



Thinking fast, not slow: How cognitive biases may contribute to racial disparities in the use of force in police-citizen encounters[☆]



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ABSTRACT

Purpose: To illuminate how racial disparities in police use of force may arise and to guide research aimed at explaining such disparities.

Methods: We draw on research on policing, racial disparities in criminal justice, and cognitive bias and decision making to argue that police-citizen encounters require rapid assessments that demand reliance on cognitive “shortcuts,” or heuristics, that may influence the use of force.

Results: When cognitive shortcuts rely on biases about the dangerousness of racial minorities, they can contribute to disparities in the use of force. These biases may interact with those that citizens hold, which creates a greater potential for disparities. In addition, biases of officers and citizens may be influenced by such factors as officer training, social context, and reaction time.

Conclusions: Research is needed that identifies cognitive shortcuts used during police-citizen encounters, conditions under which they are activated, and strategies for minimizing their role in contributing to racial disparities in the use of force.

Scholars, practitioners, and policymakers have called for greater understanding of how and why use of force occurs during police-citizen encounters (Correll, Hudson, Guillermo, & Ma, 2014; Cox, Devine, Plant, & Schwartz, 2014; Kahn et al., 2017; Klahm, Frank, & Brown, 2011; Klahm, Frank, & Liederbach, 2014; Nowacki, 2015) and more generally to understand the role of race in criminal justice (Baumer, 2013; Mears, Cochran, & Lindsey, 2016; Sampson, 2009; Spohn, 2013; Ulmer, 2012; Unnever & Gabbidon, 2011). Numerous studies document the continuing tensions between police officers and members of the public (Lum & Nagin, 2017; Pollock, Oliver, & Menard, 2012, 2016; Weitzer, 2015). They also highlight the discord between what officers and citizens view as acceptable uses of force, particularly when police-citizen encounters end with one or more fatalities (Ferrandino, 2015; Kleinig, 2014; Rojek, Alpert, & Smith, 2012).

In recent years, cognition research has shown that humans are predisposed to make rapid decisions—to rely on “cognitive shortcuts,” or heuristics, to “think fast”—when they perceive risk. By contrast, “slow” thinking is more likely when sufficient time exists for careful and systematic deliberation and when no perceived threat exists (Kahneman, 2011). We argue that this predisposition can build on biases that may influence officers' decisionmaking and contribute to unnecessary use of force among minorities (Brandl & Strohshine, 2012;

Engel & Smith, 2009; Kahn, Goff, et al., 2016; Klinger & Brunson, 2009; Nix, Campbell, Byers, & Alpert, 2017). Moreover, officer biases may not be the only salient factor that contributes to this phenomenon. Citizens may hold biases that are activated through reliance on cognitive shortcuts as well; these in turn may activate police officer biases. That is, officer *and* citizen bias—expressed or activated through reliance on cognitive shortcuts—may independently and jointly create interpretations of police-citizen encounters that increase the risk of the use of force. This potential is, we argue, especially likely for racial minorities, who more frequently reside in neighborhoods characterized by high crime rates and economic disadvantage (Mastrofski, Reisig, & McCluskey, 2002).

To advance these arguments and to identify directions for advancing theory, research, and policy, the paper is structured as follows. First, we discuss police use of force, when it can occur, and what is known about its prevalence and its consequences. Second, we highlight the central role of officer discretion in determining whether to use force during encounters with citizens. Third, we describe the role of cognitive shortcuts in decision making in general and in officer decision making in particular. In so doing, we identify a critical implication of advances in research on cognitive decision making—in high-risk situations that provide little time for reflection, officers must rely on cognitive

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shortcuts and in so doing may be likely to rely on biases about minorities to guide their decisions. We also identify the role that citizen biases, also amplified by reliance on cognitive shortcuts, about officers can play in elevating the risk that unnecessary use of force may occur. We identify, too, how officer and citizen biases may interact or be influenced by a range of factors, such as officer training, social context, and the amount of time available for officers and citizens alike to react. Finally, we conclude by discussing implications for research and policy.

1. Police use of force

1.1. Concerns about police use of force

Scholars and numerous media outlets have noted the current public concern about police use of force (Bosman & Smith, 2017; Hickman & Poore, 2016; Legewie, 2016; Lum & Nagin, 2017; Marcus, 2016; Nix et al., 2017; Smith, 2017; Zimring, 2017). Force has long been understood to be necessary and permissible in certain contexts (see, e.g., Bittner, 1970). Increased concern about it, however, has stemmed both from longstanding awareness about racial disparities in the criminal justice system (Baumer, 2013; Ulmer, 2012; Unnever & Gabbidon, 2011) and, more recently, widely publicized media accounts of incidents involving excessive—or the appearance of excessive—use of force against unarmed citizens, sometimes ending in death (Kahn & McMahon, 2015; Nix et al., 2017; Prenzler, Porter, & Alpert, 2013; Rojek et al., 2012; Weitzer, 2015).

Several prominent non-lethal incidents are illustrative. In McKinney, Texas, in 2015, for example, police responded to a disturbance call at a suburban community pool. An officer was filmed cursing and pointing his gun at teenagers by the pool, and then dragging and pinning a young teenager who was in a swimsuit to the ground (Southall, 2015). A similar incident between an officer and a high school student in 2017 in Rolesville, North Carolina, also received considerable media coverage (Waggoner, 2017). Most recently, a simple overbooking situation on a United Airlines flight in Chicago, Illinois, escalated when a passenger refused to disembark and subsequently was forcefully removed from the plane by aviation officers; the videotape of the incident was widely seen and led to public condemnation of United Airlines (Aratani, 2017).

Lethal incidents have arguably played a larger role in national discussions and debates about police use of force and concerns that unnecessary and excessive force not only occur but also result in citizen deaths. For example, the footage of the shooting deaths of Keith Lamont Scott in Charlotte, North Carolina (Lacour, 2016), Samuel DuBose in Cincinnati, Ohio (Stolberg, 2016), Charly Leundeu Keunang in Los Angeles, California (Mather, 2016), Terence Crutcher in Tulsa, Oklahoma (Juozapavicius, 2017), Philando Castile in Falcon Heights, Minnesota (Pearce, Hennessy-Fiske, & Evans, 2016), and Alton Sterling in Baton Rouge, Louisiana (Rico, 2017)—these all “have gone ‘viral’ on social media and have led to unprecedented levels of public discontent with the police” (Nix et al., 2017, p. 310). Protests have consistently arisen in response to instances of police use of lethal force, such as the deaths of Freddie Gray in Baltimore, Maryland (Fenton, 2017), Zachary Hammond in Seneca, South Carolina (Dixon, 2015), Michael Brown in Ferguson, Missouri (Glionna, Pearce, Hennessy-Fiske, & Susman, 2014), Eric Garner in Staten Island, New York (Susman & Queally, 2014), Mary Hawkes in Albuquerque, New Mexico (Carcamo, 2014), Tamir Rice in Cleveland, Ohio (Muskal, 2014), Israel Hernandez-Llach in Miami Beach, Florida (Madigan, 2013), and Rekia Boyd in Chicago, Illinois (Crepeau, 2015).

Such incidents, as well as others involving non-lethal use of force, provide little credible basis for understanding the prevalence of or trends in police use of force. They have, however, ignited debate about when and how often this type of police power can and should be employed.

1.2. Police use of force: what it is and when it can and should occur

It is generally accepted that the police should use force when doing so is necessary to maintain the safety of victims, bystanders, or fellow officers (Barkan & Cohn, 1998; Bittner, 1970; Sousa, Ready, & Auit, 2010). Even so, no uniform definition of the term “use of force” exists (Brandl & Strohshine, 2012; Hickman, Piquero, & Garner, 2008; Klahm et al., 2014; Paoline & Terrill, 2011). The International Association of Chiefs of Police (IACP) defined the term in its 2001 report as “that amount of effort required by police to compel compliance from an unwilling subject” (p. 1) and indicated that this definition encompasses such categories as physical force (e.g., fists), chemical force (e.g., mace), impact force (e.g., batons), electronic force (e.g., TASERs), and potentially deadly force (e.g., firearms). Deployment of police canines to “bite and hold” suspects has been argued to constitute part of a use-of-force continuum (Dorriety, 2005). Similarly, some scholars have emphasized that verbal commands can be viewed as entailing coercion and that this coercion in turn constitutes an essential aspect of policy use-of-force powers (Klinger, 1995). Accordingly, Terrill (2003) has defined use of force as “as acts that threaten or inflict physical harm on suspects” (p. 56). This definition includes intimidating speech and threats as well as the more tangible forms of force referenced by the IACP.

The legal standard that creates grounds for officer discretion in the use of force comes from the United States Supreme Court's *Graham v. Connor* (1989) ruling. In its decision, the Court granted deference to police officers. The underlying rationale for the Court's decision involves the acknowledgment that the dangerousness of any given police-citizen encounter cannot be fully anticipated. Accordingly, individual officers must determine for themselves, on a case-by-case basis, the level of force needed to reduce or eliminate a potential threat that may arise during an encounter with one or more citizens. In *Graham v. Connor* (1989, pp. 396–397), the Court called for the use an “objective reasonableness” standard that should apply to an allegation of the improper use of force by law enforcement:

The “reasonableness” of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight. “Not every push or shove, even if it may later seem unnecessary in the peace of a judge's chambers,” *Johnson v. Glick*, 481 F.2d (1973), at 1033, violates the Fourth Amendment. The calculus of reasonableness must embody allowance for the fact that police officers are often forced to make split-second judgments—in circumstances that are tense, uncertain, and rapidly evolving—about the amount of force that is necessary in a particular situation. The “reasonableness” inquiry in an excessive force case is an objective one: the question is whether the officers' actions are “objectively reasonable” in light of the facts and circumstances confronting them, without regard to their underlying intent or motivation.

The *Graham* decision created the foundation for officers to use discretion in determining how to proceed in citizen encounters, including when to apply force. Discretion is prominent in many aspects of criminal justice (Mears & Bacon, 2009; Vorenberg, 1976; Walker, 1993). For example, prosecutors have considerable leeway in making the “to charge or not to charge” decision (Davis, 2007; Howell, 2014). Yet, the discretion afforded officers is potentially more influential because they determine entry into the criminal justice system (Goldstein, 1960; LaFave, 1965; Nickels, 2007; Phillips, 2016; Smith, Novak, Frank, & Lowenkamp, 2005). As the *Graham v. Connor* ruling highlights, police discretion extends to the decision to employ force and requires that officers ground these decisions in a subjective, case-by-case, assessment of risk.

How, though, should such subjective assessments be made to ensure that officer decisions most effectively protect the public and do so without officers unnecessarily relying on force? One approach consists of police organizations adopting policies that identify a continuum of appropriate levels of force depending on the circumstances of the

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