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TO ERR IS HUMAN, TO PREVENT IS DIVINE

Admitting that cops make mistakes can prevent tragedies

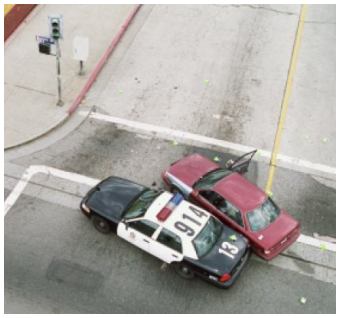
By Julius (Jay) Wachtel. The recent tragic killing of an unarmed man by a San Francisco transit cop provoked a deeply polarized response. Outraged activists pointed to the incident, which involved a white officer and a black victim, as yet another example of how the police treat minorities. They then turned their anger on prosecutors for waiting two weeks before charging the officer with a crime.

As we've mentioned, there's plenty of reason to believe that the overexcited cop thought that he was firing his Taser. That's a conclusion that even the victim's attorney implicitly conceded. "It doesn't matter if he was reaching for a Taser or not. At the end of the day, it's what [the officer] did that counts." Meanwhile nervous BART officials avoided all talk of race and promised what bureaucracies usually promise when stuff hits the fan: to review their procedures.

> ...the BART Board's Police Department Review Committee will engage experts in law enforcement to conduct a top-to-bottom review of BART Police policies and procedures. These independent experts will examine police recruitment, hiring, training, and identify best practices. The independent experts will also recommend changes where necessary.

Departments seldom concede what students of the police have long known: that regardless of training and experience, stressed-out officers can make catastrophic mistakes. For reasons of pride and liability, agencies often rush to lay the blame elsewhere. When a SWAT officer accidentally shot and killed a toddler during a 2005 standoff, LAPD exerted immense pressure on the coroner to conclude that the fatal bullet really came from the father's gun. To his credit, he refused.

Tactical teams usually have the opportunity to prepare and strategize, so in truth they seldom goof that badly. Patrol officers, on the other hand, rarely have much time to plan. When their adrenaline-infused decisions prove disastrous, as they sometimes so, departments reflexively (and perhaps, understandably) circle the wagons. On February 6, 2005 an LAPD patrol officer shot and killed Devin Brown, a 13-year old black teen who allegedly tried to run him over with a stolen car. Chief Bratton declared the shooting "in policy" and tried to quell community furor by releasing an elaborate reconstruction of



the incident that the D.A. later used to absolve the officer of criminal liability.

Not everyone jumped on board. The Los Angeles Police Commission, Bratton's titular superior, overruled the chief and forced a disciplinary hearing. Their squabble wasn't unprecedented. Years earlier the board rejected then-Chief Parks' exoneration of an officer who shot and killed a mentally handicapped homeless woman wielding a knife. In the end, the Commission lost -- twice. By contract, serious discipline at the LAPD is meted out by a normally cop-friendly "Board of Rights," and it was that panel that ultimately cleared both officers of wrongdoing.

As we know from the BART shooting protecting one's own is a lot tougher when there's video. On January 29, 2005 a vehicle fleeing from San Bernardino (Calif.) deputies crashed. A 21-year old airman just back from Iraq exited from the passenger side. The first officer to arrive, Ivory Webb, ordered him to the ground and approached, gun drawn. After a brief verbal exchange, the excited deputy said what sounded like "get up" three times. Apparently complying with the command, the man rose. That's when the deputy fired three times, inflicting serious, thankfully nonfatal wounds. The nighttime incident was captured on a grainy video by a citizen watching from across the street.

To citizens and newscasters what the deputy did (he was Black, his victim is Hispanic) was inexplicable; on first glance it seemed like an execution, the same thing that activists claim happened in Oakland. Of course, prosecutors are not lay people. Instead of acknowledging the horrifying event for what it was: a tragedy caused by a pumped-up cop whose brain short-circuited, the San Bernardino D.A. accused him of attempted voluntary manslaughter and assault with a firearm, charges that could bring a sentence of eighteen years.

At his trial the officer testified that he had been scared for his life, and that if he said "get up" it was only because he was too rattled to articulate clearly. (This

blogger's audio analysis revealed that the first "get up" was indeed preceded by a "don't.") The officer's explanation was echoed by a defense psychologist who told the court that when officers are under stress their analytical processes can shut down. It took jurors only two and one-half hours to acquit the deputy on both counts. Naturally, the officer lost his job and faces a civil suit.

Pinning on a badge doesn't make cops superhuman, and it may be that in an atmosphere of guns and violence they're doing about as well as can be expected. But if we're looking for ways to minimize lethal flub-ups here are some things to consider:

- We've said before that most cops are reasonably risk-tolerant; if they weren't, there would be a trail of dead citizens at the end of each shift. It's also a truism that some cops are repetitively involved in shootings. Are there ways to filter out police applicants who are too easily rattled? Too eager to reach for a gun?

- Academies try to incorporate realistic exercises into their coursework. Yet time and resources are limited, so the tendency is to present proportionately far more "shoot" situations than an officer is likely to experience on the job, where firing a weapon is rarely called for. Some training programs bring in the real world by having cadets go on ridealongs, but these are usually limited and don't take place until the end, when poor patterns may have already formed. There's clearly a lot more that can be done to help trainees and active-duty cops adjust to the uncertainties of policing while minimizing the risk to themselves and to others.

- Although police work is largely an individual task, there is frequently need for coordination. When multiple officers respond someone's got to take charge and assure they work as a team. That was clearly a problem in BART. The absence of command and control were also evident in a May, 2005 incident in which L.A. County Sheriff's deputies fired more than one-hundred rounds at an unarmed man during a slow-speed pursuit in a residential area. Videos of the incident demonstrated a wild, undisciplined response hardly befitting the image of an agency that relentlessly promotes itself on reality TV shows.

An initial step in twelve-step programs is to admit one's frailties, as little can be done for someone in denial. That's equally true here. Pretending that whatever happens, happens on purpose retards progress and exacerbates tensions between citizens and officers, unjustly making out the latter as criminals should their disastrous goofs get caught on camera.

Honest, dispassionate self-assessment is the hallmark of a true profession. It could prevent unnecessary violence and help defuse tensions in the inner cities. It would be a win for the public *and* the police.