

April 6, 2017

Greetings, APDs, PD CORE, & NC REN!

First, some news:

- Attorney General Jeff Sessions has [ordered a review](#) of consent decrees between the Justice Department and law enforcement agencies, including Baltimore, Ferguson, and Columbus. At least one federal judge is [pushing back](#).
- The Prison Policy Initiative released "[Mass Incarceration: The Whole Pie](#)," which details who is incarcerated, where, and why. Blacks remain overrepresented in all places of confinement.
- The National Registry of Exonerations' report "[Race and Wrongful Convictions in the United States](#)" reveals that "African Americans are only 13% of the American population but a majority of innocent defendants wrongfully convicted of crimes and later exonerated." The report examines the factors that contribute to this racial disparity in murder, sexual assault, and drug crimes.
- The [Wonkblog](#) at The Washington Post explores the often-hidden economic effects of mass incarceration, finding that "there are more young black male high school dropouts behind bars than have jobs." One academic explains that mass incarceration and the Great Recession "have left most black men in a position relative to white men that is really no better than the position they occupied only a few years after the Civil Rights Act of 1965."
- Professor James Forman, Jr. [makes the case](#) that "the movement to reduce the prison population and make our criminal justice system more humane is not in retreat. In fact, it is stronger than ever."

Now, onto the main event: Communities continue to [grapple](#) with what to do about the troublingly high number of fatalities at the hands of police. Efforts for reform got a boost from Professor Franklin E. Zimring's data-rich book [When Police Kill](#). Professor Zimring delves into the numbers, analyzing what is known and chronicling the absence of empirical evidence for a surprisingly large and pressing number of topics relevant to the national and local discussions on police reform. Among what is known, several facts stand out:

- Blacks are killed by police at a rate 2.3 times that of Whites.
- At 97.5%, firearms were the overwhelming cause of police fatalities from civilian attacks.
- Of the approximately 1,000 civilians killed by police each year, over 150 people had only a knife and more than 100 people had no weapon at all. These tallies exclude people who the police believed were armed but were not and are based on officer accounts.
- While police officer deaths have declined by 75% since the 1970s, largely due to enhanced defensive gear and tactics, civilian deaths at the hands of police have remained steady. This is true despite the 1985 ruling in *Tennessee v. Garner* that ostensibly narrowed the circumstances under which police could use lethal force (i.e. flight was no longer a constitutional basis for shooting a suspected felon).

That firearms monopolize the cause of police fatalities but that police killed over 350 civilians for "threatening" behavior that did not include possessing a firearm shocks the conscience. For example, police offered charging at police, making a suspicious movement, running, and being combative as reasons for killing unarmed civilians. Identifying this asymmetry creates an opportunity: these civilian deaths are *wholly avoidable*. The author (somewhat understatedly) writes

Attackers who brandish knives and rush at police or who waive blunt objects as they lurch toward an officer never caused a death of an officer in six years. . . . If these are not deadly weapons, then the hundreds of killings each year by officers responding to the brandishing of such weapons might not appear to be necessary to protecting the lives of American police. For Professor Zimring, the disconnect between what officers perceive as a lethal threat—thereby authorizing them to use lethal force in response—and what the evidence verifies to be a lethal threat results from a systemic failure to collect and utilize sound data. “[T]he culture of police work and of police administration is far removed from strong commitments to science and to rigorous evaluation. . . . Protocols that have been practiced and taught in police departments come to be regarded as ‘best practices’ simply by virtue of their long-standing history of use.” One prominent example of this culture is the “twenty-one foot rule,” which for decades has been used to train officers to start shooting when a civilian with a knife moves towards them and is under twenty-one feet away. This rule, however widely it has circulated, has never been empirically evaluated:

In more than three decades of hearty perennial justification for the police killing of people with knives, no police department ever investigated the claim or undertook any statistical study on the injuries and deaths of its police officers from attacks with knives and other cutting instruments.

The reliance on this untested rule “indicates the inherent anarchy and lack of accountability we find in the animating principles of police use of deadly force.”

What has been revealed since 2014, when media attention on this subject skyrocketed, is that police conduct within the bounds of departmental regulations and deemed lawful by actors in the criminal legal system is *not* acceptable to large segments of the population (hence the “[lawful but awful](#)” moniker). Meanwhile, “[t]he circumstantial evidence suggests that police departments do not regard whether the victims of police shootings live or die as a matter of great moment.”

Professor Zimring proposes reforms at many levels of government in both data collection and use of force policy. But based solely on what is currently known, the “evidence that police killings could be cut to half their current rate without compromising the safety of police officers is overwhelming.” He makes a few proposals that could be undertaken without much additional research and with the capacity to save hundreds of lives a year:

- Do not kill people who do not possess weapons. (They are not a threat, and they are disproportionately minorities.)
- Prohibit using deadly force to respond to knives and blunt objects in all but the rarest of exceptions. (These objects do not pose a deadly threat to the officer.)
- Pause and reassess after firing an initial shot. (The number of shots fired significantly affects mortality rates).
- Prohibit officers who are alone from using deadly force unless in imminent danger. (As many as 2/3 of killings by officers who are alone did not involve a firearm threat.)
- Add non-lethal options for officers—like Tasers—with corresponding changes in use of deadly force policy. (New instruments do not reduce killings without new policies whose explicit aim is protecting civilian lives.)

The information and analysis in the book exposes the ugly fact that officer safety does not justify huge proportions of police shootings. This knowledge creates power, power for the emerging movement in our communities for meaningful reform of use of force policies.

Elizabeth Gerber

*We would love for you to join our committee! You will find the link to do so on the bottom right portion of the [webpage](#). If you have feedback about *Race Judicata*, we'd love to hear from you; feel free to reply to the original poster.*