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Book Review, When Police Kill by Franklin E. Zimring (2017)

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fellow citizens, and sometimes helping to ensure responsiveness to genuine problems and needs" (p.155). In an increasingly personalized world, these experiences, and the connections they create, are undermined. Similarly, as information becomes politically balkanized, its value as a solidarity good (that is, a good "whose value increases with the number of people who are consuming" it [p.58]) that benefits the entire community is also diminished.

¶77 The third major problem created by filtering is what Sunstein describes as a distorted understanding of freedom that emphasizes consumer sovereignty above all else. From the perspective of consumer sovereignty, information filtering is good because it allows the consumer to limit exposure to only the things that she wants. Yet, as Sunstein points out, individuals' consumer choices do not always align with the choices they make as citizens.

¶78 Sunstein's concern about the warping effect of the consumer sovereignty ideal also plays a significant role in the counterarguments that he addresses: first, the general resistance to so-called government regulation of the Internet; and second, the objections to Internet speech regulation based on free speech absolutism. Sunstein argues that aspects of both these positions are incoherent. Generalized opposition to regulations ignores the fact that the communications sphere can exist only when the government recognizes and protects property rights in intangible things like broadcast frequencies or domain names.

¶79 Despite these criticisms, Sunstein does have some suggestions to counteract online polarization. Sunstein envisions a number of possible solutions including deliberative domains for open conversation, increased self-regulation, and platforms designed to break filter bubbles by providing access to opposing viewpoints. Without doing something to counteract these trends, conditions will continue to deteriorate—especially as terrorist and hate groups continue to use the mechanisms of polarization to their advantage.

¶80 While other scholars have examined filter bubbles and echo chambers, Sunstein narrows the focus to the polarizing effects social media has had on public discourse in the United States and the damaging consequences for deliberative democracy. Sunstein provides ample support for his positions and conveys their urgency clearly and concisely. Overall, *#Republic* is an astute and accessible exploration of the ways online behavior affects civic governance. Sunstein's proposals serve as a helpful reminder that it is not too late to reverse the most damaging trends of social media polarization.

Zimring, Franklin E. *When Police Kill*. Cambridge, Mass.: Harvard University Press, 2017. 305p. $35.

Reviewed by Andrew J. Christensen[*]

¶81 Incidents of citizens dying at the hands of police officers across the United States have undeniably risen in the national consciousness in recent years. But are these unfortunate events actually increasing in frequency? If so, why? What can be done to reduce the rate and societal impact of deadly encounters with law enforcement?

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¶82 With *When Police Kill*, Franklin Zimring presents a deeply researched, empirically driven summary of a troubling situation that continues to generate headlines and court cases today, some three years since the high-profile shooting of unarmed black teenager Michael Brown by a white officer in Ferguson, Missouri. More than a dozen similarly scrutinized killings of minority citizens by police have occurred since, many caught on video.[5] However, these cases have typically resulted in decisions not to press charges or acquittals for the officers due to legal standards that favor police in their use of deadly force.[6] The ensuing media coverage has been extensive and sensational, and the surrounding conversations have often been politically and racially charged. Those wishing to examine the facts rationally and assess a practical path forward will be well served by the statistics, conclusions, and suggestions that Zimring brings forth in this timely and important book.

¶83 The first half of *When Police Kill* focuses on the causes of police killings, arguing that police use of lethal force is a serious national problem that has been overlooked in legal scholarship, improperly addressed by government, misrepresented in the media, and perhaps most important, underreported in official statistics. Zimring claims that the relevant federal records compiled by the National Vital Statistics System, Federal Bureau of Investigation, and the Bureau of Justice Statistics fail to account for at least half of killings by American police. Instead of an official figure around 500, he estimates more than 1000 such killings a year, based on comprehensive, crowdsourced searches of news reports vetted and published online by the *Washington Post*[7] and the *Guardian*.[8]

¶84 Zimring also identifies a significant sociocultural shift with respect to police shootings in the aftermath of Ferguson. News and social media commentary, along with movements like Black Lives Matter, now draw national, front-page attention—and sometimes even federal investigative scrutiny—to controversial uses of force that were previously reported only locally and often as justified actions on the part of officers.

¶85 Adding to the public's growing perception of injustice in police violence matters is Zimring's striking finding that only 1 in 1000 officers who kill in the line of duty are ever criminally convicted. This institutionalized lack of accountability is

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5. For a summary of the most prominent cases of African Americans' deaths at the hands of police from 1999 through summer 2016, see Daniel Funke & Tina Susman, *From Ferguson to Baton Rouge: Deaths of Black Men and Women at the Hands of Police*, L.A. Times (July 12, 2016), http://www.latimes.com/nation/la-na-police-deaths-20160707-snap-htmlstory.html [https://perma.cc/XT2V-GPQC].

6. For descriptions of the prevailing courtroom factors that create a high bar for police convictions for killings, see David French, *The Unwritten Law that Helps Bad Cops Go Free*, Nat'l Rev. (June 21, 2017), http://www.nationalreview.com/article/448828/philando-castile-shooting-police-must-display-reasonable-fear [https://perma.cc/2QGN-ERWA]; Errin Haines Whack & Dan Sewell, *Attitudes, Legal Standards Help Make Police Convictions Rare*, U.S. News & World Rep. (June 22, 2017), https://www.usnews.com/news/best-states/ohio/articles/2017-06-22/attitudes-legal-standards-help-make-police-convictions-rare [https://perma.cc/CMV9-76AG].

7. Zimring based his work on the 2015 Washington Post Database of Police Shootings. To view the current 2017 database and access those of previous years, see *Police Shootings 2017 Database*, Wash. Post, https://www.washingtonpost.com/graphics/national/police-shootings-2017 (last visited June 26, 2017).

8. Zimring used an earlier version of the data, currently published as *The Counted: Tracking People Killed by Police in the United States*, Guardian, https://www.theguardian.com/us-news/series/counted-us-police-killings (last visited June 26, 2017).

tantamount to immunity for police, even in many of the most apparently unnecessary or unjustifiable killings, and is the result of several factors that Zimring identifies, including political reluctance among prosecutors, jurors' sympathy for or admiration of police, and a body of law and judicial practices that permit extremely broad justification of the use of deadly force by police.

¶86 Other interesting conclusions borne out by Zimring's wide-ranging survey of data include findings that in 2016, police in the United States killed citizens between 4.6 and 125 times more often than in four other Western countries. This can be explained to a degree, Zimring writes, by corresponding statistics that show police in America to be many times more likely to encounter deadly resistance or attack, often with firearms, than elsewhere in the world. Of course, there is also the sobering, if unsurprising, calculation that racial minorities, particularly African Americans and Native Americans, are killed by police at a rate more than double their overall demographic proportions in the United States.

¶87 The second half of *When Police Kill* advises on preventing and controlling police killings. Drawn from the preceding parade of problems and shortcomings relating to law, policy, statistics keeping, and officer training, Zimring's prescription for improving a daunting yet ameliorable status quo is comparably multifaceted. Among his proposals is a vision for revamped police rules of engagement and force escalation that are more in line with actual situational threats, with awareness of not only officer safety, but also the fact that lives matter more broadly. Plausible and practical new administrative and technological initiatives within police departments and municipal governments, with coordination on the state and federal levels, would also help realign officers' actions and attitudes, strengthen police-community relationships, and ultimately reduce the death tolls on both sides.

¶88 *When Police Kill* is a must-have for any academic law library collection and a strong candidate for the shelves of government and court libraries. The book is a compelling example of the value of the growing empirical and current-event-analysis trends in legal scholarship, relying on open source statistics, news accounts, and crowdsourced efforts both to inform potentially fraught dialogue and advance new public policy approaches. Research librarians, who may increasingly find themselves tapped to assist with or manage such projects,[9] should look to *When Police Kill* for information, as well as inspiration, about how a diverse and data-driven study can be presented for consumption by a wide audience.

9. On several occasions Zimring acknowledges the contributions of librarians at Berkeley Law to his research for the book.