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## BACKING OFF

*Leaving suspects alone cuts against the grain of policing.  
But there are few options.*



*For Police Issues by Julius (Jay) Wachtel.* Consider what life might be like today had Derek Chauvin and George Floyd never crossed paths on May 25, 2020. There would have been no reason to post “[Punishment Isn’t a Cop’s Job](#)” a mere nine days later, nor to ultimately devote a special section of the website to the tragic encounter and its profound consequences on American policing.

Nor, a couple months ago, to cancel a guest lecture at a local university because the professor wouldn’t let your writer play a video compilation of the police interaction with Mr. Floyd, from his arrest to the bitter end. In truth, given the tenor of these times, your writer’s advance warning that he agreed with officer Lane’s initial approach probably doomed the presentation.

Here our concern goes well beyond *Floyd*. We’ll take it one step at a time. First, when *should* officers become involved? Let’s review four notorious incidents, beginning with Mr. Floyd:

- [George Floyd](#) (Minneapolis, MN) It all began with a 9-1-1 call to MPD. Employees of a convenience store complained that a customer paid for a carton of cigarettes with a counterfeit bill, then wouldn’t make things right when he was approached as he sat in his car. They also reported that Mr. Floyd, who was at the wheel, appeared to be “on something,” meaning drugs.
- [Karen Garner](#) (Loveland, CO) In June 2020 Loveland police were called by a Walmart because an elderly woman tried to leave without paying for her items, then ripped off the Covid mask from an employee who intervened. Officers soon encountered the alleged assailant, Karen Garner, 73, as she “picked wildflowers”

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while walking home.

- [Manuela Rodriguez](#) (Long Beach, CA) Cops often initiate contacts based on what they observe. In a September 2121 “on view” incident in Southern California, Long Beach school police officer Eddie F. Gonzalez was on motorized patrol one block from a high school campus when he noticed that a young woman, later identified as Manuela Rodriguez, 18, was assaulting a 15-year old female student. Also present were Ms. Rodriguez’s 20-year old boyfriend and his brother, 16.
- [Karon Hylton](#) (Washington, D.C.) Traffic stops in high-crime areas are often conditioned on reasons other than traffic; say, suspicion of gang involvement or gun possession. One evening last month, while working a specialized anti-crime detail, D.C. police officer Terence Sutton observed a reputed gang member, Karon Hylton, 20, riding a moped on the sidewalk, without wearing a helmet. Suspecting that Hylton, whom he knew, “was armed and wanted revenge” over a recent clash, officer Sutton tried to stop him, ostensibly to issue a ticket.

Most officers would probably agree that the above situations are typical of what cops encounter each day. Of these, the in-progress assault on the teen seems the most worthy of prompt intervention. But the call about Mr. Floyd was also somewhat pressing: a local business had been victimized, the alleged evil-doer refused to make things right, and he was set to drive away while apparently impaired.

Beliefs about one’s role and obligations are intrinsic to all occupations. Police are committed to helping local businesses deal with shoplifters and unruly customers. Officers also expect that their colleagues will vigorously combat gangs and make life as miserable as possible for their members. So, what did the officers do? Let’s take each example in turn.



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Pulling a gun isn’t pretty, but that’s what rookie MPD officer Thomas Lane did when Mr. Floyd seemed reluctant to step out of the car. As depicted in [bodycam video](#), officer Lane soon had the drugged man out of the driver’s seat and in physical custody, avoiding further risks to citizens and police. Grimace if you wish, but in the everyday world of law enforcement, where citizens are often obstinate and all-too-frequently armed, that was a “success.”

While Mr. Floyd’s dereliction seems minor (he paid for his

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smokes with a counterfeit twenty), the large, unruly man presented a not-insubstantial physical threat. Store employees said that they last observed him sitting behind the wheel of a parked car, and that he seemed to be “on something.” It turns out that [Mr. Floyd had a substantial criminal record](#), including a conviction for armed robbery. But we don’t know whether officers on scene knew, or when they found out.

As it turns out, Mr. Floyd *was* under the influence of powerful drugs. Had he been allowed to drive off he’d have imperiled innocent motorists. Officer Lane’s stern approach also avoided a risky pursuit. Mr. Floyd was promptly in handcuffs and on the sidewalk, where he threatened no one. So far, so good. When he later resisted getting into the back of a squad car, officers should have summoned a transport van. But their superior seemed intent on inflicting punishment. And we know how *that* turned out.

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Karen Garner’s encounter, on the other hand, went poorly from the start. [According to the bodycam](#), when his command to stop was ignored, Loveland officer Austin Hopp gave no quarter to the woman’s age or clearly sketchy mental state (she suffers from dementia.) Instead, he grabbed the frail 73-year old from behind, twisted her arms and forcibly pushed her to the ground. Ms. Garner was promptly placed in a patrol car, taken to jail and booked for the \$13.88 shoplift.



As one might expect, this episode didn’t end well for the city *or* the cop Ms. Garner’s lawsuit [was recently settled for \\$3 million](#). Officer Hopp is being prosecuted for assault, and an officer who assisted him has been charged with failing to report their colleague’s excessive use of force. Both have resigned.

Walmart employees likely realized that Ms. Garner had mental issues. (Click [here](#) for a video of what happened in the store.) However, we don’t know whether that concern was conveyed to 9-1-1. And when the responding officer encountered a recalcitrant, elderly person he immediately turned to force. Officer Hopp, 26, had only one year on the job. Perhaps he thought that Ms. Garner’s conduct required he make an arrest. Maybe he wanted an easy “stat.”

No matter. While the rookie’s decisionmaking skills might have eventually improved, sometimes there really *is* no second chance. [Loveland police chief Robert Ticer quickly endorsed the cop’s prosecution](#). He also moved to increase de-escalation training and include a discussion of Alzheimer’s disease. Of course, persons such as Ms. Garner require an appropriate intervention the *first* time. To that end, an appropriate step would be to organize a dedicated mental health response team, perhaps using the

popular [“Cahoots”](#) model.

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When the Long Beach school cop pulled up, Ms. Rodriguez promptly jumped into the front passenger seat of her companions’ car. Just as the trio set to leave, officer Gonzalez walked up and, gun at his side, ordered Ms. Rodriguez out. But the sedan abruptly sped off, nearly knocking the officer down. Officer Gonzalez fired at least twice, fatally wounding Ms. Rodriguez. (Click [here](#) for a video compilation.)

Officer Gonzalez’s employment was promptly terminated and [he was charged with murder](#). His qualifications have since come under scrutiny. He had reportedly two very brief stints with local police departments, one of which “chose to separate” him from his job.

Officer Gonzalez interrupted an assault. Yet when multiple persons are involved – the assailant was there with two male friends – trying to do it alone invites a blunder. We’re not opposed to drawing a gun and holding it to one’s side. But when a cop is at a great disadvantage – officer Gonzalez was outnumbered, on foot and lacked cover – should something happen a poorly thought-through, near-reflexive shooting becomes far more likely. Consider, for example, [the tragic incident in Waukegan](#) when an officer opened fire on a car he thought was purposely backing up on him, killing a passenger and wounding the driver. That’s why, as we mentioned in “[An Illusory Consensus \(Part II\)](#)”, many agencies have adopted [PERF’s Guiding Principle No. 8](#), which prohibits shooting at moving vehicles “unless someone in the vehicle is using or threatening deadly force by means other than the vehicle itself” (p. 44).

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D.C. police rules have strictly restricted vehicular pursuits since at least 2003. According to Police Chief Peter Newsham, [they’re presently forbidden for anything short of a felony](#). Karon Hylton, on the other hand, had observably committed nothing more than a traffic infraction. But he was reportedly a gang member. And when he refused to stop, the chase was on (click [here](#) for the video). Alas, Hylton soon collided with a van and was killed.



In these days, with police literally “under the gun,” D.C.’s strict rules about chases are intended to avoid grossly disproportionate outcomes. As we recently mentioned in “[Regulate](#),” foot pursuits have repeatedly led to bad endings. No matter that the lethal “blow” suffered by Mr. Hylton wasn’t delivered by a cop. Police

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officers must become accustomed to the notion that, as in virtually every other sphere of life (say, vaccination) individualism has triumphed over compliance. Policing can provoke all manners of unintended consequences, and simply because a citizen disobeys is no longer reason enough to use force.

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So, when *should* cops act? In the “good old days” of [Dragnet](#) and [Adam-12](#), politicians and the public seemed far more indulgent of officer skills and temperament. Allowances were typically made for the perils of the street and the little that cops may know about the characters and circumstances they face. Law enforcement is replete with ambiguity and uncertainty, and in the real world of the streets, crude responses are sometimes unavoidable. Over the last several years, though, the permissible margin of error has substantially narrowed. [So while we're not overly fond of rulemaking](#), strict guidelines such as D.C.'s can give officers, who labor under considerable peer and public pressure, defensible reasons *not* to act.

Of course, should cops become notably less proactive, criminals and evildoers may be emboldened. Pointing to recent increases in violence, [some claim that's already happened](#). Fine-tuning the police response so that our emerging notions of justice and equity aren't breached and everyone is pleased has human *and* practical limits. And they've likely been reached.