



Research Perspectives on the Use and Control of Police Force

Prepared for the
Anchorage Community Police Relations Task Force

by

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Use of force and the police role in society

In a work now considered a classic in policing research, Egon Bittner (1970) contends that the *use of force* is the defining element of the police role. The key difference between police and other service providers — social workers, doctors, and the like — is that police are the only institution in society given a general grant of authority to use coercive force. This is key to understanding the police role in modern society. As Bittner writes, police respond to extraordinary events: “something-that-ought-not-to-be-happening-and-about-which-someone-had-better-do-something-now!”

Even though police use force relatively rarely (discussed in more detail below) the *potential* for force colors every interaction police have with citizens. This is true for both police and the citizenry. A good deal of police training involves when and how to use force to resolve incidents. Citizens are acutely aware of the officer’s training and authority during interactions with police. Uniformed officers carry the implements of force openly on their duty belts, after all.

Extent of deadly police force in the U.S.

The Bureau of Justice Statistics (BJS) Deaths in Custody Reporting Program and the Federal Bureau of Investigation’s Uniform Crime Reports Supplemental Homicide Reports provide national estimates for the use of deadly force. Due to the voluntary nature of both reporting programs, their numbers do not match exactly. However, they are similar in magnitude, and trend similarly. The latest report from BJS, *Arrest-Related Deaths, 2003-2009*, shows that there were 2,931 homicides by law enforcement personnel from January 2003 through December 2009. There were 8-10 million arrests *each year* (10,098,934 in 2009 alone) during this time period. In modern American policing, death is an extraordinarily rare outcome of a police-citizen encounter.

Problems in researching non-lethal police use of force

Non-lethal force is difficult to study for numerous reasons. First, while non-lethal force is more common than deadly force, *any* use of force is a rare event. Collecting observational data on rare events is time consuming and expensive. Such studies have budgets in the millions of dollars and are conducted rarely. Many published studies therefore rely on reviews of police reports, raising concerns about objectivity of the source data.

Even when using similar data, research studies may not be directly comparable to one another. The precise definition of the use of force varies from study to study. Studies differ in the extent to which they define officer presence, verbal commands, and actions required by procedure (e.g., handcuffing arrestees) as a “use of force” included in the study. There is considerable variation in how each study’s force continuum is constructed. This is particularly true when new technologies emerge, such as conducted energy devices (TASER-type weapons).

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Another methodological problem facing researchers is the dynamic nature of police-citizen encounters. Encounters with citizens are complex and constantly changing. The type and magnitude of resistance offered by citizens varies over the life of the encounter. As the citizen reacts to police, police react to the citizen. Put differently, force that is reasonable at one point of the encounter may be unreasonable at another time. Most research methodologies cannot effectively model such complex relationships.

Finally, the research conducted on use of force is based on a limited number of jurisdictions. There is no national reporting of non-lethal use of force data. In a 2008 study published in the journal *Criminology*, Hickman, Piquero, and Garner review the available research on police use of force. These authors found that previously published research included data from just 28 jurisdictions. Few studies include data from multiple jurisdictions. Moreover, studies are often based on data from part of a jurisdiction. Because there are nearly 18,000 law enforcement agencies in the United States, the available research covers a small percentage of agencies.

Extent and correlates of non-lethal police force

Our knowledge of less-than-lethal police use of force is therefore limited by methodological and structural difficulties. However, the best available research strongly suggests that the police use of force is rare. In addition to reviewing the extant literature, Hickman, Piquero, and Garner combine results from surveys of both the general public and of jail inmates to arrive at a national estimate for the police use of force. These authors found that police use or threaten force in 1.5% of encounters with citizens according to the general public survey. Use of force increases among arrestees, with about 20% of arrestees indicating force was used or threatened.

Use of force is often conceptualized as a continuum ranging from low to high. Actions low on the force continuum include officer presence and verbal direction. Actions in the middle of the continuum typically include empty-hand tactics, chemical agents (e.g., pepper spray), conducted energy devices, and impact weapons. Deadly force is on the high end of the continuum. Research evidence suggests that when police use force, they typically use force that is relatively low on the force continuum.

For example, the most common use of force found by Hickman, Piquero, and Garner (2008) was pushing/grabbing citizens (41.8% of force encounters). In a review of use of force reports written by officers in a small police agency, Terrill, Leinfelt, and Kwak (2008) found that handcuffing was by far the most common use of force (94.2% of all force encounters), followed by muscling (15.7%), and joint locks (5.2%).

The strongest predictor of police use of force is citizen resistance. Hickman and his coauthors found that physically resistant citizens were **181** times more likely to have force used against them than non-resistant citizens. Citizens who tried to argue or get away from police were **17** times more likely to have force used against them compared to non-resistant citizens.

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These findings are further supported by other research suggesting citizen demeanor is a substantial factor in police decisions to arrest.

There are other statistically significant predictors of police use of force. Race is significant in most studies. After statistically controlling for citizen resistance, Hickman and his coauthors found that black citizens were 3.8 times more likely to have force used against them than white citizens; Hispanics were 2.2 times more likely to have force used against them than whites. Studies that have examined the race of the officer show mixed results. Gender and age of the citizen are often significant correlates of force. Hickman and his coauthors found that male citizens were 3.2 times more likely to have force used against them. Age was significant as well, with older citizens facing lowered risk of force.

While this summary has focused primarily on Hickman, Piquero, and Garner (2008) for the sake of brevity, other studies reach similar conclusions. Research often finds a statistically significant relationship between use of force and gender, race, and age. The magnitude of that relationship is *much lower* than the magnitude of the relationship between resistance and force, however.

The largest gaps in the research relate to the dynamic nature of the encounter. It is largely unknown the extent to which citizen actions are in reaction to officer actions. There is little peer-reviewed research regarding specific verbal techniques, for example, that are likely to de-escalate encounters. Recent research does suggest that the demeanor of both citizens and police changes throughout an encounter, with each influencing the other (Dunham and Alpert, 2008).

Police use of force and the law

The legal standard for excessive force is rooted in constitutional protections against unreasonable seizure. The landmark Supreme Court decision regarding police use of deadly force was *Tennessee v. Garner* (471 U.S. 1 (1985)). In *Garner*, the Court ruled unconstitutional a Tennessee state statute that allowed police to unconditionally use “all the necessary means to effect the arrest” of a fleeing criminal suspect. The Court held that deadly force may only be used as necessary to prevent the escape of suspects when the officer has probable cause to believe that the suspect poses a significant threat of death or serious physical injury to the officer or others.

The standard used today is objective reasonableness — would a reasonable officer believe the force to be reasonable (*Sheldon v. City of Ambler*, 178 P.3d 459 (Alaska 2007); see also *Graham v. Connor*, 490 U.S. 386 (1989)). Alaska’s law is further complicated by the standard used for qualified immunity, which allows officers to be reasonably mistaken about their conduct because the law was unsettled at the time of the incident. That is, officer conduct may be “reasonably unreasonable.” Legal analysis of excessive force is yet further complicated by the vast array of factual differences in each incident, allowing courts to distinguish any particular case from previous cases.

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In general, courts examine the nature of the alleged offense, resistance offered by the citizen, the harm likely to result to the citizen from the force used, alternative means available for resolving the dispute, the degree of control officers have over the citizen, and how many officers are present on scene. These factors are considered given the facts of the incident and produce general guidelines but few bright line rules for police. For example, it is less reasonable to use force against a handcuffed citizen than one who is not handcuffed. Yet there are certainly circumstances where substantial force may be reasonably used against a handcuffed person who is aggressively resisting police officers.

Like many other states, Alaska law provides vague guidance to police. Alaska Statute 11.81.370 states that the use of force by a peace officer is justified “when and to the extent that the officer reasonably believes it is necessary to make an arrest, to terminate an escape or attempted escape, or to make a lawful stop.” Consistent with *Tennessee v. Garner*, Alaska peace officers are legally justified to use deadly force when the officer reasonably believes that the person to be arrested: 1) has committed or attempted a felony using force; 2) has or is attempting to escape custody while in possession of a firearm; 3) may otherwise endanger life or inflict serious physical injury if not arrested without delay.

When considering excessive force, courts often look to the policies and training of the agency. Agency policy can be a determining factor in assessments of qualified immunity and civil liability (*Hope v. Pelzer*, 526 US 730, 2002), especially where there is little or no controlling law. Because there are few statutes governing the use of police force in the United States, agency policy often takes on the role of administrative law. Use of force policies are therefore a critical legal control on the use of force by police.

Use of force policies guide officer decisions

Police agency policy is generally not included in studies of officer decision-making such as those summarized above due to methodological difficulties. Yet organizational policy shapes every decision that officers make. Agencies that require supervisors to complete use of force forms instead of the officer involved, for example, have been shown to have lower use of force rates than agencies that allow officers to complete their own reports (Alpert and Macdonald, 2001).

The absence of policies also invites unbridled discretion. For example, James Fyfe compared the number of police shootings in the 1970’s in Memphis, Tennessee and New York City (Fyfe, 1982). Fyfe found that the Memphis Police Department’s rate of shootings per officer was 1.7 times higher in Memphis, despite having far less crime per officer than New York. Fyfe found that Memphis had a policy of shooting unarmed fleeing property crime suspects that lead to much of the difference. Fyfe also found a large racial disparity in these “elective” shootings. Such shootings were later ruled unconstitutional in *Tennessee v. Garner* (471 U.S. 1 1985). Sparger and Giacompassi (1992) conducted a followup study, after *Garner* was decided, and the

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Memphis Police Department had implemented new deadly force policies. The authors found that both the overall shooting rate and the racial disparity had decreased substantially.

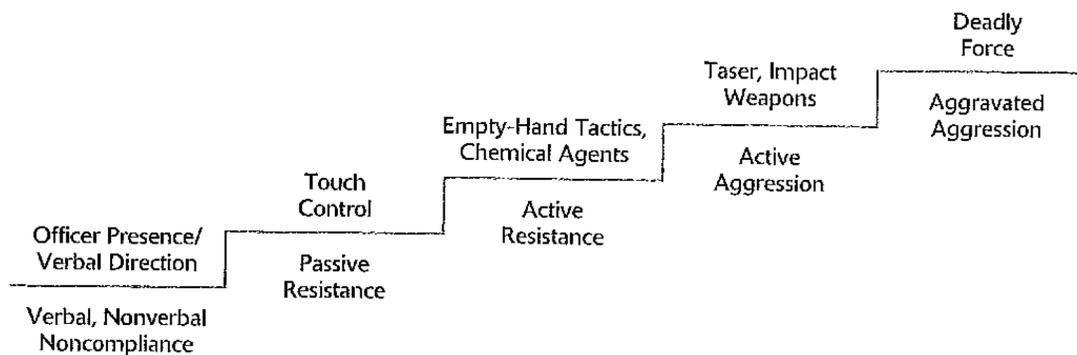
Fyfe's research, the *Garner* decision, and civil liability for constitutional violations guided deadly force policy-making across the country in the early-mid 1980's, with defense of life emerging as the standard. There are, however, few clear guidelines for less-than-lethal force policies. While various organizations such as the International Association of Chiefs of Police (IACP) offer model policies, there are no true standards for crafting a comprehensive use of force policy. Use of force policies vary in length and specificity.

Just this summer, the first national empirical study of less-than-lethal force policies was published in *Police Quarterly* by William Terrill and Eugene Paoline. The authors surveyed 662 police departments nation-wide, finding that while 80% of agencies use a force continuum, agencies vary considerably in how they rank force tactics.

Force continuum example

Terrill and Paoline (2012) find extraordinary variation in the details of force continuums used throughout the United States. Still, it is helpful to consider an example. This continuum displays authorized officer force above the line, with citizen resistance below the line. As the amount of resistance offered by the citizen increases, the amount of authorized force increases to meet that resistance. Officers need not use one level of force before using others; in this example continuum, citizens displaying active aggression can be immediately met with impact weapons.

Figure 1: Example of a use of force continuum



Source: Fridell, L.A. (2005). Improving use-of-force policy, policy enforcement, and training. In Chief Concerns: Exploring the Challenges of Police Use of Force, Ederheimer, J.A. and Fridell, L.A., eds. Washington, DC: Police Executive Research Forum.

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The key element of a force continuum is that a reasonable amount of force is determined by the amount of resistance or danger offered by the citizen. The more resistance offered by citizens, the more force the officer is authorized to use. Different agencies make different judgments about the specific placement of tactics. In one national study of conducted energy device (CED, TASER-type weapons) polices, for example, 24% of agencies classified CEDs as low level force, 64.4% of agencies classified CEDs as medium level force, and 11.6% classified CEDs as high level force (Alpert and Dunham, 2010).

Summary and conclusion

Police are the only institution in modern American society with a general grant of authority to use force to resolve disputes. Citizens call the police *because the police can use force*. Still, the use of force is controversial and must be controlled. There are multiple problems with use of force research, but the best available evidence suggests that police use of force is rare. Police use of deadly force is extraordinarily rare.

Research suggests that the strongest correlate of police use of force is citizen resistance. Citizens who offer police more resistance are more likely to have force used against them. This finding is consistent across multiple studies with varying methodology. Research also finds a smaller but still statistically significant effect for race of the citizen.

Statutes and case law are often vague, providing few bright line rules for officers in the field. Courts often look to agency policy when making determinations of officer reasonableness. Agency policy is therefore legally relevant. Policy also shapes officer decision-making in the field. A law enforcement agency's use of force policy is therefore a critically important control on police use of force.

Researchers have recently documented the considerable variety of less-than-lethal force policies throughout the United States, finding a remarkable diversity in policies. When writing use-of-force policies, there are few national standards to guide law enforcement agencies. Each agency must make policy decisions according to state/local law, and in accordance with local customs.

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