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Developing Police

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Developing Police

MADALYN K. WASILCZUK[†]

CONTENTS

INTRODUCTION.....	273
I. THE SOCIAL ENVIRONMENT OF POLICING	283
A. <i>Duties</i>	285
B. <i>Discretion</i>	286
C. <i>Danger</i>	289
D. <i>Deference</i>	290
II. HIRING FOR HARM REDUCTION	292
A. <i>Police Hiring</i>	298
B. <i>Minimum Hiring Ages</i>	301
C. <i>The History of Minimum Qualifying Age</i>	303
D. <i>The Effects of Age on Policing</i>	306

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III. DEVELOPING WITHIN THE DEPARTMENT.....	317
A. <i>Training: The Occupational Socialization of Emerging Adult Officers</i>	318
B. <i>On the Job: Psychosocial and Neurobiological Characteristics of Emerging Adult Officers</i>	323
1. Risky Decision-Making, Risk Behaviors, and Impulsivity.....	324
2. Peer Presence and Influence.....	326
3. Emotional Reasoning and Errors in Self- Regulation.....	327
4. Sex and Gender Considerations	330
C. <i>Vulnerability and Attrition: Effects of Trauma, Chronic Stress, and Adverse Experiences in Emerging Adulthood</i>	332
D. <i>Discipline: The Legal Socialization of Emerging Adult Officers</i>	334
IV. DEVELOPING LESS HARMFUL POLICE	338
A. <i>Increase Minimum Hiring Ages</i>	339
B. <i>Reassign Emerging Adult Officers</i>	345
C. <i>Restructure Training to Scaffold Emerging Adult Officers' Development</i>	347
D. <i>Create Public Service Opportunities as an On-Ramp to Police Service</i>	348
E. <i>Strengthen Police Accountability</i>	349
F. <i>Study Emerging Adult Officers' Behavior</i>	351
CONCLUSION	353
APPENDIX A	355
APPENDIX B	365

INTRODUCTION

On May 31, 2020, twenty-nine-year-old Steven Pohorence of the Fort Lauderdale Police Department shoved a kneeling teenage girl to the ground at a Black Lives Matter protest.¹ Video of the incident drew public criticism, and the Broward State's Attorney Office charged Pohorence with battery.² Pohorence had worked as a Fort Lauderdale officer since October 2016, during which time he had used force against ninety-four people, 77% of whom were Black.³ The charges followed the revelation of two videos of Pohorence kneeling on the necks of people he arrested in the eight months preceding the protest.⁴ Before his time at the Fort Lauderdale Police Department, Pohorence spent almost four years as a Florida Highway Patrol trooper.⁵

Pohorence's case sparked outrage during the summer of 2020 in an atmosphere of renewed attention to the problems that plague policing. The uprisings, their media coverage, and the flurry of popular and academic writing that followed illuminated contested ground: even those who agree policing has problems do not agree on what the problems are, and

1. Mario Ariza & Andrew Boryga, *Fort Lauderdale Cop Charged with Battery for Shoving Protestor*, S. FLA. SUN SENTINEL (July 1, 2020, 3:35 PM), <https://www.sun-sentinel.com/local/broward/fort-lauderdale/fl-ne-officer-shoved-protestor-charged-battery-steven-pohorence-20200630-wqyatvgu6fc4hdtmsvmtlhe7be-story.html>.

2. *Id.*

3. Mario Arzia, *Embattled Fort Lauderdale Cop Has History of Force Against Blacks*, S. FLA. SUN SENTINEL (June 13, 2020, 3:35 PM), <https://www.sun-sentinel.com/news/crime/fl-ne-steven-pohorence-history-force-against-blacks-20200613-dnujmchcdzd73lfaeuef42ywd4-story.html>; David Selig & Christian De La Rosa, *Fort Lauderdale Officer Charged with Battery for Pushing Woman at Protest*, LOCAL 10 (July 1, 2020, 12:44 PM), <https://www.local10.com/news/local/2020/06/30/fort-lauderdale-officer-charged-with-battery-for-pushing-woman-at-protest>.

4. Ted Scouten, *FDLE Investigating Fort Lauderdale Police Officer Steven Pohorence's Previous Uses of Force*, CBS MIAMI (June 23, 2020, 11:16 PM), <https://miami.cbslocal.com/2020/06/23/fdle-investigating-fort-lauderdale-police-officer-steven-pohorence/>.

5. Selig & De La Rosa, *supra* note 3.

those who agree, at least in part, upon the problems do not always agree upon the solutions.⁶ Traditionally, legal scholars have focused on constitutional law and section 1983 suits as the primary sites of police conduct regulation.⁷ Though more recent scholarship has introduced a wider range of legal analyses and sources of authority for change in policing, much of the attention remains on fixing legal doctrine to produce different outcomes.⁸

6. See, e.g., James Downie, *Time to Toss the 'Bad Apples' Excuse*, WASH. POST (May 31, 2020, 5:09 PM), <https://www.washingtonpost.com/opinions/2020/05/31/time-toss-bad-apples-excuse/>; German Lopez, *American Policing Is Broken. Here's How to Fix It.*, VOX (Sep. 1, 2017, 10:53 AM), <https://www.vox.com/policy-and-politics/2016/11/29/12989428/police-shooting-race-crime>; Reddit Hudson, *I'm a Black Ex-Cop, and This Is the Real Truth About Race and Policing*, VOX (July 17, 2016, 11:22 AM), <https://www.vox.com/2015/5/28/8661977/race-police-officer>; Seth W. Stoughton, Jeffrey J. Noble & Geoffrey P. Alpert, *How to Actually Fix America's Police*, ATLANTIC (June 3, 2020), <https://www.theatlantic.com/ideas/archive/2020/06/how-actually-fix-americas-police/612520/>; Todd May & George Yancy, *Policing Is Doing What It Was Meant to Do. That's the Problem.*, N.Y. TIMES (June 21, 2020), <https://www.nytimes.com/2020/06/21/opinion/police-violence-racism-reform.html>. For a thorough review on the evolution of policing scholarship in the legal academy, see generally Amna Akbar, *An Abolitionist Horizon for (Police) Reform*, 108 CALIF. L. REV. 1781 (2020).

7. See Rachel Harmon, *The Problem of Policing*, 110 MICH. L. REV. 761, 781–86 (2012) (describing the scope and method of traditional policing scholarship as firmly planted in constitutional doctrine and critique of that doctrine).

8. Compare Akbar, *supra* note 6, at 1787 (advancing an abolitionist approach to legal scholarship), and Jocelyn Simonson, *Police Reform Through a Power Lens*, 130 YALE L.J. 778, 792 (2021) (emphasizing that shifting power to communities most harmed by policing is integral to police reform), and Rachel Moran, *Police Privacy*, 10 U.C. IRVINE L. REV. 153, 185 (2019) (putting forth a balancing test to increase public transparency of police disciplinary records), and Joanna C. Schwartz, *Police Indemnification*, 89 N.Y.U. L. REV. 885, 936–37 (2014) (exposing that police officers are rarely responsible for paying damages in civil suits), and John Rappaport, *How Private Insurers Regulate Public Police*, 130 HARV. L. REV. 1539, 1551–55 (2017) (suggesting insurers could play a role in regulating the police), and Maria Ponomarenko, *Rethinking Police Rulemaking*, 114 NW. U. L. REV. 1, 45 (2019) (proposing regulatory intermediaries as an administrative law solution to police governance), with Orin Kerr, *The Case for the Third-Party Doctrine*, 107 MICH. L. REV. 561, 590–94 (2009) (advocating the use of police regulations, in addition to constitutional doctrine, to constrain undercover policing), and Brandon Hasbrouck, *Abolishing Racist Policing with the Thirteenth Amendment*, 67 UCLA L. REV. 1108, 1110 (2020) (suggesting a different constitutional basis for challenging racist policing), and Barry Friedman, Brandon L. Garrett, Rachel Harmon, Christy E. Lopez, Tracey L.

The nation's reckoning with policing has produced bills and legislation on the federal and state levels.⁹ Since summer 2020, state legislatures have enacted laws to abolish qualified immunity, outlaw chokeholds, and require officers to intervene when they witness excessive force.¹⁰ Other

Meares, Maria Ponomarenko, Christopher Slobogin & Tom R. Tyler, *Changing the Law to Change Policing: First Steps*, JUST. COLLABORATORY (June 2020), https://law.yale.edu/sites/default/files/area/center/justice/document/change_to_change_final.pdf (proposing a mix of traditional constitutional remedies and regulatory and institutional reforms to change policing).

9. Cities also acted. See Legal Defense Fund, *One Year After George Floyd: The Changing Landscape of Policing*, NAACP, <https://www.naacpldf.org/george-floyd-anniversary/> (last visited Jan. 22, 2022).

10. See, e.g., COLO. REV. STAT. § 13-21-131 (2021) (effective July 6, 2021) (abolishing qualified immunity for cases involving civil rights); N.M. STAT. ANN. §§ 41-4A-3, 41-4A-4 (2021) (establishing a cause of action for deprivation of civil rights and prohibiting the defense of qualified immunity in those cases); CAL. GOV'T CODE § 7286.5 (West 2021) (effective Jan. 1, 2021) (outlawing chokeholds); COLO. REV. STAT. § 18-1-707 (2021) (effective July 6, 2021) (outlawing chokeholds and prohibiting use of ketamine by peace officers); DEL. CODE ANN. tit. 11, § 607A (2021) (criminalizing chokeholds except when necessary to protect life); 720 ILL. COMP. STAT. 5/7-5.5 (2021) (effective July 1, 2021) (prohibiting use of chokeholds except when deadly force is justified); MASS. GEN. LAWS ch. 6E, § 14 (2021) (effective July 1, 2021) (prohibiting officers from using chokeholds or firing at fleeing vehicles unless necessary to prevent imminent harm); MINN. STAT. § 609.06 (2020) (effective Aug. 1, 2020) (outlawing chokeholds, hogtying, and transporting people face down and revising use of force standards); NEV. REV. STAT. § 193.350 (2021) (effective Aug. 7, 2020) (prohibiting the use of chokeholds); N.Y. PENAL LAW § 121.13-a (McKinney 2021) (effective June 12, 2020) (criminalizing the use of chokeholds by officers); H.B. 4203, 80th Leg. Assemb., 1st Spec. Sess. (Or. 2020) (effective Sept. 1, 2020) (amending OR. REV. STAT. §§ 161.195–161.275 by outlawing the use of chokeholds unless deadly force is justified); UTAH CODE ANN. §§ 53-6-105, 53-6-202 (West 2021) (effective June 25, 2020) (prohibiting peace officer basic training to include chokehold as a valid method of restraint); VT. STAT. ANN. tit. 20, § 2401 (2021) (effective Sept. 1, 2020) (amendment effective Oct. 1, 2021) (original amendment outlawed placing subjects in a prohibited restraint, while recent amendment explicitly outlaws chokeholds); VA. CODE ANN. § 19.2-83.4 (2021) (effective Mar. 1, 2021) (prohibiting officers from using neck restraints, firing into moving vehicles, or using kinetic munitions); CONN. GEN. STAT. § 7-282e (2020) (effective Oct. 1, 2020) (requiring police to intervene when they witness excessive force); 720 ILL. COMP. STAT. 5/7-16 (2021) (effective July 1, 2021); MD. CODE ANN., PUB. SAFETY § 3-524 (West 2021) (effective July 1, 2022) (limiting the use of force and requiring officers to intervene when they witness the use of excessive force); NEV. REV. STAT. § 193.355 (2020) (effective Aug. 7, 2020) (requiring officers to intervene and report unjustified uses of force); H.B. 4205, 80th Leg. Assemb., 1st Spec. Sess.

legislation has aimed to shed light on police misconduct records, mandate data collection, and require investigation of police killings and in-custody deaths.¹¹ At the federal level, the House of Representatives passed the George Floyd Justice in Policing Act, first as H.R. 7120 in 2020 and again as H.R. 1280 in 2021, though it ultimately died in the Senate.¹² The bill proposed similar changes to those outlined

(Or. 2020) (effective Sept. 1, 2020) (amending OR. REV. STAT. §§ 181A.355, 181A.670, by requiring officers to intervene when they see other officers using excessive force); VA. CODE ANN. § 19.2-83.6 (2021) (effective Mar. 1, 2021) (requiring officers to intervene when they see other officers using excessive force).

11. See, e.g., H.B. 2168, 55th Leg., 1st Reg. Sess. (Ariz. 2021) (effective Dec 1, 2021) (amending ARIZ. REV. STAT. ANN. § 38-1117 (2020) and mandating reporting of use of force data); ARK. CODE ANN. § 12-9-602 (2021) (effective July 28, 2021) (requiring police separation notices to state if an officer was terminated or resigned due to excessive force or dishonesty); CAL. GOV'T CODE § 12525.3 (2021) (effective Jan. 1, 2021) (requiring public reporting of state prosecutors' investigations of police shootings of unarmed civilians); CONN. GEN. STAT. § 51-277a (2021) (effective May 6, 2021) (requiring prosecutors to investigate police killings and in-custody deaths and prosecute officers if supported by the investigation); 50 ILL. COMP. STAT. 709/5-11 (2021) (effective July 1, 2021) (mandating that law enforcement agencies report information to the FBI use of force database); 50 ILL. COMP. STAT. 205/25 (2021) (effective July 1, 2021) (law enforcement agencies create and maintain a database of officers disciplined for misconduct); H.B. 670, Maryland Police Accountability Act, 2021 Leg. Sess. (Md. 2021) (effective July 1, 2022) (making certain disciplinary records available through Public Information Act requests, repealing the Law Enforcement Officers' Bill of Rights, instituting new disciplinary process, and requiring prosecutors to investigate police killings); S.B. 5496, 2019–2020 Leg. Sess. (N.Y. 2020) (repealing Section 50-a, which prohibited disclosure of law enforcement disciplinary records); N.Y. EXEC. LAW § 75 (McKinney 2021) (effective Apr. 1, 2021) (creating an independent misconduct investigative office); VA. CODE ANN. § 2.2-511.1 (2021) (effective Mar. 1, 2021) (allowing the Attorney General to investigate law enforcement agencies for pattern or practice violations); VA. CODE ANN. § 9.1-601 (2021) (effective July 1, 2021) (permitting local governments to create law enforcement civilian oversight boards).

12. Qualified immunity emerged as one of the biggest obstacles to the bill passing the Senate, and sheriffs' lobbies took a hard line against reforms. See Jessica Pishko, *The Local Elected Officials Who Are Tanking Police Reform*, SLATE (Oct. 4, 2021, 10:39 AM), <https://slate.com/news-and-politics/2021/10/when-police-reform-stalls-the-sheriffs-are-often-to-blame.html>. State bills to end qualified immunity also mostly failed after pushback from law enforcement. See Kimberly Kindy, *Dozens of States Have Tried to End Qualified Immunity. Police Officers and Unions Helped Beat Nearly Every Bill*, WASH. POST. (Oct. 7, 2020, 6:00 AM), <https://www.washingtonpost.com/politics/qualified-immunity-police-lobbying-state-legislatures/2021/10/06/60e546bc-0cdf-11ec-aea1-42a8138f>

above.¹³ It also set up a pilot program to develop recruitment, hiring, and promotion standards.¹⁴ The federal bill's recruitment standards would have provided incentives for localities to diversify their police forces and encourage officers to live and work in the same districts.¹⁵ But had it passed, the legislation would have overlooked another important hiring qualification that has the potential to affect policing outcomes: age.

Federal, state, and local laws and police regulations govern the standards for who should be entrusted with a badge and a gun. Like many other jobs requiring certification or licensure, one criterion for police hiring is age.¹⁶ Police officers in the United States must generally reach a minimum qualifying age to join law enforcement, and some

132a_story.html; Isaiah Poritz, *Breakdown of Police Reform Talks Highlights Power of Police Union Lobby*, OPEN SECRETS (Sept. 23, 2021, 1:06 PM) <https://www.opensecrets.org/news/2021/09/breakdown-police-reform-talks-highlights-power-police-union-lobby/>.

13. See George Floyd Justice in Policing Act, H.R. 1280, 117th Cong. (2021) (limiting qualified immunity, restricting the use of chokeholds and no-knock warrants, and creating the National Police Misconduct Registry).

14. *Id.* at § 114(d)(2).

15. *Id.*

16. State and federal laws recognize the differences between younger and older adults by setting minimum age requirements in order to run for office. One must be twenty-five years old to run for the United States House of Representatives, thirty years old to run for the United States Senate, and thirty-five years old to run for President of the United States. Employers for sectors other than those in public office may also require attainment of a minimum age. State licensing for private detectives imposes a minimum age requirement of twenty-five years old in Connecticut, Maryland, Michigan, New Jersey, Pennsylvania, and New York. See Zach Herman, *The National Occupational Licensing Database*, NAT'L CONF. OF STATE LEGISLATURES (Mar. 24, 2020), <https://www.ncsl.org/research/labor-and-employment/occupational-licensing-state-database.aspx>. Landscape architects and surveyors must also be a minimum of twenty-five years old in Minnesota. In Delaware, an individual must be at least twenty-three years old to be a real estate broker. *Id.* School bus drivers must be at least twenty-one years old in some states. Heavy tractor trailer drivers must also be a minimum of twenty-one years old in the District of Columbia and Colorado. *Id.* In some states and localities, firefighters must be at least twenty-one years old. HVAC contractors and general contractors must be twenty-one years old in Georgia. *Id.*

states and agencies also set maximum qualifying ages.¹⁷ National Park rangers must be at least twenty-one years old, as must Secret Service agents.¹⁸ Federal Bureau of Investigation (FBI) special agents must be at least twenty-three years old.¹⁹ State and local agencies tend to set the minimum qualifying age between eighteen and twenty-two years old.²⁰ In Fort Lauderdale, where Pohorence worked, a person must be at least twenty-one years old to become a police officer.²¹ The Florida Highway Patrol, where Pohorence spent the four years before he joined the Fort

17. The Age Discrimination in Employment Act protects older workers from discrimination but does not similarly protect younger workers against discrimination based on their age. *See* *Gen. Dynamics Land Sys., Inc. v. Cline*, 540 U.S. 581, 584 (2004). As a result, minimum qualifying ages are not subject to the Act. In addition, the ADEA permits law enforcement agencies, with limited exceptions, to making hiring and discharge decisions based on a person's age. 29 U.S.C. § 623(j). Therefore, maximum hiring ages and mandatory retirement ages for law enforcement officers have been upheld against discrimination lawsuits. *See, e.g.,* *Feldman v. Nassau County*, 434 F.3d 177, 185 (2d Cir. 2006) (holding that Nassau County, New York's maximum police hiring age did not violate the ADEA); *Minch v. City of Chicago*, 363 F.3d 615, 630 (7th Cir. 2004) (holding that police officers subject to a mandatory retirement age of sixty-three failed to state a claim under the ADEA); *Kannady v. City of Kiowa*, 590 F.3d 1161, 1175 (10th Cir. 2010) (affirming summary judgment against officer because the refusal to hire him because of statutory hiring age limits did not violate the ADEA).

18. Park Ranger Law Enforcement Academy, *Program Information*, TEMP. UNIV., <https://universitycollege.temple.edu/non-credit-courses-and-certificates/park-ranger-law-enforcement-academy/prlea-program-information> (last visited Jan. 22, 2022); *Qualifications*, SECRET SERV., <https://careers.secretservice.gov/special-agent/qualifications> (last visited Jan. 22, 2022).

19. Federal Bureau of Investigation, *Eligibility*, FBIJOBS, <https://www.fbijobs.gov/career-paths/special-agents/eligibility#:~:text=To%20be%20eligible%20for%20the,mandatory%20retirement%20age%20of%2057> (last visited Jan. 22, 2022).

20. *See infra* Appendices A, B.

21. *Non-Certified Police Officer Positions*, FORT LAUDERDALE POLICE DEP'T, <https://www.flpd.org/employment/join-the-team/non-certified-police-officer-positions> (last visited Jan. 22, 2022). The Fort Lauderdale Police Department requires new recruits to be at least twenty-one years old. *Id.* Further, new recruits are required to have completed at least sixty credit hours toward an advanced degree, though the credit-hour requirement may be waived for those with at least two years of experience working for law enforcement or two years of active-duty service and an honorable discharge from the U.S. military. *Id.*

Lauderdale Police, hires troopers as young as nineteen years old.²²

Though nineteen-year-olds have reached the age of majority in the United States, their brains have not yet reached full maturity. They are in a life stage known as emerging adulthood.²³ A term first coined by psychologist Jeffrey Jensen Arnett, emerging adulthood was conceived as a period that is “neither adolescence nor young adulthood but is theoretically and empirically distinct from both.”²⁴ While Arnett’s proposal first marked the rough boundaries of emerging adulthood at eighteen to twenty-five, more recent work sometimes includes those up to age twenty-nine in the category.²⁵ I choose to use the term emerging adults throughout this Article to refer to people between eighteen and twenty-five, since that period is most studied in the emerging adulthood literature. I use the term regardless of the term used by the scholars to whom I cite to maintain clarity about the cohort on which this Article focuses.

I also use the term because it combines psychological and developmental conditions with legal and social ones, giving a fuller picture of how emerging adults function.²⁶ Emerging adult brains, like those of adolescents, have not reached full maturity, which limits emerging adults’ capacity to self-

22. Florida State Highway Patrol, *FAQs*, FLA. HIGHWAY SAFETY & MOTOR VEHICLES, <https://beatrooper.com/faqs/> (last visited Jan. 22, 2022).

23. Jeffrey Jensen Arnett, *Emerging Adulthood: A Theory of Development from the Late Teens Through the Twenties*, 55 AM. PSYCH. 469, 469 (2000). The theory of emerging adulthood remains contested but has also burgeoned into its own field of research. For a general overview of the debates surrounding emerging adulthood, see generally Moin Syed, *Emerging Adulthood: Developmental Stage, Theory, or Nonsense?*, in THE OXFORD HANDBOOK OF EMERGING ADULTHOOD 11 (Jeffrey Jensen Arnett ed., 2015).

24. Arnett, *supra* note 23, at 469.

25. Compare *id.*, with Jeffrey Jensen Arnett, *Introduction: Emerging Adulthood Theory and Research: Where We Are and Where We Should Go*, in THE OXFORD HANDBOOK OF EMERGING ADULTHOOD 1, 1 (Jeffrey Jensen Arnett ed., 2015).

26. Clare Ryan, *The Law of Emerging Adults*, 97 WASH. U. L. REV. 1131, 1139 (2020).

regulate and control their impulses.²⁷ Further, the brains of emerging adults behave more like those of teens under conditions of negative emotional arousal.²⁸ Their psychological development also makes them especially sensitive to the presence of peers,²⁹ even as they continue to develop their identity and worldview.³⁰ During this developmental period, emerging adults' environments shape how they behave and how they develop.³¹

If eighteen- to twenty-five-year-olds indeed possess different capacities than older adults, it makes sense to take legal cognizance of those differences. The law has traditionally treated childhood and adulthood as binary categories,³² though there are any number of laws that create

27. Aude Henin & Noah Berman, *The Promise and Peril of Emerging Adulthood: Introduction to the Special Issue*, 23 COGNITIVE & BEHAV. PRAC. 263, 264 (2016).

28. Elizabeth S. Scott, Richard J. Bonnie & Laurence Steinberg, *Young Adulthood as a Transitional Legal Category: Science, Social Change, and Justice Policy*, 85 FORDHAM L. REV. 641, 650 (2016) (“[W]hereas the differences between adolescents under age eighteen and individuals older than twenty-one were observed consistently, differences between young adults and the other two age groups depended on the emotional context. Sometimes young adults behaved like people in their mid-twenties. But sometimes they behaved like teenagers—a conclusion that will surely resonate with those who spend time on college campuses.”).

29. Larisa Riedijk & Zeena Harakeh, *Imitating the Risky Decision-Making of Peers: An Experimental Study Among Emerging Adults*, 6 EMERGING ADULTHOOD 255, 260–61 (2018); Graham Bradley & Karen Wildman, *Psychosocial Predictors of Emerging Adults' Risk and Reckless Behaviors*, 31 J. YOUTH & ADOLESCENCE 253, 263 (2002).

30. Arnett, *supra* note 23, at 469.

31. Patricia M. King & Karen Strohm Kitchener, *Cognitive Development in the Emerging Adult: The Emergence of Complex Cognitive Skills*, in THE OXFORD HANDBOOK OF EMERGING ADULTHOOD, 117, 117–18 (Jeffrey Jensen Arnett ed., 2015); David Wood et al., *Emerging Adulthood as a Critical Stage in the Life Course*, in HANDBOOK OF LIFE COURSE DEVELOPMENT 123, 123 (Neal Halfon et al. eds., 2018) (“[T]he ultimate pathway achieved by the emerging adults during this stage is determined by the ongoing, dynamic, and reciprocal interactions between the individual and their environment.”).

32. Ryan, *supra* note 26, at 1142–45 (contrasting the legal incapacity and dependence of children with the autonomy and responsibility of adults).

a distinction between younger adults and older ones.³³ Notwithstanding the traditional child/adult binary, the concept of a transitional age category is familiar. Since the introduction of the concept of adolescence in 1904, laws have adapted to meet our changing cultural consensus about the capacities of minors by treating younger children differently than adolescents.³⁴ Emerging adulthood has also taken root in law—most notably in the realm of criminal punishment.³⁵

33. Every state and the District of Columbia requires an individual to be twenty-one years old to consume, purchase, or possess alcohol. *Highlight on Underage Drinking*, NAT'L INST. ON ALCOHOL ABUSE & ALCOHOLISM, <https://alcoholpolicy.niaaa.nih.gov/underage-drinking> (last visited Jan. 22, 2022). Federal law forbids licensed gun dealers to sell handguns to those below twenty-one years old. 18 U.S.C. § 922(b)(1); 27 C.F.R. § 478.99(b). Immigration law also contains distinctions based on age. Parents can petition for unmarried children under twenty years old, but children must be at least twenty-one to petition on behalf of their parents. 8 U.S.C. § 1151(b)(2)(A)(i). The Affordable Care Act allows adult children to stay on their parents' insurance until they reach twenty-six years old. *See Young Adults and the Affordable Care Act: Protecting Young Adults and Eliminating Burdens on Families and Businesses*, CTRS. FOR MEDICARE & MEDICAID SERVS., https://www.cms.gov/CCIIO/Resources/Files/adult_child_fact_sheet (last visited Jan. 22, 2022). *Cf.* Herman, *supra* note 16 (describing the minimum age requirements to hire an individual for various jobs). For a history of how age distinctions developed, evolved, and affected different groups in the United States, see generally AGE IN AMERICA: THE COLONIAL ERA TO THE PRESENT (Corinne T. Field & Nicholas L. Syrett eds., 2015).

34. *See* Jeffrey Jensen Arnett, *G. Stanley Hall's Adolescence: Brilliance and Nonsense*, 9 HIST. PSYCHOL. 186 (2006) (book review) (locating the concept of adolescence within the history of psychology); Rhonda Gay Hartman, *Adolescent Autonomy: Clarifying an Ageless Conundrum*, 51 HASTING L.J. 1265, 1271–72 (2000) (outlining how law integrated the concept of adolescence). *See generally* G. STANLEY HALL, *ADOLESCENCE* (1904). This is not to say that societal conceptions of how the law should treat adolescence have progressed unidirectionally. Decades after juvenile courts were first created, panic about juvenile crime resulted in transfer laws that led to the prosecution and sentencing of thousands of teenagers in adult courts. *See, e.g.*, Kristin Henning, *Boys to Men: The Role of Policing in the Socialization of Black Boys*, in *POLICING THE BLACK MAN: ARREST, PROSECUTION, AND IMPRISONMENT* 57, 59–61 (Angela J. Davis ed., 2017); NELL BERNSTEIN, *BURNING DOWN THE HOUSE: THE END OF JUVENILE PRISON* 72–79 (2014) (recounting how the fear of “super-predators” led to escalating, retributive criminal legal system policy against children).

35. States have enacted laws that give early parole opportunities to those convicted as emerging adults, allow emerging adults' convictions to be sealed or expunged, and increase the age of juvenile court jurisdiction to include emerging adults. *See* Hailey Fuchs, *D.C. Passes Bill to Give Young Offenders Chance at*

In this Article, I propose that the conditions and limitations of emerging adulthood should inform the qualifications for policing, because the characteristics of emerging adult officers affect both the police and the policed. The growing body of evidence about the psychological and neurobiological changes that take place during emerging adulthood should inform evidence-based harm reduction policies in policing. This prescription fills a gap in legal scholarship, which has neglected police selection as a driver of harm and missed opportunities to mitigate that harm. In addition, psychological and neuroscientific studies provide an as-yet unexplored explanation of the developmental underpinnings of police violence and police culture.

This Article proceeds in four Parts. Part I presents the features of the social environment of policing. Police perform job duties that require mature psychosocial capacities with little oversight. That work further exposes police to an environment they are told is exceedingly dangerous, and due

Reduced Sentences, N.Y. TIMES (Dec. 15, 2020), <https://www.nytimes.com/2020/12/15/us/politics/dc-crime-youth.html>; *Recent Reforms*, EMERGING ADULT JUST. PROJECT, <https://www.eajustice.org/recent-reforms> (last visited Jan. 22, 2022). Scholars have also argued that eighteen-to-twenty-one-year-olds should not be ineligible for the death penalty because their transient immaturity and developing brains mean they are not among the worst of the worst. *See generally* John H. Blume, Hannah L. Freedman, Lindsey S. Vann & Amelia Courtney Hritz, *Death by Numbers: Why Evolving Standards Compel Extending Roper's Categorical Ban Against Executing Juveniles from Eighteen to Twenty-One*, 98 TEX. L. REV. 921 (2020). Blume, Freedman, Vann, and Hritz also note that litigators have raised challenges to the execution of those under twenty-one, citing a Kentucky case in which a trial court barred the application of the death penalty to a twenty-one-year-old accused of a capital crime. *Id.* at 923 n.11 (citing *Commonwealth v. Bredhold*, No. 14-CR-161, slip op. at 1 (Ky. Cir. Ct. Aug. 1, 2017)). For further discussions on how age influences criminal punishment and culpability, see generally Kevin Lapp, *Young Adults & Criminal Jurisdiction*, 56 AM. CRIM. L. REV. 357 (2019); Alexandra O. Cohen et al., *When Does a Juvenile Become an Adult? Implications for Law and Policy*, 88 TEMP. L. REV. 769 (2016); Jenny E. Carroll, *Brain Science and the Theory of Juvenile Mens Rea*, 94 N.C. L. REV. 539 (2016). Outside the realm of criminal law, see generally Wayne R. Barnes, *Arrested Development: Rethinking the Contract Age of Majority for the Twenty-First Century Adolescent*, 76 MD. L. REV. 405 (2017); Keely A. Magyar, *Betwixt and Between but Being Booted Nonetheless: A Developmental Perspective on Aging Out of Foster Care*, 79 TEMP. L. REV. 557 (2006).

to that danger, their decisions receive deference. Understanding this social environment lays the groundwork for understanding the mismatch between emerging adult officers' capacities and their work.

Part II describes the harms caused by police selection and legal scholars' failure to address the importance of police hiring criteria. In this Part, I first describe the harms caused by policing. I then turn to the federal, state, and local laws and agency rules that govern police hiring and set minimum hiring ages. I then describe the landscape of minimum qualifying ages for state law enforcement officers. Finally, I discuss what little is known about the history of police hiring ages and the effects of hiring age on policing outcomes.

Part III analyzes how particular aspects of emerging adult development—continuing worldview formation, ongoing brain development, vulnerability to stress and trauma, and the need for disciplinary scaffolding—contribute to how emerging adult officers police and the officers they will become for the rest of their careers.

Part IV proposes ways that legislatures and police administrators can reduce the harms of emerging adult police in the current legal and social environment. Ultimately, it would be best if emerging adults were not police officers, but other steps can be taken in the meantime to make emerging adult officers less harmful. I then conclude.

I. THE SOCIAL ENVIRONMENT OF POLICING

Human social environments are complex and “encompass the immediate physical surroundings, social relationships, and cultural milieus within which defined groups of people function and interact.”³⁶ During

36. Elizabeth Barnett & Michele Casper, *A Definition of “Social Environment,”* 91 AM. J. PUB. HEALTH 465, 465 (2001) (proposing a definition of social environment and including components such as “built infrastructure; industrial and occupational structure; labor markets; social and economic

development, one's social environment influences the availability of cognitive skills in particular situations.³⁷ In addition, social environments influence emerging adults' developmental trajectories.³⁸ Though police do not inhabit a monolithic environment, some common features of policing's social environment play an important role in understanding emerging adults as officers.³⁹ The social environment of policing is characterized by duties that require interpersonal engagement and discretionary authority. Officers further expect deference to enactments of their authority premised

processes; wealth; social, human, and health services; power relations; government; race relations; social inequality; cultural practices; the arts; religious institutions and practices; and beliefs about place and community")

37. King & Kitchener, *supra* note 31, at 117; *see also* Sabrina Baltrushat, Alberto Megías-Robles, Antonio Cándido, Antonio Maldonado & Andrés Catena, *Social and Non-Social Brain Areas in Risk Behavior: The Role of Social Context*, 465 NEUROSCIENCE 177, 183 (2021) (finding that changes in social context influenced adolescents' and emerging adults' abilities to distinguish between high- and low-risk scenarios).

38. Wood et al., *supra* note 31, at 124. ("[T]he ultimate pathway achieved by the emerging adults during this stage is determined by the ongoing, dynamic, and reciprocal interactions between the individual and their environment."); *see, e.g.*, Daniela Barni, Sara Alfieri, Elena Mara & Rosa Rosnati, *Overall and Unique Similarities Between Parents' Values and Adolescent or Emerging Adult Children's Values*, 36 J. ADOLESCENCE 1135, 1136–37 (2013) (asserting that the wider socio-cultural context influences the transmission of values from parent to child during adolescence and emerging adulthood); Tara M. Stoppa & Eva S. Lefkowitz, *Longitudinal Changes in Religiosity Among Emerging Adult College Students*, 20 J. RSCH. ON ADOLESCENCE 23, 26 (2010) (remarking that differing social context in university settings among religious and non-religious emerging adults tend to lead to increased polarization of identity development); Sachiko A. Kuwabara, Benjamin W. Van Voorhees, Jackie K. Gollan & G. Caleb Alexander, *A Qualitative Exploration of Depression in Emerging Adulthood: Disorder, Development, and Social Context*, 29 GEN. HOSP. PSYCHIATRY 317, 323 (2007) (examining the influence of social context on outcomes for emerging adults with depressive disorders).

39. *See generally* Wendy Christensen & John P. Crank, *Police Work and Culture in a Nonurban Setting: An Ethnographic Analysis*, 4 POLICE Q. 69 (2001); David N. Falcone, L. Edward Wells & Ralph A. Weisheit, *The Small-Town Police Department*, 25 POLICING 371 (2002); Eugene A. Paoline, *(Re)taking Stock of Police Culture*, in CRITICAL ISSUES IN POLICING 168, 170 (Roger G. Dunham, Geoffrey P. Alpert & Kyle D. McLean eds., 8th ed. 2021) (describing differences in police cultures based on department style or geographic context).

on the danger of the job.⁴⁰ This social context gives rise to concerns about the effects of policing on emerging adult development and the effects of emerging adulthood on police behavior. While this Part will focus on the structural aspects of policing's social environment, other aspects of policing that shape emerging adult officers' development will be discussed in Part III.

A. *Duties*

Popular media and political rhetoric imagine cops as crimefighters: intervening in serious, violent crimes-in-progress, chasing down suspects, engaging in combat, and using military-style equipment.⁴¹ But that's not what police do. Police spend most of their time, even in large, urban centers, on motorized patrol, dealing with minor disturbances and traffic violations.⁴² That is not to say that the social environment of policing does not involve a great deal of interpersonal conflict and tension. It does. Yet the roles police are called upon to fill in those disputes are more often those of first responder, mediator, and social worker, rather than action movie hero.⁴³ The modern police role calls more for nuance and complexity than split-second, hard-charging action.⁴⁴ Still, the popular image of police plays a

40. See *infra* Sections I.B, I.D.

41. Barry Friedman, *Disaggregating the Policing Function*, 169 U. PA. L. REV. 925, 945–46 (2021).

42. *Id.* at 948–54 (reviewing the literature about police activities).

In Baltimore in 1999, “the most violent, the most addicted and the most abandoned city in [A]merica,” according to then-Mayor Martin O’Malley, regular patrol officers spent about eleven percent of their time dealing with crime. Even that was split about fifty-fifty between serious crime and things like disorderly conduct, drug possession, drunkenness, and loitering. In smaller places, the volume of time spent on crime, defined comprehensively, can be way lower: 0.7 to 2.2% of a cop’s shift.

Id. at 949 (alteration in original) (footnotes omitted).

43. *Id.* at 954–55, 963–67.

44. KENNETH CULP DAVIS, *POLICE DISCRETION* 46 (1975).

far greater role in police training, equipment, and culture than the day-to-day activities of the job.

B. *Discretion*

Once they are out of the academy, police frequently work alone or in small peer groups and have little moment-to-moment supervision.⁴⁵ As a result, they have a great deal of control over how they do their jobs. On a practical level, this means street-level officers make most enforcement policy.⁴⁶ Police, working alone or in pairs, decide which streets to patrol, who to stop, frisk, search, and arrest, and who to let off with a warning. They decide who to speak to with kindness and respect and who to command and control. They also decide whether to charge people with misdemeanors or felonies, under local ordinances or state laws, and if force is warranted and how much. Each of these decisions allocates harms and benefits, just as policymakers elsewhere in government do.⁴⁷ It also means if police break rules or laws as they engage in law enforcement, it is easy for those actions to go undetected.⁴⁸ This discretion is amplified because those

45. See Tracey L. Meares, *The Good Cop: Knowing the Difference Between Lawful or Effective Policing and Rightful Policing—And Why It Matters*, 54 WM. & MARY L. REV. 1865, 1869 (2013); John D. McCluskey, William Terrill & Eugene A. Paoline, III, *Peer Group Aggressiveness and the Use of Coercion in Police—Suspect Encounters*, 6 POLICE PRAC. & RSCH. 19, 22 (2005).

46. DAVIS, *supra* note 44, at 2.

47. *Id.*; Ponomarenko, *Rethinking Police Rulemaking*, *supra* note 8, at 16; MICHAEL LIPSKY, *STREET-LEVEL BUREAUCRACY: DILEMMAS OF THE INDIVIDUAL* 3 (30th Anniversary ed. Rev. 2010).

48. VICTOR E. KAPPELER, RICHARD D. SLUDER & GEOFFREY P. ALPERT, *FORCES OF DEVIANCE: UNDERSTANDING THE DARK SIDE OF POLICING*, 68–73 (Waveland Press 2d ed. 1998) (describing the isolation of citizen-police encounters and the limited contact and control of supervisors with supervisees); DAVIS, *supra* note 44, at 148 (encouraging greater “checking” of patrol work to “prevent and correct abuse[s] of discretion”); Ponomarenko, *Rethinking Police Rulemaking*, *supra* note 8, at 16–17 (“Although certain enforcement decisions, like citations and arrests, generate a paper trial, many of the decisions that officers make do not. Unless an officer reports an encounter or a member of the public lodges a complaint, a supervisor may have no way of knowing whether an officer approached a person on the street, conducted a stop or a frisk, told a group of young people to ‘move

who oversee policing, the courts and administrative bodies, frequently defer to the decisions police make.⁴⁹

Permissive constitutional rules grant police broad authority to initiate and escalate encounters with people in the communities they police.⁵⁰ The law sanctions “near-seizures,” which are “police-initiated, intended to furnish grounds for an arrest or at least a stop (either of which is a seizure, of course), and often experienced as coercive by the subject of investigation.”⁵¹ For example, the general rule that police can arrest for any offense gives police the authority to take someone into custody for something as small as a seatbelt infraction.⁵²

along,’ ordered a panhandler off a bus stop, treated someone abrasively, or used excessive force.”).

49. Barry Friedman & Maria Ponomarenko, *Democratic Policing*, 90 N.Y.U. L. REV. 1827, 1891 (2015) (“Courts defer to policing decisions in part because they lack the data or confidence to second-guess them.”); Rachel Moran, *In Police We Trust*, 62 VILL. L. REV. 953, 971 (2017) (describing how administrative review of police misconduct claims displays the same deference to police as review by courts); *see also infra* Section I.D. For a history and analysis of the development of the “judicial presumption of police expertise,” *see also generally* Anna Lvovsky, *The Judicial Presumption of Police Expertise*, 130 HARV. L. REV. 1995 (2017).

50. Alice Ristroph, *The Constitution of Police Violence*, 64 UCLA L. REV. 1182, 1188–189 (2017); *see* Josh Bowers, *Probable Cause, Constitutional Reasonableness, and the Unrecognized Point of a “Pointless Indignity,”* 66 STAN. L. REV. 987, 1031–34 (2014) (describing Fourth Amendment rules as “thresholds to permissive state action”); KAPPELER, SLUDER & ALPERT, *supra* note 48, at 63 (pointing out that two identical traffic infractions can lead to different outcomes “depending on the motives of the police and their interpretation and application of the law”); Friedman, *supra* note 41, at 937 (noting the low standards for police interference into civilian life required by *Terry v. Ohio*, 392 U.S. 1, 21 (1968), *Graham v. Connor*, 490 U.S. 386, 396 (1989), and *Atwater v. City of Lago Vista*, 532 U.S. 318, 417 (2001)). Moreover, police have a “revenue-generation imperative” that pushes them to initiate encounters. *See* Akbar, *supra* note 6, at 1794; Devon W. Carbado, *Predatory Policing*, 85 UMKC L. REV. 545, 548–49, 564–65 (2017).

51. Ristroph, *supra* note 50, at 1195.

52. *See Atwater v. City of Lago Vista*, 532 U.S. 318, 347 (2001); *see also* Thomas B. Harvey & Janae Stacier, *Policing in St. Louis: “I Feel Like A Runaway Slave Sometimes,”* in THE CAMBRIDGE HANDBOOK OF POLICING IN THE UNITED STATES 39, 46–47 (Tamara Rice Lave & Eric J. Miller eds., 2019) (recounting an incident in which a mother told her ten-year-old son she would not be coming home at night because she was in jail due to an unpaid traffic ticket).

The law empowers police to escalate their assertions of authority quickly, even if that escalation is premised only on non-violent non-compliance. Police often feel entitled to absolute authority, and resistance to that authority is perceived as provocation.⁵³ Arrests resulting from affronts to police authority are sometimes termed “contempt of cop” arrests.⁵⁴

Outside the bounds of constitutional procedure, substantive criminal laws are also written broadly and with sufficient ambiguity for police to find pretexts to engage in encounters when they so choose.⁵⁵ “[V]irtually everyone is susceptible to being stopped at any time.”⁵⁶ Nor is there any inquiry into motive, which makes it hard to challenge racialized policing practices or second guess officers’ claims about good faith misinterpretation of the law.⁵⁷ The law even allows police to act in ways that would be criminal if engaged in by others.⁵⁸ This often accrues to the disadvantage of poor

53. Friedman, *supra* note 41 at 959 (“Police come to expect absolute compliance, but the commands of the police must be judicious, and the use of force must match the gravity of the situation.”).

54. Christy E. Lopez, *Disorderly (mis)Conduct: The Problem with ‘Contempt of Cop’ Arrests*, AM. CONST. SOC’Y (June 7, 2010), https://www.acslaw.org/issue_brief/briefs-2007-2011/disorderly-misconduct-the-problem-with-contempt-of-cop-arrests/; *see also* Josh Bowers, *Annoy No Cop*, 166 U. PA. L. REV. 129, 154 (2017) (describing the arrest of a mother for a seatbelt infraction in *Atwater*, 532 U.S. 318 (2001), as a product of the officer’s “personal pique”); DAVIS, *supra* note 44, at 15 (“Most arrests for disorderly conduct involve an abuse of power by the arresting officer. . . . [T]he effective law in Chicago often is that verbal defiance of an officer, without fighting words, is usually punished by an arrest.”).

55. KAPPELER, SLUDER & ALPERT, *supra* note 48, at 62 (“The law is often written and can be interpreted in ways that give the police sufficient latitude to deviate in their pursuit of legitimate goals.”); Ponomarenko, *Rethinking Police Rulemaking*, *supra* note 8, at 25 (arguing that it is not that laws are unclear but that they criminalize common behaviors that give police so much choice when it comes to enforcement).

56. Ponomarenko, *Rethinking Police Rulemaking*, *supra* note 8, at 26.

57. Ristroph, *supra* note 50, at 1202; Andrew D. Leipold, *Objective Tests and Subjective Bias: Some Problems of Discriminatory Intent in the Criminal Law*, 73 CHI.-KENT L. REV. 559, 562–63 (1998).

58. KAPPELER, SLUDER & ALPERT, *supra* note 48, at 61–63.

communities and communities of color, who find themselves occupied by police yet unprotected from harm.⁵⁹

C. *Danger*

Courts and administrative bodies justify the deference granted police with platitudes describing policing as an exceedingly dangerous occupation. Though policing undeniably has risks, it does not rank among the ten most deadly occupations in the United States, and it is safer than it has ever been.⁶⁰ Nevertheless, law enforcement academies play up the danger facing police every time they put on their uniforms.⁶¹ This sense of danger lurking around every corner is used to justify police procedures, police authority in setting

59. Ponomarenko, *supra* note 8, at 12 (noting that discretion results in over- and under- enforcement of criminal laws in communities of color); KAPPELER, SLUDER & ALPERT, *supra* note 48, at 79–82 (arguing that police deviance tends to be directed at marginalized and poorer communities); Monica C. Bell, *Police Reform and the Dismantling of Legal Estrangement*, 126 YALE L.J. 2054, 2057 (2017). This is not to say that policing is the solution to harm or violence, but rather that over-policed and disinvested communities have often felt hamstrung by the solutions offered to address community challenges and have different beliefs about how their communities' problems should be resolved. *See e.g.*, Monica Bell, *Black Security and the Conundrum of Policing*, JUST SEC. (July 15, 2020), <https://www.justsecurity.org/71418/black-security-and-the-conundrum-of-policing/>. *See generally* DERECKA PURNELL, *BECOMING ABOLITIONISTS: POLICE, PROTESTS, AND THE PURSUIT OF FREEDOM* (2021); JAMES FORMAN, JR., *LOCKING UP OUR OWN: CRIME & PUNISHMENT IN BLACK AMERICA* (2017).

60. BUREAU OF LAB. STAT., NATIONAL CENSUS OF FATAL OCCUPATIONAL INJURIES IN 2020 (Dec. 16, 2021), <https://www.bls.gov/news.release/pdf/cfoi.pdf>; Seth W. Stoughton, *How Police Training Contributes to Avoidable Deaths*, ATLANTIC (Dec. 12, 2014), <https://www.theatlantic.com/national/archive/2014/12/police-gun-shooting-training-ferguson/383681/>; *see* Victor E. Kappeler, Richard D. Sluder & Geoffrey P. Alpert, *Breeding Deviant Conformity: The Ideology and Culture of Police*, in CRITICAL ISSUES IN POLICING 187, 193 (Roger G. Dunham, Geoffrey P. Alpert & Kyle D. McLean eds., 8th ed. 2021).

61. Stoughton, *supra* note 60 (recounting training methods, including graphic videos and 'expert' lectures, that emphasize danger to police officers and insist that they must always be on guard); Caitlin Lynch, *You Have a Right to Remain Violent: Police Academy Curricula and the Facilitation of Police Overreach*, 45 SOC. JUST. 75, 81 (2018); Akbar, *supra* note 6, at 1808 ("Trainings gear police up 'to treat every individual they interact with as an armed threat and every situation as a deadly force encounter in the making.'").

procedures, and police actions, whether they follow procedure or not.⁶² It also creates an atmosphere in which police likely over-perceive the danger to their lives, resulting in “mistakenly but genuinely panicked violence.”⁶³

D. *Deference*

The vast power of policing would seem to call for an effective post-hoc check on discretion. Yet courts tend to defer to police officers’ decisions, often presuming that police are acting reasonably and doing their best to act in the community’s interests.⁶⁴ This applies not only to stops and searches, but also to officers’ use of violence and their “perceptions of danger and resistance.”⁶⁵ Courts also presume that police are acting based on their expertise, which courts say they are ill-equipped to second-guess or evaluate.⁶⁶ Therefore, in criminal cases and civil police

62. See Moran, *supra* note 49, at 964–66 (summarizing Supreme Court cases explicitly stating that courts could not second guess the authority of police agencies to decide, among other things: whether people they stopped were undocumented immigrants; whether police could conduct a so-called administrative search of a person’s bag prior to their incarceration; and the best way to interdict people driving while intoxicated).

63. Ristroph, *supra* note 50, at 1211; see also Stoughton, *supra* note 60 (“In percentage terms, officers were assaulted in about 0.09 percent of all interactions, were injured in some way in 0.02 percent of interactions, and were feloniously killed in 0.00008 percent of interactions. Adapting officer training to these statistics doesn’t minimize the very real risks that officers face, but it does help put those risks in perspective.”).

64. See Robin Magee, *The Myth of the Good Cop and the Inadequacy of Fourth Amendment Remedies for Black Men: Contrasting Presumptions of Innocence and Guilt*, 23 CAP. U. L. REV. 151, 160–61 (1994). A community’s interests also often lack cohesion—even the relevant “community” might be hard to define. See, e.g., Monica C. Bell, *The Community in Community Justice: Subordination, Consumption, Resistance, and Transformation*, 16 DU BOIS REV. 197, 210 (2019); Robert Weisberg, *Restorative Justice and the Danger of “Community,”* 2003 UTAH L. REV. 343, 348.

65. See Ristroph, *supra* note 50, at 1210.

66. See Anthony C. Thompson, *Stopping the Usual Suspects: Race and the Fourth Amendment*, 74 N.Y.U. L. REV. 956, 971 (1999) (describing how acceptance of patrol officers as experts allowed the Supreme Court to construct a raceless explanation for the officer’s actions in *Terry*); Moran, *supra* note 49, at 963–64;

liability cases, judges are loath to side with civilians over the police. In turn, judges find police acted “reasonably,” even when the courts’ opinions convey doubt about the soundness of the officers’ judgment.⁶⁷

It is not only courts that defer to police officers’ decisions, however. Administrative discipline is most often vested in internal affairs divisions, who rarely sustain complaints against officers, decline to discipline many of those against whom complaints are sustained, and who often reduce punishments after arbitration.⁶⁸ When investigated for criminal offenses, police are afforded numerous protections not given to those they investigate.⁶⁹ Weak internal and external checks leave police to operate in an environment of impunity.⁷⁰ Even those police officers who are removed from

Akbar, *supra* note 6, at 1808. *See generally* Lvovsky, *supra* note 49.

67. *Mullenix v. Luna*, 136 S. Ct. 305, 311 (2015) (acknowledging that “whatever can be said of the wisdom” of the officer’s decision, his actions were not unreasonable “beyond debate”); *Utah v. Strieff*, 136 S. Ct. 2056, 2063 (2016) (finding that defendant officer was “at most negligent,” having made “two good-faith mistakes”).

68. *See Moran*, *supra* note 49, at 971, 979–82.

69. Kate Levine, *Police Suspects*, 116 COLUM. L. REV. 1197, 1220–27 (2016) (Levine describes protections afforded police during criminal interrogations: the constitutional protections of *Garrity v. New Jersey*, 385 U.S. 493, 500 (1983), which protects police from the choice between self-incrimination and losing their jobs; and those of Law Enforcement Officers’ Bills of Rights (LEOBARs), which tend to include the following rights: “1. The interrogation must be conducted at a reasonable hour, preferably when the officer is on duty or during normal waking hours. 2. Prior to questioning, the officer is to be notified of whoever will be present for the questioning and the nature of the charges. 3. The officer can be questioned only by one (sometimes two) person(s) during an interrogation session. 4. The interrogation must be for a reasonable period. 5. The officer under interrogation must be allowed to attend to personal physical necessities. 6. The officer must not be subject to any abusive language. 7. No promise of reward can be made as an inducement to answering any question. 8. The officer may not be compelled to submit to a lie detector test, nor may any comment on her refusal be entered into the notes of the investigation. 9. The officer must not be threatened with punitive action (other than the threat that not answering questions may result in such action) or inducements.” *Id.* at 1224–26. (footnotes omitted)).

70. *See, e.g., id.* at 1208 (“Police do not lose their insider knowledge or status upon becoming criminal suspects. In fact, the knowledge they have and

their duties for misconduct sometimes regain the authority to carry a gun and a badge by moving to another jurisdiction.⁷¹ The special legal rules that apply to police discipline and subvert police accountability undoubtedly play a role in the development of emerging adult police.⁷²

In the next Part, I turn to the laws and regulations that place emerging adults in this social environment and consider the problems that those laws and regulations may exacerbate or mitigate.

II. HIRING FOR HARM REDUCTION

Policing causes harm.⁷³ Some harms of policing are well-known and clear: deaths caused by shootings and police chases; injuries from canine bites, stun guns, or arm bar takedowns; jobs, homes, and time spent with family lost due to arrest. Others are less apparent, like the health consequences of living in heavily policed neighborhoods and the dignitary and psychological harms of being treated with suspicion or contempt.⁷⁴ And then there are broader, societal

relationships they form as a result of their insider status can appear to make them virtually above the law because their crimes are both so rarely reported and so rarely prosecuted even when they are reported.” (footnotes omitted)), Moran, *supra* note 49, at 976–78 (collecting sources describing police officer bills of rights); Benjamin Levin, *What’s Wrong With Police Unions?*, 120 COLUM. L. REV. 1333, 1342–43 (2020) (discussing collective bargaining agreements that create weak accountability mechanisms for police).

71. See generally Ben Grunwald & John Rappaport, *The Wandering Officer*, 129 YALE L.J. 1676 (2020).

72. See *infra* Section III.D.

73. See Harmon, *supra* note 7, at 762 (“Police officers are granted immense authority by the state to impose harm.”); Friedman, *supra* note 41, at 929 (“[H]arm is innate to policing.”); EGON BITTNER, *THE FUNCTIONS OF POLICE IN MODERN SOCIETY: A REVIEW OF BACKGROUND FACTORS, CURRENT PRACTICES, AND POSSIBLE ROLE MODELS* 39 (1970) (“[T]he police are nothing else than a mechanism for the distribution of situationally justified force in society.”) As Eric Miller points out, harms can, but need not be, wrongs or illegalities. See Eric J. Miller, *Challenging Police Discretion*, 58 HOW. L.J. 521, 528 (2015).

74. See generally Rory Kramer & Brianna Remster, *The Slow Violence of Contemporary Policing*, 5 ANN. REV. CRIMINOLOGY 43 (2022); Robert Joseph Taylor, Reuben Miller, Dawne Mouzon, Verna M. Keith & Linda M. Chatters,

harms that are not always well-understood. For instance, proponents of broken windows policing posited that arresting for so-called “quality of life” crimes helped keep violent crime at bay,⁷⁵ while more recent studies suggest that non-prosecution of non-violent misdemeanors decreases the likelihood of future criminal complaints and may counsel against aggressive misdemeanor policing.⁷⁶

Everyday Discrimination Among African American Men: The Impact of Criminal Justice Contact, 8 RACE & JUST. 154 (2018); Dylan B. Jackson et al., *Police Stops Among At-Risk Youth: Repercussions for Mental Health*, 65 J. ADOLESCENT HEALTH 627 (2019); Dylan B. Jackson et al., *Police Stops and Sleep Behaviors Among At-Risk Youth*, 6 SLEEP HEALTH 435 (2020); Dylan B. Jackson, Alexander Testa & Michael G. Vaughn, *Low Self-Control and the Adolescent Police Stop: Intrusiveness, Emotional Response, and Psychological Well-Being*, 66 J. CRIM. JUSTICE, Jan.-Feb. 2020 (Article 101635); Juan Del Toro et al., *The Criminogenic and Psychological Effects of Police Stops on Adolescent Black and Latino Boys*, 116 PNAS 8261 (2019), Nikki Jones, “The Regular Routine”: Proactive Policing and Adolescent Development Among Young, Poor Black Men, 2014 NEW DIRECTIONS CHILD & ADOLESCENT DEV. 33; Amber J. Landers et al., *Police Contacts and Stress Among African American College Students*, 81 AM. J. ORTHOPSYCHIATRY 72 (2011); Susan A. Bandes, Marie Pryor, Erin M. Kerrison & Phillip Atiba Goff, *The Mismeasure of Terry Stops: Assessing the Psychological and Emotional Harms of Stop and Frisk to Individuals and Communities*, 37 BEHAV. SCIS. L. 176 (2019); Naomi F. Sugie & Kristin Turney, *Beyond Incarceration: Criminal Justice Contact and Mental Health*, 82 AM. SOCIO. REV. 719 (2017); Thema Bryant-Davis et al., *The Trauma Lens of Police Violence Against Racial and Ethnic Minorities*, 73 J. SOC. ISSUES 852 (2017); Abigail A. Sewell & Kevin Jefferson, *Collateral Damage: The Health Effects of Invasive Police Encounters in New York City*, 93 J. URB. HEALTH (SUPP. 1) 42 (2016); Amanda Geller et al., *Aggressive Policing and the Mental Health of Young Urban Men*, 104 AM. J. PUB. HEALTH 2321 (2014); Bell, *Black Security and the Conundrum of Policing*, *supra* note 59. For vivid, personal depictions of what it is like to live in heavily policed neighborhoods, see generally Harvey & Staicer, *supra* note 52; PURNELL, *supra* note 59.

75. See William J. Bratton, *Policy Review: The New York City Police Department’s Civil Enforcement of Quality-of-Life Crimes*, 3 J.L. & POL’Y 447, 448–49 (1995).

76. Amanda Y. Agan, Jennifer L. Doleac & Anna Harvey, *Misdemeanor Prosecution* 3–4 (Nat’l Bureau of Econ. Rsch., Working Paper No. 28600, 2021), https://www.nber.org/system/files/working_papers/w28600/w28600.pdf. Indeed, in the 1970s policymakers acknowledged that prisons were a stupendous failure when it came to preventing and remediating crime and recommended that no new prisons be built and that existing prisons be closed. See DEP’T OF JUST., NAT’L ADVISORY COMM’N ON CRIM. JUST. STANDARDS & GOALS, CORRECTIONS 358 (1973), <https://www.ojp.gov/pdffiles1/Digitization/10865NCJRS.pdf>.

Traditional legal scholarship has focused on regulating police harms, and it has judged policing on two metrics: lawfulness and crime-fighting effectiveness.⁷⁷ While the lawfulness-effectiveness strains of policing scholarship remain, more recent scholarship has also questioned the merits of those metrics. Tracey Meares has proposed a paradigm of “rightful policing” as an alternative metric to lawfulness or effectiveness.⁷⁸ Her theory of rightful policing requires that policing be both lawful and legitimate, which she defines in terms of procedural justice.⁷⁹ Meares’s approach elevates the importance of procedural justice, because laypeople tend to evaluate the rightfulness of policing based on participation, the fairness of decision-making, their treatment by organization leadership, and their belief that authorities act benevolently toward them.⁸⁰ Importantly, rightful policing recognizes that not all harms of policing can be described as physical injury or financial loss, and not all harms of policing constitute cognizable injuries in the courts.⁸¹

While Meares’s paradigm tries to reduce police harm through procedural justice, Rachel Harmon has advanced an approach she calls “harm-efficient policing.”⁸² Harmon acknowledges that policing necessarily causes harm, and she proposes that the harm be balanced against policing’s

77. Meares, *supra* note 45, at 1865.

78. *Id.* at 1875.

79. *Id.* at 1879.

80. *Id.* at 1875–76.

81. Other scholars who focus on procedural justice and police legitimacy have argued that legitimacy furthers the ends of the police themselves by making people more likely to comply with police orders, cooperate with police investigations, and follow the law. See Tom R. Tyler, Phillip Atiba Goff & Robert J. MacCoun, *The Impact of Psychological Science on Policing in the United States: Procedural Justice, Legitimacy, and Effective Law Enforcement*, 16 PSYCH. SCI. PUB. INT. 75, 84–87 (2015) (reviewing the findings of psychological studies on police legitimacy).

82. Harmon, *supra* note 7, at 792–94.

benefits.⁸³ Harm-efficient policing, then, calls for policies that “control[] crime, fear, and disorder without imposing unjustifiable and avoidable costs on individuals and communities.”⁸⁴ Of course, any harm-efficiency analysis is likely to depend substantially on who conducts the cost-benefit analysis and which harms they deem serious enough to alter policing tactics. Harm-efficiency may also suffer from a failure to adequately contend with the distribution of harms across individuals and communities.⁸⁵

Abolitionists and other radical critics of the police could be understood to argue that the police are so inherently harmful that they can never be harm-efficient.⁸⁶ Central to this point is radical advocates’ and scholars’ contention that crime control is not, and has never been, the central purpose of the police.⁸⁷ Nevertheless, to account for non-rightful but lawful policing as part of the harm calculus, especially given what is now known about the public health effects of policing, lends a starting point for understanding the excesses of the current model of policing.

Moving beyond regulating and balancing harm, I propose a path informed by harm reduction. The international harm reduction movement grew out of intravenous drug users’ efforts to interrupt the AIDS epidemic.⁸⁸ Harm reduction applies the concept “do no harm”

83. *Id.* at 790.

84. *Id.* at 763.

85. See Bell, *Police Reform and the Dismantling of Legal Estrangement*, *supra* note 59, at 2115 (2017) (pointing out institutional choices about policing create “both losers and winners”). See generally Miller, *supra* note 73.

86. See generally MARIAME KABA, WE DO THIS ’TIL WE FREE OURSELVES, (2021); Akbar, *supra* note 6; ZACH NORRIS, WE KEEP US SAFE (2020); ALEX VITALE, THE END OF POLICING (2017); V. Noah Gimbel & Craig Muhammad, *Are Police Obsolete? Breaking Cycles of Violence Through Abolition Democracy*, 40 CARDOZO L. REV. 1453 (2019).

87. See Akbar, *supra* note 6, at 1822. See generally Paul Butler, *The System is Working the Way It Is Supposed to: The Limits of Criminal Justice Reform*, 2019 FREEDOM CTR. J. 75.

88. See MAIA SZALAVITZ, UNDOING DRUGS: THE UNTOLD STORY OF HARM

to drug policy, and then proceeds to ask how to minimize the damage of substance use.⁸⁹ Traditional prohibition policies, exemplified by the War on Drugs, are at odds with harm reduction as they aim to stop substance use, rather than improve people's lives, regardless of their choice to use substances.⁹⁰

First used to make high-risk behaviors like intravenous drug use and sex work safer, harm reduction has now been applied to wide-ranging goals, from reducing capitalist consumption to improving nutrition.⁹¹ Barry Friedman has referred to policing scholarship focused on keeping people safe from government as harm reductionist.⁹² He critiques these strategies because reducing the harms of policing does not, by itself, ensure we live in a safer society.⁹³ Nor does less harm always result in greater equality.⁹⁴ Still, incremental

REDUCTION AND THE FUTURE OF ADDICTION 9 (2021). What Szalavitz describes as the advent of the harm reduction movement was not the first time harm reduction principles had been used. Nick Crofts, *Foreword*, in HARM REDUCTION IN SUBSTANCE USE AND HIGH-RISK BEHAVIOR, at ix, ix–x (Richard Pates & Diane Riley eds., 2012). Such practices go back decades, or even centuries. Diane Riley, Richards Pates, Geoffrey Monaghan & Patrick O'Hare, *A Brief History of Harm Reduction*, in HARM REDUCTION IN SUBSTANCE USE AND HIGH-RISK BEHAVIOR 5, 7 (Richard Pates & Diane Riley eds., 2012).

89. SZALAVITZ, *supra* note 88, at 7.

90. VITALE, *supra* note 86, at 150–52 (outlining policies like needle exchange and supervised injection as alternatives to prohibitionist strategies); SZALAVITZ *supra* note 88, at 51 (contrasting the goal of the War on Drugs with the goals of harm reduction).

91. VITALE, *supra* note 86 at 127–28 (summarizing harm reduction policies for sex work); SZALAVITZ, *supra* note 86 at 49–51, 150, 158–59.

92. Friedman, *supra* note 41, at 930.

93. *See id.* (“Failing to protect certain individuals or neighborhoods is a problem equal in scope to over-policing, and it is addressed glancingly at best by harm reduction strategies.”); *id.* at 944 (“Focusing on strategies to reduce stops, searches, force, and arrests is not going to address chronic social problems, nor alleviate the harms of under-policing.”).

94. *See, e.g.*, KRISTIN HENNING, THE RAGE OF INNOCENCE: HOW AMERICA CRIMINALIZES BLACK YOUTH, at xvi (2021) (describing that despite a decline in youth arrests and detention, racial disparities in the juvenile legal system have continued to widen); Brennan Klein et al., *The COVID-19 Pandemic Amplified Long-Standing Racial Disparities in the United States Criminal Justice System*

reductions in harm can make real differences for individuals on the way to a better world for all, as long as we recognize each harm-reducing intervention as one of many experiments.⁹⁵ The question, then, is what incremental changes can be made that further public safety when we go beyond reducing the immediate harms of policing and consider what drives them.

In its attempt to regulate and reduce policing harms, legal scholarship has neglected police selection as a driver of

(Dec. 14, 2021), <https://www.medrxiv.org/content/10.1101/2021.12.14.21267199v1.full.pdf> (demonstrating that White people benefited disproportionately from the reduction in the prison population during the COVID-19 pandemic).

95. I borrow the idea of harm reduction “experiments” from abolitionist thinkers. See INTERRUPTING CRIMINALIZATION INITIATIVE, #DEFUNDPOLICE #FUNDTHEPEOPLE #DEFENDBLACKLIVES: CONCRETE STEPS TOWARD DIVESTMENT FROM POLICING & INVESTMENT IN COMMUNITY SAFETY 13 (2020), <https://www.interruptingcriminalization.com/defundpolice-toolkit>. We must also be cautious that our harm reduction interventions are, in fact, harm reductionist rather than reformist measures that entrench the harms of policing in new packaging, especially when those interventions require working with law enforcement. See *id.* The idea of “reformist reforms” comes from abolitionist organizing. Critical Resistance, one of the earliest organizations focused on abolition of the Prison Industrial Complex (PIC) defines a “reformist reform” as one that “expands the reach of policing”, while an abolitionist change is one that reduces funding, tools, tactics, technologies or the scale of police or “challenge[s] the notion that police increase safety.” See CRITICAL RESISTANCE, REFORMIST REFORMS VS. ABOLITIONIST STEPS IN POLICING, http://criticalresistance.org/wp-content/uploads/2020/08/CR_NoCops_reform_vs_abolition_REV2020.pdf. Applications of harm reduction to new issues are not without their critics, especially where those so-called applications of harm reduction don’t “encompass the broader lessons of radical compassion, antiracism, and elevating the voices of people at risk that the [harm reduction] movement values.” SZALAVITZ, *supra* note 86, at 320. For those engaged in the application of harm reduction to policing, then, it is also important to attend to whose voices we elevate as we search for solutions. See, e.g., Simonson, *supra* note 8, at 782–83 (describing the demands of the People’s Coalition for Safety and Freedom, a national grassroots coalition led by formerly incarcerated people and explaining social movements’ emphasis on shifting governance and policymaking to directly affected groups); Mari J. Matsuda, *Looking to the Bottom: Critical Legal Studies and Reparations*, 22 HARV. C.R.-C.L. L. REV. 323, 324 (1987) (calling upon scholars to look to those who have experienced discrimination as having unique insight into law); Bell, *Police Reform and the Dismantling of Legal Estrangement*, *supra* note 59, at 2054 (theorizing legal estrangement as a way to understand the fractured relationship between police and communities drawing on community experiences).

harm. To the extent that legal scholarship has considered who polices, it has focused instead on ideology, demographics, and disciplinary histories once on the job.⁹⁶ In failing to critique the minimum standards required of police, we have missed an important opportunity for harm reduction.⁹⁷ This Article argues that current police minimum hiring age policies contribute to policing harms and proposes measures that would reduce the harm emerging adult officers cause.

A. *Police Hiring*

Police agencies know it matters who you hire, and government officials at all levels have at least paid lip service to the need to hire the right people for the job. Indeed, the faults of policing have often been laid at the feet of individual officers.⁹⁸ As a result, those responsible for risk management in police agencies say that “the focus in the hiring process is increasingly on the ‘thinking’ part of policing. It comes down to the kinds of people and their exercise of great judgment.”⁹⁹

Control over hiring policies, like much of the law of the police, is diffuse, with governments at all levels and police administration setting different targets and baselines. The

96. See generally Vida B. Johnson, *KKK in the PD: White Supremacist Police and What to Do About It*, 23 LEWIS & CLARK L. REV. 205 (2019); Grunwald & Rappaport, *supra* note 71; Mary D. Fan, *Violence and Police Diversity: A Call for Research*, 2015 B.Y.U. L. REV. 875.

97. See Harmon, *supra* note 7, at 785 (noting that at the time of publication, there were no legal articles on the implications of law and regulations establishing hiring criteria).

98. One of the earliest autopsies of the failures of policing was the Wickersham Commission, which concluded that “the personnel of the police force at its inception and in its continuance has not the character and qualifications which its responsible duties require.” *Wickersham Report on Police*, 2 AM. J. POLICE SCI. 337, 340 (1931).

99. COLLEEN K. COPPLE & JAMES E. KOPPLE, OFF. CMTY. ORIENTED POLICING SERVS., RISK MANAGEMENT IN LAW ENFORCEMENT: DISCUSSIONS ON IDENTIFYING AND MITIGATING RISK FOR OFFICERS, DEPARTMENTS, AND THE PUBLIC 22 (2018) (statement of Mark Spencer, Inspector General, Prince George County Sheriff’s Off.).

federal government plays the smallest role in the regulation of police hiring, though it can use funding incentives to encourage states, localities, and departments to engage in preferred behaviors.¹⁰⁰ The federal government has also intervened to a limited extent in police hiring through consent decrees.¹⁰¹ For example, the Baton Rouge Police

100. Brian Naylor, *How Federal Dollars Fund Local Police*, NPR (June 9, 2020, 5:10 AM), <https://www.npr.org/2020/06/09/872387351/how-federal-dollars-fund-local-police>; Rachel A. Harmon, *Federal Programs and the Real Costs of Policing*, 90 N.Y.U. L. REV. 870, 877, 891 (2015) (nothing that while localism is a defining characteristic of U.S. policing, the federal government funds local law enforcement with few restrictions, other than requiring agencies to engage in funded activities); Rachel Harmon, *Limited Leverage: Federal Remedies and Policing Reform*, 32 ST. LOUIS U. PUB. L. REV. 33, 54 (2012) (arguing that the federal government could promote policing reform through federal grants to law enforcement).

101. See, e.g., Consent Decree ¶¶ 419–35, *United States v. Police Dep’t of Balt. City*, No. 1:17-cv-00099-JKB (D. Md. Jan. 12, 2017) (Consent Decree for Baltimore, Maryland); Consent Decree ¶¶ 281–302, *United States v. City of Ferguson*, No. 4:16-cv-00180-CDP (E.D. Mo. Apr. 19, 2016) (same for Ferguson, Missouri); Settlement Agreement ¶¶ 200–21, *United States v. City of Cleveland* (N.D. Ohio May 26, 2015) (same for Cleveland, Ohio); Settlement Agreement ¶¶ 232–46, *United States v. City of Albuquerque*, No. 1:14-cv-01025-RB-SMV (D.N.M. Nov. 14, 2014) (same for Albuquerque, New Mexico); Agreement for the Sustainable Reform of the Puerto Rico Police Department ¶¶ 14–21, 101–08, *United States v. Puerto Rico*, No. 3:12-cv-02039-GAG (D.P.R. July 17, 2013); Consent Decree Regarding the New Orleans Police Department ¶¶ 234–44, 295–337, *United States v. City of New Orleans*, No. 2:12-cv-01924-SM-JCW (E.D. La. Jan. 11, 2013). Section 14141 of the Violent Crime Control and Law Enforcement Act of 1994 authorizes the Department of Justice to intervene when police agencies are engaged in a “pattern or practice” of constitutional violations by overseeing reform through consent decrees. See 34 U.S.C. § 12601. Consent decrees are court-monitored contracts detailing reforms intended to correct pattern or practice violations. See Allison T. Chappell, *Consent Decrees and Police Reform: A Piece of the Puzzle or a Puzzling Policy*, 16 CRIMINOLOGY & PUB. POL’Y 571, 571 (2017); Geoffrey P. Alpert, Kyle McLean & Scott Wolfe, *Consent Decrees: An Approach to Policy Accountability and Reform*, 20 POLICE Q. 239, 241–42 (2017). For additional analysis of the achievements and shortcomings of consent decrees, see generally Allan Y. Jiao, *Federal Consent Decrees: A Review of Policies, Processes, and Outcomes*, 22 POLICE PRAC. & RSCH. 793 (2021); Zachary A. Powell, Michele Bisaccia Meitl & John L. Worrall, *Police Consent Decrees and Section 1983 Civil Rights Litigation*, 16 CRIMINOLOGY & PUB. POL’Y 575 (2017); Barbara E. Armacost, *Organizational Culture and Police Misconduct*, 72 GEO. WASH. L. REV. 453 (2004); Joshua M. Chanin, *Examining the Sustainability of Pattern or Practice Police Misconduct Reform*, 18 POLICE Q. 163 (2015); Rachel A. Harmon, *Evaluating and Improving Structural Reform in Police Departments*, 16

Department was under a consent decree from 1980 to 2019 for discriminating against Black and female recruits in hiring.¹⁰²

State legislatures also set laws regulating police minimum qualifying standards.¹⁰³ In setting hiring policies, states take a wide variety of approaches, though they share common features. Typical requirements include a high school diploma or some college education; health as measured by either fitness tests, a physical exam by a physician, or both; moral character; lack of criminal history; lack of dishonorable discharges from the military; mental health examinations or personality testing; background checks; minimum and maximum age requirements; and statements of compliance with ethical codes.¹⁰⁴ While some of these requirements have been studied extensively by criminologists who argue they predict future misconduct, others, such as age requirements, are supported by little more than intuition.¹⁰⁵ Most police hiring requirements,

CRIMINOLOGY & PUB. POL'Y 617 (2017); Michael S. Scott, *Which Way to Better Policing?*, 16 CRIMINOLOGY & PUB. POL'Y 607 (2017).

102. Terry L. Jones, *After 39 Years, Baton Rouge Released from Federal Consent Decree on Racial, Gender Hiring Disparities*, ADVOCATE (June 4, 2019, 3:10 PM), https://www.theadvocate.com/baton_rouge/news/crime_police/article_d014e42e-8704-11e9-a75e-dbb2d8387744.html. As of May 2019, just before the department was released from the consent decree, 34.4% of the department's 636 officers were Black, 63.5% were white, and 2.1% identified as another racial minority. The department was still 90.9% male and 9.1% female. *Id.*

103. *See infra* Appendix B.

104. *See* statutes cited *infra* Appendix B.

105. *See* Lisa Kay Decker & Robert G. Huckabee, *Raising the Age and Education Requirements for Police Officers: Will Too Many Women and Minority Candidates Be Excluded?*, 25 POLICING 789, 798 (2002) (noting that police minimum hiring ages have been set based on intuition about their effects); Kimberly A. Lonsway, *Tearing Down the Wall: Problems With Consistency, Validity, and Adverse Impact of Physical Agility Testing in Police Selection*, 6 POLICE Q. 237, 238 (2003) (observing that physical agility testing used to screen out police officer candidates lacks validity); Kimberly D. Simmers, Thomas G. Bowers & James M. Ruiz, *Pre-Employment Psychological Testing of Police Officers: The MMPI and the IPI as Predictors of Performance*, 5 INT'L J. POLICE SCI. & MGMT. 277, 285 (2003) (noting the widespread adoption of pre-employment personality testing for officers and finding that the Inwald Personality Inventory

especially outside of large, urban areas, are set at the state level, though local law sometimes sets additional standards. And like any employer, law enforcement agencies may add their own requirements so long as they do not fall beneath the standards set by state and local law.

B. *Minimum Hiring Ages*

Police minimum hiring ages are set by state legislatures, commissions, and law enforcement agencies themselves. Where state statutes set the minimum hiring ages, those statutes are a floor, but some agencies set their own minimum standards as well. With approximately 18,000 police agencies nationwide,¹⁰⁶ it would be a gargantuan task to identify the minimum age policies of each one, but state statutes governing minimum hiring ages for police officers present a narrow range of age minimums. The plurality of states (twenty-three) set their minimum hiring age for full-time officers at twenty-one years old.¹⁰⁷ The next most frequent minimum police hiring age is eighteen years old,

shows greater correlation with police job performance than the Minnesota Multiphasic Personality Inventory); Beth A. Sanders, *Using Personality Traits to Predict Police Officer Performance*, 31 POLICING 129, 141 (2008) (arguing that despite the prevalence of officer personality testing, personality has limited predictive value with respect to job performance). To the extent that hiring criteria is studied or validated, we must also be attentive to what outcomes are deemed successes. Screening out for misconduct is necessary but not sufficient to change policing outcomes. *See id.* at 130. For a survey of studies that test the outcomes of police hiring criteria, see sources cited *infra* note 128.

106. BRIAN A. REAVES, U.S. DEP'T OF JUST., BUREAU OF JUST. STAT., CENSUS OF STATE AND LOCAL LAW ENFORCEMENT AGENCIES, 2008, at 2 (2011), <https://bjs.ojp.gov/library/publications/census-state-and-local-law-enforcement-agencies-2008>.

107. Those states are Alaska, Arizona, Arkansas, California Connecticut, Delaware, Idaho, Indiana, Kansas, Kentucky, Maine, Maryland, Massachusetts, Mississippi, Missouri, Nebraska, Nevada, New Jersey, Ohio, Oklahoma, Oregon, South Dakota, and Utah. *See infra* Appendix B. Some of these states have slight variations in the timing of police academy application or exceptions to the minimum hiring age based on education or other criteria. Where those differences exist, they are noted in Appendix B. West Virginia also imposes a minimum hiring age for state police at twenty-one years old but has no corresponding provision for other law enforcement. *See infra* Appendix B.

with twelve states setting their minimum law enforcement hiring age there.¹⁰⁸ Seven other states do not set a minimum hiring age at the state level, and one delegates its state-level minimum to a commission.¹⁰⁹ The remaining four states set their minimum police hiring age either at nineteen or twenty.¹¹⁰ It is perhaps unsurprising that the majority of state policies cluster around ages that coincide with ages that mark other milestones—eighteen being the age of majority, and twenty-one being the age at which one can consume alcohol. We know almost nothing about why the state legislatures selected particular minimum ages, with sparse available legislative history.

Among the fifty largest law enforcement agencies in the United States, the range of police hiring ages remains narrow, though it is slightly more concentrated at the higher end of the range. Thirty-three of the fifty largest agencies set their minimum hiring age at twenty-one years old.¹¹¹ Twenty-six agencies' minimum qualifying age is set at or below the minimum required by state law, one is the same as that set by local law, and twenty-three set an age higher than that required by state or local law, suggesting that the age is set by internal agency policy.¹¹² While agency websites often do not say why the agencies choose only to accept older applicants, one might infer that larger agencies are able to be more selective due to larger applicant pools or have a need

108. Those states are Georgia, Iowa, Michigan, Montana, New Mexico, Pennsylvania, Tennessee, Texas, Vermont, Virginia, Wisconsin, and Wyoming. *See infra* Appendix B. Some states have exceptions to this generally applicable minimum hiring age. Those exceptions are noted in Appendix B.

109. Colorado, Minnesota, New Hampshire, North Dakota, Rhode Island, South Carolina, and Washington set no minimum hiring age. North Carolina delegates its minimum hiring age decisions to a commission. *See infra* Appendix B.

110. Alabama and Florida set their minimum hiring age at nineteen; Illinois and New York set their minimum hiring age at twenty. *See infra* Appendix B.

111. *See infra* Appendix A.

112. *See infra* Appendix A (listing the minimum hiring ages for the fifty largest law enforcement agencies in the United States).

to systematize hiring due to the higher number of applications in urban centers.¹¹³

City population cannot fully explain hiring age policies, however. Though only two of the largest fifty departments allow officers to join their ranks at eighteen years old, those departments—the Detroit Police Department and the Newark Police Department—are located in cities within the fifteen most populated metropolitan statistical areas in the country.¹¹⁴ One is left to speculate about the reasons for any given minimum age, since local legislatures generally do not leave legislative history materials to parse, nor do law enforcement agencies generally make public the reasons for their internal regulations.

C. *The History of Minimum Qualifying Age*

There is little scholarship studying historical patterns of police recruitment, and there is relatively little focus on demographics in current recruiting practices outside the areas of race and gender.¹¹⁵ Bureau of Justice Statistics reports about the composition of police agencies focus on race and gender to the exclusion of age.¹¹⁶ Studies of police

113. Though state law minimum hiring ages are more likely to be used in smaller police departments, it is useful to understand the policies of the fifty largest departments because they have outsized effects on national policy and police a large proportion of the U.S. population. These agencies, which tend to be located in urban centers, represent a range of types of law enforcement agencies—some are city police, some are county police, and others are sheriff's departments. The fifty largest agencies are located in twenty-seven states and the District of Columbia. *See infra* Appendix A.

114. *See infra* Appendix A.

115. *See* Eugene J. Watts, *St. Louis Police Recruits in the Twentieth Century*, 19 CRIMINOLOGY 77, 91 (1981) (statement of historian Samuel Walker) (“[W]e lack even the most rudimentary knowledge of the historical patterns of police recruitment.”).

116. *See generally* REAVES, *supra* note 106; BRIAN A. REAVES, U.S. DEP'T OF JUST., BUREAU OF JUST. STAT., STATE AND LOCAL LAW ENFORCEMENT TRAINING ACADEMIES, 2013 (2016), <https://bjs.ojp.gov/content/pub/pdf/slleta13.pdf>; EMILY D. BUEHLER, U.S. DEP'T OF JUST., BUREAU OF JUST. STAT., STATE AND LOCAL LAW ENFORCEMENT TRAINING ACADEMIES, 2018 – STATISTICAL TABLES, BUREAU OF

recruitment that do address hiring age demonstrate that police departments have experimented with police hiring age over time, with state law serving as a floor in larger departments.¹¹⁷ One study of the St. Louis Police Department shows that between 1869 and 1960, the department's minimum hiring age fluctuated between twenty-one and twenty-four, with maximum hiring ages fluctuating between thirty and thirty-eight.¹¹⁸ Changes to the minimum hiring age naturally influenced the age of new recruits, with the average age of new recruits at the time of appointment dropping from 29.2 in the period from 1899 to 1904 to 23.2 in the period from 1965 to 1969.¹¹⁹

Another study examined the ages of Indianapolis Police Department recruits hired from 1992 to 1997, finding that the mean age of successful candidates was 27.14 years old, though 27.9% of recruits were twenty-one to twenty-four

JUSTICE STATISTICS (2021), <https://bjs.ojp.gov/sites/g/files/xyckuh236/files/media/document/slleta18st.pdf>; Shelley S. Hyland & Elizabeth Davis, *Local Police Departments, 2016: Personnel*, BUREAU OF JUST. STAT. (Oct. 2019), <https://bjs.ojp.gov/content/pub/pdf/lpd16p.pdf>.

117. As in other academic fields, big city policing tends to set the conversation despite being outside the norm. While a substantial portion of the population resides in large urban centers, the majority of police departments are quite small. Studies also tend to focus on larger departments rather than smaller or more rural ones due to a variety of factors including proximity of researchers, necessary sample sizes, and prominence. See, e.g., Kim Michelle Lersch & Tom Mieczkowski, *Who Are the Problem-Prone Officers? An Analysis of Citizen Complaints*, 15 AM. J. POLICE, no. 3, 1996, at 23, 38 (noting that studies of a large agency may not be generalizable to smaller, more rural departments); William Terrill, Fredrik H. Leinfelt & Dae-Hoon Kwak, *Examining Police Use of Force: A Smaller Agency Perspective*, 31 POLICING 57, 58 (2008) (identifying a lack of focus on smaller police departments in policing literature); Eugene A. Paoline III & William Terrill, *Police Education, Experience, and the Use of Force*, 34 CRIM. JUST. & BEHAV. 179, 193 (2007) (suggesting research in rural departments might yield different results than those found in medium-sized agencies).

118. See Watts, *supra* note 115, at 83–84 (noting the first age standards, of twenty-one to thirty-eight years old, were established in 1869).

119. *Id.* at 84. One reason Watts was able to gather in-depth data about the age of St. Louis Police Department recruits is because the Department maintained an oath book starting in 1861 in which “every recruit had to sign and record his age, residence and length of residence in the city, place of birth, and occupation . . .” *Id.* at 79.

years old.¹²⁰ At the time, the Indianapolis Police Department's minimum hiring age was twenty-one years old, but the Department was considering raising it to twenty-five years old.¹²¹ According to the authors of the same study, administrators of the Los Angeles Police Department were, at the time, also considering raising the minimum age for new recruits, and the Chicago Police Department had raised the age from twenty-one to twenty-three in 1997.¹²² It seems that even where minimum hiring standards do not change, police administrators sometimes seek older candidates. In 1998, the Madison, Wisconsin, Police Department emphasized that it preferred older recruits, though the minimum hiring age set by the State of Wisconsin was only eighteen years old.¹²³

Studies of police hiring practices observe that age-setting is typically based on intuition rather than evidence.¹²⁴ During the early- to mid-twentieth century, intuitions about the need for strength and stamina resulted in lower hiring ages.¹²⁵ By contrast, in the 1990s and early 2000s, some police departments considered raising age requirements

120. See Decker & Huckabee, *supra* note 105, at 798.

121. See *id.* At the time, the study also examined the effects of a four-year college degree on hiring, as the Indianapolis Police Department was considering adjusting its minimum educational qualifications as well. See *id.* The study concluded that the age requirement would have had less drastic effects on the ability to recruit officers. See *id.* at 799–800.

122. *Id.* at 794–95.

123. See *id.* at 795 (statement of Madison, Wisconsin, Police Department, 1998) (“[T]hose who are successful in our hiring process usually have educational and/or life experiences possessed by more mature individuals. New training classes commonly include a number of individuals who are changing careers. Classes typically average 27–28 years of age.”).

124. See *id.* at 789.

125. See Watts, *supra* note 115, at 83–84 (statement of Bruce Smith) (“[I]nsistence upon youth in recruiting policemen is found wherever effective departments are maintained. This is especially true of London, New York, Boston, and Detroit.”). See generally DUFF G. GILLESPIE & DAVID J. PITTMAN, *MEN IN BLUE: A STUDY OF RECRUITMENT AND SELECTION PROCEDURES FOR POLICEMEN IN SAINT LOUIS* (1964).

based on the intuition that more mature officers with more life experience would make better police.¹²⁶ Given that current minimum hiring ages have been adopted based on traditional threshold ages, intuition, or without much justification at all, what does social science tell us about the effects of hiring emerging adults as police officers?

D. *The Effects of Age on Policing*

Like most policing policies, the policies setting minimum qualifying ages for police have not relied on social science to gain insight into the optimal threshold age for police.¹²⁷ Though the effects of hiring criteria like educational attainment and the absence of a criminal record have received a good deal of attention from criminologists, fewer studies have focused on the effects of officer age on policing outcomes.¹²⁸ Moreover, studies that examine the effects of

126. Decker & Huckabee, *supra* note 105, at 794–95.

127. See Lawrence W. Sherman, *The Rise of Evidence-Based Policing: Targeting, Testing, and Tracking*, 42 CRIME & JUST. 377, 384 (2013) (acknowledging that despite the high cost of policing and the increase in evidence-based policing, most police policies remain unstudied).

128. For studies indicating that officers with two or four-year degrees are less likely to use force, kill in police shootings, receive civilian complaints for misconduct, or engage in career-ending misconduct, see, for example, Michael G. Breci, *Higher Education for Law Enforcement: The Minnesota Model*, FBI L. ENFT BULL., Jan. 1994, at 3; John T. Krimmel, *The Performance of College-Educated Police: A Study of Self-Rated Police Performance Measures*, 15 AM. J. POLICE, no. 1, 1996, at 85, 86; Mitchell Tyre & Susan Braunstein, *Higher Education and Ethical Policing*, FBI L. ENFT BULL., June 1992, at 10; Jason Rydberg & William Terrill, *The Effect of Higher Education on Police Behavior*, 13 POLICE Q. 92, 110 (2010) (finding that education has no effect on likelihood of arrest or search but that college-educated officers were significantly less likely to use force than non-college-educated officers); Christopher Chapman, *Use of Force in Minority Communities is Related to Police Education, Age, Experience, and Ethnicity*, 13 POLICE PRAC. & RSCH. 421, 429 (2012) (finding that officer education correlated with lower levels but not lower frequencies of force). For studies cautioning against increased educational attainment requirements because of negligible differences in outcomes, or because college-educated officers become dissatisfied with their jobs and leave the force, see, for example, Alan T. Vodicka, *Educational Requirements for Police Recruits*, 42 L. & ORD. 91, 93 (1994); Robert E. Worden, *A Badge and a Baccalaureate: Policies, Hypotheses, and Further*

police officers' characteristics on policing tend to be concerned with a narrow range of behaviors: the use of force, graduating the academy, receiving complaints, and termination. While those outcomes are important, it means we have little insight into other policing behaviors, like issuing summons or making arrests for low-level infractions, dispute resolution and problem-solving outcomes, or general treatment of community members.

One complicating feature of studies examining police officer age is that they do not always disentangle the effects of age and experience.¹²⁹ Studies sometimes assume that

Evidence, 7 JUST. Q. 565, 588 (1990); M.L. Dantzker, *An Issue for Policing—Educational Level and Job Satisfaction: A Research Note*, 12 AM. J. POLICE, no. 2, 1992, at 101, 113. For studies that argue in favor of disqualifying police applicants based on criminal convictions and refusing to permit exemptions from disqualification based on misconduct outcomes, see, for example, Robert J. Kane & Michael D. White, *Bad Cops: A Study of Career-Ending Misconduct Among New York City Police Officers*, 8 CRIMINOLOGY & PUB. POL'Y 737, 751 (2009). It is worth considering that although the term “career-ending misconduct” is an objective metric (you can tell if an officer was fired from her job), it is also a very high threshold, in that many officers have extensive and serious disciplinary histories but remain on the job. See, e.g., Rachel Moran, *Ending the Internal Affairs Farce*, 64 BUFF. L. REV. 837, 837–40 (2016); Jill McCorkel, *Police Officers Accused of Brutal Violence Often Have a History of Complaints by Citizens*, CONVERSATION (May 31, 2020, 4:01 PM), <https://theconversation.com/police-officers-accused-of-brutal-violence-often-have-a-history-of-complaints-by-citizens-139709>; Kane & White, *supra*, at 761 (discussing the difficulties involved in proving police abuse). The term career-ending misconduct also fails to capture that officers whose jobs end through firing in one jurisdiction often do not truly suffer the end of a career. Instead, they are rehired in other departments. See Timothy Williams, *Cast-Out Police Officers Are Often Hired in Other Cities*, N.Y. TIMES (Sept. 10, 2016), <https://www.nytimes.com/2016/09/11/us/whereabouts-of-cast-out-police-officers-other-cities-often-hire-them.html>. One meta-analysis of correlates of use-of-force decisions looked at forty-four analyses from nineteen articles between 1995–2013, including articles studying officer characteristics and the use of force. Those articles studied officer education, experience, race, and sex, but did not include age. See P. Colin Bolger, *Just Following Orders: A Meta-Analysis of the Correlates of American Police Officer Use of Force Decisions*, 40 AM. J. CRIM. JUST. 466, 467, 470–71 (2015).

129. See, e.g., James P. McElvain & Augustine J. Kposowa, *Police Officer Characteristics and the Likelihood of Using Deadly Force*, 35 CRIM. JUST. & BEHAV. 505, 510 (2008) (examining age but not experience); Paoline & Terrill, *supra* note 117, at 179, 183 (considering education and experience but not age); Nicolien Kop & Martin C. Euwema, *Occupational Stress and the Use of Force by*

because it is common for police to enter the profession at a young age, older officers are necessarily more experienced.¹³⁰ For that reason, it can be difficult to differentiate the effects of age and experience, though a 2012 study by Christopher Chapman combines both metrics, making the interaction between age and experience clearer.¹³¹

Force decisions are, with good reason, some of the most-studied policing events. Studies of the relationship between police use of force and age have had mixed results. Some studies demonstrate that younger officers use more force, while older officers use less,¹³² while others demonstrate no significant effect of age on police use of force decisions.¹³³

A study of police shootings by James McElvain and Augustine Kposowa demonstrates some of the challenges involved in measuring the effects of age on officers' use of

Dutch Police Officers, 28 CRIM. JUST. & BEHAV. 631, 643 (2001) (excluding age in favor of work experience because of concerns about multicollinearity); Lawrence W. Sherman, *Causes of Police Behavior: The Current State of the Quantitative Research*, 17 J. RSCH. CRIME & DELINQ. 69, 71 (1980) (“[I]t is difficult to . . . separate[] biological age from length of service in policing, since most police departments only hire officers between the ages of twenty-one and thirty.”).

130. See McElvain & Kposowa, *supra* note 129, at 510 (“It can reasonably be interpreted that the higher the age, the greater the experience, because it is quite common for officers to enter into the police profession when they are younger. As officers grow older, they also become more experienced.”).

131. See generally Chapman, *supra* note 128.

132. See, e.g., McElvain & Kposowa, *supra* note 129, at 514 (finding older officers engaged in shootings less often than younger officers); MICHAEL G. AAMODT, RESEARCH IN LAW ENFORCEMENT SELECTION 179–180 (2004) (explaining that a meta-analysis of use of force studies showed that older and more experienced officers used force less often than younger and less experienced officers); Diana S. Peterson, *The Relationship Between Educational Attainment and Police Performance* 14 (Aug. 2001) (Ph.D. dissertation, Illinois State University), UMI Number: 3064486 (finding that younger officers used more force to make arrests than older officers).

133. See, e.g., Charles Crawford & Ronald Burns, *Predictors of the Police Use of Force: The Application of a Continuum Perspective in Phoenix*, 1 POLICE Q., Dec. 1, 1998, at 41, 55 (finding officer age was not a good predictor of use of force decisions); Geoffrey P. Alpert, *Police Use of Deadly Force: The Miami Experience*, in CRITICAL ISSUES IN POLICING: CONTEMPORARY READINGS 480, 480–97 (Roger G. Dunham & Geoffrey P. Alpert eds., 1989) (finding age had no influence on the decision to use force during an arrest or to use deadly force).

force.¹³⁴ The study analyzed 186 officer shooting files involving over 300 officers from the Riverside County (California) Sheriff's Department from 1990 to 2004.¹³⁵ They found that older officers were "considerably less likely to engage in shootings than younger officers."¹³⁶ Despite the strongly stated conclusion, the study found that the average age of officers involved in a shooting—approximately thirty-four years old—was both older than might be expected and only two years younger than the average age of officers in the control group.¹³⁷ This might be explained by the Riverside Sheriff's Department's practice of assigning new officers to work unarmed in correctional facilities for the first two to three years of their careers.¹³⁸ Moreover, it is not clear what the median age of officers involved in a shooting was, nor did the study provide the frequency of ages below thirty-four included in the sample group. Given that police shootings are relatively infrequent, the low *n* of the study may have distorted the effect of age.¹³⁹ Finally, the long-term effects of officer age remain unexamined by the study, because it focused only on the officer's age at the time of the shooting, rather than the age at first employment in a law enforcement job.¹⁴⁰

Studies show that age may affect other policing decisions as well. A study by Robert Dunham and Geoffrey Alpert

134. See generally McElvain & Kposowa, *supra* note 129.

135. *Id.* at 511.

136. *Id.* at 514. The study also noted that college-educated officers were much less likely to shoot than those without college education.

137. *Id.* at 518. It is worth considering that with a minimum hiring age of twenty-one years old in California at the time the article was written—and with two to three years of correctional work—the effective minimum hiring age for armed officers is twenty-three to twenty-four years old. This may mitigate the risks of developmentally immature decision-making by officers, as I argue *infra* Part III.

138. McElvain & Kposowa, *supra* note 129, at 514.

139. *Id.* at 506.

140. *Id.* at 511.

found that officer age had the strongest predictive effect of six studied variables on outcomes in police vehicle pursuits.¹⁴¹ The study showed that pursuits by officers under forty were more likely to result in accidents, with officers in their twenties most likely to engage in pursuits that ended in injury.¹⁴² Officers in their twenties were more likely than officers in their thirties, and officers in their thirties more likely than those in their forties, to end a vehicle pursuit with a negative outcome.¹⁴³ Older officers' increased caution resulted in the same number of apprehensions as younger officers' more dangerous actions.¹⁴⁴ By contrast, a study of foot pursuits in the Los Angeles County Sheriff's Department did not find deputy age to be a statistically significant variable when it came to the likelihood of suspect injury.¹⁴⁵

Officers' propensity to make arrests also seems to vary with age. Though there is limited information available about nonarrest decisions, in absolute terms, younger officers make more arrests than older ones,¹⁴⁶ though it may be experience, rather than age, that reduces arrest frequency.¹⁴⁷ On the other hand, studies provide some

141. Roger G. Dunham & Geoffrey P. Alpert, *Understanding the Dynamics of Officer Age and Gender in Police Pursuits*, 10 AM. J. POLICE, no. 3, 1991, at 51, 55.

142. *Id.* at 54 (finding officers in their twenties had a 36% likelihood of a pursuit resulting in accident, a 26% likelihood of a pursuit resulting in injury and a 53% likelihood of a pursuit resulting in any negative outcome, while the outcomes for officers in their thirties were 35%, 20%, and 49% respectively, and the outcomes for officers in their 40s were 23%, 18%, and 44% respectively).

143. *Id.*

144. *Id.* at 56.

145. Robert J. Kaminski, Jeff Rojek, Hayden P. Smith & Geoffrey P. Alpert, *Correlates of Foot Pursuit Injuries in the Los Angeles County Sheriff's Department*, 15 POLICE Q. 177, 190 (2012). The officers in the study were between twenty-three and fifty-two years old. *Id.*

146. Peterson, *supra* note 132, at 46.

147. Sherman, *supra* note 129 (citing BRIAN FORST, JUDITH LUCIANOVIC & SARAH J. COX, NAT'L INST. FOR L. ENF'T & CRIM. JUST., WHAT HAPPENS AFTER AN ARREST? A COURT PERSPECTIVE OF POLICE OPERATIONS IN THE DISTRICT OF COLUMBIA 50 (1978)) (finding no difference in number of arrests by age when controlling for length of service). It is worth considering, however, that the

evidence that younger officers may struggle to maintain productive relationships in the community. A 1996 study by Kim Michelle Lersch and Tom Mieczkowski reviewed civilian complaints against officers in a large police department in the Southeast.¹⁴⁸ In that study, the department's police officers averaged 36.05 years old with an average of 11.97 years on the force.¹⁴⁹ The average age of an officer with civilian complaints over a three-year period was younger, at 31.67 years old, and "repeat offenders", those who received five or more complaints during the three-year period, were younger still, at 30.20 years old on average.¹⁵⁰ As in the McElvain and Kposowa study, the median age of officers was not reported, nor was the frequency of different ages in the sample. In addition, though the study found that about 7% of officers accounted for more than one-third of complaints over the three-year period, the study could not provide insight into whether the older officers who received complaints also received them when they were younger, or if there was any relationship between complaints and the officer's age when hired.¹⁵¹

A 1972 study by Bernard Cohen and Jan Chaiken further suggested that not just age, but age at the time of hire, affected the frequency of civilian complaints against an officer.¹⁵² Use of force complaints accounted for the marginal

department in question, D.C.'s Metropolitan Police Department, at that time had an unusually low median age (twenty-seven) and most officers employed by MPD at the time had fewer than five years of experience. FORST, LUCIANOVIC & COX, *supra* note 147, at 49. Studies of non-arrest decisions have focused on encounter and suspect characteristics to the exclusion of officer characteristics. *See, e.g.*, William Terrill & Eugene A. Paoline III, *Nonarrest Decision Making in Police-Citizen Encounters*, 10 POLICE Q. 308, 309 (2007); Jennifer L. Schulenberg, *Moving Beyond Arrest and Reconceptualizing Police Discretion: An Investigation into the Factors Affecting Conversation, Assistance, and Criminal Charges*, 18 POLICE Q. 244, 246 (2015).

148. Lersch & Mieczkowski, *supra* note 117, at 30.

149. *Id.*

150. *Id.* at 33–34.

151. *Id.* at 37.

152. BERNARD COHEN & JAN M. CHAIKEN, POLICE BACKGROUND

increase in complaints for officers who were younger when hired.¹⁵³ Though those officers were no more likely to have substantiated complaints, it also seems that the complaints were not a result of increased exposure to the public, since in the Cohen and Chaiken study, officers who were older when appointed were more like to have non-supervisory field assignments than those who were younger when they were appointed.¹⁵⁴

A more recent study of the traits of officers engaged in career-ending misconduct in the New York City Police Department found that increased age at appointment was a protective factor against career-ending misconduct, though other traits, such as time on the force and education, had stronger protective effects.¹⁵⁵ The protective value of age also appears to be limited with respect to successful completion of the first, probationary year of employment.¹⁵⁶

Criminologists have also studied the effects of experience, which strongly correlates with officer age, though the variables are not interchangeable. Outcomes of studies examining the effect of officer experience on the use of force vary. Some studies find that more experienced officers use less force, though studies have also found no significant relationship or correlations that vary with the type or degree of force.¹⁵⁷ On the other hand, increased

CHARACTERISTICS AND PERFORMANCE 62-64 (1972).

153. *Id.*

154. *Id.* Other studies have cautioned against over-interpreting lack of complaint substantiation, noting that officers with repeat complaints against them tend to be accused of more serious misconduct, and that more serious allegations have the lowest likelihood of being sustained. See Lersch & Mieczkowski, *supra* note 117, at 40-41.

155. Kane & White, *supra* note 128, at 757.

156. Decker & Huckabee, *supra* note 105, at 800 (noting that only one of the twenty recruits who did not complete the probationary year was under twenty-five years of age and finding that education was more protective). The study did not identify the reason the recruit failed to complete the probationary year, nor did the study consider the long-term effects of hiring age. *Id.*

157. For studies finding a negative relationship between officer experience and

experience is a protective factor against career-ending misconduct.¹⁵⁸ This may be because studies tend to demonstrate that officers' problem behavior peaks in their second and third years of experience and declines thereafter.¹⁵⁹

Officers' methods of forming suspicion may also change over the course of their careers. A study of police in Savannah, Georgia, examined how officer experience related to nonbehavioral suspicion, defined as an officer's suspicion based on "an individual's appearance, the time and place,

use of force, see Paoline & Terrill, *supra* note 117, at 188 (finding officers with less experience tended to use more force, defined as both physical and verbal force, than those with more experience). In this study, the group of officers most likely to use force was those with three to five years of experience, not those with two or fewer years of experience. *Id.*; see Eugene A. Paoline, III & William Terrill, *Women Police Officers and the Use of Coercion*, 15 WOMEN & CRIM. JUST., no. 3–4, 2004, at 97, 109 (finding that male officers with less experience were more likely to use force); Robert J. Kaminski, Clete DiGiovanni & Raymond Downs, *The Use of Force Between the Police and Persons with Impaired Judgment*, 7 POLICE Q. 311, 324 (2004) (finding that officers with more experience (three to five years) were less likely to use force than officers with less experience (zero to two years)); Kop & Euwema, *supra* note 129 (finding more experienced officers were more likely to use force). For studies finding a non-significant relationship between officer experience and use of force, see Terrill, Leinfelt & Kwak, *supra* note 117, at 69 (finding that only suspect intoxication and resistance, not officer characteristics, reached statistical significance); Brian A. Lawton, *Levels of Nonlethal Force: An Examination of Individual, Situational, and Contextual Factors*, 44 J. RSCH. CRIME & DELINQ. 163, 176 (2007) (finding that officer experience did not have a statistically significant effect on nonlethal force); McCluskey, Terrill & Paoline, *supra* note 45, at 30 (finding no statistically significant effect of officer experience on use of force); John D. McCluskey & William Terrill, *Departmental and Citizen Complaints as Predictors of Police Coercion*, 28 POLICING 513, 524–25 (2005) (finding no correlation between officer experience and use of force). For studies finding different results depending on the type or degree of force, see Crawford & Burns, *supra* note 133, at 55 (finding that more experienced officers were more likely to use either no force or a firearm, but less likely to use restraints); Eugene V. Morabito & William G. Doerner, *Police Use of Less-Than-Lethal Force: Oleoresin Capsicum (OC) Spray*, 20 POLICING 680, 689 (finding veteran officers more likely to resort to OC spray).

158. Kane & White, *supra* note 128, at 757.

159. Christopher J. Harris, *Exploring the Relationship Between Experience and Problem Behaviors: A Longitudinal Analysis of Officers from a Large Cohort*, 12 POLICE Q. 192, 202 (2009).

and descriptive information provided to an officer.”¹⁶⁰ The study found that officers with more experience were more likely to be suspicious of a person based on nonbehavioral criteria but did not find a correlation between nonbehavioral suspicion and an officer’s decision to stop someone.¹⁶¹ Studies also tend to demonstrate that more experienced police are less active in all types of police duties than less experienced officers.¹⁶²

It is not clear, however, that more experienced officers’ inactivity burdens their departments. A survey of studies showed that despite being less active, more experienced officers’ arrests were more likely to result in convictions.¹⁶³ More experienced officers were also found to be friendlier in dealing with the public than their less experienced counterparts, though studies diverged in their findings of whether officers’ congeniality extended to people who were

160. Geoffrey P. Alpert, John M. MacDonald & Robert G. Dunham, *Police Suspicion and Discretionary Decision Making During Citizen Stops*, 43 CRIMINOLOGY 407, 419 (2005).

161. *Id.* at 422. Though the finding was not statistically significant, the authors of the study felt it was “close enough to be noteworthy given [their] small sample size.” *Id.* at 422–23.

162. John P. Crank, *Legalistic and Order-Maintenance Behavior Among Police Patrol Officers: A Survey of Eight Municipal Police Agencies*, 12 AM. J. POLICE, no. 1, 1993, at 103, 114, 118. The study defined legalistic tasks as “issu[ing] non-traffic citations, mak[ing] custodial traffic arrests, issu[ing] traffic citations, and search[ing] cars under independent probable cause,” while it defined “establish[ing] rapport with citizens on the beat, mediat[ing] civil disputes, mediat[ing] family disputes, and verbally warn[ing] offenders instead of arresting” as order-maintenance activities. *Id.* at 110; Sherman, *supra* note 129, at 73 (reviewing studies that show that less experienced officers “initiate more citizen contacts, do more active preventative patrolling, and record crime reports from citizens more often than do officers with more experience, particularly than those with more than eight years of service” (citing Robert James Friedrich, *The Impact of Organizational, Individual, and Situational Factors on Police Behavior* 278–84 (1977) (Ph.D. dissertation, University of Michigan) (ProQuest 7804704))).

163. Sherman, *supra* note 129, at 73 (citing FORST, LUCIANOVIC & COX, *supra* note 147, at 48–49). The concern that more experienced officers’ less frequent use of the arrest power burdens their departments also takes for granted that a department that wields its arrest power more frequently is doing better policing—a contested premise. See, e.g., Rachel A. Harmon, *Why Arrest?*, 115 MICH. L. REV. 307, 313–20 (2016).

suspects or only to those who were not.¹⁶⁴ Despite the many studies showing correlations between policing outcomes and experience, one meta-analysis by Colin Bolger suggests that officer demographics overall play little role in officer use of force decisions.¹⁶⁵

Christopher Chapman addresses the important distinction between age and experience in his study on use of force in communities of color.¹⁶⁶ Chapman's study, which examined survey responses from police in Newark, Elizabeth, and Orange, New Jersey, indicated that younger officers used more force, but found that despite a strong correlation between age and experience, age and experience did not influence police use of force in the same way.¹⁶⁷ He found that "[a]t any given age, an officer with more experience used more force compared to others of the same age."¹⁶⁸ Though studies sometimes attribute more experienced officers' decreased use of force to decreased citizen engagement and differing job duties, Chapman controlled for job assignment.¹⁶⁹ He found younger patrol officers used force more frequently than older officers, and more experienced patrol officer used higher levels of force than less experienced officers but received fewer

164. Sherman, *supra* note 129, at 73 (first citing Friedrich, *supra* note 162, at 278–79; and then citing DANIEL CRUSE & JESSE RUBIN, NAT'L INST. OF L. ENF'T & CRIM. JUST., DETERMINANTS OF POLICE BEHAVIOR 8 (1973)).

165. Bolger, *supra* note 128, at 479 (finding that male officers were 1.11 times more likely to use force but that other officer characteristics were not significant). The study did examine the effects of experience but did not examine the effects of age. *Id.* at 479.

166. Christopher Chapman, *Use of Force in Minority Communities is Related to Police Education, Age, Experience, and Ethnicity*, 13 POLICE PRAC. & RSCH. 421 (2012).

167. *Id.* at 424–25, 433.

168. *Id.* at 433.

169. See *id.* at 429, 432; see, e.g., McElvain & Kposowa, *supra* note 129, at 518 (positing that senior officers are less likely to use lethal force because they "gravitate toward assignments that remove them from the risk of becoming involved in a shooting incident").

complaints.¹⁷⁰ By contrast, among detectives, younger detectives were more likely both to use force and to use higher levels of force than older detectives.¹⁷¹

Though the studies described provide a limited view into the effects of age on policing outcomes, those that find age effects make hypotheses about why younger officers might use force more frequently or receive more civilian complaints. One explanation is that younger officers tend to be assigned to job duties that put them in more frequent contact with civilians than older officers, who may have moved on to supervisory or desk jobs.¹⁷² Police administrators sometimes even describe police who receive more complaints as “more productive, aggressive officers performing their duties to the best of their abilities.”¹⁷³ Yet the Chapman study, which finds age effects even when controlling for job assignments, calls this explanation into question.¹⁷⁴ Another explanation is that older officers have more experience, and with more experience, officers become more discerning about the use of force and more capable of communicating with civilians in ways that generate fewer complaints.¹⁷⁵

None of these studies considers another explanation: the developmental immaturity associated with emerging adulthood. In recent years, advances have been made in understanding how emerging adults’ brains continue to change and develop beyond adolescence.¹⁷⁶ Studies show that the impulsiveness and risk-taking inherent to youth does not cease at eighteen years old.¹⁷⁷ Moreover,

170. Chapman, *supra* note 166, at 429.

171. *Id.*

172. See McElvain & Kposowa, *supra* note 129, at 51.

173. Lersch & Mieczkowski, *supra* note 117, at 40.

174. Chapman, *supra* note 166, at 429.

175. See Paoline & Terrill, *supra* note 117, at 193.

176. See *infra* Part III.

177. See *infra* Section III.B.1.

psychological factors such as identity formation and susceptibility to trauma have the potential to impact officers appointed as emerging adults throughout their careers.¹⁷⁸ As developmental science has gained acceptance elsewhere in law, police departments' hiring policies have failed to implement changes that take account of how emerging adult officers' immaturity may affect police-civilian interactions and police decision-making in problematic and sometimes dangerous ways. These failures to change policy persist despite the importance of departmental screening processes because of "the low visibility of police work, the unique opportunities for misconduct presented to police officers, and the conflict that often exists between the police and the public."¹⁷⁹ Part III will analyze how emerging adult officers' lack of developmental maturity makes them ill-equipped to police our streets and may set them on a course to adopt warrior cop mindsets throughout their careers.

III. DEVELOPING WITHIN THE DEPARTMENT

While emerging adult officers' capacities at the time of hiring alone raise questions about whether they are well-suited for the pressures of police work, their development within the social and legal context of law enforcement agencies means that their capacities at the time of hire are not the only cause for concern. A key insight of psychologists' work on emerging adulthood is the continuation of identity formation well into the mid-twenties.¹⁸⁰ Emerging adults remain in a critical developmental period that has long-term implications for their functioning as adults. Emerging adults are at an elevated risk of developing psychiatric disorders, and they are more likely to develop neuroticism after

178. *See infra* Section III.C.

179. Kane & White, *supra* note 128, at 765 (explaining why police need departmental screening in a discussion of criminal history screening).

180. Arnett, *supra* note 34, at 473; Wood et al., *supra* note 31, at 124.

exposure to traumatic events.¹⁸¹ Emerging adults' susceptibility to trauma raises grave concerns for emerging adult officers' well-being, job performance, and longevity in their careers. While police in every age category face traumatic events,¹⁸² adverse experiences leave greater marks on emerging adults than older ones.¹⁸³ But it is not only the high-stress circumstances of the job that shape emerging adult officers' development.¹⁸⁴ Given that emerging adults demonstrate environmental sensitivity that manifests in changes to identity and personality, it is also important to consider how the social and legal contexts of law enforcement shape emerging adult officers as they age.

A. *Training: The Occupational Socialization of Emerging Adult Officers*

Emerging adults' identities are still cohering, making them especially vulnerable to adopting the worldviews of those around them. As a result, the intense occupational socialization process of police training may be particularly potent for emerging adult recruits.¹⁸⁵ Occupational

181. Adriel Boals, Shana Southard-Dobbs & Heidemarie Blumenthal, *Adverse Events in Emerging Adulthood Are Associated with Increases in Neuroticism*, 83 J. PERSONALITY 202, 203 (2015).

182. See Konstantinos Papazoglou & Brooke McQuerrey Tuttle, *Fighting Police Trauma: Practical Approaches to Addressing Psychological Needs of Officers*, J. POLICE EMERGENCY RESPONSE, July-Sept. 2018, at 1–2.

183. See *infra* Section III.C.

184. While moments of high stress during policing undoubtedly occur (and give cause to wonder whether emerging adults are well-suited to that type of police work), most police officers report organizational stressors being more stressful than policing-specific job stresses. See Kop & Euwema, *supra* note 129, at 646.

185. Cf. Margie T. Britz, *The Police Subculture and Occupational Socialization: Exploring Individual and Demographic Characteristics*, 21 AM. J. CRIM. JUST. 127, 143 (1997) (indicating officers between twenty and twenty-five were most likely to report feeling they were “part of the gang” and positing that “[y]ounger officers may display a need for organizational belongingness”); Allison T. Chappell & Lonn Lanza-Kaduce, *Police Academy Socialization: Understanding the Lessons Learned in a Paramilitary-Bureaucratic Organization*, 39 J. CONTEMP. ETHNOGRAPHY 187, 189 (2010) (“Because new police recruits tend to be

socialization refers to the process whereby experienced members of the profession communicate the organization's culture to new members.¹⁸⁶ The concept of occupational socialization can be applied across different fields. Studies have examined socialization among new professional students, nurses, and factory workers, social workers, IT personnel, and miners.¹⁸⁷

Police culture or subculture is often defined as hierarchical, paramilitary, and having an us/them orientation.¹⁸⁸ As a result, the concept of police culture is most often invoked to describe negative features of police or policework that prevent reform or stand in the way of accountability.¹⁸⁹ As Eugene Paoline describes, policing culture, characterized by intense group loyalty and social isolation from people outside law enforcement, is a way of managing the occupational stress and anxiety endemic to the social environment of policing.¹⁹⁰ While policing culture adds to organizational cohesion and insulates officers from job stress, it can also have the effect of encouraging secrecy, promoting unhealthy emotional and psychological coping mechanisms, resisting accountability, and endorsing abuse of authority in pursuit of order maintenance.¹⁹¹ Police culture is also undoubtedly shaped by being overwhelmingly white, middle class, and male.¹⁹² Even with the prevalence

young and impressionable, the academy is able to mold them to accept the organizational culture.”).

186. *See generally* Britz, *supra* note 185.

187. *Id.* at 128; Paoline, *supra* note 39, at 161.

188. *See* Kappeler, Sluder & Alpert, *supra* note 60, at 191.

189. *See* Eugene A. Paoline III, *Taking Stock: Toward a Richer Understanding of Police Culture*, 31 J. CRIM. JUST. 199, 200 (2003); *see also* Seth W. Stoughton, *Principled Policing: Warrior Cops and Guardian Officers*, 51 WAKE FOREST L. REV. 611, 667 (2016).

190. Paoline, *supra* note 39, at 166.

191. *Id.* at 160; Kappeler, Sluder & Alpert, *supra* note 60, at 198–99.

192. Kappeler, Sluder & Alpert, *supra* note 60, at 192 (describing the homogeneity of police recruits).

of common features across law enforcement,¹⁹³ police culture is not monolithic, with important variations between organizations, locations, officer workgroups, and officer ranks.¹⁹⁴

Police acculturation begins in earnest at the academy.¹⁹⁵ Even with a shift toward community-oriented policing models, police training remains focused on tactics and physicality.¹⁹⁶ Police instructors are typically former street officers whose instruction “serves to reinforce the existing police view of the world rather than to educate police recruits or to provide the appropriate attitudes, values, and beliefs.”¹⁹⁷ Police academies also employ methods featured in boot camps, such as “stress, an emphasis on chain of command, and group punishments and discipline.”¹⁹⁸ Where

193. One police scholar, John Crank, observed, “[S]treet cops everywhere tend to share a common culture because they respond to similar audiences everywhere.” Paoline, *supra* note 39, at 167.

194. *Id.* at 167–76.

195. Norman Conti argues that pre-professional socialization begins even before police join the academy, as they vie for selection and must demonstrate a particular set of norms and values. *See generally* Norman Conti, *Role Call: Preprofessional Socialization into Police Culture*, 16 POLICING & SOC’Y 221, 223–24 (2006). The view of pre-professional socialization is also related to a personality-based model of police behavior (the pre-dispositional model) that has led some researchers to conclude that people who have authoritarian personalities are attracted to policing as a profession. *See generally* Kappeler, Sluder & Alpert, *supra* note 60.

196. *See* Chappell & Lanza-Kaduce, *supra* note 185, at 186–87; Kappeler, Sluder & Alpert, *supra* note 60, at 193 (“[M]ost training curricula overemphasize the potential for death and injury and further reinforce the danger notion by spending an inordinate amount of time on firearms skills, dangerous calls, and ‘officer survival.’ The training orientation often resembles preparation for being dropped behind enemy lines on a combat mission.”); Akbar, *supra* note 6, at 1808; Friedman, *supra* note 41, at 1907. The emphasis on the physical demands of police work and use of screening mechanisms based on those demands adversely impact the participation of women in policing. *See generally* Lonsway, *supra* note 105.

197. Kappeler, Sluder & Alpert, *supra* note 60, at 193.

198. Chappell & Lanza-Kaduce, *supra* note 185, at 189; *see also* Bruce L. Berg, *First Day at the Police Academy: Stress-Reaction-Training as a Screening-Out Technique*, 6 J. CONTEMP. CRIM. JUST., May 1990, at 89, 95.

academies have tried to shift to learner-centered models based on other forms of adult education, complications have arisen because of the clash between the more community-oriented messages of classroom training and the “hidden curriculum” of “war stories” and field training.¹⁹⁹ Researchers tend to find that the “hidden curriculum” supports the traditional police subculture.²⁰⁰

Socialization into police work continues as officers begin patrolling under their field training officers (FTOs).²⁰¹ Learning in the field is frequently presented as more important and relevant than what was learned in the academy.²⁰² It also has the tendency to reinforce “hidden curriculum” messages. One reason for this might be the selection of field training officers. FTOs are not always well-screened and sometimes have their own extensive misconduct histories.²⁰³ FTOs with misconduct histories or those who are poorly trained themselves have a statistically significant effect on subsequent misconduct by their trainees.²⁰⁴ Science suggests emerging adults may be even

199. Chappell & Lanza-Kaduce, *supra* note 185, at 192; *see also* S.G. Stradling, G. Crowe & A.P. Tuohy, *Changes in Self-Concept During Occupational Socialization of New Recruits to the Police*, 3 J. CMTY. & APPLIED SOC. PSYCH. 131, 145 (1993) (explaining that the initial effects of formal classroom socialization dissipate with time as informal socialization takes root).

200. *See* Robert E. Ford, *Saying One Thing, Meaning Another: The Role of Parables in Police Training*, 6 POLICE Q. 84, 100 (2003) (finding 83% of police “war stories” supported police subcultural values).

201. Paoline, *supra* note 39, at 165.

202. *See id.*; Chappell & Lanza-Kaduce, *supra* note 185, at 209.

203. Simone Weichselbaum, *One Roadblock to Police Reform: Veteran Officers Who Train Recruits*, MARSHALL PROJECT (July 22, 2020, 6:00 AM), <https://www.themarshallproject.org/2020/07/22/one-roadblock-to-police-reform-veteran-officers-who-train-recruits>. The murder of George Floyd underscored the insufficient screening of field training officers for misconduct histories. Thomas Lane, one of the officers charged with George Floyd’s murder, was a relatively recent recruit, trained by Derek Chauvin, the officer who knelt on George Floyd’s neck. *See id.*

204. *See* Brendan McGinley, Winifred Agnew-Pauley, Lisa Tompson & Jyoti Belur, *Police Recruit Training Programmes: A Systematic Map of Research Literature*, 14 POLICING 52, 58 (2020). Further, FTOs are frequently untrained in

more susceptible to adopting their training officers' perspectives and less likely to question orders than older recruits. Similarly, while police leaders argue that emerging adult officers are more easily integrated into the organizational culture, when that culture reflects anti-Black bias, a military mindset, or other undesirable features, a more established identity and personality would serve as a bulwark against adoption of the negative aspects of that culture.

Criminological studies of the social contagion effect give further credence to the influence of social context on policing outcomes. Criminologists who study social contagion argue that officers' peers serve as "social conduits" through which misconduct is propagated.²⁰⁵ Given that peer presence and peer imitation have far greater behavioral effects on emerging adults than older adults,²⁰⁶ there is reason to be concerned that emerging adult officers would be especially vulnerable to repeating the behaviors of their misbehaving policing partners. This has further support in a study of officers' use of force and peer group aggressiveness, which showed that more experienced officers resisted using higher levels of force endorsed by so-called "high aggressive" peer groups, while less experienced officers used more force when situated in high aggressive peer groups.²⁰⁷

Studies of police socialization have also revealed changes to interpersonal behavior. One study found that after completing their probationary year, new officers' empathy

community policing, even if their organizations have ostensibly adopted the model. See Robin N. Haarr, *The Making of a Community Policing Officer: The Impact of Basic Training and Occupational Socialization on Police Recruits*, 4 POLICE Q. 402, 406 (2001).

205. See Marie Ouellet, Sadaf Hashimi, Jason Gravel & Andrew V. Papachristos, *Network Exposure and Excessive Use of Force: Investigating the Social Transmission of Police Misconduct*, 18 CRIMINOLOGY & PUB. POL'Y 675, 675 (2019).

206. See discussion *supra* Section II.A.

207. See John D. McCluskey et al., *Peer Group Aggressiveness and the Use of Coercion in Police-Suspect Encounters*, 6 POLICE PRAC. & RSCH. 19, 31–32 (2005).

decreased.²⁰⁸ Likewise, there is evidence that early police socialization affects how police choose to exercise their discretion.²⁰⁹ The effects of the social context of law enforcement agencies are further exacerbated by the ways law and discipline fail to constrain police officers.

B. *On the Job: Psychosocial and Neurobiological Characteristics of Emerging Adult Officers*

Though socialization into the department will affect emerging adults both in the short-term and as they rise through the ranks, additional psychosocial and neurobiological capacity issues are likely to plague emerging adult officers as they police our streets. The Supreme Court's oft-quoted words in *Graham v. Connor* describe policing in terms that make clear why emerging adult officers' psychosocial capacities may be overwhelmed by their work environment: "Police officers are often forced to make split-second judgments—in circumstances that are tense, uncertain, and rapidly evolving—about the amount of force that is necessary in a particular situation."²¹⁰

Though it is possible that emerging adult officers may differ somewhat in their level of development from the median emerging adult in the population, there is no available scientific evidence that demonstrates that emerging adult officers have more developed brains or psychosocial capacities than other emerging adults. Therefore, it is important to consider the general capacities of emerging adults when thinking about how emerging adult officers might act on the job.²¹¹

208. See Stradling et al., *supra* note 199, at 146.

209. See A.P. Tuohy, M.J. Wrennall, R.A. McQueen & S.G. Stradling, *Effect of Socialization Factors on Decisions to Prosecute: The Organizational Adaptation of Scottish Police Recruits*, 17 L. & HUM. BEHAV. 167, 168 (1993).

210. *Graham v. Connor*, 490 U.S. 386, 396 (1989).

211. A question beyond the scope of this Article is whether police departments could be held liable for hiring emerging adult officers who are developmentally

1. Risky Decision-Making, Risk Behaviors, and Impulsivity

Though recent Supreme Court jurisprudence recognizes that adolescents tend to make risky decisions and engage in high-risk behaviors, it tends to overlook that emerging adults, not adolescents, are the most prevalent age category in terms of high-risk behaviors.²¹² This includes behaviors like substance use and risky driving behaviors.²¹³ Though emerging and older adults express similar risk preference, their behavior in high-risk decision-making diverges.²¹⁴ One study found that younger people, including youth (defined as age eighteen to twenty-two) are more likely to select a risky course of action as compared to older adults.²¹⁵ Notably, different features of self-control develop on unique trajectories.²¹⁶ Though sensation-seeking, characterized by “novelty, emotion, and reward,” peaks from fifteen to seventeen before declining in adulthood, impulsivity, defined as “a tendency to act rapidly without deliberation or consideration,” steadily declines from childhood into the

unable to adhere to a reasonable person standard in hot-cognition scenarios. The Supreme Court has recognized developmentally informed reasonableness standards in criminal procedure, see *J.D.B. v. North Carolina*, 564 U.S. 261, 279–81 (2011) (establishing a reasonable child standard for the *Miranda* custody analysis), but civil courts have not traditionally excused children from adult standards of reasonableness when voluntarily taking on abnormally dangerous activities, like driving. William Binchy, *The Adult Activities Doctrine in Negligence Law*, 11 WM. MITCHELL L. REV. 733, 735 (1985).

212. Arnett, *supra* note 34, at 475.

213. *Id.*

214. See Margo Gardner & Laurence Steinberg, *Peer Influence on Risk Taking, Risk Preference, and Risky Decision Making in Adolescence and Adulthood: An Experimental Study*, 41 DEVELOPMENTAL PSYCH. 625, 630 (2005) (reporting chronological age difference in risk-taking but not on risk preference).

215. See *id.* at 629–30. This study compared youth aged eighteen to twenty-two with adults aged twenty-four and older. See *id.* at 626. The mean age of the youth sample was 18.78 with a standard deviation of 1.07, while the mean age of the adult group was 37.24 with a standard deviation of 12.37. See *id.* at 626.

216. See Callie H. Burt, Gary Sweeten & Ronald L. Simons, *Self-Control Through Emerging Adulthood: Instability, Multidimensionality, and Criminological Significance*, 52 CRIMINOLOGY 450, 457–58 (2014).

thirties.²¹⁷

The risk-prone decision-making that characterizes emerging adulthood provides a developmental explanation for studies that find younger officers are more inclined to use force.²¹⁸ Emerging adult officers' impulsivity may also explain the findings of Dunham and Alpert's study of high-speed chases, since emerging adults' predisposition to act without deliberation makes them more inclined than older officers to pursue high-risk, high-reward encounters.²¹⁹ The likelihood of engaging in high-risk behaviors interacts in troubling ways with peer effects and lack of capacity in

217. *See id.* at 457–58.

218. One area of research that tends to suggest that concerns about emerging adult officer development are warranted are studies demonstrating a relationship between officer self-control and policing outcomes. *See, e.g.*, Christopher M. Donner, Jon Maskaly, Alex Piquero & Wesley G. Jennings, *Quick on the Draw: Assessing the Relationship Between Low Self-Control and Officer-Involved Police Shootings*, 20 POLICE Q. 213, 224 (2017) (finding that low-self-control officers are more likely to engage in deadly police shootings); *see also* Christopher M. Donner & Wesley G. Jennings, *Low Self-Control and Police Deviance: Applying Gottfredson and Hirschi's General Theory to Officer Misconduct*, 17 POLICE Q. 203, 215–17 (2014) (finding low self-control a significant predictor of citizen complaints for physical and verbal abuse, an internal affairs investigation, and engaging in misconduct); Christopher M. Donner, Lorie A. Firedell & Wesley G. Jennings, *The Relationship Between Self-Control and Police Misconduct: A Multi-Agency Study of First-Line Police Supervisors*, 43 CRIM. JUST. & BEHAV. 841, 852 (2016) (finding that first-line police supervisors with lower self-control were more likely to self-report both past misconduct and the likelihood of future misconduct). These studies varied with respect to findings of correlation with age. *Compare* Donner, Maskaly, Piquero & Jennings, *Quick on the Draw*, *supra*, at 224 (finding no significant correlation with age with respect to deadly shootings), *with* Donner & Jennings, *Low Self-Control and Police Deviance*, *supra*, at 216 (finding a negative correlation between age and misconduct). It is worth noting that the two studies of line officers relied on Gottfredson and Hirschi's self-control theory, which posits stable self-control between individuals after childhood and has been called into question by studies that demonstrate that self-control changes over time. *See* Burt et al., *supra* note 216, at 455. Moreover, though some studies suggest relative stability of self-control as compared to one's age cohort, overall self-control increases with development. *See id.* at 454.

219. *See* Dunham & Alpert, *supra* note 141, at 54 (noting dangerousness of high-speed chases and confirming that younger officers' vehicle pursuits are more likely to end with negative results).

emotional reasoning and self-regulation as discussed below.

Emerging adult officers' risk-inclination may also explain why studies often suggest that younger officers are more "active" than older police officers.²²⁰ This means that younger officers may be more likely to chase suspects on foot or in cars, stop more civilians, and make more arrests. As described in Part I, the law empowers police to make as much contact with civilians as they desire, so younger officers may choose to put themselves in positions to use force more frequently.²²¹

2. Peer Presence and Influence

Police deployment patterns strain emerging adults' capacity to manage themselves around peers. Studies indicate that peer presence, without any active pressure or interference, causes adolescents to make riskier decisions.²²² Though adolescents are more influenced by peer presence than emerging adults,²²³ peer presence effects persist in emerging adults' risky decision-making.²²⁴ One study

220. See Crank, *supra* note 162, at 118.

221. Ristroph, *supra* note 50, at 1192 ("Fourth Amendment law places great importance on officer safety, and its usual strategy to protect officers is to expand police authority to use force. An alternative approach, one that would protect officers by minimizing officer-civilian contacts and conflicts, is markedly absent from constitutional doctrine. Constitutional doctrine has steadily expanded the occasions in which it permits and even encourages police to interrupt, detain, and take custody of ordinary citizens. As police are asked to do more, they have been empowered to use more force, especially if they sense danger.").

222. See Jason Chein et al., *Peers Increase Adolescent Risk Taking by Enhancing Activity in the Brain's Reward Circuitry*, 14 DEVELOPMENTAL SCI., no. 2, at F1, F2 (2011).

223. Gardner & Steinberg, *supra* note 214, at 629–30.

224. Riedijk & Harakeh, *supra* note 29, at 260 (explaining that 69% of variance between risk-taking was due to imitation of the risky decisions of peers). Notably, this study also indicates that emerging adults' self-identification as someone susceptible to peer influence had no explanatory value. *Id.* at 260–61; see also Graham & Wildman, *supra* note 29, at 263 (suggesting peer pressure intervention programs designed for secondary schools be implemented in the military and community groups, where they can be applied to emerging adult participants).

indicates that emerging adults strongly imitate the risky decision-making of a single peer, even if that peer is a complete stranger.²²⁵ Though psychological theory explains this behavior in several ways,²²⁶ the outcomes demonstrate that emerging adults make riskier choices in the presence of their peers and based on peer imitation. Given that police officers are most often deployed with other similarly situated officers, their likelihood of making riskier choices may be high in general. This peer effect also means that the social contagion effect could be more dramatic in emerging adult officers, causing risky behavior or misconduct to spread through police networks.²²⁷

3. Emotional Reasoning and Errors in Self-Regulation

While emerging adults self-regulate better than adolescents, they still show a marked difference from older adults, especially when it comes to emotional regulation of anger and fear.²²⁸ Importantly, the conditions under which emerging adults are particularly susceptible to impulsive, risky, or emotionally reasoned behavior maps closely onto the types of scenarios abundant in policing and emphasized by policing's social environment.²²⁹ In high-threat situations, emerging adults "are still easily swayed by their emotions to distort their thinking in self-serving and self-protective

225. Riedijk & Harakeh, *supra* note 29, at 256.

226. *Id.* at 256–57.

227. *See supra* Section II.B.

228. *See* Peter Zimmerman & Alexandra Iwanski, *Emotion Regulation from Early Adolescence to Emerging Adulthood and Middle Adulthood: Age Differences, Gender Differences, and Emotion-Specific Developmental Variations*, 38 INT'L J. BEHAV. DEV. 182, 192 (2014).

229. Officers may be more likely to perceive threat generally based on training techniques in which they are advised that they are constantly under threat and, in turn, become hypervigilant. *See generally* Stoughton, *supra* note 60. This type of training is particularly likely to influence emerging adult officers because of their threat sensitivity, increased likelihood of trauma reactions in this stage of development, and tendency toward emotional reasoning. *See supra* Part II (discussing danger as an important component of the social environment of policing); *supra* Part III (describing the characteristics of emerging adulthood).

ways,” often at the expense of out-group members.²³⁰

In a study that considered adolescents, young adults (eighteen to twenty-one), and adults (twenty-two to twenty-five), young adults were less able than adults to respond accurately when presented with negative facial expressions, and when under a threat condition, the accuracy of their responses further diminished relative to those of adults.²³¹ These errors demonstrate a lack of control among young adults under threatening or fearful circumstances.²³² A similar study tracked adolescents’ (twelve to fifteen), emerging adults’ (eighteen to twenty-five), and adults’ (twenty-six to forty-six) performance on a go/no-go task. The study demonstrates that adults’ responses are slower but more accurate as compared to emerging adults, and they demonstrate less bias toward a go response.²³³ These results demonstrate that while emerging adults’ emotional reasoning and self-regulation are more developed than that of adolescents, they have not reached psychosocial maturity with respect to those capacities.

A tendency toward inaccurate emotional reasoning and

230. Gisela Labouvie-Vief, *Emerging Structures of Adult Thought*, in *EMERGING ADULTS IN AMERICA: COMING OF AGE IN THE 21ST CENTURY* 59, 79 (Jeffrey Jensen Arnett & Jennifer Lynn Tanner eds., 2006) (summarizing research that shows that emerging adults are more likely to give “harsh evaluations of moral transgressors” or “increase racist attitudes” in light of death-related threats or fears, but acknowledging that for a subset of high-empathy emerging adults, death-related threat “increases acceptance of dissimilar others”).

231. Alexandra O. Cohen et al., *Corrigendum: When Is an Adolescent an Adult? Assessing Cognitive Control in Emotional and Nonemotional Contexts*, 27 *PSYCH. SCI.* 549, 559 (2016). The study did not compare the adult group (twenty-two to twenty-five) with an older cohort. *Id.*

232. Notably, while adolescents’ performance also diminished under an excitement condition, that of young adults did not. *Id.* at 555.

233. See J.E. Cohen-Gilbert et al., *Differential Influence of Safe Versus Threatening Facial Expressions on Decision-Making During an Inhibitory Control Task in Adolescence and Adulthood*, 17 *DEVELOPMENTAL SCI.* 212, 220 (2014). Unlike other studies, this study showed a disruption based on a threat stimulus across all age groups, not just those of younger participants. See *id.* at 220.

errors in self-regulation suggests that emerging adult officers are poorly equipped to deal with emotionally charged situations. Errors in emotional reasoning may lead emerging adult officers to escalate encounters, leading to unnecessary uses of force or the power of arrest, especially in the face of interactions with people they interpret as uncooperative, disrespectful, or threatening. The go bias of emerging adult officers also means they are more likely to react impulsively under such circumstances, rather than employ a reasoned response. While emerging adults' over-perception of threat is subconscious, it has real implications for how sincere but inaccurate interpretations of policing encounters influence emerging adult officers.²³⁴

234. Though beyond the scope of this Article, emerging adult police officers' errors in emotional reasoning may be particularly dangerous for communities of color. The amygdala, which is still developing during emerging adulthood, is responsible for emotional learning, including fear conditioning. See Bradley Taber-Thomas & Koraly Perez-Edgar, *Emerging Adulthood Brain Development*, in THE OXFORD HANDBOOK OF EMERGING ADULTHOOD 126, 128 (Jeffrey Jensen Arnett ed., 2015); Elizabeth A. Phelps et al., *Performance on Indirect Measures of Race Evaluation Predicts Amygdala Activation*, 12 J. COGNITIVE NEUROSCIENCE 729, 729 (2000). Racialized perceptions of Black people as threatening, aggressive, angry, armed, or dangerous might be exacerbated by emerging adult officers' tendency to over-perceive threat. See, e.g., Andrew R. Todd, Kelsey C. Thiem & Rebecca Neel, *Does Seeing Faces of Young Black Boys Facilitate the Identification of Threatening Stimuli?*, 27 PSYCH. SCI. 384, 385, 390–91 (2016); William A. Cunningham et al., *Separable Neural Components in the Processing of Black and White Faces*, 15 PSYCH. SCI. 806, 811 (2004); Kurt Hugenberg & Galen V. Bodenhausen, *Ambiguity in Social Categorization: The Role of Prejudice and Facial Affect in Race Categorization*, 15 PSYCH. SCI. 342, 342–45 (2004); John Paul Wilson, Nicholas O. Rule & Kurt Hugenberg, *Racial Bias in Judgments of Physical Size and Formidability: From Size to Threat*, 113 J. PERSONALITY & SOC. PSYCH. 59, 65–66 (2017); Jennifer L. Eberhardt et al., *Seeing Black: Race, Crime, and Visual Processing*, 87 J. PERSONALITY & SOC. PSYCH. 876, 877, 887–88 (2004); B. Keith Payne, *Prejudice and Perception: The Role of Automatic and Controlled Processes in Misperceiving a Weapon*, 81 J. PERSONALITY & SOC. PSYCH. 181, 183, 185, 188 (2001); Joshua Correll et al., *The Police Officer's Dilemma: Using Ethnicity to Disambiguate Potentially Threatening Individuals*, 83 J. PERSONALITY & SOC. PSYCH. 1314, 1314–1315, 1319 (2002); E. Ashby Plant & B. Michelle Peruche, *The Consequences of Race for Police Officers' Responses to Criminal Suspects*, 16 PSYCH. SCI. 180, 180–82 (2005).

4. Sex and Gender Considerations²³⁵

Police agencies disproportionately employ male officers.²³⁶ This, too, has implications for the behavior of emerging adult officers, though findings on gender and sex effects are mixed.²³⁷ At younger ages, men give greater

235. The studies discussed herein use a binary construct of sex and gender that the author recognizes misrepresents the current understanding of the spectrum of gender identities, may lead to misclassification of study participants, and, according to some psychologists, violates scientific ethical standards. See Jessica J. Cameron & Danu Anthony Stinson, *Gender (Mis)Measurement: Guidelines for Respecting Gender Diversity in Psychological Research*, 13 SOC. & PERSONALITY PSYCH. COMPASS, no. 11, Nov. 2019, at 2. These studies do not capture or explain, for instance, how a trans man or woman or person who identifies as non-binary might respond similarly to or differently from those who share their sex assigned at birth. Trans or non-binary officers would almost inevitably have their own perspectives on policing, see Rick Rojas, *Transgender on the Force*, N.Y. TIMES (Aug. 5, 2016), <https://www.nytimes.com/2016/08/07/nyregion/transgender-on-the-force.html>. To the extent that they join the force as emerging adults, this article speaks to their psychosocial capacities, though the effects of their gender identity on those capacities is not captured by available studies. *Id.*

236. Nationally, 72.8% of the 1,003,270 law enforcement employees are male and 27.2% are female. FBI Crim. Just. Info. Servs. Div., *Table 74: Full-Time Law Enforcement Employees by Population Group Percent Male and Female, 2019, 2019 Crime in the United States*, <https://ucr.fbi.gov/crime-in-the-u.s/2019/crime-in-the-u.s.-2019/tables/table-74> (last visited Jan. 22, 2022). When considering only sworn officers, the disparity grows: of the 697,195 officers in the United States, 87.2% are male and 12.8% are female. *Id.* One group, called the 30x30 Initiative, has set the goal of reaching 30% women in policing by 2030 with the explicit goal of influencing organizational culture. *A National Initiative to Advance Women in Policing*, 30x30, <https://30x30initiative.org/about-30x30/> (last visited Jan. 22, 2022). The report that serves as the basis for the organization, *Women in Policing: Breaking Barriers and Blazing a Path*, cites meta-analyses that have found that female officers are less likely to use force while male officers engage in misconduct more frequently. See NAT'L INST. JUST., U.S. DEP'T OF JUST., WOMEN IN POLICING: BREAKING BARRIERS AND BLAZING A PATH 20 (2019), <https://www.ojp.gov/pdffiles1/nij/252963.pdf> (citing Bolger, *supra* note 128). See generally Natalie Todak, *The Decision to Become a Police Officer in a Legitimacy Crisis*, 27 WOMEN & CRIM. JUST. 250 (2017); Timothy M. Maher, *Police Sexual Misconduct: Female Police Officers' Views Regarding Its Nature and Extent*, 20 WOMEN & CRIM. JUST. 263 (2010).

237. See Zimmerman & Iwanski *supra* note 228, at 192 (finding no gender difference in adaptive emotional regulation among adolescents and emerging adults but finding differences in types of emotional regulation); see also Oliver P. John & James J. Gross, *Healthy and Unhealthy Emotion Regulation: Personality Processes, Individual Differences, and Life Span Development*, 72 J. PERSONALITY 1301, 1311 (2004) (reporting differences in use of emotion suppression between

weight than women to the benefits of risky decisions, and they weigh those benefits even more heavily when in the presence of peers.²³⁸ One meta-analysis suggested that risk-taking diverged along gender lines more during emerging adulthood than during any other period of development.²³⁹ The difference in risk-taking also varies by activity.²⁴⁰ The differences between emerging adult men and women are more pronounced when it comes to risky driving than reckless sex or substance use.²⁴¹ Even so, gender differences in risk-benefit consideration do not always manifest in measures of risk taking or risky decision-making,²⁴² and not all studies demonstrate gender or sex differences during emerging adulthood.²⁴³ Some studies also suggest that sex-based differences in risk-taking behavior are narrowing, mediated more by culture than biology.²⁴⁴ When gender and sex-based differences are demonstrated, however, men tend to show an increased likelihood of risky decision-making and later attainment of psychosocial maturity.²⁴⁵ Therefore, to

young men and young women); Alejandro Sanchis-Sanchis et al., *Effects of Age and Gender in Emotion Regulation of Children and Adolescents*, 11 FRONTIERS PSYCH. 1, 10 (2020) (explaining that emotional regulation differences between girls and boys fluctuate with age, with girls scoring higher on emotional regulation from nine to twelve and boys demonstrating better emotional regulation from thirteen to sixteen).

238. Gardner & Steinberg, *supra* note 214, at 633.

239. See James P. Byrnes, David C. Miller & William D. Schafer, *Gender Differences in Risk-Taking: A Meta-Analysis*, 125 PSYCH. BULL. 337, 367, 377 (1999).

240. *Id.* at 377.

241. See Graham Bradley & Karen Wildman, *Psychosocial Predictors of Emerging Adults' Risk and Reckless Behaviors*, 31 J. YOUTH & ADOLESCENCE 253, 261 (2002).

242. *Id.* at 259–64.

243. Cohen-Gilbert et al., *supra* note 233, at 220.

244. Laurence Steinberg, *A Social Neuroscience Perspective on Adolescent Risk-Taking*, 28 DEVELOPMENTAL REV. 78, 88 (2008).

245. See Christina L. Riggs Romaine, *Psychosocial Maturity and Risk-Taking in Emerging Adults: Extending Our Understanding Beyond Delinquency*, 7 EMERGING ADULTHOOD 243, 247–48 (2019).

the extent that gender and sex differences exist, mixed-gender studies underestimate the extent to which emerging adult officers, who are overwhelmingly male, exhibit a lack of psychosocial capacities at the beginning of their careers.

C. *Vulnerability and Attrition: Effects of Trauma, Chronic Stress, and Adverse Experiences in Emerging Adulthood*

Police officers' work exposes them to significant stress and trauma.²⁴⁶ While healthy coping mechanisms can help deal with the stress, a significant number of police use avoidant coping mechanisms that decrease well-being.²⁴⁷ As a result, police officers sometimes struggle with mental health, which manifests through high PTSD rates and higher-than-expected suicide rates.²⁴⁸ Studies also show that police of all ages and genders are inclined to use substances, particularly alcohol, to cope, which can further diminish well-being and interfere with job performance.²⁴⁹

246. See, e.g., Jordan DeVlyder, Monique Lalane & Lisa Fedina, *The Association Between Abusive Policing and PTSD Symptoms Among U.S. Police Officers*, 10 J. SOC'Y FOR SOC. WORK & RSCH. 261, 262 (2019) (noting that police experience more than three traumatic events every six months, and that 35% of police who are exposed to traumatic events develop post-traumatic stress); Penny Dick, *The Social Construction of the Meaning of Acute Stressors: A Qualitative Study of the Personal Accounts of Police Officers Using a Stress Counselling Service*, 14 WORK & STRESS 226, 226 (2000); Kim M.E. Janssens et al., *Resilience Among Police Officers: A Critical Systematic Review of Used Concepts, Measures, and Predictive Values of Resilience*, 36 J. POLICE & CRIM. PSYCH. 24, 24 (2021).

247. See Eamonn Arble, Ana M. Daugherty & Bengt B. Arnetz, *Models of First Responder Coping: Police Officers as a Unique Population*, 34 STRESS & HEALTH 612, 615 (2018) (describing coping mechanisms used by police).

248. *Id.* at 612 (reporting PTSD rates between 7% and 19%); see also Justin Fox et al., *Mental Health Conditions, Barriers to Care, and Productivity Loss Among Officers in An Urban Police Department*, 76 CONN. MED. 525, 525–27 (2012) (describing higher-than-expected suicide rates and reporting a 23.8% PTSD rates in one department). Self-reported involvement in police abuse is also associated with PTSD symptoms of greater severity, though it is unclear whether involvement in abuse is caused by, or simply correlated with, PTSD. DeVlyder, Lalane & Fedina, *supra* note 246, at 267–69.

249. Arble, Daugherty & Arnetz, *supra* note 247, at 613, 615; Fox et al. *supra* note 248, at 527. But see Vicki Lindsay & Kyna Shelley, *Social and Stress-Related Influences of Police Officers' Alcohol Consumption*, 24 J. POLICE CRIM. PSYCH. 87,

Concerns about officer well-being and its effects on job performance are even graver for emerging adult officers. Emerging adults are more vulnerable than older adults to developing trauma symptoms and long-term effects after traumatic events.²⁵⁰ This appears to hold true for police officers as well; in a study of police officers and trauma, younger officers scored higher on measures of trauma symptoms,²⁵¹ demonstrated less post-traumatic growth,²⁵² and tended to report higher stress exposure.²⁵³

Chronic stress in emerging adulthood predicts recurrence of major depressive disorder, with chronic interpersonal stress having the greatest effect.²⁵⁴ Work stress can also hinder healthy coping, as high-stress work environments have been shown to increase the likelihood of developing drug dependence during this period of life.²⁵⁵ Given the prevalence of risky behaviors in emerging adulthood, it is unsurprising that studies of police alcohol use show that younger officers are more at risk for “harmful and

91 (2009).

250. See Neal Krause, Benjamin A. Shaw & John Cairney, *A Descriptive Epidemiology of Lifetime Trauma and the Physical Health Status of Older Adults*, 19 PSYCH. & AGING 637, 642 (2004) (showing that trauma experience between age eighteen and thirty has the greatest effect on later-in-life health); Boals, Southard-Dobbs & Blumenthal, *supra* note 181, at 203 (showing emerging adults are more likely to develop psychiatric disorders and neuroticism as a result of trauma).

251. DeVlyder, Lalne & Fedina, *supra* note 246, at 265.

252. Arble, Daugherty & Arnetz, *supra* note 247, at 616.

253. *Id.* It is possible that the difference in stress exposure results from different duty assignments. The study was distributed electronically to a “representative sample” of police officers and did not control for duties. *Id.* at 614.

254. Erin S. Sheets & W. Edward Craighead, *Comparing Chronic Interpersonal and Noninterpersonal Stress Domains as Predictors of Depression Recurrence in Emerging Adults*, 63 BEHAVIOUR RSCH. & THERAPY 36, 39–40 (2014).

255. Philip L. Reed, Carla L. Storr & James C. Anthony, *Drug Dependence Enviromics: Job Strain in the Work Environment and Risk of Becoming Drug-Dependent*, 163 AM. J. EPIDEMIOLOGY 404, 407 (2006).

hazardous” drinking behaviors.²⁵⁶ The effects of chronic stress and trauma on emerging adults suggest that police who begin work as emerging adults are likely to have worse physical and mental health outcomes, which are good neither for them nor for their departments.

D. *Discipline: The Legal Socialization of Emerging Adult Officers*

Laws, rules, and norms govern policing, but police officers’ deference to them (or not) is, in part, a function of their own legal attitudes and their belief in the legitimacy of those who create and enforce the rules. Though by the time emerging adult officers join the police force, they will have developed their own civilian understanding of laws and rules, occupational socialization also includes aspects of legal socialization that define officers’ concepts of the legitimacy and constraints of the laws and rules governing their role as police.

Through the process of legal socialization, “individuals acquire attitudes and beliefs about the law, legal authorities, and legal institutions.”²⁵⁷ While academy training formally socializes recruits to the law governing policing, informal messages are sent through training, experience, and disciplinary practices.²⁵⁸ Recruits can be socialized to new beliefs and attitudes about the law through their own personal experiences, but also through the stories told by

256. Lindsay & Shelley, *supra* note 249, at 91 (noting that younger officers tended to cite their reason for drinking as to “fit in”).

257. Alex R. Piquero et al., *Developmental Trajectories of Legal Socialization Among Serious Adolescent Offenders*, 96 J. CRIM. L. & CRIMINOLOGY 267, 267 (2005).

258. Very little time is spent on formal legal training. See Lynch, *supra* note 61, at 81, 86 (“[O]nly six percent of the overall average police academy curricula are devoted to actually knowing and understanding the law.” And “the average number of hours police academy training hours devoted solely to firearm training increased from 63 hours in 2006 to 71 hours in 2013.”).

others.²⁵⁹ As a result, the messages sent through training, peers, administrators, and unions can all play a role in the legal socialization of emerging adult officers. Perhaps the most salient aspect of legal socialization is the role that legitimacy plays in securing compliance with the law.²⁶⁰

The social environment of policing and occupational socialization to the dominant police subculture play an important role in undermining the legitimacy of the law applicable to police officers. During police academy training, recruits are told they must follow the law, but they are also given messages that place police above and outside the law.²⁶¹ In one study of the content of academy “war stories,” a researcher found that of the stories that communicated a position on the law, 11% supported unlawful behavior such as the use of excessive force, illegal searches, or “testilying,” while only 4% reinforced the law.²⁶²

Other narratives focus on group loyalty and thereby implicate the law. For instance, trainees may be told that they should not write a speeding ticket for other officers they pull over.²⁶³ Signals expressing the importance of in-group solidarity over police regulations are not limited to low-stakes instances like traffic violations. Allison Chappell and Lonn Lanza-Kaduce describe a “war story” told during

259. Piquero et al, *supra* note 257 (stating the legal socialization process “occurs through individuals’ interactions, both personal and vicarious, with police, courts, and other legal actors.”).

260. See generally TOM R. TYLER, *WHY PEOPLE OBEY THE LAW: PROCEDURAL JUSTICE, LEGITIMACY, AND COMPLIANCE* (Yale Univ. Press 1990).

261. Chappell & Lanza-Kaduce, *supra* note 185, at 202 (“One the one hand, recruits were told that you ‘must follow laws outside of work’ and ‘must not think you’re special.’ On the other hand, recruits picked up lessons that they were different. ‘When you catch me speeding, you won’t write me a ticket.’ ‘You [an officer] may break arms but as long as you do it correctly, or somewhat correctly, it’s okay.’”).

262. Ford, *supra* note 200, at 100.

263. Chappell & Lanza-Kaduce, *supra* note 185, at 202. Other examples given include drinking and driving on the job to “get “them” [sex workers] to believe I’m not a cop” and justifying “screw up[s]” by “call[ing] it a ‘modified’ whatever and say[ing] it was legal.” *Id.* at 203.

academy training in which an officer shot and killed someone during a traffic stop. Though the department took the officer's weapon, which was routine and done regardless of fault, his fellow officers gave him their weapons immediately thereafter, signifying loyalty and an organizational structure that would protect its own.²⁶⁴

While a story about loyalty in the face of administrative procedure might demonstrate tension between the brass and the rank and file, at other times, supervisors contribute to the atmosphere of legal exceptionalism. "Supervisors have been known to accept deficient reports, ignore serious allegations of misconduct, and even encourage officers to violate department rules. And they may be particularly reluctant to enforce policies that they perceive to have been foisted on the department by outsiders."²⁶⁵ Even when police leaders acknowledge that officers have crossed the line, they sometimes signal that misconduct is simply youthful indiscretion or overzealousness, even though officers wield power over life and death.²⁶⁶

264. *Id.* at 203.

265. Ponomarenko, *Rethinking Police Rulemaking*, *supra* note 8, at 17 (footnotes omitted).

266. Even when officers are not particularly young, their misconduct is often portrayed as youthful, male behavior. *See, e.g.*, Robert Salonga, 'Let's Get This Motherf—er': San Jose Officer Benched After Viral Protest Comments, SAN JOSE MERCURY NEWS (May 31, 2020, 1:36 PM), <https://www.mercurynews.com/2020/05/31/lets-get-this-motherf-ker-san-jose-officers-viral-protest-comments-draw-wide-condemnation/>. After Officer Jared Yuen of the San Jose Police Department was caught on camera shouting, "Let's get this motherf—er" and "Shut up, bitch" just before charging at protestors outfitted in full tactical gear and carrying a gun loaded with rubber bullets, Police Chief Eddie Garcia said, "He's a good kid and a good cop." *Id.* Though the police chief said he was not defending Yuen's statements, he attributed them to high emotions. *See id.* At the time, Yuen had been employed by the San Jose Police Department for six years and was thirty-three years old. *See* Kristi Sturgill, *Viral Twitter Video Shows San Jose Police Officer Barking at a Protestor, 'Shut Up, B—',* L.A. TIMES (June 1, 2020, 6:26 PM), <https://www.latimes.com/california/story/2020-06-01/viral-twitter-video-captures-san-jose-police-officer-barking-at-a-protester-to-shut-up-bitch>. Other common slang used to describe police officers gives them a similar air of youth. The "boys in blue" are not boys at all, at least according to the age of majority of most U.S. states. *See supra* Part II.

Though a full exploration of the ways the law does or does not constrain police officers' behavior is outside the scope of this Article, the environment of deference to police decision-making combined with internal contestation of the legitimacy of the law governing police shape the development of emerging adult police officers. In the criminal law context, Emily Buss argues that law should account for age by acknowledging how the law itself shapes development. Law influences development by establishing rules for how a person relates to society and by shaping concepts of accountability.²⁶⁷ The policing environment leaves an opportunity for rule-breaking because it is difficult to detect transgressions as a result of the latitude and independence of officers.²⁶⁸ This may pose a problem for emerging adult police officers, already prone to impulsivity, peer influence, and errors in emotional regulation.

Compounding the formal oversight vacuum, emerging adult officers can face informal, but consequential, sanctions from their peers for deviating from customs and practices within the police agency.²⁶⁹ These informal sanctions can keep officers in line—encouraging lawful and rightful behavior—or they can promote illegal and wrongful behavior.²⁷⁰ A troubling *USA Today* investigation found a pattern of retaliation against whistleblowers in departments, sometimes with official sanction.²⁷¹

267. See Emily Buss, *What the Law Should (and Should Not) Learn from Child Development Research*, 38 HOFSTRA L. REV. 13, 48 (2009).

268. See *supra* Part I; see also KAPPELER, SLUDER & ALPERT, *supra* note 48, at 61.

269. KAPPELER, SLUDER & ALPERT, *supra* note 48, at 17.

270. *Id.*

271. See Gina Barton, Brett Murphy & Daphne Duret, *Behind the Blue Wall: Dead Rats, Death Threats, Destroyed Careers. How Law Enforcement Punishes Its Whistleblowers*, USA TODAY (Nov. 9, 2021), <https://www.usatoday.com/in-depth/story-series/2021/11/09/cops-report-excessive-force-risk-jobs/8514211002/> ("In South Carolina, an officer leaked the fact that fellow deputies beat a prisoner who later died in custody. In Florida, a detective reported a captain who had impregnated a 16-year-old girl and then paid for the abortion. In Oregon, a

Retaliation, whether by peers or the brass, has powerful socializing effects.

As emerging adult officers develop in an environment that lacks accountability commensurate with their responsibility, that lack of accountability shapes their perception of self in relationship to society and its laws. As Buss argues, at the extremes, a fractured sense of accountability to society can lead to “a complete disrespect or disregard for the law.”²⁷² The relative lawlessness inside police departments may itself structure an emerging adult’s vision of his relationship to society in ways that are troubling for one who is supposed to be protecting and serving.²⁷³

IV. DEVELOPING LESS HARMFUL POLICE

That emerging adults’ brains and behavior differ from that of older adults should inform changes to existing policing law and policy.²⁷⁴ Though the precise boundaries of psychosocial capacities remain unclear, we do know emerging adults are unlikely to behave as mature, reasonable adults in threatening, fast-moving situations that require precise emotional reasoning.²⁷⁵ This Part will explore how policymakers and law enforcement agencies can account for emerging adulthood. The recommendations in this Part take the current social environment of policing as given. While larger shifts in policing may obviate the need for these interventions, they are offered as harm reduction

sergeant complained that a co-worker bragged about killing an unarmed teenager. [¶] After speaking out, all of them were forced out of their departments and were branded traitors by their fellow officers.”).

272. Buss, *supra* note 267, at 53.

273. See TRAVIS HIRSCHI, CAUSES OF DELINQUENCY 16 (Transaction Publishers 2002) (1969) (describing the social control theory, which holds that delinquency results when the bonds between an individual and society are broken).

274. Cohen et al., *supra* note 231, at 560 (stating that research on the difference between younger and older adult behaviors should inform changes to policies and laws).

275. See *supra* Part II.

measures in the current legal and social climate.

A. *Increase Minimum Hiring Ages*

The current state of scientific knowledge demonstrates that emerging adults are not developmentally prepared to take on law enforcement roles, despite being eligible to be hired by most police departments. Therefore, state legislatures should increase law enforcement agencies' minimum hiring ages to better reflect emerging adults' developmental immaturity. While agencies could increase minimum hiring ages on their own, there are reasons to doubt they will do so or that such a change would be durable. Increasing the minimum hiring age decreases departments' discretion with respect to individual recruits and shrinks the hiring pool. When police administrators have difficulty hiring, there may be a temptation to lower the hiring age despite the likely harms. A private, for-profit company, Lexipol, now writes police policies for over 3,500 agencies in thirty-five states—and tends to oppose reform.²⁷⁶

Local or state governments, then, are a better avenue for change, though the federal government should also incentivize states to increase their hiring ages. A move toward a higher and more uniform hiring age would help avoid the spillover effects of officers in states with lower minimum hiring ages moving to states or joining federal agencies with higher minimum hiring ages. Before turning to the viability of legislative minimum hiring age provisions, I will explain why a minimum hiring age is more appropriate than instituting minimum maturity standards for individual officers.

Every bright-line rule suffers from a line-drawing problem.²⁷⁷ Yet aligning a particular job's hiring criteria with

276. See Ingrid V. Eagly & Joanna C. Schwartz, *Lexipol's Fight Against Police Reform*, 97 IND. L.J. 1, 4–5 (2022).

277. The age of attainment of adult legal status has varied throughout history and has often been linked to the capacities required of adults in a particular time

the age at which people tend to develop the capacities necessary for that job is more principled than the age of majority, which applies to a range of rights and privileges with differing demands on capacity.²⁷⁸ Many areas of society, including policing, currently operate using age cut-offs to determine eligibility for jobs and other legal protections or privileges.²⁷⁹ Though any age threshold is vulnerable to critique, a twenty-five-year-old hiring age represents a reasonable compromise between an ideal age for psychosocial skill-intensive work and the realities of modern policing and hiring. Before twenty-five, emerging adults tend to lack the capacities necessary to meet the demands of policing, and minimum hiring ages should reflect that.²⁸⁰ While there remains uncertainty about the capacities of emerging adults

and place. See Vivian E. Hamilton, *Adulthood in Law and Culture*, 91 TUL. L. REV. 55, 61–62 (2016). As Hamilton notes, the most common U.S. age of majority, eighteen, followed from the decrease in the draft eligibility age from twenty-one to eighteen during World War II to satisfy the need for additional soldiers. *Id.* at 64–65. The age of majority is also subject to a number of exceptions that mean it is not the moment of attainment of complete adult legal status. See *infra* note 288 and accompanying text.

278. See Hamilton, *supra* note 277, at 94 (“It is possible to characterize age-related capacity as a function of: (1) patterns of cognitive and socio-emotional development; (2) the nature of the capacity being exercised (e.g., characteristics of the task to be performed or the decision to be made); (3) the context in which the capacity will be exercised; and (4) the broader social, cultural, and economic milieu.”). But see Elizabeth Scott, *The Legal Construction of Adolescence*, 29 HOFSTRA L. REV. 547, 560 (2000) (“The use of a [categorical age of majority] to designate the end of childhood ignores individual variations in developmental maturity as well as varying maturity demands across the range of legal rights and responsibilities. Nonetheless, it generally functions quite well.”).

279. See *supra* note 17 and accompanying text; see also, Hamilton, *supra* note 277, at 76–80 (describing age cut-offs for various rights and privileges that differ from the age of majority based on societal understandings of adolescents’ and emerging adults’ developmental capacities); Alexander A. Boni-Saenz, *Legal Age*, 63 B.C. L. REV. (forthcoming 2022) (manuscript at 9–10), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3949829; Ryan, *supra* note 26, at 1165 (recognizing that a single, bright line age at which all legal rights and responsibilities are realized tracks neither current law nor the capacities of emerging adults); Jonathan Todres, *Maturity*, 48 HOUS. L. REV. 1107, 1120–21 (2012) (acknowledging that the transition to legal adulthood or maturity does not occur all at once at the age of majority).

280. See *supra* Part III.

between twenty-five and thirty, such a dramatic increase may not be feasible without a significant decrease in the size of police forces, which at this time does not seem politically viable.²⁸¹ As clarity about marginal developmental gains between twenty-five and thirty become clearer, it may be necessary to reevaluate twenty-five as an appropriate age threshold.

No doubt, increasing the minimum hiring age for police places a roadblock, however temporary, before people who want to become officers. But when public safety and well-being are at stake, that delay is justified, especially in the absence of better methods to evaluate the developmental maturity of individual officers. Expressed risk preference and expressed susceptibility to peer pressure do not tend to predict emerging adults' behavior.²⁸² Likewise, any attempt to generalize group-level data to an individual suffers from the group-to-individual problem.²⁸³ Scientific studies use data from groups of individuals to draw inferences that can be generalized to the populations from which the individuals come.²⁸⁴ Any single individual, however, may be an outlier. Therefore, scientists caution against using group data to draw legal inferences about individual subjects.²⁸⁵

Administrative costs are another barrier. Even if there were a reliable way to make individualized determinations about emerging adult officers' development, the administrative costs associated with individualized determinations would further expand the demands on police department bureaucracies and outweigh the benefits of any

281. For an example of the difficulty of passing this type of legislation, see notes 288–94 and accompanying text.

282. Gardner & Steinberg, *supra* note 214, at 630.

283. Joshua W. Buckholtz & David L. Faigman, *Promises, Promises for Neuroscience and Law*, 24 CURRENT BIOLOGY R861, R864 (2014).

284. *Id.*

285. *Id.* at R864–65.

added specificity those determinations offer.²⁸⁶ Individualized determinations also open the door to the influence of explicit and implicit biases.²⁸⁷ While recognizing that threshold ages at best roughly approximate maturity, they may be the best approximation available.²⁸⁸

A bill proposed in the California legislature provides a useful model of the reasoning for and consequences of increasing the minimum police hiring age. As originally introduced, Assembly Bill No. 89 of 2021, also known as the Peace Officers Education and Age Conditions for Employment Act or PEACE Act, would have increased the minimum age of law enforcement hiring to twenty-five years old with an exception for those with a bachelor's or other advanced degree from an accredited college or university.²⁸⁹

286. See Boni-Saenz, *supra* note 279, at 21 (citing Victor Thuronyi, *The Concept of Income*, 46 TAX L. REV. 45, 92 (1990) ("Some equitable rules simply are not administrable in practice. Other rules, even if administrable, would impose unduly burdensome compliance costs on tax administrator and taxpayers.")); *id.* at 26–33 (describing the administrability of chronological, biological, and subjective conceptions of legal age).

287. See Todres, *supra* note 279, at 1120.

288. For more extensive discussions of the pitfalls of using bright-line age cut-offs for drawing conclusions about developmental status, see Ryan, *supra* note 26, at 1163, and Buss, *supra* note 267, at 37–41. Buss advocates for age thresholds that consider "not only to what children, in the aggregate, can already do, but also to the role we expect the law to play in enhancing their development." *Id.* at 54. This article aligns with Buss's approach in that it considers not only what emerging adult officers' capacities are at the time of hiring, but also the effects of the social and legal context of police departments in shaping who emerging adult officers will become.

289. A.B. 89, 2021 Gen. Assemb., Reg. Sess. (Ca. 2021). The California bill as first proposed would have increased hiring age while maintaining an exception for those with a college or other advanced degree. While the bill does so citing studies indicating better policing outcomes for police with university degrees versus with only some college or a high school degree, the effects of education and brain development should not be confused. While police with more education may be better equipped in some circumstances, no level of education changes the trajectory of emerging adult brain development. Education requirements are also more likely than age requirements to disfavor minoritized groups who have traditionally been excluded from policing. While perhaps necessary as a political compromise or more viable in response to concerns about the available workforce, a better law would not create exceptions based on education for those under

In support of the Bill, legislators raised concerns about young and less educated officers' use of deadly force and cited studies about policing outcomes and emerging adult brain development.²⁹⁰ The Bill also recognized that the legislature had already used neurological and developmental research to support changes to criminal sentencing laws.²⁹¹

Law enforcement agencies understandably may be concerned about the effects of increasing the minimum hiring age on their ability to recruit enough officers and meet other recruiting goals, such as racial and gender diversity.²⁹² Though any increase in minimum hiring age will inevitably decrease the pool of eligible applicants, one study found that increasing the minimum hiring age of Indianapolis police officers to twenty-five years old would have eliminated 27.9% of successful applicants, with no disproportionate effect on the proportions of women or candidates of color, unlike increasing educational requirements.²⁹³ The PEACE Act suggested that the proposed twenty-five-year-old minimum age requirement would have an even smaller effect. It asserted that in California from 2014 to 2018, only 8.7% of the police force was under twenty-five years old, and

twenty-five years old. The bill was later amended to reduce the increase in the minimum hiring age from twenty-five to twenty-one. While the amended bill does not implement this Article's proposal, it does give insight into the potential for this type of reform.

290. *Id.*

291. *Id.*

292. See generally Jeremy M. Wilson et al., *Police Recruitment and Retention for the New Millennium: The State of Knowledge*, RAND CORP. (2010), https://www.rand.org/content/dam/rand/pubs/monographs/2010/RAND_MG959.pdf; Sid Smith, *A Crisis Facing Law Enforcement: Recruiting in the 21st Century*, POLICE CHIEF MAG., <https://www.policechiefmagazine.org/a-crisis-facing-law-enforcement-recruiting-in-the-21st-century/> (last visited Jan. 22, 2022); J.D. Tuccille, *U.S. Cops Are Facing a Recruitment Crisis. Will It Force Them to Change Their Ways?*, REASON (June 25, 2019, 9:52 AM), <https://reason.com/2019/06/25/u-s-cops-are-facing-a-recruitment-crisis-will-it-force-them-to-change-their-ways/>.

293. Decker & Huckabee, *supra* note 105, at 799 (Raising the age would have eliminated 27.9% of successful applicants, but it would not have had a disproportionate effect on women or minorities. Instead, it would have eliminated 18% (n=7) of the 39 Black applicants and 23.5% (n=8) of women who applied.).

approximately 30% of those under twenty-five held a bachelor's degree.²⁹⁴ The Bill concluded that its restrictions on hiring "would not significantly affect the available workforce."²⁹⁵

Increasing the hiring age may also have positive long-term effects on attrition, because psychological factors, such as trauma and substance use, have a disproportionate effect on emerging adult officers.²⁹⁶ Raising the minimum hiring age may also have desirable knock-on effects, such as increasing the average education level of new recruits. Since higher levels of education tend to decrease civilian complaints and incidents of misconduct among officers, a higher minimum age may result in an improvement of qualifications along multiple indicators. To the extent there is a concern that increasing the minimum hiring age will shrink the pool of eligible officer candidates, legislatures could also consider lifting or abolishing the maximum qualifying age, which may keep out otherwise healthy and able officers.²⁹⁷

Legislative intervention in police hiring standards will not come easily. Law enforcement controls a powerful lobby.²⁹⁸ After pushback from law enforcement, the PEACE Act passed with a much less ambitious increase in the

294. A.B. 89, 2021 Gen. Assemb., Reg. Sess. (Ca. 2021).

295. *Id.* Despite this, law enforcement concerns are what led to the shift from requiring a twenty-five to twenty-one-year-old minimum hiring age.

296. *See supra* Section III.C.

297. Alexander Boni-Saenz suggests in his article *Legal Age* it may be appropriate to more "more heavily [scrutinize] those rules for older adults in which chronological age is a particularly poor proxy." Boni-Saenz, *supra* note 279, at 7. Courts have criticized mandatory retirement ages for police for similar reasons. *See* Mass. Bd. of Ret. v. Murgia, 427 U.S. 307, 327 (1976) (Marshall, J., dissenting) (describing mandatory retirement of police officers at fifty years old as the "height of irrationality" when it is easy to administer fitness tests).

298. *See, e.g.,* Luke Broadwater & Catie Edmondson, *Police Lobby Steers Congress Away from Major Reforms*, N.Y. TIMES, June 26, 2020, at A23; Levine, *supra* note 69, at 1208 (citing William Stuntz, *The Pathological Politics of Criminal Law*, 100 MICH. L. REV. 505, 534 (2001)).

minimum hiring age for police to twenty-one years old.²⁹⁹ Even with resistance from law enforcement agencies, the psychosocial capacities of emerging adults make raising the minimum hiring age an important reform. Currently, states and localities play a relatively limited role in setting minimum hiring ages, but they have the power to set a floor for agencies in their jurisdiction. They should take the opportunity to do so.

B. *Reassign Emerging Adult Officers*

Changes in departmental hiring policies will not be immediate. In the meantime, it would be prudent to restrict emerging adult officers to duties that are less likely to put them in the position to use force or require a weapon.³⁰⁰ This would likely require changes to police assignments and may require incentivizing older officers to take street-level assignments or work less desirable shifts.³⁰¹ Taking emerging adult officers off the streets could also facilitate the allocation of a greater share of police to crime-solving, investigatory functions, as is done in some European countries, rather than relying on the U.S. “proactive policing” model.³⁰² This type of function is also more aligned with emerging adult officers’ developmental capacities. Cognitive capacity, unlike psychosocial capacity, is fully developed by age sixteen.³⁰³ Therefore, investigative

299. Assemb. B. 89, 2021 Gen. Assemb. (Ca. 2021).

300. See, e.g., Paoline & Terrill, *supra* note 39, at 193 (arguing that officers’ duties might be adjusted given their finding that less experienced officers use force at greater rates than more experienced officers). Illinois follows a model that appoints 20-year-olds to active duty but does not give them the power of arrest or permission to carry firearms until they reach 21 years of age. 65 ILL. COMP. STAT. ANN. 5/10-1-7(j) (West 2014).

301. *Id.*

302. See generally Jeff Asher & Ben Horwitz, *How Do the Police Actually Spend Their Time?*, N.Y. TIMES (June 19, 2020), <https://www.nytimes.com/2020/06/19/upshot/unrest-police-time-violent-crime.html> (describing that police spend very little of their time solving crime).

303. Scott, Bonnie & Steinberg, *supra* note 28, at 648.

functions requiring cold-cognition analysis are more appropriate assignments for emerging adult officers.

Some police agencies already allow younger emerging adults to join their departments as non-police officers with circumscribed duties. For example, the Memphis Police Department (MPD) employs police service technicians who can be as young as eighteen years old.³⁰⁴ They are unarmed and respond to minor car crashes and participate in crowd control.³⁰⁵ The MPD incentivizes these technicians to join by fast-tracking them through the academy and offering them college tuition support.³⁰⁶ While car crash investigation may involve cold-cognition skills appropriate to an emerging adult officer, crowd control may be a different story, with higher interpersonal tension and greater likelihood of escalation, albeit, without a firearm.

Moving emerging adults into positions within departments that require less psychosocial capacity has its limits. Placing emerging adults in law enforcement agencies before their appointment to the police force may still expose them to occupational and legal socialization that would best be avoided. Prospective recruits may also be less inclined to join agencies where they will be relegated to less public-facing work or not be allowed to carry a firearm, as they may resent not getting to do “real police work.”³⁰⁷ Reassigning emerging adult police is best used as a bridge to other solutions.

304. Daniel Connolly, *Memphis Police Department Loosens College Requirement for Recruits*, COM. APPEAL (June 25, 2018, 7:15 PM), <https://www.commercialappeal.com/story/news/2018/06/25/memphis-police-department-loosens-college-requirement-mpd-academy/731702002/>. This practice also shows that people within police agencies who are not yet sworn officer may still be socialized into policing at a relatively young age. *Id.*

305. *Id.*

306. *Id.*

307. See generally Friedman, *supra* note 41 (exploring the concept of removing non-police functions that police have more recently taken over from other government offices or social services).

C. *Restructure Training to Scaffold Emerging Adult Officers' Development*

Changes in police officer training generally have not resulted in dramatic changes to the cultures of departments or the ways that they police. In fact, training programs have tended to bloat police department budgets and reinforce misguided notions of police expertise.³⁰⁸ Formal training also tends to have less influence on recruits than informal organizational socialization.³⁰⁹ In the context of emerging adult officer risk-taking, the results are likely to be even bleaker. Studies of educational programs to prevent adolescent risk-taking behavior demonstrate that these programs improve knowledge but do not change behavior.³¹⁰ While similar studies with respect to emerging adults are not available, emerging adults engage in similar, but more frequent, risk-taking behavior than adolescents.³¹¹ Therefore, training should not be a primary means of reducing the harm of emerging adult officers. Nevertheless, given emerging adult officers' development within police departments, there are interventions that could be made to improve outcomes without pouring resources into an intervention that is likely to fail.

Field training officers have been shown to have a strong influence on their trainees.³¹² Despite this, they are not always carefully vetted or selected, and they may not have the training in interpersonal skills necessary to reduce the harms of policing. More careful selection of FTOs would improve trainees' socialization and help narrow the chasm between classroom and field training. Police training

308. See Akbar, *supra* note 6, at 1808. To understand how training grows police power, see *supra* note 67 and accompanying text.

309. See Stradling, Crowe & Tuohy, *supra* note 199, at 145; see also *supra* Section III.A.

310. Steinberg, *supra* note 244, at 80.

311. Gardner & Steinberg, *supra* note 214, at 630.

312. See McGinley, Agnew-Pauley, Thompson & Belur, *supra* note 204, at 58.

academies should also shift away from being stress and fear-based, as that unduly influences trainees' perception of their work and is likely to have an adverse influence on their mental health.³¹³ Stress and fear-based training in turn drives out police officers with more desirable characteristics and those who are more interested in new approaches to policing. Finally, insularity and the us-versus-them mentality created by academy training is counterproductive to developing thoughtful, service-oriented police officers.³¹⁴ Therefore, it may be useful to draw more expertise from outside the police organization and give outside experts equal stature to police trainers.³¹⁵ Incremental improvements to training may ameliorate some harms of development within police agencies, but it cannot stand alone to protect communities from emerging adult officers.

D. Create Public Service Opportunities as an On-Ramp to Police Service

Rather than creating early-entry programs within the police department, aspiring police officers should be given options to serve in the community that earn them hiring preference and will diversify their life experiences and viewpoints prior to joining the academy. First-responder programs, which are replacing armed police in some localities, may be one good option, though the high-stress situations presented therein and the psychosocial skills needed may not be optimally suited for emerging adults. Other programs, like AmeriCorps, the Peace Corps, or the proposed Civilian Climate Corps, which create bonds with the community, impart important life lessons, and serve similar communities to those disproportionately harmed by

313. *See supra* Section III.C.

314. *See supra* Section III.A.

315. Patrick Doreian & Norman Conti, *Creating the Thin Blue Line: Social Network Evolution Within a Police Academy*, 50 SOC. NETWORKS 83, 93 (2017) (recounting the open hostility of recruits to two academics, among the only non-police trainers in the academy, who taught an off-site training on racial bias).

policing, may be better options. Gaining exposure to people from different walks of life in settings in which emerging adults are far less likely to be on high alert may improve officers' later interactions with similar groups. It may be a challenge to recruit officers with a diversity of backgrounds through public service programs. Service opportunities are rarely well-paid, which may create barriers for aspiring police from lower socio-economic statuses, communities of color, or those with familial responsibilities. To allay some of these concerns, government at the local, state, or federal level could subsidize the salaries of those service programs, offer educational incentives, or consider the years in public service as relevant to promotions and salary increases once individuals have joined a police agency. Some incentives already exist, either at the departmental or state level, for those who have completed military service. Recognizing a broader range of service to one's community and country might also encourage better policing outcomes and more diversity within the police ranks.

E. *Strengthen Police Accountability*

Scholars have argued that police must face greater accountability when entrusted with such great authority.³¹⁶ Changes to civil and criminal liability for police have typically been viewed as post-hoc redresses of harm or as a way of finding justice for victims,³¹⁷ but for emerging adult officers, officer discipline and accountability must also be viewed as a scaffold for their development. If emerging adult

316. See generally Moran, *supra* note 49; Schwartz, *supra* note 8.

317. At the same time, others argue that justice cannot occur at that stage, and rather police are facing accountability. This results in a difficult conversation about what we mean by accountability. Danielle Sered argues that the criminal legal system is not accountability-focused, and that accountability is a much more difficult process. See generally DANIELLE SERED, *UNTIL WE RECKON: VIOLENCE, MASS INCARCERATION, AND A ROAD TO REPAIR* (2019). Rachel Moran's proposal for increasing the use of mediation for civilian complaints against officers operationalizes at least some of Sered's critique in the context of police discipline. See Moran, *supra* note 49, at 998–1000.

officers perceive themselves as existing above or outside the law, that will influence how they behave and exacerbate their incapacities.³¹⁸ Their legal socialization is also likely to influence their behavior over the long term. Scaffolding emerging adult officer development through discipline requires recognition of the social context of the harm they have caused in addition to real consequences for their wrongdoing.

Of course, police departments and those that hold them accountable have feared that increasing discipline will cause officers to refuse to do their jobs and that such oversight amounts to second-guessing brave officers who risk their lives for their community on a daily basis.³¹⁹ The reality of police discipline, though, is that it is feeble, decried even by some law enforcement officials.³²⁰ Accountability mechanisms must be built up and calibrated to address wrongdoing while recognizing the structural, rather than individual, nature of the problem.³²¹ Critical Resistance advocates ending paid administrative leave while police are investigated, withholding the pensions of police fired for violence, and not rehiring police terminated for excessive force. The organization also opposes the creation of new civilian oversight boards.³²² Abolitionists also reject criminal prosecutions of police, which “exceptionalise th[e] situation as the result of one bad cop.”³²³ While the development of a

318. See *supra* Section III.D.

319. See generally Shaila Dewan, *Deconstructing the 'Ferguson Effect,'* N.Y. TIMES (March 29, 2017), <https://www.nytimes.com/interactive/2017/us/politics/ferguson-effect.html> (describing how police say they have withdrawn from policework because of hostility from the public).

320. See Levin, *supra* note 70, at 1345; see also *supra* Section I.D.

321. See Akbar, *supra* note 6, at 1832.

322. CRITICAL RESISTANCE, *supra* note 95.

323. Akbar, *supra* note 6, at 1832 (alteration in original) (citing Rachel Herzing & Isaac Ontiveros, *Responding to Police Killing: Questions and Challenges for Abolitionists*, CRIM. JUST. MATTERS, Dec. 2010, at 38, 39). See generally SERED, *supra* note 317; Kate Levine, *Police Prosecutions and Punitive Instincts*, 98 WASH. U. L. REV. 997 (2021).

robust police accountability system is beyond the scope of this Article, any disciplinary reforms must attempt to ensure accountability, rather than simply punishment, and recognize emerging adult officers' place within the agency context.

F. Study Emerging Adult Officers' Behavior

Further studies are necessary to inform evidence-based harm reduction policies that reduce the likelihood of poor policing due to developmental immaturity. Those studies will principally be in two areas: emerging adult development and criminology. As referenced in Part II, much more research has focused on adolescent capacities than emerging adult capacities.³²⁴ Where researchers have focused on emerging adult capacities, they have not always distinguished within the subset of emerging adults or compared emerging adults' capacities to those of older adults.³²⁵ Further study is needed to understand the behavioral effects of continued brain maturation throughout a person's twenties, especially in the areas of risk-taking, impulsivity, emotional reasoning, and self-regulation errors.

From a criminological standpoint, further studies should examine the effects of police officer age on policing outcomes. As Part I indicates, only a limited number of studies have examined the relationship between age and outcomes such as frequency of use of force, frequency of civilian complaints, or frequency of arrest for citable offenses. Likewise, those studies have not always controlled for other potentially confounding factors such as level of education or experience, nor have they accounted for age at hire rather than age at the time of a particular incident.

More detailed studies across different agencies could help police leaders determine which hiring criteria are most

324. *See supra* Part II.

325. Scott, Bonnie & Steinberg, *supra* note 28, at 650.

effective at reducing undesirable outcomes. Moreover, qualitative analysis of use of force reports or civilian complaints could help determine whether there are specific circumstances under which emerging adult police officers are least effective. If so, police departments could use this analysis to tailor work assignments to address those deficiencies. The release of body-worn camera footage could also be fruitful in facilitating qualitative studies comparing escalation, patterns of arrest, or uses of force by emerging adult police officers as compared to their older peers.³²⁶ With access to reports and body camera footage, researchers could also study whether the social contagion effect of police misconduct is more pronounced among emerging adult officers. Likewise, longitudinal studies examining outcomes over the course of officers' careers for those who began their policing careers at different ages may shed light on the long-term effects of hiring emerging adult police officers.

One of the greatest challenges to completing criminological research about the behavior of emerging adult officers is lack of access to the necessary reports, video, and personnel records. To date, most studies of policing outcomes based on age, either at the time of a particular event or at hire, have only been possible with the cooperation of police agencies. Therefore, data and reporting transparency is key to targeting and testing hiring policies. Police agencies should take seriously the responsibility to use neurobiological and criminological studies to develop evidence-based practices that eliminate or mitigate the effects of developmental immaturity on policing outcomes.

326. See, e.g., Dale W. Willits & David A. Makin, *Show Me What Happened: Analyzing Use of Force Through Analysis of Body-Worn Camera Footage*, 55 J. RSCH. CRIME & DELINQ. 51, 52 (2018).

CONCLUSION

Emerging adulthood has gained coherence as a period of life and as a field of study, bolstering society's intuitions about the differences between younger and older adults, with scientific explanations for how and why those differences persist through the third decade of life. At the same time, the legal field has widely accepted the science of psychological and neurobiological development as a meaningful basis for reform of the criminal legal system and beyond. As the criminal legal system responds to calls for reform, policing faces similar demands as part of the same carceral state. In some ways, the demands on policing are even more radical, with calls for police defunding sounding louder than ever. While increasing the minimum hiring age for police is a far cry from abolition, its goals are consonant with organizers' goals to shift power away from police agencies, decrease the law enforcement footprint, and question the underlying socialization of policing without increasing budgets. Though any reform risks legitimating a system that may well be beyond repair, intermediate steps that mitigate harm to the lives of those in communities subordinated by instant models of policing must not be rejected out of hand.

Understanding the neurobiological and psychological research on emerging adulthood, police agencies and lawmakers should increase police minimum hiring ages to better reflect how emerging adulthood shapes the capacities of emerging adult officers. Where police agencies are unwilling to act, lawmakers should act at the local or state level to override internal agency policies, and the federal government should incentivize adoption of minimum hiring age policies. In addition, agencies should take steps to minimize the harms caused by already-hired emerging adult officers by reconsidering their duties, carefully monitoring their practices, and shielding them from known bad actors within the agencies early in their careers. Improving the quality of police hires by incorporating evidence about developmental maturity has the potential to facilitate shifts

in policing culture and mitigate the harm that officers without sufficient psychosocial maturity inflict on the communities they police.

APPENDIX A³²⁷

Law Enforcement Agency	State Law Minimum Hiring Age	Local Law Minimum Hiring Age	Agency Minimum Hiring Age	Agency Maximum Hiring Age
New York City Police (NY) ³²⁸	20	None	21 ³²⁹	35
Chicago Police (IL) ³³⁰	20	None	21	40
Los Angeles Police (CA) ³³¹	21	None	21	None
Philadelphia Police (PA) ³³²	18	None	22	None
Houston Police (TX) ³³³	18, 21 ³³⁴	None	21 ³³⁵	44

327. State and local laws contained here only address law enforcement-specific requirements; general civil service laws that require a minimum hiring age are not reported. Where there are multiple hiring ages for localities with different sizes, those are reported. Policies that set age requirements with reference to a date other than age on date of first service are noted in the footnotes. Agencies are listed from largest to smallest.

328. May take the entrance exam until thirty-fifth birthday. *Police Officers Hiring Process*, N.Y.C. POLICE DEP'T, <https://www1.nyc.gov/site/nypd/careers/police-officers/po-hiring.page> (last visited Jan. 22, 2022).

329. *Id.* May take Police Officer's Entrance Exam at seventeen and a half.

330. *Chicago Police Officer Recruitment*, CHI. POLICE DEP'T, <https://home.chicagopolice.org/bethechange/chicago-police-officer-recruitment/> (last visited Jan. 22, 2022).

331. May apply at twenty but must be twenty-one by academy graduation. *LAPD Qualifications*, L.A. POLICE DEP'T, <https://www.joinlapd.com/qualifications> (last visited Jan. 22, 2022).

332. *Qualifications and Requirements*, PHILA. POLICE DEP'T, <https://www.joinphillypd.com/qualifications-and-requirements> (last visited Jan. 22, 2022).

333. *Requirements*, HOUS. POLICE DEP'T, <https://www.hpdcareer.com/requirements.html> (last visited Jan. 22, 2022).

334. Texas requires police to be at least eighteen unless they police a city larger than 1.5 million people, in which case they must be at least twenty-one. *See* TEX. LOC. GOV'T CODE ANN. §§ 143.023, 143.105 (West 2021).

335. May apply at twenty and a half but must be twenty-one by academy graduation. *Requirements*, HOUS. POLICE DEP'T, *supra* note 333.

Law Enforcement Agency	State Law Minimum Hiring Age	Local Law Minimum Hiring Age	Agency Minimum Hiring Age	Agency Maximum Hiring Age
Washington Metropolitan Police (DC) ³³⁶	None	21	21	None
Dallas Police (TX) ³³⁷	18, 21 ³³⁸	None	19.5, 21 ³³⁹	44
Phoenix Police (AZ) ³⁴⁰	21	None	21 ³⁴¹	None
Baltimore Police (MD) ³⁴²	21	None	21 ³⁴³	None
Miami-Dade Police (FL) ³⁴⁴	19	None	21 ³⁴⁵	None

336. *Becoming a Police Officer, Qualifications*, METRO. POLICE DEP'T, <https://joinmpd.dc.gov/node/501> (last visited Jan. 22, 2022).

337. *Recruiting, Qualifications*, DALL. POLICE DEP'T, <https://dallaspolice.net/joinpd/Pages/Qualifications.aspx> (last visited Jan. 22, 2022).

338. See discussion *supra* note 334.

339. *Recruiting, Qualifications*, DALL. POLICE DEP'T, *supra* note 337. Applicants between nineteen and twenty-one must have a minimum of sixty semester college hours with a 2.0 GPA from an accredited college or university. Applicants that are twenty-one or older must have a minimum of 45 semester college hours with a 2.0 GPA from an accredited college or university. *Id.*

340. *Police Officer Recruit Application Minimum Requirements*, CITY OF PHX., <https://www.phoenix.gov/police/joinphxpd/application-requirements> (last visited Jan. 22, 2022).

341. Must be twenty and a half at application and twenty-one by academy completion. *Id.*

342. *Sworn Careers*, BALT. POLICE DEP'T, <https://www.baltimorepolice.org/careers/sworn-careers> (last visited Jan. 22, 2022).

343. May start the academy at twenty and nine months but must be twenty-one by graduation. *Id.*

344. *Careers: Police Officer*, MIA.-DADE CNTY., <https://www.miamidade.gov/global/police/careers-police-officer.page> (last visited Jan. 22, 2022).

345. Must be twenty to apply and be twenty-one by time of hire. *Id.*

Law Enforcement Agency	State Law Minimum Hiring Age	Local Law Minimum Hiring Age	Agency Minimum Hiring Age	Agency Maximum Hiring Age
Las Vegas Metropolitan Police (NV) ³⁴⁶	21	City ordinance requires compliance with state administrative code.	21 ³⁴⁷	None
Detroit Police (MI) ³⁴⁸	18 ³⁴⁹	City ordinance requires compliance with the Michigan Commission on Law Enforcement Standards Act.	18	None
Memphis Police (TN) ³⁵⁰	18	None	21 ³⁵¹	None
Suffolk County (NY) Police ³⁵²	20	None	19 ³⁵³	34
Milwaukee Police (WI) ³⁵⁴	18	None	21 ³⁵⁵	None

346. *Frequently Asked Questions*, LAS VEGAS METRO. POLICE DEP'T, <https://www.lvmpd.com/en-us/ProtectTheCity/Pages/FAQs.aspx> (last visited Jan. 22, 2022).

347. Must reach twenty-one by the date of the first exam. *Id.*

348. *Detroit Police Department Careers*, CITY OF DETROIT, <https://detroitmi.gov/departments/police-department/detroit-police-department-careers> (last visited Jan. 22, 2022).

349. Age of majority, as defined by another statute. *Id.*

350. *Police Recruit*, MEMPHIS POLICE DEP'T, <http://joinmpd.com/career-paths/police-recruit/> (last visited Jan. 22, 2022).

351. Must attain twenty-one by the end of basic training. *Id.*

352. *Minimum Requirements*, SUFFOLK CNTY. POLICE DEP'T, <https://joinscpd.com/minimum-requirements.html> (last visited Jan. 22, 2022).

353. At time of written exam. *Id.*

354. *Employment Opportunities, Police Officer*, CITY OF MILWAUKEE, <https://www.jobapscloud.com/MIL/sup/bulpreview.asp?R1=1902&R2=2342&R3=001> (last visited Jan. 22, 2022) (Recruitment #1902-2342-001).

355. May be twenty at time of application but must be twenty-one at time of appointment. *Id.*

Law Enforcement Agency	State Law Minimum Hiring Age	Local Law Minimum Hiring Age	Agency Minimum Hiring Age	Agency Maximum Hiring Age
San Antonio Police (TX) ³⁵⁶	18, 21 ³⁵⁷	None	20.5 ³⁵⁸	45
Nassau County Police (NY) ³⁵⁹	20	None	21 ³⁶⁰	35
San Francisco Police (CA) ³⁶¹	21	None	21 ³⁶²	None
Boston Police (MA) ³⁶³	21 ³⁶⁴	None	21 ³⁶⁵	39
Honolulu Police (HI) ³⁶⁶	None located	None	21 ³⁶⁷	None

356. *Rule VII Minimum Qualifications, Police Officers*, SAN ANTONIO POLICE CAREERS (Jan. 30, 2017), https://sapdcareers.com/documents/Civil_Service_Rules_062617.pdf.

357. See discussion *supra* note 334.

358. At time of application; applicants must be 20.5 by the date of exam. *Rule VII, Police Officers*, SAN ANTONIO POLICE CAREERS, *supra* note 356.

359. *Recruitment*, NASSAU CNTY. POLICE, <https://www.pdcn.org/148/Recruitment> (last visited Jan. 22, 2022).

360. May take the written exam at seventeen but may not be appointed until they reach twenty-one. E-mail from Community Affairs for Nassau County Police Recruitment to Author (Dec. 8, 2021, 16:36 EST) (on file with author).

361. *General Information and Qualifications*, S.F. POLICE DEPT', <http://www.sanfranciscopolice.org/your-sfpd/careers/sworn-job-openings/general-information-and-qualifications> (last visited Jan. 22, 2022).

362. May take the exam at twenty but must be twenty-one at appointment. *Id.*

363. *How to Become a Police Officer*, CITY OF BOS., <https://www.boston.gov/departments/police/how-become-police-officer> (last visited Jan. 22, 2022).

364. May take the exam at nineteen but may not be appointed until twenty-one. *Id.*

365. May take the exam at nineteen but may not be hired until twenty-one. *Id.*

366. *Minimum Qualifications: Metropolitan Police Recruit*, HONOLULU POLICE DEPT', <https://www.joinhonolulupd.org/minimum-qualifications2.html> (last visited Jan. 22, 2022).

367. May apply at twenty but must be twenty-one by academy graduation. *Id.*

Law Enforcement Agency	State Law Minimum Hiring Age	Local Law Minimum Hiring Age	Agency Minimum Hiring Age	Agency Maximum Hiring Age
Atlanta Police (GA) ³⁶⁸	18	None	21 ³⁶⁹	None
Columbus Police (OH) ³⁷⁰	21	None	20 ³⁷¹	None
Baltimore County Police (MD) ³⁷²	21 ³⁷³	Permits trainee “police cadets” between 18 and 21, non-cadets must be 21	21	None
San Diego Police (CA) ³⁷⁴	21	None	21 ³⁷⁵	None
Charlotte-Mecklenburg Police (NC) ³⁷⁶	20	None	20 ³⁷⁷	None

368. *Police Officer Recruit (Job Number: 200434)*, ATLANTA, GA, https://atlantaga.taleo.net/careersection/coa_sworn_external_career_section/job_detail.ftl?job=200434&lang=en&sns_id=mailto#.Xv32Xn_0sSs.mailto (last visited Jan. 22, 2022).

369. May apply at twenty and a half but must be twenty-one by academy graduation. *Id.*

370. *Becoming an Officer*, CITY OF COLUMBUS, <https://www.columbus.gov/police-officer/minimum-qualifications/> (last visited Jan. 22, 2022).

371. At time of application. *Id.*

372. *Learn About the Job*, BALT. CNTY. GOV'T, <https://www.baltimorecountymd.gov/departments/police/careers/about.html> (last visited Jan. 22, 2022).

373. May be twenty at time of academy but must be twenty-one by academy graduation. *Id.*

374. *Police Recruit (Entry Level)*, CITY OF SAN DIEGO, <https://www.sandiego.gov/join-san-diego-police-department/apply> (last visited Jan. 22, 2022).

375. May take written test at twenty but must be twenty-one by academy graduation. *Id.*

376. *Minimum Standards to Become an Officer*, CITY OF CHARLOTTE, <https://charlottenc.gov/CMPD/Organization/recruitment/Pages/Minimum-Standards.aspx> (last visited Jan. 22, 2022).

377. At time of application. *Id.*

Law Enforcement Agency	State Law Minimum Hiring Age	Local Law Minimum Hiring Age	Agency Minimum Hiring Age	Agency Maximum Hiring Age
Austin Police (TX) ³⁷⁸	18, 21 ³⁷⁹	None	20.5 ³⁸⁰	45
Prince George's County Police (MD) ³⁸¹	21 ³⁸²	None	21 ³⁸³	None
Jacksonville Sheriff's Office (FL) ³⁸⁴	19	None	21	None
Indianapolis Metropolitan Police (IN) ³⁸⁵	21 ³⁸⁶	None	21	40
Fort Worth Police (TX) ³⁸⁷	18, 21 ³⁸⁸	None	20 ³⁸⁹	45

378. *Hiring Process*, AUSTIN POLICE DEP'T RECRUITING, <https://www.apdrecruiting.org/hiring-process> (last visited Jan. 22, 2022).

379. See discussion *supra* note 334.

380. At time of application. See *Hiring Process*, AUSTIN POLICE DEP'T RECRUITING, *supra* note 378.

381. George's Cnty. Gov't, *Police Officer (50-PO1-2201)*, GOV'T JOBS, <https://www.governmentjobs.com/careers/pgc/jobs/3120803/police-officer-50-po1-2201?keywords=polic&pagetype=jobOpportunitiesJobs> (last visited Jan. 22, 2022).

382. May be twenty at time of academy but must be twenty-one by graduation. *Id.*

383. May apply at twenty and a half but must be twenty-one at the time of academy graduation. *Id.*

384. *Florida Certified and Non-Certified Positions*, JACKSONVILLE SHERIFF'S OFF., <https://www.jaxsheriff.org/Careers/Police-Officer.aspx> (last visited Jan. 22, 2022).

385. Indianapolis Metro. Police Dep't, *What it Takes to Join the IMPD*, INDY.GOV, <https://www.indy.gov/activity/what-it-takes-to-join-the-impd> (last visited Jan. 22, 2022).

386. Applies only to state police. No statute setting a minimum qualifying age for city police. *Id.*

387. *Police Officer Trainee Information*, FORT WORTH, <https://www.fortworthtexas.gov/departments/hr/careers/police recruitment> (last visited Jan. 22, 2022).

388. See discussion *supra* note 334.

389. On date of assigned entry-level test. See *Police Officer Trainee*

Law Enforcement Agency	State Law Minimum Hiring Age	Local Law Minimum Hiring Age	Agency Minimum Hiring Age	Agency Maximum Hiring Age
Cleveland Police (OH) ³⁹⁰	21	None	21	39
Denver Police (CO) ³⁹¹	None	None	21	None
Kansas City Police (MO) ³⁹²	21	None	21	None
Fairfax County Police (VA) ³⁹³	18	None	20.5 ³⁹⁴	None
Metropolitan Nashville Police (TN) ³⁹⁵	18	None	21	None
St. Louis Metropolitan Police (MO) ³⁹⁶	21	None	21	None
Seattle Police (WA) ³⁹⁷	None	None	20.5 ³⁹⁸	None

Information, FORT WORTH, *supra* note 387.

390. *Public Safety Careers, Police*, CITY OF CLEVELAND, <https://www.clevelandohio.gov/PublicSafetyCareers> (last visited Jan. 22, 2022).

391. City of Denver, *Rule 3: Qualifications and Original Appointment*, DENVER.GOV (Dec. 19, 2014), https://docs.wixstatic.com/ugd/e9cf3f_78cadd3ec1cd4a33a4a27041b7a38c71.pdf.

392. *Job Description: Police Officer*, KANSAS CITY MO. POLICE DEP'T (May 2018), <http://mediaweb.kcpd.org/informant/806PoliceOfficer.5.2018.pdf>.

393. *Police Officer 1*, FAIRFAX CNTY., VA., <https://www.fairfaxcounty.gov/police/commontopics/joinourteam/policeofficer1> (last visited Jan. 22, 2022).

394. At time of application. *Id.*

395. *Police Officer Employment Standards*, NASHVILLE.GOV, <https://www.nashville.gov/departments/police/get-involved/become-police-officer/employment-standards> (last visited Jan. 22, 2022).

396. *Am I Eligible?*, ST. LOUIS METRO. POLICE DEP'T, <https://www.slmpdrecruit.org/amieligible> (last visited Jan. 22, 2022).

397. *Seattle Police Department, Qualifications*, SEATTLE, <https://www.seattle.gov/police/police-jobs/how-to-apply/qualifications#age> (last visited Jan. 22, 2022).

398. At time of written exam. *Id.*

Law Enforcement Agency	State Law Minimum Hiring Age	Local Law Minimum Hiring Age	Agency Minimum Hiring Age	Agency Maximum Hiring Age
New Orleans Police (LA) ³⁹⁹	None located	None	20 ⁴⁰⁰	None
Louisville Police (KY) ⁴⁰¹	21	None	21 ⁴⁰²	None
Montgomery County Police (MD) ⁴⁰³	21 ⁴⁰⁴	None	21 ⁴⁰⁵	None
El Paso Police (TX) ⁴⁰⁶	18, 21 ⁴⁰⁷	None	21 ⁴⁰⁸	None
Miami Police (FL) ⁴⁰⁹	19	None	19 ⁴¹⁰	None
San Jose Police (CA) ⁴¹¹	21	None	20.5 ⁴¹²	70

399. *Hiring Process*, JOIN NEW ORLEANS POLICE DEP'T, <https://joinnopa.org/hiring-process/> (last visited Jan. 22, 2022).

400. At time of application. *Id.*

401. *Become an Officer*, LOUISVILLE METRO. POLICE DEP'T, <https://louisville-police.org/256/Become-an-Officer> (last visited Jan. 22, 2022).

402. At time of application. *Id.*

403. *Police Officer – Requirements and Benefits*, MONTGOMERY CNTY. DEP'T OF POLICE, <https://www.montgomerycountymd.gov/pol/jobs/pol-officer-benefits.html> (last visited Jan. 22, 2022).

404. May attend academy at twenty but must be twenty-one by graduation. *Id.*

405. By academy graduation. *Id.*

406. *Police Trainee*, CITY OF EL PASO, https://agency.governmentjobs.com/el Paso/job_bulletin.cfm?jobID=3188719&sharedWindow=0 (last visited Jan. 22, 2022).

407. See discussion *supra* note 334.

408. By academy graduation. See *Police Trainee*, CITY OF EL PASO, *supra* note 406.

409. *Become a Miami Police Officer*, MIA., <https://www.miamigov.com/Careers-Jobs/City-Jobs/Become-a-Miami-Police-Officer> (last visited Jan. 22, 2022).

410. At application. *Id.*

411. *Police Recruit*, SAN JOSE POLICE RECRUITMENT, <https://www.sjpdyou.com/for-applicants/applicant-positions/police-recruit> (last visited Jan. 22, 2022).

412. At application. *Id.*

Law Enforcement Agency	State Law Minimum Hiring Age	Local Law Minimum Hiring Age	Agency Minimum Hiring Age	Agency Maximum Hiring Age
Newark Police (NJ) ⁴¹³	21	None	18 ⁴¹⁴	35
Cincinnati Police (OH) ⁴¹⁵	21	None	21 ⁴¹⁶	None
Albuquerque Police (NM) ⁴¹⁷	18 ⁴¹⁸	None	21 ⁴¹⁹	None
DeKalb County Police (GA) ⁴²⁰	18	None	20 ⁴²¹	None
Tampa Police (FL) ⁴²²	19	None	21 ⁴²³	None
Portland Police (OR) ⁴²⁴	21	None	20.5 ⁴²⁵	None

413. *The City of Newark Is Recruiting for Police Officers*, NEWARK BD. OF EDUC. (July 8, 2019), <https://www.nps.k12.nj.us/community/the-city-of-newark-is-recruiting-for-police-officers/>.

414. At time of application. *Id.*

415. *Police, Recruiting*, CITY OF CINCINNATI, <https://www.cincinnati-oh.gov/police/recruiting/> (last visited Jan. 22, 2022).

416. At appointment. *Id.*

417. *Police Officer*, ALBUQUERQUE POLICE, <https://www.apdonline.com/police-officer/> (last visited Jan. 22, 2022).

418. Set at age of majority, which is 18. *Id.*

419. By academy graduation. *Id.*

420. *Background and Recruiting*, DEKALB CNTY., GA., <https://www.dekalbcountyga.gov/police-services/background-and-recruiting> (last visited Jan. 22, 2022).

421. At time of application. *Id.*

422. *Police Officer*, CITY OF TAMPA, <https://www.jobapscloud.com/Tampa/sup/bulpreview.asp?R1=210108&R2=007451&R3=001> (last visited Jan. 22, 2022) (Recruitment #210108-007451-001).

423. At time of application. *Id.*

424. *Entry: Minimum Requirements and Disqualifiers*, JOIN PORTLAND POLICE DEPT., <https://www.joinportlandpolice.com/entry-minimum-requirements> (last visited Jan. 22, 2022).

425. At time of application. *Id.*

Law Enforcement Agency	State Law Minimum Hiring Age	Local Law Minimum Hiring Age	Agency Minimum Hiring Age	Agency Maximum Hiring Age
Tucson Police (AZ) ⁴²⁶	21 ⁴²⁷	“Reserve police officers” must be 21, no ordinance pertaining to other officers.	21 ⁴²⁸	None

426. *Qualifications*, TUCSON POLICE RECRUITING, <https://tpdrecruiting.tucsonaz.gov/apply/qualifications> (last visited Jan. 22, 2022).

427. At time of academy attendance or appointment. *Id.*

428. By academy completion. *Id.*

APPENDIX B

State	Statute(s)	Minimum Hiring Age	Maximum Hiring Age
Alabama	ALA. CODE § 36-21-46(a)(1) (2021)	19	None
Alaska	ALASKA STAT. ANN. § 18.65.240 (West 2018); ALASKA ADMIN. CODE tit. 13, § 85.010(a)(2) (2022)	21	None
Arizona	ARIZ. ADMIN. CODE § 13-4-105(A)(2) (2022)	21	None
Arkansas	132-00-1 ARK. CODE R. § 1002(3)(b) (LexisNexis 2021)	21	None
California	CAL. GOV'T CODE § 1031, 1031.4 (West 2022)	21	None
Colorado	COLO. REV. STAT. ANN. § 24-31-305 (West 2021); 4 COLO. CODE REGS. § 901-1 (LexisNexis 2021)	None	None
Connecticut	CONN. AGENCIES REGS. § 7-294e-16(b) (2022)	21	None
Delaware	1-801-3.0 DEL. ADMIN. CODE § 3.3 (2022)	18 for seasonal officer; 21 for Full-Time	None
District of Columbia	D.C. CODE ANN. § 5-107.01 (West 2016)	None	None
Florida	FLA. STAT. ANN. § 943.13(1) (West 2021)	19	None
Georgia	GA. CODE ANN. § 35-8-8(1) (West 2018)	18	None
Hawaii	Unable to Locate		
Idaho	IDAHO ADMIN. CODE r. 11.11.01.054.01 (2021)	21	None
Illinois	65 ILL. COMP. STAT. ANN. 5/10-1-7(h), (i), (j) (West 2014)	20, subject to other requirements	35, subject to exceptions
Indiana	240 IND. ADMIN. CODE 1-4-3(2) (West 2020)	21	40
Iowa	IOWA CODE ANN. § 80.15(1) (West 2020); IOWA ADMIN. CODE r. 501-2.1(80B)(2) (2021)	18	None

State	Statute(s)	Minimum Hiring Age	Maximum Hiring Age
Kansas	KAN. STAT. ANN. 74-5605(b)(8) (West 2018)	21	None
Kentucky	KY. REV. STAT. ANN. § 15.382(2) (West 2021)	21	None
Louisiana	Unable to Locate		
Maine	16-227-3 ME. CODE R. § 2(B) (LexisNexis 2022)	21 (unless associate's degree or 60 college credit hours)	None
Maryland	MD. CODE REGS. 12.04.01.04(A) (2021)	21	None
Massachusetts	MASS. GEN. LAWS ANN. ch. 22C, § 10 (West 2022); MASS. GEN. LAWS ANN. ch. 31, § 58, 58A (West 2022)	21	32 for municipal police, subject to exceptions, 35 for state police
Michigan	MICH. ADMIN. CODE r. 28.14203(b) (2022)	18	None
Minnesota	MINN. R. 6700.0700 (2022)	None	None
Mississippi	31-301 MISS. CODE R. § 1.1.12 (LexisNexis 2022)	21	None
Missouri	MO. CODE REGS. ANN. tit. 11, § 75-13.020(1)(A) (2022)	21	None
Montana	MONT. CODE ANN. § 7-32-303(2)(b) (West 2019)	18	None
Nebraska	79 NEB. ADMIN. CODE § 8-005.01B (2021)	21	None
Nevada	NEV. ADMIN. CODE § 289.110(1)(c) (2021)	21	None
New Hampshire	N.H. ADMIN. CODE R. Pol 301 (2022)	None	None
New Jersey	N.J. STAT. ANN. § 53:1-9 (West 2021)	21	35
New Mexico	N.M. STAT. ANN. § 29-7-6(A)(1) (West 2021)	18 ("age of majority")	None
New York	N.Y. CIV. SERV. LAW § 58(1)(a), (1)(a)(i)-(iii) (McKinney 2021)	20	35, subject to exceptions

State	Statute(s)	Minimum Hiring Age	Maximum Hiring Age
North Carolina	N.C. GEN. STAT. ANN. § 17C-10(c) (West 2022)	Set by the North Carolina Criminal Justice Education and Training Standards Commission ⁴²⁹	None
North Dakota	N.D. ADMIN. CODE 109-02-01-03 (2022)	None	None
Ohio	OHIO REV. CODE ANN. § 124.41 (West 2021)	21	35
Oklahoma	OKLA. STAT. ANN. tit. 70, § 3311(E)(1)(h) (West 2021)	21	None
Oregon	OR. ADMIN. R. 259-008-0010(2) (2021)	21	None
Pennsylvania	37 PA. CODE § 203.11(a)(1) (2022)	18	None
Rhode Island	270-30 R.I. CODE R. § 2.1 (LexisNexis 2022)	None	None
South Carolina	S.C. CODE ANN. § 23-23-60(B)(8) (2022)	None	None
South Dakota	S.D. ADMIN. R. 2:01:02:01(2) (2021)	21	None
Tennessee	TENN. CODE ANN. § 38-8-106(1) (West 2021)	18	None
Texas	TEX. LOC. GOV'T CODE ANN. §§ 143.023(a), (c), 143.105 (West 2021)	18; 21 with conditions if city's population is 1.5 million or greater	45
Utah	UTAH CODE ANN. § 53-6-203(1)(b) (West 2021)	21	None
Vermont	6-1 VT. ADMIN. CODE § 1:16 (West 2021)	18	None
Virginia	VA. CODE ANN. § 15.2-1705(A)(vi) (West 2021)	18	None

429. The Commission has currently set the minimum hiring age at 20 years old. *FAQs*, N.C. JUST. ACAD., <https://ncdoj.gov/ncja/faqs/> (last visited Jan. 22, 2022).

State	Statute(s)	Minimum Hiring Age	Maximum Hiring Age
Washington	WASH. ADMIN. CODE § 139-07-010, 139-07-020, 139-07-030 (2021)	None	None
West Virginia	W. VA. CODE R. §§ 81-2-2 (2021)	21 (applies only to state police)	None
Wisconsin	WIS. ADMIN. CODE LES § 2-01(1)(b) (2021)	18	None
Wyoming	15-9-2 WYO. ADMIN. CODE § 1(a)(ii) (LexisNexis 2022)	18	None