The Promise of Radical Crime Policy

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Jessica Eaglin, *To "Defund" the Police*, 73 **Stan. L. Rev. Online** 120 (2021).

To the surprise of no one, the *Defund the Police* campaign has been subject to attack on several fronts—by political conservatives, police unions, and any number of Democratic Party politicians. How did Defund proponents respond to this high leverage moment? As the national debate about police budgets reached its apex, the Defund campaign seemed to scatter in several policy directions while clinging to the Defund mantra.

In *To "Defund" the Police*, Jessica Eaglin tracks these directions and draws a conceptual map of the various ongoing political projects designed to stem the flow of public money to police departments. To this end, Eaglin delivers a four-part typology of recent initiatives that plausibly fall under the *Defund* mantle: *Police Abolition*, *Police Recalibration*, *Police Oversight*, and *Fiscal Constraints*.

She describes the *Police Abolition* wing as pushing for the gradual elimination of police from public life and framing the effort in 2020 to slash police department budgets as a "first step" toward this end. Alternatively, the *Police Recalibration* wing considers *Defund* a call for municipal governments to channel a portion of police budgets to other fields of public administration such as mental health services. (P. 127.)

Police Oversight and *Fiscal Constraints* represent more moderate policy initiatives that also implicate police funding. *Police Oversight* is meant to characterize policies that condition police funding on the police department's adoption of designated police regulations (P. 129), while policies falling within the *Fiscal Constraints* category reduce police budgets as a cost-saving measure. (P. 132.) *Constraints* policies flow from a normative commitment to minimalist public governance, having little to do with social biases in criminal enforcement. (P. 132.)

Eaglin's typology is a critical clarification of some of the discrete ideologies and policy proposals designed to reduce police budgets. But the most compelling part of Eaglin's article may be its embrace of the ambiguity of the *Defund* policy platform within political discourse. Observing the "jarring confusion" (P. 136) regarding the platform, Eaglin argues that its various interpretations and iterations actually serve to "denaturalize" the police department. (P. 140.) Put another way, the lack of clarity as to the full implications of the *Defund* policy platform has the effect of displaying the range of possibilities for the design of public security administration. The uncertainty over *Defund* may serve to highlight the fact that the police institution is itself a social construction, (P. 124) eminently malleable and thus whatever we as a society want it to be. In this spirit, Eaglin calls on the public to "embrace the uncomfortable space where we cannot rely on preconceived ideas" about how to best achieve public safety. (P. 139.)

There is, however, more than progressive politics within this uncomfortable space where the public debates the Defund policy platform. In a bit of a twist, Eaglin traces the history of the term *defund* to the conservative political movement in the 1980s to broadly degrade the public sector. Eaglin describes the discursive tactic as part of a larger effort to "subject the U.S. population to market forces," making the term *defund* "the embodiment of neoliberalism." (P. 138.)

Eaglin's brief etymology leaves a looming question: to what extent is the political history of the term *defund* relevant to the current political moment? The *Defund the Police* campaign represents a political response to the growing evidence in the public record of police abuse of racial minorities and pathological excess in American penal administration. And while the *defund* campaign of the 1980s was steeped in a very different politics, there seems to be at least a degree of resonance between the *defund* campaigns past and present.

Consider one example. The billionaire Koch Brothers have spent lavishly in recent years in support of a diminished role for penal administration.[1] The Brothers—libertarian stalwarts—are thought to be motivated in part by a general hostility toward public spending. For this reason, it seems safe to speculate that the two would have enthusiastically endorsed 1980s defund politics.

Scholars such as Michael Fortner find much of the African American community at the other end of the spectrum. Fortner points to polling as recently as the 2010s showing substantial African American support for *greater* police presence.[2] This position would seem to align with the African American community's longstanding contention that the state has not lived up to its responsibilities vis-à-vis African American individuals and communities. In this sense, any sort of state withdrawal from African American city neighborhoods via public funding reduction could be perceived as an extension of neoliberalism—in plain terms, state neglect.

The tension between the *Defund the Police* campaign and the African American community's longstanding protest of state neglect may ultimately be addressed and resolved in public debate. But in the absence of successful mainstream efforts at Defund policy interpretation—efforts similar to Eaglin's—it seems almost as likely that this tension will be lost in the conceptual fog. In which case, the reform community would have missed an opportunity to secure robust minority support for the substantial reduction of police budgets and with it the fundamental transformation of public security administration.

1. Molly Ball, *Do the Koch Brothers Really Care About Criminal Justice Reform?*, **The Atlantic** (March 3, 2015).
2. Michael Javen Fortner, Reconstructing Justice: Race, Generational Divides, and the Fight Over "Defund the Police", Niskanen Center (October 1, 2020).

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