

From the Ending Racism Task Force

The George Floyd Act Rejoins the Debate

By John Marshall

When the George Floyd Justice in Policing Act stalled in the Senate in 2021, the blazing anger that had fueled nationwide protests temporarily hit a firewall. In recent months, though, the embers have reignited. In particular, the fatal beating by Memphis police officers of Tyre Nichols, after a January traffic stop, evoked impassioned demands for reform. At Nichols' funeral, Vice President Kamala Harris and Nichols' mother, RowVaughn Wells, both called on Congress to pass the police-reform legislation. "We need to get that bill passed," said Wells. "Because if we don't...the next child that dies, that blood is going to be on their hands."

The George Floyd Justice in Policing Act, which targets racial profiling and excessive force, is intended both to reign in officers' transgressions (for example, by banning choke holds and no-knock warrants) and to increase the consequences when they do transgress. Among other provisions, the Act would end qualified immunity, which protects officers from individual liability for bad behavior; create a national database of serious acts of police misconduct; and lower the criminal intent standard from "willful" to "knowing" or "reckless." An updated version may include a provision—named for Tyre

Nichols—that requires officers to intervene when they witness police violence.

In the book *Ten Lives, Ten Demands: Life-and-Death Stories, and a Black Activist's Blueprint for Racial Justice*, author Solomon Jones honors 10 innocent Black lives irrevocably altered or lost because of racist treatment by law enforcement or the legal system. They are just a few of the many whose fates have inspired and shaped a revolution. I found the story of Alton Sterling to be an especially powerful example of the difficulty, under the current system, of prosecuting even flagrant lawbreakers in police departments.

Alton Sterling was a Black man, living in Louisiana, who in 2016 was fatally shot by police in an encounter largely captured on video that raised widespread concerns about the officers' actions.

A caller told a police dispatcher that a Black man selling CDs had threatened him with a gun. Officers arrived, restrained Sterling, then shot him six times. On a bystander's video, a voice can be heard yelling, "He's got a gun!" But the owner of a convenience store who knew Sterling, as well as other bystanders, stated they never saw Sterling reach for a gun.

The officers were suspended during an investigation by the Department of Justice into violations of civil rights laws under Title 18 of the U.S. Code. That statute requires prosecutors to establish that a police officer acted willfully to deprive someone of a federally protected right. As things are now, prosecutors

must, in effect, climb into officers' heads and find out exactly what they were thinking: for example, whether their actions were motivated by racism.

Federal prosecutors found that there was insufficient evidence to charge the officers with violating Sterling's civil rights. They said that neither the witness statements nor the videos show that Sterling was *not* reaching for a gun. Even with the evidence of videos and witness statements and a policing history of racially motivated brutality, federal prosecutors usually do not convict white police officers in the shooting of Black people. That is systemic racism.

One of the "ten demands" in Jones's title is that the George Floyd Justice in Policing Act be passed. "The federal law governing the prosecution of police officers for civil rights violations must be changed so that the standard for charging officers is reachable, realistic, and relevant," he writes. It's not enough to condemn brutality by law enforcement. We also must stop protecting it.

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