

## OPINION

# False equivalences hinder police reform

The murder of George Floyd and the subsequent trial of Derek Chauvin have become powerful symbols used by activists, reformers and elected leaders in the criminal justice reform movement. But that movement faces immediate challenges, despite widespread support for the Chauvin conviction — and not just because a new CBS poll indicated that almost half of Republicans questioned didn't agree with the verdict.

Some but not all — by any means — of the loudest advocates in the criminal justice reform movement label all acts of police force against Black individuals as inherently unjustified. These advocates draw a quick equivalence between the murder of George Floyd, and the recent fatal police shootings of Adam Toledo in Chicago and Ma'Khia Bryant in Columbus, Ohio. But their deaths are not the legal or moral equivalent of Floyd's murder. Here is why.

An armed 13-year-old can kill exactly like an armed 30-year-old — by pulling the trigger of a gun while it is pointed at someone. Age doesn't mitigate the danger when chasing a person in the night who has a gun that he's already fired. Much is made of video that shows Adam Toledo turning away with the gun in his hand and then turning back after apparently dropping the weapon. What is indisputable is that the officer had to make the decision to shoot in less time that it took to read the beginning of this sentence.

None of those facts exist in the Floyd matter. That a 13-year-old died is an unquestionable tragedy and was likely preventable in the larger sense of the word. It's a conversation that needs to be had and acted upon, but racial inequality does not make Toledo's death the equivalent of the Floyd murder.

The same is true of the police fatal shooting of Ma'Khia Bryant, a Black woman. She was armed with a knife and attacking at least two other Black women as officers arrived. The video shows the immediate threat, not to the officer, but to the women



Columbus Police Department/WSYX-TV via AP, File

**In this April 20 image taken from body camera video, 16-year-old Ma'Khia Bryant, foreground, wields a knife during an altercation before being shot by a police officer in Columbus, Ohio.**

being attacked. Just before the officer shot her, Bryant had a raised knife over another woman. The woman being attacked could have been a murder victim with a single, instant plunge of the knife.

The reviews of the Toledo and Bryant deaths — and others — must be transparent and timely. Even with videos, careful independent investigations are warranted. However, the summary grouping of these shootings as the same brand of police misconduct is not accurate. More important, such labeling undermines the police reform movement by creating a space where opponents can rush into and occupy. Senator Lindsey Graham, R-S.C., did just that in a recent interview. Reform opponents will tell the public not to trust the activists who won't recognize the difference between police behavior that attempts to save lives and police misconduct that unjustly takes life.

Further, the emphasis on officer-involved fatal shootings can be compelling, but such advocacy creates a real risk of missing the larger problem of officer contact with the public. The overwhelming supermajority (70 to 95 percent depending on the published source) of officers in the United States never fire a weapon outside of training. That statistic does not minimize the consequences of loss of life when officers use deadly force — whether justified or not — but it places it in the context of hundreds of

thousands of officer-civilian interactions. Improving those contacts will reduce the officer-involved shootings and represents the foundation on which to pursue reforms. One enduring focus needs to be the recruitment and retention of diverse individuals who as officers are trained to interact with a constituency, and not merely fight the perceived antagonist.

Ample evidence supports fundamental reform of policing in America. Out of well-documented crimes by police and a growing recognition of unfairness in police contacts with minorities, the country has the opportunity to recast the role of police. Advocates, however, must maintain the momentum, born of loss and injustice, by avoiding the heavy weight of false equivalences. Success in police reforms may hinge on being able to distinguish between tragedies, mistakes and crimes in securing support for change across a divided nation.

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# The Supreme Court hangs a gun on the wall

**I**f in the first act you have hung a pistol on the wall, then in the following one it should be fired," the Russian playwright Anton Chekhov advised. "Otherwise don't put it there."

Chekhov was a doctor, not a lawyer, but his admonition may well apply to the Supreme Court's announcement last week that it would hear a gun rights case.

This is, assuming Chekhovian logic prevails, an ominous development. The conservative justices have been itching to clarify the scope of the constitutional protection the court first established

13 years ago — and to make clear that the Second Amendment is not being treated, as some justices have complained, as a second-class right.

This court didn't take up this case without a plan to pull the trigger. It's a safe bet that it is not hearing a Second Amendment dispute for the purpose of limiting gun rights.

This means that at the very time the country is reeling from a seemingly ceaseless parade of mass shootings, the court may be about to limit the policy tools available to respond. Most states allow people to carry concealed weapons in public without a permit or make the permit available essentially on demand. States have the right to make the judgment, crazy as it sounds, that the more people packing, the better.

But the court may be on the brink of telling eight states and the District of Columbia they don't have the power to require people to show some need before obtaining a concealed carry permit. Such a ruling would be an unwarranted intrusion on state rights, particularly since the evidence supports what logic suggests: lax concealed carry rules are associated with greater gun violence.

Some history: The Second Amendment was not understood to confer an individual right to "keep and bear arms" until the court's 2008 ruling in *Heller v. District of Columbia*, striking down the District's ban on handgun possession. Justice Antonin Scalia, writing for a five-justice majority, found that right existed — but he emphasized that it was "not unlimited."

For example, Scalia wrote, "nothing in our opinion should be taken to cast doubt on long-standing prohibitions on the possession of firearms by felons and the mentally ill, or laws forbidding the carrying of firearms in sensitive places such as schools and government buildings, or laws imposing conditions and qualifications on the commercial sale of arms."

In the years since, lower courts have struggled with, and differed on, what gun restrictions pass constitutional muster and what test should be used to judge their constitutionality. Conservative justices, frustrated that lower

court judges have been too willing to let the restrictions stand, have excoriated their colleagues for being unwilling to take cases that would clarify the situation.

"If a lower court treated another right so cavalierly, I have little doubt that this court would intervene," Justice Clarence Thomas wrote in 2018 when the court refused to review California's 10-day waiting period for purchasing guns.

"It is clearly time for us to resolve the issue," Thomas, joined by Justice Brett Kavanaugh, wrote last year, when the court declined to take up another challenge, this one to a New Jersey law that requires those who apply for permits to carry handguns to demonstrate "a justifiable need to carry" the weapon.

That moment has now arrived — or, more precisely, will arrive next year, when the case will be argued and decided. It involves a century-old New York state law that requires residents to show "proper cause" — in general, "a special need for self-protection" — to receive a concealed carry permit. (New Yorkers are still entitled to a "premises" license that lets them keep a gun in their home or business, and a "restricted license" to carry guns for purposes such as hunting or target practice.)

At risk are various other common-sense gun restrictions. As an appeals court judge, Kavanaugh found that banning assault weapons and limiting high-capacity magazines violated the Second Amendment. On the appeals court, Justice Amy Coney Barrett said an automatic ban on felons' possessing guns went too far when applied to those without a history of violence. Thomas has already made clear his view that "the right to carry arms for self-defense inherently includes the right to carry in public."

Federal appeals courts across the country have split on the constitutionality of concealed carry restrictions. The federal appeals court in New York, upholding the state's law, assumed that the constitutional right to keep and bear arms for self-defense applies outside the home. However, it said, "assessing the risks and benefits of handgun possession and shaping a licensing scheme to maximize the competing public-policy objectives, as New York did, is precisely the type of discretionary judgment that officials in the legislative and executive branches of state government regularly make."

But former solicitor general Paul D. Clement, in urging the court to hear the case, argued that laws like New York's "ration constitutional rights instead of protecting them," adding, that the "government may not reserve to a select few what the Constitution guarantees to all."

The pistol is on the wall. It is not hard to count five votes for firing it.

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## FROM THE LEFT

We live in a partisan age, and our news habits can reinforce our own perspectives. Consider this an effort to broaden our collective outlook with essays beyond the range of our typical selections.

**From** "The Rise of Ron DeSantis," by David Frum in *The Atlantic* at [bit.ly/2SePppX](https://bit.ly/2SePppX).

**The context, from the author:** The Florida governor's sudden prominence is partly about him, partly about his critics, but mostly about his state.

**The excerpt:** The Florida governor has figured out that Republicans love a culture-war brawl, but that overdoing it can alienate a general-election electorate. His solution has been to provoke narrowly targeted fights over issues that matter a lot to highly engaged conservatives and liberals — but that will not mean much to anybody else come 2024.

**From** "The IRS Used to Be a Guard Dog. Republicans Neutered It," by Michael Mechanic in *Mother Jones* at [bit.ly/32Ybulf](https://bit.ly/32Ybulf).

**The context, from the author:** there's a lot of catching up to do when it comes to the superrich. By the end of the Bush years, the IRS was auditing fewer than 1 in 10 taxpayers with adjusted gross incomes of \$10 million-plus.

**The excerpt:** A fair subset of superwealthy Americans doesn't even bother filing. The Treasury Department's Inspector General for Tax Administration reported in 2020 that nearly 880,000 "high income" non-filers from 2014 through 2016 still owed \$46 billion, and the IRS was in no condition, resource-wise, to collect. The 300 biggest delinquents owed about \$33 million per head, on average.

**From** "Now Is Our Last Best Chance to Confront the Climate Crisis," by Jeff Goodell in *Rolling Stone* at [bit.ly/3dZfulf](https://bit.ly/3dZfulf).

**The context, from the author:** With Joe Biden in office, a serious plan to combat climate change is finally in our sights — but the clock is ticking, and there is no more room for error.

**The excerpt:** Now, our luck is running out. The industrialized nations of the world are dumping 34 billion tons or so of carbon into the atmosphere every year, which is roughly 10 times faster than Mother Nature ever did on her own, even during past mass extinction events. As a result, global temperatures have risen 1.2 C since we began burning coal, and the past seven years have been the warmest seven years on record. The Earth's temperature is rising faster today than at any time since the end of the last ice age, 11,300 years ago. We are pushing ourselves out of a Goldilocks climate and into something entirely different — quite literally, a different world than humans have ever lived in before.

## FROM THE RIGHT

**From** "Joe Biden: \$6 Trillion Man," by Philip Klein in *National Review* at [bit.ly/3vpVbDd](https://bit.ly/3vpVbDd).

**The context, from the author:** President Biden has unveiled another \$1.8 trillion government-spending package, bringing the total spending signed or proposed in his first 100 days to about \$6 trillion.

**The excerpt:** There will be plenty of time in the months ahead to debate the substance of the proposals. However, it's worth keeping in mind how extraordinary this spending is. It is not coming at a time of huge surpluses, but at a time when debt exceeds the annual gross domestic product for the only time in the nation's history other than World War II. It's coming as a flood of Baby Boomers are retiring and as health-care costs rise. This is not a moderate agenda by Biden. It is a radical and reckless agenda.

**From** "Ideas Don't Have Consequences," by Michael Warren Davis in *American Conservative* at [bit.ly/3aJPVt0](https://bit.ly/3aJPVt0).

**The context, from the author:** When it comes to the American right, ideas — good or bad — have no consequences whatsoever.

**The excerpt:** Conservative media isn't the real world. Here, ideas don't have consequences. You can be consistently wrong on every major political issue of the century and be absolutely certain that you'll keep your magazine column, your think-tank fellowship, and your cushy book deal. Ideas don't have consequences. What's more, you can be consistently right on every major political issue of the century and still be considered a pariah. Look at Pat Buchanan. The man coined the phrase "culture wars."

**From** "Most Americans Favor a 'Pathway to Citizenship' for Undocumented Immigrants," by Eric Boehm in *Reason Magazine* at [bit.ly/32W7la0](https://bit.ly/32W7la0).

**The context, from the author:** You wouldn't be able to tell from federal policy, but most Americans have a favorable view of immigrants, and a majority believes that improving opportunities for immigrants to come here legally would be better than beefing up border security and cracking down on illegal immigrants.

**The excerpt:** For now ... federal immigration policy is likely to remain out of step with the views of most Americans. And while the loudest voices demanding the biggest walls are likely to continue to exercise undue influence within immigration politics, it's useful to keep in mind that they represent a distinct minority of the country.