



Defunding the Police: Possible Benefits of Reallocation

BY SHERRIE ROYSTER, ESQ.,
AND JESSICA SMITH-PETERSON, ESQ.

Defunding the police has been echoed around the country as of late. The spotlight on troubling police interactions has forced many to step back and ask themselves what can be done to change the narrative and take back some of law enforcement's power. This power includes the crucial decision as to whether someone becomes a part of the criminal justice system or whether they even encounter law enforcement: an interaction that could cost someone his or her life.

There has been confusion as to what “defunding the police” means. Essentially, it means the reallocation of funds. The basic premise according to the American Civil Liberties Union (ACLU) is simple: Cut the amount of money spent on law enforcement and give some of that money to other services—i.e., services that could address social problems at their root, including programs relating to education, housing and violence prevention.¹ In our democracy, defunding the police means responsibly evaluating taxpayer funds and reallocating these funds in a way that provides the greatest benefit to the people.

Nevada has many programs and services that could benefit from such reallocations and, in turn, reduce the burdens on law enforcement or the Department of Corrections. For example, “diversion” or specialty court programs in Nevada are intended to keep offenders from serving needless jail time and, in some cases, from getting a criminal record. However, Nevada lacks uniform programs for *all* non-violent offenses that constitute low-level felonies.

Over the span of several years, funds have been allocated for diversionary programs that are meant to deal with mental health, post-traumatic violence stemming from military service, drug use and gambling.² We have codified them in statutes like Nevada Revised

Statute (NRS) 453.3363, which allows judges to suspend the imposition of a felony conviction and place individuals on probation if they have no prior convictions relating to drugs or narcotics. What is commonly known in practice as “3363 treatment” has been used to target members of our society battling addiction, if the court finds that society would not benefit from them being branded as felons. One of the benefits of “3363 treatment” is that once there is a fulfillment of the terms and conditions of probation and any subsequent treatment, counseling, in-patient treatment programs, or the like, the charge is dismissed without an adjudication of guilt.³ This model, providing treatment and felony dismissal after successful completion of diversion programs rather than incarceration, can be monumental and lifechanging for those who successfully complete the program.

Moreover, successful completion of diversion programs may reduce subsequent encounters with police and recidivism rates. According to a report done by the Nevada Department of Corrections, each additional prior felony conviction in an offender’s history increases the likelihood of incarceration by 34.21 percent.⁴ Thus, programs aimed at preventing the first incident from becoming a felony may benefit individuals and society well beyond the costs associated with initial incarcerations. Further, according to the National Association of Drug Court Professionals, for every \$1 invested in specialty courts, taxpayers save as much as \$3.36 in avoided criminal costs, while reducing crime by 45 percent more than other sentencing options.⁵

Another place where reallocation could have a tremendous impact in Nevada relates to mental health. According to The Treatment Advocacy Center, “people with untreated mental illness are 16 times more likely to be killed during a police encounter than other civilians approached or stopped by law enforcement.”⁶ Some of the dire outcomes have occurred after a family member requested assistance to prevent someone from harming themselves. For instance, on March 23, 2020, the brother of Daniel Prude of Rochester, New York, called 911 after Prude began having a mental health episode. Officers responding to the 911 call pinned Prude to the pavement while handcuffed and naked, suffocating him to death. In the

subsequent months, there were more reports of similar deaths.⁷

Some Nevada counties have recognized the necessity of designating funds and having trained professionals respond to mental-health-based calls. For instance, Washoe County has established a Mobile Outreach Safety Team, which, among other things, works to (1) reduce the need for law enforcement to handle calls that require mental-health expertise, and (2) provide crisis intervention and links to mental-health services, thereby keeping such individuals out of the criminal justice system.⁸

However, while some Nevada counties have adopted similar programs, there are many counties that have yet to implement programs that address this critical need. Nevertheless, shifting funding to such social services may provide extreme benefits to individuals who are struggling, society and the police. For example, even a 10 percent cut of the Las Vegas Metropolitan Police Department’s budget for the fiscal year of 2020–2021⁹ could provide more than \$65 million to other beneficial programs.

In conclusion, the reallocation of police funds does not mean that we do away with police officers. Rather, it means reallocating funds to address social problems in a different way so that police officers do not become a part of the narrative in the first place. Indeed, according to the Brookings Institution, a study using 60 years of data, revealed that increasing police funding did not significantly relate to a decrease in crime.¹⁰ Thus, perhaps a reasonable alternative for reducing crime—and for reducing troubling police interactions—is to decrease police funding and use such funding to treat societal problems at their root.

ENDNOTES:

1. Paige Fernandez, *Defunding the Police Will Actually Make Us Safer*, ACLU News, June 11, 2020.
2. See, e.g., NRS 176A.240 and NRS 458A.200.
3. Similarly, in our justice courts, we have an informal way of diverting convictions for those who have few or no priors. We refer to them as “submittals” or “stays of adjudication,” which if requirements are successfully completed—e.g., low level drug counseling, staying out of trouble, paying a fine or community service—the reduced charge against them is dismissed.

4. Nev. Dept. of Corr., Prison Recidivism Analysis – 2015 Release Cohort, http://doc.nv.gov/uploadedFiles/docnvgov/content/About/Statistics/Articles_and_Newsletters/Recidivism%20Report%202015%20Release%20Cohort-10-28-2019.pdf (June 2019).
5. Avinsah Singh Bhati, et. al, *To Treat or Not To Treat: Evidence on the Prospects of Expanding Treatment to Drug-Involved Offenders*, Urban Institute Justice Policy Center (2008), <https://www.urban.org/sites/default/files/publication/31621/411645-To-Treat-or-Not-to-Treat.PDF>.
6. Doris A. Fuller, et. al, *Overlooked in the Undercounted: The Role of Mental Illness in Fatal Law Enforcement Encounters*, Treatment Advocacy Center (2015).
7. Grace Hauck, *Police Have Shot People Experiencing A Mental Health Crisis. Who Should you Call Instead?*, USA Today, (Sept. 18, 2020, 5:57 AM), <https://www.usatoday.com/story/news/nation/2020/09/18/police-shooting-mental-health-solutions-training-defund/5763145002/>.
8. The outreach team was made possible by funds approved by legislature; however, the important lesson is that the legislature recognized the need, made this intervention a priority and demonstrated that taking this responsibility away from law enforcement can yield great results for the community.
9. Las Vegas Metropolitan Police Department, Final Budget FY 2020-2021, <https://www.lvmpd.com/en-us/Documents/Budgets/FY2020-2021-Final-Budget.pdf>.
10. Rashawn Ray, *What Does ‘Defund the Police’ Mean and Does It Have Merit*, The Brookings Institute, (2020), <https://www.brookings.edu/blog/fixgov/2020/06/19/what-does-defund-the-police-mean-and-does-it-have-merit/>.

SHERRIE S. ROYSTER

is the legal director for the American Civil Liberties Union of Nevada (ACLU). She leads the ACLU of Nevada’s legal department, which litigates cases and engages in advocacy to challenge the most pressing threats to civil rights throughout the state.



JESSICA SMITH-

PETERSON is a deputy public defender at the Clark County Public Defender’s Office and an inaugural steering committee member of the local National Lawyers Guild chapter.

