

Law Enforcement Liability

The Underwriting Metric Matrix

PRIMA Educational Series

September 15th, 2021

Panelists



Robert Lowe
First Vice President



Courtney Ramirez
First Vice President



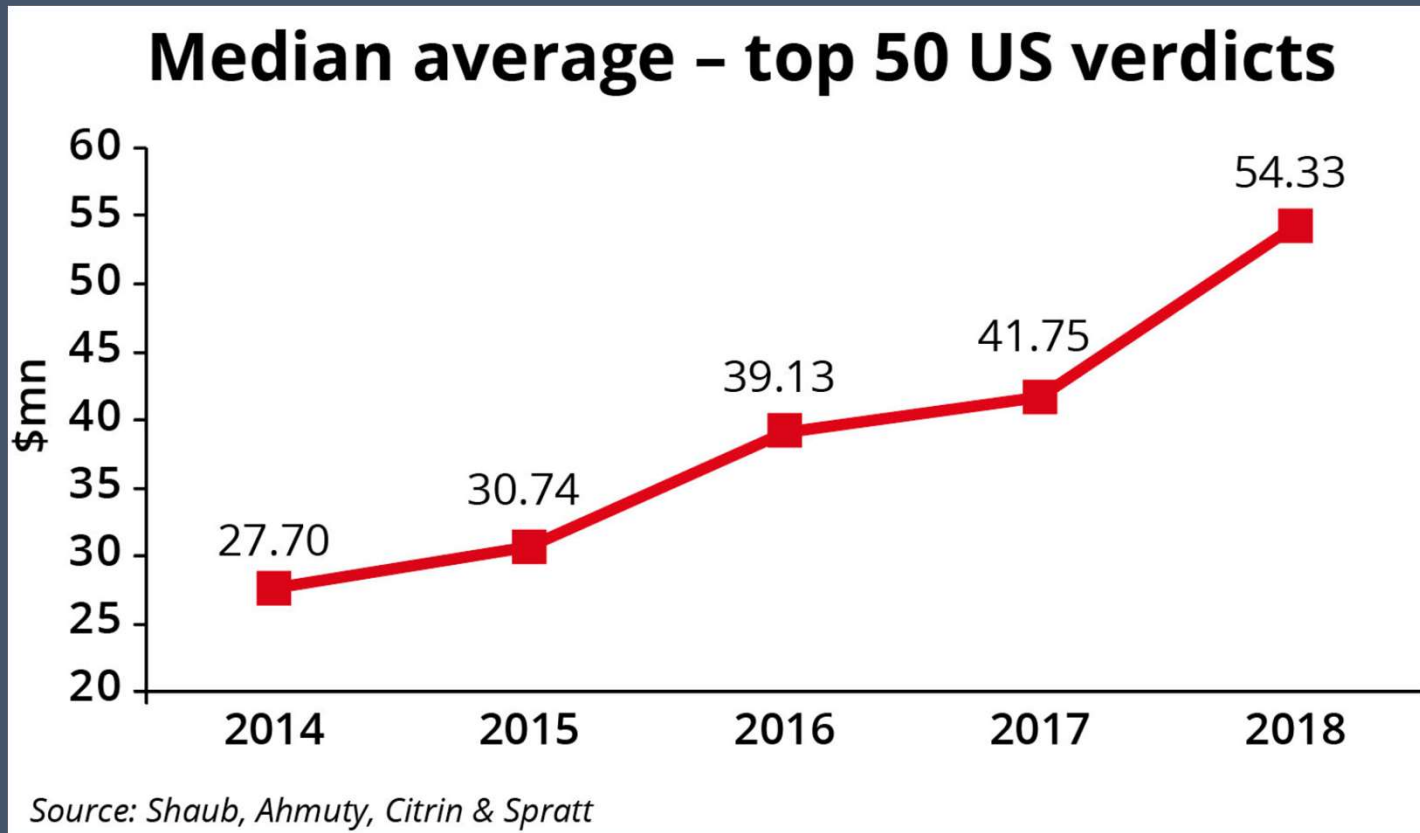
Shawn Kraatz
First Vice President





**“The situation is quite simple. Insurers have significantly underpriced casualty business for the past 10 years.”
-Stephen Catlin**

Social Inflation



Its Only Getting Worse...

Typical Exposures

- Law Enforcement
- Emergency Services
- Road Design
- Transportation Services
- Child Protective Services
- Health Care
- Jails
- Construction
- Higher Education
- Sports Programs
- Housing
- Large Events

Key Events in the FBI's Development of the National Use-of-Force Data Collection

June 3, 2015: The FBI's Criminal Justice Information Services (CJIS) [Advisory Policy Board](#) (APB) recommended the FBI develop a new data collection on officer-involved shootings.

September 18, 2015: Representatives from major law enforcement organizations proposed an expansion to the FBI's efforts, including uses of force that result in serious bodily injury.

December 3, 2015: The APB approved a new data collection on law enforcement use of force.

January 27, 2016: The National Use-of-Force Data Collection Task Force, including law enforcement leaders from across the U.S., met to discuss the collection.

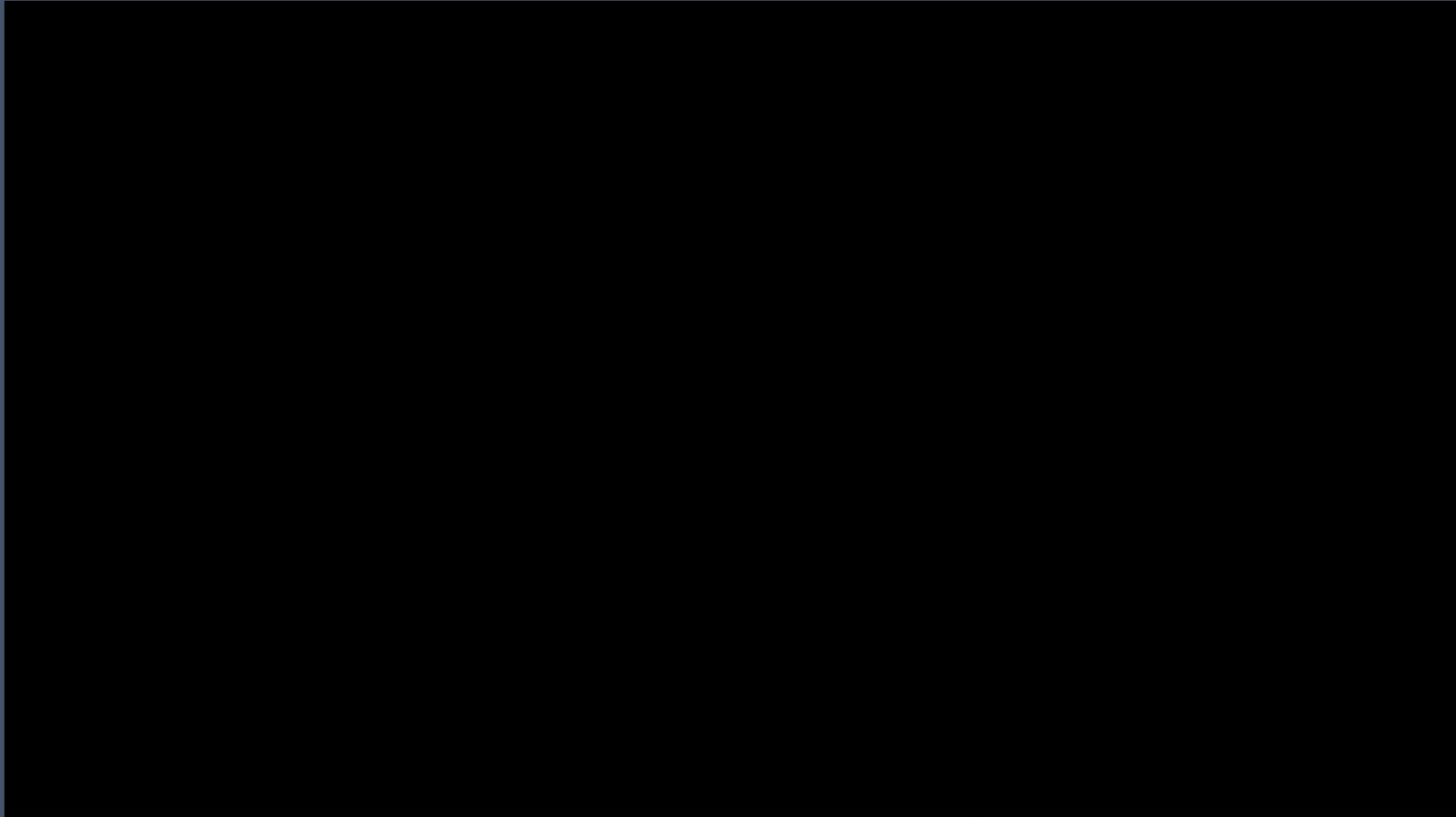
July 1, 2017: The data collection pilot study began. It concluded on December 31, 2017.

September 5, 2018: The Office of Management and Budget gave final approval to begin collecting data.

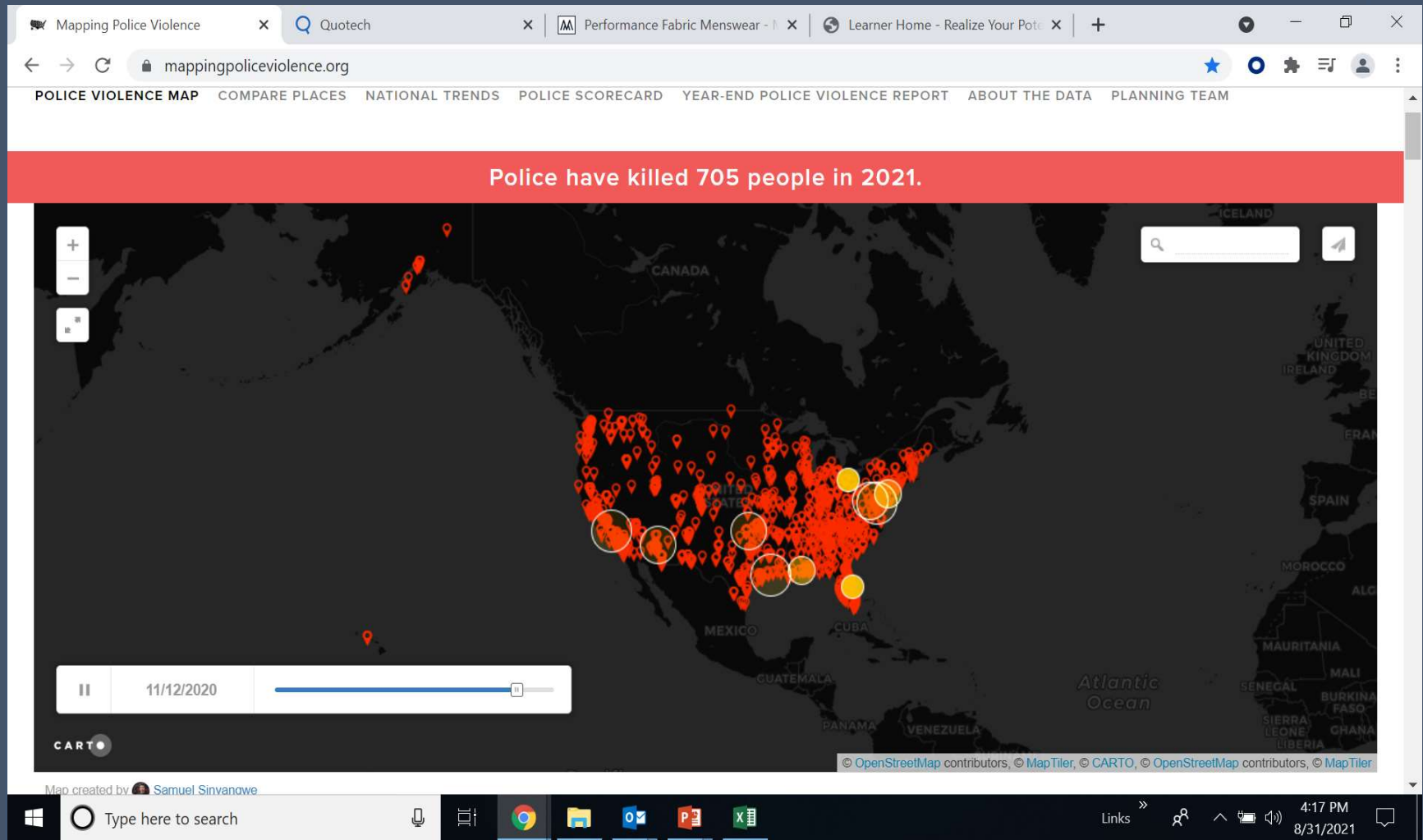
January 1, 2019: The data collection launched nationwide. All law enforcement agencies are encouraged to participate.

July 27, 2020: FBI released [participation data](#) for National Use-of-Force Data Collection.

National Use of Force Data Collection – An FBI Report

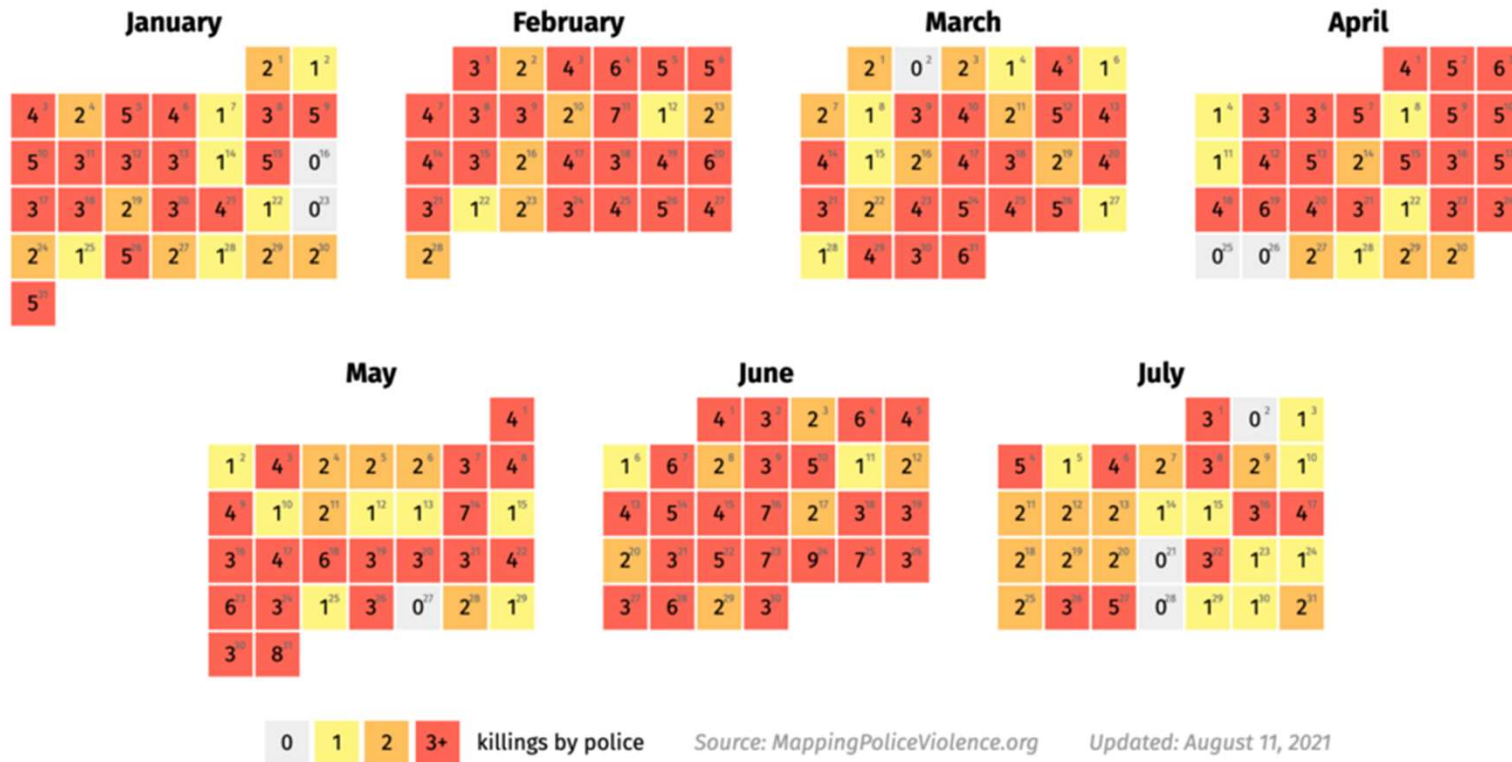


Available Data Publicly Available - <https://mappingpoliceviolence.org/>



What Market Underwriters Look At

There have only been 9 days in 2021 where police did not kill someone



Data Manipulation

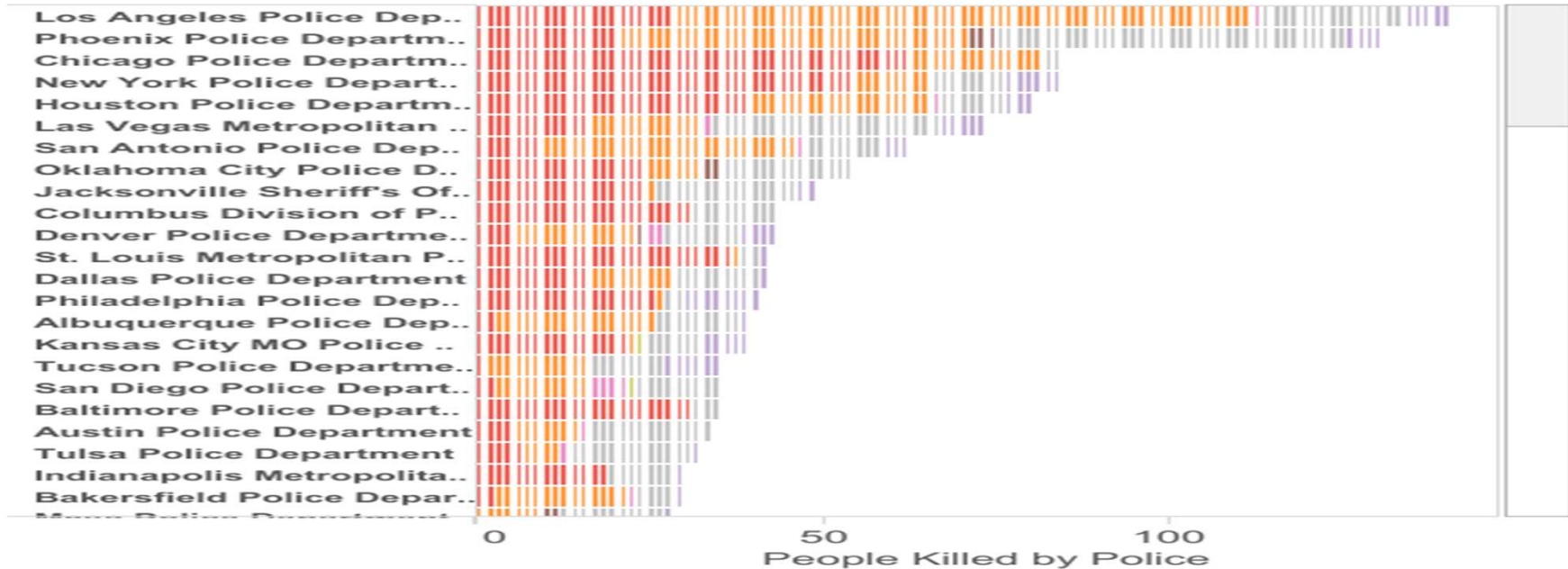
Explore Police Killings Data
Data from Jan 1, 2013 through Jun 30, 2021

Search by Victim's Name
All

Year All Unarmed? All Race All Gender All On/Off-Duty? All

State All Agency Multiple values Mental Illness? All Officer Charged? All

Black Hisp.. Nati.. Asian Paci.. White Unk..



Data Manipulation

Rate of Police Killings per Population Data from Jan, 2013 through Dec, 2020

Filter by State

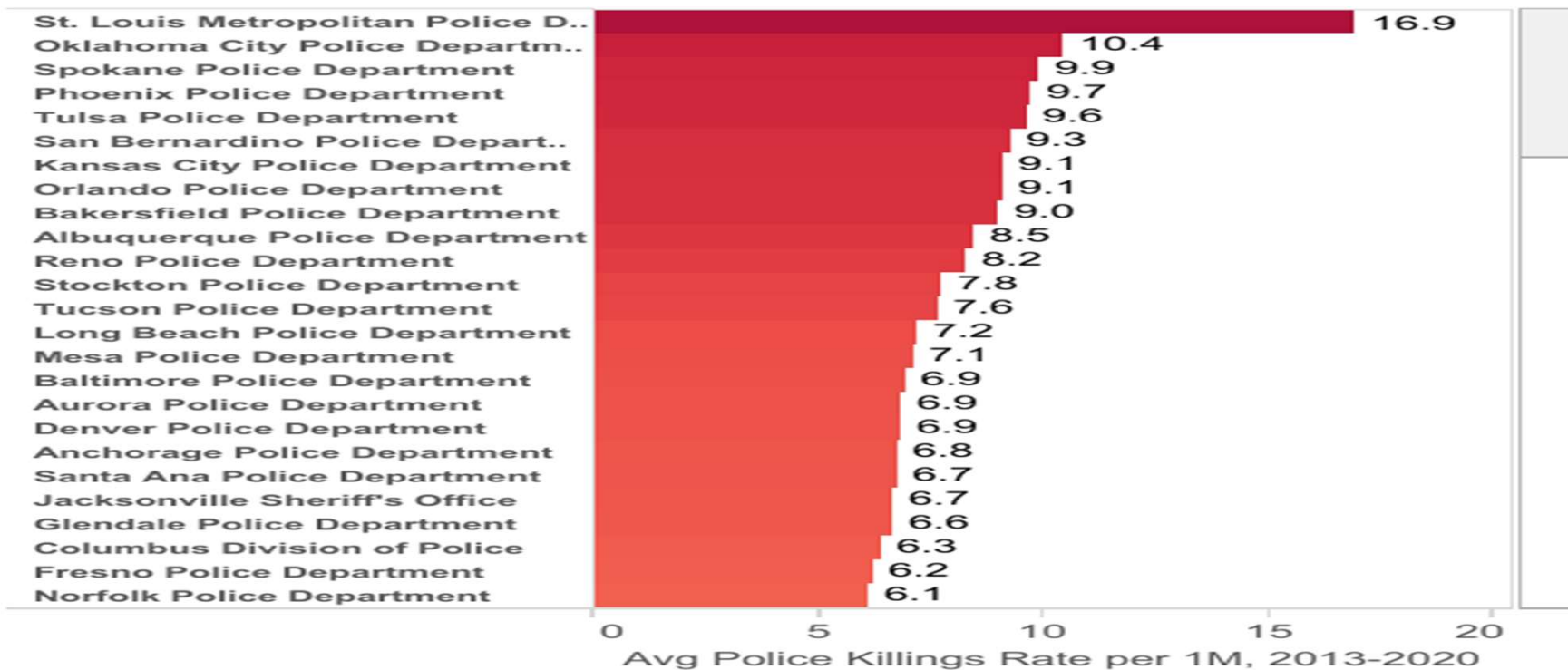
All

Filter by Police Department

Multiple values

Filter by City Violent Crime Rate (2013-19 Avg)

0 to 19.827914478



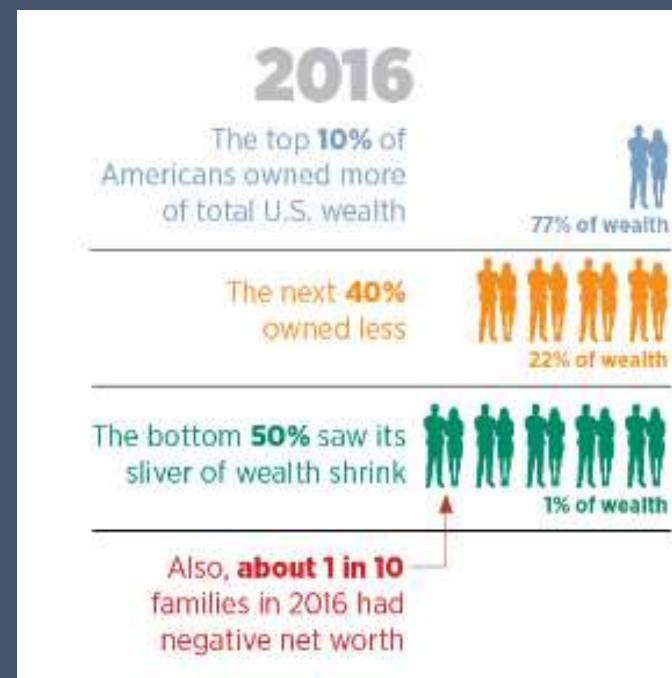
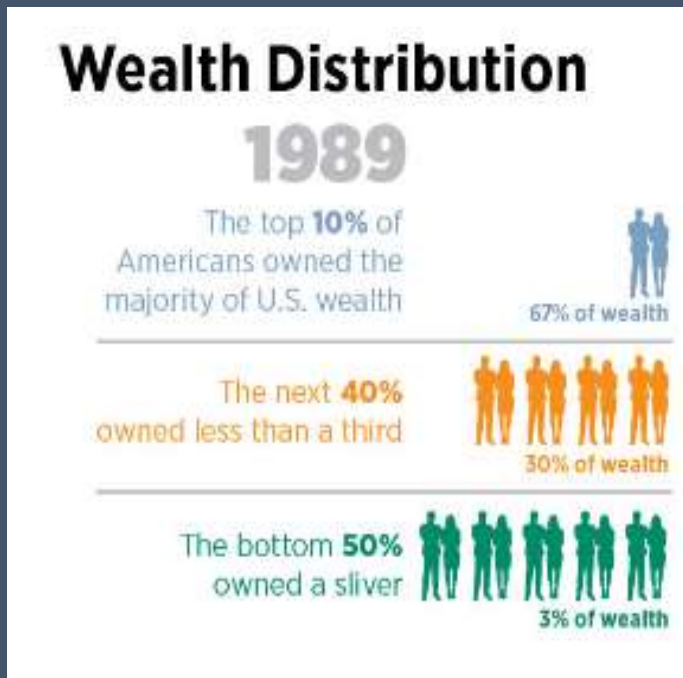
Why are claim values going up?

Reason #1 Simple Inflation

- \$1M certainly isn't what it used to be
- 1962 Cost of Living
 - Dow Jones Avg. - 724
 - Avg. Cost of a New House - \$12,500
 - Avg. Annual Income - \$5,556
 - Avg. Monthly Rent - \$110/Month
 - Avg. Cost of a New Car - \$3,125
 - Tuition to Harvard - \$1,520/year
 - Eggs – 32 Cents per Dozen
 - Gas – 28 cents per gallon
- Life care plans, litigation costs, expert testimony

Why are claim values going up?

Reason #2 Economic Disparity



Sources: Federal Reserve Board's Survey of Consumer Finances and Federal Reserve Bank of St. Louis

Why are claim values going up?

Reason #3 Millennial Impact

Looking for someone to blame

- 79% favor plaintiff from the outset
- 45% would decide based on fairness
- Wants to reward underdogs and punish deep pockets
- Would give largest awards to single parent or baby plaintiffs

Jury instructions...what jury instructions?

- Will ignore law/judges instruction
- 31% would do internet research even if judge forbids it

85 Million+ Millennials!

Why are claim values going up?

Reason #4 Digital Impact

Causing immediate public awareness

Public opinion formed in in 140 characters or less

24-hour media cycle

Desensitization to value of money

Why are claim values going up?

Reason #5 The Ferguson Effect

- Distrust of police actions
- Assumption of blame rather than assumption of innocence
- “Scumbag Defense” and “Suicide by Cop” defenses doesn’t work any more
- Dash cams and body worn cams
- Recent settlement amounts
- Political Pressure
- Qualified immunity under scrutiny

Why are claim values going up?

Reason #6 Litigation Funding

Not a new phenomenon

Litigation funding firms select deals based on

- Possible settlement amounts
- Investment outlay
- Probability of success
- Expected duration of the case

30% return on investment

Why are claim values going up?

Reason #7 Defense Bar Disconnect

Failure to attack the “Reptile Theory”

Not resonating with millennial jurors

Can’t ignore litigation funding

Damages drive awards – unwillingness to admit guilt

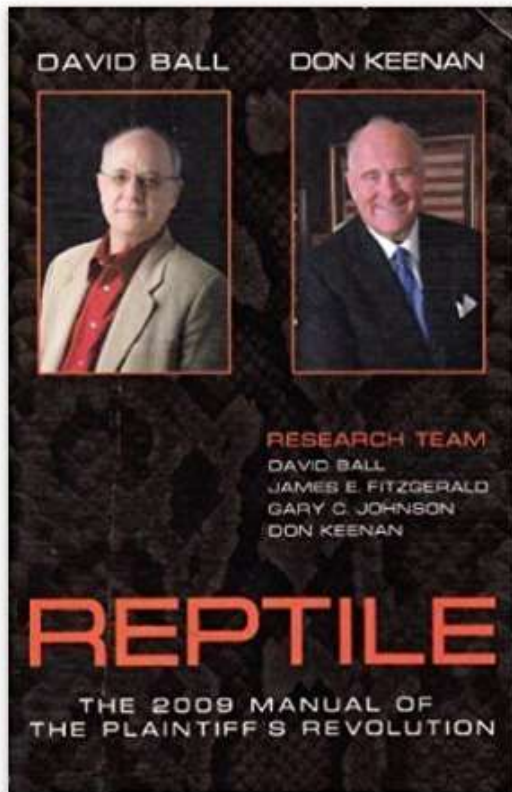
Baby boomers retire

Why are claims values going up?

Reason #8 Reptile Theory

- Plaintiff counsel strategy
- Establish safety rules for society
- Focuses on damages
- Punishment and deterrence





Reptile: The 2009 Manual of the Plaintiff's Revolution

2009

by [David Ball](#) (Author), [Don Keenan](#) (Author)

★★★★★ 10 ratings

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Learn how to make tort reform's impact on juries insignificant by using the instincts of safety and self-preservation. This book is highly recommended. The methods found inside have made it a must read for every trial lawyer.

[Report incorrect product information.](#)

Impact on Liability Insurance

- Universe of carriers is shrinking
- Reduced limits and sub-limits
- Pressure on terms and conditions
- Remaining markets picking up the slack, but...
 - Less supply + increased demand = higher rates

Community Oriented Policing Services (COPS) Risk Mitigation Report

Participants identified the following 11 key elements of good risk management systems that can and should be understood and embraced by risk managers, local governments, and law enforcement agencies

Community Oriented Policing Services (COPS) Risk Mitigation Report

1. Leadership and culture
2. Accreditation of law enforcement agencies
3. Certification and decertification of officers
4. Recruiting and hiring the right people
5. Proper use and implementation of model policies
6. Enhanced training
7. Developing appropriate systems of supervision and review
8. Sentinel event reviews and early warning systems
9. Police community relations
10. Use of force
11. Officer safety and wellness

How can we help?



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QUESTIONS?

