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DE-ESCALATION: CURE, BUZZWORD OR A BIT OF BOTH?

*As bad shootings dominate the headlines,
cops and politicians scramble for answers*

By Julius (Jay) Wachtel. In July 2004, the Department of Justice [issued a biting report](#) that criticized Newark cops for using force instead of acting, as reviewers thought they should, with “thick skin and patience.”

Unfortunately, rather than using de-escalation techniques and acting within the constraints of the Constitution when confronted with disrespectful behavior, NPD has engaged in a pattern and practice of taking immediate offensive action, without regard to whether that conduct complies with the law.

Newark isn't alone. DOJ has been launching “[pattern and practice](#)” investigations of police departments throughout the U.S. During the last five years alone, agencies ordered to change their ways include Albuquerque, Cleveland, East Haven (CT), Miami, New Orleans, Newark, Portland, Puerto Rico and Seattle. (Chicago went under the Federal microscope last month. More about that later.)

Although the events that precipitated Federal intervention were in each case different, excessive force, and particularly the inappropriate use of lethal force, has been the main concern. [DOJ's slap-down of New Orleans](#) cited “many instances in which NOPD officers used deadly force contrary to NOPD policy or law.” Once again, “de-escalation” figured prominently in the prescription for reform:

Critical in-service topics include: use of force, firearms, defensive tactics, integrity and ethics, community policing, communication skills / de-escalation training, cultural competency, search and seizure, policies and procedures, and current legal developments....All force policies should guide officers on how to avoid even justifiable force where it is safe and effective to do so, through the use of de-escalation techniques and solid tactics.

[Miami conceded from the start](#) that, yes, its officers had shot persons without sufficient justification. DOJ used these and other, similar events as evidence that turning to firearms when lesser force would suffice had become an integral component of the city's policing culture: “Based on our comprehensive review, we find reasonable

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cause to believe that MPD engages in a pattern or practice of excessive use of force with respect to firearm discharges.” As had become routine, the need for “de-escalation” figured prominently in its recommendations:

...a man known by MPD to have mental illness was shot after he lunged at officers with a broken bottle...Numerous officers unnecessarily surrounded the man, escalating the situation...Although MPD had a CIT officer on the scene, unlike other cases involving persons with mental illness, the supervising officers failed to control the scene so that the CIT officer could do his job. An alternative approach prioritizing de-escalation techniques might have eliminated the need to use deadly force.

Use of force on mentally disturbed persons, drug users and veterans suffering from PTSD was the subject of “[An Integrated Approach to De-Escalation and Minimizing Use of Force](#),” a symposium held three years ago by the Police Executive Research Forum, perhaps the nation’s leading voice in advancing the craft of policing. Here are some of its key conclusions:

- Not every situation calls for police intervention, and not every refusal to comply with an officer’s order requires a forceful response.
- “Slowing things down” can prevent tragic misperceptions, such as thinking someone is going for a gun when they’re actually reaching for a cell phone. Making time also gives time for backup officers, supervisors and crisis intervention teams to arrive.
- De-escalating encounters, for example, by using verbal skills, can cool things down and prevent violence.

[Philadelphia PD’s E.A.R. strategy](#) was featured as an example of this approach. It is comprised of three sequential elements: engage, assess, resolve.

First, you should calmly engage the special needs person to make a connection; the first 10 seconds of this interaction are crucial. Ask the person his name and tell him your name...show empathy and make the person feel heard...Next, gather as much information as possible...Ask the person whether he has a medical condition, is receiving medical treatment, or is taking medication...Once you’ve assessed the person, start thinking about how to resolve the problem...When you have decided your course of action, be sure to announce your intentions...Let him know what you plan to do, and be patient and repetitive in your explanation.

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It's been this writer's experience that an informal version of E.A.R. is how *most* law enforcement officers handle *most* situations, *most* of the time. Along those lines, here's an abridged version of what Steve Pomper, the author of [a well-known police blog](#), had to say about de-escalation:

As a retired cop who worked a sector with numerous mental health facilities let me assure you that de-escalation is nothing new to cops. De-escalation has always been and will always be a cop's first instinct, although it's not always possible. For example, it's rather difficult to verbally de-escalate a person charging at you with a knife. Instructors taught de-escalation in the academy when I was there twenty-three years ago, and it was taught long before that. De-escalation is also just plain common sense, the natural inclination for intelligent people who prefer the path of least resistance—in this case, literally.

Still, considering the many excesses that have come to light, “most of the time” may not be good enough. As if Chicago hasn't experienced sufficient discord (see “[Does Race Matter, Part I](#)” for a gut-churning example), on December 26 one of its cops [accidentally shot and killed](#) a beloved grandmother while aiming for a mentally disturbed 19-year old who reportedly charged at officers with a baseball bat. (The youth was also shot and killed.) And only days ago [LAPD chief Charlie Beck recommended](#) that one of his own cops be criminally prosecuted for shooting to death an unarmed, homeless man with whom officers had a “physical altercation” last May.

Has the frequency of tragic goofs increased? Executives at the PERF forum expressed concern that the new breed of digitally-enlightened police officers may be less apt verbally and less skilled in unarmed combat than “past generations,” thus more inclined to resort to a weapon. Of course, today's cops face an increasingly well-armed public. Indeed, the consequences of America's love affair with the .44 magnum are well known in Chicago, where [murder jumped 12.5 percent during 2014-2015](#), reaching 468, reportedly a U.S. high. Active shooters have become commonplace, occasionally with consequences so grim that [patrol officers are being trained to engage threats](#) instead of waiting for SWAT.

There is another, equally intractable problem. If it's true that most cops prefer to be kind and gentle, that still leaves some who don't, or won't. [Numerous citizen complaints](#), mostly about excessive force, dogged the Chicago cop who now faces murder charges for gunning down Laquan McDonald. As DOJ's findings in Miami demonstrate, it only takes a few trigger-happy officers to cause havoc:

Finally, a small number of officers were involved in a disproportionate number of shootings. A combination of seven officers participated in over a third of the 33

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officer-involved shootings. Had the shooting investigations been completed in a timely fashion, corrective action could have been undertaken and may have prevented the harm that can result from officers' repeated shootings, such as injury or death to the officer and/or the subject, trauma to the officer and others, and costly legal settlements....

So far it's been up to police executives and, on rare occasions, prosecutors and the courts to remove dangerous cops from the streets. But policing is in fact a licensed occupation. To that extent it's not so different in kind from vocations such as plumbing and electrical repair, architecture, law and medicine. If cities are unwilling to enforce professional standards, perhaps state peace officer boards, which set the requirements for officer certification in the first place, ought to step in.

In any event, the training bandwagon has already left the station. Four days after the grandmother was shot dead, the windy city's embattled mayor [announced a set of reforms](#) to "inject humanity" into policing. Rahm Emanuel solemnly promised that officers will be trained to avoid reflexively using deadly force. They will learn to create "more time and distance" when responding to tense situations and to recognize "degrees in between." And just in case the soft approach doesn't work, every beat car will be equipped with a Taser.

Let's hope that this medicine takes hold. We really don't want to revisit Chicago's woes anytime soon.