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90-449 Elective Politics and Policy Making

Outlawing Snatch-And-Stash

Background

The police killing of George Floyd in the early summer of 2020, following the shooting of Breonna Taylor by plainclothes officers during a no-knock raid in March, ignited a nationwide wave of protests against police violence towards people of color, further reflecting broader frustrations with racial inequality. Demonstrations were held in cities across the country, and Pittsburgh was no exception. Local organizers created robust activist networks and kept momentum for the movement going well beyond the original emotional outpouring that took to the streets. These ongoing protests, dubbed ‘civil Saturdays’, planned and disseminated over social media, continued for months in the wake of George Floyd’s death.¹

On August 15, 2020, one of these Civil Saturday marches plotted a route through Pittsburgh’s Oakland neighborhood, walking down the middle of Forbes Avenue, the main thruway for University of Pittsburgh. Matthew Cartier, a protest organizer tasked with blocking side roads so that marchers would not have to interact with cars, was standing by his bicycle at the corner of Forbes Avenue and South Bouquet Street. A large, unmarked white delivery van pulled up approximately 50 feet from where he was standing, and the driver beckoned him over, calling out for directions around the closed streets. When Matthew walked up to the driver, 4 men in civilian clothes armed with long guns jumped out of the van, grabbed Matthew, and dragged him into the back.² The van sped off down a side road, and no further information was given to the people on the scene until hours later.

The tactics used in this operation, dubbed “snatch-and-stash” by PA ACLU legal director Witold Walczak³, are eerily reminiscent of those used by federal operators in Portland, Oregon earlier in the summer against other protesters from the same movement. They serve not only as a means of arrest, but also as a show of force, frightening onlookers and making future protesters scared to stand up or demonstrate for what they believe in.

¹ <https://www.wesa.fm/post/civil-saturdays-end-after-16-weeks-organizers-say-fight-continues>

² https://twitter.com/orphir_/status/1294966318995845121

³ <https://www.aclupa.org/en/press-releases/aclu-pa-statement-pittsburgh-police-tactics-weekend-protest>

Legislating a Solution

An actionable approach to preventing the future use of tactics such as this one by Pennsylvania law enforcement could center on outlawing arrests by plainclothes officers. The targeting of Pittsburgh protest leaders is a problem in its own right, but the primary concern for this piece of legislation is the use of uncertainty to scare onlookers. To anyone else on the scene, there was no way of knowing whether they had witnessed a lawful arrest, or a highly armed kidnapping. When officers wear uniforms with their badge number and city or municipality's insignia clearly displayed, they are clearly identifying themselves not only on an individual level, but also in a broader sense as a government operative. No tactical advantage to the arrest beyond the intimidation and confusion of bystanders is garnered by the officers in the van not identifying themselves in a clear manner as being affiliated with the City of Pittsburgh police department. By banning arrests by plainclothes officers at the state level, the use of fear tactics can be curtailed at minimal expense to the actual range of methods available to law enforcement.

Several other places have issued either dramatic reductions or outright bans on plainclothes policing for a variety of reasons. The NYPD opted to disband its largest plainclothes unit in mid-June. This was interpreted by Chuck Wexler, Executive director of the Police Executive Research Forum, as sending a message to the community that the department wanted to do what it needs to to rebuild trust.⁴ Doing so in Pennsylvania could similarly help rebuild trust in law enforcement, and begin to undo the damage done in August.

Baltimore also banned all plainclothes policing in the city back in 2017. This was done in response to a FBI investigation that found rampant abuse of power by those officers, including pocketing tens of thousands of dollars recovered from a drug bust.⁵ Even before that incident, Baltimore plainclothes units were a major issue. A justice department investigation which found pervasive racial bias throughout the department singled out plainclothes officers as being particularly aggressive and unrestrained in their methods. Baltimore's Police Commissioner Davis stated "I want your brass badge attached to your chest. I want the patches on your shoulder. I want you to look like a cop, because I can't ask you to act like a cop unless you look like one."

California passed related legislation in CA S 480, enacted on September 30, 2020, which banned the use of uniforms bearing camouflage or a similarity to a uniform of the United States Armed Forces (with exceptions for SWAT units and Department of Fish and Wildlife officers). Senator Bob Archuleta, who authored and sponsored the bill, stated "Our police are not a

⁴ <https://www.nytimes.com/2020/06/15/nyregion/nypd-plainclothes-cops.html>

⁵ <https://www.nytimes.com/2017/04/14/us/baltimore-police-department-plainclothes.html>

military force, and it should not be made deliberately difficult for a member of the public to distinguish between the two.”⁶. Although the bill does not relate to plainclothes officers, the intent is the same: preventing the intentional deception of the public with regard to the affiliation of a law enforcement official. This demonstrates the structure that a similar plainclothes bill could be modeled after, and the desire for such change in other places.

Policy

There is not currently any analogous legislation in effect in Pennsylvania. It is something that is almost across the board regulated on a department by department basis, with each organization creating guidelines and codes for what their officers can and cannot do, but not beholden to any overarching statewide legislation. This irregular regulation across different groups has led to some strange situations, such as in 2000, the Philadelphia police department solicited the help of state police to infiltrate activist leadership promoting protests at the Republican national convention. The local police needed to call in help from outside their jurisdiction due to a 1987 mayoral order preventing Philadelphia police from sending plainclothes officers undercover to infiltrate activists.⁷

One of the bills put forward in the wave of new legislation is similar in intent to anti-plainclothes arrest legislation. Representative Brian Sims, a Philadelphia Democrat serving in the house, has put forward HB 2817, a bill very similar to CA S 480 mentioned above. It also bans the use of camouflage or military uniforms by police, with Sims citing in his co-sponsorship memorandum wanting to avoid the military uniformed abductions in Portland causing confusion and fear in the streets.⁸ The two already signed and enacted by Governor Wolf require thorough background checks of new officers hired, mandatory reporter status and training for child abuse for police officers, and mandatory PTSD screenings biannually and after use of force incidents. There are another 30 bills relating to police reform spread throughout the state house and senate, with most waiting in the respective Law and Justice Committees.

The simplicity of this legislation makes questions of appropriations and implementation. Enacting a ban on arrests by plainclothes officers doesn’t require any budgetary allocation, nor

⁶ <https://sd32.senate.ca.gov/news/1072020-governor-signs-senate-bill-480>

⁷ <https://www.aclu.org/press-releases/aclu-denounces-police-infiltration-protest-groups-gop-convention-philadelphia>

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<https://www.legis.state.pa.us//cfdocs/Legis/CSM/showMemoPublic.cfm?chamber=H&SPick=20190&cosponId=32266>

does it require complicated implementation processes to be designed alongside it. Much like the motorcycle helmet law, there is not much further work to do beyond securing the votes.

Getting the Votes

Getting this legislation onto the floor and successfully voted through both the PA state house and senate will be a challenging, but not impossible. It seems that the largest roadblock for these bills is actually getting out of committee, rather than a partisan divide in house and senate votes. Of the bills that have made it through, either to Governor Wolf's desk or just passing to the other chamber, most seem to be passed unanimously. This is the case for HB 1841, HB 1910, SB 459, and SB 1205, and there seem to be more like them in the house. Because of this, it seems most important to target the chair and members of the Judiciary committee, to make sure the bill ever gets to see the light of day.

Due to the similarity to the intent of HB 2817, it seems like Sims would be a good target for a prime sponsor of this bill. Additional appeals could be made to the co-sponsors on the bill, all of whom are Democrats. Summer Lee and Sara Innamorato are also co-sponsors of HB 2817, and potential supporters of an anti-plainclothes arrest bill, as both have been vocal in support of protesters and championing police reform bills. In the senate, Jay Costa stands out as having sponsored and passed through committee successful bills focused on police reform and regulation and could be a potential proponent of this bill. The key figures to try and lobby support with are Rob W. Kauffman and Lisa Baker, chairs of the House and Senate Judiciary committees respectively. Their committees seem to be the main road block that many other police reform bills are facing on their way to Wolf's desk. If their support cannot be secured, it may be worth waiting to introduce the bill until next year, so that it doesn't automatically die at the end of the year without ever even having left committee.

In terms of creating public support, the strongest weapon this initiative is armed with is video of Michael Cartier's arrest, located in Appendix A. Regardless of people's opinions towards the greater protest movement, the video elicits a negative gut response from most people who see it. There's enough of a visceral reaction to it for it to have made its way to national news, so the publicity campaign can afford to be more focused on simple awareness without having to worry as much about education. Focusing on a social media campaign can accomplish wide viewership with minimal resource expenditure. It will be important to leverage the extensive social media networks of local protest organizations such as Pittsburgh I Can't Breathe for free reach with the message. The name "snatch-and-stash" is an easy to remember brand, and disseminating the video coupled with a brief, simple proposal for banning snatch-and-stash could secure widespread public support for the legislation.

Appendix A – Video Footage of Arrest

<https://twitter.com/RabidSocialist/status/1294808473503506432>

(Warning, Explicit Language)