

THE WAR FOR THE SOUL OF AMERICAN POLICING

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There is war out there in the streets of America. No, it's not the war on crime or the war on drugs.

It's a war for the soul of American policing.

This war is a struggle over how police officers think about their jobs and the mindset they bring to encounters with people in the course of their work.

Each side in this war has sizeable resources, and the outcome is not clear. How it eventually turns out will determine whether we continue the endless cycle of crisis and poisoned race relations we have had for the last fifty years, or begin to enjoy the respectful, professional, effective and constitutional policing we deserve.

On one side of this struggle, authoritative voices argue for policing based on procedural justice, de-escalation of encounters between police and people, strict accountability for officer use of force, and attention to the unconscious biases that police officers and all Americans share. The President's Task Force on 21st Century Policing endorsed these approaches in May of this year.¹

On the other side, advocates for rank and file officers emphasize the dangers of police work, threats to officer safety, and the need for officers to err on the side of self-protection. It is a combat view of policing.

In a recent report on *Re-Engineering Training of Police Use of Force* (2015), the Police Executive Research Forum (PERF), a professional association of forward-looking police chiefs and commanders, argued that "*We need to rethink how we are training officers to handle use of force, and we must recognize that current training is not providing officers with state-of-the-art techniques to minimize use of force.*"² The report discussed de-escalation, "tactical disengagement," and where appropriate to "slow the situation down" and utilize non-force options.

The threat-focused vision of police work is articulated by police unions and private training organizations such as the Force Science Institute³ and Calibre Press.⁴ The original 1983 article that inspired the so-called "21-foot rule" for officer safety (which we will discuss shortly) opens with a confrontation between "The 'good guy' with the gun [the police officer] against the 'bad guy' with the knife" [the threat]. It then describes various scenarios where the officer "loses," either his life or in court.⁵

Many experts, including the President’s Task Force, now define the conflict between the two visions of policing in terms of a “guardian” mentality (which the Task Force endorses, and which is also described in the PERF report) versus a “warrior” mentality (the threat-focused view).⁶

Conflicting Visions on the Street

The war between these competing visions plays out in encounters on the street. The President’s Task Force vision represents a mind-set in which officers begin with the idea that most encounters can be resolved peacefully: by treating people with respect (procedural justice) and thinking about ways to de-escalate initial signs of hostility or disrespect.

Officers with the threat-focused mindset, on the other hand, see threats to their authority and safety everywhere, and respond even to minor signs of disrespect or non-cooperation. Their habit is to escalate, not de-escalate. This syndrome has such a long history in policing that there is a term for it: “contempt of cop, using force or making arrests because of apparent disrespect to the officer.”⁷

One of the clearest expressions of the threat-focused approach is the “21-foot rule,” which has now come under heavy criticism. The “rule” holds that an officer is in potential danger if a knife-wielding person gets closer than 21 feet. (The distance is based on a calculation of how long it takes an officer to draw and fire his or her weapon.) Unfortunately, as critics now point out, the rule has been converted into the idea that an officer is justified in using force within that 21-foot distance. This distorted interpretation tells officers to use whatever force is necessary within that space, and does not tell them to de-escalate by moving to maintain a safe distance, using verbal tactics to delay and possibly defuse the encounter, and calling for back-up.⁸

John Timoney, former chief of the Miami, Florida, police department told the PERF conference on *Re-Engineering Training for Police on Use of Force* that the 21-foot rule “got corrupted, and at conferences I started hearing about a ‘kill zone’. Somehow, the idea became that if you’re less than 21 feet away, you can shoot. How the hell did it become a kill zone? There’s something wrong with that. It should be a zone of safety, and you move to stay within your zone of safety.”⁹

We gain some useful perspective if we think about public school teaching. Imagine that teachers were trained only to think that all students are potentially disruptive, and that they have to respond with a strong display of authority to each and every potentially disruptive act. In fact, all students are not disruptive, and minor incidents can be handled in a firm but calm manner. The threat-focused view of policing emphasizes only the small percentage of genuine threats (which, of course, should not be ignored) and as a consequence shapes the officer mind-set into thinking all encounters are potential threats.

Towards A Self-Critical Profession

At the heart of the President's Task Force vision of policing is a recognition that police officers often contribute to poor community relations, and that by changing many routine practices they can begin to develop respectful relations with people on the streets. The PERF report was highly critical of police training, admitting that it needs major revision. Fundamentally, this is a self-critical mind-set, a willingness to recognize undesirable police performance and a commitment to correct the problem.

Self-criticism is not part of the threat-focused mindset, however. Instead, the narrative becomes: there are threats out there; responding the threats is justified for self-protection; and you should not criticize the police for using force.

Unfortunately, FBI Director James Comey recently threw fuel on the fire of this issue by claiming that criticisms of the police have contributed to the spike in violent crime in some cities. It was a reckless and destructive statement, for which he admitted he had no evidence. But that did not stop him from doubling-down on it three days later with an attack on social media.¹⁰

The idea that we should not criticize the police is reinforced by policies in police union contracts that shield officers from prompt investigations of incidents of possible misconduct. Some union contracts have 48-hour "waiting periods" before an officer can be questioned by superiors. The Baltimore, Maryland, contract provides an incredible 10 day waiting period. The Force Science Institute defends 48-hour waiting periods on the grounds that "scientific" evidence indicates that stress adversely affects memory, and that officers need two sleep cycles (48-hours) for their memory to recover. My own examination of the psychological research on stress and memory found no scientific evidence supporting the 48-hour rule.¹¹

The broader impact of the 48-hour rule is that it creates a culture of impunity among officers: that we are entitled to privileges that shield us from accountability, privileges that no other group of employees enjoy. This is not what you find in a self-critical profession.

Which Message Are the Officers Getting?

Both sides in the war for the soul of the American police are getting their messages out. The crucial question is, which message do the officers on the street hear? And which one shapes their actions out on the street?

The new vision of policing has been articulated by the President's Task Force, and perhaps even more important, the chiefs and commanders who participated to the PERF report on *Re-Engineering Training of Police Use of Force*. These individuals command police departments, and we can assume that the training and supervision in their departments conveys the messages of procedural justice, de-escalation, and attention to unconscious bias.

But the fear-centered message also reaches rank and file officers. The controversy over the Force Science Institute has brought to attention the extensive training program that group conducts.

Calibre Press also has an extensive program. These training programs reach an untold number of officers each year. Which message are rank and file officers getting, and which one resonates with them? We don't really know. And that is what the war for the soul of American policing is all about.

Which vision of policing will triumph? Will we succeed in establishing a vision of respectful policing, where officer use of force is restrained, and where a new virtuous circle of mutual respect develops and our long history of conflict and poisoned community relations begins to recede into the past? It all depends on how effectively the advocates of the new vision convey their message to both rank and file officers and to the larger community.

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¹ President's Task Force on 21st Century Policing, *Final Report* (Washington: Office of Community Oriented Policing Services, May 2015). http://www.cops.usdoj.gov/pdf/taskforce/taskforce_finalreport.pdf

² Police Executive Research Forum, *Re-Engineering Training on Police Use of Force* (Washington, DC: Police Executive Research Forum, 2015).

³ Force Science Institute. <http://www.forcescience.org/>

⁴ Calibre Press. <http://calibrepress.com/>

⁵ Dennis Tueller, "How Close is Too Close," *S.W.A.T. Magazine* (March 1983), reprinted by The Police Policy Studies Council (2004). http://www.theppsc.org/Staff_VIEWS/Tueller/How.Close.htm.

A careful reading of the original article, however, that it discussed the value of de-escalating encounters, using the term "tactical withdrawal," along with other sound tactics, as a way of avoiding the need to use force. This aspect of the 21-foot rule has been lost in subsequent years.

⁶ President's Task Force on 21st Century Policing, *Final Report*, Recommendation 1.1, p. 11. Sue Rahr and Stephen K. Rice, *From Warriors to Guardians: Recommitting American Police Culture to Democratic Ideals*, New Perspectives in Policing (Washington, DC: National Institute of Justice and Harvard Kennedy School, April 2015). See also the discussion in Police Executive Research Forum, *Re-Engineering Police Training on Use of Force*, pp. 28-38.

⁷ Christy E. Lopez, *Disorderly (misconduct: The Problem with "Contempt of Cop" Arrests*, Issue Brief (Washington, DC: American Constitution Society, June 2010).

⁸ Tueller, "How Close is Too Close." But see the extensive discussion and criticism of the 21-foot rule in PERF, *Re-Engineering Police Training of Police Use of Force*, pp. 5, 14-18. The PERF report also cites the 1988 Calibre Press training video for officers "Surviving Edged Weapons."

⁹ John Timoney, quoted in PERF, *Re-Engineering Police Training on Police Use of Force*, p. 16.

¹⁰ Comey, quoted in "F.B.I. Chief Links Eyes on Police to Rise in Crime, *New York Times*, October 24, 2015. See this author's criticisms of Comey: Samuel Walker, "Comey's Bid to Silence Cop Critics is Disgraceful – and Wrong," *The Crime Report*, Viewpoints (October 30, 2015).

¹¹ <http://samuelwalker.net/2015/06/police-union-contract-waiting-periods-not-supported-by-scientific-evidence/>