

DE-ESCALATION MISINFORMATION



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Table of Contents

- 1** Police Reliance on Compliance Outdated in the Current Era of Pre-escalation
- 5** Excited Delirium – What Should Law Enforcement Do?
- 9** The Game of Policing
- 13** Calling For Backup Is No Guarantee of De-escalation
- 16** Officer Intervention Can Compromise Officer Safety
- 20** Defining De-escalation
- 23** De-escalation: Internal and External
- 26** Less Lethal Options Can Save Lives
- 29** Putting the Brakes on De-escalation Expectations
- 34** Hands Up, Don't Shoot! The Peril of Fake Surrender
- 37** About The Author

Police Reliance on Compliance Outdated in the Current Era of Pre-escalation

Ask any police officer serving today whether people are as likely to comply now than when they first began. Not likely. The level of hostility and contempt for police contribute to the phenomena of pre-escalation, the predisposition of a citizen to be argumentative and resistive during contact with police. Officers conditioned to expect compliance can no longer relax in that mind set.

A social trend

Sociologists and historians will be able to look back in coming years to measure changes in social trends and cultural values. Now we rely on anecdotal evidence which reveals increasing levels of passive as well as aggressive resistance to police contacts.

There have always been disgruntled citizens upset by the inconvenience or cost of a police contact. Police have always been met with a level of fear and tension, even suspicion, so that isn't new. Police have always been vested with the authority to use coercion on behalf of government to maintain law and order.

Centuries before the founding of the United States, it was a well established understanding that the state should have the monopoly on violence. To prevent blood feuds, hasty lynchings, and duels to settle grievances and administer justice, a system of courts

and government agents are instituted to ensure fair treatment of all, rendering individual efforts of revenge and recompense unnecessary.

This entrustment of power and authority to the government within the bounds of democracy was balanced by a high degree of accountability. Law officers could be unelected, dismissed, sued, and prosecuted for violating their lawful duties. This was part of the fabric the social contract between citizens and the government they created. That fabric is being torn by the antipolice movement demanding severe restrictions, defunding, or even abolition of the police.

Resisting as righteous

Like scolded teens rebelling against a parent's correction, the resistance to correction by persons arrested by police has been an expected reaction among offenders. Although physical resistance was unlawful and punishable, it was infrequent and anticipated. For those truly innocent (as opposed to those legally presumed innocent by the justice system), resistance to police was often in the form of being indignant. Suspicion of wrongdoing was beneath them and they submitted under protest. There were also those who resisted because they knew that prison awaited them and calculated that resisting was not an unreasonable risk.

In the prevailing mood of many in the nation, citizens who would ordinarily, however reluctantly, cooperate with police officers performing their lawful duties, now consider resistance to be a noble strike against systemic

police abuse. The calls for de-escalation, while a worthy goal, ignore the antipolice movement's creation of pre-escalation – the increase in the number of citizens with a chip on their shoulder and willing to violate the old rules of cooperation with the police with the expectation of subsequent justification.

Consequences for police

The great and potentially tragic irony in the call for a reduction in police use of force is the potential increase in the need for it. For most police officers, most of the time, even a custodial arrest is made with cooperation from the person being arrested. As with all habits the repeated success of a police contact with citizens complying with lawful police directives can lead officers to ignore the increased probability that a citizen will be argumentative and resistive. Words cannot hurt an officer but delaying compliance until a hostile crowd gathers can.

A gentle guiding hand or gesture such as grasping the upper arm to lead a person to the patrol car is usually accepted by the suspect. In today's environment he increased likelihood that an arrestee will twist, flee, or yell for help from the crowd makes these assumptions of compliance dangerous for the officer and the arrestee.

Critics will decry the claim that there is more frequent resistance. They will say that taking insults and navigating arguments are just part of the job and portend no danger to the officers. They will claim that everybody, everywhere, all the time, no matter what,

can be de-escalated. They will claim that the kind of thinking articulated in this article only elevates officers' likelihood of using force and fictionalizing its justification. These are specious arguments to those in contact with reality.

New training?

It is not rational to argue against better training on de-escalation. A harder case to make to the public is that officers need better and more frequent training on arrest control. Only those contacts with arrestees that can be quickly and effectively converted into reliable control holds should be used by officers. Verbal commands should be clear, concise, and firm so that an arrestee has no excuse for non-compliance.

Officers rely on compliance and they get it most of the time. Being ready for non-compliance is the safest tactic for everyone concerned, and more important than ever.

Excited Delirium – What Should Law Enforcement Do?

Nearly 8,000 people die in the U.S. every day. Sometimes that last breath happens while a person is in police custody, an average of fewer than 2 per day, not counting the average of 3 persons per day fatally shot by police on average. Given the total jail and prison population of over 2 million and over 27,000 arrests every day by America's 800,000 police officers, the numbers must be placed in perspective.

The subset of persons in a given population necessarily affects mortality. We would expect more people to die in a hospital emergency room than in a doctor's office. More people die in nursing homes than college dormitories. Suicide deaths vary by age group, as do murder victims. Are those who die in police custody a subset whose mortality risk is high?

Certainly, the citizens seeking assistance or information are representative of the population at large, but persons with whom police have contact are often in a state of agitation that developed from circumstances prior to the arrival of law enforcement. Stress, by definition, burdens the cardiovascular system and impedes decision making. The use of alcohol and other drugs strains the body, reduces responses to pain, muddles thinking, increases self-destructive thoughts and behaviors, but also can increase violent tendencies. Chemically induced behavior attracts the attention of

bystanders resulting in a 911 call for the police to intervene.

Many others who are contacted by police, particularly those with histories of substance abuse and those with a history of criminal activity have made other poor decisions including lack of self-care. Poor nutrition, unhealthy physical activity, generally poor health, and other factors, including poverty that may result in poor diet and less access to quality health care, all have their effect on populations in frequent contact with law enforcement.

One potentially lethal condition that police can encounter is the condition of “excited delirium”. The abstract from a medical journal reads “Excited (or agitated) delirium is characterized by agitation, aggression, acute distress and sudden death, often in the pre-hospital care setting. It is typically associated with the use of drugs that alter dopamine processing, hyperthermia, and, most notably, sometimes with the death of the affected person in the custody of law enforcement. Subjects typically die from cardio-pulmonary arrest, although the cause is debated. Unfortunately, an adequate treatment plan has yet to be established, in part due to the fact that most patients die before hospital arrival. While there is still much to be discovered about the pathophysiology and treatment, it is hoped that this extensive review will provide both police and medical personnel with the information necessary to recognize and respond appropriately to excited delirium.”

Translated, this means that excited delirium is hard to diagnose, occurs outside of medical care, and is associated with drug abuse. What it looks like to a police officer arriving to a call of a person causing a disturbance is a sweating, often naked (due to increased body heat) person, often overweight, and impervious to rational discussion, and feeling no pain. When a person feels no pain, their strength is multiplied because the normal sense of “this hurts, I’ve got to stop” does not exist. From a real world perspective that means that a single officer, no matter how skilled, is highly unlikely to successfully take custody of the person by themselves.

Complicating this interaction is that excited delirium is a potentially fatal condition. This means that first responders must act quickly to get a person to advance medical care. Therefore the fight to get control of an out of control person is not primarily for justice purposes, but for medical care to prevent death. Restraints needed to accomplish that are blamed for excited delirium deaths, rather than the medical emergency itself, leading critics to blame the police for those deaths that occur prior to hospitalization.

The American Medical Association has proposed that the diagnosis of excited delirium is a cover for the killing of black men in police custody. The State of Colorado has outlawed the use of one of the most effective drugs in calming the condition, which is Ketamine. This is yet another example of politicians removing vital life-saving tools from police and other first responders. In a yet unpublished bit of science and research, the American College of Emergency Physicians has taken the position

that excited delirium is a valid medical condition that requires early medical intervention.

While the science of this situation is debated under the umbrella of politics and not the reality that police officers face on the street, first responders are being prohibited from using the very calmative and tactical measures necessary to get a person to advance medical care and save lives.

The Game of Policing

I recently watched my Denver Nuggets make an amazing effort to win some trophy or something like that. I am only a sports fan to the extent that I like having conversations with my sports-fanatic son, and as a social prompt to say “How ‘bout them (insert team name). I do get excited, as fair-weather fans do, when my home team is in some sort of play-off or finale, and I recognize that real sports fans detest lightweight fakers like me.

My blasé attitude for sports derives partly from being recognized at an early age as incompetent in team sports. Later I was able to prove myself incompetent in individual sports as well. It’s not that I didn’t try. I spent a couple of miserably hot Missouri summer afternoons playing auxiliary backup left field on some little league team organize by a supposedly benevolent youth organization that thought me and my ilk needed to build character.

I seldom got beyond first base, which was perfectly fine with me. Much less pressure. I wasn’t quite desperate enough to move in front of a pitch to take a base, but upon reflection, I may simply have not known that was a rule. In fact, the only rule I remember was “one base on an overthrow” which seemed to be announced to any runner I had the misfortune of trying to throw out. The highlight of my career was reaching third base which coincided with having downed two big sodas, wearing white uniform pants, and it being a dusty and windy day which created a clear outline of a pattern on my crotch

that could not be explained away as my having spilled something. I don't recall if I made it to home plate or not, being perpetually guilty of praying that my team would lose quickly and end the whole affair.

What little I have learned about sports (and I did try – I once read a book called “How to Throw a Football”), has made me reflect how patently unfair police work is in comparison. The finest athletes in the country (or imported from Serbia in some cases – go Nuggets) are highly rewarded whether in dollars, scholarships, or general privilege, and are highly regarded. They play by clearly defined rules that are enforced by specially trained observers.

Granted, they suffer the momentary disappointment of their fans when they should have done a thing that they failed to do, or did a thing the armchair observer watching the replay exclaims they should not have done. But a missed pass, a strike-out, a botched free-throw (I'm exhausting my sports vocabulary) is quickly forgiven even if written up on the sports page or retweeted a half-million times. Interestingly, although team affiliations might suffer, when a quarterback gets sacked, no one – I mean no one – exclaims “Those damned quarterbacks, they always get sacked, you just can't trust 'em”. No one.

The real nail-biting moments in sports come down to amazing performances of physical skill under the pressure of time. We can groan when it doesn't work out, and celebrate gleefully when it does, but nobody dies on either side. Olympic athletes win or lose their medals by margins we couldn't even measure until the

digital age, and this is one endeavor where a participation trophy really means something.

A quarterback has as much as 7 seconds to decide what to do with the ball as he is being attacked by a horde of other large people. In a confrontation in the law enforcement world, 7 seconds is a very long time. A batter has about a third of a second before a typical pitch gets in range while the brain under the helmet takes a quarter second to tell his arm to move, leaving about a 10th of a second to make a decision about taking a chance on a swing. The average major league player is successful only one out of four times. In an armed confrontation, a police officer has a similar margin to make their life or death decision.

An armed adversary can easily pull their readied trigger and fire multiple shots before an officer can unholster and engage. That's a decision that must be made while considering what's downrange, often with poor lighting conditions and uneven surfaces, while trying to determine whether the object is a gun or cellphone and whether they will die or get sued as a result of that 10th of a second decision. The officer will fire fewer than three rounds on average, meaning that, except in the rare, protracted gun battle, the fateful event is over in less than the time that quarterback decides to throw or not.

And by the way, the adversary doesn't play fair in law enforcement. They cheat. They fake. They use innocent people as shields. They don't get called for foul moves or being out of bounds and there are no time-outs. We

could use fewer Monday morning quarterbacks and a few more cheerleaders.

Calling For Backup Is No Guarantee of De-escalation

In 2016, Officer Joseph Mensah shot and killed Jay Anderson. Anderson was apparently asleep and possibly intoxicated in his vehicle at 3 a.m. in a park in Wauwatosa, a Milwaukee suburb when Mensah approached to investigate. Seeing a handgun near Anderson, Mensah drew his sidearm and attempted to make contact with Anderson. According to the officer, Anderson reached for the gun and Mensah fired.

After an investigation by an outside agency, Mensah was cleared of wrongdoing in the 2016 shooting. Although no charges were filed, relatives of Anderson used an obscure state law that allows judges to directly question witnesses in what's known as a John Doe proceeding in which a judge who finds sufficient evidence for charges can file them directly, leaving prosecutors out of the equation. Only a half dozen states have such a provision, and it is seldom used in Wisconsin.

Milwaukee County Judge Glenn Yamahiro ordered a special prosecutor to handle the case stating, "Mensah should have been aware that pulling his weapon on Anderson created an unreasonable risk of death" and the officer should have de-escalated the situation and waited for back up which was reportedly on the way.

Regardless of the merits of the case or the defense, the judge made a typical error in assuming that backup

officers are the key to de-escalation. There are many reasons why this assumption by persons without sufficient knowledge of the real world of police operations creates problems. Once again, science and research are ignored.

First, backup is not always available. In larger police agencies, dispatchers will hold a call that is likely to need more than one officer. In agencies with fewer officers available on duty that choice may not exist – they call, you go.

Secondly, response time may not be sufficient to intercede. The officer asking for assistance may have little time to hold a suspect at bay and give details to arriving officers. Ideally, backup officers will arrive with a good understanding of the situation and how to deploy on arrival. That kind of detailed briefing is seldom possible in a rapidly developing situation.

Officers who investigate routine matters can find themselves facing a critical incident within seconds or less. Calling for backup for routinely checking a parked car or contacting a sleeping or intoxicated person is great when possible, but the frequency of these kinds of activities simply doesn't allow pulling a second officer from other activities. Officer Mensah's statement was that Anderson's movements were swift and that he might even have been faking slumber in order to catch the officer off guard were discounted by the judge.

Thirdly, having more than one officer at a scene does not have a predictable effect on the outcome. Any officer is happy for any colleagues who can assist them. However,

studies in Phoenix, Arizona show that over half of the officer-involved shootings had more than one officer on the scene. This is likely true across the country as well. While officers do a generally superb job of de-escalation, the reality is that they always have to overcome the initial adrenaline spike that a uniform invokes on most people. Multiple officers might inspire fear and compliance, but they might also inspire fear and defiance.

With an increasing number of courts accepting “provocation” claims, wherein police officers are accused of causing a violent reaction of a suspect, police are being put in a position to be fortune-tellers. Will more officers create peace or increase tensions? Critics, and sadly now courts, are moving to a dangerous assumption that police officers in tense situations can predict what an agitated, mentally ill, or drugged suspect will do.

This article does not attempt to defend the officer, absent a review of the entire investigation, nor does it assume that the judge is making a tragic mistake. Regardless of the outcome of the filing of charges against Officer Mensah, expert testimony must be allowed to explain that perceptions based on a life of watching TV and movie cops do not prepare a judge, prosecutor, or jury to evaluate officer-involved shootings.

Officer Intervention Can Compromise Officer Safety

After the arrest of Rodney King by the LAPD in 1991, many states enacted laws requiring police officers to report their colleagues if they feel that unnecessary force was used. Some states have gone beyond that requirement and are now requiring physical intervention. I understand, but let's think about the reality of violent street encounters with violent offenders.

My first point may not be well received because the King arrest is a no-brainer of brutality in the minds of most people who were around when the video hit the news, and the conclusion has become embedded as historical fact. We hardly ever see the word arrest in connection with the King incident, only the word beating. The Wikipedia page begins "Rodney Glen King (April 2, 1965 - June 17, 2012) was an African-American man who was a victim of police brutality". No headline is without the word, often accompanied by the word "brutally".

It is important to note that a major significance of the King arrest was that it was videotaped and broadcast in edited form on the local and subsequently national news. The average citizen, unaccustomed to seeing interactions involving real-life violence, responded viscerally against the officers.

It is rarely noted that two passengers were with King in his vehicle when it was finally stopped after an eight-mile pursuit. Both passengers got out of the car as lawfully ordered by LAPD officers. Their compliance was met with no further coercion by the officers at the scene. King, on parole for robbery, was intoxicated. He did exit his car but refused commands to lay on the ground, choosing to rest on his hands and knees instead.

Officers testified that King continued to refuse to follow the officers' lawful orders. Uncontroverted testimony showed that the officers thought King's behavior was consistent with being under the influence of PCP, a hallucinogen common in the Los Angeles area at the time. PCP allows superhuman strength, not only from its influence on users to feel invulnerable, with a sense of impending doom, paranoia, and violent hostility. While later examination found no evidence of PCP use in King, the officers were reasonable in their caution given the experiences of other officers dealing with violent persons under its influence.

An electronic control weapon (i.e. TASER) was attempted on King twice, but he fought it off and continued refusing to lay prone and charged one of the officers. TASERS were at a different stage of development then, and only assigned to Sergeants, thus the deployment attempts were by Sgt. Koon. The officers had already attempted a swarm technique, which deploys several officers on cue to coordinate the takedown. But again, King fought the officers off and the swarm was ineffective. Per LAPD's use of force policy at the time, the next step was to use the baton before elevating to deadly force.

King was struck 31 times out of 56 baton swings. The bystander video showed that officers followed policy and attempted to determine after each strike if the subject was still resisting. During the initial trial against the officers, the video was used to point out that after every blow, King was shown attempting to get up – presumably to posture to flee or attack the officers again.

This sequence of events led to a not guilty verdict for all of the officers in a state trial. Not satisfied by that proceeding, federal prosecutors filed charges in federal court against Sgt. Koon and Officer Powell for violating King's civil right to be seized reasonably. The outcome of that trial was that the judge found that one or possibly two of the baton blows were not necessary to subdue King. Those were Powell's blows and, for his guilt, Koon should have stopped those. Given today's increased knowledge of neuroscience and reaction time, I am confident that testimony about the ability to stop an action in progress would have been introduced and possibly prevailed in that case.

I have replayed to facts of this case to outline a potential danger of laws that demand physical intervention of one officer to another making an arrest. What would have been the outcome of King's ability to rise up and attack the officers successfully? Deadly force would have been legally and procedurally authorized. If one of the several officers at the scene had stepped in to prevent the use of the TASER or the swarm technique or the baton blows, would King have been shot or officers seriously injured?

An officer dealing directly with a suspect is the only one who truly knows what force is being used to unlawfully resist an arrest and assault the arresting officer. I'm reminded of a case where an officer slammed a handcuffed arrestee against the hood of his patrol car and was accused of brutality. Fortunately, there was a video of that arrest, and the officer could point to the fact that the arrestee, with his hands handcuffed behind his back, was viciously squeezing the officer's testicles. The officer's actions were necessary to get the suspect to release his debilitating grip.

The recent video of a young officer grabbing her supervisor by the belt to pull him away from dealing with an arrestee has yet to be fully investigated so I will render no opinion on the appropriate outcome. I will say that if I'm in a confrontation up close and personal with a person who is actively trying to harm me, destroy evidence, or access a weapon, I am the one and only person who knows what is appropriate force in that moment. Let's not put our officers in more danger than they already are by making adversaries out of our colleagues.

Defining De-escalation

The word of the decade for law enforcement is “de-escalation”. But what does that really mean? If it means that police are expected to have a conversation with every violent offender or irate citizen until they start smiling and invite the officer in for iced tea. Sure, that can happen, but moving a person from imminent attack to complying with an arrest is dependent on innumerable factors.

A more accurate view of de-escalation is to start the definition from the level of tension at the time of the arrival of police, rather than expecting a totally peaceful outcome regardless of what the officer finds at a scene. If a suspect is displaying a weapon and the officers can do something with relative safety without using deadly force, that is successful de-escalation. That may mean that law enforcement was able to use a Taser or a bean bag, or were able to keep themselves and everyone else behind cover while communicating with the suspect.

A consideration often ignored by police critics when accusing officers of using force out of fear is that a threat of violence against a police officer is a threat that the officer might become disabled and unable to protect the public. The officer must also protect. By using persuasion or force to preserve their own life and health, an officer can prevent the threat to the public from the escape of a violent offender as well as prevent becoming a liability who needs rescue themselves. An officer protecting themselves is an officer protecting the public.

De-escalation may be accomplished with a number of tools in addition to the officer's persuasive skills. The first responding officer may have more flexibility to negotiate if there are other officers present. In a situation where lethal force is a lawful and justifiable option, having another officer can be ready to use that force while the officer relating to the suspect can be somewhat more relaxed and not presenting their weapon as a threat to the offender.

This is a common question of civilians: "why didn't they just Taser him?". The answer is often that the officer is faced with a deadly force situation where failure is not an option. While Tasers are a great advance in force options, they are not intended to counter deadly assaults. Only when at least one other officer is ready with a deadly force option should a Taser be used to immobilize a person in possession of a deadly weapon. Critics must keep in mind that the Taser is useful only at relatively close distances between the aggressor and the officer. Should an aggressor decide to move in closer rapidly with a deadly weapon, or flee with a deadly weapon, the reaction time necessary for a single officer to transition from a Taser to a firearm.

Other tools at an officer's tool belt or patrol car trunk are also tools to de-escalate violent force. When used – especially when posted by an anti-police Youtuber, edited, and provided with an inaccurate narrative – can look brutal, but are designed to bring an end to an unlawful resistance or assault. That includes a baton, chemical spray, a variety of munitions to distract and disable suspects, along with other options depending on

what their agency provides. Not all of those tools are immediately accessible when time is of the essence. Many of these tools work by temporarily disabling nerve connections or muscle function and require powerful strikes to the body. Doesn't look pleasant, probably causes pain (if the suspect can feel pain in their enraged or intoxicated state), and are hard to watch. Nevertheless, if they accomplish compliance at a lesser level than the highest force legally permissible, then de-escalation happened.

Law enforcement leaders and influencers can help the public understand use of force and de-escalation. If they don't, the story will be told in the worst possible light.

De-escalation: Internal and External

Why didn't they de-escalate? That's the question posed after police use of force events asked by citizens of goodwill and skeptics alike. It is a valid question and one that deserves an answer. The answer is that the officer did de-escalate if they kept a situation from getting to its worst potential outcome.

Although the term (an unfortunate one, in this writer's opinion) has been applied to police tactics for less than a decade, police officers, teachers, medical professionals, parents, and retail clerks have been doing it since the first argument. I prefer the concept of neural braking which is an interruption in the decision-making process that keeps us from hitting "send" on a mean email or doing our own PIT maneuver on the knucklehead that cut us off in traffic.

Reviewing a little brain science is a good place to begin. Humans engage in behavior with some purpose, consciously or subconsciously in mind. Behavior achieves movement toward some goal from some source of need or motivation. The need may be hunger, the need for attention, or the need for dominance. When that need is frustrated, a person may react in a positive way or a negative way. Positive behavior might be to give up, to establish a new way to meet the need. Or to mentally reframe the conflict to resolve it. Negative behavior in reaction to the frustration is often some type of aggression that might be internalized as withdrawal or even suicide, or aggression against a person or persons perceived to be the blame. So, while

external events can trigger aggression, the origin of the behavior is in the mind.

What happens in the mind generates chemical changes in the brain and the body. When a police officer is dealing with a person in a behavioral state of aggression they are faced with only two choices. One is to attempt to get the person to undergo an internal change of thought to gain control over the person's behavior. We all know from our own experience that the decision to change our behavior in the middle of a conflict is very difficult and that the decision to overcome our aggressive impulses takes time. We are told to calm down, but our body chemistry has already been activated. Changing that chemistry, generically referred to as adrenalin, takes time, just like slowing the speed of an automobile. That is why I like the label of neural breaking.

When an officer has time to communicate effectively with a person behaving dangerously, they can help the person alter their internal decision-making. This is internal de-escalation. If time is not available and the behavior is creating an imminent threat, then external de-escalation becomes necessary. The officer may be able to "buy time" by using distance or some barrier between the aggressive person and themselves or others in harm's way. If that is not practical, based on all the factors known to the officer, then force may be needed to externally de-escalate.

This is why we should consider reasonable force to be part of de-escalation. If a person is charging another with a knife, for example, an officer may need to use

deadly force to stop the aggression. The officer had de-escalated the dangerous behavior by physically stopping it. That is not a failure of de-escalation, but a successful de-escalation. So when critics cry “Why didn’t they de-escalate the situation?”, the answer is that they did.

The mythology around so-called de-escalation is that every situation provides an opportunity to create in the mind of the aggressor a reason to stop their dangerous behavior. This simply isn’t true when the circumstances do not provide the safety of time and distance. Fortunately, officers have a variety of tools for both internal neural braking and external de-escalation. These tools range from negotiation to less lethal means of disabling an attacker. They also include a variety of weapons available on the officer’s tool belt to stop the threat, whether that be a baton, pepper spray, or their duty weapon. It is why they are armed, but also why deadly force is statistically rarely used. But that final option must remain as the ultimate de-escalation.

Less Lethal Options Can Save Lives

Amid the cries for de-escalation and the protests of police shootings, technology has stepped in to give police officers options other than their handguns when confronting a resistive subject. The term “less lethal” survived as the term of choice even though it is a bit of an oxymoron. Lethality is the quality of being capable of causing death. The intent in using less lethal means is specifically to avoid killing someone, therefore “less than lethal” was a competing term for a while in the profession. However, the application of the technologies discussed in this article are not gentle on the human body and, in fact, in rare cases, their use has been concurrent with a subject’s death, therefore we cannot say that they are always non-lethal.

When deaths of suspects occur in association with less lethal efforts of control, it is important to know that these technologies are used on highly agitated persons who often have underlying drug use or health problems. Sometimes these methods occur after a lengthy physical struggle or pursuit. A death associated with custody cannot be assumed to be the fault of those making the contact.

It is also important that the citizenry understands that less lethal means of apprehension and other de-escalation strategies are not appropriate in rapidly evolving situations where an aggressive or threatening person has a deadly weapon and poses an imminent threat to others. An edged weapon or blunt instrument can be as deadly as a firearm and as swiftly employed to

injure or kill. Studies on human capacity and reaction time prove that attacks at distances typical of deadly force encounters can be executed before an officer can fully respond, much less make a choice of multiple force options.

The Los Angeles Police Department is now among the list of agencies deploying the Bolawrap, a technology whose brand name is its description. Mimicking the bolo from Latin American gauchos who used them to subdue cattle. The device fires lines that spin through the air until they reach the suspect, then wrap around them with hooks that are designed to attach to clothing, immobilizing them. The use of the device requires some distance between the officer and the suspect and a wide span in between as the device's "ropes" twirl through the air.

Now a part of the American lexicon, the TASER has been the most widely used and successful less lethal tool since the nightstick. Although there are other makers of ECWs (Electronic Control Weapons) TASER has the bulk of the market and a history of credibility and research behind it. TASERs work by discharging a set of prongs attached to lines that carry an electrical charge from the unit. The device doesn't "electrocute" anyone, but sends a charge that locks up the nervous system and immobilizes a person.

The TASER is different from a "stun gun" in that such a device delivers a painful shock on direct contact with a person. It relies on pain and disorientation rather than immobilization. The TASER can be used in that manner in close contact, but then it becomes a pain compliance

tool rather than immobilizing a suspect. ECWs are limited to certain distances, can be foiled by heavy clothing, and the prongs must both set into the suspect in a pattern that allows the electric charge to carry across the body. An officer facing an imminent deadly threat should not use an ECW unless another officer is present and prepared to use their firearm.

Other less lethal options are comprised of various impact weapons. These are projectiles fired from designated devices or modified conventional guns that are designed to stun but not penetrate the skin. Due to the velocity and sometimes their construction, sometimes serious injuries occur, but obviously, and by design, far less serious than a bullet would impose.

Law enforcement is always seeking ways to stop attacks and save lives. No technology, including firearms themselves, can solve every problem or in every situation. As always those split-second decisions belong to the humans behind the badge.

Putting the Brakes on De-escalation Expectations

I have to begin this article by saying I am 100% in favor of helping people calm themselves and voluntarily cooperate with law enforcement investigations and avoid more coercive methods involving the use of force. Most cops most of the time are good at calming and controlling and knowing the difference between the two. The clamoring for de-escalation is loud, and many of those voices belong to people who have a significant lack of knowledge about what that means.

After seeing yet another civilian bystander proclaiming that police should have de-escalated a situation involving a knife-wielding man, it is clear that police leaders and trainers must help the public and policymakers understand the reality and mythology of de-escalation.

1. **Only the individual owns their behavior**
I cannot slow down the car you are driving. You have the steering wheel, the brakes, and the accelerator under your control. If you drive very slowly, or way too fast, or zig-zag crazily, or crash into a tree, that will be a result of your choices in the way you manipulate your controls based on the conditions around you and how you perceive them. A police officer can signal you to pull over, or direct you into another lane, or even put a tire deflator in your path, but they can't drive your car.

The same is true with a person's body. If they can choose to make the decision to resist, can they not also make the decision to comply? And, continuing the automobile analogy, even if I could take over your car or your mind, how long would it take to get the dangerous behavior to stop?

2. Compliance is the law

There may be a few states that permit resisting arrest if the citizen knows it to be a false arrest. But even where those laws existed, the resisting citizen had to be absolutely correct and could never know what information the officer had that led to their attempting an arrest. Everyone can find themselves in a position of fitting the description of a wanted person or vehicle near the scene of a crime. The police do not have to be correct, but they do have to be reasonable. If you're wearing a red shirt driving a blue Subaru leaving the area where a robbery just occurred and the suspect was described as wearing a red shirt and driving a blue Subaru, you're going to get contacted by law enforcement and with some degree of urgency. It is reasonable and required by law, to comply with their instructions.

3. Reasonableness is the law

Police officers are Constitutionally duty-bound to be reasonable in their searches and seizures, including arrests. Reasonableness is always contextual and subjective to some degree. The legal question of reasonableness is what a reasonable person with the same knowledge and training would do in a given

situation. No bystander or commentator knows what the officer making their decision knows.

4. Timing is everything

Even police officers are often stunned by how quickly events unfold and decisions have to be made and implemented. A friend once questioned how an officer could decide to use deadly force in less than a second. He seemed shocked when I told him all decisions to use deadly force are made in less than a second. Research shows that even an unskilled person in the driver's seat of a car can bring a weapon from out of sight and fire in less than one-quarter of a second.

5. Science

Human behavior is seldom a completely rational decision. Most of our behavior is automatic and habitual. If we behave without consciously thinking, it follows that changing that behavior requires a highly rational thought process. Our decisions depend on what we perceive and how those sensory perceptions are filtered through our memory and learned responses. Both the citizen and the officer are limited by anatomy, biology, and physics in their actions and reactions.

No third person can determine what another person has perceived, how they are interpreting a situation, what their past patterns of behavior are, much less the actual facts of a particular chaotic event. When the fight or flight chemistry kicks in, the primitive survival brain will flood the body with biochemicals that can rule behavior for 20 minutes or more. When an officer has the time and distance to safely allow neural braking to take place,

they are more likely to have success gaining compliance without significant use of force. If a person is fleeing or fighting, their chemistry will prevent them from deciding to comply with the officer for a period of time.

6. Concurrence is not causation

Saying that police officers cause shootings is like saying surgeons cause appendicitis. The human mind is exposed to videos of police officers in deadly force situations. They see a person fleeing from or struggling with police and, along with the inevitable shocking narrative, learn to associate cops and shootings. Many believe that the mere presents of police can cause a person to fight or flee. This is often true, not because of the actions of law enforcement, but because of the perception of the subject. Disruptive persons are not likely to begin behaving lawfully if the police just promise to leave or never show up at all.

Police are criticized when a lot of them are on the scene or when they fail to call for back up. There is no statistical correlation between officer injury and suspect injury related to how many officers are present. When officers are wearing protective gear (helmets, etc) they are often accused of provocation, but the risk of injury is real and when police in so-called “riot gear” show up, that doesn’t cause a riot.

7. Cops are very good at minimizing force

The reality is that the police are generally very good at avoiding the use of force, including deadly force. Studies show that police officers avoid deadly force the vast majority of the times when it would be lawfully justified, and complete citizen contacts with rare uses of force.

8. Cops are already accountable

Claims that police are not held accountable for use of force are not supportable in an age where nearly every police interaction is recorded on video. In addition to department discipline, officers face state lawsuits and criminal prosecution, and federal civil suits and criminal prosecution. Records of internal complaints and investigations are increasingly made public, and many law enforcement agencies track complaints and use of force using reporting software that alerts when potential misconduct patterns emerge.

Conclusion

A police officer (or social worker or counselor) cannot control another person's perception or body chemistry, which are the sine qua non of behavior, whether compliant or non-compliant. As one of my professors said, the assumption of rationality is, itself, irrational. So, the best we can do is to help the other person to put the brakes on their nervous system that is communicating danger from the brain to the muscles. Given the intensity of situations already in progress when the police arrive, the overwhelming prevalence of chemical influence among subjects attracting law enforcement calls and attention, and the frequent presence of bystanders creating additional tension, the public we serve deserves to know how well we are really doing.

Hands Up, Don't Shoot! The Peril of Fake Surrender

The chant of “Hands up, don’t shoot” echoed in the streets of protests across the country after the shooting of Michael Brown in Ferguson, Missouri in 2014. In the immediate aftermath of the false narrative that caught fire on social media faster than the torched convenience store in town. No official voice outperformed Twitter in the hours after the shooting, and the hours and months of multiple investigations that determined the shooting was lawful and justified have never outperformed to the false narrative that still lives in rhetoric today.

Even though the fable that Brown had his hands up in surrender has been soundly refuted, the idea that an officer is safe at any point during an apprehension is also untrue. FBI studies on officers assaulted reveal that the moment of surrender or handcuffing is one of the most dangerous activities for officers.

According to television and movies, three things happen with an offender who is being arrested. One is that they are shot, the other is that they submit to arrest and get handcuffed and escorted away, and thirdly they engage in a brief struggle until the officers get them under control. A fourth thing that can happen, seldom portrayed, is that the suspect can initially appear to comply but then resist and assault or attempt to assault the officer.

There are several reasons why this is a flash point for assault. One is that the officer may be so relieved that the suspect has given up, that they let their vigilance lapse and are psychologically and tactically unprepared for a fresh wave of resistance. Secondly, any time an officer gets within arm's reach of a suspect they bring their weapons systems with them which are vulnerable to attack. A tricky suspect, calculating the risk of prison relative to the risk of escape, is tempted to go for the officer's gun, pepper spray, baton, or Taser, or to apply a kick or punch to a vulnerable body part. Thirdly, many suspects are under the influence of mind-altering chemicals that can incite erratic behavior and sudden mood changes from submission to attack.

A fourth reality is that apparent submission or even successful application of handcuffs is no guarantee that the danger is over. Prison surveillance video shows inmates practicing escape and attack tactics. They have plenty of time to practice and plenty of incentive to use those skills when they get back on the street and resume their criminal lifestyle. Head-butting, kicking, and grabbing can all still be accomplished while handcuffed. Those who practice, don't mind the pain, or have unusual bone structure, can manage to get out of restraints and wait for a moment of distraction to attack the officer. Having one handcuff free makes a formidable weapon itself.

While the average citizen can't fathom why a suspect would assault an officer and face certain capture and more severe punishment, the reality is that assaulting an officer is often free of consequences for an offender. Assaults on officers are among the first charges pled or

dropped where other felonies are pending. Some officers don't even spend much time reporting assaults on themselves since their hope of prosecution or restitution seems dim. Criminals facing serious charges are looking at prison time regardless, and can easily figure that an attempted escape or hurting a cop won't make that much difference.

Finally, what is seen on video by critics and Monday morning couch coaches that might look like unnecessary force after an arrest, may not reflect what the officer sees. The flick of movement toward a weapon, the glance of the eyes toward an escape route or confederate, or the refusal to show their hands can be danger warnings that escape the civilian eye. In one notable case, an officer was criticized for shoving a handcuffed suspect against the hood of a patrol car. A close examination of the video, however, showed that the suspect handcuffed behind his back, had grabbed the crotch of the officer and was squeezing the officer's testicles painfully until the suspect was shoved forward.

A suspect doesn't cease to be a threat to the arresting officer and the public at large until they are safely behind bars. As Yogi Berra famously said: "It ain't over till it's over."

About The Author



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