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IS IT ALWAYS ABOUT RACE?

Unruly citizens and streets brimming with guns make risk-tolerance a very hard sell

By Julius (Jay) Wachtel. Fatal police shootings of black men in Tulsa, Charlotte, El Cajon and, most recently, Los Angeles have inflamed tensions between police and minority communities. We'll look at these and other episodes in a moment. But if black citizens are indeed treated more harshly – [as we've reported](#), the findings go both ways – the essential question is: why? Some officers – hopefully, very few – may be classically “prejudiced,” meaning driven by racial animus. On the other hand, racial stereotyping is probably widespread. Cops are likely influenced by their experiences in lower-income, minority communities, where violence and gunplay are an ever-present threat. And when it comes to blacks the data is particularly grim. While African-Americans constitute only 13.3 percent of the population, 52.3 percent of homicide victims in 2015 were black. (Click [here](#) for census data, [here](#) for victim data, and [here](#) for offender data.)

Sometimes, though, it's not just about race. Let's begin our exploration with a few “perfect storms” from Southern California, your blogger's backyard. We start with one of our earliest posts:

[May 2008, Inglewood](#): Patrol officers investigating gunfire saw a man jump into a car. It accelerated in their direction. They opened fire, wounding two occupants and killing Michael Byoune, a 19-year old black teen. It turned out that no one in the car had done anything wrong. Here's what the police chief said: “I won't go so far as to call it a mistake. The process that the officers went through had a very tragic outcome.” One officer was Hispanic, the other, white. Two months later, [the white cop was involved in another fatal shooting of a black man](#) and was removed from patrol duty. He later [left the department and sued](#), ultimately unsuccessfully, for discrimination. A civil suit by the victim families [was settled for \\$2.45 million](#).

[September 2009, South L.A. County](#): L.A. County Sheriff's deputies looking for two robbery suspects encountered a pair of candidates. One, a middle-aged black man, ran off and an officer chased him on foot. At some point the man made a motion, leading the officer to fire, killing Darrick Collins, 36. But he turned out to be innocent. Collins did have some pills, though, and after a recent arrest for drugs was probably trying to avoid another bust. An internal investigation found the cop to have “acted lawfully, in self-defense.” Even so, Collins' family [received a \\$900,000 settlement](#).

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[March 2010, Los Angeles](#): LAPD gang officers on motorized patrol heard a “loud noise.” Looking around, they observed a pedestrian fiddling with something in his pants. They ordered the man to stop but he approached them, still fiddling. The officers fired, fatally wounding Steven Eugene Washington, 27, an autistic black man. Washington was unarmed. [An internal investigation](#) found the officers at fault for how they “approached and engaged” but not for the shooting, as they could have reasonably feared he was reaching for a gun and had only an instant to decide. [The victim’s mother settled for \\$950,000](#). After several years on desk duty the officers (both are Hispanic) sued for discrimination and retaliation. [Jurors awarded them \\$4 million](#).

[July 2011, Fullerton](#): Officers confronted a man who seemed to be prowling parked cars. When he resisted multiple cops pummeled him and repeatedly applied a Taser, deeply alarming passers-by. Kelly Thomas, 37, a white, homeless schizophrenic, later died. Three officers were prosecuted for manslaughter and excessive force: [two were acquitted and charges were dismissed against the third](#). (Our post commented on an apparently undisciplined response by multiple units and the involvement of a cop with an allegedly brutal reputation.) A civil suit filed by the victim’s family [was settled for \\$4.9 million](#).

[February 2012, Orange County](#): A sheriff’s deputy observed an SUV crash through the locked gates of a high school at 4:30 am. The driver, who was black, walked off, leaving two girls, nine and fourteen, in the cab. More cops arrived. Soon the driver returned, ignored the deputy, got in the vehicle and tried to drive off. Supposedly to protect the girls, the officer, who is white, fired three times, fatally wounding Manuel Levi Loggins, Jr., a 31-year old Marine Corps sergeant (the children were his daughters.) Although no charges were filed, [the D.A. nonetheless wondered](#) why the deputy let the driver re-enter the vehicle:

In hindsight, one could conclude that several non-deadly options were available to Deputy Sandberg prior to the shooting. For example, he could have removed the children and/or the keys from the vehicle prior to [the driver’s] return. Of course, this would have required [the deputy] to anticipate that [the driver] would return to the vehicle and blatantly ignore the deputies’ commands prior to re-entering the SUV.

“Anticipate,” of course, is what cops do. [A \\$4.4 million settlement was reached](#) with the man’s wife and kids.

[Civil judgments 2012-2013](#): Be sure to read our mind-boggling summary. One, for an eye-popping \$24 million, resulted from the 2010 shooting of a teen playing with a pellet gun. Here’s an extract from the LAPD chief’s reaction to the jury’s award:

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...The replica gun was indistinguishable from a real handgun on a dark night. When our officers are confronted with a realistic replica weapon in the field, they have to react in a split second to the perceived threat. If our officers delay or don't respond to armed suspects, it could cost them their lives...I am encouraging the City Attorney to appeal because I believe the judgment is unwarranted.

The child, Rohayent Gomez, 13, [was paralyzed](#). Both he and the officer are Hispanic.

[August 2014, Los Angeles](#): Two LAPD gang officers, one white, the other Hispanic, confronted a black male pedestrian at night in a high-crime area. According to police, the man assaulted one cop and went for his gun. He was shot dead. As it turns out, Ezell Ford, 25, was unarmed and seriously mentally ill. LAPD's chief found the shooting "in policy." But the Police Commission disagreed, concluding that the officers lacked reason for the stop and handled it poorly. Both cops wound up on permanent desk duty, [then sued for discrimination and retaliation](#). State and federal lawsuits [were also filed by Ford's family](#). (This notorious incident has its own [Wikipedia page](#). For an activist viewpoint click [here](#).)

Ford's death wasn't the only during that "[Very Hot Summer](#)." Two weeks earlier NYPD officers tangled with a middle-aged black man peddling untaxed cigarettes. A late-arriving cop jumped into the fray and applied a choke hold, [killing Eric Garner, 43](#). That incident was promptly followed by the [shooting of Michael Brown](#), an 18-year old black Missouri youth who shoplifted a box of cigarillos from a convenience store and shoved aside the protesting clerk. This episode is now simply referred to by the name of the city where it took place: "Ferguson."

Only two months after Brown's death, [a Chicago cop with a history of complaints](#) shot and killed [Laquan McDonald](#), a mentally troubled 17-year old black youth wielding a knife. Other cops on scene reportedly thought force excessive. Protests engulfed the city, leading to the chief's prompt firing, and, ultimately, to the officer's indictment for murder (the case is pending.) Chicago settled with the victim's family for \$5 million.

And still there was no let-up. Only a month later, in November 2014, a Cleveland officer shot and killed [Tamir Rice](#), a black teen who had pointed a realistic-looking pellet gun at visitors to a city recreation center. Although the cop insisted that 12-year old reached for the gun, witnesses disagreed, and a video suggested that the officer fired almost instantly after encountering the youth. Citing a "perfect storm of human error, mistakes, and communications by all involved that day," grand jurors declined to indict the cop or his partner. Cleveland settled with the child's family for \$6 million.

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Five months later came an event that didn't involve gunplay. On April 12, 2015 [Freddie Gray](#), a 25-year old black man was fatally injured while riding in a Baltimore police van. Gray was being taken to jail after an arrest for having a switchblade knife. In a city where police had been repeatedly accused of mistreating blacks, the incident (we blogged about in "[A Very Rough Ride](#)") set off nights of protest, looting and violence. Determined to make things right, the D.A. (she is black) promptly charged six cops, including three black officers, for crimes ranging to manslaughter. But evidence of intent was lacking, and after one mistrial and three acquittals – by a black judge, no less – all remaining charges were dropped. Gray's family settled for \$6.4 million.

One month later, two LAPD officers [tussled with a homeless man](#) annoying passers-by on the Venice boardwalk. During the struggle the officer, who is black, drew his gun and fired, mortally wounding Glendon Brenn, a 29-year old black man. A surveillance video contradicted the cop's claim that Brenn went for his partner's gun. In a rare set of moves, the chief criticized the cops' approach as tactically unsound, ruled that drawing a gun and firing were unjustified, and recommended prosecution. However, the D.A. hasn't acted and at this point it seems unlikely that the officer who shot Brenn will face charges.

Less than a year later [two incidents](#) led the kettle to boil over. On July 5, 2016 officers in Baton Rouge tangled with [Alton Sterling](#), a 37-year old black man. Sterling, a registered sex offender with a violent past, was selling CD's and had reportedly brandished a gun. He resisted being searched and a furious struggle ensued. A Taser didn't work, and when Sterling allegedly reached for the pistol that he was indeed carrying a cop shot him dead. One day later, on July 6, officers in Falcon Heights, Minn., a suburb of St. Paul, stopped a car whose driver supposedly resembled the photo of an armed robber. [Philando Castile](#), a 32-year old black man, promptly pulled over. His girlfriend, who was riding in front, said that he immediately told the officer he had a gun (he did, and it was legally registered.) But something got lost in translation, and when Castile reached for his wallet the cop opened fire, fatally wounding him. And no, Castile was not the robber.

While the precipitating factors differed, the deaths of Sterling and Castile led to widespread protests and became the driving force behind the movement known as "[Black Lives Matter](#)." Inflammatory, anti-cop rhetoric [became a "new normal,"](#) inspiring angry, disturbed characters to retaliate. One day after Sterling's death a gunman murdered five officers and wounded nine in Dallas; ten days later, another shot and killed three officers and wounded three in Baton Rouge.

If there had ever been a time for introspection and, perhaps, some behavior modification on everyone's part, this was surely it. Alas, polarization prevailed. Law

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enforcement executives expressed little appetite for fundamentally rethinking the use of force, while black leaders condemned the police while ignoring the drug use, gunplay and loutish behavior bedeviling their own communities.

And the toll continued. On September 16 a pair of Tulsa cops [confronted a disoriented middle-aged black man](#). Ignoring police orders to stop, [Terence Crutcher](#), 40, returned to the vehicle he had inexplicably abandoned and reached in, prompting one officer to discharge his Taser and the other to fire her gun. Crutcher fell dead. Police did not find any guns, but did recover a vial of PCP. A former parolee with a history of arrests, [Crutcher had served nearly four years on drug charges](#) and was reportedly using PCP. Prosecutors accused Officer Betty Jo Shelby, 42, of overreacting and promptly charged her with manslaughter.

A mere four days later another middle-aged black man fell to police gunfire. On September 20 Charlotte (N.C.) [plainclothes officers on an unrelated assignment](#) observed [Keith Lamont Scott](#), 43, sitting in a parked vehicle. According to Officers Scott was rolling a joint, and when he stepped out and reentered his vehicle they noticed he was armed with a handgun. In North Carolina open carry is legal, but the presence of both a gun and drugs ultimately led police to order Scott from his vehicle. He got out but allegedly ignored orders to drop the gun, then made a supposedly threatening motion. That's when a black plainclothes officer shot Scott dead. Videos of the event proved inconclusive [and riots erupted](#). As a convicted felon – he served a prison term for a 2005 shooting – Scott was Federally prohibited from possessing firearms. Police recovered a handgun, and a video of the incident depicts him wearing an ankle holster.

One week after that, Alfred Okwera Olango, 38, a Ugandan refugee, [was shot dead by an officer in El Cajon](#) (Calif.) His sister had called police and reported her brother was acting strangely. Two officers confronted Olango: one pointed a Taser, the other a gun. A video still from the moment at which they fired depicts Olango in a shooting pose, aiming what turned out to be an electronic vape device at one of the cops. Olango [had been convicted in the U.S.](#) for transporting and selling drugs and for being an armed felon, and Uganda refused to take him back. “My son was a good, loving young man,” his mother lamented. “Only 38 years old, I wanted his future to be longer than that. I wanted him to enjoy his daughter.”

Whew. Let's pause to offer some comments about the use of force. First, cops who place themselves inside threat perimeters without cover (e.g., most incidents described above) are gambling that they know what's up and can react appropriately. But citizens are full of surprises, repeatedly startling officers into doing exactly what most

desperately want to avoid. So unless innocent persons are under immediate threat, the old “surround and call-out” technique is highly recommended. When there aren’t enough officers to bottle someone up, disabling vehicles, closing off escape routes or simply tagging along can “make” [precious time](#) to gather information and plan the next move. Maybe that gun really is a vapor pen. Who would have thought?

Of course, some citizens refuse to be interrupted. Others may be so physically imposing – Eric Garner and Alton Sterling are good examples – that going mano-a-mano promises a big-time struggle with an uncertain conclusion. Cops carry lots of stuff on their belts, and none want to roll around on the ground and risk having their tools used against them. [That’s where bean-bag shotguns and Tasers come in](#). Yes, they’re expensive, use specialized “ammunition” and require training and regular practice. But when citizens refuse to comply, there are few better options. [Every cop should have a Taser](#), and each police car should be equipped with a bean-bag shotgun, not just the supervisor vehicles where they’re usually kept.

Incidentally, our vision of Tasers and bean-bags as preventive tools probably clashes with some agency guidelines. Bringing down an uncooperative someone with a less-than-lethal weapon is best done the instant it’s possible. Waiting for additional justification can turn into a death warrant. So reworking the rules governing the use of less-than-lethal force may be called for.

Constructs such as “productivity” and “proactivity,” while perhaps defensible in other occupations, are a lousy fit for policing. We have repeatedly argued against the widespread use of strategies such as stop-and-frisk, and even suggested that it is sometimes best to simply leave petty offenders alone. (For a comprehensive overview see [“Good Guy/Bad Guy/Black Guy, Part II”](#).) Aggressive law enforcement practices mesh poorly with the social fabric, and their use has badly damaged relations between citizens and police. Should a paradigm be called for, we suggest [“craftsmanship.”](#)

Finally, many of the incidents described above can best be described as “clusters.” (Yes, we mean it in the vernacular.) To minimize the use of force a well-organized response is essential. [That’s why patrol shifts must regularly train together](#). (Those who think that notion odd or too expensive are directed to the million-dollar awards and settlements mentioned above.) And once cops are on scene, someone must, regardless of rank, take charge and remain in control until there’s an orderly handoff.

Policing is an imperfect enterprise conducted by fallible humans in unpredictable, often hostile environments. Limited resources, gaps in information, questionable tactics

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and the personal idiosyncrasies of cops and citizens have conspired to yield horrific outcomes. Still, countless cop-citizen encounters occur every day. Many could have turned out like the examples above but, thanks to very craftsmanlike police work and considerable risk-taking, they're resolved peacefully. Indeed, [as we've repeatedly pointed out](#), if officers were completely risk-averse dead citizens would line the sidewalks at the end of each shift:

What experienced cops well know, but for reasons of decorum rarely articulate, is that the real world isn't the academy: on the mean streets officers must accept risks that instructors warn against, and doing so occasionally gets cops hurt or killed. Your blogger is unaware of any tolerable approach to policing a democratic society that resolves this dilemma, but if he learns of such a thing he will certainly pass it on.

Unfortunately, [ever-more-lethal firearms](#) keep flooding the streets (for how that takes place see our related article, below). Here's a brand-new example. Three days ago, on October 1, LAPD officers [pulled over a vehicle](#) they suspected was stolen. A passenger in the back seat reportedly ducked down. As the car slowed to a stop an 18-year old black male jumped out while "holding his waistband as if he was supporting something." Thinking he might be armed, officers gave chase. (Watch the surveillance video. As it turns out, the cops had it right.) When Cornell Snell allegedly turned to face them, gun in hand, they opened fire. Snell was shot dead. A .40 caliber pistol was recovered, fully loaded, round in the chamber.

Bottom line: thanks to the ready availability of powerful guns, the real and perceived risks of everyday policing have risen to unprecedented levels. With risk tolerance becoming a very hard sell, implementing a "tolerable" approach to policing seems increasingly out of reach.