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Tasers help police avoid fatal mistakes

BY PAUL ROBINSON

Police are called to a disturbance and end up confronting an apparent aggressor. The man advances to attack — or is it just the haphazard movements of a man high on drugs? An older boy pulls a gun, but is it real or just a toy? An officer can be just as dead from a boy's bullet as from a man's. In either case, the officer takes an enormous risk to his own safety if he does not take immediate defensive action. In an unfortunate few cases it will turn out that the shooting was in fact unnecessary, which the officer may not have known that at the time.

The impossibility of the officer's situation may not be much comfort to the family of the dead victim or the community. And when the officer is ultimately not punished, because his mistake is found to be a reasonable one, that failure to punish will be seen by a skeptical community as a failure of justice, which will only deepen suspicions and further undermine community-police relations.

We have set police up for impossible situations in which they can only lose. But there is a way out of this downward spiral. We can't do much to avoid the impossible situations; ambiguous facts are simply an inevitable result of the controlled chaos of daily police life, especially in high-crime areas. But there are things we can do and

that have been done with some success. Better police training in making snap decisions and more attention to weeding out officers who lack the ability to improve can and is being done, but there are natural limits to how far this will take us. (For example, better snap judgments come with more experience but how is a young officer to get that experience without being put in the difficult situations?)

Perhaps of greater promise is the increased use of nonlethal weapons, such as Tasers. Chicago late last month announced plans to increase the availability of such tools to its officers in an important move.

The latest generation of Tasers shows high reliability and good "stopping" power. Indeed, studies suggest that a Taser has a better chance of stopping an attacker than a firearm. To guarantee disabling with a firearm, one must hit a target the size of a business card either between the eyes or at the top of the spine, while a Taser anywhere on a person's body will disable instantly through involuntary muscle spasm.

Further, Tasers available to law enforcement and military have effective ranges of 21 feet and more, significantly farther than the 10 feet within which most confrontations occur. And as distance increases, firearm accuracy dramatically decreases, making the Taser's much larger body-size

target a more feasible hit than the firearm's smaller target. Finally, giving police Tasers does not have to mean taking away their guns; it might simply mean giving them another option.

The value of nonlethal weapons goes beyond the situations of reasonable mistake by police officers. Assume the officer turns out to be absolutely correct in judging that he is under lethal attack and that his use of defensive force is immediately necessary to protect himself. It hardly follows that the unlawful attacker deserves the death penalty on the spot. Part of being a civilized society is to value human life, even that of an unlawful aggressor. If the officer can save himself from the attack through nonlethal means, it is always to be preferred.

It is simply inevitable that police will regularly be put into situations in which it appears at the moment that they must shoot to save themselves or another person. Whether they turn out to be right or wrong, the best we can do for all parties is to avoid a snap judgment that has a permanent effect.

Paul Robinson is the Colin S. Diver Professor of Law at the University of Pennsylvania and, with Sarah Robinson, the author most recently of "Pirates, Prisoners & Lepers: Lessons from Life Outside the Law" (Potomac Books 2015). His email is phr@law.upenn.edu.