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## Introduction to Re-Imagining "We the People" Part Two: Transcripts from the AAJ Education's Civil Rights and Police Misconduct Litigation Seminar

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## **Introduction to Re-Imagining “We the People” Part Two: Transcripts from the AAJ Education’s Civil Rights and Police Misconduct Litigation Seminar**

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Even as we put the finishing touches on this issue, jury deliberations are underway in Georgia in the case of the murder of Ahmaud Arberry, a Black man who was killed by three white men, one of whom was a former police officer. Arberry was shot from close range with a shotgun after the three men chased him as he was jogging in their neighborhood in February 2020, just months before the tragic murder of George Floyd at the hands of an on-duty police officer.<sup>2</sup> Floyd’s killing became a renewed rallying point for those who have long called for greater police accountability and stronger protections against the use and misuse of violence at the hands of our nation’s ‘peace officers.’

Just as the Arberry murder prompted changes to Georgia state criminal laws including a new hate crimes statute, Floyd’s horrific murder has led to movements at the state and federal level to address a multitude of transgressions through greater accountability through transparency in releasing videos, internal investigations, public input in policing contracts and in union negotiations, as well as other stricter policing policies such as changes in mandatory training, use of body cameras, banning no-knock warrants, a duty to intervene, and of course, the use of chokeholds. The most vigorous efforts at reform were aimed at reducing the availability of or eradicating the judicially created doctrine of qualified immunity as a defense to civil rights lawsuits by victims or families of victims who are subjected to excessive use of force against law enforcement officers involved in those acts.

Despite this hopeful trend, as of September 2021, there were 111 Black people shot to death by the police in 2021; this represents 37 fatal shootings per million persons this calendar year alone. Even more urgent, of those shot to death whose race is known, Blacks represent 30% of the people killed<sup>3</sup> while only representing 12.4% of the total population.

With this issue of *The Bridge*, we continue the discussions raised in our Spring 2021 issue: *Police Misconduct & Qualified Immunity: Reimagining “We the People”*. That issue shared the transcription of the virtual national conference by the same name, and featured an esteemed group of experts who discussed the state of racial unrest in this country, historically and currently.<sup>4</sup> The Earl Carl Institute for Legal & Social Policy partnered with Texas Southern

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<sup>2</sup> Fausset, Richard. “In the Trial of Ahmaud Arberry’s Accused Killers, Unsettling Video Will Have a Starring Role.” *New York Times*, October 17, 2021. <https://www.nytimes.com/2021/10/17/us/ahmaud-arberry-shooting-trial.html?>

<sup>3</sup> People shot to death by U.S. police, by race 2017-2021, Statista Research Department (September 30, 2021); <https://www.statista.com/statistics/585152/people-shot-to-death-by-us-police-by-race/>.

<sup>4</sup> To review these proceedings, see *The Bridge: Interdisciplinary Perspectives on Legal and Social Issues*. Volume 6, Issue 1. *Police Misconduct and Qualified Immunity: Reimagining “We the People”* <https://digitalscholarship.tsu.edu/thebridge/>.

University's (TSU) Thurgood Marshall Law School (TMLS), the Thurgood Marshall Law Review, and the TSU Center for Justice Research to co-present that conference, sponsored by the American Association for Justice (AAJ) and the AAJ Robert L. Habush Endowment.

Now, we expand upon those conversations by sharing proceedings of a recent seminar presented on October 8, 2021 at the TMSL entitled *Civil Rights and Police Misconduct Litigation Seminar*. This conference was co-presented by AAJ's Civil Rights Section, Minority Caucus, Police Misconduct Litigation Group, and the National Police Accountability Project in partnership with Thurgood Law and its think tank, the Earl Carl Institute for Legal & Social Policy, Inc.

The issue begins with an essay by Laisha Harris entitled *A Tale of Two Americas*, which provides the historical context of policing in America, and outlines some of the many ways the relationship between police and Black Americans has been fraught (to say the least) since the 1600s. *The Lost Potential of HB 88* then presents a summary of Texas' George Floyd Act, one of the many state legislative responses to the most recent slew of Black deaths at the hands of white police officers. Finally, we highlight several key sessions featured at the recent seminar which illuminate the issues and opportunities that those who litigate or in other ways pursue the civil rights agenda might strengthen their arsenal to move change forward.

The sessions we share include:

- Investigating Officer Involved Shootings: Don't Ignore the Evidence
- Implicit Bias: Racism Without Racist
- Civil Rights and Protective Orders
- Surviving Interlocutory Appeals: Trial Lawyer Edition

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