

W14 Policing in 2021—Perspectives, Problems, and Potentials

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Learning Overview: The goal of this presentation is to present multiple elements of present-day policing, specifically including use of force and biases, highlighting the complex interaction of myriad elements in police use-of-force cases.

Impact on the Forensic Science Community: This presentation will impact the forensic science community by encouraging discussion and fostering objectivity in the pursuit of justice through truth in evidence in cases involving police use of force.

In today's world, the long-standing concerns regarding police operations and use of force have come front and center in the public eye. Very public cases involving police and quasi-law enforcement, including the killings of George Floyd, Ahmaud Arbery, and Breonna Taylor (to name but three of the known 164 African Americans killed by law enforcement in the first eight months of 2020—an average of two people every three days) have sparked public outcry like none before throughout the United States and migrated into other countries. Blacks are over-represented in police-associated homicides and are killed at a rate over 2.5 times higher than are Whites. Social justice movements like *Black Lives Matter* and *Know Their Names* have gained tremendous support as many continue efforts to find some workable reform.

In order to find a solution, one must first understand the problem. The initial step is to understand the scope of the problem and how it affects the population. Investigative journalists have been at the forefront, reminding the citizenry of the lives lost, the damage done, and exposing injustices in the pursuit of truth. There are limitations as to what can be done, as reporters can only work with the information received. In addition, there may exist an anti-media bias with a tendency to shroud a law enforcement agency in a cloak of red tape or behind a wall of bureaucracy.

The disproportionate number of African Americans killed is disturbing and calls for clarification of any real or perceived biases that may impact cases. One example is in Artificial Intelligence (AI) facial comparison software. The practical issues and how these systems function affect outcomes. Data indicate that at present some biases are quite literally built into the system. Digital imaging facial recognition software has proved a useful tool in assisting with the identification of subjects; however, there can be a dramatic discrepancy in reported error rate based on gender and pigmentation. The neural networks used for facial comparison and the training sets used affect the results. If training sets are not balanced, the AI software will have bias depending on the examples it has learned. Failure of vendor software delivery to United States law enforcement end users is another important consideration.

Once a subject is identified, the stage is set for the interaction that too often ends tragically. Law enforcement officers are empowered by law to protect utilizing deadly force, if necessary. The use of force is a continuum predicated on de-escalating and neutralizing perceived threats. The officer must rely on training and experience to make literal life-or-death shoot-or-don't shoot decisions in an instant. These decisions can have life-long repercussions for the subject, the community, and the officer. At the less-than-lethal end of the spectrum are conducted energy weapons, designed to immobilize a subject by means of inducing an involuntary motor response. These weapons have been the subject of controversy, with debates about their safety and potential involvement in at least some deaths. Less-than-lethal does not necessarily mean non-lethal.

In all such cases, the forensic pathologist is called upon to determine, to the extent possible, the mechanism (cause of death) as well as the circumstances surrounding a fatality (manner of death). Some deaths and proffered mechanisms (conducted energy weapons, prone maximal restraint, etc.) are contentious and, regardless of the investigative outcomes, controversy may be anticipated. In some instances, medical decisions may provoke public rage and/or personal attacks. In some medicolegal death investigation systems, this may be compounded when the examiner certifying the death is an elected coroner whose very livelihood may be in the balance when an unpopular medical decision is made.

Ultimately, in instances where police use of force results in serious injury or death, the matter will likely go to civil and/or criminal prosecution. One such case involved the killing of Walter Scott by Officer Michael Slager. Bystander video of part of the incident documented the officer shooting the fleeing subject from behind. The state murder trial ended in a hung jury. Slager was subsequently charged with federal civil rights charges to which he pled guilty in exchange for dropping the state murder charges. He was sentenced to 20 years.

The broad areas of interest involved in a police use-of-force case intersect in one effort to pursue justice through truth in evidence.

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