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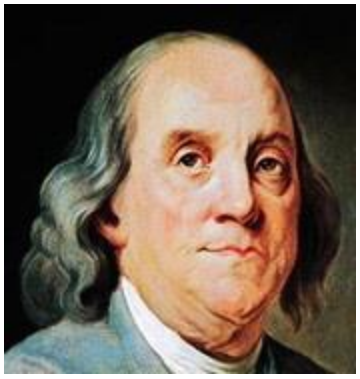
WHEN *MUST* COPS SHOOT? (PART II)

"An ounce of prevention..." (Ben Franklin, 1736)



For Police Issues by Julius (Jay) Wachtel. Part I described four problematic encounters that officers ultimately resolved by gunning someone down. Each citizen had presented a substantial threat: two flaunted knives, one went for a gun, and another reportedly used a vehicle as a weapon. Yet no one had been hurt before authorities stepped in. Might better police work – or perhaps, none at all – have led to better outcomes?

Let's start with a brief recap:

- Los Angeles: A 9-1-1 call led four officers to confront a "highly agitated" 34-year old man running around with a knife. A Taser shot apparently had no effect, and when he advanced on a cop the officer shot him dead.

- Philadelphia: A knife-wielding "screaming man" whose outbursts led to repeated police visits to his mother's residence chased two officers into the street. As in L.A., he refused to drop the weapon, and when he moved on a cop the officer fired.

- San Bernardino, California: A lone officer confronted a large man who was reportedly waving a gun and jumping on parked cars. He refused to cooperate and a violent struggle ensued. During the fight the man reached for a gun. So the cop shot him dead.

- Waukegan, Illinois: A woman suddenly drove off when a cop tried to arrest her passenger/boyfriend on a warrant. Another cop chased the car, and when it ran

> off the road the officer approached on foot. He quickly opened fire, supposedly because the car backed up at him. Its driver was wounded and her passenger was killed.

Consider the first two instances. Agitated, mentally disturbed men went at cops with knives. Might a Taser strike have stopped them in their tracks? A decade ago, when Tasers were an up-and-coming tool, their prospects seemed limitless. Don't physically tangle with an evil-doer. Don't beat them with a club. Zap them instead! But as we discussed in a two-parter ("Policing is a Contact Sport," I and II) that enthusiasm was soon tempered. Some citizens proved highly vulnerable to being zapped, and a substantial number died.

Other issues surfaced. A 2019 in-depth report, "When Tasers Fail," paints a decidedly gloomy picture. Recounting a series of episodes in which Tasers failed to stop assailants, including some armed with knives, it concluded that Tasers – and particularly its newest versions – was far less reliable than what its manufacturer claimed. For the relatively clumsy and uncertain tool to be effective its pair of darts must pierce the skin (or come exceedingly close) and be separated by at least one foot. That requires an accurate shot from a moderate distance. Even then, darts can be pulled out, and officers usually get only two shots before having to replace the cartridges. Even when darts are accurately placed, some persons are unfazed when struck while others become even more violent. A use-of-force expert adept with Tasers conveyed his colleagues' change of heart:

> When electronic defense weapons first came on the market, the idea was that they would be used to replace lethal force. I think that was sort of a misnomer.

Tasers were never meant to keep *cops* from being killed. That's always been a job for firearms. Even then, nothing's guaranteed. When an angry someone armed with a knife is only a few feet away (supposedly, less than 21 feet) a cop may have insufficient time to unholster his weapon and shoot. Even with a gun in hand, firing under pressure often proves inaccurate. Bottom line: when facing a deadly threat, drawing one's pistol well in advance, per the officers in Los Angeles and Philadelphia, is essential.

Yet Los Angeles, which deploys two-officer units, had *four* cops on hand. Couldn't they have effectively deployed a Taser before the suspect closed in? Actually, during the chase one cop apparently tried, but the suspect was running, and there was no apparent effect. LAPD's overseers at the Police Commission ultimately ruled that the shooting was appropriate. But they nonetheless criticized the officers for improperly staging the encounter. Police Chief Michel Moore agreed. In his view, the sergeant should have organized the response so that one officer was the "point," another the "cover," and another in charge of less-than-lethal weapons. Chief Moore was referring to a well-

known strategy, "slowing down." Instead of quickly intervening, cops are encouraged to take the time to organize their response and allow backup officers, supervisors and crisis intervention teams to arrive.

Might "slowing down" have helped to defuse what happened in San Bernardino or Waukegan?

- As San Bernardino's 9-1-1 caller reported, the bad guy was indeed armed with a gun. He also vastly outsized the officer and the struggle could have easily gone the other way (click here for the bystander video.) That the cop *didn't* "slow down" probably reflected his worry about the persons in the liquor store where the suspect was headed. Waiting for backup would have risked their safety. So for that we commend him. Still, it's concerning that he was left to fend for himself. Cities that deploy single-officer cars – and these are in the clear majority – normally dispatch multiple units on risky calls. Lacking San Bernardino's log we assume that other officers were tied up. There's no indication that the actual struggle was called in, so dispatch might have "assumed" that all was O.K. Really, for such circumstances there's no ready tactical or management fix. Assuring officer and citizen safety may require *more* cops. And at times like the present, when taking money from the cops is all the rage, good luck with that.

- Waukegan was different. Neither of the vehicle's occupants posed a risk to innocent citizens. But the officer who originally encountered the couple tried to do everything, including arresting the passenger, on his own. That complete self-reliance was duplicated by the cop who chased down the car. His lone, foot approach was unfathomably risky. Additional units could have provided cover, a visible deterrent and a means of physical containment. After all, the first officer was apparently still available. But the second cop didn't wait, and the consequences of *that* decision have resonated throughout the land. No doubt, "slowing down" would have been a good idea.

Could the L.A. and Philadelphia cops have waited things out? Watch the videos (click here for L.A. and here for Philly.) Both situations posed a clear, immediate risk to innocent persons. Agitated suspects who move quickly and impulsively can defeat even the best laid plans and create a situation where it's indeed "every officer for themselves." Worse yet, should a bad guy or girl advance on a cop before they can be "zapped," other officers may have to hold their fire, as discharging guns or Tasers in close quarters can easily injure or kill a colleague. And such things do happen.

So what about doing…nothing? In Waukegan there was really no rush. Waiting for another day might have easily prevented a lethal outcome and the rioting that followed. That, in effect, is the "solution" we peddled long ago in "First, Do no Harm." Here's how that post began:

> It's noon on Martin Luther King day, January 17, 2011. While on routine patrol you observe a man sleeping on the sidewalk of a commercial park…in front of offices that are closed for the holiday. A Papa John's pizza box is next to him. Do you: (a) wake him up, (b) call for backup, then wake him, (c) quietly check if there's a slice left, or (d) take no action.

To be sure, that gentleman was threatening no one and seemed unarmed. So the medical tenet *primum non nocere* – first, do no harm – is the obvious approach. But police in Aurora, Colorado have substantially extended its application. Here's how *CBS News* described what happened in the Denver suburb on two consecutive days in early September:

> …Aurora police officers twice walked away from arresting a 47-year-old man who was terrorizing residents of an apartment complex, even after the man allegedly exposed himself to kids, threw a rock through one resident's sliding glass door, was delusional, was tasered by police and forced the rescue of two other residents from a second floor room in an apartment he had ransacked.

According to a deputy chief, backing off was appropriate and prevented injuring the suspect or the cops. After all, officers ultimately went back and took the man into custody without incident. Yet as a Denver PD lieutenant/CJ professor pointed out, innocent citizens were twice abandoned and left at risk. "It was a serious call to begin with since it involved a child…I would not have left the guy two successive days, probably not even after the first call."

Aurora's laid-back approach remained in effect. On September 24 a team of officers staked out the residence of a suspected child abuser who had a no-bail domestic violence warrant from Denver. He refused to come out and was thought to be well armed. So the cops eventually left. They later discovered that the man had an outstanding kidnapping warrant. But when they returned he was gone. And at last report he's still on the lam.

Check out the that post's reader comments. Not all were complementary. Police undoubtedly feel torn. But the killing of George Floyd struck a chord and led to rioting in the city. You see, one year earlier, on August 24, 2019, while Aurora's cops were still operating under the old, more aggressive approach, they forcefully detained Elijah

McClain, a 21-year old Black pedestrian whom a 9-1-1 caller reported was behaving oddly. McClain forcefully resisted, and during the struggle officers applied a carotid hold. On arrival paramedics diagnosed excited delirium syndrome (exDS) and injected a sedative (ketamine). McClain soon went into cardiac arrest and died days later at a hospital. On February 22, 2021 an official city report concluded that police did not have adequate cause to forcefully detain or restrain Mr. McClain and that officers and paramedics badly mishandled the situation. A wrongful death lawsuit was subsequently settled for $15 million (see 11/22/21 update).

Yet we're reluctant to suggest doing nothing as a remedy. Imagine the reaction should an innocent person be injured or killed after cops back off. And while we're fond of "de-escalation," the circumstances in our four examples seem irreparably conflicted. Consider the suspects in San Bernardino and Waukegan. Both had substantial criminal records and faced certain arrest: one for carrying a gun and the other for a warrant. Yet officers nonetheless tried to be amiable. (Click here for the San Bernardino video and here for Waukegan.) In fact, being too casual may have been part of the problem. Our personal experience suggests that gaining voluntary compliance from persons who *know* they're going to jail calls for a more forceful, commanding presence.

Great. So is there *any* approach that might have averted a lethal ending? "A Stitch in Time" suggests acting preventively, preferably *before* someone runs around with a gun or brandishes a knife. Police departments around the country have been fielding crisis-intervention teams with some success (see, for example, our recent discussion of the "Cahoots" model.) New York City is presently implementing a mental health response that totally cuts out police; that is, unless "there is a weapon involved or 'imminent risk of harm.'" As even Cahoot's advocates concede, once behavior breaches a certain threshold even the most sophisticated talk-oriented approach may not suffice.

And there's another problem. While we're fans of intervening before situations explode, in the real world of budgets and such there's usually little substantial follow-through. We're talking quality, post-incident treatment, monitoring and, when necessary, institutionalization. Such measures are intrusive and expensive, and that's where things break down. That means many problematic citizens (e.g., L.A., Philly, San Berdoo, Waukegan) will keep misbehaving until that day when…

Full stop. Officers resolve highly conflicted situations every day as a matter of course. But unlike goofs, which get big press, favorable outcomes draw precious little attention and no respect. Yet knowing how these successes came to be could be very useful. (Check out the author's recent article about that in *Police Chief*.)

We're not holding our breath. During this ideologically fraught era only one-hundred percent success will do. Consider this outtake from a newspaper account about the incident in San Bernardino:

> During a news conference Friday morning, the police sought to portray [the suspect] as physically intimidating, listing his height and weight — 6 feet 3 and 300 pounds — and cataloging what they called his "lengthy criminal past," prompting one bystander to remark, "What does that have to do with him being murdered?

Alas, that attitude pervades the criminal justice educational community. Many well-meaning academics have been rolling their eyes for years at our admittedly feeble attempts to reach for explanations in the messy environment of policing. Their predominant P.O.V. – that poor outcomes *must* be attributed to purposeful wrongdoing – has apparently infected L.A. City Hall as well. At a time when "homicides and shootings soar to levels not seen in the city in a decade," the City Council just decided to lop $150 million off LAPD's budget and shrink its force by 350 sworn officers.

Was that move well informed? Did it fully consider the imperatives and constraints of policing? And just what *are* those? If you're willing to think, um, *expansively*, print out our collected essays in compliance and force and strategy and tactics. As long as you promise to give them away, they're free!