



We have the legal right of way.

POLICING AND RACIAL INJUSTICE: A DISABILITY RIGHTS PERSPECTIVE

Impacts and Solutions

EXECUTIVE SUMMARY

Disability Rights Ohio (DRO) is dedicated to ensuring that all Ohioans are full and equal members of society. Individuals with disabilities represent every race, ethnicity, age, and LGBTQ+ status. The path to achieving equal rights can look vastly different based on a person's race, ethnicity, class, gender, LGBTQ+ status, and disability due to systems of oppression and marginalization. Disability rights are civil rights, disability rights are human rights, disability justice is intersectional and as such, DRO unequivocally supports the Black Lives Matter movement.

The heart of our mission is creating communities where all people are equal participants. As a civil rights organization, we strive for the dismantling of racist, ableist, sexist, homophobic, ageist, and transphobic systems of oppression. These systems have led to mass incarceration, stealing of lands, segregation, institutionalization, eugenics, police brutality, red-lining, income inequality, voter suppression, and countless other discriminatory policies that have oppressed and disenfranchised individuals, specifically Black, Indigenous, and People of Color (BIPOC).

The Black Lives Matter movement has pushed for change at the local, state, and national levels, including how large police budgets can be reinvested into community-based services and supports that address the root cause of systemic oppression. These reinvestments could ensure law enforcement no longer needlessly takes the lives of, causes physical or mental injury and trauma to, or disproportionately arrests BIPOC with disabilities. The conversation surrounding police brutality must include people with disabilities; people with disabilities and BIPOC are both at increased risk of police violence, putting BIPOC with disabilities in a particularly dangerous position. Specifically, 30-50% of individuals subject to use of force or killed by police have a disability.¹ This risk cumulatively increases based on the person's race, class, gender, and LGBTQ+ status.

This policy paper will discuss how police use-of-force has disproportionately impacted people with disabilities, often leading to death, and how law enforcement in schools targets students with disabilities, leading to exclusion from their schools and referral to the juvenile justice system. In order to build more inclusive, safer, and truly integrated communities, we must restructure budgets to increase historically underfunded



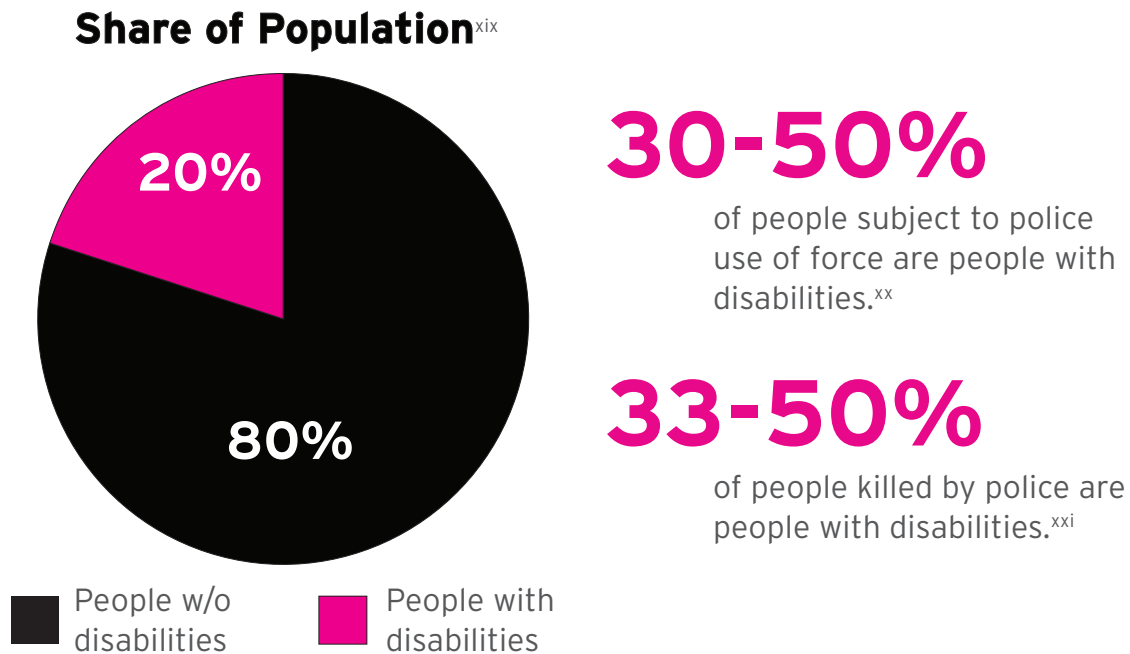
community supports, including mental health and other disability services as well as reinvesting in community-based services that support individuals with disabilities.

Disability Rights Ohio recommends policymakers reinvest in the community in the following ways:

- Making Meaningful Reinvestments into Community Services
- Changing Crisis Response
- Eliminating School Resource Officers

POLICE USE OF FORCE AGAINST BIPOC WITH DISABILITIES

People with disabilities are more likely to be victims of police brutality and use of force, and to be harmed more violently. Despite representing only 20% of the population, people with disabilities make up 30-50% of individuals subject to police use of force. An estimated one-third to one-half of people killed by police are people with disabilities. The risk of being subjected to police violence increases as disability intersects with race, class, gender, and LGBTQ+ status. Individuals who experience marginalization are at an increased risk of police brutality.ⁱⁱ



Police often approach mental health crises as they would any other call, with a battle-ready response that fails to consider reasonable accommodations for people with disabilities, and often use force instead of compassion in these circumstances. Consequently, people with mental health labels encounter police officers in circumstances that can lead to violence. It is estimated 350 people with mental health labels are killed each year by law enforcement. Some research indicates that individuals with psychiatric disabilities are sixteen times more likely to be killed by law enforcement during a police encounter.ⁱⁱⁱ

The following are just some of the individuals with disabilities who have unjustly lost their lives at the hands of the police:

Marcus-David Peters was shot and killed by police while experiencing a psychiatric episode while he was unclothed and unarmed.^{iv}

Sandra Bland, a Black woman with epilepsy and depression, died in police custody after being arrested for a traffic violation.

Eric Garner, a Black man with asthma, diabetes, and a heart condition, died subsequent to being put in a chokehold by law enforcement following an accusation of a misdemeanor offense.

Tanisha Anderson, a Black woman, was killed by police while being restrained face-down while she was experiencing a mental health crisis.

Deborah Danner, a Black woman, was shot and killed by police in her own home after neighbors reported she was behaving erratically.

Alfred Olango, a Black man with mental illness, was killed by police after his sister reported he was having a crisis.

Keith Lamont Scott, a Black man with a traumatic brain injury, was shot and killed by police for allegedly not following orders to exit his vehicle.

Ezell Ford, a Black man who had bipolar disorder, depression, and schizophrenia, was killed by police during a struggle resulting from an investigatory stop.^v

Daniel Prude, a Black man experiencing an apparent mental health crisis, died from asphyxiation after being held down by three police officers while naked during winter.^{vi}

Madgiel Sanchez, who was Deaf, was fatally shot by police outside his home after neighbors screamed to officers that Sanchez could not hear their commands.^{vii}

Freddie Gray, a Black man with a developmental disability, died from a spinal injury caused by police officers after being taken into custody for possession of a knife that was in fact legal.^{viii}

Daniel Harris, who was deaf, was shot and killed by police after exiting his vehicle outside his home after officers were attempting to pull him over for speeding.^{ix}

Walter Wallace Jr., a Black man with mental illness, was fatally shot by police while having a mental health crisis.^x

THE HARMFUL IMPACT OF SCHOOL RESOURCE OFFICERS ON BIPOC STUDENTS WITH DISABILITIES

BIPOC students with disabilities are subject to police brutality and violence in their schools. As the presence of School Resource Officers (SROs) increased under the guise of protecting students, BIPOC students with disabilities began to experience being handcuffed, tased, and dragged by their feet. BIPOC students with disabilities have been labeled as “bad kids” or “threats,” and are disproportionately excluded from traditional schools and placed in alternative settings, often in violation of the least restrictive setting (LRE) requirement of the Individuals with Disabilities Education Act (IDEA). Many of these students are referred to juvenile court and become involved in the school-to-prison pipeline.^{xixixiii}

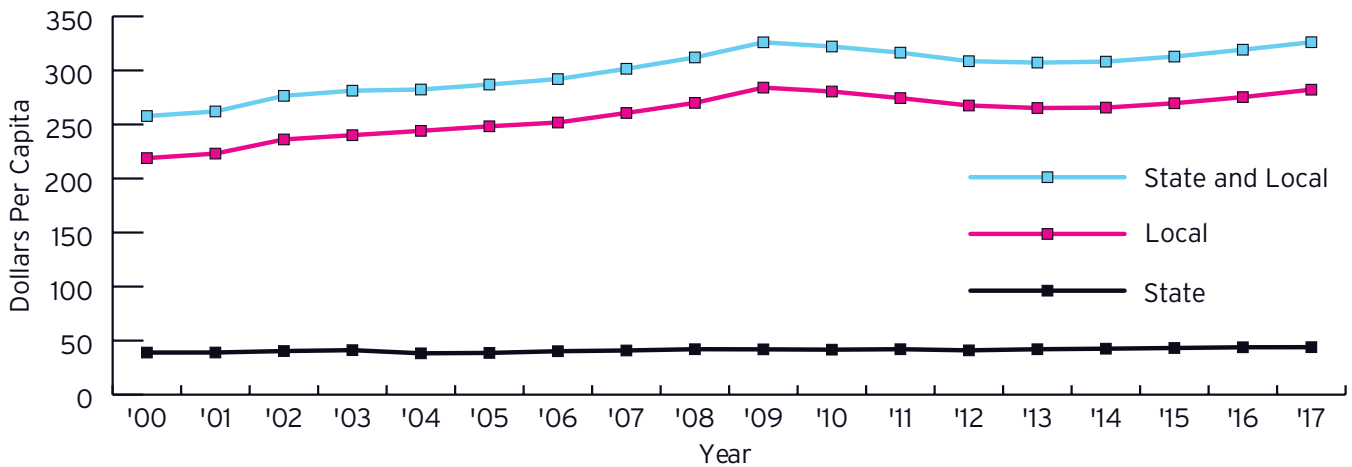
For students with disabilities, the IDEA and the Americans with Disabilities Act (ADA) both apply to interactions with law enforcement officers. Students are required to receive educational services in the least restrictive setting, meaning SROs who physically restrain students with disabilities may be in violation of the IDEA and ADA. Hostile interactions with SROs can often escalate situations resulting in creating new or exacerbating existing harm to the student with a disability. The use-of-force against students with disabilities both violates federal statutory authority and has a long-term traumatic impact on these children.

RECOMMENDATIONS FOR CHANGE

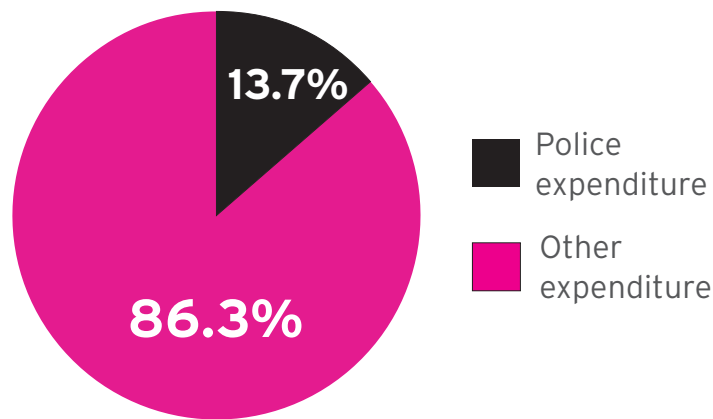
As local, state, and national governments consider reforms to law enforcement policies and funding, it is critical to account for the impact on people with disabilities. BIPOC with disabilities are disproportionately impacted by police brutality and are segregated in low-income, and at times, inaccessible neighborhoods. Law enforcement agencies patrol these neighborhoods at a higher rate than predominantly white middle-to-high income areas.^{xiv} This leads to increased arrests and violent interactions with these community members. Therefore, policymakers should consider the following recommendations:

Making Meaningful Reinvestments into Community Services. Local governments should restructure budgets to increase historically underfunded community supports, including mental health and other disability services. Currently, state and local governments across the U.S. spend \$193 billion on law enforcement and corrections; local governments are responsible for two-thirds of spending.^{xv} This spending accounts for the second-highest expenditure for local governments behind primary and secondary education (which also spends funding on police through SRO programs). As this spending has increased over time, the duties of local police officers also have increased, including responding to people labeled in a “mental health crisis” which includes pink-slipping individuals into psychiatric hospitals, being placed in schools as SROs, and defaulting to use of force for diffusing situations in the community.

Inflation-Adjusted Police Expenditure Over Time^{xxii}



Percentage of Total Inflation-Adjusted Average Police Expenditure 2000-2017^{xxiii}



Current law enforcement funding must be reallocated to focus on proper crisis intervention services and increased spending on services, supports, and systems for marginalized groups.

People across the U.S. are in crisis and struggling to meet basic needs including affordable housing, transportation, healthcare, and food - all of which disproportionately impact BIPOC people with disabilities.

Many of these issues are attributed to racist policies that have segregated BIPOC into communities that have limited access to services, safe housing, quality education, transportation, employment, healthcare, and other critical supports. Specifically, federal, state, and local housing policies have historically prevented Black families from owning homes and building wealth.^{xvi} Furthermore, entire neighborhoods that were historically Black were demolished to make way for the international highway system to run through cities and provide white families moving to the suburbs access

to downtown offices.^{xvii} Rebalancing our investments and mending the error of these racist policies is necessary.

Effective reinvestment must include funding to scattered-site affordable housing units, increased access to public transportation, expanding access to healthcare, providing employment supports for jobs with a living wage, and increasing support to local food banks and grocery stores to ensure the elimination of food deserts. Providing stability to individuals and funding services like assertive community treatment, integrated supportive housing, and employment supports can reduce the need for emergency response to individuals experiencing what is labeled as a “mental health crisis.”

Changing Crisis Response

Historically, police culture in the U.S. has focused on a “warrior” mentality, creating a violent, militaristic divide between the police and the people they serve. Low-income areas are treated like occupied war zones. This has been made clear as police across the country repeatedly have deployed chemical weapons, rubber and wooden bullets, and military-grade equipment against non-violent individuals.

Additionally, financial incentives for law enforcement to arrest BIPOC people must be terminated.^{xviii} Eliminating two federal programs that incentivize arresting BIPOC, the Community Oriented Policing Services (COPS) and the Byrne grant, which have proven ineffective, would free up millions of dollars to invest in supports to prevent law enforcement interaction from occurring in the first place.

Law enforcement agencies should not be responding to every active issue in the community. Specifically, people experiencing what is labeled as a “mental health crisis” will have better outcomes if met with mobile response teams comprised of compassionate peers and professionals trained in de-escalation and trauma-informed care, who can link them to services like housing, transportation, healthcare, and employment. Because of this, budgets should be restructured to fund professionally trained staff in responding to personal crises that do not pose a safety risk to other members of the community. For instance, in Eugene, Oregon the city has implemented the Crisis Assistance Helping Out on the Streets (CAHOOTS) program which reroutes 911 and non-emergency calls related to mental health, substance use, or homelessness to a team of professionals qualified to handle these situations.

Eliminating School Resource Officers

Schools should stop relying on police officers and invest in professional staff. Students with disabilities should be met with compassion and understanding from teachers, administrators, intervention specialists, counselors, school psychologists, social workers, and other staff specially trained to address disability needs. In addition, schools should implement positive behavior interventions and supports (PBIS) fully and with fidelity across all Ohio schools. PBIS establishes an inclusive, safe environment that promotes a positive school culture and decreases the use

of unnecessary restraints, seclusion, and exclusionary discipline for students with disabilities. Providing these supports for children will corrode the school-to-prison pipeline resulting in less overall crime in the future.

CONCLUSION

Systems of oppression have been created and organized to ensure marginalized groups are unable to be integrated members of their society. Even as civil rights laws and deinstitutionalization have given many people with disabilities access to their communities, BIPOC with disabilities continue to face barriers to receiving needed services in their homes. As progress has been made, new barriers have been created: affordable housing is not widely available, transportation is limited, and employment opportunities are rare. The same individuals who are unable to access services in their communities are being impacted by police brutality and killed at a disproportionate rate. As we move forward to address these issues it is important policymakers include the voices of people with disabilities.

- i David M. Perry, PhD and Lawrence Carter-Long, *The Ruderman White Paper on Media Coverage of Law Enforcement Use of Force and Disability: a Media Study (2013-2015) and Overview*, March 2016, available at www.rudermanfoundation.org/wp-content/uploads/2017/08/MediaStudy-PoliceDisability_final-final.pdf; United States Census Bureau, Disability Characteristics, 2018 American Community Survey 1-Year Estimates, www.census.gov/programs-surveys/acs/, (last visited July 13, 2020, 11:04a).
- ii The Ruderman Foundation, *White paper on media coverage of law enforcement use of force and disability*, March 2016, available at https://rudermanfoundation.org/wp-content/uploads/2017/08/MediaStudy-PoliceDisability_final-final.pdf.
- iii *Ibid.*
- iv Abigail Abrams, Black, Disabled and at Risk: The Overlooked Problem of Police Violence against Americans with Disabilities, TIME, June 25, 2020, www.time.com/5857438/police-violence-black-disabled/, (last visited July 13, 2020, 11:49a).
- v Kate Mather, et al., No charges against LAPD officers who shot and killed Ezell Ford, D.A. says, Los Angeles Times, January 24, 2017, www.latimes.com/local/lanow/la-me-ln-ezell-ford-no-charges-20170124-story.html, (last visited July 13, 2020, 12:51p).
- vi Will Cleveland, Police used 'spit hood' on Black man who died of asphyxiation: What we know about Daniel Prude's death, Rochester Democrat and Chronicle, <https://www.dispatch.com/zz/news/20200903/police-used-spit-hood-on-black-man-who-died-of-asphyxiation-what-we-know-about-daniel-prudes-death>, (last visited September 3, 2020, 2:19p).
- vii Matthew Haag, Deaf Man Is Fatally Shot by Oklahoma City Police, Despite Pleas, The New York Times, Sept. 20, 2017, <https://www.nytimes.com/2017/09/20/us/oklahoma-city-police-shooting-deaf.html>, (last visited July 15, 2020, 5:19p).
- viii Amelia McDonnell-Parry and Justine Barron, Death of Freddie Gray: 5 Things You Didn't Know, Rolling Stone, April 12, 2017, www.rollingstone.com/culture/culture-features/death-of-freddie-gray-5-things-you-didn-t-know-129327/, (last visited July 15, 2020, 5:23p).
- ix Shaun King, North Carolina police kill unarmed deaf man who was using sign language, Daily News, Aug. 22, 2016, <https://www.nydailynews.com/news/national/king-n-police-kill-unarmed-deaf-mute-man-sign-language-article-1.2760714>, (last visited July 15, 2020, 5:23p).
- x Jenny Gross, What We Know About the Death of Walter Wallace Jr. in Philadelphia, The New York Times, November 4, 2020, <https://www.nytimes.com/article/walter-wallace-jr-philadelphia.html>, (last visited November 8, 2020, 12:01p).
- xi Urban Institute, Criminal Justice, The prevalence of police officers in US schools, June 2018, available at <https://www.urban.org/urban-wire/prevalence-police-officers-us-schools>.
- xii *Ibid.*
- xiii University of Michigan Law School, Michigan Journal of Race and Law, *Schooling the Police: Race, Disability, and the Conduct of School Resource Officers*, 2015, available at <https://repository.law.umich.edu/cgi/viewcontent.cgi?article=1053&context=mjrl>.
- xiv Crime and Justice, *The Neighborhood Context of Police Behavior*, 1986, available at https://www.jstor.org/stable/1147431?read-now=1&refreqid=excelsior%3A6d6cd5f85d6cea5ab241b33899a3f99&seq=1#page_scan_tab_contents.
- xv U.S. Census Bureau, State & Local Government Finance Historical Datasets and Tables, 2017, available at <https://www.census.gov/data/datasets/2017/econ/local/public-use-datasets.html>.
- xvi Rothstein, Richard, *The Color of Law: A Forgotten History of How Our Government Segregated America*, First edition, New York; London: Liveright Publishing Corporation, a

division of W.W. Norton & Company, 2017.

xvii Peter Moskowitz, *How to Kill a City: Gentrification, Inequality, and the Fight for the Neighborhood*, New York: Nation Books, 2017.

xviii For more on how law enforcement is incentivized to arrest BIPOC people, see Michelle Alexander, *The New Jim Crow: Mass Incarceration in the Age of Colorblindness* (The New Press, 2012).

xix U.S. Census Bureau, *Americans With Disabilities: 2010*, available at <https://www.census.gov/library/publications/2012/demo/p70-131.html>.

xx *Ibid.*

xxi *Ibid.*

xxii Scott, K., PhD, & Buehler, E., PhD. (2020, July 13). *State And Local Government Expenditures On Police Protection In The U.S., 2000-2017*. Available at <http://www.bjs.gov/index.cfm?ty=pbdetail>