

Julia Hasson

Oxford Scholars

10 November 2015

### Deadly Force Alternatives

The United States too often approaches tinderbox conditions, ready to be ignited with the slightest provocation. Racial tension continues to fester as we see violent eruptions in Baltimore, New York, and Ferguson, Missouri as well as in other cities across our vast nation. Social media has profoundly altered our society, allowing information in the form of tweets, texts, videos and pictures to be disseminated among the public in real and near-real time. A majority of citizens is equipped with a camera, ready and waiting for the moment when news can be created. Pictures and videos can create a strong visceral response from viewers, far different and much more intense than reactions resulting just from spoken word of mouth. The economic environment, plagued by unemployment and under-employment, is ripe for violent protesting. We as a nation have experienced a long, difficult economic slowdown that has formed a wider income disparity between the rich and the poor and caused the middle class to shrink. There is great risk to reliving the riots and destruction experienced in the nineties provoked by the infamous Rodney King videos. There were 53 lives lost and material losses approaching a total value of one billion dollars. Actions that result in a person dead at police hands trigger rapid questions from the media, tearful family interviews, and multimillion-dollar lawsuits. As police and community relationships have been strained, police officers have been subject to retaliatory violence. Attempting to standardize the way America is policed to a fair situation-based protocol can help mollify the built tension between the public and officers and decrease cases of brutality while still protecting the safety of our officers. The lives of citizens and officers, along with their

neighborhoods and property, can be saved while preventing future uprisings and sparing society countless dollars and immeasurable grief and strife. Police officers have the job of apprehending criminals and allowing the court system to determine their fate. When police use deadly force, in a split second they skip the courts and trial rights afforded a defendant, and the death sentence is immediately invoked. This in no way is meant to vilify courageous police officers who often find themselves in near-impossible situations. They must make instantaneous decisions which may cost them their own lives. However, with the combination of reformed training, equipment use, and protocol, justice can be better achieved for both the citizens and the officers.

There are several changes which could be made by police departments. The utilization of high-tech gadgets that are effective yet non-lethal is one right step in a complex solution. There are technological gadgets now available which can incapacitate a criminal to allow for detention or capture without taking a life. While officers should be equipped with lethal bullet-firing guns, many situations do not call for the use of such force. Alternative ballistics, tasers and pepper spray are non-lethal force options that offer a range of potency. However, some options have proved to be more beneficial than others when police activities were tracked.

Tasers have come a long way since the nineties. The latest devices even have embedded computers that collect data when they are used. They have a range of 35 feet, a distance that can keep law enforcement officers further away from the suspect or criminal. Tasers subdue the subject by using electrical currents. Two small, dart-like electrodes are shot using compressed gas to propel the projectiles to hit the target, while simultaneously penetrating clothing and other soft barriers. Once in place they cannot be easily removed because the electrodes are barbed. Just the sight of a Taser can often convince a criminal to act compliantly.

The Taser is a simple, effective, generally safe, and non-lethal law enforcement tool. But studies are finding shocking results on the seemingly-good alternative to deadly force. Tasers may be a great tool, but their success depends upon their users' expertise. Instead of replacing deadly guns, Tasers are too often being used in situations where it is arguable that force could have been avoided altogether, including routine traffic stops, reports of suspicious activity, and noise disturbances. Tasers cause excruciating pain, throwing muscles into uncontrollable spasms. Approximately 500,000 police officers are equipped with a taser. Studies have found that officers are reaching for tasers too fast instead of following long-relied upon de-escalation procedures. In New York, a civil liberties group found that police did not meet the expert-recommended circumstances for Taser use nearly 60 percent of the time when a taser was activated. The taser can cause cardiac health problems and can be especially lethal to those with pre-existing ill-health conditions. In communities with a sizable homeless population with mental health issues, tasers can adversely escalate a situation that otherwise calls for a calm and measured response.

A new technologically-advanced non-lethal force weapon is being tested by police departments and has not yet been rolled out for widespread use. The alternative ballistic is a product that mounts onto the top of a gun to "catch" the first bullet fired in an encasement that acts as an airbag to slow the bullet to non-lethal speeds while retaining enough force to knock its subject down. One style of this device fits over the muzzle of an officer's standard duty gun. Properly used, the target subject will receive a kinetic knockout punch and will be badly bruised. After shooting the alternative ballistic, the officer's gun will be instantly ready for next available live and potentially lethal rounds of standard bullets if necessary. Even the encapsulated bullet is capable of causing serious damage if it strikes vulnerable areas such as the head, neck, or heart.

Travelling at more than 250 meters per second, a speed still far less than the velocity of a typical bullet, the alternative ballistic is effective as an incapacitating, stun agent at a distance of up to 30 feet. This product is designed to supplement existing side arms as an affixed attachment at the ready, requiring neither time nor added distraction to a user urgently deploying this weapon add-on feature. Police are trained from day one to only use their weapon as a last resort in a lethal situation. They are taught to fire until the threat is no longer a threat. Training to use this device correctly would be difficult but well worth the humane investment of time and expertise.

The next step in the solution of police force is thorough and proper police training. Training should include becoming adept with new non-lethal alternatives, fully understanding appropriate situations for using any force, becoming aware of the problem of racial profiling, and learning to deal with situations regarding the mentally ill. Training involving when to use the provided weapons as well as how to use them properly will potentially prevent many unnecessary deaths and injuries by encouraging the use of the weapon supplying the least force necessary for the situation. Much attention must also be paid to the approach of the officers to prevent racial profiling, an issue that has sparked unrest in our nation. Bias-free policing must be taught and reinforced. Governor Brown has pushed to pass California's Racial Profiling and Identity Act; however, there is resistance from various police organizations. Legislation like the Racial Profiling and Identity Act mandates that individuals must be made aware of and accountable for their prejudices that can wrongly bias the intended equal application of law enforcement. The initiatives to pass California's Racial Profiling and Identity Act came after high-profile police killings of unarmed black men and intense scrutiny of law enforcement nationwide. The latest statistics from the U.S. Department of Justice show black drivers are 31 percent more likely to be pulled over than white drivers, and that police are twice as likely not to

give a reason for stopping them. Hispanic drivers are stopped at a rate six percent higher than whites nationwide, according to the DOJ. The solution to the bias that is seen in policing is a higher degree of education on the matter. Understanding prejudice and recognizing unfair preconceptions are the best ways to diminish discrimination in the police system.

A final addition to police training that likely would reduce unnecessary lost lives is education on proper approaches for cases involving the mentally ill. Experts say it's highly likely to misinterpret the intentions of the mentally ill when involved in a law enforcement event.

Without an appropriate amount of mental-health training for police, this void can cause vital errors by law enforcement personnel, ultimately resulting in grave differences between life and death outcomes. Crisis intervention training should be part of comprehensive police officer training, but such training is rarely a norm. Even when available, mental health crisis training programs typically are not mandatory. Too often training is specialized for select law enforcement experts to partake. This leaves the officer on the street unprepared for what will often be encountered. Meanwhile, experts know that law enforcement agencies need to have the authority to transport a person in need to a psychiatric facility if necessary. However, the lack of mental health resources across the U.S. ranges from a deficiency of suitable care facilities to a shortage of social workers and physicians trained in psychiatry. Ultimately, hospital emergency rooms become the only available solution for law enforcement officers to turn to, where health care providers are not really equipped to effectively handle patients or suspects with mental health issues. Mental health professionals say that violence is not a typical or high frequency outcome of contact between police and the mentally ill. Instead, the real crisis often involves the mentally ill becoming victims of violence to which police respond but also to which police are ill equipped to adequately serve. Nonetheless, law enforcement officials must invest time and

money into training their officers effectively. Any failure to address this can tragically result in violent outcomes for irrational mental health patients or victims whose behavior can be misinterpreted by law enforcement with the potential for lethal and tragic outcomes.

In addition to supplementation of non-lethal force weapons and more comprehensive police training, the next positive step in the reform of police protocol is the use of body cameras. President Obama has requested Congress to fund \$75 million for technology and training in body-worn cameras, and the Department of Justice has provided the first \$20 million in grants. Body cameras have been found to favorably alter the behavior of police making them highly accountable when they use force. Cameras can be used to collect evidence for criminal investigations, expose abusive police practices, and exonerate officers that have been unjustly accused of wrongful behavior. When individuals know their actions are being filmed they have an elevated “self-awareness.” In a twelve month study on the use of body cameras by the Rialto, CA Police Department, use of force incidents were reduced by 59% and reports against officers fell by 87%. Cameras have been found to prevent escalation of altercations between police and citizens. The shooting of Michael Brown, an unarmed 18 year-old African American male, sparked days of riots in Ferguson, Mo. The media broadcasted a statement by a witness that Brown had his arms up in the air when he was shot. The “hands up” account was widely circulated by social media which spurred on the rioters. Months later during the trial the “hands up” witnesses were proven not credible. The unarmed Brown was moving towards the officer with clenched hands in a fist when he was shot. A body camera would have added needed clarity to the understanding of this unfortunate event. It could have been used to show the public that the officer did not gun down the young man as he was attempting to surrender. Body cameras are also cost effective. The technology continues to get cheaper, more economically deployed and

more reliable. Every dollar spent on the cameras has reportedly resulted in four dollars saved from reduced complaints and civil lawsuits.

The final step of necessary change in police-force protocol is the requirement of independent investigations following police-involved fatalities. Controversy is often high whenever a police department uses lethal force. The public sometimes loses trust in law enforcement agencies due to the public's perception that police officials who employ deadly-force are not accountable for their actions. A loss of public trust can threaten law enforcement agencies by creating a vast divide between a community and its public safety officials. A safe community's cornerstone must be built upon trust between its citizens and its public safety agencies including the police. In most communities where lethal use of force is investigated, the involved law enforcement officer's own police department investigates a fatal use of force before turning the case over to the local district attorney for additional review.

Public dissatisfaction with investigations and the distrust of the close day-to-day working relationships between police and prosecutors were most evident in 2014 when two high-profile killings by police of African Americans took place. Those two events involved Eric Garner in New York who perished from a choke hold applied by police, and Michael Brown in Ferguson, Missouri, who died from gunshots at the hands of a police officer.

When grand juries did not act or assess criminal charges in those cases, members of the public were in shock and disbelief. The people of the community saw the police and local prosecutors as aligned in wrongdoing, misaligned in seeking genuine justice, and simply out of touch with the citizens. The lack of trust was and is an argument, violent in nature at times, over lack of accountability for police who use lethal force. Experts say it may be impossible for law enforcement and legal professionals to fulfill roles that demand objective investigations of or by

each other while simultaneously serving in roles that have deep and broad partner relationships between the parties who investigate and those who are investigated.

Higher courts including federal courts present one possible solution to the perceived problem of biased investigations and rare prosecutions involving lethal force by police. Federal investigators seek to assure that victims are not or were not deprived of constitutionally protected rights. So in high profile cases involving lethal force, it is sometimes noted that the federal Department of Justice responds to investigate under the authority of federal law known as the “Law Enforcement Misconduct Statute.” The Department of Justice seeks to end misconduct and to compel policy changes that assure citizens their constitutional rights. However, there are approximately 18,000 local law enforcement departments in the United States, and the Department of Justice conducts only an average of three such investigations a year. Typically, the federal government prioritizes the highest profile matters for investigation of constitutional misconduct. While the incidences of such investigations are rare and few in number, the federal oversight is an essential strategy and tactic to reassure the public that law enforcement’s use of lethal force is accountable to authorities other than those who have local self-granted authority to use force and to investigate its proper or improper use. By requiring mandatory reports and investigations on fatalities, the cases of death will not be overlooked and will potentially drop in number as a result.

Making small changes to current police training and protocol could yield an extreme and favorable decrease in lives lost while also soothing tension between communities and the police that safeguard them. The supplementation of non-lethal force alternatives, the deployment of additional training on new tech weapons and procedures, the requirement of body-camera use, and the requirement of individualized attention to each fatality case at the



hands of law enforcement agencies are all necessary reforms to the current police standards. By making these changes, the rights of citizens to be authoritaded justly will be better preserved; the security of cops making split-second decisions will be better maintained, and the trust between the people and their law-enforcers can be preserved and, if need be, reestablished with public confidence in the processes.