

Spring 5-1-2020

Public Matters? Comparing Decision-Making by Appointed and Elected Prosecutors in Cases of Deadly Use-of-Force by Police in the Hartford Judicial District and Suffolk County

Andrew E. Dubsy
University of Connecticut - Storrs, dubsy.andrew@gmail.com

Follow this and additional works at: https://opencommons.uconn.edu/srhonors_theses



Part of the [American Politics Commons](#), [Criminal Law Commons](#), [Criminal Procedure Commons](#), [Law and Race Commons](#), [Law Enforcement and Corrections Commons](#), and the [Other Legal Studies Commons](#)

Recommended Citation

Dubsy, Andrew E., "Public Matters? Comparing Decision-Making by Appointed and Elected Prosecutors in Cases of Deadly Use-of-Force by Police in the Hartford Judicial District and Suffolk County" (2020).

Honors Scholar Theses. 662.

https://opencommons.uconn.edu/srhonors_theses/662

Public Matters? Comparing Decision-Making by Appointed and Elected Prosecutors in Cases of
Deadly Use-of-Force by Police in the Hartford Judicial District and Suffolk County

Andrew E. Dubsky

Professor Kimberly Bergendahl

University of Connecticut

Political Science Honors Program

POLS 4994/4997WH

April 1st, 2020

Abstract

This thesis dissects the issue of prosecutor discretion for both appointed and elected prosecutors after a “catalyst” event shifts public opinion. Previous studies have shown that prosecutors who are elected are more likely to use discretion favoring the opinion of the public than their appointed counterparts (Bandyopadhyay 2014, Nelson 2014, and Valenti 2011). Because elected prosecutors are more likely to follow public opinion, they should also be more likely to respond to the demands of the public than their appointed counterparts. In effect, elected prosecutors are expected to be more likely to exercise discretion in their charging and prosecuting decisions than their appointed counterparts. To test this, I identify the 2014 shooting of Michael Brown as a “catalyst” event that highlights the social movement against police misconduct in the eyes of the public. I then collect data from cases involving policing shootings 14 years before the catalyst event (since 2000) and then from the catalyst event to the end of 2019. These cases are taken from districts under the jurisdiction of appointed States Attorney Gail P. Hardy of Hartford County, Connecticut and elected District Attorney Rachael Rollins of Suffolk County, Massachusetts. I compare the total number of cases, the circumstances behind each incident, the outcomes of each alleged case of misconduct, and any similarities or differences between cases before and after the catalyst event. While there was an increase in cases involving police shootings in both jurisdictions since the catalyst event, there were no significant differences in terms of the outcomes these cases after the catalyst in both jurisdictions. Prosecutions of officers involved in shootings remained extremely rare in both counties both before and after the catalyst.

Keywords: Prosecutor, discretion, elected, appointed, police, shooting

Acknowledgements

In addition to a year of research, writing, and revisions on my part, there has been a small army of people that have critiqued, encouraged, guided, and motivated me throughout this process. I would first like to thank Assistant Professor in Residence and Internship Coordinator Kimberly R. Bergendahl for being my primary advisor on this thesis. Without her constructive criticism and expertise, this thesis would never have been written, nor written so well. I am also thankful to Associate Professor, Alan R. Bennett Honors Professor, and Honors Director Matthew M. Singer. Without his guidance, humor, and 8:00am course, the POLS honors students and I would be wanting for motivation. Thirdly, I would like to thank the CLAS Alan R. Bennett Honors Fund for its support, financial and otherwise, of myself and the rest of the UConn Political Science Program. Last, I would like to extend a well-earned congratulations to the rest of the 2019-2020 cohort of Political Science Honors Students, we've done it!

Public Matters? Comparing Decision-Making by Appointed and Elected Prosecutors in Cases of
Deadly Use-of-Force by Police in the Hartford Judicial District and Suffolk County

Introduction

A prosecutor is an official who represents the government when bringing criminal charges against, or prosecuting, an individual. In the United States, this a person selected to prosecute a criminal offense for a particular jurisdiction. So, when a person breaks a law, it is a prosecutor who prosecutes that individual on the behalf of relevant governing body. Prosecutors exist at both the federal and state levels of government in the United States today. All lead federal-level prosecutors are known as United States Attorneys and are responsible for prosecuting federal crimes in their federal judicial district, which are subdivisions of the circuits governed by federal courts of appeals. They are all appointed by the President, confirmed by the Senate, and fall under the supervision of the U.S. Attorney General. State-level prosecutors (depending on the state, they may be called District Attorneys, Prosecuting Attorneys, or State's Attorneys) are attorneys that are responsible for prosecuting state-level criminal offences for their respective states. In most states today, these prosecutors fall under the supervision of their respective State Attorneys General, though they enjoy relative autonomy in their decisions to prosecute. These prosecutors are selected by either election or appointment to one judicial district in the same state.

Prosecutors in the United States have a significant amount of power in our judicial system. Their primary responsibility is to prosecute cases on the behalf of their respective jurisdictions, but within this responsibility they can manipulate individual cases to a large degree. This decision-making power is referred to as prosecutorial discretion. At the start of any criminal case, a prosecutor can decide upon which statute to file an information or which charges

to present to a grand jury. A grand jury (or judge, in the case of an information) can then agree with the prosecutor and an alleged criminal is indicted with the same charges that the prosecutor offered. A prosecutor can further decide how and if they should prosecute a case. In some instances, prosecutors can drop charges during a trial. If the trial does continue and an individual is found guilty, then a prosecutor has the power to recommend a sentence to a judge or jury, meaning that the prosecutor has a hand in how high or low a sentence is (within statute limitations). A prosecutor also has the ability to offer defendants a plea deal: an agreement where both prosecution and defense agree to skip a full trial to reach an outcome of guilty, but with a lighter sentence. Having this power means that a prosecutor can make decisions that change the course of a case in the interest of system efficiency or another interest. In fact, over 97.2% of all federal cases in 2017 never see trial because a plea deal is reached (Jones 2018, p.14). At the state level, the statistic is similar: 94% of state cases end in plea bargains (Goode 2012, p.1). There are few other individuals who appear in the whole traditional criminal process, let alone wield such power in the process.

Most countries use an appointment method to select their prosecutors. In fact, out of all major English-speaking countries and countries in Western Europe, the only countries to hold elections for prosecutors are Switzerland and the United States (Tonry 2007, p.23). In the United States only three states, Alaska, Connecticut, and New Jersey (as well as Washington D.C) have decided to leave the power of selecting their prosecutors to the government (Coppolo 2003). The other 47 states hold elections that allow citizens to directly elect their prosecutors. This means that citizens in Alaska, Connecticut, and New Jersey have no direct influence on choosing the individual responsible for prosecuting criminals on their behalf.

The difference in selection method may influence prosecutorial discretion. Scholars have found that judges who are elected by voting citizens are more likely to vary in their average criminal sentences than judges who are appointed to a district (Berry 2015 p.7; Lim 2013 p.1392; Kritzer 2016). They do so because the judges who are elected use their discretion to appease their voters. An appointed judge has no incentive to follow suit, as there is no election in which to compete. This variation can be equivocated to prosecutors as well, meaning that an elected prosecutor uses their discretion in more varied ways than an appointed prosecutor due to election incentives. For example, if the local public wants to see a criminal receive a longer prison sentence, then an elected prosecutor has increased pressure to influence a case using their discretion and pursue a higher charge or heavier sentence. The possibility of two different outcomes are equally as likely for this case. Which outcome occurs depends on the opinion of the voting public and how reliant a prosecutor is on them for job security.

The focus of this thesis is to examine how elected and appointed prosecutors change their use of discretion after a catalyst event changes public opinion and subsequently the incentives of prosecutors. Specifically, I determine whether elected prosecutors are more likely than appointed prosecutors to use their discretion to align case outcomes with the opinions of voting citizens after citizen outlook changes. Social movements make strong vehicles for this study as they create strong, salient changes in public demands. I have chosen to analyze the movement against fatal police shootings, also referred to as the Black Lives Matter Movement. The Black Lives Matter Movement emerged in response to the police shooting of unarmed 18-year old African-American Michael Brown in Ferguson, Missouri in 2014. After the prosecutor in the case failed to secure an indictment against Officer Darren Wilson, members of the Black Lives Matter

Movement gained momentum in advocating for increased prosecutions in cases of police brutality and excessive use of force by police officers (BLM 2019).

In my study of whether elected prosecutors are more likely than appointed prosecutors to align their use of discretion with the demands of the Black Lives Matter Movement, I selected the offices of District Attorney Rachael Rollins and State's Attorney Gail P. Hardy for my analysis. While Attorney Rollins is elected to her position in Suffolk County, the office of Attorney Hardy in the Hartford Judicial District is an appointed position. Suffolk County contains Boston, MA, the capital of the Commonwealth of Massachusetts and the Hartford Judicial District contains the capital city of Connecticut, Hartford. Both locations are comparable in both location and social climate, making them ideal for comparing prosecutorial selection method holding other variables relatively constant.

To assess how the catalyst event influenced the use of discretion for these two prosecutors, I compiled data on police shooting incidents that fell into the jurisdiction of Gail Hardy and Rachael Rollins, meaning they would be the individuals responsible for overseeing these cases and any related investigations. To look for evidence in a shift in discretion, I gather cases from public records and news media specifically related police shootings that have taken place between and including the years 2000 and 2019. As my "catalyst" event occurred in late 2014, any police shooting in 2015 and later can be considered "post-catalyst", as the Black Lives Matter Movement becomes prevalent in the public consciousness. Using these cases, I measure the number of cases overseen by each attorney and the outcome of each case following an investigation. If overall case outcomes differ before and after the catalyst event, such as an increase in prosecutions or successful convictions, then there is evidence that the killing of

Michael Brown and the Black Lives Matter Movement did have some effect on the discretion of these prosecutors through public perception.

When a prosecutor is up for reelection, and their constituents express a preference to case outcomes, that prosecutor has incentive to utilize their broad powers in the judicial system to get the outcomes that please their constituents. The objective of this thesis is to explore how significant this reelection pressure is on prosecutors. I do so by comparing case outcomes with a prosecutor with no political accountability (appointed prosecutors) after a significant shift in public expression of outcomes (our catalyst). Revealing the strength of this incentive will further reveal how broader society has an impact on our judicial system. In a system that prides itself on a rigid due process, it can still be susceptible to manipulation through the use of discretion by the actors in the system. So, by knowing how public sentiment can influence the use of this discretion, I can predict the influence that major salient events have on the individuals responsible for prosecuting criminals on our behalf.

The next section of this thesis provides a review of the current literature on prosecutorial discretion, outlooks on prosecutorial discretion, effects of prosecutor selection methods on case outcomes, and the effects of public opinion on case outcomes. In the third section, I introduce background information on the subjects and jurisdictions utilized in the data. I also explain the catalyst used and any laws in each jurisdiction that are related to the catalyst. The fourth section explains my research design, specifically on how I gather my data and then report my findings. In the results section my thesis, I report my findings and visualize the data collected. My thesis concludes with a discussion on the implications of my findings, the limitations of my research, potential for future research, and a summary of the thesis as a whole.

Literature Review

Originally, prosecutors in the United States were all appointed to their positions. In the 1830s, however, there came a movement whereby states decided to elect their respective prosecutors, starting in the State of Mississippi (Ellis 2012, p.1528). At the time, political patronage was seen as a symptom of corruption in local governments. To combat it, lawmakers moved to make all judicial positions, prosecutors included, elected offices (Ellis 2012, 1535). This change caused political accountability for these important positions to increase. This solution was at first unpopular, and some states used alternative methods to keep patronage from corrupting prosecutors, such as not allowing prosecutors from holding additional political positions (Ellis 2012, 1557). It was not until the 1840s and 1850s that more states began to switch over to an elected system. Now, a majority of state prosecutors are elected and a minority are appointed. The minority reside in Alaska, Connecticut, New Jersey, and Washington D.C.

All prosecutors are able to use discretion in the same ways, particularly in relation to the decision to prosecute (see Albonetti 1986; Cole 1970; Johnson 1976; Miller 1969; Stanko 1982). An example of such discretion use is the decision to drop a case, commonly referred to as *nolle prosequi*. This term specifically applies to the action of dropping charges against an individual after indictment (Albonetti 1986, p.628). Case studies reveal that a case is more likely to become “nolle” when a prosecutor is not confident enough in reaching a guilty verdict. This can be for a myriad of factors, such as risk aversion to losing a case (Albonetti 1986) or even arbitrary reasoning, such as likeability or demographics of defendants (Stanko 1981, p.226). Research conducted before the advent of internet media finds that newspaper coverage was a significant indicator of an elected prosecutor’s willingness to negotiate a case and seek a plea deal (Pritchard 1986, p.155).

Other theoretical frameworks suggest that prosecutors view the decision to prosecute as part of a system of exchanges with the other individuals in the judicial system. Cole 1970 best describes this perspective: “In place of the traditional assumptions that the agency is supported solely by statutory authority, this view recognizes that an organization has many clients with which it interacts and upon whom it is dependent for certain resources” (p.332). This suggests that a prosecutor’s office cooperates with law enforcement and judges in exchange for cooperation on other cases more important to the prosecutor. Cole explains even further on prosecutors, highlighting that they rely on the police for “inputs to the system of cases and evidence” and hold power over the police by returning cases for further investigation and approving warrants (p.334).

Additional discretionary powers held by all prosecutors deal with sentencing preferences (Bandyopadhyay 2014; Valenti 2011; Rainville 2001). When a prosecutor does prosecute a case, they may ask the presiding judge during sentencing for a lighter or heavier sentence. This decision can be made based on variables inside the courtroom, such as resources and personal ideology (Albonetti 1986), and outside of the courtroom, like media coverage and community sentiment (Valenti 2011).

This significance of discretionary power makes its use very polarizing. Critics of prosecutorial discretion claim that it corrupts the justice system by allowing prosecutors to justify not administering due process in specific cases, such as police shootings (Stahly-Butts & Robinson, 2017). Conversely, supporters of prosecutorial discretion counter this argument by highlighting the positive effects this power has. One article that specifically discusses this issue explains that: “[a prosecutor] can make policy and pursue as a primary goal rehabilitation, punishment, or efficiency, by letting his discretionary decisions reflect these goals” (Mellon,

Jacoby, & Brewer 1981). This idea is also in line with the beliefs of the American Bar Association, who create guidelines and standards for prosecutors to follow in their work. These guidelines specifically explain that prosecutors must be mindful of biases and work to eliminate them from the judicial process (American Bar Association 2017). Without the ability for prosecutors to utilize discretion, prosecutors would simply be case processors, not administrators of justice or community leaders (Jacoby 1995).

To date, there has been little research done that assesses the impact of public sentiment on prosecutorial decision-making in the modern era. Michael J. Nelson in their 2014 article says it succinctly: “the relationship between public opinion and prosecutorial discretion has been subject to comparatively little empirical scrutiny by scholars (p.120).” Valenti (2011, p.64) found that elected prosecutors are more responsive to public opinions on particular cases than appointed prosecutors. If anything, studies that assess the impact that selection methods have had on other actors in the judicial system may provide further guidance. Lim found that selection methods impact judges’ sentencing decisions in that the preferences of elected judges explain 73% of variability in sentencing (2013, p1387). Translating this variability to prosecutors, election years can increase the number of cases taken to trial by 7.2% rather than dropped or set to a plea deal (Bandyopadhyay 2014, p.152). During years with competitive or close elections, the increase in total convictions can be as much as 18.3% (Bandyopadhyay 2014, p.152). Additional literature confirms that judges are more likely to administer harsher sentences in election years (Huber and Gordon 2004, p.261) and increase the severity of sentences when running in a contested race as opposed to a non-contested retention election (Huber and Gordon 2007). Other research points to alternative reasoning for the choices they make (Rainville 2001), this is in the minority and does not account for selection method.

Community prosecution is a relatively new concept that has increased incentives for all prosecutors to pay more attention to their constituencies. According to Anthony C. Thompson, community prosecution is “at a minimum ... a decentralization of authority and accountability, with the ultimate aim of enabling an office to anticipate and respond to community problems” (2002, p.323). This paints a very similar picture to recent, more recognized initiatives to move to a “community policing” model, where police officers will perform more community outreach in order to form a more cordial relationship with the public (Forst 2001, USDOJ 2014). Crafting a publicly accessible prosecutors office has been pushed to also promote a proactive approach to public safety (Forst 2001, Thompson 2002). By being more receptive to community needs as a whole, prosecutors hope to see increased cooperation from the public in terms of gathering evidence, being called to testify, and in decreasing overall crime. These interventions also allow prosecutors to further empathize with community members when prosecuting relevant cases (Cole 1970). However, the practical results of these efforts are limited, as prosecutors might not be able to relate to the situations present in communities due to conflicting views on public priorities and professional detachment (Thompson 2002).

One relatively successful example of community prosecution was in Suffolk county, Massachusetts. The City of Boston started Safe Neighborhood Initiatives (SNIs) that aimed to reduce youth violence and gun crimes (Forst 2001). The SNIs caused an increase in prosecution in quality-of-life crimes, such as vandalism, truancy, and illegal gun possession. Despite appearing to be success with these outcomes, there have been no scientific studies performed to assess any statistical significance to the finding in the Suffolk County case. The recent shift to community prosecution encourages both elected and appointed officials to respond to the needs of their communities, but only elected prosecutors are held accountable by that same community.

So, while a prediction of similar outcomes between appointed and elected prosecutors could be made, research strongly shows that elected prosecutors will still be more responsive and aware of the desire of the public.

Despite increased incentives to prosecute in the name of their community, prosecutors still have a notoriously hard time with charging and prosecuting police officers with crimes. Police and prosecutors are two parts of the “courtroom family”, whereby prosecutors rely on the police for gathering evidence and the police rely on the prosecutors to use all evidence provided to successfully prosecute those the police arrest (Cole 1970). So, when a member of this collaboration is corrupt according to the public, it becomes difficult to impartially build a case against the very individuals who would help you do so in any other situation (Levine 2016). Most histories of police brutalities relay that the race riots institutionalized this issue in the 1960s with said race relations explaining increases in incidents of police brutality (see Kramer 2018, Moore 2016, Nodjimbadem 2017). The issues are the same to this day, with organizations such as Campaign Zero and Black Lives Matter emphasizing responsible prosecution of police officers. When prosecutors are beholden to their constituents, police unions can create large pockets of voters that are difficult not to appease when their vote may cost you your job (Walker 1986). There are also studies that confound traditional thought, finding that crime violence is negatively correlated with police shootings (Klinger et. al. 2016).

There is little research relating to shifting use of discretion by either appointed or elected prosecutors. While there is research on the significance social movements on prosecutors (Pew Research Center 2014, Pritchard 1986) and on prosecutor discretion (Nelson 2014, Valenti 2011) separately, there is no literature found on both social movements and prosecutorial discretion through selection method. This lack of research is important because understanding how social

movements impact the actions of prosecutors could allow us to predict case outcomes based on changes in public wishes and the selection method for the prosecutor. Therefore, it is important that research examining a social movements impact on discretion use by appointed and elected prosecutors is done. By conducting such a study, I set out to find answers on how elected prosecutors differ from appointed prosecutors in their use of discretion after a catalyst event changes the priorities of their constituents.

Hypotheses

The lack of research on how public sentiment and selection method impact decision-making by prosecutors motivates further research on these interactions. Research on discretion use by judges (a parallel judicial system actor) shows influence of elections on their sentencing (Lim 2013). If I apply this research on elected prosecutors, then I can assert that elected prosecutors pursue outcomes in investigations and trials that their constituents advocate for. Logic then follows that, if the public changes their priorities (due to some kind of catalyst), then an elected prosecutor will change in their use of discretion to “re-conform” to the expectations of the public. To measure if this is the case, I use an appointed prosecutor as comparison. A prosecutor selected by appointment is not held accountable by the voting public, so any shift in public opinion should have little to no effect on their use of discretion.

As I believe that the catalyst event will have a greater impact of the elected prosecutor, I submit the five hypotheses below. As I have shown the veracity of the social movement (specifically that minority individuals are frequently shot by police), prosecutors have specific actions to take (the other hypotheses) in reaction to a shift in public opinion.

- H1:** After the catalyst event, elected prosecutors will be more likely to conduct investigations into police involved shootings that result in findings of wrongdoing than appointed prosecutors.
- H2:** After the catalyst event, elected prosecutors will be more likely to indict a police officer in a police shooting case than appointed prosecutors.
- H3:** After the catalyst event, elected prosecutors will be more likely to convict a police officer in a police shooting case than appointed prosecutors.
- H4:** After the catalyst event, elected prosecutors will be more likely to recommend a harsher sentence to a police officer in a police shooting case than appointed prosecutors.
- H5:** After the catalyst event, elected prosecutors will be more likely to resolve a police shooting case faster than appointed prosecutors.

Background

Jurisdiction Selection

To test these arguments, I chose to use the county of Suffolk, Massachusetts and The Hartford Judicial District in Connecticut primarily for their similarities, with one exception. Both regions are similar in their demographics, economy, education and access to technology (U.S. Census Bureau 2018).¹ Politically, both are controlled by the Democrat party, as District Attorney Rollins was voted in as a Democrat and State's Attorney Hardy was appointed by a Democrat administration (Gavin 2019, Merrill 2019). The exception between these two "most

¹ See Figure 1 in the Appendix

similar' cases is that Connecticut prosecutors are appointed and Massachusetts prosecutors are elected. This difference in section method, in conjunction with previous research, implies that Massachusetts prosecutors have greater political accountability than Connecticut prosecutors (Bandyopadhyay & McCannon2014).

The Hartford Judicial District of Connecticut and Suffolk County, Massachusetts are the geographical locations where the offices of State's Attorney Hardy and District Attorney Rollins hold jurisdiction, respectively. Both locations are in the northeastern United States and lie in the cultural region of New England. They are further similar according to US Census data (U.S. Census Bureau 2018), which has been replicated as Figure 7 in the Appendix. Both locations have similar populations, with 591,326 people living in the jurisdiction of the Hartford Judicial District and 722,023 people living in Suffolk County, Massachusetts. Both locations are similar in ethnic diversity, with people who identify as White in the majority and people who identify as African American and Latino being the two largest minorities.

Both Suffolk County and the Hartford Judicial District are similar in access to technology. Both areas report 89 percent of households with a computer and 83 percent of households with broadband internet subscriptions. In regards to education, Massachusetts has 85 percent and 45 percent of people over 25 with a high school diploma and bachelor's degree, respectively. In Connecticut, the statistics are 89 percent with high school diplomas and 39 percent with a bachelor's degree (see Figure 7).

The two regions also share similarities economically. Suffolk and the Hartford Judicial District count 69 percent and 66 percent, respectively, of their above-16-years-old population as their total civilian labor force. Additionally, Figure 7 tells us that the per capita income in 2018

was \$40,190 in Suffolk County and \$40,358 in the Hartford Judicial District. Their poverty rates are 17 percent and 12 percent respectively (Figure 7).

The Hartford Judicial District is one of thirteen judicial districts in the State of Connecticut and its head office is located in Hartford, the state capital. This judicial district covers Geographical Area No. 12,² 13,³ and 14⁴ of Connecticut. This judicial district also lies in parts of the 1st, 2nd, and 5th U.S. congressional districts. The Hartford Community Court also falls under the jurisdiction of this district.

The Suffolk County District Attorney's Office is one of 11 District Attorney offices in Massachusetts. It is responsible for prosecuting all criminal cases in the geographical region called Suffolk County,⁵ which is contained within the 5th, 7th, and 8th congressional districts for Massachusetts. The seat of this county is the City of Boston, which is also the capital of Massachusetts. Also of note is that the county-level government of Suffolk County was abolished on July 1st, 1999 (Gavin 2019).

In the realm of politics, both areas also vote heavily Democratic in American elections. According to recent publications from the Cook Political Report, both Connecticut and Massachusetts have always voted for the Democratic candidate in all presidential elections since 1992 and are considered “Solid Democrat” in the Cook 2020 Electoral College Ratings for the upcoming 2020 presidential election (Cook Political Report 2018). Additionally, the congressional districts that overlap with the Hartford Judicial District are rated D+12, D+3, and D+2 on the Cook Partisan Voting Index (PVI), which means they favor the Democratic party.

² Geographical Area No. 12 for the state of Connecticut contains the cities and towns of East Hartford, Glastonbury, Manchester, Marlborough, and South Windsor.

³ Geographical Area No. 13 for the state of Connecticut contains the cities and towns of East Granby, East Windsor, Enfield, Granby, Simsbury, Suffield, Windsor, and Windsor Locks.

⁴ Geographical Area No. 14 for the state of Connecticut contains the cities and towns of Avon, Bloomfield, Canton, Farmington, Hartford, and West Hartford.

⁵ Suffolk County, Massachusetts contains the following cities and towns: Boston, Chelsea, Revere, and Winthrop

The same can also be said for the congressional districts that overlap with Suffolk County, which are rated D+18, D+34, and D+10 on the PVI (Cook Political Report 2020). By highlighting all of these similarities between the Hartford Judicial District and Suffolk County, we can establish that these locations are suitable for comparing their difference in prosecutor selection without confounds.

Prosecutors in the Hartford Judicial District, CT

The Connecticut State Constitution establishes that the Division of Criminal Justice processes all crimes. In 1897, *An Act Providing for an Attorney-General* then created the office of the Chief State's Attorney (Connecticut State Division of Criminal Justice). This position is similar to the job of an Attorney General in other states, but the Attorney General of Connecticut is responsible for all civil, not criminal, matters in the state as per Connecticut General Statute Section 3-125. However, the Chief State's Attorney may ask the Attorney General to prosecute in criminal cases on an individual basis. The current Acting Chief State's Attorney is John J. Russotto, who was appointed to the position on November 1st, 2019. Underneath Chief State's Attorney Russotto are Deputy Chief State's Attorneys who serve on four-year terms and thirteen State's Attorneys who are appointed for eight-year terms.⁶ Connecticut is one of the few states to still appoint their prosecutors after most other states changed the position to an elected position after Mississippi did so in 1832 (Ellis 2012, p.1528). Other prosecutors, such as Assistant State's Attorneys, are appointed to open-ended terms. All appointments are made by the Criminal Justice Commission, which was established by the approval of the State Constitution's 23rd Amendment in 1984. On the commission are six members appointed by the Governor and

⁶ The 13 State's Attorneys are individually responsible for one of the following Judicial Districts: Ansonia/Milford, Danbury, Fairfield, Hartford, Litchfield, Middlesex, New Britain, New Haven, New London, Stamford/Norwalk, Tolland, Waterbury, and Windham

confirmed by the Connecticut General Assembly and the Chief State's Attorney (ex-officio) (Connecticut State Division of Criminal Justice 2019).⁷

State's Attorney Gail P. Hardy has held the position of State's Attorney for the Hartford Judicial District since August 1st, 2007 when she served the remainder of Attorney James E. Thomas' term after Attorney Thomas retired. Attorney Hardy is the first African American in Connecticut's history to be appointed to the position of State's Attorney. Her partial term expired on June 30th of 2012, but she has remained in this position after having her own term confirmed by the Criminal Justice Commission. Prior to becoming State's Attorney, Attorney Hardy served as a Deputy Assistant State's Attorney for Geographical Area No. 4 in Waterbury as of February 1996. She was later appointed to Assistant State's Attorney in March of 1998 (Connecticut State Division of Criminal Justice 2019). Also, previous to serving in the Department of Criminal Justice, Gail Hardy was a probation officer and a public defender, which could color her perspective on law enforcement.

Prosecutors in Suffolk County, Massachusetts

The chief officers who are responsible for prosecuting state-level crimes in Massachusetts are District Attorneys. They were originally appointed officials, but the job was changed to an elected position after an amendment to the Constitution of the Commonwealth of Massachusetts in 1855 (Ellis 2012, p.1569). Article of Amendment XIX reads:

The legislature shall prescribe, by general law, for the election of sheriffs, registers of probate, [commissioners of insolvency,] and clerks of the courts, by the people of the several counties, and that district-attorneys shall be chosen

⁷ In addition to Chief State's Attorney Kevin T. Kane, the Commission consists of the Honorable Andrew J. McDonald (chair), the Honorable Juliatt L. Crawford, Mary M. Galvin, Esq., Eric George, Esq., Moy N. Ogilvie, Esq., and Erick A. Russell, Esq.

by the people of the several districts, for such term of office as the legislature shall prescribe (Constitution of the Commonwealth of Massachusetts).

As per this Article of Amendment, eleven districts now exist, each with their own District Attorney's Office, for which a District Attorney is publicly elected every four years. The political landscape for these seats favors the Democratic party, with Democrats being elected in nine of the eleven districts as of the last general election in 2018 (Galvin 2019). The offices of each district attorney are all independent, but are supported by the Massachusetts District Attorney Association (MDAA). The MDAA states on its website that its mission is to "to support the eleven elected Massachusetts District Attorneys and their staff, including approximately 785 prosecutors and 260 victim-witness advocates" (Massachusetts District Attorney Association 2019).

Attorney Rachael Rollins is currently serving her first term as District Attorney for Suffolk County, Massachusetts, after taking office on January 2nd, 2019. She took the place of Daniel F. Conley, who served as Suffolk County District Attorney from 2002 to 2018 (Galvin 2019). Attorney Rollins is the top law enforcement officer for Suffolk County. Attorney Rollins is the first woman to serve as Suffolk County's District Attorney and the first female of color District Attorney in Massachusetts. Prior to becoming District Attorney, Rachael Rollins was an Assistant U.S. Attorney for Boston, General Counsel for the Massachusetts Department of Transportation, and Chief Legal Counsel for the Massachusetts Port Authority. Her website biography outlines her plans on "reducing incarceration, correcting racial and ethnic disparities, adopting alternatives to traditional prosecution, focusing the offices limited resources on serious and violent crimes, and improving relationships between law enforcement agencies and the communities they serve." It is also important to note that Attorney Rollins has a website

dedicated to her position, while Gail P. Hardy does not. One possibility for this finding is that a website allows Attorney Rollins to reach her constituents through an extremely available medium (the internet). Such constituency access is something an appointed prosecutor like Attorney Hardy has no incentive to do.

While I expect that District Attorney Rollins will use her discretion differently than State's Attorney Hardy, I expect that this should especially be true following an event that focuses public opinion on certain types of crimes. I expect that the death of Michael Brown is a potential example of this kind of catalyst event.

Police Shooting Catalyst Event: The Death of Michael Brown

To measure this difference between two otherwise similar prosecutors, I introduce a catalyst event. A catalyst, as it is used in this thesis, is an event that crystalizes a specific issue into a social movement. Recent examples of such an event are the accusations (now proved true) against Hollywood producer Harvey Weinstein that sparked the #MeToo movement (Chuck 2017) or the death of Michael Brown in Ferguson that brought the Black Lives Matter movement into the spotlight (Black Lives Matter 2020). In creating these movements, catalyst events create the impetus for change, which then directly influences the relevant social or political structures (Coglianese 2001). So, by marking when a catalyst occurs, I can tell what period of time was affected by the pressures of a particular social movement.

The catalyst I use is the shooting of Michael Brown, which is tied closely to the Black Lives matter movement. Some of the major objectives of this movement are to highlight the disparity in ethnic minority, unarmed, and non-threatening victims in fatal police shootings. The use of a catalyst deviates from previous research by presenting one specific event (and the

following movement) which both prosecutors are impacted by. If I record changes in the use of discretion by either prosecutor after the catalyst event, then this supports the idea that an opinion-shifting social movement motivate discretion use by prosecutors. I clarify that, even though the catalyst may impact both prosecutors, the elected prosecutor has more incentive to act, and therefore would increase their discretion more than an appointed prosecutor would. This should especially be the case in cases where a police officer shoots an unarmed individual or an individual belonging to a minority.

Around noon on August 9th, 2014, Officer Darren Wilson of the Ferguson Police Department in Ferguson Missouri shot and killed Michael Brown, an unarmed, 18-year-old African American. According to the official press release (United States Department of Justice 2015), Officer Wilson pulled over his police vehicle after seeing Michael Brown and another individual walking in the road. Officer Wilson believed Brown and the other individual to have been involved in a theft at a local market a few minutes earlier. Upon attempting to exit his vehicle, the officer's car door was closed by Brown and he reached into the vehicle, grabbed, and then punched Officer Wilson. Wilson then took out his handgun in response, but Brown grabbed for the gun as well. In the ensuing struggle, the gun was fired twice and Brown was struck in the hand. After the gun was fired, Mr. Brown ran down the street and Officer Wilson follows. After running about 180 feet, Mr. Brown turns around and moves back towards Officer Wilson. Witness statements differed in the report as to the context of Mr. Brown's movements or what those specific movements were, but DNA evidence supported the claim that Mr. Brown did move towards officer Wilson in some capacity. As Mr. Brown moved back towards Officer Wilson, the officer fired ten shots at Brown, hitting him between six to eight times. One round struck Michael Brown in the head, killing him.

After the killing, there was extreme debate regarding whether Officer Wilson was justified in using lethal force on Michael Brown. Police officers, including officer Wilson, assert in their official statements (United States Department of Justice 2015) that Brown was attempting to “rush” Officer Wilson and that Wilson, in fear for his life due to Michael’s larger size, was justified in the use of deadly force. Many members of his community and supporters of the Black Lives Matter movement believe that Mr. Brown was attempting to surrender after turning around and Officer Wilson killed him without reason. The same Department of Justice report (2015) is a summary of the FBI investigation into the use of force by Officer Wilson and found that the DNA evidence and credible witness testimony sided with law enforcement, absolving Officer Wilson of any civil right violations.

Prior to the release of the FBI report, St. Louis County District Attorney Robert McCulloch presented the case before a grand jury for an indictment. The jury was selected from the circuit court petit jury pool in Missouri and consisted of six white men, three white women, one black man and two black women (The BBC 2014). District Attorney McCulloch’s presentation of the case to the grand jury was highly criticized, especially for overwhelming the jury with evidence and providing them with little understanding of what their role as jury members was (Lind 2014). Through all of this, the grand jury decided against indicting Officer Wilson for the shooting. The unorthodox indictment method and a failure to prosecute Officer Wilson for the death of Michael Brown sparked a nationwide movement advocating for increased accountability and regulation of law enforcement officers. Protests also took place in multiple cities after the shooting (BBC 2014).

The shooting gained immediate saliency, and the public became immensely concerned with police shootings. A national survey conducted by the Pew Research Center in August of

2014 showed that there was significant controversy over the death of Michael Brown, with 45 percent of respondents saying that they had a “great deal” or “fair amount” of confidence in the investigation following the shooting. Another 41 percent of respondents felt that they had “little or no confidence” in the investigation. Protests also erupted across the country, with some protest locations being occupied nightly following the verdict (Associated Press 2015). What started as a single police shooting became a symbol for the issues surrounding the prosecution of police officers and the killing of unarmed black men.

The killing of Michael Brown also sparked varied legislative action. At the federal level, President Barack Obama announced a plan to spend \$75 million on body cameras for law enforcement officers after the shooting and subsequent protests (Lee, Roth, & Timm 2014). These cameras are meant to be used as evidence of proper police conduct when worn by police officers in the line of duty. At the state level, laws were passed to prevent such an incident from ever reoccurring. One particularly notable law was passed in St. Louis County, but its usefulness at fighting police misconduct is criticized (Park & Wofford 2015). The two jurisdictions examined in this thesis, however, have two very different outcomes in police shooting laws.

Police Use of Force Laws in Connecticut and Massachusetts

Two pieces of Connecticut law are specifically relevant to police shootings. These are an article of statutory law, section 53a-22, and a law passed in the wake of Michael Brown’s death, Act No. 15-4. Statute 53a-22 regards: *Use of physical force in making arrest or preventing escape*. This is the statute in the Connecticut State Penal Code that governs the use of force by police officers in the line of duty. The statute explains different standards for using physical and deadly force by law enforcement (CT Gen Stat § 53a-22, 2011). So if a police officer unjustly

discharges their firearm in the line of duty, then that officer would be violating this statute. Therefore, any such violation of the law would be recorded as a conviction under this law.

Act No. 15-4, formally named: *House Bill No. 7103, June Special Session, Public Act No. 15-4, AN ACT CONCERNING EXCESSIVE USE OF FORCE*, became law effective October 1st, 2015 and addresses the issues with police use of force that were highlighted by the death of Michael Brown and subsequent high-profile police misconduct events. This act specifically addresses these issues as it was proposed and passed into Connecticut law in just two days (June 27-29th, 2015), under a year after Michael Brown was killed (OpenStates 2015). The primary topics discussed in this act are:

- The use and purchase of body-worn cameras for police officers,
- The hiring of police officers who belong to ethnic minorities, especially in locations with high minority populations,
- The refusal to hire or employ police officers who have committed significant infractions previously,
- The revision of Section 51-277a of the general statutes, which deals with the investigation of such shootings,
- And the requirement for all law enforcement units to keep records of each alleged police shooting, which falls under statute section 53a-22

The revision of Section 51-277a of the general statutes is most pertinent for analyzing Connecticut's current process for investigating deadly use of force by police. This statute, titled: *Investigation of the use of physical force by a peace officer that results in death of another person*, explains the process the Connecticut Division of Criminal Justice and Chief State's Attorney must follow in investigating a homicide by law enforcement. This law existed before Act No. 15-4. However, the law was different in wording, which left the opportunity for the exploitation of loopholes. Before being amended by Act No. 15-4, statute 51-277a explained that the Connecticut Department of Criminal Justice and the Chief State's Attorney *may* cause an investigation, the Chief State's Attorney *may* assign a designated prosecutor to the case, and

outside parties could petition the Chief State's Attorney to change the prosecutor investigating the case (CT Gen Stat § 51-277a (2012)). The law has changed now to be more definitive in requiring an investigation for every death by a law enforcement officer and that the lead prosecutor must be from a jurisdiction separate from the jurisdiction from where the killing occurred. This update forces a more diligent investigation into police shootings, almost as if in response to our catalyst (the death of Michael Brown).

Massachusetts has a very different system when it comes to laws involving use of force by law enforcement. After examining the General Laws of Massachusetts, I was unable to find any law that pertained to use of force by police officers. However, I was able to find statutes relating to death investigations and individuals resisting arrest. First statute is found under Part I, Title VI, Chapter 38, Section 4 of the Massachusetts General Laws. This law enumerates that the coroner's office is responsible for investigating the cause of someone's death through the body and that the District Attorney of that jurisdiction is responsible for the larger investigation into that individual's death (MA Gen L ch 38 § 4 (2016)). This also applies for police killings, meaning that the Suffolk County District Attorney is responsible for investigating the police after a police shooting.

The second statute is under Part IV, Title I, Chapter 268, Section 32B of the Massachusetts General Laws. Titled *Resisting Arrest*, this law explains how an individual can be charged with said crime (MA Gen L ch 268 § 32b, 2019). The statute also details that "[i]t shall not be a defense to a prosecution under this section that the police officer was attempting to make an arrest which was unlawful." By specifically enumerating that arguing a police officer was using excessive force is not a valid defense, the law makes it much more difficult to prosecute any law enforcement officer. According to *The Boston Globe* (2019), Massachusetts is

one of nine states that does not have a statute pertaining to the use of deadly force by a law enforcement officer. While this paints a somber picture for advocates against police shootings, Massachusetts district attorneys appear to comment on and sometimes investigate police shootings, as evident through press releases to the public on the district attorney's website (Algarin 2019).

In comparing the legislation in Connecticut and Massachusetts, I see two conflicting reactions to the catalyst event. In Connecticut, I saw specific legislative action through Act No. 15-4 that focused on regulating law enforcement and creating standard investigative procedures. In Massachusetts, there was no action taken and there still remains little commitment to strong investigations of deadly use of force by police officers. One fact does remain the same, however, and that is that prosecutors are one way or another obligated by law to perform an investigation. In Connecticut, this is specifically because of the nature of the case (police homicide) and in Massachusetts it is due to broader, more vague reasoning (an individual died of unnatural causes). So when prosecutors investigate these cases, I can record their outcomes and see if the sentiment propagated by the catalyst changes those outcomes.

Police Shootings in Suffolk County and the Hartford Judicial District

Preliminary data collection shows that most individuals shot and killed by law enforcement in the two jurisdictions examined were armed in some way during the incident that led to their death. The overall frequency of unarmed victims is 21.05% for the Hartford Judicial District and 11.11% for Suffolk County. It is important to recognize that two shooting victims in Hartford (one before and one after the catalyst) and one victim before the catalyst in Suffolk were armed with an airsoft or pellet gun that was changed to look like a real firearm. As Figure 1

and Figure 2 show, unarmed victims in police shootings for these jurisdictions are in the minority, but they are more frequent in the Hartford Judicial District.

Figure 1: Armed Variable Before Catalyst

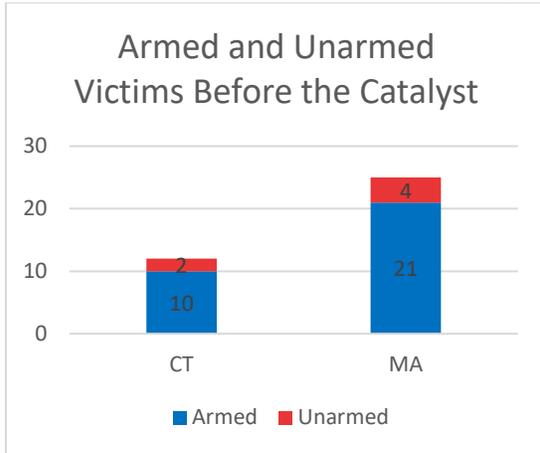
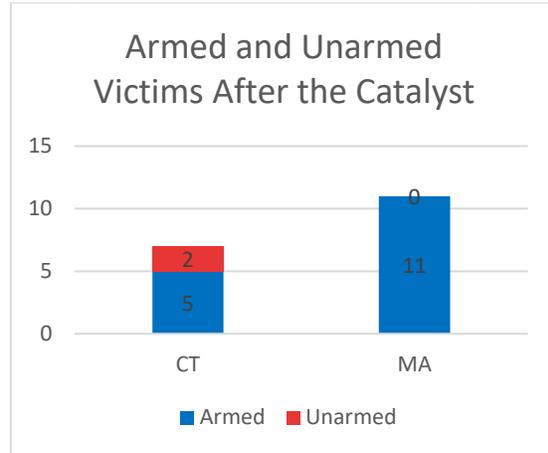


Figure 2: Armed Variable After Catalyst



When analyzing the presence of a threat in police shootings, there are similar results. In both jurisdictions, subjects who were threatening to law enforcement were in the majority. When examining police shootings in the Hartford Judicial District (Figure 3), there are only two cases where the victim was not a threat to law enforcement. This means that 10.11% of Hartford victims were not threatening. Figure 4 tells a different story. I find that police shooting victims in Suffolk County were more likely to be non-threatening than Hartford victims. Victims in Suffolk were non-threatening in 22.22% percent of police shootings.

Figure 3: Threat Variable for Shootings in Hartford

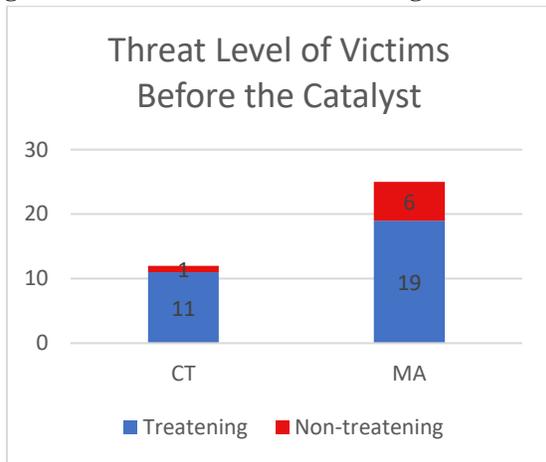
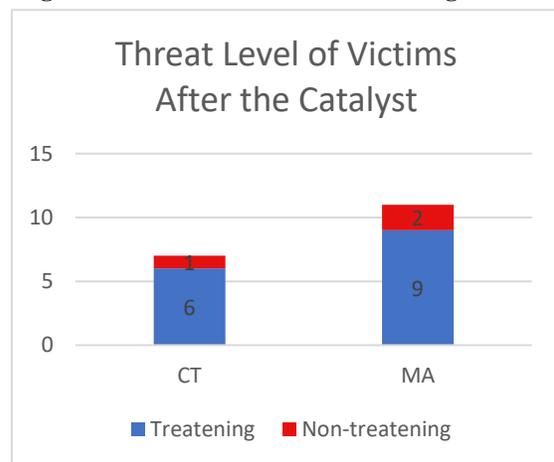
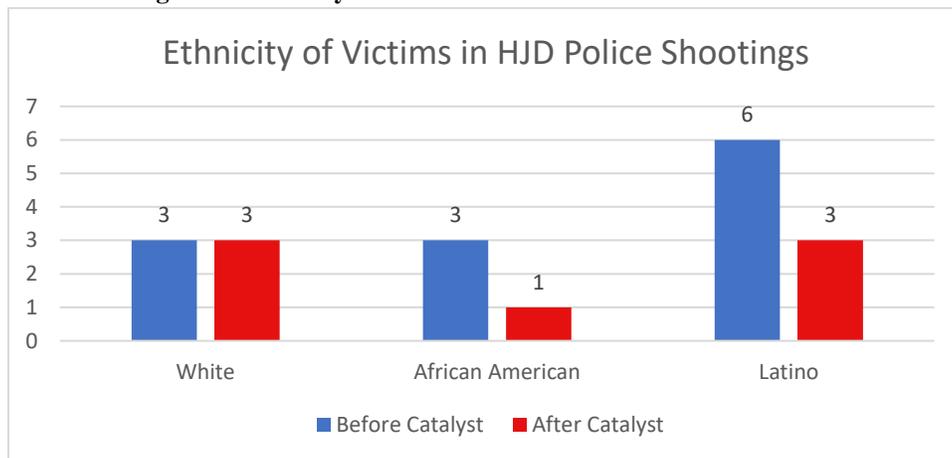


Figure 4: Threat Variable for Shootings in Suffolk



After collecting data on the ethnicity of all victims of deadly force by police, it is clear that both jurisdictions showed a skew towards minority victims. Figure 5 shows that, in the Hartford Judicial District, 13 of the overall victims (68.42%) were identified as African American or Latino. This frequency decreased from 9 in 12 (75%) to 4 of 7 (57.14%) cases in Hartford after the catalyst.

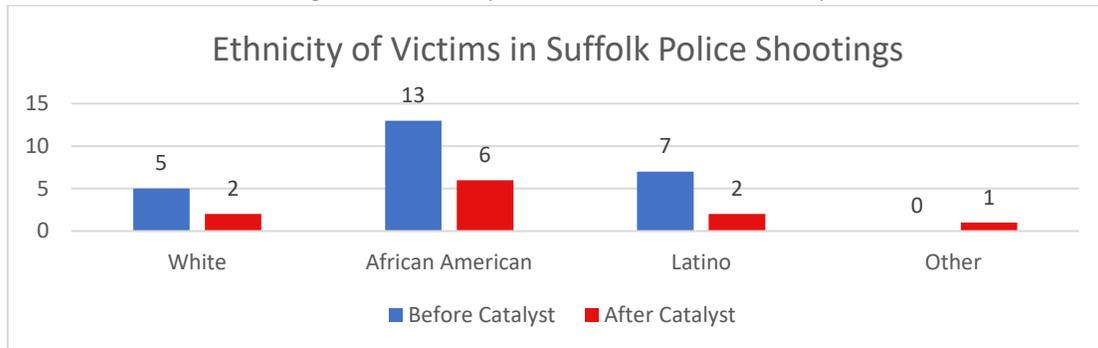
Figure 5: Ethnicity of Victims in the Hartford Judicial District



The amount of minority victims was greater in Suffolk County, both in number and frequency. Suffolk had 80% (20) minority victims before the catalyst and 75% (9) minority

victims after. The ethnicity with the most victims of police shootings both before and after the catalyst was African American. There was only one individual in the whole dataset who was not identified as White, African American, or Latino. This individual was identified as Middle-Eastern.

Figure 6: Ethnicity of Victims in Suffolk County



Figures 5 and 6 show that the majority of police shootings in both jurisdictions belonged to a minority. In the Hartford Judicial District, the single most frequent ethnicity was Latino. In Suffolk County, the most frequent ethnicity was African American. This exposes a significant disparity between the population diversity and the diversity of police shooting victims. In a reproduction of part of Figure 7 from the appendix, 44.9% of people in Suffolk County and 56.65% of people in the Hartford Judicial District are ethnically white (not Latino). However, only 31.58% (6) of Hartford Judicial District cases and 19.44% (7) of Suffolk County had ethnically white victims. This goes directly to the issues raised by the Shooting of Michael Brown. Movements like Black Lives Matter take direct issue with this disparity, showing that the disproportionate number of minority victims in police shootings is ample enough motivation for the social movement borne from the catalyst. This means that our catalyst should motivate citizens of both jurisdictions and any difference in cases before and after the catalyst can be correlated with a valid shift in public sentiment.

Figure 7.1: Ethnic Demographics for Suffolk (Red) and Hartford Judicial District (Blue)

White alone	61.50%	65.49%
Black or African American alone	24.70%	17.74%
American Indian and Alaska Native alone	0.70%	0.33%
Asian alone	9.30%	5.85%
Native Hawaiian and Other Pacific Islander alone	0.20%	0.03%
Two or More Races	3.60%	3.50%
Hispanic or Latino	23.40%	18.15%
White alone, not Hispanic or Latino	44.90%	56.65%

Research Design

I started by collecting all available information on police shootings in general, primarily through newspaper databases. I was able to compile a database of almost 35,000 incidences of use of force by police in which death resulted.⁸ The collections I used to assemble my dataset varied in the years recorded, geographical area covered, and completeness of data entries. In addition to conducting manual internet searches of supplemental information, my original database consisted of entries from *The Washington Post's Fatal Force*,⁹ *The Guardian's The Counted*,¹⁰ *Fatal Encounters.org*,¹¹ *shotbypolice.blackstonian.org*,¹² and the State of Connecticut's *Reports on the Use of Force By Police Officers*.¹³ I then sorted through my database and extracted cases pertaining only to Massachusetts and Connecticut, leaving me with 321 cases. I further narrowed down my cases to those that took place in the geographical location of Suffolk, Massachusetts and Hartford, Connecticut or were investigated/prosecuted by District Attorney Rollins and State's Attorney Hardy. I also sorted out cases that involved off-duty officers, private security guards, and suicides while interacting with law enforcement. After

⁸ The enumerated databases have a combined total of 34,987 original data entries.

⁹ This database contained only cases from 2015 to the present

¹⁰ This database contained only cases from 2015 and 2016

¹¹ This database contained only cases from 2000 to the present

¹² This database contained only cases in Boston, MA from 1973 to the present

¹³ This database contained only cases from 2001 to the present

filtering the cases, my universe of cases shrunk from 35,000 cases to just 55, 36 for Suffolk County and 19 for the Hartford Judicial District. All of my cases, after being compiled into one place, were organized chronologically and by variables relevant to the shooting and any subsequent investigations.¹⁴ A list of these variables can be found in List 1 in the appendix.

For Massachusetts cases, I relied heavily on traditional media: both online news stories and the databases above. This was necessary due to the lack of any accessible records relating to police use of force in Massachusetts. Without a law or procedure to guide my search for cases, only official statements by the District Attorney and “informal” information from news media revealed the circumstances of each police shooting. Other avenues of data gathering were used, but they proved to be fruitless.¹⁵ Information for police shooting cases in Connecticut was similarly difficult to obtain.¹⁶ A Connecticut government website proved to be fruitful, however. In relation to Section 51-277a, there was a webpage that collected investigations on deadly use of force by law enforcement officers in Connecticut. This was the only government-published set of data that supplemented my collection from media databases.

My catalyst event for is the death of Michael Brown in Ferguson, Missouri. Michael Brown was shot and killed by Officer Darren Wilson of the Ferguson Police Department on August 9th, 2014. The subsequent investigation found that Officer Wilson was justified in his shooting of Mr. Brown. The public backlash was significant, and organizations calling for police

¹⁴ An example portion of which is reproduced as Figure 8 in the Appendix.

¹⁵ I emailed the Boston Police Commissioners Office on February 10th for any information or documents relating to investigations of police shootings, but my email was redirected on February 11th to the Boston Police Department and as of writing, was never responded to. I also attempted to reach out to the office of District Attorney Rachel Rollins, but the only contact information available for her was a street address and a telephone number, through which I was unable to collect any relevant information.

¹⁶ I called many individuals in the Connecticut Judicial System, including the Hartford Judicial District Clerk’s office, the Office of Judicial Statistics, and State Attorney Hardy’s Office. The Clerk’s office would not allow me to advance past an automated pick-up system without an extension number, the Clerk’s office redirected my call to another department, and the State Attorney’s office refused to discuss anything related to cases. I also visited the University of Connecticut School of Law Library to conduct in-person research. Here I learned that such data is not commonplace and no law professors conducted research on this topic.

conduct reform became popular (Black Lives Matter 2019, BBC News 2014). The primary demand that I will focus on is the increase in accountability for police officers when using force (deadly or otherwise) while performing their duties. This catalyst is unique, as it presents the conflict between prosecuting someone that you work with and having the public advocating for strong punishment of police officers. The “courtroom family” is a strong bond, as prosecutors often work very close with police officers throughout any criminal case. So, when it is those same officers you are forced to prosecute, the conflict of interest could produce some interesting findings.

I start comparing the cases from both prosecutors by dividing cases as before or after the catalyst. Cases in 2014 and earlier are considered before the catalyst and cases in 2015 and after (until 2019) are considered after the catalyst. After I have separated all of the relevant cases for both time frames, I will reorganize the data into binary variables for easier analysis.¹⁷ This is followed by extracting information regarding three different parts of each case where prosecutors are able to exercise discretion.

The first stage where prosecutors may use discretion is in the investigation that follows an alleged crime. A prosecutor, as a representative of the state, is the individual that conducts the initial investigation into a death caused by deadly use of force by law enforcement. When this investigation is complete, a prosecutor comes to one of two conclusions: That there is evidence that the police were not justified in their use of deadly force, or that there is no such evidence and the use of deadly force by police was justified. The outcome of this choice is recorded as the Investigation Outcome variable. Using this data, I will calculate the average number of cases investigated per year (total and per district) and the number of cases where the shooting was

¹⁷ An example and an explanation of all of the codes used is in the Appendix as Figure 9 and List 2 respectively.

found unjustified after an investigation (total and per district). The investigation outcomes will be further separated by before and after the catalyst event.

The following step of the judicial process followed by a prosecutor is the decision to file charges and bring the charges before a grand jury. If a prosecutor believes there to be evidence of a crime, then they will encourage an indictment by grand jury or file an information without the use of a grand jury. A prosecutor will not pursue an indictment when there is a lack of evidence from an investigation or there is not enough of a case to offer proper charges. So, by counting the number of indictments or grand jury presentations for my cases, I can see the initial volume of cases that enter the legal system and pass a prosecutor's initial investigation (Stanko 1982). These will be reproduced in comparison bar graphs using cross tabulations of the Charges Brought variable and the CT (location) variable and further separated before and after the catalyst event. The number of successful indictments (and indictments in general) will show us how frequently a prosecutor is willing to "go to court" over each police shooting.

I next focus on the trial outcomes for all cases after the police shooting was found to warrant a charge. Because the prosecutor is the primary agent for the state in a criminal trial, it is their actions and expended resources strongly influence whether a case is won or lost. Prosecutors will spend more resources (like time and effort) on cases that they believe to carry more weight or be more important. This means that, amongst natural variation in the "difficulty" of a case, an increase in successful prosecutions is reflecting of increased resource output from prosecutors. Other points of interest from this stage are the cases that do not reach a conventional conclusion. Cases that become *nolle prosequi* (*nolle*) are amongst the cases that are lost between the gap of charging a crime and an eventual sentence (Albonetti 1986). Another possible conclusion to a case is the plea deal. A plea deal dramatically shortens the time a case spends in

the courtroom and ends with a guilty verdict. Plea deals are usually employed when prosecutors are less confident in their case or for the sake of speeding up the case. This round of cases will be analyzed for how often a guilty verdict is reached, how often a plea deal is made, and how often a case becomes “nolle”. Recording trial verdicts will tell us about the prosecutor’s willingness to pursue a case that they may be less confident or less interested in.

The third type of data I note is any sentence handed down to convicted police officers. Many crimes have an upper bound, lower bound, or both to the punishment or fines that can be delivered for each specific crime. This is usually a range in from minimal sentencing, like probation, community service, or a few hundred dollars all the way up to maximum sentences like life in prison, capital punishment and hundreds of thousands of dollars. Most crimes have a very narrow range of possible sentences, but any difference in the severity of sentence that a prosecutor advocates for can be indicative of how serious a prosecutor believes the crime to be. Other factors that influence the severity of the sentence are criminal history and the presence of a plea deal. If a defendant has committed this type of crime before, then they are more likely to receive a harsher sentence the next time they are prosecuted. Also, plea deals carry lighter sentences than what is usually found after jury trials (Jones 2018), which means it will be helpful to me to separate sentences by plea and by trial. By looking at sentence variation, I expect to see harsher sentencing for the same crime from elected prosecutors when the public finds a crime to be more of an issue. By compiling average sentences for the convicted police officers, I will be able to confirm if elected prosecutors advocate for “harsher” sentences than appointed prosecutors do for the same crime.

I also analyze the time it takes for each police shooting to resolve. This will be done by using the date of the shooting as the start date and the date of the official verdict (by news media

or official press release by prosecutors) as the end date. By measuring how long between the death of the subject and the conclusion of the case, we can surmise how much of their resources each prosecutor puts into investigating and prosecuting each case. Due to the nature of the state prosecutor's job, they experience incentives them to resolve cases in a timely manner. I can then extrapolate that a case that is resolved quickly has more resources allocated to it, and a case that takes longer to resolve has fewer resources. So, by comparing the average length of time it takes for cases to resolve before and after the catalyst event, we will know if the catalyst encouraged prosecutors to deploy more resources to these cases.

Despite the similarity in my two case prosecutors, I am aware that there is the possibility of confounds in my results. My primary concern is the personal attitudes and beliefs of a prosecutor could also affect their decision to use discretion. If a prosecutor makes the decision to pursue a case due to their individual motivations, then this could confound any claims to an external motivation. Such bias would have to be discovered through official statements by the prosecutors or through media sources. This would only become an issue with appointed prosecutors, as internal motivations could cause shifts in prosecutor discretion that mimic the shifts caused by an external motivation for an elected prosecutor. As Attorney Rollins was elected as a member of the Democratic Party and Attorney Hardy was appointed by a committee appointed by the democratically held executive branch of the government of Connecticut, this type of confound is unlikely, but still an issue to be aware of.

I must also be conscious to note that older cases do not take place when Attorney Hardy and Attorney Rollins are in office. This means that older cases may have been overseen by a different prosecutor. This should not pose an issue, as it is the nature of the office (elected or appointed) that creates the incentive of political accountability in Suffolk county and not in the

Hartford Judicial Districts. In fact, having these two women in office after the death of Michael Brown and subsequent protests should allow me to find stronger results. Gail Hardy is the first person of color to be appointed as a state's attorney and Rachael Rollins is the first women to serve as the Suffolk County District Attorney and the first female of color to serve as a district attorney. Both attorneys, as women of color, have a closer relationship to the issue of police shootings, especially through the lens of the Black Lives Matter Movement. I believe that this connection would further incentivize both prosecutors to pay close attention to, and distribute more resources to, cases of use of deadly force by police.

Another possibility that must be accounted for is the increase in community prosecution. As explained by previous literature, community prosecution aims to bring a community closer to their district prosecutor and increase community involvement in the prosecution of important crimes from their district (Thompson 2002). Such programs could create a separate level of external accountability that acts similarly to political accountability through elections. However, these programs should not be an issue in the particular study locations, as I have found evidence that community prosecution has existed in the Boston area but not in Hartford (Forst 2000, p.139). This Boston program was some time ago, under DA Ralph Martin II, in the 1980s. Additionally, this instance of community prosecution was aimed at reducing crime, specifically in the juvenile population. Because this program does not affect my cases in both time-frame and type of crime, there should be no issue with community prosecution acting as a confounding variable.

Data Analysis

After collecting all relevant incidences of police use of deadly force which resulted in a death, I was left with a total of 55 cases overall. I broke the data down by jurisdiction and then by before and after the catalyst event. Additionally, I calculated the average number of cases handled annually by both prosecutors.¹⁸ In Table 1, Suffolk County had more shootings than the Hartford Judicial District as a whole, before the catalyst, and after the catalyst. Massachusetts also had more cases per year overall, before the catalyst, and after the catalyst. However, both jurisdictions reported an increase in average number of cases per year after the catalyst event occurred.

Table 1: Findings on Use of Deadly Force by Police in Suffolk, MA and Hartford Judicial District, CT

General Statistics:	Hartford JD	Suffolk
Number of Cases (#)	19	36
Cases Before Catalyst	12	25
Cases After Catalyst	7	11
Average Cases per year	1.12	1.80
Average Cases per year Before Catalyst	1	1.66
Average Cases per year After Catalyst	1.40	2.20

Hypothesis 1: Investigation Outcomes

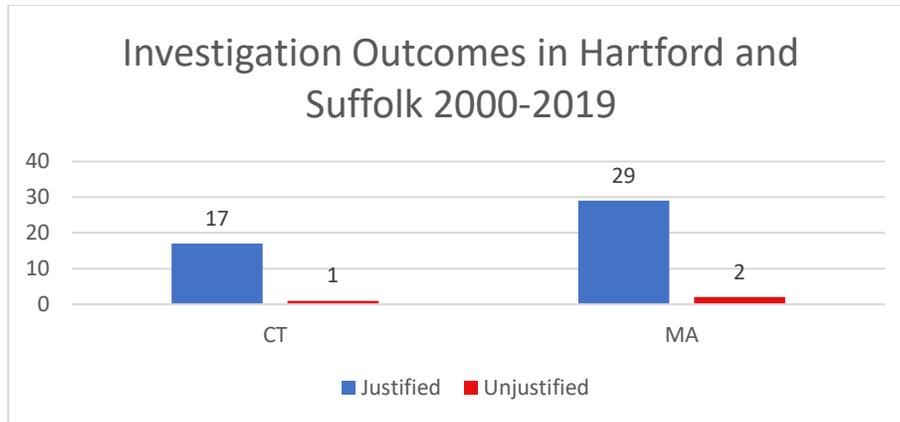
In H1 I hypothesized that after the catalyst event, elected prosecutors will be more likely to conduct investigations into police involved shootings that result in findings of wrongdoing than appointed prosecutors. If this is true, then we should see the number of unjustified shootings go up more in Suffolk county than in Hartford county.

On average, investigation outcomes for all cases showed the overwhelming majority of use of deadly force cases are found to be justified following an investigation. Overall, 45 of the

¹⁸ All outcomes are rounded to the nearest hundredth (.01) after calculation (if applicable).

48 concluded cases resulted in the shooting being justified. Shown in Figure 10, Suffolk County has 29 justified cases and 2 unjustified cases. At the same time, the Hartford Judicial District had 1 unjustified case and 16 justified cases.

Figure 10: Investigation Outcomes in Hartford and Suffolk for All Cases¹⁹



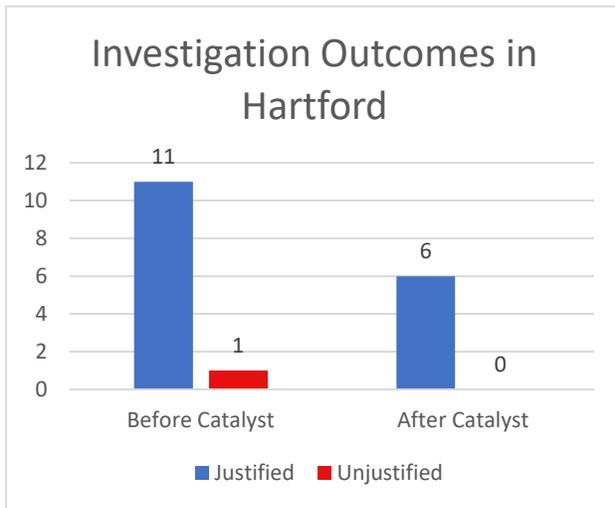
The Pearson χ^2 for figure 10 was 0.0159 and a P-value of .90

More importantly, there is no evidence that these patterns differed between the states, either overall or after the Michael Brown shooting.²⁰ In the Hartford Judicial District, the 17 total completed cases were divided as 12 cases before the catalyst and 5 cases after. Of all cases in Hartford, the one case that was found justified occurred before the catalyst. In Suffolk County, we found similar results. Twenty-five of the 31 resolved cases occurred before the catalyst and 6 resolved cases occurred afterwards. Only two resolved cases were found to be unjustified shootings and they both occurred before the catalyst event.

¹⁹ See Table 2 for relevant cross tabulation.

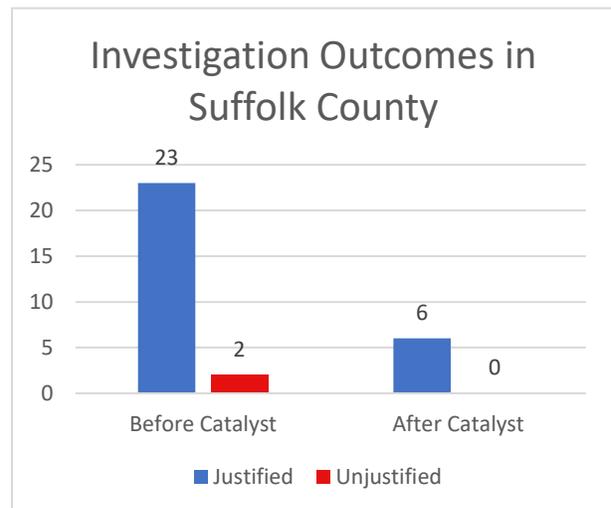
²⁰ For both Figures 11 and 12, see Tables 3 and 4 in the appendix.

Figure 11: Investigation Outcomes in Hartford



$\chi^2 = 0.0012$ probability = .972

Figure 12: Investigation Outcomes in Suffolk



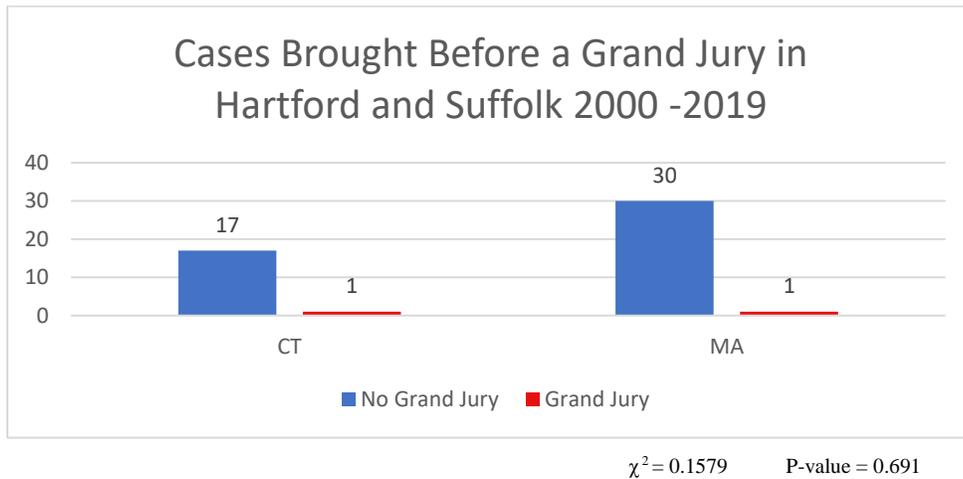
No χ^2 value or probability: no variance in data

Hypothesis 2: Indictments

In H2 I hypothesized that after the catalyst event, elected prosecutors will be more likely to indict police officers involved in deadly shootings than appointed prosecutors. If this is the case, then we should see the number of indictments go up more in Suffolk county than in Hartford county.

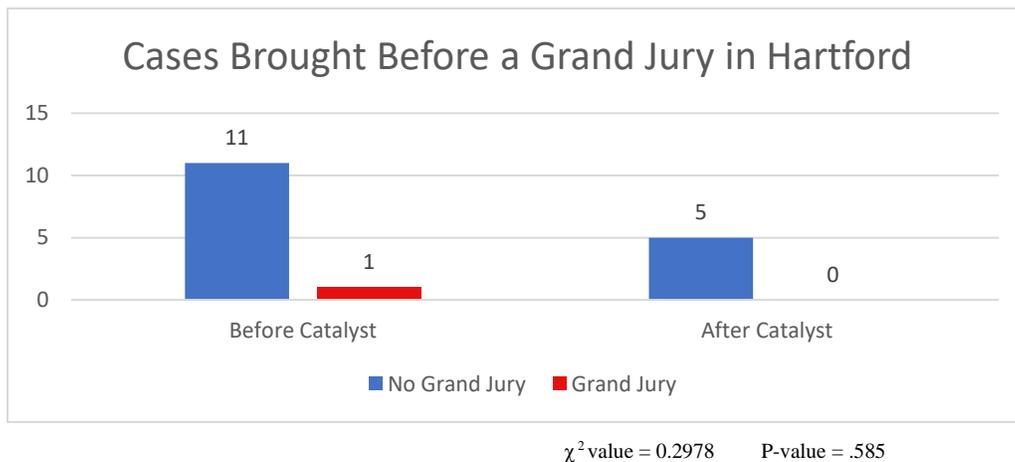
When analyzing the frequency of indictments, I also see most cases not being sent to a grand jury for indictment. Of the 48 completed cases, only 2 overall were brought to a grand jury to seek an indictment, once in each jurisdiction. As indictment can only occur after an investigation finds the shooting unjustified, two of the three “unjustified cases” advanced to the next stage of the judicial process. This means that one of three cases (one from Suffolk County) strayed from the conventional judicial process. The findings here were also not significant.

Figure 13: Cases Brought Before a Grand Jury by Location²¹



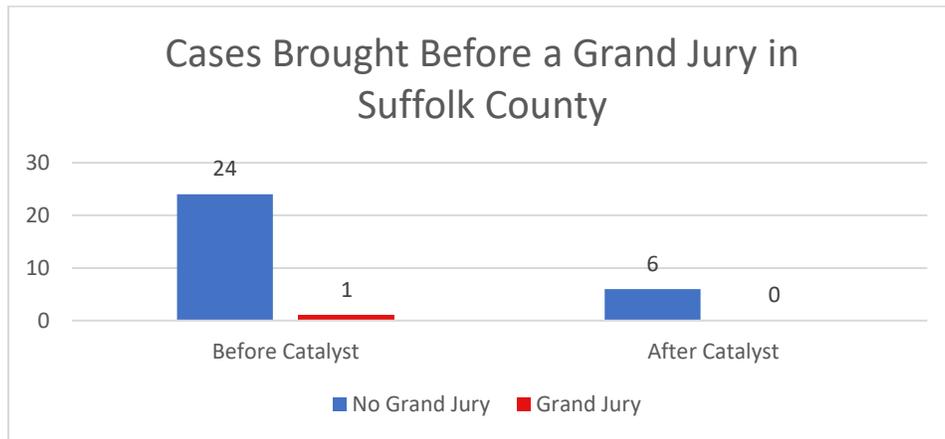
The cases were further distributed as before and after the catalyst event by jurisdiction.²² In doing so, I found no results of statistical significance. In my analysis of Cases Brought Before a Grand Jury in the Hartford Judicial District, 12 cases occurred before the catalyst and 5 occurred after. The one case that was brought before a Connecticut jury occurred before the catalyst. Suffolk County cases presented similarly, as Figure 15 shows that the only case that was brought before a Massachusetts jury occurred before the catalyst.

Figure 14: Cases Brought Before a Grand Jury in the Hartford Judicial District



²¹ See Table 5 for relevant cross tabulation.

²² For both Figures 14 and 15, see Tables 6 and 7 in the appendix.

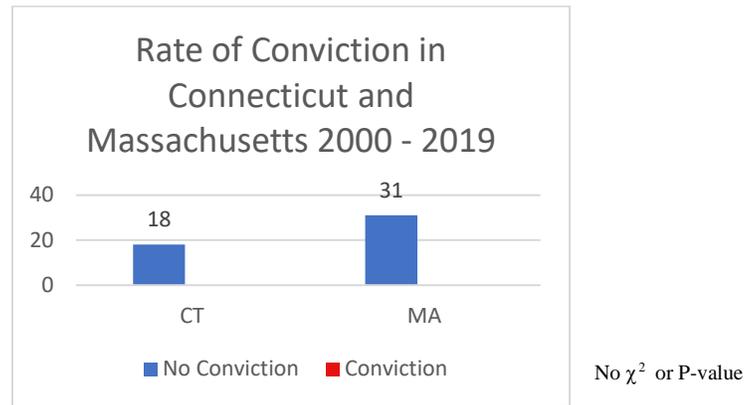
Figure 15: Cases Brought Before a Grand Jury in Suffolk County

No calculable probability due to lack of variation in responses

Hypothesis 3 and 4: Convictions and Sentencing

Hypotheses three and four stated that after the catalyst event, elected prosecutors will be more likely to convict police officers involved in deadly shootings and ask for harsher sentences than appointed prosecutors. If this is the case, then we should see the number of convictions go up more and sentences become harsher in Suffolk county than in Hartford county.

The results for both convictions and sentencing were very simple, as there were no convictions or sentences to analyze. All cases collected from Suffolk County and the Hartford Judicial District did not result in a conviction. Of the two cases that did make it into a courtroom (brought to a grand jury), only one went through a full trial. In this case, the officer involved was obviously acquitted. As apparent from Figure 16, the lack of variability in responses does not allow for a χ^2 or P-value statistic of convictions. Due to the lack of convictions, total average sentence for all cases is not applicable and thus not calculable.

Figure 16: Convictions by Location²³

Hypothesis 5: Case Resolution Time Frame

I hypothesized in H5 that after the catalyst event, elected prosecutors will resolve deadly police shootings faster than appointed prosecutors. If this is the case, then we should see the case resolution time span decrease more in Suffolk county than in Hartford county.

After calculating the average time span of resolutions, there was some notable difference between jurisdictions and time periods. Suffolk County time spans were much shorter than the time spans in the Hartford Judicial District overall, with Suffolk time spans being 57.55% smaller than Hartford time spans. Before the catalyst event this disparity was greater, with Suffolk time spans being 68.96% smaller than Hartford time spans. The trend changes for cases after the catalyst, however. Both jurisdictions saw a decrease in average time span for case resolution, but Hartford cases now had a shorter time span than Suffolk cases. Table 9 shows us that average time span for Suffolk cases went down from 551 days (about a year and a half) before the catalyst to 509.8 days (about 1.4 years) after the catalyst, a decrease of 7.48%. The same table also show a downward trend for the Hartford Judicial District, but much more drastic than the one in Suffolk County. Hartford went from an average case time span of 1775.08 days

²³ See Table 8 in the appendix for corresponding cross tabulation.

(about 4.86 years) before the catalyst to just 274.5 days (less than a year) after the catalyst. This is a significant decrease of 84.54 percent.

Table 9: Case Resolution Average Time Spans

Resolution Averages	CT	MA
Time before Resolution (Average in Days)	1274.89	541.19
Time Before Catalyst (Average in Days)	1775.08	551
Time After Catalyst (Average in Days)	274.5	509.8

Discussion

Contrary to my expectations, both the appointed and elected prosecutors showed no difference due to selection method and they were not impacted by social movements that change public opinion. Before the shooting of Michael Brown (our catalyst event), both states mostly had cases that stopped at the investigation. In the Hartford Judicial District, only one incident was found to be the fault of police officers. In Suffolk County, this was the case with two incidents. Suffolk also had more cases before the catalyst, more than double the number of cases in Hartford at that time. Additionally, the cases in the Hartford Judicial District took significantly longer to resolve. Hartford cases at this time took over three times as long to resolve, showing there is a strong possibility that the appointed prosecutor (Gail Hardy) utilized fewer resources on police shooting investigations than the elected prosecutor (Rachael Rollins).

After Michael Brown was killed, I found little change in the outcomes in cases from either jurisdiction. Suffolk county still had more police shootings and the vast majority of investigations found police were justified in their use of force. One change that did occur showed an even stronger bias towards law enforcement, as not one police shooting in either jurisdiction has been found unjustified after the death of Michael Brown. Another change was that the

Hartford State's Attorney now took less time to resolve cases than the Suffolk District Attorney, meaning the appointed prosecutor now used more resources to resolve cases where the police used deadly force.

In both locations and time frames, it is obvious there is a skew to finding the police justified in their use of force. The transition to post-catalyst cases shows that this bias was even worse as unjustified shootings before the catalyst decreased to zero. One outcome that did show a positive change was in the average resolution time span. Both jurisdictions saw faster "turnover" in prosecutor investigations following the catalyst, but it was the change in the Hartford Judicial District that takes the cake. Going from an average turnover time of almost five years (pre-catalyst) to under a year (post-catalyst) created a very noticeable change. Additionally, the resolution date for many cases in CT were recent, most notably her decisions late last year on four older cases. This revelation in local newspapers sparked outrage amongst the local population, an investigation by the state's Criminal Justice Commission, and updates to policy for police use-of-force investigations (Rondinone 2019). This specific instance argues against my research question and shows that even non-elected officials still have incentives to use discretion and appease the public.

After reviewing the data, my hypotheses were unsupported by the data. My first hypothesis posed the assertion that, if a catalyst event shifts public opinion, then there will be an increase in investigations by the elected prosecutor that find the police at fault and the appointed prosecutor would see no or very little change. This was incorrect, as the number of investigations finding fault with police actually decreased to zero and cross tabulations found no significant results.

My second hypothesis examined prosecutors bringing charges to a grand jury for indictment. This hypothesis could not be supported because, as with the investigations, the number of cases that reached the indictment stage decreased to zero. Cross tabulations also calculated no statistical significance, once again providing me with null results.²⁴ This is interesting primarily because a grand jury acts as a check on prosecutors. By vetting a case and any relevant evidence amongst a jury of citizens, the prosecutor's discretion is limited by what the public deems acceptable. So, if a prosecutor wants to pursue a case on flimsy evidence, then a grand jury can choose not to indict someone due to lack of evidence. The reverse of this is not true, however. Because prosecutors in these two jurisdictions are not mandated to present these cases to a grand jury, there is no way to make a prosecutor do so even when the evidence would otherwise merit a charge. This raises questions of prosecutor bias in refusing to indict officers, even after a catalyst increases public encouragement of this action.

Both the third and fourth hypotheses were not supported by the data for similar reasons. My findings for these hypotheses are complicated, as there were no convictions or sentences to speak of before or after the catalyst event. My hypotheses suggest that there would be an increase in convictions and harsher sentencing given under the elected prosecutor and little to no change under the appointed prosecutor. So, since there was no increase (from zero) in either convictions or sentence severity, H4 and H5 are unsupported.

My final hypothesis regarded average time span of case resolutions. This hypothesis was also unsupported by the results produced by this thesis. The overall findings were that the Hartford Judicial District saw a massive decrease in resolution time span while Suffolk County

²⁴ See Table 5 in the appendix for relevant cross tabulation.

experienced a smaller decrease in resolution time span. This does show that any prosecutor, when sufficiently motivated, can drastically change outcomes if they utilize enough resources.

The findings of this thesis carry important implications on the broader topic of prosecutors, as well as selection methods and political accountability. The most straightforward results from this study are that prosecutors, regardless of selection method, do not change their use of discretion when faced with an event that changes the opinions of their constituents. Selection method then appears to be a moot point when it comes to prosecutorial discretion, contradicting the previous findings (Pritchard 1986, Valenti 2011). My findings also show that research on discretion for other components of the judicial system, such as Bandyopadhyay, McCannon, and Lim's work with judges, does not hold for prosecutors. Articles critical of discretion use by prosecutors are supported by this research, such as Stahly-Butts & Robinson's 2017 work, which deals directly with race bias amongst police officers.

My findings also show that political accountability through elections might not necessarily be impacted by social movements and their influence on the ordinary voting citizen. When reexamining my catalyst, I can see why this might be the case. Surveys regarding police use of force and the circumstances of Michael Brown's death showed that, while there was general distrust in the subsequent investigation into Mr. Brown's death, there were just as many people who had complete faith in the judicial process and its verdict (Pew Research Center 2014). Because the issue was so polarized, a prosecutor interested in the opinions of their constituents might see no reason to change their practice. It was only after extreme pressure in both the media and from her superiors that Gail Hardy mustered the resources to address complaints about her tardy investigations. This means that even when public opinion is decisive, we might not see any reaction from appointed or elected prosecutors.

It is important to note that I contextualize my findings under the assumption that police use of deadly force is always or frequently unjustified. This comes from finding that many of these cases contain stories of individuals with mental illness,²⁵ or police working off of their “gut instinct”²⁶ (Hardy 2016, Hardy 2020). Despite these cases, there are inevitably situations too dangerous requiring police officers to defend themselves with deadly physical force. All official reports are narrated to highlight that police use deadly force in fear of their lives or the lives of their fellow officers, meaning that they are justified in their killing. Despite this, other facts I discover sometimes contradict this narrative. This is why determining real justification is so difficult, and why the issue of police use of force can be so divisive.

After conducting a study in a niche with little previous research, I have realized many ways in which this thesis was vulnerable. The most important limitation in this study was the “small N” problem. The data needed for my study was present, but there were not enough police shootings in either jurisdiction to conclude a hypothesis to any degree of statistical significance. This exposes an irony I have found in many areas of study in political science: we as humans do not wish ill on anyone, but we as researchers wish ill to occur (for the sake of research, of course). In order to make more confident conclusions, I needed more data.

Another limitation to this study was the issue of completeness. Data regarding use of deadly force by police was difficult to find and not readily accessible. While Connecticut did have a registry of investigations into police use of deadly force, it was hard to find and only provides the conclusions found by a prosecutor’s investigation. So, when an investigation finds a

²⁵ On November 21, 2007, 38 year old Marquis Barker was shot and killed by Boston Police after Mr. Barker’s wife called the police. She explained that he was behaving irrationally and was mentally disturbed. Upon arriving to the scene, Mr. Barker was holding a weapon and asking to be shot. After somehow stealing a police cruiser, he was shot and killed. The weapon he had been brandishing was a pellet gun.

²⁶ On April 20, 2019, 18-year-old Anthony Vega-Cruz was shot and killed by Wethersfield Police Officer Layau Eulizier. His death came after Officer Peter Salvatore pulled over Mr. Vega-Cruz after his vehicle “aroused Officer Salvatore’s suspicions.” It is important to note that “In spite of his suspicions, Officer Salvatore never reported the vehicle or requested back-up from other officers to assist in dispelling his suspicions.”

police shooting unjustified, then I resorted to secondary sources, such as newspapers or blogs, to see how the case continues. In Massachusetts, the lack of information is also evident. The website for District Attorney Rollins does contain a “Press Release” section, but it only applies to press releases for DA Rollins, not any of her predecessors. This again forced me to use newspapers and other online databases for the bulk of my findings. While I was appreciative of the data these sources provide me with, I have no way of knowing how complete any one source is, and whether each entry is accurate. I did find some instances where small details were misreported, but never something that would have impacted my overall findings.

While compiling my data, I came across many datasets that focused on other datapoints in relation to police shootings. I report that I collected these pieces of information in my research design, but did not use them in any of my conclusions. In collecting this data, I did perform some simple statistical measures to see if there was anything I could integrate into this thesis. While some of the data was not able to assist in answering my research question, it provided information on demographic and contextual factors to the police shootings I studied. Table 10 is a compilation of demographics for all of the shootings. I found some interesting trends, without any complex analysis, like the fact that almost all of the victims are male. Further research highlighting inherent police bias could be strengthened by collecting this type of data.

Table 10: Demographic Statistics for All Cases by Location

Demographics	CT	MA
Subject's Age (Average in years)	31.11	32.75
Subject's Gender Male	100.00%	91.67%
Subject's Gender Female	0.00%	8.33%
Subject's Ethnicity White	31.58%	19.44%
Subject's Ethnicity Black	21.05%	52.78%
Subject's Ethnicity Latino	47.37%	25.00%
Subject's Ethnicity Other	0.00%	2.78%

Another avenue of research possible with the additional data I collected is the contextual factors surrounding each use of deadly force by police officers. Table 11 lists the frequency of these contextual factors for each state. This table also has some striking statistics that can inspire future avenues of research. One possible configuration for such a study is to collect data such as this for all cases in a chosen jurisdiction, and then attempt to correlate different factors with increased likelihood of an investigation finding police officers at fault. Variables that would be interesting to analyze from the table below would be: Mental Illness, Subject Fleeing (on foot and vehicle), and Body Camera. By studying when these variables are present trends in the contexts of police shootings can predict if a police shooting is found to be justified or unjustified.

Table 11: Contextual Factors for All Cases by Location

Shooting Context	CT	MA
Symptoms of Mental Illness	36.84%	22.22%
Subject Unarmed	21.05%	11.11%
Subject Armed Knife	31.58%	25.00%
Subject Armed Firearm	21.05%	50.00%
Subject Armed Vehicle	21.05%	13.89%
Subject Armed Other	10.53%	2.78%
Subject Armed Disputed	0.00%	11.11%
Subject Not Fleeing	68.42%	58.33%
Subject Fleeing Foot	5.26%	13.89%
Subject Fleeing Vehicle	26.32%	27.78%
Subject Threatening	89.47%	77.78%
Subject Threat Disputed	0.00%	8.33%
Body Camera	5.26%	2.78%

A third form of research that could grow from this study is one with a broader research area. This thesis focuses on just two jurisdictions, but if that scope were expanded, even just to the state level, then I believe this could solve the “small N” problem I discussed earlier. The design of such a study would have to study appointed and elected prosecutors as a group, but it would provide significantly more police shootings to add into the final analysis. If a study were

conducted on an even larger scale, regional or even national analyses could be made. Larger studies would have to focus more on changes before and after the shooting of Michael Brown and less on the differences between jurisdictions.

Following studies can also focus on a more unique perspective on the law by way of “extrajudicial justice.” This implies that cases may be resolved outside of the traditional pathway of criminal law. The most common example I found was to sue police officers or their departments for the death of the subject. Civil suits are different from criminal prosecutions primarily in that the burden of proof is lighter and that civil suits do not require a prosecutor to press charges. While appearing unorthodox, this form of seeking justice (in the eyes of the families of the victims) was used on more than one occasion in my data (Engelhardt 2019; Rondinone 2019). Any of these proposed studies would expand the research area and add to the relatively small current literature pool.

Conclusion`

This thesis assessed the impact that methods of selection had on prosecutors, particularly in relation to a catalyst event. I then introduced the prosecutor: a component of the judicial system that is present in a case from indictment to sentence. I also explained how prosecutors wield a powerful privilege called discretion. This discretion allows prosecutors to make decisions on the outcome of the cases they prosecute, even allowing them to completely drop charges at any point in the judicial process.

I researched my question by collecting literature on prosecutors, political accountability, and selection methods. In doing so, I learned that there is very little research on how discretion use differs amongst appointed and elected prosecutors. To supplement the research I did find, I

looked to Judges, who are parallel actors in the judicial system. This research showed me that elected judges are more likely to utilize their discretion towards outcomes that are preferred by the constituents that elect them. By applying this research to prosecutors, I believed that I would also find similar results for elected prosecutors after public opinion was swayed by a social movement.

For this study I chose to look at State's Attorney Gail P. Hardy, who has jurisdiction over the Hartford Judicial District in Connecticut, and District Attorney Rachael Rollins, who presides over Suffolk County in Massachusetts. I provided background on the role of prosecutors in the United States, as well as the roles that these two prosecutors play in their respective states. I also explained the catalyst event that I would be using: the shooting of Michael Brown, an unarmed, 18-year-old African American by a white police officer in Ferguson Missouri. The protests sparked by this event cause some institutions to change their laws relating to police misconduct. This was the case in Connecticut, but not Massachusetts.

I then designed the methods by which I would collect data on police shootings in the Hartford Judicial District and Suffolk County. I ended up with a compilation of databases from different media sources to create one large database of 35,000 entries. I filtered through instances of deadly use of force by law enforcement for those relevant to my research, I aimed to conduct cross tabulations for variables that I used as measures of prosecutorial discretion. These variables were: investigation outcomes, the delivering of charges to a grand jury, convictions, severity of sentence, and time span between the shooting and case resolution.

After performing calculations on my collected data, I was able to find that there were very few cases in which a police shooting investigation found the police at fault, let alone cases where charges were filed or cops convicted. This meant that most of my hypotheses on appointed

prosecutor reaction were disproven. However, I was able to still find that the time between a shooting and its resolution did decrease in both jurisdictions, showing that prosecutors utilized more of their resources in pursuing those cases.

In the end, the answer to my research question was a firm “no,” that prosecutor selection method does not affect prosecutor discretion after a shift in public opinion. While this thesis resulted in null findings, it did expose the need for further study on this topic and suggests avenues of research for more effective findings, such as focusing on demographic or contextual factors in police shootings instead of prosecutor selection method, expanding the geographical area studied, or incorporating an analysis of “extrajudicial” justice.

References

- Albonetti, C. A. (1986). Criminality, prosecutorial screening, and uncertainty: Toward a theory of discretionary decision making in felony case processings. *Criminology*, 24(4), 623-644. doi:10.1111/j.1745-9125.1986.tb01505.x
- Algarin, R. (2019, June 26). Statement of Suffolk County District Attorney Rachael Rollins on the June 24, 2019, Fatal Police-Involved Shooting on Penhallow Street in Dorchester. *Suffolk County District Attorney Massachusetts*.
- American Bar Association. (2017). Standards for the prosecution function. *The American Bar Association*.
- Bandyopadhyay, S., & McCannon, B. C. (2014). The effect of the election of prosecutors on criminal trials. *Public Choice*, 161(1), 141-156.
- The BBC. (2014, November 25). Michael Brown: The workings of the grand jury explained. *The BBC*.
- BBC News. (2014, November 26). Ferguson shooting: Protests spread across US. *The BBC*.
- Berry, Kate. (2015, December 15). How judicial elections impact criminal cases. *BrennanCenter.org*, Brennan Center for Justice at NYU School of Law, 2015.
- Black Lives Matter. (2019). What we believe. *Black Lives Matter*.
- Black Lives Matter. (2020). Herstory. *Black Lives Matter*.
- Campaign Zero. (2016). Independent investigations and prosecutions. *Campaign Zero*.
- Census Bureau, U. S. (2018, July 1). U.S. census bureau quickfacts: Hartford county, Connecticut; Suffolk county, Massachusetts. *United States Department of Commerce*.
- Chuck, E. (2017, October 16). #MeToo: Hashtag becomes anti-sexual harassment and assault rallying cry. *NBC Universal*

- Coglianesse, C. (2001). Social Movements, Law, and Society: The Institutionalization of the Environmental Movement. *University of Pennsylvania Law Review*, 150(1), 85–118. doi: 10.2307/3312913
- Cole, G. F. (1970). The decision to prosecute. *Law & Society Review*, 4(3), 331-343. doi:10.2307/3053090
- Constitution of the Commonwealth of Massachusetts (1780, October 25).
- Connecticut State Division of Criminal Justice. (2019). About Us: The division of criminal justice. *CT.gov*.
- Connecticut State Division of Criminal Justice. (2019). Frequently asked questions. *CT.gov*.
- Connecticut State Division of Criminal Justice. (2007, August 1). Gail P Hardy appointed state's attorney for judicial district of Hartford. *CT.gov*.
- Connecticut State Division of Criminal Justice. (2019). Judicial districts and states attorneys. *CT.gov*.
- Connecticut State Division of Criminal Justice. (2019). Office of the chief state's attorney. *CT.gov*.
- Cook Political Report. (2018). Home Page. *Cook Political Report*.
- Cook Political Report. (2020). PVI Map and District List. *Cook Political Report*.
- Coppolo, G. (2003, February 24). States that elect their chief prosecutors. *Office of Legislative Research, Research Report*. Connecticut General Assembly.
- Ellis, M. J. (2012). The origins of the elected prosecutor. *Yale Law Journal*, 121(6), 1528-1569.
- Engelhardt, M. (2019, December 20). Father of slain suspect poised to sue EHPD. *Journal Enquirer*.
- Forst, B. (2000). Prosecutors discover the community. *Judicature*, 84(3), 135-141.

- Galvin, W. F. (2019). Historical data relating to the incorporation of and abolishment of counties in the Commonwealth of Massachusetts. *Secretary of the Commonwealth of Massachusetts*.
- Galvin, W. F. (2019). PD43+: Massachusetts election statistics. *Secretary of the Commonwealth of Massachusetts*.
- Goode, E. (2012, Mar 23). Stronger hand for judges in the 'bazaar' of plea deals. *New York Times* (1923-Current File).
- Hardy, G. P. (2016, April 16). Report of the state's attorney for the Judicial District of Hartford concerning the officer-involved shooting of Tyrinde Mason-Thompson in Hartford on June 9, 2015. *Connecticut State Division of Criminal Justice*.
- Hardy, G. P. (2020, March 3). Report of the state's attorney for the Judicial District of Hartford concerning the use of deadly physical force on April 20, 2019, by Wethersfield Police resulting in the death of Anthony Vega-Cruz. *Connecticut State Division of Criminal Justice*.
- Huber, G. A., & Gordon, S. C. (2004). Accountability and coercion: Is justice blind when it runs for office? *American Journal of Political Science*, 48(2), 247-263. doi:10.2307/1519881
- Huber, G. A., & Gordon, S. C. (2007). The effect of electoral competitiveness on incumbent behavior. *Quarterly Journal of Political Science*, 107–138. doi:10.1561/100.00006035
- Jacoby, J. E. (1995). Pushing the Envelope —Leadership in Prosecution. *Justice System Journal*, 17(3), 291–307. doi: 10.1080/23277556.1995.10871211
- Johnson, P. H. (1976). Pretrial intervention: The administration of discretion. *Huntsville, Tex.: Institute of Contemporary Corrections and the Behavioral Sciences, Sam Houston State University*.

- Jones, R. B., Lefcour, G. J., Pollack, B. L., Reimer, N. undefined, & O'Dowd, K. (2018). The Trial Penalty: The sixth amendment right to trial on the verge of extinction and how to save it. *Washington, DC: National Association of Criminal Defense Lawyers.*
- Klinger, D., Rosenfeld, R., Isom, D., & Deckard, M. (2016). Race, crime, and the micro-ecology of deadly force. *Criminology & Public Policy, 15*(1), 193-222. doi:10.1111/1745-9133.12174
- Kramer, R., & Remster, B. (2018). Stop, frisk, and assault? racial disparities in police use of force during investigatory stops. *Law & Society Review, 52*(4), 960-993. doi:10.1111/lasr.12366
- Kritzer, H. M. (2016, June 1). Impact of judicial election on judicial decisions. *Annual Review of Law and Social Science, 12* (1). 353-371.
- Lee, T., Roth, Z., & Timm, J. C. (2014, December 1). Obama to announce \$75 million for body cameras. *MSNBC.*
- Levine, K. (2016). How we prosecute the police. *Georgetown Law Journal, 104*, 745-1029.
- Lim, C. S. H. (2013). Preferences and incentives of appointed and elected public officials: Evidence from state trial court judges. *American Economic Review, 103*(4), 1360-97. doi:10.1257/aer.103.4.1360
- Lind, D. (2014, November 25). Darren Wilson's grand jury: too much evidence, too little supervision. *Vox Media, LLC.*
- Lyons, K. (2019, October 15). Criminal justice commission appoints acting chief state's attorney. *The CT Mirror.*
- Massachusetts District Attorney Association. (2019). Directory of district attorney offices locations. *Commonwealth of Massachusetts.*

Massachusetts District Attorney Association. (2019). Massachusetts district attorney association.

Commonwealth of Massachusetts.

Mellon, L. R., Jacoby, J. E., & Brewer, M. A. (1981). The Prosecutor Constrained by His Environment: A new look at discretionary justice in the United States. *The Journal of Criminal Law and Criminology* (1973-), 72(1), 52–81. doi: 10.2307/1142905

Merrill, D. W. (2019). Election center. *Connecticut Secretary of the State, Election Night Reporting*

Miller, F. W., Remington, F. J., & American Bar Foundation. (1969). *Prosecution: The decision to charge a suspect with a crime*. Boston: Little, Brown.

Moore, L. (2016, July 27). Police brutality in the United States. *Encyclopædia Britannica, Inc.*

Needed: stronger state laws on deadly force. (2019, September 3). *The Boston Globe*.

Nelson, M. J. (2014). Responsive justice?: Retention elections, prosecutors, and public opinion. *Journal of Law and Courts*, 2(1), 117-152. doi:10.1086/674527

Nodjimbadem, K. (2017, July 27). The long, painful history of police brutality in the U.S. *Smithsonian Institute*.

OpenStates. (2015). HB 7103. *Openstates.org*.

Park, M., & Wofford, B. (2015, August 9). Why Did Ferguson Oppose Ferguson Reform? *Politico LLC*.

Pew Research Center. (2014, August 18). Stark racial divisions in reactions to Ferguson police shooting. *Pew Research Center*.

Press, A. (2015, March 20). Nationwide protests take place after Ferguson decision. *FOX News Network, LLC*.

Pritchard, D. (1986). Homicide and bargained justice: The agenda-setting effect of crime news on prosecutors. *The Public Opinion Quarterly*, 50(2), 143-159.

Rainville, G. (2001). An analysis of factors related to prosecutor sentencing preferences. *Criminal Justice Policy Review*, 12(4), 295-310.

doi:10.1177/0887403401012004003

Rondinone, N. (2019, November 2). Hartford State's Attorney Gail P. Hardy never ruled on whether a Hartford officer was justified in a 2012 fatal police shooting, but that didn't stop an excessive use-of-force lawsuit. *The Hartford Courant*.

Rondinone, N. (2019, December 21). Hartford State's Attorney Gail Hardy issues four reports into long outstanding deadly police shooting investigations, says officers' use of force justified. *The Hartford Courant*.

Stahly-Butts, M., & Robinson, J. (2017, April 18). Prosecutors and race bias: Why the DOJ needs to act. *The Center for Popular Democracy*.

Stanko, E. (1981). The impact of victim assessment on prosecutors' screening decisions: The case of the New York County district attorney's office. *Law & Society Review*, 16(2), 225-239. doi:10.2307/3053358

Suffolk County District Attorney's Office. (2019). Meet district attorney Rollins. *Suffolk County District Attorney*.

Thompson, A. C. (2002). It takes a community to prosecute. *Notre Dame Law Review*, (2), 321-372.

Tonry, M. (2007). Determinants of penal policies. *Crime and Justice*, 36(1), 1-48.
doi:10.1086/518582

Tonry, M. (2012). Prosecutors and politics in comparative perspective. *Crime and Justice*, 41(1), 1-33. doi:10.1086/666975

United States Department of Justice. (2014) Community policing defined. *United States Department of Justice*.

United States Department of Justice. (2015, March 4). Report regarding the criminal investigation into the shooting death of Michael Brown by Ferguson, Missouri police officer Darren Wilson. *United States Department of Justice*.

U.S. Census Bureau (2018). QuickFacts, 2010-2018. *U.S Department of Commerce*.

Valenti, J. (2011). Prosecutorial discretion: Do selection methods matter? *Thesis Open Commons*.

Walker, S. (1986). Controlling the cops: A legislative approach to police rulemaking. *University of Detroit Law Review*, (3), 361-392.

Appendix

Figure 7: 2010 U.S. Census Data for Suffolk County, MA and the Hartford Judicial District

Fact	Suffolk County,	Hartford JD
Population estimates, July 1, 2018, (V2018)	807,252	590,226
Population estimates base, April 1, 2010, (V2018)	722,190	591,350
Population, percent change - April 1, 2010 (estimates base) to July 1, 2018	11.80%	-0.17%
Population, Census, April 1, 2010	722,023	591,326
Persons under 5 years, percent	5.20%	5.49%
Persons under 18 years, percent	16.60%	21.71%
Persons 65 years and over, percent	12.00%	15.85%
Female persons, percent	51.70%	51.29%
White alone, percent	61.50%	65.49%
Black or African American alone, percent	24.70%	17.74%
American Indian and Alaska Native alone, percent	0.70%	0.33%
Asian alone, percent	9.30%	5.85%
Native Hawaiian and Other Pacific Islander alone, percent	0.20%	0.03%
Two or More Races, percent	3.60%	3.50%
Hispanic or Latino, percent	23.40%	18.15%
White alone, not Hispanic or Latino, percent	44.90%	56.65%
Veterans, 2014-2018	19,788	26,051
Foreign born persons, percent, 2014-2018	29.80%	16.01%
Owner-occupied housing unit rate, 2014-2018	36.10%	62.97%
Median value of owner-occupied housing units, 2014-2018	\$463,200	\$265,284.21
Median selected monthly owner costs -with a mortgage, 2014-2018	\$2,341	\$2,044.42
Median selected monthly owner costs -without a mortgage, 2014-2018	\$819	\$883.95
Median gross rent, 2014-2018	\$1,506	\$1,204.47
Households, 2014-2018	307,870	227,243
Persons per household, 2014-2018	2.41	2.51
Living in same house 1 year ago, percent of persons age 1 year+, 2014-2018	80.90%	86.65%
Language other than English spoken at home, percent of persons age 5 years+	40.10%	24.55%
Households with a computer, percent, 2014-2018	89.10%	89.51%
Households with a broadband Internet subscription, percent, 2014-2018	82.80%	83.12%
High school graduate or higher, percent of persons age 25 years+, 2014-2018	85.50%	89.00%
Bachelor's degree or higher, percent of persons age 25 years+, 2014-2018	44.80%	39.37%
With a disability, under age 65 years, percent, 2014-2018	8.60%	7.91%
Persons without health insurance, under age 65 years, percent	4.20%	5.17%
In civilian labor force, total, percent of population age 16 years+, 2014-2018	68.70%	65.62%
In civilian labor force, female, percent of population age 16 years+, 2014-2018	65.90%	62.15%
Total accommodation and food services sales, 2012 (\$1,000)	4,550,958	1,408,117
Total health care and social assistance receipts/revenue, 2012 (\$1,000)	16,983,330	6,453,028
Total manufacturers shipments, 2012 (\$1,000)	3,805,223	8,719,819
Total merchant wholesaler sales, 2012 (\$1,000)	12,840,656	9,024,967
Total retail sales, 2012 (\$1,000)	8,850,957	9,807,699
Total retail sales per capita, 2012	\$11,890	\$ 16,537.83
Mean travel time to work (minutes), workers age 16 years+, 2014-2018	31.1	24.7
Median household income (in 2018 dollars), 2014-2018	\$64,582	\$ 91,936
Per capita income in past 12 months (in 2018 dollars), 2014-2018	\$40,190	\$ 40,358
Persons in poverty, percent	17.50%	11.96%
All firms, 2012	66,834	51,519
Men-owned firms, 2012	38,307	28,315
Women-owned firms, 2012	21,877	16,891
Minority-owned firms, 2012	20,276	11,286
Nonminority-owned firms, 2012	42,276	36,599
Veteran-owned firms, 2012	5,091	4,742
Nonveteran-owned firms, 2012	57,225	42,223
Population per square mile, 2010	12,415.70	1,133.7
Land area in square miles, 2010	58.15	521.61

Figure 8: Example of Original Datapoint Collection

Subject's name	Symptom	Armed?	Fleeing?	Threat?	Officers Involved	Body Cam	Location	Prosecuting District	Verdict	Date of Resolution
Robert Davis	No	Knife	No	Attack	Officers Tyrone Bo	No	Hartford	Hartford	justified under CGS §53a-	21-Mar-05
Juan Alberto Negrón González	No	Gun	No	Attack	Officer Richard Sa	No	Hartford	Hartford	justified under CGS §53a-	17-Mar-05
John R. Zipoli	No	Shotgun	No	Attack	Officers Edward F	No	Hartford	Hartford	justified under CGS §53a-	15-Apr-05
Jashon Bryant	No	Unarmed	Car	Other	Officer Robert Law	No	Hartford	Waterbury	Charged w/ Manslaughter	Aquitted December 2009

Figure 9: Example of “Sanitized” Datapoints

Unique ID	Subj	Ethnic1	Ethnic2	Ethnic3	Ethnic4	Cau	Symptoms	Unarmed	Armed F	Armed F	Armed F	Armed C	Armed I	Threat?	Threat I	Body Cam	Case Pend	Verdict	Charges	Conviction?
CT1	23	1	0	1	0	0	1	0	0	1	0	0	0	0	1	0	0	0	0	0
CT2	23	1	0	0	1	0	1	0	0	0	1	0	0	0	1	0	0	0	0	0
CT3	35	1	1	0	0	0	1	0	0	0	1	0	0	0	1	0	0	0	0	0
CT4	18	1	0	1	0	0	1	0	1	0	0	0	0	0	0	0	0	1	1	0
CT5	25	1	0	0	1	0	1	0	0	1	0	1	0	0	1	0	0	0	0	0
CT6	23	1	1	0	0	0	1	1	0	1	0	0	0	0	1	0	0	0	0	0
CT7	26	1	0	1	0	0	1	1	0	1	0	0	0	0	1	0	0	0	0	0
CT8	33	1	0	0	1	0	1	1	0	0	1	0	0	0	1	0	0	0	0	0
CT9	30	1	0	0	1	0	1	0	0	0	0	1	0	0	1	0	0	0	0	0

List 1: Variables Gathered in relation to Police Shootings and Subsequent Investigations:

- Subject’s age
- Subject’s biological gender
- Subject’s ethnicity
- Date of the injury that lead to death
- Location of incident
- Police department involved
- Official cause of death
- Did the subject presented signs of mental illness or reportedly have a mental illness?
- Whether the subject was armed
 - Was this disputed?
- Whether the subject was fleeing? How?
- Was the subject a threat to police officers?
 - Was this disputed?
- The officers involved
- Whether officers were using body-mounted cameras
- What the prosecuting district was
- Whether the killing was considered justified after investigation
- Any subsequent legal action pursued by the prosecutor
- The date the case is last resolved or updated

List 2: List of Independent Variables after Coding

- **Unique ID:** This is a deindividualized identifier for each subject in my case. This is to prevent any bias or confounds that a name could provide.
- **Subject's age:** This column shows the age in years of the subject.
- **Subject's Gender:** This column shows the gender of the subject (Female, Male).

- **Ethnicity White?:** This column asks if the subject's ethnicity was white (No, Yes).
- **Ethnicity Black?:** This column asks if the subject's ethnicity was black (No, Yes).
- **Ethnicity Latino?:** This column asks if the subject's ethnicity was Latino (No, Yes).
- **Ethnicity Other?:** This column asks if the subject's ethnicity was one other than the previous ethnicities (No, Yes).
- **Cause of death:** This column records how the victim was killed (Other, Gunshot).
- **Symptoms of mental illness?:** This column asks if the subject had or was showing signs of mental illness during the incident leading to their death (No, Yes).
- **Unarmed?:** This column asks if the subject was unarmed during the incident leading to their death (No, Yes).
- **Armed Knife?:** This column asks if the subject was armed with a knife during the incident leading to their death (No, Yes).
- **Armed Firearm?:** This column asks if the subject was armed with a firearm of some kind during the incident leading to their death (No, Yes).
- **Armed Vehicle?:** This column asks if the subject used a vehicle as a weapon during the incident leading to their death (No, Yes).
- **Armed Other?:** This column asks if the subject was armed with some other type of weapon (real or facsimile) during the incident leading to their death (No, Yes).
- **Armed Disputed?:** This column asks whether there was debate on the subject was armed or not during the incident leading to their death (No, Yes).
- **Threat?:** This variable asks whether the subject attacked or threatened officers during the incident leading to their death (Other, Attack).
- **Threat Disputed?:** This variable asks whether there was debate on the subject was threatening to officers during the incident leading to their death (No, Yes).
- **Body Camera?:** This variable asks if police were wearing body cameras or if body camera footage was available (No, Yes).
- **Case Pending?:** This variable asks if the case is still under review by prosecutors (No, Yes).
- **Investigation Outcome:** This asks if the investigation into the police use of deadly force was found to be justified (Justified, Unjustified).
- **Charges Brought?:** This asks if prosecutors officially brought charges to a grand jury against the officer(s) involved (No, Yes).
- **Conviction?:** This variable asks if the police officer(s) involved were convicted of an offense for the incident leading to the subjects death. (No, Yes).
- **Time-span of case:** These variables are used together to calculate how long a case took to process. One datapoint gives a date of resolution for each case, another gives the date of the subject's death, and a third datapoint gives the total time elapsed between those two dates.

- **CT?:** This variable asks if the Case occurred in Connecticut. This simply allows for easy distinction between cases from Connecticut and Massachusetts (Massachusetts, Connecticut).
- **After Catalyst?:** This variable asks if the subjects death happened before the catalyst event (Michael Brown's Death) (Before 2015, After 2015).

Table 2: Cross Tabulation for Investigation Outcomes and Location

Investigation Outcome vs CT?			
Investigation Outcome (Justified 0, Unjustified 1)	In CT? (Massachusetts 0, Connecticut 1)		Total
	0	1	
0	29	16	45
(%)	93.55	94.12	93.75
1	2	1	3
(%)	6.45	5.88	6.25
Total	31	17	48
(%)	100	100	100
Pearson Chi2 (1) = 0.0159		Pr = 0.900	

Table 3: Cross Tabulation for Investigation Outcomes Before the Catalyst

Investigation Outcome vs CT? if AfterCatalyst = 0			
Investigation Outcome (Justified 0, Unjustified 1)	In CT? (Massachusetts 0, Connecticut 1)		Total
	0	1	
0	23	11	34
(%)	92	91.67	91.89
1	2	1	3
(%)	8	8.33	8.11
Total	25	12	37
(%)	100	100	100
Pearson Chi2 (1) = 0.0012		Pr = 0.972	

Table 4: Cross Tabulation for Investigation Outcomes After the Catalyst

Investigation Outcome vs CT? if AfterCatalyst = 1			
Investigation Outcome (Justified 0, Unjustified 1)	In CT? (Massachusetts 0, Connecticut 1)		Total
	0	1	
0	6	5	11
(%)	100	100	100
Total	6	5	11
(%)	100	100	100
NO VARIATION			

Table 5: Cross Tabulation for Charges Being Brought and Location

Charges Brought? vs CT?			
Charges Brought (No 0, Yes 1)	In CT? (Massachusetts 0, Connecticut 1)		Total
	0	1	
0	30	16	46
(%)	96.77	94.12	95.83
1	1	1	2
(%)	3.23	5.88	4.17
Total	31	17	48
(%)	100	100	100
Pearson Chi2 (1) = 0.1579		Pr = 0.691	

Table 6: Cross Tabulation for Charges Being Brought Before the Catalyst

Charges Brought? vs CT? if AfterCatalyst = 0			
Charges Brought (No 0, Yes 1)	In CT? (Massachusetts 0, Connecticut 1)		Total
	0	1	
0	24	11	35
(%)	96	91.67	94.59
1	1	1	2
(%)	4	8.33	5.41
Total	25	12	37
(%)	100	100	100
Pearson Chi2 (1) = 0.2978		Pr = 0.585	

Table 7: Cross Tabulation for Charges Being Brought After the Catalyst

Charges Brought vs CT? if AfterCatalyst = 1			
Charges Brought (No 0, Yes 1)	In CT? (Massachusetts 0, Connecticut 1)		Total
	0	1	
0	6	5	11
(%)	100	100	100
Total	6	5	11
(%)	100	100	100
NO VARIATION			

Table 8: Cross Tabulation for Convictions and Location

Conviction vs CT?			
Conviction? (No 0, Yes 1)	In CT? (Massachusetts 0, Connecticut 1)		Total
	0	1	
0	31	17	48
(%)	100	100	100
Total	31	17	48
(%)	100	100	100
NO VARIATION			