, but that George Floyd was not killed in Minneapolis on May 25. And we compare the actual observed trends and the daily number of officers shot and injured or killed using data from the gun violence archive. So we basically then compare what happens after May 25, and the real world data that we have, versus that synthetic world where George Floyd wasn't killed. And what we see is a clear spike for three weeks after George Floyd's murder. Were about 26 more officers were injured by gunfire, or killed by gunfire than we otherwise would have expected compared against that counterfactual. And then after that three weeks spike, the two trends are lined up more closely, and the observed data was more in line with what we would have expected. So what does that mean? We all think that a three week spike were 26 more cops, and a universe of 700,000. policing, a country of over 300 million. We think that's a far cry from a war. And we're not trying to be dismissive of violence against cops. We're not saying these aren't tragic incidents. But we're saying it was a three week spike. So it was short lived. And this is what it added up to. And so we argued in that paper that it's time to stop with the hyperbolic claims about war any and every time an officer gets shot. Yes, tragic events, I can't be clear enough about that. I'm not saying otherwise. And they deserve to be studied rigorously. But use of the term "war" in light of what we found, it doesn't do anything more than inflame tension. And it's dangerous language, we've got to stop with it. And so that's where the concept of retaliatory violence comes in. We were inspired by another paper in PloS One by and I apologize in advance if I say his name wrong [INAUDIBLE] where they looked at cycles of violence involving officer involved

shootings of citizens and citizen violence directed toward police, when they find I believe one day increases in violence against citizens following the murder of a police officer. And so the idea is that these things are a bit hydraulic, in a sense, right? They respond to one another, there's a correlation at minimum. And so we think that maybe that's a more useful framework moving forward. To be clear, we couldn't tease out the motivations for assaults on officers. At one point, we set out to do that, but it's just really, really hard to assess motive after the fact. Right? This was a person ambushing a cop, was a person motivated by hate, or were they motivated about not wanting to go to jail? It's just really hard to figure that out after the fact. So in the end, right, it's, we think, pretty convincing evidence of a short spike. But also, yet another piece of evidence that this language about a war on cops is probably excessive.

**Jenn Tostlebe** 47:58

And potentially problematic then.

**Justin Nix** 48:01

That's right.

**Jenn Tostlebe** 48:02

All right. Well, this article is set to come out in August. Did I see that? Right? Yeah. Anyone who is interested in it will probably be online before then. But that's all of the core questions that we have for you, Justin, it's been fantastic having you on. Thanks for joining us. Is there anything else that you want to plug or share about your research school, whatever it may be?

**Justin Nix** 48:27

Together with some colleagues at the school of criminology and criminal justice that, you know, we've launched what we call the VIPR lab, the violence intervention and policing research lab with doctors Jesse Huff and Sadaf Hashimi. And we've got some great students now we're always looking to add new students. So those out there who maybe are at the masters level thinking about PhD and criminology, criminal justice, please give us a look, we're doing some great things. We've got a lot of stuff in the pipeline we're excited about, and just looking to continue growing and continue to do great, practically irrelevant research.

**Jenn Tostlebe** 48:56

Okay. And then where can people find you? I know you are actively on Twitter. I don't know what your Twitter handle is, but there, anywhere else?

**Justin Nix** 49:05

Yeah. So on Twitter, I'm @jnixy. So it's just J Nix with a Y at the end. And I have a website, it's <https://jnix.netlify.app>. When I created that website, I think I was sick. And I was just looking to procrastinate, but still be productive. And I didn't think it would actually grow into anything. So I didn't pony up to \$15 to have a domain name that was easy to say over a podcast. But I'm brought us where I think if you Google it, it tends to show up on the first or second page. So you can find me there. I blog a little bit. I might put something out later today, actually. And the Viper lab has a website [vipr.org](http://vipr.org) Viper lab.org. Just Google UNO Viper, and you'll find it. I should know these things.

**Jenn Tostlebe** 49:44

No worries.

**Jose Sanchez** 49:45

We'll include them in the description.

**Jenn Tostlebe** 49:48

All right. So that's all we have for you. Thank you again, Justin, and look forward to talking to you in the future.

**Justin Nix** 49:53

Thanks for having me.

**Jose Sanchez** 49:54

Thank you.

**Jenn Tostlebe** 49:55

Hey, thanks for listening.

**Jose Sanchez** 49:57

Don't forget to leave us a review on Apple podcasts. for iTunes, or let us know what you think of the episode by leaving us a comment on our website, [thecriminologyacademy.com](http://thecriminologyacademy.com).

**Jenn Tostlebe** 50:07

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**Jose Sanchez** 50:18

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