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By MICHAEL MCAULIFFE  
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This country faces critical — arguably foundational — medical, legal and political challenges. Among the most pressing is the continuing menace of law enforcement misconduct, including police shootings and the use of excessive force against Black people and other minorities. While heightened public awareness of police misconduct on a national scale can be traced to the videotaped Rodney King beating, with its much-publicized state and federal prosecutions of several officers, the more recent deaths of Eric Garner, Breonna Taylor, George Floyd, Elijah McClain, Javier Ambler and others while in police custody have figuratively and literally ignited the country in protest.

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Michael McAuliffe is a former Palm Beach County state attorney and a former federal prosecutor. (Michael McAuliffe / Courtesy)

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Some leaders can't get beyond the manner of the protesting. These self-righteous cultural guardians label the protests un-American. To be clear, kneeling during the national anthem is not a rejection of democratic rituals, it is an affirmation of them. Protesting is a core American right of permanent value in a free society. To do so in a nonviolent manner in a public setting is an act entirely consistent with our constitutional traditions and our history.

However, protests are not change; they are a portion of the pathway, but not a destination. Aside from more individual investigations and prosecutions of police misconduct, what is the objective as it relates to the national protests about police misconduct? So far, too little attention has been paid to articulating the endgame. Are we to defend the police? If so, what replaces law enforcement? We'll still have laws, and they'll still need enforcing.

Communities, rich and poor, are made up individuals and families living and sharing the same ground and air. These communities still need to be safe to prosper. Should states reduce the vast pile of penal statutes to decriminalize some conduct that's now illegal, like personal consumption of marijuana, so those enforcement funds can be redirected? Should jurisdictions change the existing use-of-force guidelines for officers? If yes, what should the new use-of-force continuum be? Should police departments answer directly to prosecutors, who in turn are accountable to both the courts and the voters? Should police unions' influence be curtailed when it comes to administrative discipline of officers for misconduct? Should officers be trained and then retrained in de-escalation techniques? How about training officers to reduce implicit bias in law enforcement decision-making? Who pays for any or all of these ideas?

The prospective action list is long, but consensus remains glaringly elusive as to any one of the reforms, much less all of them. One truth needs to be acknowledged — the solution isn't a binary choice of one thing over another, or all or nothing. The small, but vocal ultra-progressive movement pushes the view that all law enforcement is suspect and in need of dismantling. Trumpism peddles in conspiracy theories about anarchy and seeks to preserve the current status of policing at all costs. We can't allow these competing and extreme visions to preclude real, meaningful change. The issue is too important for rigidity and denial to prevail.

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Given the rare opportunity for significant change in law enforcement and the lack of agreement about what that change would look like, a national commission on law enforcement is a necessity. The commission (preferably a congressionally created body with statutory authority) would be empowered to hold public hearings across the country, gather information through documents and testimony and issue a comprehensive report on the state of policing (and prosecution) with specific proposals for reform and improvement at the local, state and federal levels. The proposals should be accompanied by sufficient carrots and sticks to ensure consideration and adoption by Congress, state legislatures and local governments. Police misconduct is a national crisis and the response needs to be national in scope.

Like any real self-examination, we have to look in the mirror to see ourselves as we really are, not merely how we wish to be known. We have to truly understand who or what is looking back. It's essential to know whether the face in the mirror reveals nothing more than contempt and anger, or whether below the surface — deeper than the skin — a commitment to change exists. The difference is everything. Lives depend on it.

Michael McAuliffe is a former federal civil rights prosecutor and a former elected state attorney in Palm Beach County. His debut novel, *No Truth Left To Tell*, was published in March 2020.

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