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American police and subcultural support for the use of excessive force

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Abstract

This article examines police officers' perceptions and tolerance of abuse of force. Data were collected from 3,230 sworn personnel in thirty American departments. Officers rated the seriousness of an excessive force violation, their support for discipline, and their willingness to report such misconduct. Novice officers, highly experienced veterans, and supervisory personnel were more likely than officers with moderate levels of experience to view excessive force as serious and worthy of more severe discipline. Officers in these groups also indicated greater willingness to report such incidents.
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Introduction

The central feature of the police role is its state-mandated authority and the capacity to overcome resistance to that authority through the use of force (Bittner, 1995). Law enforcement officers are nonetheless expected to employ force only as a last resort and only as necessary or reasonable under the circumstances (MacDonald, Manz, Alpert, & Dunham, 2003). Excessive force occurs when officers use a greater degree of force than is necessary to counter a suspect's resistance (Crank & Caldero, 2000). Furthermore, whether or not a certain level of force is necessary in a particular situation is frequently a matter of opinion. It involves conflicting perceptions of whether some people are resisting arrest, or whether they pose a threat to the safety of the officer (Klockars, 1995). Using force that is unnecessary, unreasonable, and excessive amounts to brutality, an abuse of power that is considered very serious,

especially where the consequences involve the injury or death of civilians (Fridell & Pate, 1997).

Police use of force is a statistically rare event (Adams, 1999; Friedrich, 1980), with most occurrences involving various low-level behaviors such as grabbing or holding (Bayley & Garofalo, 1989; Garner, Buchanan, Schade, & Hepburn, 1996; Pate & Fridell, 1993). A recent study found that police used some kind of force in less than 1 percent of all encounters with citizens (Langan, Greenfeld, Smith, Durose, & Levin, 2001). Some other studies also found that officers used force in about 1 percent of all interactions. Nearly two-thirds of all uses of force are justified, given the circumstances, and one-third is unjustified or excessive. Therefore, police use excessive force in an estimated one-third of 1 percent of all public encounters (Adams, 1995; Reiss, 1971).

Incidents involving the excessive use of force by police are often a response to the actual or probable violence of civilians subjected to interventions (e.g., stops, searches, interrogations) that are "unexpected, unreasonable, and arbitrary" (Toch, 1969). Two other violence-eliciting factors include engaging (or being suspected of engaging) in criminal conduct and defiance of police authority (Chevigny, 1995; Reiss, 1968; Toch, 1985; Van Maanen, 1995;

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Westley, 1970). Crime suspects' defiant attitudes to police officers and their authority comprises "contempt-of-cop," examples of which include directing profanity at an officer and fleeing after being stopped for questioning. For some officers, a verbal affront is no different from a physical attack in that verbal defiance can lead to a loss of control, which in turn increases the risk of danger. To maintain or regain control of a situation, some officers may resort to force (Barkan & Bryjak, 2004).

Use of excessive force is problematic for several reasons. First, citizens in a free and democratic society have the right to be free of unjust and unwarranted government intrusion and restriction (Kappeler, Sluder, & Alpert, 1998). Not only does use of excessive force undermine the sanctity of citizenship, but it also represents a serious public safety hazard because it engenders fear in its victims, as well as increases their risk of injury or death (Bayley, 1995). For police, using force to reduce danger often has the opposite effect as both the violent officers and their nonviolent colleagues are identified with brutality, loathed, and targeted for resistance and retaliation (Kraska & Kappeler, 1988).

Second, many members of racial minority groups hold the perception of excessive force (Alpert & Fridell, 1992; Bayley & Mendelsohn, 1969; Chevigny, 1995, p. 45; Lersch, 1998; Worden, 1995). Holmes (2000) found that in some of the nation's largest cities, Blacks and Latinos were more likely to file civil rights complaints alleging brutality than were Whites. Excessive force reinforces political, economic, and cultural arrangements that disadvantage segments of the citizenry whom police view as potential threats to order and civility, but who nonetheless are among society's most vulnerable (Walker & Katz, 2005). Unlawful violence creates and exacerbates troubled relations with society's impoverished and minorities both by providing them with unequal justice and protection under the law and by disproportionately targeting them for abuse (Harring & Ray, 1999).

Third, police brutality is a problem of "political legitimacy" as the perception that the police are lawless can lead to an overall lack of public respect for government and rule of law (Bayley, 1995, p. 276; Marx, 1992). Real or perceived police misconduct reduces the likelihood that citizens will report criminal activity, provide information to authorities, and testify in court (Decker, 1981). Furthermore, excessive force and the lying, report falsification, and the perjury to which it gives rise, spur juries to distrust police on the witness stand and encourage courts to overturn convictions upon appeal. Each of these factors hampers the ability of police to solve crimes, to construct winnable cases, and to control crime effectively (Walker & Katz, 2005, pp. 443–444).

Fourth, police administrators are compromised in their ability to serve as role models and in their capacity to administer discipline (Chevigny, 1995, p. 41; Sherman, 1974). Since command personnel routinely rise from within their agency's lower ranks, their past indiscretions are often common knowledge. To avoid being labeled hypocrites, command personnel are encouraged to be less strident in rooting out and curtailing the use of excessive force (Reiss, 1971, p. 162). This avoidance strategy often represents the course of least resistance in that proof of guilt in excessive force cases is not easily established. Furthermore, efforts to investigate and prosecute officers are not conducive to harmonious working relations within the force (Goldstein, 1975). For these reasons, corrective actions are most likely initiated only in cases where the incident is egregious, evidence is highly compelling, and the case is widely publicized. The low visibility of police work facilitates a wide range of police misconduct, including the occasional use of excessive force (Brown, 1981; Ericson, 1981). Time, place, and persons present influence the visibility of the incidents to which police respond. Much police work is undertaken out of sight of supervisors and civilian observers with officers and suspects the only ones present late at night in high crime urban neighborhoods (Goldstein, 1960).

Finally, the monetary costs of litigation involving cases of police brutality and other forms of misconduct are far from trivial (del Carmen, 1991). It is not unusual for police civil liability cases to result in a six or seven figure award against a city. In a study of federal court cases between 1978 and 1990, it was found that the average award handed down against a police defendant was over $134,000 (Kappeler, del Carmen, & Kappeler, 1993). Furthermore, a recent National Institute of Municipal Law Enforcement Officers survey of 215 municipalities found almost four and a half billion dollars in pending liability suits (Kappeler, 1997). In 1995, New York City paid thirty-two million dollars in brutality suits, a figure more than double that of 1990 (Gaines, Kuane, & Miller, 2000). In the late 1980s, the Los Angeles Police Department (LAPD) faced approximately three hundred excessive force suits that cost the city in excess of twenty million dollars. Detroit paid out twenty million dollars in 1990 (Skolnick & Fyfe, 1993). These estimates are conservative in that they omit costs of legal staff and trials and disregard the escalating insurance rates and increased taxes required to cover the bills (Walker & Katz, 2005, p. 493).

This article investigates several dimensions of police officers' support for the use of excessive force and explores the degree to which officers view such conduct as a serious breach of departmental norms and regulations. It examines the type of discipline advocated in response to such a transgression, as is the extent to which officers are willing to report the use of excessive force by their colleagues. Differences between line officers and supervisory personnel are also explored. In developing hypotheses and subsequent analyses, the nature and impact of police subcultures for both rank and file and management members are discussed. The article concludes with an examination of the implications for policies aimed at improving police practice by reducing the use of excessive force.