

DEADLY FORCE



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The National Police Association's free Law Enforcement education series is designed for home school, classroom, or independent learning. As part of our nonprofit educational mission, it prepares you for careers in public safety. This series is authored by [Chief Joel F. Shults, Ed.D.](#)

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Table of Contents

- 1** Shooting Under Internal and External Stress
- 5** Cops Who Shoot
- 9** Gunfights: It Ain't Like TV
- 12** A Little Knife
- 16** Ambush of Officers Increasing
- 19** Rules of engagement: Why police rarely use force
- 23** Peak Police Performance Should Be Praised
- 27** Police Alternatives to Deadly Force
- 30** Limitations of The Reasonable Man Standard in Judging Police Decisions
- 34** New Research Validates that Police Don't Have Superhuman Powers
- 37** About The Author

Shooting Under Internal and External Stress

When an officer fires their duty weapon there is no shortage of questioners, critics, and scrutiny. Why so many bullets? Why didn't they talk him down? Why didn't they just Tazer her? Those questions have to be answered for every individual case, but the public needs to have some basic understanding of the dynamics of officer-involved shootings.

A significant fact that fails to get the attention it deserves is that deadly force is rare in its use, but common in its opportunity. Most officers (70-80%) will, in any given two-year time span, have to make the decision at least once whether to use deadly force or not. These are situations where the officer would be tactically, legally, and morally correct had they chosen to use lethal force but chose not to. Sometimes that is a poor decision by an officer who should have brought a situation to an end with deadly force. Sometimes it just seems that luck was on their side and they were able to resolve a situation without pulling the trigger. Sometimes they simply put their own life at risk by taking the chance to wait another half-second before sending a bullet on its way that can never be called back.

When a suspect is shot somewhere beside on the front center of the body, protests often erupt. When someone is shot in the back it offends the sensibilities of any American who has watched hundreds of television shows and westerns where the cowboy ethic of never shooting someone in the back must not be violated. What this ignores is that the physical dynamics of

suspect movement and their rapid ability to twist or change positions may present a very present threat that doesn't get portrayed in the showdowns of the dusty streets of the old west.

Conflicting criticism can be aimed at an officer who didn't wait for backup, or that several officers were present. There is no clear statistical correlation that shows that multiple officers mean that suspects or officers are safer or less safe. A suspect may be subject to many wounds that can also bring criticism. Why did they have to shoot him so many times? The answer to that is that when an officer uses deadly force the intent is to stop an immediate threat as quickly as possible. Each officer on the scene has to make their own, independent decision regarding the existence of a threat, which means that several officers may shoot while others may not, depending on what they observe from their relative positions.

Again, spoiled by media drama and exposure to hundreds of actors portraying being shot, much of the public will wonder why one bullet can't bring a person down. There are curious realities about the body's ability to continue an attack even when grievously wounded. When a hero soldier continues to fight despite serious wounds, they are rightly lauded as a hero. When a suspect is shot multiple times, the police are accused of overreacting. There is rarely time to fire one shot, pause to assess whether another shot is necessary, and repeat the process. It is simply a grim fact of human biology.

Officers are often accused of shooting because they are scared. Fear is a factor, but just being afraid does not justify the use of deadly force. The officer must, within milliseconds, assess the reasonableness of the deadly threat they face and the justification for the level of force they may lawfully use. The standard is whether a reasonable officer would fear for their life or serious bodily injury, not just a subjective fear. The officer must also conjecture the risk to the public if the suspect were to escape or injure the officer to the extent that they would gain control of the officer's weapons or disable the officer from further protecting the public.

Another fact that may surprise the public is that when officers do fire their weapons at a suspect, they do so with an average 30% accuracy. The dynamics of movement, stress, perception, and environment are not easily duplicated in the controlled environment of the training firing range. The physiology of stress mitigates against accurate shooting. In many cases, the gunfire from a criminal is more accurate and lethal than police gunfire. The officer must follow their training, calculate where their bullet may go behind the intended target, scan for multiple threats, alert the dispatcher or bystanders of the situation, and consider law, policy, and liability in the split second of their decision-making. The criminal considers no such complications, and just points and shoots without conscience.

This accuracy under stress is another argument against the "shoot to wound" advocates or those who think we can shoot a knife or gun out of a suspect's hand.

Rioting and Monday-morning second-guessing in the aftermath of an officer-involved shooting of a suspect tends to subvert justice and rob the public of the realities of meeting deadly force with deadly force.

Cops Who Shoot

Dallas Police Officer Matthew Brady was one of four officers who fired shots that killed an armed murder suspect as they tried to arrest him. Brady committed suicide the next day. We can't automatically assume that Brady's death was immediately connected to the murder suspect's death, but it appears to be a precipitating factor. While this is an extreme and immediate response to being involved in a fatal shooting, the personal, legal, and organizational burdens on officers after such incidents are enormous.

Some extreme cop-haters have a tragically ignorant belief that police officers look forward to the opportunity to kill and some even seek out the job with the hopes that they can shoot someone. This is patently ridiculous, statistically disproven and contrary to the science and understanding of violence. It would be extremely rare if an officer is involved in shooting a person at all, much less than twice or more in a career. It's a job that offers many opportunities to use force, but alternatives are employed the vast majority of the time.

In his well-researched and highly respected book "On Killing", Lt. Col Dave Grossman, a former Army Ranger, and West Point psychology professor, documents the challenge of training young men to kill in wartime. Beyond tactics and marksmanship, the natural reluctance of most humans, including trained soldiers, to kill another human being is an impediment to the need to win a battle by killing the enemy.

Clearly, the comparison between soldiers on a foreign battlefield and police officers on the streets of America must be limited to relevant particulars. The public has no tolerance for collateral damage in police shootings, even a violent criminal – with the exception of a terrorist – is not an enemy combatant, the police officer is bound by the Constitution and a myriad of restrictive laws, and the police officer must prove that alternatives to deadly force were not reasonable.

But in terms of an armed government agent's bent toward taking a human life, the psychology of the mind is relevant. Grossman cites a French researcher of the 1860s who first documented that many soldiers fired their guns into the air or at an ineffective distance from the enemy. From the American Civil War through the battles of the Vietnam conflict, where one enemy was killed for every 50,000 small arms rounds fired, the question of why men were ineffective at killing was not answered by marksmanship or mechanics, but morality, concluding that "...a significant number of soldiers in combat elect not even to fire over the enemy's head, but instead do not fire at all."

In a survey this writer did, the question was asked of hundreds of respondents whether they had the experience of being legally and morally justified in shooting someone but did not. Over 80% related that they had held their fire in a deadly force situation at least once within the previous two years of service. Not only has other research shown the reluctance of officers to use deadly force, observations of fellow officers in the field as well as documentation through video prove

the theme. “Being unable to kill is a very common experience”, says Grossman.

Officers retreat when they have every legal right to stand their ground. They use a Taser against the protocol that facing an aggressor who is armed with a deadly weapon is not a candidate for less lethal force. Officers will make multiple commands for the suspect to drop their weapon, sometimes literally begging the armed aggressor “Don’t make me shoot you”. Even the language used avoids the harshest words. Officers say they neutralized the threat rather they killed the person. Many deadly force events happen at such close distances and in such few fractions of a second that the officer reverts to training with no conscious decision about whether to shoot. The situation is obvious to the survival sections of the brain and the response is such that some officers have reported being surprised at hearing their weapon fired, or seeing it in their hand.

A question often heard is why did so many officers fire on a suspect or why an officer fired so many times. The answer is quite simple. Research shows that motivated offenders can continue their attack even after being shot multiple times. The rapid movements in dynamic shooting incidents do not allow an officer to be certain they have struck the suspect in such a way as to stop their attack or threat. When multiple officers are on the scene, each must decide from their own situational awareness independently on their use of a firearm. If there are three officers on the scene and each sees a deadly threat, there are likely and justifiably going to be multiple rounds fired.

Grossman's book also reviews the aftermath of those who have justifiably killed someone. Remorse, even in the most justified of situations, is common among those who have had to respond to a threat with deadly force. He describes the stages as including "A collage of pain and horror" and a "life-long process...to accept what he has done. In some cases this process may never truly be completed". For Officer Brady, that process was never to be completed.

Gunfights: It Ain't Like TV

The headlines don't begin to tell the story. "Bodycam Shows Gruesome Moment Fla. Sheriff's Officer Shot", "Fla. deputy ends hostage standoff with career criminal holding woman at knifepoint", "Armed Man Waiting for Officer Smokes Meth in Calif. Station Lobby", "13-year-old opens fire several times on Fla. officers, wounding 1, during pursuit", "Texas officer, suspect dead following shooting while serving warrant", "Louisville Officer Shot at Bank Attack on Path to Recovery", "FBI Data Shows 60 Officers Died from Criminal Attacks Last Year", "'I've been shot in the throat!': BWC shows horrifying moment officer is shot by suspect". And those are stories just from the month of May.

Neither the public nor most law enforcement officers can imagine the reality of encounters with an armed subject intent on escaping their arrest. Officers train in marksmanship and tactical movement. They also are very aware of the legal and ethical consequences of using deadly force. Is there an innocent person in the line of fire? Is deadly force the last option in a moment where lives are at risk? Will they lose their career in the fight? Will their lives and finances survive such a confrontation? Are they certain of their target? Will their shots stop the threat? The criminal shooter faces no such thoughts to cloud their intention to kill.

Besides shooting at stationary targets police train with actors in realistic scenarios or with high-tech simulators that teach not only target acquisition but verbal commands, how to seek cover, and how to make those

deadly decisions in the milliseconds in which those decisions must be made. There is no training that can truly match a real armed encounter. No scenario actor can recreate the determination or evil in the eyes of a real killer. Even experience in a gunfight cannot prepare an officer for the next one because every attack is different.

Statistics, too, fail to tell the story. The odds of having to discharge a weapon in the line of duty over a career is about 1 in 4. Some officers have more than one discharge event over a career, most have none outside the training environment. Police officers hit their target in a real-world shooting situation between 20% and 30% of shots fired. 65% of police officers murdered in armed confrontations were within ten feet of their attackers, and another 15% within twenty feet, meaning 80% of police deaths from firearms happen within the approximate distance of a vehicle length. Modern sidearms in law enforcement are now semi-automatic handguns with a magazine capacity of anywhere from 6 to 18 rounds, but the general consensus is that the average number of rounds fired is three. Gunfights are usually over very quickly, within just 3 seconds. Large metropolitan areas are not significantly more likely to have officers involved in a shooting.

Averages mean nothing when it comes down to any particular armed encounter. Officers have been shot on what would be considered a high-risk activity like robberies in progress or domestic violence calls, but they have also been attacked on routine traffic stops, pedestrian contacts, and even stopping to aid a stranded motorist. The number of officers on a scene

also provides no guarantee that an armed suspect is less likely to engage deadly force against police.

The caution with which an officer must approach every call is born from experience within the profession of sudden attacks and ambushes. A comparison I use as a trainer and educator is a scenario where a person has been hired to clean out 1000 school lockers. If the worker happens upon a venomous snake that is a truly unexpected surprise. If the worker is told that somewhere among those 1000 lockers is a venomous viper, their approach would be caution at every door. This is the reality for officers, whether the attack is with a firearm, edged weapon, blunt object, or fists and feet (which, by the way, are used to deadly effect in nearly 700 homicides annually – dispelling the myth that an “unarmed” person poses no threat).

Careful investigation of police firearm use in criminal encounters must take into account incalculable factors including the biological limitations of humans who happen to be police officers. Members of the public, including prosecutors, police leaders, jurors, and even professional peers who have never engaged in a deadly encounter can never truly put themselves in the shoes of officers who have had to do what no police officer seeks to do.

A Little Knife

President Biden famously said that when confronted with an unarmed person with a knife, police should shoot them in the leg. When confronted with an edged weapon – knife, shovel, or broken bottle – an officer must make dozens of calculations and predictions as to the lethality of the weapon and the bearer of that weapon.

The decision of how to gain compliance is a complex one. The factors that go through an officer's conscious and subconscious mind involve complex legal and regulatory standards as well as primitive survival responses to basic brain functions governing the fight, flight, or freeze neurochemistry. Critics are saddened when a mentally disturbed person with such a weapon is killed by police. The police are saddened, too. But knives kill whether the wielder is in their right mind or not.

The tensing of muscles, micro-expressions flashing in a millisecond, a subtle angle of the shoulder or foot, or the change in breathing can signal – in context – resistance or aggression. Athletes are given great honor for such instincts in boxing or swinging at a pitch; as well as great latitude for failure. Interpreting and reacting to the complex physics of a pitched baseball a third of the time makes a batter a hero! By contrast, one perceived mistake by a police officer ends a career even if, were all possible facts known, he or she made a reasonable decision.

The first question that seems to capture the attention of critics is the size of the knife. Perhaps common sense would seem to dictate that a large knife is more dangerous than a small knife, with the scale of dangerousness diminishing with the size of the blade. This assumption is not true. Some considerations are the vulnerabilities of human anatomy to a stab or incision, and the maneuverability of a blade in human hands, rather than how big or frightening the bladed weapons appears. Multiple areas of the officer's body are vulnerable to pain, disability, and mortality. We don't have to go past the 9/11 airline hijackings to remember the lethality of a blade as small as a box cutter.

If an officer is killed or disabled, the risk to others is multiplied. Officers are sometimes criticized for their efforts at self-preservation, but their purpose is not merely to survive, but to remain active in resolving the threat to others. Having an injured officer to be rescued, or having a perpetrator now have access to the officer's equipment, raises the danger level of the event for everyone.

The human heart is typically less than three inches from the skin. Stab depths are affected by the elasticity and compression of the body so that the length of the blade is not the limit of the depth of a stab wound. Although ballistic material is often worn by police officers, the material is designed to spread the force of a blunt bullet, not a thin blade. Therefore a knife could penetrate a bullet-resistant vest that can stop a bullet. The fact that an officer has tools, training, and protective gear for dealing with violent resistance does not, therefore, justify any concession of advantage to the lawbreaker.

Add to the risk of a single fatal stab, the vulnerability of eyes, arteries, and fingers to a slashing incision, one can imagine that a police officer attempting to gain control of a resisting subject who has a blade might be distracted or disabled by pain, blindness, or dysfunction with one intentional or accidental slash or stab.

The shoot them in the leg hypothesis is not supported by physics or human biology. The swiftness of a knife-wielding person would obviously be affected by the size of his blade. A long samurai sword swung in an arc would take longer to maneuver than a paring knife. This makes the paring knife potentially more lethal than the sword in close encounters. A ten-year-old little league pitcher can hurl a baseball at 50 MPH. A thrusting or swinging motion with a blade is very fast and can be happening from literally an infinite number of angles. Add to that any running motion that might be a part of resistance or attack, even assuming an additional 3 MPH of body motion, makes any police attack on the knife as a target highly unpredictable.

Not only is hitting the target an uncertainty, but the effectiveness of an accurate strike also is not certain either. Resisting subjects may be under the influence of alcohol, other drugs, or just adrenaline. All of these chemicals reduce response to pain. This means that a strike must not merely hurt enough for a person to drop their weapon, the strike must be powerful enough to break the anatomical structure enough to stop the control of the attacker over the weapon.

Meanwhile, a motivated aggressor not limited to fighting just with his or her knife, but with the other hand as well as feet and head and teeth. Moving in close enough to do anything suggested by a non-lethal response presents the officers with too many threat variables to effectively control. I liken it to trying to reach into a blender to stop the blades from spinning without getting cut. It must be noted that even deadly force is uncertain, as in many documented cases of attackers' continued aggression after sustaining a deadly injury. Once again movies have convinced us that people who are shot fall dead immediately, which is rarely true.

The TASER, or other electronic control device (ECD), is not appropriate as the first choice against an edged weapon. Best practice is to deploy an ECD against a person with a deadly weapon only if at least one other officer is present with lethal cover (i.e. with his or her firearm drawn) in case of ECD failure. ECDs have limitations and conditions for success that make the outcome of their use too unpredictable to be used as the primary option when facing a bladed weapon.

Why use lethal force against edged weapons? Because knives are deadly.

Ambush of Officers Increasing

Annual numbers of officers killed in the line of duty vary widely from year to year. One identifiable trend is death by ambush. Police officers were murdered in 2021 at a rate 59% higher than the previous year. Among the officers murdered in 2021, 25 were killed in what is described as “unprovoked attacks” where no intentional law enforcement contact had been initiated by police. This includes officers who were killed sitting in the car, stopping to assist a motorist, or other routine activities not directed at the killer. In addition to these attacks, ambushes of officers responding to calls for service who are attacked without warning also increased.

Maria Haberfeld, chair of the Department of Law, Police Sciences, and Criminal Justice Administration at John Jay College told news agency CNN “There is an overall climate now that is very anti-police, which adds a different angle to what used to happen periodically to police in the past years. The anti-police climate would surge after a high-profile case, and usually after a month or so it would subside. But right now, we’re talking about over a year of high-profile, anti-police coverage.”

Haberfeld is not the only expert that connects anti-police sentiment and messaging through the media to the sustained increase in violence against the police. FBI Director Christopher Wray stated to CBS news “Violence against law enforcement in this country is one of the biggest phenomena that I think doesn’t get

enough attention. In 2021, officers were being killed at a rate of almost one every five days.”

A study of ambush attacks by the International Association of Chiefs of Police, such attempts at murder can be categorized as either an entrapment or spontaneous. Some killers plot their attack carefully. They will calculate what kind of event or 911 call will get the best desired police response, choose their location and the expected location of arriving officers, and consider their escape route unless their intent is to die by provoking a deadly assault as a means of suicide. The spontaneous offender simply finds an opportunity to pre-emptively engage in shooting at officers.

Officer survival rates in the entrapment ambush are about 40%, with a slightly better hope of survival of 49% for spontaneous attacks. Some officers still do not wear body armor, especially investigative personnel, but those who do obviously have a greater chance of survival. When an officer has the chance to take cover their survival rate is 68% and was that of those who were able to direct gunfire at their assailant.

The challenge to police officers in preparing for and surviving ambush attacks is that these survival practices almost always are counter to what the public demands in terms of police-community relations. In other words, the practice of good, “Officer Friendly” community relations puts the officer at increased risk of murder.

Officers may be encouraged or expected to do some of their paperwork in a public place where they can be

visible to the public and approachable. A program in Albuquerque provided booth space for officers to write reports or take breaks in convenience stores with a window view. What officer would place themselves at that level of vulnerability regardless of the public relations value! The same is true for sitting in a patrol car beneath the shade of a tree or in a parking lot. Particularly at night, when an officer's night vision is impaired by a dome light, the marked patrol car may be a comfort to citizens passing by, but an irresistible target for a BB gun, firearm, or firebomb.

Taking breaks, especially routine and predictable ones, in restaurants and coffee shops has provided the opportunity for ambush such as that of the four Lakewood, Washington police officers murdered as they worked on their laptops in a coffee shop on an otherwise quiet Sunday morning. Being on the alert when approached by citizens may be offensive to someone who just wants to ask where the closest McDonald's is, but it is a necessary practice for a person in uniform.

Paranoia and constant alertness can be off-putting to a citizen having a nice conversation with a police officer. The officer's constant breaking eye contact to look beyond the citizen, swiveling to scan the room, watching where their fellow officers are, and tilting their heads to listen to radio traffic can seem to be detached and even rude. It is the public's price to pay for the officer's safety to continue to protect and serve.

Rules of engagement: Why police rarely use force

The remarkable aspect of today's discussions and rantings about police brutality is the lack of facts driving the debate. The reality of police encounters with the public, including the criminal element, is that only a fraction of those encounters results in injury or death.

Federal Studies

A U.S. Department of Justice [study](#) from 2018 noted that citizen-police contacts have declined in recent years, but that 20% of citizens over age 16 will have an interaction with police in the span of a year. With about 700,000 police officers making traffic stops, interviewing witnesses and crime victims, and arresting suspects every day, there are millions of opportunities for police to engage in the use of force. But they usually don't!

As related in another Justice Department [report](#): "Observers note that police resolve millions of incidents each year without resorting to force and believe that the incidence of excessive force has been blown out of proportion. William A. Geller, a well-known researcher on police use of force, summarizes the views of these observers in saying, "If known abuses are the tip of an iceberg, then commendable restraint when officers could have applied force is like the zenith of Mt. Everest."

The 2018 report states that only 2% of persons in police encounters felt that they were threatened with the use of force by the officers. Get out your calculators. If each of the 700,000 police officers makes just one citizen contact per day, that would be over 250 million contacts. If unlawful use of force was routine in policing, the streets would be scattered with bodies. In the most common form of police contact, the traffic stop, 91% agreed that the stop was legitimate, and 95% believed that the officer behaved properly.

Deadly Force

An [article](#) in the FBI's Law Enforcement Bulletin relates a study which showed that "The study found that approximately 70 percent of the sample of police officers had been in a situation where they legally could have fired their weapon during a critical incident but chose not to. Officers were involved in an average of four such incidents during the course of their careers. Only 20 percent of the sample had been involved in critical incidents where they fired their weapon during the incident."

My own survey of over 250 officers from around the country indicated that within any given 2 year period of service, 80% of officers will encounter a situation in which deadly force would have been legally and morally justified. Let's do the math. Of 700,000 officers, 560,000 of them could have killed someone in the past two years, but fewer than 1,000 were killed yearly. In examining the stories of those deadly force events, the circumstances are chilling - violent resistance, shoot

outs, hostage-taking, suicide by cop, and others a testament to the dangers facing law enforcement daily.

Reluctance to harm

Despite the incessant call for training, the vast majority of police officers have been trained or have developed their own skills for avoiding a fight. There are plenty of incentives for getting a suspect into custody peacefully. Officers know that going hands-on with a suspect can result in their own injury. Gaining compliance results in a safer arrest, less paperwork, lower risk of getting sued, and less chance of being the subject of a viral video or internal investigation.

Officers know that getting cooperative compliance before getting close to a suspect reduces that chance of being disarmed or ambushed. Ultimately the decision to end an arrest peacefully is up to the subject being arrested. The law requires compliance for lawful arrests, and police officers are in no way obligated to retreat. Even surveys of people who have been forcibly arrested reveal the arrestees' general acknowledgment that they provoked the officers' actions.

Legal hurdles to officers

In addition to merely avoiding their own injury, police officers are well indoctrinated to the legal restraints on their use of force. The primary consideration is the Constitution, which requires that all seizures be reasonable. The reasonableness of a given action can be debated endlessly, but law enforcement officers fully

understand that arbitrary and excessive force can result in severe criminal and civil penalties that can destroy their career, finances, and even freedom. The balance of officer safety, offender safety, and public safety must always be resolved in favor of the public interest.

Peak Police Performance Should Be Praised

Sensory distortion is a well-documented mental effect of life-threatening crisis moments. After speaking on the subject, one officer related that she had never told anyone else, but that she remembers hearing the sound of her bullet hitting the flesh of a burglary suspect. I believed her.

Officers have reported hearing gunshots as a suspect fell, but not realizing immediately that it was they who had fired. Reports of time warps and feeling like everything was happening in slow motion are common. Missing memories of some things that a camera or witness revealed happen. Intense focus on the immediate threat can mask any other visual input. Loud noises can seem muted. Thought processes and internal dialog happen at lightning speed.

When officers involved in a life-threatening attack to which they were forced to respond relate some of these phenomena they are often scoffed at by peers, internal investigators, and even district attorneys and juries.

Athletes are applauded for their quick decisions. They are credited with that 6th sense that lets them make daring and unconventional decisions. We hang on their words when they describe their out of body experiences at the peak of their performances.

Basketball legend Bill Russel writes in his biography "Second Wind" about the nearly spiritual experience of playing at a phenomenal level: "Every so often a Celtic

game would heat up so that it would become more than a physical or even mental game, and would be magical. That feeling is difficult to describe, and I certainly never talk about it when I was playing. When it happened I could feel my play rise to a new level....At that special level all sorts of odd things happened...It was almost as if we were playing in slow motion. During those spells I could almost sense how the next play would develop and where the next shot would be taken. Even before the other team brought the ball in bounds, I could feel it so keenly that I'd want to shout to my teammates, "it's coming there!" My premonitions would be consistently correct."

These feelings amid high performance are repeated in many accounts by Steven Kotler in his book "The Rise of Superman". Bolstered by new discoveries in brain science as well as many accounts of extraordinary athletic achievement, Kotler reveals how the brain works during extraordinary events. Admiration of athletic feats raise interest in research on human performance and are awarded by ribbons, medals, and trophies. This is an area of study virtually ignored in examining officer-involved shootings.

This month the Los Angeles Police Commission ruled that Officer Toni McBride broke department policy when she shot Danial Hernandez during a fatal encounter. Was McBride proficient as an officer? She, in fact, had been vaunted as an exceptionally competent firearms expert and young officer. Was she justified in using deadly force? Yes. She and a second officer had responded to a motor vehicle accident when ambushed by Hernandez wielding a box cutting knife. Did McBride

give repeated, clear orders for the man to drop the knife? Yes. The bodycam footage clearly shows that McBride gave repeated, clear commands which were ignored by the suspect. Was the suspect a drug abuser under the influence of methamphetamine? Autopsy results confirm that he was.

After McBride fired two shots did she stop when the suspect fell to the ground? Only when the suspect attempted to get back up did she fire 4 additional rounds. Shots 5 and 6, said the commission, were outside of LAPD policy.

What the Commission members and other “experts” in police training and officer-involved shootings overlooked was brain science. They may have made their decisions by some matrix, according to some policy, or by looking at training manuals. The decision wasn’t malicious, might have been technically correct, but, in the end, it was a decision made in ignorance about the mysteries of the brain that are well documented.

What many commentators label sensory overload in these rare situations when one human is trying both to survive and to continue with their mission is really sensory exclusion. The brain, especially a well-trained one attached to a well-trained body, instantly recognizes that there are too many sensory inputs and mental calculations. It shuts out many of the ordinary functions derived from millions of sensory inputs per second that define time, space, boundaries, and logic. This frees the mind to make essential decisions in milliseconds when only milliseconds count.

To measure McBride's performance by the usual calculations is meaningless. Her mind, without doubt, sensed things that an ordinary person under ordinary circumstances simply couldn't. The experience can be so out of the ordinary that, as Bill Russell said, is difficult to describe and difficult to comprehend when explained.

I don't know McBride and I don't know any more about the case than anyone reading the news. But I do know that she entered a realm that no one can fully comprehend and if she fired 6 shots instead of 4, her brain had a damn good reason.

Police Alternatives to Deadly Force

Why did they have to shoot him? That is the primary question that is asked after police use deadly force. Could they have done something less lethal to end the threat? Good question, and one that must be answered in every case in which a suspect is shot by a police officer.

In examining this issue the emotion of seeing or imagining violence can become, especially for the critic, the predominant consideration for determining what the officer “should have” done. The only objective way to examine a use of force is by determining, to the extent possible, the physics of time, space, and motion, as well as the human limitations of perception and reaction.

One cannot overemphasize the central role of time in use of force decisions. The time unit of one second is not small enough to identify what happens in deadly force situations. The trigger of a firearm can be pulled multiple times in less than a second. Punches and stabs happen in less than a second. Violence against a police officer or other citizen can happen before the mind perceives danger and tells the body how to react.

In a 30-year study of murders of police officers, FBI statistics revealed that nearly 70% of officers were shot within 10 feet, and of those more than half were shot within a distance of 5 feet. The proximity of these attackers speeds up the decision and reaction times necessary to respond to an attack. It is well established

that an assailant can make violent body contact with an officer from about 15 feet away in less than one second which is faster than an average officer can draw their weapon and fire 2 shots.

We also know that a gunshot rarely has the immediate effect of stopping a violent attack. Obviously, less lethal tools of force have less potential effect in stopping an armed subject, which is why a firearm is the officer's best option when facing a person presenting deadly force to them or another innocent citizen.

Electrical Conductivity Weapons (ECWs such as the Taser) are a viable option for stopping a person resisting arrest or commencing an attack. Since the Taser is not deadly force, it is not a match for a suspect presenting a deadly weapon. If the opportunity exists for an officer to use a Taser on a person with a weapon, there must be another officer present who can use deadly force. The time and distance constraints would not allow an officer to effectively transition from the ECW to a firearm if the ECW failed to stop the attacker.

The Taser can fail if the wired probes do not attach due to thick clothing, suspect movement, or if they get embedded too close together to provide an effective circuit. Effective probe placement is designed to immobilize a suspect for a brief period of time to allow officers to restrain them. If a Taser is deployed directly against a suspect, immobilization does not take place and the shock only acts as a pain compliance tool which can also fail or even worsen the resistance.

Other tools that an officer might have immediately available include pepper spray. This effective spray, when applied directly to the face, can cause a suspect to stop or slow down as it interferes with breathing and vision, as well as causing pain. There is no guarantee that pepper spray will work on everyone, not that a person will stop attacking if sprayed. If used in very close contact the officers might be also exposed and be at some disadvantage from the chemical's effects. It is not an appropriate tool to be used against an immediate deadly threat.

A recently developed less lethal restraint device shoots weighted lines designed to wrap around a suspect's legs to immobilize them. It is not designed for deployment at less than ten feet and would not disable a person with hands and arms in an attack posture.

Other options include less lethal projectiles such as bean bag rounds from a modified shotgun, but those devices are not immediately accessible and carry the possibility of serious injury to a suspect.

Alternatives to firearm use in stopping a violent attack or subject resisting arrest are valuable and lifesaving. When time and circumstances make their use a wise decision, officers are happy to have them. Nevertheless, the only magic bullet for dealing with an immediate deadly threat remains an actual bullet.

Limitations of The Reasonable Man Standard in Judging Police Decisions

In civil lawsuits where one party alleges that another party caused them harm negligently or intentionally the standards by which this can be proven are well established. Among these are whether the alleged wrong-doer went against the law, the policy governing their actions, established industry standards and practices, or good old common sense. Going against any of these standards, known as the standard of care, could result in a loss to the defendant and restoration to the plaintiff.

The common sense part is known as the “reasonable person” standard. What would most people do when confronted with the choice the defendant had to make? We understand, of course, that this can’t mean what the average citizen would do in cases where specialized knowledge is needed. For example, an eye surgeon being sued for an error made during surgery would not be judged by a survey of 100 random people coming out of Walmart asking “What would you do if, if you encountered a hemorrhagic occlusion of the retinal vasculitis during cataract an intraocular injection?” Obviously, the reasonable person in this scenario is a reasonable ophthalmologist. Nor could that same random group answer what they would do in determining what type of material would guarantee that a certain structure would bear up under various pressure and atmospheric conditions in a case alleging misfeasance by an engineer or architect.

In the same way, if a police officer is being sued for the results of a decision they made, the questions would be about what law governed the situation, what the department policy and training were that governed such situations, and what a reasonable police officer would have or should have done.

Sometimes a situation encountered by a police officer is so unique that law, policy, and experience has not specifically addressed what the right response should be. It is for these situations that the courts have created an immunity, called qualified immunity, for police officers. Since an officer is obligated to take action as required by their legal responsibilities and professional ethics, they must engage in the situation with their best effort based on their experience and training. To facilitate those decisions, the law has allowed room for a bad outcome that resulted from the best decision the officer could make at the time.

Part of the anti-police elements of police reform is to remove qualified immunity from the law and some states have succeeded in doing so. This means that some cases that would normally be dismissed now must proceed to trial, often at a waste of the courts' time and resources.

At trial on such a matter where the law and policy are undeveloped, the standard of care can default to the reasonable person standard. Establishing what a reasonable officer would have or should have done is a great challenge to defense attorneys because, as in the case of any profession, it is challenging for an ordinary juror – or judge or attorney for that matter – to

understand what is required in making a professional judgment on a complex matter such as the use of deadly force in a rapidly changing emergency.

A recently noted study on police decision-making attempted to take into account all possible variables and found that there are over 50,000 individual factors that play into a police officer's decision on a critical event. How is it possible for a person without police experience and training to understand the infinite complexity facing an officer's decision? That's not to say that we should, therefore, give so much leeway to officers that there is no accountability, but we must allow as much information as possible to be given to those making prosecutorial judgments, judicial declarations, and jury decisions so that the reasonable officer standard can be as fully understood as possible.

Complicating these factors are the biological limitations of an officer to be both consciously aware of all of these variables, and to have the facility to express them all in the documentation of the event. Reports are all that stand between the officer and the actors in the justice system who will judge the officer months or years after the event. Video footage may appear to be self-explanatory and witnesses may be objective in their perception of an event, but without the appropriate narrative and context, even this evidence can be misleading, especially in an adversarial proceeding.

This writer followed a case in Oklahoma where an officer was criminally charged after a shooting. I offered to comment publicly on the case, but the officer's attorney felt that it might not be helpful and declined.

During the officer's trial, the judge would not allow a use of force expert to testify on the human performance realities of decision-making under stress, leaving the jury to rely on their own beliefs from a lifetime of watching television and movies to determine the reasonableness of the officer's actions. They rendered what I believe a decision contrary to justice. Any officer who has been involved in a shooting incident will tell you that media portrayals, and even law enforcement training scenarios, not only fail to represent an actual event but can present contradictory information.

If only we could take Elvis' advice in his song – before you accuse, criticize, and abuse, walk a mile in my shoes.

New Research Validates that Police Don't Have Superhuman Powers

Until recent years, most of what we know about human performance came from sports studies and the military. The realities of body movement, stress, reaction time, and neurochemistry were not applied to police encounters with violent offenders. Perceptions of how police officers should act when encountering resistance to arrest tended to be based on their depiction in the media. This dearth of information for prosecutors, judges, jurors, and even police trainers resulted in unjustified discipline, firing, and even criminal prosecution.

Even today this lack of science that can explain police and offender behavior in dynamic seconds of an encounter remains a significant source of error in judicial proceedings against officers. Answers to questions like “Why did the officer have to shoot him so many times?”, “Why did the suspect have entry wounds in the back?” and “The suspect only had a cell phone, why did the officer have to shoot her?” are all found in the science of physics and biology.

Dr. Bill Lewinski, researcher and founder of Force Science Institute, has overseen studies on the speed of movement and response times to perceived threats. Understanding that the body responds to sensory inputs as they are interpreted by the brain is essential to understanding human performance. Most misunderstood is the element of time. While events seem to happen instantaneously, they have a sequence

that is usually measurable in the milliseconds it takes for an offender or an officer to make a lethal decision. The price of failing to make the right decision within that tiny window of opportunity is high.

In a press release, Lewinsky stated “Where we once measured movement speeds in the hundredths of a second, we are now able to measure those speeds to the thousandths of a second using accelerometers, gyroscopes, and motion sensors.” Finally, the police profession is getting the scientific attention that football, baseball, and basketball players have gotten for years.

One example is the “run and shoot” study. Using an inexperienced subject to simulate an armed, fleeing subject, the subject runs away, turns to present a weapon, then turns back to flee with their back toward the officer. Lewinsky summarizes the results, saying “The shooting and turning times were fast. Whether they were shooting over their opposite arm or under, these inexperienced shooters were discharging their weapon faster than humans could reasonably be expected to see the threat and respond...much faster.” An officer dealing with a fleeing armed suspect will take up to three seconds to identify and recognize the threat, unholster, and fire their weapon, during which time the suspect will have been able to fire on the officer and resume their flight. When suspects are shot in the back, this information is critical in examining the officer’s reasonableness in responding to this armed encounter.

Another example of timed studies involved inexperienced shooters seated in a simulated vehicle seat and

drawing a weapon to fire through a driver's side window at an approaching officer as in a traffic stop. Again, the attacker's ability to fire was about half a second where the officer's ability to recognize the threat, draw, and fire was around two seconds. The reaction and response time for officers to use any defensive measure, lethal or not, puts them at a consistent disadvantage.

Add to these factors, examined under controlled circumstances, factors such as dim light, multiple suspects, hostile bystanders, and the ever-increasing specter of prosecution and condemnation, and the complexity of those force decisions increases dramatically.

Every officer investigated for their use of force decisions must be given the benefit of investigators, reviewers, and prosecutors' knowledge of the science behind the event. Without the benefit of this kind of careful examination of the forces of nature at work, the lives, careers, and freedom of our law enforcement officers will be taken without justification.

About The Author



This series is authored by [Chief Joel F. Shults, Ed.D.](#) Joel is a retired police chief. He is an award-winning writer, college professor, trainer, and first responder chaplain.