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MAKING SAUSAGE

*Delivering a blow looks nasty,
but it can be vastly preferable to the alternatives*

By Julius (Jay) Wachtel. Readers who follow this site know that we're not shy about criticizing excessive force. Nor about calling a time-out when officers try to excuse egregious behavior with outrageous claims. And on first glance this incident seemed a perfect example.

Six days ago Los Angeles County Sheriff's deputies were dispatched to a bus stop. A man had called 911 to complain that [a woman was threatening riders](#). "She's trying to pick a fight with anybody, she almost hit an old man. She was talking about how she got out of prison and 'I'll beat up all you guys'." (Click [here](#) to hear the 911 call in its entirety.)

It turns out that Julie Nelson [had been convicted four times](#) for assaulting cops. Homeless and mentally disturbed, the mordantly obese 42-year old woman had left on a bus. By the time that deputies hopped on board Nelson seemed friendly enough. Yet knowing her all too well, the officers asked Nelson to exit. She refused, and when they tried to force compliance Nelson resisted and uttered profanities.

That's when the male deputy elbowed her in the face.

A rider recorded everything on a cell phone. He later told reporters that he was appalled at how deputies treated the woman. [Sheriff Lee Baca seemed equally skeptical](#). "If the individual deputy who swung an elbow at the lady is looking at that as a sensible solution," he told a radio host, "we need to retrain that individual." But when asked whether the deputy did wrong, Baca demurred. "We have to look at what *his* threat level was when that occurred and then from there we can make that determination." (Emphasis added.)

Taking Sheriff Baca to task is becoming a habit. We recently criticized [his feeble attempts to distance himself](#) from what seems to be a pattern of excessive use of force by jail deputies. Here we're doing a one-eighty. Whatever threat Nelson might have posed to the male deputy is besides the point. He wasn't acting to safeguard himself but others, who presumably didn't know about Nelson's assaultive propensities. [As the Los Angeles County D.A. wrote](#) in a different case:

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A police officer is not analyzed from the standpoint of exercising self-defense against an aggressor, rather the “police officer is in the exercise of the privilege of protecting the public peace and order [and] he is entitled to the even greater use of force than might be in the same circumstances required for self defense.”

Further, [[Graham v. Connor’s](#)] definition of reasonableness has been described by courts utilizing its analysis as, “comparatively generous to the police in cases where potential danger, emergency conditions or other exigent circumstances are present [thus affording] a fairly wide zone of protection in close cases.”

Assuming that deputies were justified in physically booting Nelson off the bus, was elbowing her in the face reasonable? Watch each version of the video carefully (click [here](#), [here](#) and [here](#).) All who have done police work – including your blogger – know that it can prove nearly impossible to handcuff a noncompliant person without causing injury. (If you don’t believe it, watch the video below.) In this case the deputies’ task was complicated by Nelson’s size. They didn’t want a protracted struggle or a tumble to the ground, where the woman could asphyxiate. Using a Taser or OC on someone as out of shape and mentally ill as Nelson [can be dangerous](#). So the blow was an excellent choice. While causing no permanent injury it momentarily disoriented her, allowing deputies to push her onto a bench where she was contained and handcuffed.

As bad as it may look, punching and striking uncompliant persons – yes, women included– is occasionally necessary. This video, from our post “[Dancing With Hooligans](#),” demonstrates what happens when a Seattle cop is beset by an aggressive woman. Pay notice to how the fracas began, and consider whether a second blow might not have resolved it more safely.

For reasons that become quite clear, we called that one for the cop. But that wasn’t our conclusion in the infamous [episode of May 2009](#), when an El Monte (Calif.) police officer kicked a proned-out, by all appearances compliant suspect in the head. He had done so, the cop said, because the suspect swiveled his head, suggesting that he might flee or attack. We weren’t the only who thought this “distraction blow” story ridiculous. Although we’re unaware of any accepted protocols that endorse what the cop did, the D.A. bought the explanation and declined to prosecute.

LAPD has also tangled with “distraction strikes,” which [it once officially recognized](#) in its manual. Five years ago [then-Chief Bratton ordered](#) that officers cease using the term, as some had applied it “to describe strikes intended to cause the suspect to submit to arrest or stop an offensive action when there was no intent to transition to another technique.” His concern wasn’t about delivering blows, which can be appropriate, but about vague terms such as “distraction” that can misrepresent what takes place. That

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was apparently a problem in Portland, where cops who used a distraction blow technique learned at the State training academy [were using the term](#) to circumvent requirements that officers report all uses of force.

Given the ubiquity of video-enabled cell phones, the sausage-making qualities of street policing are more evident than ever. But until the day comes when people quit acting like Cro-Magnons, police will keep resorting to fists – and elbows – to get the job done safely while minimizing injuries to cops and citizens alike. To be sure, instances where excessive force is used will keep happening, and when they do we'll say so.

But this wasn't one of them.