

# THE WALL STREET JOURNAL.

ROB BARRY

## Incomplete Records: Hundreds of Police Killings Uncounted in Federal Stats

BY ROB BARRY AND COULTER JONES

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A memorial on a Ferguson, Mo., street in August at the location where Michael Brown was shot to death by a police officer, sparking protests.

Getty Images

WASHINGTON — When 24-year-old Albert Jermaine Payton wielded a knife in front of the police in this city's southeast corner, officers opened fire and killed him.

Yet according to national statistics intended to track police killings, Mr. Payton's death in August 2012 never hap-

pened. It is one of hundreds of homicides by law-enforcement agencies between 2007 and 2012 that aren't included in records kept by the Federal Bureau of Investigation.

A Wall Street Journal analysis of the latest data from 105 of the country's largest police agencies found more than 550 police killings during those years were missing from the national tally or, in a few dozen cases, not attributed to the agency involved. The result: It is nearly impossible to determine how many people are killed by the police each year.

Public demands for transparency on such killings have increased since the August shooting death of 18-year-old Michael Brown by police in Ferguson, Mo. The Ferguson Police Department reported to the FBI one justifiable homicide by police between 1976 and 2012.

Law-enforcement experts long have lamented the lack of information about killings by police. "When cops are killed, there is a very careful account and there's a national database," said Jeffrey Fagan, a law professor at Columbia University. "Why not the other side of the ledger?"

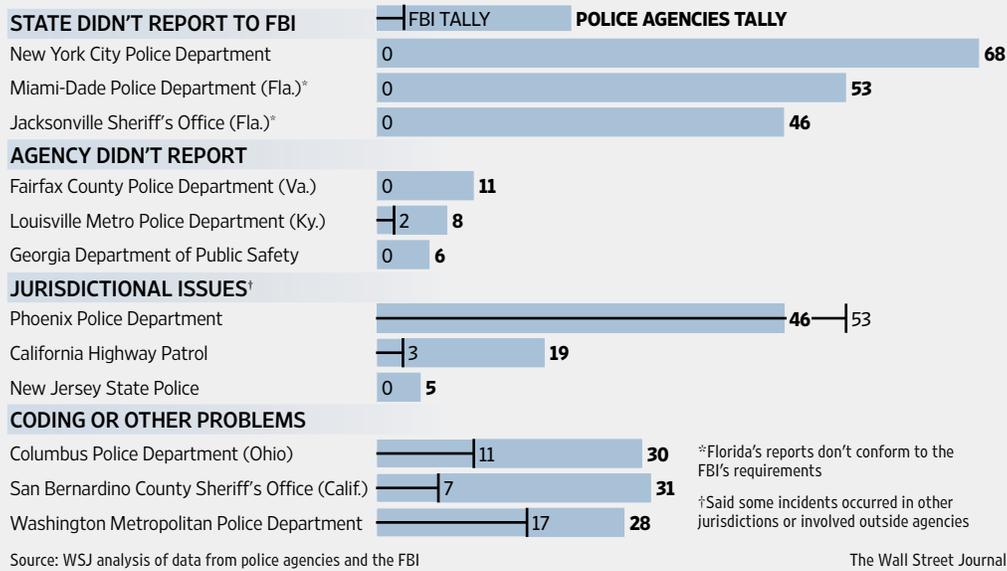
Police can use data about killings to improve tactics, particularly when dealing with people who are mentally ill, said Paco Balderrama, a spokesman for the Oklahoma City Police Department. "It's great to recognize that, because 30 years ago we used to not do that. We used to just show up and handle the situation."

Three sources of information about deaths caused by police — the FBI numbers, figures from the Centers for Disease Control and data at the Bureau of Justice Statistics — differ from one another widely in any given year or state, according to a 2012 report by David Klinger, a criminologist with the University of Missouri-St. Louis and a onetime police officer.

To analyze the accuracy of the FBI data, the Journal requested internal records on killings by officers from the nation's 110 largest police departments. One-hundred-five of them provided figures.

## Why Police-Homicide Totals Are Elusive

Some common explanations for why police-agency totals for justifiable law-enforcement homicides don't match FBI records. Total number of justifiable homicides for selected jurisdictions from 2007 to 2012.



Those internal figures show at least 1,800 police killings in those 105 departments between 2007 and 2012, about 45% more than the FBI's tally for justifiable homicides in those departments' jurisdictions, which was 1,242, according to the Journal's analysis. Nearly all police killings are deemed by the departments or other authorities to be justifiable.

The full national scope of the underreporting can't be quantified. In the period analyzed by the Journal, 753 police entities reported about 2,400 killings by police. The large majority of the nation's roughly 18,000 law-enforcement agencies didn't report any.

"Does the FBI know every agency in the U.S. that could report but has chosen not to? The answer is no," said Alexia Cooper, a statistician with the Bureau of Justice Statistics who studies the FBI's data. "What we know is that some places have chosen not to report these, for whatever reason."

FBI spokesman Stephen G. Fischer said the agency uses “established statistical methodologies and norms” when reviewing data submitted by agencies. FBI staffers check the information, then ask agencies “to correct or verify questionable data,” he said.

The reports to the FBI are part of its uniform crime reporting program. Local law-enforcement agencies aren’t required to participate. Some localities turn over crime statistics, but not detailed records describing each homicide, which is the only way particular kinds of killings, including those by police, are tracked by the FBI. The records, which

are supposed to document every homicide, are sent from local police agencies to state reporting bodies, which forward the data to the FBI.

The Journal’s analysis identified several holes in the FBI data.

Justifiable police homicides from 35 of the 105 large agencies con-

tacted by the Journal didn’t appear in the FBI records at all. Some agencies said they didn’t view justifiable homicides by law-enforcement officers as events that should be reported. The Fairfax County Police Department in Virginia, for example, said it didn’t consider such cases to be an “actual offense,” and thus doesn’t report them to the FBI.

For 28 of the remaining 70 agencies, the FBI was missing records of police killings in at least one year. Two departments said their officers didn’t kill anyone during the period analyzed by the Journal.

About a dozen agencies said their police-homicides tallies didn’t match the FBI’s because of a quirk in the reporting requirements: Incidents are supposed to be reported by the jurisdiction where the event occurred, even if the officer involved was from elsewhere. For example, the California Highway Patrol said there were 16 instances in which one of

*Police homicides from 35 of the 105 large agencies contacted didn’t appear in the FBI records at all.*

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its officers killed someone in a city or other local jurisdiction responsible for reporting the death to the FBI. In some instances reviewed by the Journal, an agency believed its officers' justifiable homicides had been reported by other departments, but they hadn't.

Also missing from the FBI data are killings involving federal officers.

Police in Washington, D.C., didn't report to the FBI details about any homicides for an entire decade beginning with 1998 — the year the Washington Post found the city had one of the highest rates of officer-involved killings in the country. In 2011, the agency reported five killings by police. In 2012, the year Mr. Payton was killed, there are again no records on homicides from the agency.

D.C. Metropolitan Police Chief Cathy Lanier said she doesn't know why the agency stopped reporting the numbers in 1998. "I wasn't the chief and had no role in decision making" back then, said Ms. Lanier, who was a captain at the time. When she took over in 2007, she said, reporting the statistics "was a nightmare and a very tedious process."

Ms. Lanier said her agency resumed its reports in 2009. In 2012, the agency turned over the detailed homicide records, she said, but the records had an error in them and were rejected by the FBI. She referred questions about why the department stopped reporting homicides in 1998 to former Chief Charles H. Ramsey, now head of the Philadelphia Police Department. Mr. Ramsey declined to comment.

In recent years, police departments have tried to rely more on statistics to develop better tactics. "You want to get the data right," said Mike McCabe, the undersheriff of the Oakland County Sheriff's Office in Michigan. It is "really important in terms of how you deploy your resources."

A total of 100 agencies provided the Journal with num-

### Deadly Force

Justifiable law-enforcement homicide totals from big police agencies exceed the FBI tally



Source: WSJ analysis of data from 100 of the largest police agencies in the country and the FBI

The Wall Street Journal

bers of people killed by police each year from 2007 through 2012; five more provided statistics for some years. Several, including the police departments in New York City, Los Angeles, Philadelphia and Austin, Texas, post detailed use-of-force reports online.

Five of the 110 agencies the Journal contacted, including the Michigan State Police, didn't provide internal figures. A spokeswoman for the Michigan State Police said the agency had records of police shootings, but "not in tally form."

Big increases in the numbers of officer-involved killings can be a red flag about problems inside a police department, said Mike White, a criminologist at Arizona State University. "Sometimes that can be tied to poor leadership and problems with accountability," he said.

The FBI has almost no records of police shootings from departments in three of the most populous states in the country — Florida, New York and Illinois.

In Florida, available reports from the Florida Department of Law Enforcement don't conform to FBI requirements and haven't been included in the national tally since 1996. A spokeswoman for the state agency said in an email that Florida was "unable" to meet the FBI's reporting requirements because its tracking software was outdated.

New York revamped its reporting system in 2002 and 2006, but isn't able to track information about justifiable police homicides, said a spokeswoman for the New York State Division of Criminal Justice Services. She said the agency was "looking to modify our technology so we can reflect these numbers."

In 1987, a commission created by then-Governor Mario Cuomo to investigate abuse of force by police found that New York's reports to the FBI were "inadequate and incomplete," and urged reforms to "hold government accountable for the use of force." The spokeswoman for the state criminal-justice agency said it isn't clear what the agency did in

response back then.

Illinois only began reporting crime statistics to the FBI in 2010 and hasn't phased in the detailed homicide reports. "We cannot begin adding additional pieces because we are newcomers to the federal program," said Terri Hickman, director of the Illinois State Police's crime-reporting program. Two agencies in Illinois deliver data to the FBI: Chicago and Rockford.

In Washington, D.C., councilman Tommy Wells held two hearings this fall on police oversight. He said he was surprised that the department hadn't reported details of police killings to the FBI. "That should not be a challenge," he said.

More than two years after the knife-carrying Mr. Payton was shot and killed by D.C. police, his mother, who witnessed the killing, said she is still looking for answers. Helena Payton, 59, said her son had many interactions with local police because of what she said was his mental illness. "All the cops in the Seventh District knew him, just about," she said.

The officers who arrived that Friday afternoon in August, in response to a call from Mr. Payton's girlfriend, had never dealt with her son, she said. According to Ms. Payton, her son walked outside holding a small utility knife. As he approached the officers, they fired dozens of bullets at him, she said. He died soon after.

The U.S. attorney's office is reviewing the incident, as is customary in all police shootings in Washington. A spokesman for the office declined to comment on the status of the case. The Washington police department, citing the continuing investigation, declined to provide the officers' names, a narrative of what happened, or basic information usually included in the reports to the FBI, such as the number of officers involved in the shooting.

The officers involved are back on duty, according to D.C. authorities, but the case isn't closed.

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## Push for Greater Transparency On Police Killings Gathers Pace

*Legislation Would Give Incentives to Report Deaths During Custody, Arrests*

BY ROB BARRY

THURSDAY, DECEMBER 11, 2014



Activists protesting over the death of Eric Garner march in New York City earlier this month. Keith Bedford for The Wall Street Journal

Efforts to provide a clearer national picture on the number of people killed by police gathered momentum this week, as lawmakers cleared legislation that would give states and federal law-enforcement agencies strong incentives to report deaths in custody and during arrests.

Senate passage of the legislation, which was approved by the House a year ago and has now been sent to President Barack Obama, came as New York, one of the biggest states that doesn't report the number of justifiable killings to a national database, said it would start doing so next year.

Public demands for transparency on such killings have increased since grand juries in New York and Missouri declined to bring charges against white police officers in the deaths of unarmed black men, Eric Garner, 43 years old, and Michael Brown, 18.

A recent Wall Street Journal analysis found that among 105 of the largest police departments in the country, about 45% of killings by officers went unreported to the Federal Bureau of Investigation between 2007 and 2012. Currently, reporting is optional and records from nearly every agency in three large states aren't in the FBI's data.

The Death in Custody Reporting Act of 2013 that cleared the Senate Wednesday would tie federal dollars to state reporting and require the federal government to report all deaths of people detained, arrested or in the process of being arrested and incarcerated. Currently, the FBI's own killings aren't reported into its database.

"The stark, staggering fact is that the nation has no reliable idea how many Americans die during arrests or police custody each year," said Sen. Richard Blumenthal (D., Conn.), who sponsored the legislation in the Senate. "This legislation will fix that unacceptable factual gap."

Legal experts said the new law, which calls for reporting to the Office of the Attorney General, will make it more likely for future deaths at the hands of police to make it into national records, though it isn't clear whether every killing would be included. The legislation is similar to a previous law that expired in 2006.

"We need as a country to have a broader perspective of what is happening behind closed doors," said Kara Gotsch,

an advocate with the United Methodist Church, which backed the bill. “This gives a tiny view into that world. I think that’s critically important.”

Independent of the legislation, some of the largest states said they are considering plans for reporting justifiable killings to the FBI, which would reduce some of the biggest gaps in the bureau’s data on so-called police-involved killings. Under the current system, incidents of deadly force by law enforcement are in most cases first reported to the states as justifiable homicides, which then inconsistently pass the records on to the FBI.

Nearly all police killings are deemed by the departments or other authorities to be justifiable.

The Journal’s investigation, which involved collecting the number of killings by police from 105 departments across the country and comparing them with the FBI’s records, found several breakdowns at the state level that left large holes in the records. Reporting failures in New York and Florida alone accounted for about 290 of 580 cases identified by the Journal as missing from the national tally.

In New York, the state’s Division of Criminal Justice Services said it has been working for several months to address the problem by making technical fixes to its crime-reporting database, which was created in 2002 and doesn’t track incidents of justifiable homicide. Spokeswoman Janine Kava said the agency planned to begin collecting and reporting cases to the FBI starting next year.

In Florida, the chief law-enforcement agency said it was reviewing the problem. For about 15 years, the agency has submitted reports that were rejected by the FBI because they didn’t comply with the bureau’s reporting standards.

“The concerns for us relate to some of the costs, not only at the state level but on all of our local agencies as well,” said Gretl Plessinger, a spokeswoman for the Florida Department of Law Enforcement.

Another state, Illinois, doesn't participate in the homicide-reporting process, though several large departments in the state, including Chicago's, provide homicide records to the FBI. A spokeswoman for the Illinois State Police said the agency is considering submitting the reports in 2016 or 2017.

Meanwhile, the FBI said it is reviewing its process for compiling data on justifiable homicides by law-enforcement agencies to see if changes are needed.

The Journal's analysis found a total of about 2,400 cases of justifiable homicides by police were reported to the FBI between 2007 and 2012. Several experts said there was no

way to know how many of the roughly 18,000 law-enforcement departments across the country had killings but didn't report them.

A broader plan for capturing reports of many uses of force, not just deaths, by law enforcement is being developed by the Police Foundation, a Washington, D.C., non-profit group that focuses

on improving community policing. That group said it expects to propose plans for an enhanced database early next year that would capture uses of force both by and against police.

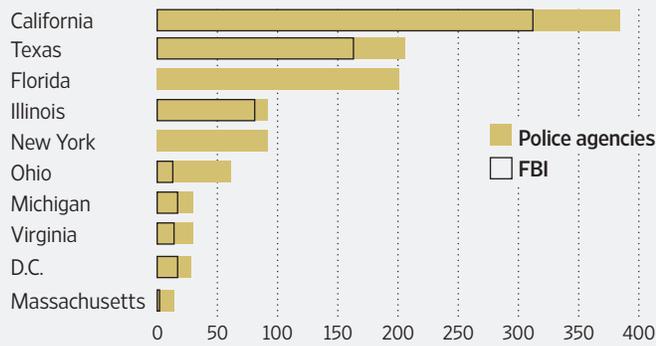
Officials at several law-enforcement agencies said they think such a plan is needed but also want to be assured that the data won't be used against them.

"Any of us would love to be able to access a database where we could look at, and even compare ourselves to, oth-

### Missing Reports

Major police agencies' totals for justifiable law-enforcement homicide exceeded the FBI's tally.

Totals from 2007 to 2012 in selected states with the largest discrepancy\*



\*Five agencies did not provide all years.

Source: WSJ analysis of data from 105 of the largest police agencies in the country and the FBI  
The Wall Street Journal

er departments,” said Robert Luna, chief of the Long Beach, Calif., Police Department.

A concern, Mr. Luna said, is that a centralized database of uses of force also would allow the public to make comparisons between departments. “There absolutely has to be consistency across the board in the way you’re” looking at these incidents.

“When we’re comparing police departments, you’re also comparing city to city, and each city is very diverse in its own way,” he said. “You have to add context.”

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## WSJ Analysis: Justifiable Homicides by U.S. Law Enforcement

INTERACTIVE

<http://graphics.wsj.com/justifiable-homicides-by-police/>

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