

When Police **USE FORCE**

Context, Methods, Outcomes

Craig Boylstein

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Few police force incidents are pretty. But often, the awful is in fact lawful. And necessary. And ethical. And just. We need advocates. And understanding. And trust.

—LOUIS HAYES, a 17-year police officer in Chicago with current assignments as a Crisis Intervention Team member and a tactical medical officer for a regional SWAT team

It was just like, like I had been shot. Like you shoot me now. Just no respect. No sympathy. Nothing. This could be your child. This could be anybody's child.

—LESLEY MCSADDEN, the mother of Michael Brown, an 18-year-old African American male shot and killed by police officer Darren Wilson in Ferguson, Missouri, on August 9, 2014, speaking after a grand jury decided not to indict Wilson for the incident

When the world looks at how bad the United States is, and then we go and talk about civil liberties, I don't think we're a very good messenger.

—DONALD J. TRUMP, *New York Times*, July 20, 2016

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1

Defining Police Use of Force

For my research on police use of force in the United States, I begin with the development of a conceptual framework. This conceptual framework consists of a system of concepts, assumptions, expectations, beliefs, and theories that inform my research on the topic (Miles & Huberman, 1994; Robson, 2002). I will use the conceptual framework of police use of force in the United States that I outline in this chapter to define and explain the key variables associated with this concept, ultimately highlighting the relationships among those variables. Before one can measure rates and changes in police use of force, one must define the concept of force so that others clearly understand what is meant by the term. In summary, the way one conceptualizes police use of force will have practical implications regarding how one measures or observes it and what kinds of predictions one will make regarding factors that influence rates.

While police use of force may seem quite different from other kinds of aggressive encounters, similarities do exist across different forms of state-legitimated force. Use of force is a concept frequently presented in studies that contain a national-level unit of analysis. National-level studies on use of force tend to focus on international law, national security issues, and the concept of self-defense. Such macro-level studies often define use of force as aggressive actions conducted by one nation against another (Ferencz, 1972). Aggressive acts between or among nations may involve armed military action (Blechman & Wittes, 1999); cyberwarfare (Hoisington, 2009), such as computer network attacks (Schmitt, 1999); or, targeted drone attacks against select individuals or groups categorized as enemy combatants (Shah, 2010).¹

Forceful state action against another nation or against state-defined terrorists or terrorist organizations may appear quite different in nature from more localized forms of force, such as the everyday local police-subject

encounters discussed in this book. Ideas about how law governs practice (and who should have influence in establishing and enforcing those laws), concerns over public security, and the ambiguous nature of self-defense, however, are areas of study that remain important in examining any form of state-legitimated aggressive activity, including the type and number of verbally or physically forceful acts used by police officers against the citizens and other members of the public they encounter during their daily work routine. The importance of state control over legitimate forms of force has long been a topic for social and political theorists. For example, Max Weber's 1919 essay *Politics as a Vocation* notes that monopolizing legitimate uses of physical force is critical to establishing state authority. Weber sees the military and police as two parts of the same puzzle (branches of government with legitimate authority to use force on others). In his essay, Weber comments,

Ultimately, one can define the modern state sociologically only in terms of the specific means peculiar to it, as to every political association, namely, the use of physical force. . . . If no social institutions existed which knew the use of violence, then the concept of "state" would be eliminated, and a condition would emerge that could be designated as "anarchy," in the specific sense of this word. . . . [W]e have to say that a state is a human community that (successfully) claims the *monopoly of the legitimate use of physical force* within a given territory. (Emphasis original)

If one were to combine the theoretical propositions of Weber and criminologist Richard Quinney, one could conclude that the foundation of a "just" state is having those state representatives empowered to use violence against other citizens employ such aggressive acts in a consistent, universally justified manner.² Quinney (1977) notes, "The concept of justice serves the larger purpose of providing a standard by which we judge concrete actions. We critically understand the actions of the capitalist state, including the administration of criminal justice, because we have an idea of how things could be."

The levels of force that a nation controls are multilayered, ranging from patrols by local police organizations and even private security officers, up through drone strikes on specified targets, to larger military operations aimed at defeating armies or "terrorists" located in other countries. An examination of all forms of state-legitimated force is obviously impractical for one study. For that reason, I focus here on statistical data on local and state law enforcement officers' use of force during police-subject contacts during standard, everyday patrolling. This excludes such police engagements such as riot control, which involves situation-specific protocols, does not entail face-to-face encounters between officers and an individual subject (the kind of force incidents this book is concerned with), and is not included in the existing police-subject contact data.

It has been suggested that the defining characteristic of policing is use of force (Bittner, 1970). Finding definitions of police use of force is not difficult (Alpert & Dunham, 2004; Garner, Schade, Hepburn, & Buchanan, 1995; Paoline & Terrill, 2007; Terrill & Reisig, 2003). It is difficult, however, to find a definition that is universally agreed upon and objectively measurable (Klahm, Frank, & Liederbach, 2014). Research has defined police use of force as “acts that threaten or inflict physical harm on suspects” (Terrill, 2003, p. 56), whereas the International Association of Chiefs of Police (IACP) has defined it as “the amount of effort required by police to compel compliance by an unwilling subject” (Police Use of Force in America 2001). Compelling compliance by an unwilling subject raises many critical issues. For example, how much effort is necessary to compel compliance in a specific situation? Furthermore, with a variety of force options at an officer’s disposal, what kind of force is most appropriate in a specific situation?³ There are no easy answers as to when to apply force and what type or how much during police-public encounters. One goal of this book is to help make it easier to determine the legitimacy of state-authorized force against a member of the public in future police-public encounters. I will attempt to achieve this goal by analyzing criteria established in assessing subject threat and resistance, which in turn will hopefully help establish ways of deciding the appropriateness of the force used by law enforcement officers as they engage with members of the public during their occupational duties. Before I expand upon my discussion of police use of force, I will present a brief outline of this book’s critical premises and purpose.

1. Using Weber’s theoretical premise that modern states can only be defined sociologically through their monopolization of legitimate physical force against a populace, I first attempt to construct a theoretical framework related to police use of force as one major component of this state monopolization.
2. Once a sound police use-of-force framework is outlined, I analyze current understandings of when specific levels of force used during police-citizen encounters are deemed “necessary and appropriate.”
3. The notions of necessary and appropriate use of police force must be defined and ultimately operationalized.
4. The conceptualization and measurement of necessary and appropriate use of police force is logically intertwined with measuring the level of social justice that exists within any given nation-state.
5. To determine “necessary and appropriate” use of force, one must first consider environmental and situational factors that impact one’s logical assessment of suspect threat to herself and others (including officers and other citizens present in the area) and the level of subject resistance to police (state representative) directives.

6. Once use of force, subject threat, and subject resistance are defined, I explain how these concepts have been measured in studies of police-citizen encounters from 2000–2017.
7. After examining police use of force, subject threat, and subject resistance data, I analyze recent (1985–2016) federal rulings on the legitimacy of specific use-of-force cases (Chapter 2) to understand how the state currently conceptualizes when and what kind of physical force is legitimate in police-public encounters.
8. I then determine if sociological/demographic factors such as race, age, social class, and gender have any effect on predicting level of force used during an encounter or on the percentage of overall encounters where force was used against subjects during police-citizen contact (Chapters 3 and 4).
9. I use existing quantitative data to assess if the various levels of force used against distinct types of subjects (e.g., young African American males, lower-income middle-aged white women) statistically differ (e.g., officers are more likely to swear at members of one group). These findings should help determine if there are areas of concern for levels of social justice in the United States as far as social justice pertains to police-subject encounters.

Conceptualizing Police Use of Force

Not only do police encounter ambiguity regarding the appropriate use of force in their contacts with subjects, but social scientists collecting and analyzing use-of-force data also confront a lack of clarity as to what constitutes use of force and which force scenarios constitute police misconduct. Many researchers (Bazley, Mieczkowski, & Lersch, 2009; Garner, Maxwell, & Heraux, 2002; Hickman, Atherley, Lowery, & Alpert, 2015; Rojek, Alpert, & Smith, 2012) acknowledge the ambiguity with which police use of force is currently measured. Questions regarding the objective assessment of when, how much, and what type of force should be used in specific police-public encounters raise serious concerns over a universal definition of what constitutes necessary, or legitimated, police use of force. Without an agreed-on rubric of what type and amount of force is necessary in police-public encounters, the justification for levels of force used in certain situations often becomes difficult to determine in any objective, universal manner.

Given the high level of ambiguity regarding how to define and measure police use of force, rather than simply offering a definition of police use of force such as the one provided by the IACP (Police Use of Force in America 2001, p. 14) or using a definition published in some particular research study, then quickly moving on to how police use of force is operationally

defined, I first present each of the conceptual aspects involved in how the IACP constructs its definition (the amount of effort used by police, to compel compliance, from an unwilling subject). I analyze the IACP definition of reasonable force in a step-by-step fashion to better understand and define what constitutes reasonable police use of force in everyday practice. The conceptualization of reasonable force, once established, can then be logically compared with what constitutes unreasonable, or excessive, force. While all three aspects associated with police use of force are inextricably intertwined, I believe that eliminating as much ambiguity as possible regarding how to determine reasonable effort in compelling compliance from unwilling subjects will yield the best understanding of when and why police force is necessary (and, conversely, when it is unnecessary).

Although alternative models, such as leadership teams that ultimately make decisions and tailor directives for a police department, do exist across the United States (Wuestewald & Steinheider, 2006), the police chief of a precinct or department typically provides officer directives on the appropriateness of using force in police-public encounters (Angell, 1971; Krimmel & Lindenmuth, 2001). The legal definition of police use of force stemming from the US Supreme Court's 1989 decision in *Graham v. Connor*⁴ notes that it must be "objectively reasonable in view of all the facts and circumstances of each particular case." As noted by Terrill and Paoline (2012), determining what is "objectively reasonable" is no easy task, whether undertaken by a police chief or a leadership team, the US Supreme Court, or a jury ultimately deciding what is and is not reasonable force under specific circumstances. Reasonable use of force is often shaped within American policing organizations based on currently existing federal and state laws and regulations. Use-of-force policy is put into everyday practice, at least at the conceptual/theoretical level, through an institutionally established use-of-force continuum (how much and what kind of force to use in specific situations). The organizational use-of-force continuum therefore frequently serves as a rubric or metric that helps establish whether reasonable force was used in any given situation. The first concept I address is "the amount of effort used by police," more commonly referred to as the police use-of-force continuum.

Understanding the Use-of-Force Continuum

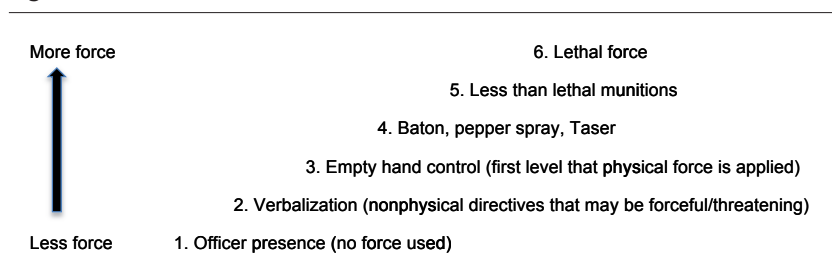
The first issue to examine regarding police efforts to compel compliance from unwilling subjects is whether a universal use-of-force continuum exists. Since most US police organizations are in control of creating and enforcing their own standards as to what constitutes reasonable force, there is a wide variety of use-of-force continuums. Furthermore, not every police

force officially uses a continuum in instructing and assessing what constitutes reasonable force during police-citizen encounters. While not all police organizations implement a use-of-force continuum, an estimated 88 percent do (Smith et al., 2009). A use-of-force continuum is designed to serve as an analytic tool for measuring and examining police use of force relative to the level of an individual's resistance (Terrill, 2001, p. 147). The relationship between amount and type of force used and level of resistance illustrates how various kinds of possible ambiguous factors intersect. That is, one must not only assess if the kind and amount of force used was reasonable but also determine if the individual did in fact resist police directives in such a manner as to warrant a threat or application of such force. This web of ambiguity and uncertainty during police-public interactions led me to ferret out each aspect involved in determining reasonable force individually, at least initially. Even so, due to the nature of police-public encounters, the level and type of force used, the level of subject resistance, and compulsion of compliance will at times overlap, particularly in assessments of actual "real-time" interactions between officers and subjects.

There are many ways of diagramming a use-of-force continuum. One method is linear and steplike; in another, distinct levels of the continuum branch out, depending on the subject's actions (thus an officer could go directly to deadly force if necessary). Another method uses a wheel diagram, which, like a branching diagram, seeks to represent the nonlinear nature of use-of-force decisions. I will first show a traditional steplike continuum model (Figure 1.1) and present a wheel diagram later in the chapter (after I discuss unwilling subjects and compelling compliance). The National Institute of Justice (NIJ) use-of-force continuum (The Use of Force Continuum, 2009) may be displayed as shown in Figure 1.1, with police officer presence in an encounter and no threat or application of force at the bottom, or base, and lethal use of force at the top, or apex, of force options.

Starting at the base of the continuum, officer presence in and of itself is considered the best way of handling compliance during police-public

Figure 1.1 Standard Use-of-Force Continuum



encounters (Tyler & Huo, 2002). Simply having a police officer present may be enough to deescalate a situation and control the encounter. In these situations, no threatening gestures, words, or actions are necessary. At times, officers may need to verbalize commands (e.g., “Please hand me your driver’s license and registration”). Such verbal commands are typically given in a calm voice and remain nonthreatening. At this stage, there is no intersection of force and resistance. Officer presence and initial stages of verbalization are nonforceful. The verbalizations are simply calm directives issued by officers to successfully engage with citizens in various kinds of encounters.

Verbalizations are likely to escalate when officers perceive citizen resistance or noncompliance with directives. Commands such as “Stop,” “Don’t move,” “Get down on the ground,” and “Put your hands behind your back” are often succinct and may be vocalized with increased volume and severity of tone. The kinds of commands that I just mentioned are often seen as the last attempt by an officer to obtain citizen compliance to directives without the use of some level of physical or, depending on the circumstance, lethal force. The final verbalization may indeed be a threat of possible lethal force—for example, “Stop or I’ll shoot.” Encounters do not always follow the continuum in stepwise fashion. Rather, officers make split-second decisions about where along the continuum the encounter is at each moment of the interaction. Sometimes lethal force follows verbalizations; other times the threat to use a Taser or pepper spray achieves compliance, quickly deescalating the situation in the view of the officer issuing nonthreatening verbal commands. The fact that officers engage in public encounters throughout the country daily and must make such decisions “in the moment” makes it paramount that rules and guidelines be in place that help to make their decisions regarding use of force as uniform and objectively assessable (in terms of legitimate or nonlegitimate actions) as possible.

So far my explanation of the use-of-force continuum has not discussed the actual use of physical force. While we have covered two of the six “steps” along the continuum, officer presence and verbalization, verbalization has two aspects. One aspect is simple, calm communication or directives from the officer to the subject. The second component involves commands that are often voiced more loudly (certainly not always), sometimes coupled with the threat of physical force if the citizen continues not to comply. In this sense, the force used is not physical. It is simply verbal (a threat of more severe force if the individual continues to resist officer directives). At the next stage the officer’s use of force becomes physical. The third stage on a standard use-of-force continuum, as seen in Figure 1.1, is empty hand control. Like verbalization, empty hand control has two aspects. The first includes what the NIJ refers to as “soft techniques,” which may include grabbing, holding, or using a joint lock.⁵ Generally,

soft techniques are used to subdue a subject and precede application of an official restraining device such as handcuffs. The second aspect to empty hand control is “hard techniques.” Hard empty hand control techniques would include slaps, punches, or kicks. A main difference between the two is that soft techniques are used to guide or restrain a subject, while hard techniques are designed to strike and stun a subject. Soft techniques are seen to have minimal risk of injury for subjects, while hard techniques are seen to present moderate risk of injury.

A national study of more than 500 state and local police agencies found that most agencies allowed use of only soft empty hand tactics against a subject who refuses, without physical force, to comply with commands (Smith et al., 2009, p. 7), while just under 50 percent of the agencies reported allowing officers to use chemical weapons in such circumstances. A majority of agencies allowed use of chemical agents, hard empty hand tactics (strikes, punches), and conducted energy devices (CEDs) on a subject who tenses and pulls when the officer tries to use handcuffs (40 percent of agencies in the study did not allow for the use of a CED in probe mode in this circumstance). Seventy-five percent of agencies did allow for CED use if the suspect fled, and virtually all agencies allowed for CED use when the subject assumed a boxer’s stance (Smith et al., 2008, p. 8). The use of a baton by officers was reportedly not allowed by most agencies until the subject threatened the officer by assuming a boxer’s stance.

One scenario of such empty hand controls can be found in the following example obtained from a police force ombudsman report published online (Murphy, 2005). On December 5, 2004, at approximately 2:40 a.m., a married couple was being denied entrance into a nightclub by club staff in Boise, Idaho. The couple went into the club anyway. The wife was allowed to remain in the club, but her spouse was denied access and was being escorted outside. A struggle between the man and security staff ensued. Two police officers had arrived on the scene and pulled the subject up the stairs to exit the premises. To do so, one of the officers applied an empty hand technique called a shoulder pin. A shoulder pin involves applying pressure under one of the subject’s shoulders while applying pressure across the opposite side of the subject’s neck.⁶ Once at the top of the stairs, the officers took the man into an alley, where another empty hand technique, a lateral vascular neck restraint (LVNR), was applied. Nonofficers commonly refer to LVNR as a chokehold, but a properly applied LVNR is designed not to completely restrict the subject’s air passage; rather, it impacts the circulatory system by restricting the carotid artery. The man was then handcuffed and eventually charged with trespassing and resisting officers.

The man filed a complaint against both officers with the Boise police department, alleging that the LVNR was unnecessary and unreasonable, as

were both the way he was pulled up the steps and the force applied to his back while he was in a prone position on the ground outside in the alley. The complainant, his wife, the two officers, and the night club manager were interviewed regarding the charges of unnecessary and unreasonable use of force. The event was not recorded by either officer because they claim the event happened too rapidly for them to turn on their recording equipment. The complainant claimed to have two witnesses, but neither could be located to be interviewed. The complainant did see a doctor following his arrest and handed over copies of the medical report. Upon reviewing all evidence, the officers were fully exonerated of all charges by department administrators and the ombudsman. The use of force in this scenario was seen as necessary and reasonable to subdue the subject and to ensure he did not cause harm to others around him. The ombudsman made clear that the fact that the subject's air passage was not completely blocked factored into the decision to exonerate both officers.

I cite the example of a man being pulled up steps by two officers at a nightclub, taken outside, isolated, put on the ground, restrained further, and ultimately handcuffed and arrested because it is not an unusual use-of-force case in the United States. Also, there exists disagreement as to the reasonable use of force between officers and the subject, which not only occurs at the individual level but at the aggregate level as well (the discrepancy in public report data regarding the rate and occurrence of unnecessary force compared to the rate and occurrence of unnecessary force found in officer report data).⁷ Such disagreement raises questions about what type of force is reasonable to use in specific circumstances and who should ultimately evaluate the reasonableness of the force used in a specific officer-civilian encounter.

Since the shoulder pin and LVNR empty hand techniques in the nightclub example were both used to simply restrain or guide the subject, they may be categorized as "soft" techniques.⁸ I now present an example of a "hard" empty hand technique to clarify the differences between soft and hard techniques. The example I present next had a much different outcome compared to the Boise nightclub arrest. In May 2009 at the Twin River Casino in Lincoln, Rhode Island, Donna Levesque had been ordered to leave the premises of the casino due to unruly behavior (Ortiz, 2012). After being handcuffed and seated on the curb of the casino sidewalk, Levesque moved her leg, brushing it against the officer's lower leg. In response to what he later claimed was a kick to his shin from Levesque, Officer Edward Krawetz kicked the handcuffed suspect in the head with enough force that her body fell toward the cement, her head banging off the sidewalk. Unlike the empty hand control in the Boise example, the kicking incident involving Officer Krawetz was video-recorded. The clearest video of the incident came from a casino security camera. The casino footage of the incident was subsequently

played on local television news broadcasts and posted to YouTube, and photos of the incident were published on Facebook.

A 12-year veteran of the department, Krawetz was suspended without pay and eventually tried for assault with a dangerous weapon. He was eventually convicted of the charge in March 2012 and sentenced to 10 years in prison. The entire 10-year sentence, however, was suspended as long as Krawetz completed anger-management counseling. Officer Krawetz ultimately resigned from the Lincoln police force on August 15, 2012. The Twin River Casino incident is merely one example of hard empty hand techniques, which are used thousands of times in the United States by police officers every year (Eith & Durose, 2011). There are numerous examples of video-recorded encounters on YouTube of grabbing, punching, and/or kicking maneuvers against subjects that may seem excessive at least on the surface. For example, in a more recent (June 5, 2015) case in McKinney, Texas, shown on media outlets throughout the world, a telephone video recording posted on YouTube shows a white male officer, Eric Casebolt, grabbing a 14-year-old bikini-clad African American female who is standing on a sidewalk. The officer grabs her hair, twisting her neck, forcing her to the ground, and forcing all of his weight on her by placing both of his knees on her back.⁹ While the McKinney chief of police acknowledged Casebolt's tactics were unnecessary and excessive, referring to them as "indefensible," the vast majority of empty hand techniques, both soft and hard, employed by officers throughout the United States in any given year are ultimately determined to be within departmental policy. For example, the Los Angeles Police Department's (LAPD) 2010 use-of-force annual report indicates that over 99 percent of the 588 police use-of-force incidents involving strikes, kicks, and/or punches in that year were found to be within policy guidelines (Los Angeles Police Department 2010 Use of Force Annual Report).

Discussion of hard and soft use-of-force techniques and departmental policies and procedures that highlight which are appropriate under what circumstances is central to police-subject contact outcomes. That is, determination of which force option is reasonable given the circumstances an officer faces stems from the local departmental guidelines. While many police departments use current federal and state rulings regarding police use of force as guidelines for their policies, departmental history also factors in. For example, the LAPD banned the use of LVNR by officers in 1982 after the department experienced 15 in-custody deaths across a span of seven years following application of the technique against subjects (Cannon, 1999). With a change in policy resulting from the in-custody deaths, officers were much more likely to use baton strikes rather than other techniques, such as an officer swarm-and-subdue effort. Local tax cuts resulted in inadequate funding for the LAPD in the early 1990s, resulting in the

department's experiencing staff constraints and inadequate training of recruits (Cannon, 1999). One such example of improper or inadequate training was illustrated by LAPD officer Laurence Powell, who on video demonstrated a lack of understanding of how to properly use a baton to subdue a resisting subject, with Cannon (1999, p. 81) noting, "Powell was a uniformed accident in waiting and an example of official negligence at its worst." Ultimately department decisions about which force options should be used to subdue a resisting subject are influenced by ongoing historical, social, and economic concerns and are then put into practice, for good or, in rare instances, for ill, by the officers working the beat.

Having examined the first three stages of the standard force continuum presented in Figure 1.1 (officer presence, verbalization, empty hand control), I now focus specific attention on the fourth stage of police use of force: employment of a baton, pepper spray, or Taser. One may question if use of pepper spray or a Taser would have been deemed unreasonable in the Boise nightclub example. Judging from the use-of-force continuum presented in Figure 1.1, open-handed techniques represent less force than a baton, pepper spray, or Taser. Research, however, suggests otherwise, at least when injuries to civilians and officers are considered. For instance, one study of 562 use-of-force events (not involving firearms) that occurred across a two-year period in Calgary, Alberta, Canada (Butler & Hall, 2008), found oleoresin capsicum (OC) spray to be the safest method of force to use in subduing suspects. The active ingredient in OC spray is capsicum, which is extracted from chili peppers. Thus, OC spray is commonly referred to as "pepper spray." The use of chemical weapons dates back thousands of years, with sulfur being a major chemical compound traditionally used in chemical warfare. OC spray was developed in 1960 at the University of Georgia. It was initially sold commercially in 1963 as Halt Animal Repellent. Not until 1989, after three years of research, was OC spray authorized by the FBI for use among special police units, including Special Weapons and Tactics (SWAT) teams. With FBI endorsement, police organizations began using pepper spray, with over 3,000 officially using the product in the early 1990s. Many people are familiar with it. Pepper spray may be contained in a canister. Standing several feet away, one may aim the canister at someone's eyes and disperse the spray. OC contact with a person's eyes causes immediate aggravation, with the afflicted person involuntarily closing his or her eyes. This response enables officers to more easily restrain (e.g., handcuff) subjects without additional, more dangerous (in terms of potential subject and/or officer injury) use of force.

Use of a baton was the most dangerous technique included in the Calgary study for suspects and officers (25.8 percent outpatient hospitalization; 3.2 percent inpatient hospitalization). While the baton, or truncheon, has a long history in police work dating back at least to the nineteenth century,

there were some modifications of the device in the 1970s. The baton flashlight was patented in 1973, while the collapsible baton was patented in 1977, and the baton with a rotatable cross handle was patented in 1979. Other patents have followed, but the flashlight, collapsible, and rotating cross handle batons are the three major forms police currently use. As Figure 1.2 shows, an officer often carries a variety of force options, including a firearm, pepper spray, and a baton. With this variety of options, including verbalizations and empty hand techniques, an officer should apply the appropriate force option in any given situation based on training (learning the use-of-force continuum, participating in simulations of situations that officers may face) coupled with in-the-moment decision processes.

Empty hand physical controls such as “nerve motor point striking and stunning techniques and arm bar takedowns” were the second most dangerous techniques used in the Calgary study (Butler & Hall, 2008), with 13.9 percent of cases requiring outpatient medical care and 4.1 percent entailing hospitalization. Pepper spray resulted in only 1 case of outpatient hospitalization and no inpatient cases. Interestingly the same results held true for the use of LVNR (one outpatient case, zero inpatient cases), perhaps due to infrequency of employment. The results from the Calgary study coincide with numerous studies in the United States that document the highest non-firearm injuries to citizens and officers when “hands-on” tactics are used

Figure 1.2 Example of Typical Police Belt with Equipment

Officers of the Los Angeles Police Department wear a utility belt that contains a variety of weapons and other tools and devices that officers may need during their regular patrol duties when they must make quick decisions as to which, if any, to use. For instance, a standard LAPD belt contains a firearm that is clear of any obstruction, OC spray, two magazine clips filled with ammunition, handcuffs, a key clip with a handcuff key and a station key, a PR-24 Monadnock 24-inch baton, a Taser X26 inside a leather holster, and a radio.



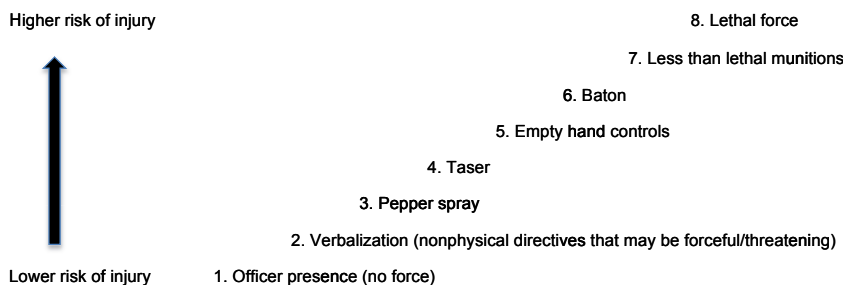
Credit: https://commons.wikimedia.org/wiki/File:LAPD_officers.jpg

(Garner, Maxwell, & Heraux, 2002; Smith, Kaminski, Rojek, Albert, & Mathis, 2007) instead of Taser or pepper spray deployment (Alpert & Dunham, 2004; Holt, Kernic, Lumley, Wolf, & Rivara, 2002; Wahl, Schreyer, & Yersin, 2006). Some evidence (MacDonald, Kaminski, & Smith, 2009) suggests that Taser deployment is just slightly more likely to cause injury to subjects than pepper spray use but results in fewer officer injuries compared to incidents where pepper spray is deployed. While approximately 39 percent of all use-of-force incidents result in at least minor injury to subjects, the number drops to 22.1 percent when pepper spray is used and 25.1 percent when a Taser is deployed. Hands-on tactics result in injury to subjects 48.9 percent of the time (MacDonald et al., 2009).

The findings from the 2008 Calgary use-of-force study and from the many studies conducted in the United States indicate that the use-of-force continuum model presented in Figure 1.1 is not optimized to reduce injury risk. Ultimately, using pepper spray or a Taser X26 is likely safer than employing hands-on techniques (except perhaps LVNR¹⁰) and certainly safer than using a baton. Thus, a revised continuum (Figure 1.3) based on the findings from the Calgary study and numerous studies conducted in the United States might look something like Figure 1.3, where force options escalate in terms of their risk of injury to subjects or to the officer.

The differences between the continuum in Figure 1.1 and the revised continuum in Figure 1.3 reflect a change in emphasis from level of force to risk of injury both for officers and citizens, as well as a more detailed separation of force options based on hospitalization (both outpatient and inpatient) rates. These changes are not minor. In fact, if adopted by policing organizations, the revised continuum would have very practical implications. For instance, rather than employing a wide variety of hands-on tactics, per the revised continuum police should first resort to pepper spray (Stage 3), then a Taser (Stage 4), and then possibly the specific

Figure 1.3 Revised Use-of-Force Continuum Based on Social Science Data



empty hand tactic of an LVNR if necessary (Stage 5).¹¹ As reported in previous research in both Canada and the United States, the two specific force tactics of pepper spray and LVNR result in minor health incidents for both citizens and officers and virtually no hospitalization, either outpatient or inpatient. Also, with pepper spray, expert training in LVNR, and additional training in the Taser X26, the baton as a force option seems redundant, therefore unnecessary. It has been reported (Smith et al., 2009) that many officers in police agencies across the United States rarely use a baton to compel compliance from unwilling subjects. Per the majority of departmental procedure and regulations in departments across the United States, officers should use a baton only if the subject assumes a boxer stance, and even in these situations, officers are much more likely to use a CED or pepper spray. Many officers in fact have stopped carrying a baton, keeping it inside their vehicles (Smith et al., 2009).

In assessing previous research, one can conclude that eliminating the use of a baton in American policing would greatly reduce nonfatal injuries during individual police-citizen encounters while not decreasing policing effectiveness or safety. If confronted with a resistant subject, officers can then decide between whether to use pepper spray (slightly fewer subject injuries compared to Taser) or to discharge their Taser (slightly fewer officer injuries compared to pepper spray) to compel subject compliance. If the officer perceives the subject as an attack threat, then Taser deployment may be preferable to use of pepper spray. If the subject is not seen as an immediate attack threat, then, if national data reports in Canada and the United States on subject injuries are to be trusted, the officer should first use pepper spray. Generally, hard empty hand techniques (punching, slapping, kicking) should be avoided to reduce injury rates both for officers and suspects.

While listed at the same level of force on the standard continuum, as seen in Figure 1.1, in terms of the injuries caused by each, officer use of pepper spray results in the fewest subject injuries, the use of a baton generates by far the greatest number of injuries for both subjects and officers, and the injury rate due to use of a CED such as the Taser X26 falls between the other two tactical force devices for subjects and is the lowest of the three for officers. One police department in Tallahassee, Florida, relaxed its policy on officer use of pepper spray (downgrading it from level four on the continuum, along with flashlights, batons, and stun guns, to level three, physical control techniques) (Morabito & Doerner, 1997). Results showed that male, college-educated veteran police officers were more likely to use pepper spray over other hands-on techniques. As impending threat of subject attack increased, the use of pepper spray decreased, with officers choosing to move toward personal weapons. In keeping with other research I have presented, the Tallahassee Police Department found pepper spray

resulted in fewer officer and subject injuries compared with other hands-on techniques and personal weapons.

Compelling Compliance from Unwilling Subjects

Perhaps unsurprisingly, it has been shown that a subject's actions influence police officer decisions (Black, 1971; Brown, M. K., 1981; Garner, Maxwell, & Heraux, 2002; Lundman, 1979; Mastrofski, Reisig, & McCluskey, 2002; Sykes & Clark, 1975; Worden & Shepard, 1996). The most powerful predictor of subject resistance at time of arrest is subject demeanor (Crawford & Burns, 2002). Police officers are extremely sensitive to subjects' words and actions that undermine the law enforcement officer's authority and/or legitimacy in public interactions (Reisig, McCluskey, Mastrofski, & Terrill, 2004). Disrespectful behavior and language on behalf of the subject significantly increase the odds that a police officer will use force to subdue him or her and compel compliance to officer directives (Mastrofski et al., 2002).

Previous field research examining 12,000 police-public encounters across 12 police beats¹² in Indianapolis and St. Petersburg (Reisig et al., 2004) looked at factors that could help predict what kind of suspects would be most likely to exhibit disrespect to the police. The researchers defined passive disrespect as ignoring officer requests or commands. Active disrespect included derogatory gestures, name calling, slurs, and derogatory comments about the officer, the officer's family, or the profession of law enforcement. Subject disrespect was found to be present in 15 percent of all the observed police-public encounters in the study (Reisig et al., 2004). Results indicated that subjects in Indianapolis and St. Petersburg were almost twice as likely to be actively disrespectful as they were to exhibit only passive disrespect. Regarding police use of force, results indicated officers used some level of force (including verbal commands) in 59 percent of police-public encounters (verbal commands were used in 29 percent of all police-public encounters; threats, 8 percent of the time; restraint techniques, 21 percent of the time; and impact methods [punching, kicking, etc.] only 1 percent of the time). It was further found that police were disrespectful (belittling, cursing, using slurs or obscene gestures) to subjects during 5 percent of all police-public encounters (Reisig et al., 2004). These data are significant in beginning to understand the dynamic nature of police-public encounters, for although police generally only use physical force in roughly 1.5 percent of police-public encounters in the United States, there appears to be a much higher frequency of officers' threatening force and using disrespectful language. The starting point for reducing cases dealing with possible excessive use of force by police in the United States therefore

may in fact be reducing the frequency of verbal threats and eliminating derogatory comments during police-public encounters.

As the number of officers and/or subjects on the scene increases, so does the likelihood that a subject will act disrespectfully, with African American (odds that an officer will experience disrespect from the subject increase by 39 percent when the subject is African American) and low-income subjects most likely to behave disrespectfully toward police (Reisig et al., 2004). One study analyzing subjects who resisted arrest within the district boundaries of a police department in Southern California found that subjects in higher-risk beats (neighborhoods with higher numbers of police service calls) were more likely to resist arrest (Belvedere, Worrall, & Tibbetts, 2005). The Southern California study, in congruence with the findings in other areas of the United States (Reisig et al., 2004), also found that black suspects were more likely to resist arrest compared to white or Hispanic subjects.

When controlling for neighborhood disadvantage (percentage of households headed by a single female; percentage of households in neighborhoods below the poverty line), the statistical significance of subject race disappeared in Indianapolis and St. Petersburg (Reisig et al., 2004). Interestingly, binary logistic models indicated that verbal commands, threats, and restraining techniques are inversely related to subject disrespect, while impact techniques are positively associated with subject disrespect (Reisig et al., 2004). In other words, less severe forms of officer force reduced subject disrespect in Indianapolis and St. Petersburg, while more severe forms of force were likely to increase subject disrespect, further aggravating the situation. Also, the odds an officer will experience subject disrespect go up quite significantly when the subject is mentally impaired, intoxicated, or experiencing/expressing heightened emotion (Reisig et al., 2004). Intoxication and heightened emotion are the two strongest predictors of subject disrespect. The researchers suggest that oral tactics may reduce disrespect among subjects feeling heightened emotion but have no significant impact on those who are intoxicated. Physical force tactics significantly increase the odds of disrespect among intoxicated and emotional subjects (Reisig et al., 2004).

While subject disrespect increases the odds of officer disrespect and use of force, the analysis of police-subject encounters in Indianapolis and St. Petersburg found that police disrespect and use of force do not cause subjects to exhibit disrespect toward the officer. A similar study of systematic observations conducted in Cincinnati, Ohio, however, found that police disrespect did in fact increase the likelihood of subject disrespect and noncompliance with officer directives (Dai, Frank, & Sun, 2011). Both studies collected data at the same general time (1996–1997). Considering that both studies used similar methodology, conceptualization, and statisti-

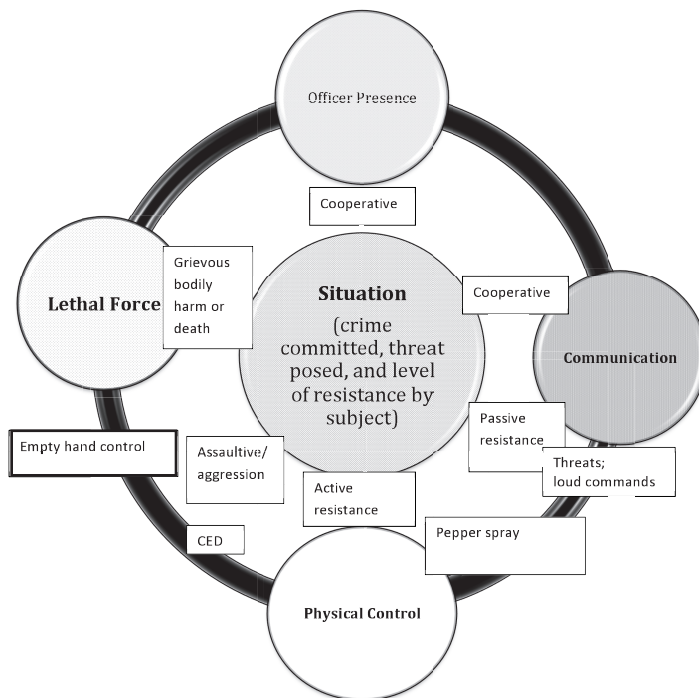
cal analysis procedures, I wondered if the differences in effects of officer disrespect on the likelihood of subsequent subject disrespect and noncompliance could at least be partially explained by the fact that the two studies differed in terms of police department location (Indianapolis and St. Petersburg versus Cincinnati). For example, previous research conducted in Cincinnati neighborhoods (MacDonald, Stokes, Ridgeway, & Riley, 2007) indicates that race remains a significant predictor of perceptions of unjust police practices, even after considering the economic and other social conditions of the neighborhoods (which was not the case in Indianapolis and St. Petersburg). In fact, in 2002 the Cincinnati Police Department agreed to implement a variety of changes (including adopting a community policing strategy) to better engage the community (Riley et al., 2005). These changes in the Cincinnati police department in the twenty-first century stem from police-community issues reported in the 1990s (and earlier). For example, one pertinent finding regarding police-subject interaction in Cincinnati during the 1990s was that African American residents were significantly more likely to report being “hassled” by the police than other racial/ethnic groups (Browning, Cullen, Cao, & Kopache, 1994). In other words, neighborhoods policed by departments with a recent history of racial disparity in policing practices (e.g., search and seizures, traffic stops, and/or arrests for behavior known not to be racially or class specific [drug possession]) may result in greater subject resistance, particularly if officers exhibit disrespect toward the subject.

While it is generally accepted that strong verbal commands help reduce subject disrespect and noncompliance, an important cultural component in specific areas of the country (African American residents feeling they are targeted for police harassment) may actually reverse the finding that lower forms of force (warnings, threats, restraining techniques) help reduce noncompliance and subject disrespect. This feeling by some citizens of differential treatment in specific US locations may increase incidents of disrespect during police-subject encounters when officers engage in verbal and/or restraining tactics, which in turn may increase the likelihood that physical or lethal force ultimately gets used during the encounter. If so, this would indicate that different areas of the country require a different use-of-force protocol that takes into consideration the likelihood that certain low forms of force will result in greater subject noncompliance rather than greater compliance.¹³

As mentioned, effort to compel compliance often follows a use-of-force continuum. Figure 1.3 provides a stepwise diagram of less harmful forms of force up to the most harmful (deadly force). It is difficult, however, to assess the reasonableness of any level of force without assessing the level of resistance from the subject. To take subject resistance and situation into account, a wheel diagram of the use-of-force continuum seems

appropriate as it better shows the dynamic nature of police-public encounters (see Figure 1.4). If police use of force is defined as “the amount of effort required by police to compel compliance by an unwilling subject,” we see that officer presence entails the least amount of effort required in this regard. Often it alone will be enough. If not, the officer may have to give directives and communicate with subjects. If the subject ignores the officer, the officer may raise her voice or perhaps issue a threat (e.g., “Leave this sidewalk, or I am going to arrest you”). If the person continues to resist or physically motions in a combative way against the officer, the use of pepper spray would seem reasonable. If the subject shows heightened aggression or pepper-spraying does not terminate resistance, then it would seem reasonable to deploy a CED such as the Taser X26. At this point, virtually all scenarios of subject resistance not involving a firearm should be under control. In rare instances where deployment of a

Figure 1.4 Police Use-of-Force Wheel



The officer continually assesses the situation and acts in a reasonable manner to ensure officer and public safety.

CED does not enable the officer to restrain the subject, empty hand controls may be necessary.

One critical aspect when assessing the reasonableness of an act of police use of force is to limit the impact of emotion, history, and socially constructed “threats” on the decision-making process. Police-public interactions that result in use of force, particularly physical force, can become highly emotional. Incidents that are video-recorded and posted on social media and reported throughout news channels can generate emotional arguments long after the event. Historical instances of discrimination within a department or city may also impact judgments regarding the “reasonableness” of police officers using force against unarmed suspects. Also, the characterization of some places and some people as “extremely dangerous” at times rests more on socially created perceptions than on observable facts (e.g., the person has a loaded firearm). Policing is, at minimum, a potentially dangerous job. It has consistently resulted in fewer on-the-job fatalities, however, than other occupations, such as fisherman, logger, aircraft pilot, trash collector, roofer, iron and steel worker, construction laborer, farmer, truck driver, power line installer and repairer, and miner (US Department of Labor, 2014). The fatalities for law enforcement did increase in 2014 compared with past years after 2001 (2002–2013), although a preliminary FBI report notes that the number of officers feloniously killed in the line of duty in 2015 decreased to 41 compared to 51 in 2014. By region in 2015, 19 officers in the South, 9 officers in the West, 5 officers in the Midwest, 4 officers in the Northeast, and 4 officers in Puerto Rico died as a result of criminal acts (2015 Law Enforcement Officers Assaulted & Killed).

Overall on-job homicide numbers may not provide much insight into the overall level of risk involved in a given occupation since only a few occupations result in a substantial rate of on-site homicides (e.g., store clerk, bank teller, law enforcement officer).¹⁴ The Department of Labor Statistics and the US Census Bureau provide rates for both nonfatal and fatal occupational injuries, which provides a greater understanding of total risk an occupation has for individuals working in that field. In terms of nonfatal occupational injury rates per 100 full-time workers (Bureau of Labor Statistics, 2015), police work is the occupation with the third-highest risk (11.3) for sustaining an injury, with aquaculture farming posing the highest risk (13.6), and nursing care, the second highest (12.0). Various kinds of vehicle, home, and furniture manufacturing, along with fire rescue (10.2), resulted in approximately 10 percent of workers in those specific fields reporting a nonfatal injury on the job in 2015. In terms of fatal injuries, however, many occupations possess a higher fatality rate than policing. The fatal injury rate for police and sheriff’s patrol officers is 11.7 per 100,000 full-time employees in that occupational sector. There were 21 different occupational sectors with higher injury fatalities than police work for 2015,

including logging (132.7), fishing (54.8), piloting and flight engineering (40.4), roofing (39.7), refuse and recyclable material collection (38.8), truck driving/sales work (24.3), farming (22.0), power-line installation (20.5), and mining (19.3). In other words, when overall fatalities per occupation are assessed (beyond on-site homicides) the level of risk involved in police work is not as high as several other kinds of work.

One may argue that although other occupations exist where the death rate due to accident is higher than it is in policing, police work is the only occupation where one risks becoming a victim of homicide, but that is not the case either. In 2013 there were more on-job homicides of retail traders, food and beverage store employees, public transportation workers, finance and insurance employees, hospitality workers, and food-service workers than there were of police officers (US Department of Labor, 2014), whereas in 2014 only food and beverage store workers, transit workers, and retail sales workers had a higher homicide total than police officers (Bureau of Labor Statistics, 2015). Thus it is critical to analyze the data on the actual dangers of police-public encounters rather than to continue constructing the job of policing as extremely dangerous simply because we define the people (mostly US citizens) officers come into frequent contact with as hostile, dangerous, and possibly murderous.¹⁵

Despite events in Baton Rouge, where an individual, Gavin Long, shot six police officers (July 17, 2016), and in Dallas (July 7, 2016) in which an individual, Micah Johnson, killed five officers and injured nine others, policing, nationally, is no more hazardous today (according to official injury and fatality rates) than it has been in the past. The ready supply of firearms has not seemed to increase officer fatalities. In fact, an officer is generally more likely to die in a motorway accident on the job than as a result of a subject using violence against him (US Department of Labor, 2014). Still, officers are indeed killed by subjects each year, and looking at Figure 1.4, one can see that officers must quickly assess a variety of situations accurately and then deal with each with the appropriate level of force to ensure subject compliance. One mistake in judgment could potentially result in an injury or fatality for the officer or others, although this outcome is highly unlikely according to national statistics. Of course, it takes just one misstep by an officer to lead to tragedy. As I have heard antiterrorist experts say, law enforcement must be right 100 times out of 100, while the “bad guys” (terrorists) need succeed only once out of potentially thousands of attempts. We as US citizens should ask, however, how much discretion in use of force (not in violation of a person’s constitutional rights) we should permit when officers are weighing the small probability that the subject is indeed dangerous and ready to attack police or others. I will wait to answer this question until the conclusion of this work, once I have thoroughly analyzed the data and

reviewed the major previous research articles related to the several topics and contexts of police-subject contacts.

In actual practice, police trainers often note that each force situation is unique, and concepts like continuums can provide only general guidance¹⁶ because of the myriad environmental situations patrol officers face on a routine basis. For example, it is widely known that crime levels rise in areas near public bus stops (Hart & Miethe, 2014). Contact within three blocks of a foreclosure has been found to be the most significant predictor of officer injury in Chicago (Caplan, Marotta, Piza, & Kennedy, 2014). Outside actual high-crime sectors within urban areas, potential danger in police work frequently increases with subject contact on highway shoulders, under an otherwise deserted overpass in the middle of the night, on stairs, on an apartment balcony during a raucous party, or during a domestic disturbance.

Officers must also consider other environmental factors, including lighting, surface area, and the presence of multiple officers and/or suspects, during their official patrol duties. For example, one study of Orlando Police Department files indicates that officer injuries were more likely to occur when multiple officers were involved in the contact, when the offending subject was female, was larger than average in terms of body mass index, or had recently consumed alcohol (Covington, Huff-Corzine, & Corzine, 2014). Ultimately officers must assess the injury risk factors they face during contact in an ongoing fashion, and thus their responses/actions are always subject to fluctuation. Rather than proceeding along a steplike continuum, whereby as a situation escalates, so does the level of force necessary to maintain order, police decisions entail deciding which law enforcement “tool” in an officer’s toolbox to use given the environmental, situational, and other contextual circumstances of the current police-subject encounter. In other words, we can look at the wheel diagram in Figure 1.4 as a toolbox; officers must assess whether their presence, vocal commands, or another force option (e.g., baton, flashlight, fists, Taser X26, firearm) is the most appropriate tool, given the specific set of conditions they are currently facing.

In this chapter I have attempted, by synthesizing previous social scientific research on the topic with certain official federal, state, and city reports on policing practices, to define police use of force and begin to assess what levels of force are appropriate in specific kinds of situations. Interestingly, a seemingly simple concept on the face of things becomes extremely nebulous when examined in detail. For example, if we take the IACP (Police Use of Force in America 2001, p. 14) definition of police use of force as “the amount of effort required by police to compel compliance by an unwilling subject,” we find multiple layers of ambiguity in terms of how one objectively determines what amount of effort is reasonable. Coupled with that, how does one determine if a subject is “unwilling” to comply? Furthermore,

if an officer faces an unwilling or disrespectful but unarmed subject, how much and what type of “effort” is appropriate to compel compliance? In truth, there seems to be very little universal agreement on these issues, ultimately leaving enormous leeway for officer discretion, due in large part to the enormous interpretive license officially granted by federal courts with regard to using force against subjects. Bearing in mind all the information on use-of-force continuums and the level of occupational risk officers face, let us now turn to the ways the US federal courts have guided police use of force since 1985.

Notes

1. Who, it should be noted, may be citizens of the aggressive nation, that is, “rogue” citizens who have become officially labeled war criminals.

2. I do not want to imply that the use of state-legitimated force is the only basis for determining a “just” society. For example, reducing economic inequality and striving to ensure all citizens have equal access to certain services such as health care would also seem important in determining the level of justice contained within a society. I do want to imply, however, that if state representatives unjustly (violate one’s constitutional or universal/global rights) use force upon members of the public without penalty for doing so, then the state is by default unjust at its core (i.e., politically corrupt).

3. For example, is using a conducted energy device (CED) such as a Taser X26 necessary if the subject refuses to put her hands behind her back? Is the use of a CED more appropriate than attempting to restrain the subject using a wrist-lock technique? If so, is one discharge from the CED sufficient? When are two discharges from a CED required to obtain citizen compliance to police directives? If the suspect has already been handcuffed, does that impact one’s determination of how many CED discharges constitute reasonable force? Does the number of officers present at the scene have any impact on what type and amount of force is deemed reasonable?

4. For a more detailed discussion of *Graham v. Connor* (1989), see Chapter 2.

5. Joint locks are often used in the Japanese martial arts, such as Aikido, or in Chinese martial arts, such as Chin Na. Joint lock techniques may include manipulation of the wrist, elbow, neck, knee, or ankle (among other body parts). In policing practices, any of these kinds of joint locks may be used (if authorized by the department). Several types of locks may be used during one encounter. For example, a wrist lock may precede an elbow lock, which in turn may precede handcuffing the subject. Thus, wrist restraint leads to elbow and arm restraint, leading to the application of hand-restraining devices.

6. Thanks to the wonders of YouTube, all use-of-force techniques can be examined visually. Here is a video demonstrating a shoulder pin: “Shoulder Pin to Guillotine—Jujitsu—Wrestle,” video posted to YouTube by GrapplingMechanics on December 1, 2012, <http://www.youtube.com/watch?v=wG4UVEHkIOU>.

7. This discrepancy between public reporting and officer reporting of unnecessary use of force will be discussed in detail in Chapter 3.

8. It should be noted, however, that LVNR involves at least three levels of pressure based upon the level of subject resistance: mild, moderate, and severe resistance requires various levels of LVNR pressure. For this reason, the LVNR can also be defined as a hard empty hand control technique.

9. Only a few days after the incident in question, the McKinney, Texas, chief of police, Greg Conley, would hold a press conference on such media outlets as CNN to announce Officer Casebolt's resignation. Interestingly, little was said about the two officers who return to the video recording at 5:50 escorting a handcuffed young man who is visibly gasping for air, his mouth covered in blood. Chief Conley later stated to media reporters that there were "no reported injuries" from the incident.

10. Of course, this is only if the LVNR is properly applied, not restricting subject airflow, the risk of which may outweigh the benefits of its potentially safe use when properly applied.

11. In many police departments across the United States, the use of an LVNR maneuver is no longer deemed a reasonable application of force. This may be due to improper application of the maneuver where the subject's air passage becomes restricted. The proper application of a LVNR technique, as shown in previous studies, almost never results in subject injury. Another likely reason is that the Taser X26 has effectively replaced the need for hands-on techniques such as LVNR to subdue subjects.

12. As suggested by the Reisig et al. 2004 study and illustrated by the 98 total police beats in Indianapolis and St. Petersburg included in the study, police beats are frequently drawn to best reflect the boundaries of existing neighborhoods in each locality, so the terms "beat" and "neighborhood" may often be interchangeable in policing research.

13. It should be noted that while videos of police force against a variety of citizens across various encounters have been posted online for years, the recent shootings of Alton Sterling in Baton Rouge, Louisiana (July 5, 2016), and Philando Castile in Falcon Heights, Minnesota (July 6, 2016), and the "accidental" shooting of Charles Kinsey while he was lying on the ground with his hands spread in the air in North Miami, Florida (July 18, 2016), seem to have finally sparked a national debate, and therefore it may be that police are viewed in more universal terms (regardless of location) at the moment than they have been previously.

14. Perhaps because of the rarity of on-job homicides, the rates would all be a fraction of 1 percent, thus provide little insight into their differences by occupation.

15. It should be noted that policing does present real physical risk and interpersonal challenges on a regular basis in large part because police engage real-life criminals in various hostile environments and often encounter people when they are intoxicated, combative, and/or experiencing a mental health crisis. Officer equipment (particularly ballistic vests), training, and tactics all mitigate the risks police officers confront. In most instances in which officers are presented with physical threats, they manage them without injury to themselves or others because safety management is part of what policing is about (maintaining/restoring the safety of self and others).

16. Although she or he of course should receive none of the blame for any misstatements in this book, I would like to thank and recognize the reviewer who brought to my attention the concern with environmental factors that law enforcement officers face during their regular shift duties.

2

The Federal Courts and Police Use of Force

When internal review or a police department ombudsman/external review committee cannot adequately settle disagreement over the amount of force a police officer used to compel subject compliance, then the determination of the officer's liability/nonliability for specific officer-subject encounters may ultimately end up in the judicial system, be it at the local, state, or federal level. Of course, either side of the encounter (police officer/department/department authority on one side and subject/subject's representative [e.g., a daughter or parent] on the other) may appeal an original decision, with the ultimate authority in interpreting federal constitutional law, the US Supreme Court, examining certain cases. While both state and federal laws govern criminal law, the legal principle of preemption means that federal law preempts state law when the two conflict. The Supreme Court, when it decides to hear a particular case by writ of certiorari, definitively determines the liability of the state or its representatives for infringing civil liberties protected by the Constitution.¹ In other words, if there remains serious disagreement regarding whether an officer's actions violated an individual's civil liberties, the US Supreme Court may settle the issue if at least four of its justices determine the case merits review. This puts particular onus on the Supreme Court to eliminate ambiguity regarding use of force against citizens where the action of the state (often represented by police officers) may have violated an individual's constitutional rights. Clearly then, disagreements between the state and its citizens regarding what constitutes justified force and what state actions violate citizens' civil liberties are ultimately within the purview of the US Supreme Court. I have constructed a simple 30-year list of landmark US Supreme Court decisions involving police use of force (Table 2.1). I will briefly

Table 2.1 Supreme Court Use-of-Force Decisions, 1985–2015

1985	<i>Tennessee v. Garner</i>
1989	<i>Graham v. Connor</i>
1990–2000	No use-of-force cases heard by the Supreme Court
2001	<i>Saucier v. Katz</i>
2004	<i>Brosseau v. Haugen</i>
2007	<i>Scott v. Harris</i>
2014	<i>Plumhoff v. Rickard</i>
2015	<i>Rodriguez v. United States</i> <i>City and County of San Francisco v. Sheehan</i>

describe each case and the binding decisions handed down by the Supreme Court after hearing the case.

Supreme Court Cases Involving Use of Force: 1980s

The two landmark Supreme Court decisions pertaining to police use of force from the 1980s are *Tennessee v. Garner* (1985) and *Graham v. Connor* (1989). The death of Edward Eugene Garner occurred on October 3, 1974, while Officers Leslie Wright and Elton Hymon were responding to a burglary call in Memphis, Tennessee (Blume, 1984). A neighbor told them she had heard glass breaking next door. Upon approaching the house, they saw someone begin to run in the back, attempting to climb a fence. Hymon identified himself as a police officer and ordered the person to halt. The subject ignored the command and tried to jump the fence. Officer Hymon fired his weapon once, striking 15-year-old Edward Garner in the head. Garner was unarmed. He died shortly afterward in the hospital. Officer Hymon’s actions were in line with existing state and local laws that authorized and instructed officers to use deadly force to apprehend a fleeing felon after exhausting all other reasonable options. Garner’s father filed a civil rights action against the Memphis Police Department, the city, the mayor, the director of police, and Officer Hymon. The district court ruled in favor of the defendants on all counts. On appeal, the Sixth Circuit Court dismissed claims against all individual defendants but remanded the case back to the district court with instructions to reconsider whether the municipality was entitled to qualified immunity because it had set its policies in accordance with state law, and if not, whether the use of deadly force to capture a nondangerous fleeing felon was constitutionally permissible. The district court found that using deadly force against nondangerous felons was indeed constitutionally permissible; therefore, the immunity issue did not apply since no constitutional rights had been violated (Blume, 1984).

Another appeal sent the *Garner* case back to the Sixth Circuit, where it was decided that the Tennessee deadly force statute violated the Fourth and Fourteenth amendments to the Constitution (Blume, 1984). Agreeing to hear the case in 1984, the US Supreme Court upheld the circuit court's decision that "there can be no question that apprehension by the use of deadly force is a seizure subject to the reasonableness requirement of the Fourth Amendment" and that shooting a fleeing suspect is unreasonable. As the majority opinion written by Associate Justice Byron R. White states,

The use of deadly force to prevent the escape of all felony suspects, whatever the circumstances, is constitutionally unreasonable. It is not better that all felony suspects die than that they escape. Where the suspect poses no immediate threat to the officer and no threat to others, the harm resulting from the failing to apprehend him does not justify the use of deadly force to do so. It is no doubt unfortunate when a suspect who is in sight escapes, but the fact that the police arrive a little late or are a little slower afoot does not always justify killing the suspect. A police officer may not seize an unarmed, nondangerous suspect by shooting him dead. The Tennessee statute is unconstitutional insofar as it authorizes the use of deadly force against such fleeing suspects.

The Supreme Court noted that shooting a fleeing suspect is not, however, unconstitutional on its face. Where the officer has probable cause to believe that the suspect poses a threat of serious physical harm, either to the officer or to others, using deadly force to prevent escape is not constitutionally unreasonable. Thus, if the suspect threatens the officer with a weapon or there is probable cause to believe that he has committed a crime involving the infliction or threatened infliction of serious physical harm to another person, deadly force may be used if necessary to prevent escape and if, where feasible, some warning has been given.² In writing the dissenting opinion, Associate Justice Sandra Day O'Connor countered, "The clarity of hindsight cannot provide the standard for judging the reasonableness of police decisions made in uncertain and often dangerous circumstances. Moreover, I am far more reluctant than is the Court to conclude that the Fourth Amendment proscribes a police practice that was accepted at the time of the adoption of the Bill of Rights and has continued to receive the support of many state legislatures."

Because burglary is a serious and dangerous felony, the public interest in the prevention and detection of the crime is of compelling importance. Where a police officer has probable cause to arrest a suspected burglar, the use of deadly force as a last resort might well be the only means of apprehending him or her. With respect to a particular burglary, subsequent investigation simply cannot represent a substitute for immediate apprehension of the criminal suspect at the scene. The main issue debated in *Tennessee v. Garner* as it pertains to the Fourth Amendment is whether

to give precedence to protection of the individual against unreasonable seizure (e.g., deadly force) or to the possibility that a person is a danger to others (thus providing an officer with probable cause to use deadly force).

I have laid out excerpts from the majority and dissenting opinions in *Tennessee v. Garner* because, as hopefully will become clear, the juxtaposition of the Fourth Amendment protection and probable cause for police to use force against a suspect, including but not always involving deadly force, lies at the heart of many federal court decisions since 1985. For example, if we take the US Supreme Court's declaration in *Graham v. Connor* that police use of force must be "objectively reasonable in view of all the facts and circumstances of each particular case," one may conclude that the goal is for the justice system to clearly define objective criteria in determining "reasonableness." The problem arises from the Supreme Court's own claim in *Graham v. Connor* that the criteria for reasonableness must be applied on a case-by-case basis, thus ensuring there is never a set definition of "reasonable" use of force in any general sense, perpetuating a strong sense of ambiguity in many situations (Alpert & Smith, 1994).

The *Graham v. Connor* decision stemmed from an incident in Charlotte, North Carolina, when a friend drove Dethorne Graham, a diabetic, to a convenience store to buy orange juice because he was in serious need of sugar intake to offset a physical reaction to a recent insulin injection. There was a long line in the store, so Graham quickly exited to have his friend drive him elsewhere (to another friend's house, where he figured he could find some juice). After watching Graham's "hasty" entrance and exit, Officer M. S. Connor followed the vehicle, pulling it over. The driver and Graham told the officer what happened, but the officer did not believe them. He had another officer go to the store to corroborate the story. In the meantime, Graham exited the car, ran around the vehicle twice, sat down on the curb, and momentarily passed out. When backup arrived, Graham was handcuffed and tossed into a police car. The officer did not believe Graham was experiencing insulin shock and thought that he was drunk. The "suspects" were released once their story had been verified, but by that time Graham had suffered cuts on his wrist, a bruised forehead, a broken bone in his foot, an injured shoulder, and persistent ringing in his ears.³ Graham's suit against the police officers was dismissed by the district court. The Fourth Circuit Court of Appeals also dismissed Graham's case based on insufficient evidence that the officers had maliciously and sadistically tried to hurt him (known as the *Glick* test).⁴ Graham petitioned the Supreme Court for review under a writ of certiorari.

While a Supreme Court decision regarding a prisoner shot in the knee by a guard during the course of a riot⁵ appeared to uphold the *Johnson v. Glick* (1973) standard,⁶ the Supreme Court's decision in *Tennessee v. Garner* caused many legal experts to question whether the *Glick* test still held

in all circumstances (Freyermuth, 1987). In other words, the malice standard would only be required when an official's responsibilities to maintain security of self and others conflicted with a subject's Eighth Amendment rights.⁷ To further make clear to lower courts that the *Glick* test could no longer be universally applied, the Supreme Court issued a unanimous decision in *Graham v. Connor*, stating, "The reasonableness of a particular use of force must be judged from the perspective of a reasonable officer on the scene, and its calculus must embody an allowance for the fact that police officers are often forced to make split-second decisions about the amount of force necessary in a particular situation." To determine if another hypothetical officer would have used the same level of force on a subject, the Supreme Court's majority opinion in *Graham* states, courts should weigh three criteria: (1) severity of the crime, (2) whether the suspect posed an immediate threat to officers or members of the public, and (3) whether the suspect was actively resisting arrest or attempting to evade capture. While these criteria are extremely difficult to assess in many real-life scenarios, the decision did at least do away with the *Glick* test as "incompatible with a proper Fourth Amendment analysis."⁸ Thus the two landmark Supreme Court decisions regarding use of force on public subjects in the 1980s provided further constitutional protections to the people, moving away from universally burdening subjects with proving malice on the part of officers (solely an Eighth Amendment issue) toward having courts weigh the objective "reasonableness" of an officer's actions considering the specific circumstances, therefore ensuring both Fourth and Eighth Amendment protection.

A 10-year review of policing procedures after the *Graham v. Connor* decision (Ross, 2002) shows that lower federal courts have diverged in how to interpret "reasonableness" but generally uphold considering situational criteria, such as severity of crime, level of threat posed by suspect, and whether the suspect is resisting arrest or attempting to flee the scene. Ross (2002) indicates that a result of the *Graham v. Connor* decision has been more extensive training and more precise departmental policy on reasonable force, resulting in better overall decision-making by most officers who patrol public spaces.

Federal Court Cases Involving Use of Force: 1990s

As Table 2.1 shows, the Supreme Court handed down no major decisions involving officer use of force from 1990 to 2000. After the Court struck down *Johnson v. Glick* and established the reasonableness consideration outlined in *Graham v. Connor*, working out the parameters of how courts would or should determine reasonableness fell to the lower federal (district and circuit)

courts. One example is the Sixth Circuit's decision in *Russo v. City of Cincinnati* (1992) ruling that use of a Taser multiple times on a mentally ill, potentially homicidal subject armed with two knives was not excessive for it was reasonable to use less lethal means to subdue the subject to avoid lethal force.⁹ The important aspect to the *Russo* decision is that the Sixth Circuit Court determined it reasonable to use a Taser multiple times on a potentially dangerous subject (mental illness or not) to avoid the use of lethal force.

Plakas v. Drinski, decided by the Seventh Circuit Court of Appeals on March 21, 1994,¹⁰ involved a male, Konstantino Plakas, found walking along a road. He had abandoned his vehicle in a ditch about a mile from where he was found. With evidence that he had been drinking, he was eventually handcuffed with his hands behind his back, an action which Plakas claimed caused him severe pain due to scar tissue on his chest. He was put into a patrol car but eventually escaped from the back, running on foot to the house of close friends (his girlfriend and her parents' home). Ultimately Plakas picked up a fire poker inside the house and struck one officer on the wrist. Later, he exited the house and ran into the woods, followed by two officers. Eventually he allegedly charged at one of the officers, and the officer fired, striking Plakas in the chest and killing him. Plakas's family claimed that the officers could have used the canine unit offered to them to create more distance between the officers and the suspect. Also, one of the officers had a canister of CS repellent¹¹ on his belt. The family maintained that the officer could have used the CS to subdue Plakas. The circuit court, agreeing with the original district court ruling, determined that Plakas had not been a fleeing suspect (such as in *Tennessee v. Garner*) and that the shooting had been an act of self-defense.

There is no precedent in this Circuit (or any other) which says that the Constitution requires law enforcement officers to use all feasible alternatives to avoid a situation where deadly force can justifiably be used. There are, however, cases which support the assertion that, where deadly force is otherwise justified under the Constitution, there is no constitutional duty to use non-deadly alternatives first. . . . Other than random attacks, all such cases begin with the decision of a police officer to do something, to help, to arrest, to inquire. If the officer had decided to do nothing, then no force would have been used. In this sense, the police officer always causes the trouble. But it is trouble which the police officer is sworn to cause, which society pays him to cause and which, if kept within constitutional limits, society praises the officer for causing.

Ultimately, since Deputy Sheriff Jeffrey Drinski's partner had the CS canister and the canine unit was only made available but not used, it was reasonable for Drinski to use his firearm to prevent Plakas from reaching him with a fire poker. As the Seventh Circuit concluded, "We decline to use this case to impose constitutional equipment requirements on the police." If

an officer is in fear of harm to himself or others and has a firearm at his disposal, then it is reasonable to use it on the subject even if “lesser” use-of-force alternatives may have been available.

As we can see from the first two circuit court decisions regarding officer use of force on subjects after 1989’s *Graham v. Connor* Supreme Court decision, lower federal courts were hearing cases drawn from a variety of circumstances to establish the Supreme Court’s “reasonableness” test, often awarding great discretion to “reasonable” officers in the course of their duties. The reasonableness test essentially allows courts to determine what levels of force against subjects (including detention and searches of person and property) are constitutional and when they may be used. Various other circuit court decisions would follow.¹² For example, in “recognizing three categories of police-citizen encounters”¹³ in *United States v. Dotson* (1995), the Sixth Circuit US Court of Appeals focuses on the second category, “investigatory stops which are a limited, non-intrusive detention that requires reasonable suspicion based on articulable facts.” Courts commonly refer to these kinds of police-citizen encounters as “Terry stops” in recognition of the June 10, 1968, US Supreme Court decision in *Terry v. Ohio*, in which an officer saw two men stare at the same store window “about 24 times,” indicating that they were “casing” the store for a burglary, whereupon the officer followed, stopped, and frisked them, finding two concealed weapons, for which the suspects were charged. The suspects filed to suppress the evidence based on the Fourth Amendment protection from illegal search and seizure but were denied because the officer “had reasonable cause to believe . . . that the defendants were conducting themselves suspiciously, and some interrogation should be made of their action.”

United States v. Dotson centers on whether, if someone pulled over for running a red light attempts to flee on foot but is caught and handcuffed, evidence found in the vehicle (four bags of cocaine and a digital scale) not related to the original purpose of the stop (a traffic violation) can be used against the suspect in a court of law. In *Dotson*, the Sixth Circuit Court stated,

The scope of activities during an investigatory detention must reasonably be related to the circumstances that initially justified the stop. When actions by police exceed the bounds permitted by reasonable suspicion, the seizure becomes an arrest and must be supported by probable cause. The Supreme Court has declined to establish a litmus test to determine when a Terry stop becomes an arrest, leaving the lower courts to decide the issues on a case-by-case basis. In making this decision, we are to consider the scope and nature of the restraints placed on an individual’s liberty.

The Sixth Circuit Court affirmed the original district court decisions on all counts, deciding that “Dotson’s efforts to flee, coupled with Detective

Gannon's reasonable suspicion that Dotson was involved in criminal activities, established probable cause to arrest Dotson" and allowing the evidence of drug possession with intent to distribute found inside his vehicle to be used against Dotson at trial.

So-called Terry stops were taken up again at the circuit level in 1997 in *Gallegos v. City of Colorado Springs*, in which Jose Gallegos claimed officers violated his rights under the Fourth and Fourteenth¹⁴ amendments to the constitution by "seizing his person." After receiving two different dispatch reports of suspicious activity in the area, officers spotted Gallegos walking. Eventually, due to his refusal to stop and answer questions, they used force (hand restraint and an arm bar) to subdue him on the street. Gallegos was face down on the pavement when a vehicle skidded into one of the officers, stopped and landed on top of Gallegos. The vehicle backed up and drove away. All of this, from officer arrival to the vehicle exiting the scene, took one minute, 44 seconds. Having sustained severe physical injuries, Gallegos filed suit for damages. The court noted that the primary purpose of the Fourth Amendment is "to safeguard the privacy and security of individuals against arbitrary invasions by governmental officials," adding that "mere police questioning does not amount to a seizure." A person's Fourth Amendment rights are only violated if a "reasonable person" would determine he "was not free to decline an officer's requests or otherwise terminate the encounter."

In the *Gallegos* case, the US Tenth Circuit Court of Appeals established a two-step inquiry to determine if an investigative detention (Terry stop) is reasonable under the Fourth Amendment. First, did the officer have an articulable suspicion that the detainee had committed or was about to commit a crime (stop justified at its inception)? Per *Gallegos*, "hunches" do not suffice; yet "common sense and ordinary human experience must govern over rigid criteria." Step two entails determining whether the officer's actions were "reasonably related in scope to the circumstances which justified interference in the first place."¹⁵ Thus, at step one, an officer can approach an individual and ask questions, but that individual is not compelled, on the face of things (i.e., without probable cause), to respond. Based on the dispatch calls, Gallegos's conduct (crying, talking loudly), the time of night, and the odor of alcohol on Gallegos, the court determined that the officers indeed had reasonable suspicion that he was "involved in criminal activity" and thus acted reasonably in attempting to detain him. In other words, Gallegos was stopped and questioned not at random but based on the circumstances of the situation (justifying detention to determine if the subject was a prowler or the person reported to be drunk and yelling at a woman). Given reasonable cause for suspicion, the officers were then permitted to use force to detain Gallegos once he refused to stop and answer their questions. The court added,

“If anything, Sergeant [Daniel] Lofgren did not exercise enough force to accomplish the purpose of the detention.”

Perhaps most importantly, the *Gallegos* decision states, “[A] Terry stop does not automatically elevate into an arrest where police use handcuffs on a suspect or place him on the ground. . . . As long as the precautionary measured by officers during the Terry stop are reasonable, they will be permitted without a showing of probable cause.” Essentially, officers can use force if it is reasonably necessary to protect their personal safety and to maintain order during a Terry stop (no arrest, thus no probable cause needed to use force to detain an individual). The *Gallegos* decision is a crucial point in current use-of-force incidents where officers and subjects disagree on the “reasonableness” of using force for the purpose of detention. For instance, the officers may have reasonably stopped and questioned Gallegos based on the dispatch calls, but Gallegos himself was not aware of those calls. To him, the stop may have indeed seemed random and therefore not to oblige him to answer the officers’ questions.

In determining reasonableness, courts consider all circumstances officers have at their disposal. Therefore the issue is whether officers acted reasonably. From an objective standpoint in *Gallegos*, they very well may have, but in the moment, the detention may seem quite unreasonable to the person being grabbed and questioned by police. In instances with no arrest, officers may still use force to “maintain order” and “protect safety,” although the officer has initiated the interaction, which the citizen does not wish to participate in. This is a “grey area,” as in the absence of reasonable suspicion of criminal activity, the citizen is within his rights to ignore an officer attempting to detain him, continue walking, and not respond to questions. However, the officer may have “reasonable suspicion” the citizen is not aware of (as in *Gallegos*), in which case the officer may use force to subdue the subject. Such stops for reasonable suspicion tend to occur in higher-crime areas, whose residents feel “unreasonably” targeted for stops. This different interpretation of “reasonableness” by officers and subjects, based on a differing understanding of the immediate situation, may be a major factor in increased subject resistance, leading to increased use of force and escalating a police-subject encounter to the point of physical injury to one or more people.¹⁶

Supreme Court Cases Involving Use of Force: 2000–2009

Many important federal use-of-force rulings have been settled at the circuit court level since 2000. I will discuss those decisions (dealing with sex differences in police-public interaction, policing mental health, and the use of

conducted electrical devices) in later chapters. This chapter focuses specifically on critical Supreme Court decisions related to police use of force. The first case after 2000, *Saucier v. Katz* (2001), involved an animal rights activist (Elliot Katz) and a military police officer (Donald Saucier). The setting was autumn 1994, at the Presidio Army Base in San Francisco, where then vice president Albert Gore Jr. was speaking in celebration of the base's conversion into a national park.¹⁷ Concerned that its hospital would be used for animal experiments, Katz brought a banner stating, "Please Keep Animal Torture Out of Our National Parks." Katz concealed the banner on his person on entering the base. As Vice President Gore began his speech, Katz walked up to the fence separating speakers and audience, removed the banner from his jacket, and started to unfold it. Officers grabbed him from behind, briskly removed him from the area (an officer holding each arm), and eventually tossed (shoved) him into a military van. Katz was taken to a military police station, held briefly, and then released. Katz filed suit, claiming excessive use of force during his arrest in violation of his Fourth Amendment rights.

The principal issue in *Saucier v. Katz* is the doctrine of qualified immunity, under which government officials, including peace officers, have no individual liability for federal civil rights violations as long as their conduct has not violated a "clearly established . . . right of which a reasonable person would have known" (*Harlow v. Fitzgerald* [1982] 457 U.S. 800, 818).¹⁸ The Ninth Circuit Court, which had previously heard the case, determined that the *Graham* test of reasonableness (see my previous discussion in this chapter of *Graham v. Connor*) for liability completely incorporated qualified immunity analysis (Stone & Berger, 2009), since *Graham* already allows for latitude in mistakes regarding how much force is necessary in a situation as long as it is "reasonable." The Supreme Court disagreed that the *Graham* test completely enveloped qualified immunity, thus took up the case, noting that if an officer passed the *Graham* test for reasonableness, then yes, he or she would also pass the test for qualified immunity. However, if the officer failed the reasonableness test set out in *Graham v. Connor*, the facts must be examined to see if he or she was free of liability under qualified immunity (to ensure the officer's conduct did not violate the subject's clearly established constitutional rights—an inquiry that is not part of the *Graham* test).

The *Graham* test protects officers who have made reasonable (based on the on-the-scene perspective of the officer rather than 20/20 hindsight) mistakes of fact (e.g., officer thought subject had loaded weapon when person did not, such as in the Tamir Rice shooting on November 22, 2014), not of law. In other words, the qualified immunity doctrine adds further protections for officers who have made "reasonable" errors. Writing the court's opinion, Associate Justice Anthony Kennedy concluded,

In the circumstances presented to this officer, which included the duty to protect the safety and security of the Vice President of the United States from persons unknown in number, neither respondent nor the Court of Appeals has identified any case demonstrating a clearly established rule prohibiting the officer from acting as he did, nor are we aware of any such rule. Our conclusion is confirmed by the uncontested fact that the force was not so excessive that respondent suffered hurt or injury. On these premises, petitioner was entitled to qualified immunity, and the suit should have been dismissed at an early stage in the proceedings.

In other words, even if the “shove” into the van were unreasonable considering the circumstances, being “physically coerced” into the police vehicle was not a clear violation of the subject’s constitutional rights; therefore, even if the officer had not clearly passed the *Graham* test of reasonableness, he passed the qualified immunity test and was therefore free of liability. So an officer is protected from individual liability if his actions “in the moment” are determined to have been reasonable (even if clearly shown to be erroneous after the fact) or if he could reasonably have been unaware that his actions violated the subject’s constitutional rights. Therefore, the *Graham* test of reasonableness and qualified immunity are two different legal protections for officers and other state representatives.

The Supreme Court decision in *Brosseau v. Haugen* (2004) reversed a Ninth Circuit decision involving qualified immunity. In reversing the original district court ruling, the Ninth Circuit argued that shooting a suspect fleeing in a vehicle violated the individual’s constitutional rights established in *Tennessee v. Garner*, which found a Fourth Amendment violation where an officer shot an unarmed suspect in the back, disentitling the officer from qualified immunity. In an 8–1 ruling, the Supreme Court disagreed. Officer Rochelle Brosseau had shot Kenneth Haugen as he attempted to drive away rather than flee on foot. Other people and officers were in the area; thus, Haugen could have used the vehicle as a weapon, increasing risk of injury to others. The Court noted that previous cases did not clearly establish that the events in question had violated the suspect’s constitutional rights; therefore, Officer Brosseau was entitled to qualified immunity and thus freedom from prosecution.

In its *Brosseau v. Haugen* decision the Supreme Court did not say that shooting a suspect driving away is not a violation of his constitutional rights, only that it had not been clearly established as such; therefore the officer was protected under qualified immunity as a reasonable officer would not know whether the action was indeed in violation. The court stated, “Qualified immunity shields an officer from suit when she makes a decision that, even if constitutionally deficient, reasonably misapprehends the law governing the circumstances she confronted.” Qualified immunity protects officers “from the sometimes hazy border between excessive and

acceptable force,” and the shooting of a fleeing suspect must be examined on a case-by-case basis and therefore does not constitute a clear violation of the Fourth Amendment.¹⁹ In other words, when the law is unclear on a particular course of officer conduct, the officer does not have proper notice that the conduct is wrong and so is immune from personal liability.

Ultimately, *Brosseau v. Haugen* and the next milestone use-of-force case heard by the Supreme Court, *Scott v. Harris* (2007), confirm the two-step process in determining officer liability outlined by the Supreme Court in *Saucier v. Katz*. The two questions for courts to ask in cases involving officer use of force on a suspect as pertains to qualified immunity are, Did the officer’s conduct violate the Constitution? If no, then the officer is not liable, and the case is over. If yes, was the constitutional right so clearly established that a reasonable officer would know that his or her conduct violated the right? If no, then the officer is not liable. If yes, then the lawsuit may proceed.²⁰ In *Scott v. Harris*, the subject, Victor Harris, was reportedly driving 73 mph in a 55-mph zone. Deputy Timothy Scott activated his flashing lights, indicating that Harris should pull over. Instead, he drove away, instigating a high-speed chase down a two-lane road, into and out of a shopping center parking lot, and back onto a two-lane road. Having radioed his supervisor for clearance to use a precision intervention technique (PIT), designed to cause a fleeing vehicle to spin to a stop, Deputy Scott instead drove his push bumper into the rear of Harris’s vehicle (Scott stated that the vehicles were traveling too fast for the PIT maneuver).²¹ The car spun out of control, running off the road and down an embankment, flipping over in the process. The accident left Harris a quadriplegic. Harris filed suit, charging Scott and others with violation of his Fourth Amendment protection from excessive force resulting in an unreasonable seizure. In response, Scott filed a motion for summary judgment asserting qualified immunity.²²

Scott’s motion for qualified immunity was denied at the district level. The *Scott v. Harris* case then went to the US Eleventh Circuit Court of Appeals, which affirmed the district decision not to grant qualified immunity and allow a jury to hear the case, stating Scott’s actions were unreasonable and did violate a clearly established constitutional right because there was no imminent threat. The Supreme Court then heard the case to answer two questions clearly: (1) Does an officer who rams a fleeing vehicle during a high-speed chase violate the Fourth Amendment? and (2) Had federal law “clearly established” that an officer violates the Fourth Amendment by using deadly force during a high-speed chase?²³ In an 8–1 decision (majority opinion written by Associate Justice Antonin Scalia), as in *Brosseau v. Haugen*, the Court ruled that Scott’s actions were reasonable under the Fourth Amendment, specifically noting that the justices weighted the dashboard video recording of the incident strongly during deliberations. The

Court stated that the video contradicted Harris's claims that he was driving responsibly during the chase and that he clearly posed an imminent threat to pedestrians, other motorists, and the officers in pursuit. Weighing the potential harm Harris could inflict on others against the use of force implemented by Scott, the Court deemed the officer's actions reasonable. Further, Harris was culpable for the high-speed chase. Associate Justice John Paul Stevens, the lone dissenter, stated that the videotape was not as clear in terms of reckless endangerment as the majority claimed and agreed with the lower courts that a jury should determine the justifiability of deadly force in the case.

Examination of the Supreme Court decisions between 1985 and 2010 raises a few critical points regarding the use of force against subjects. The two primary Supreme Court cases during the 1980s, *Tennessee v. Garner* and *Graham v. Connor*, established greater individual protection under the Constitution by stating that courts could no longer universally apply the old standard established in *Johnson v. Glick* of proving an officer clearly acted out of malice. Instead, claimants had to show that the officer's use of force was "unreasonable" in the specific situation. With no major Supreme Court decisions during the 1990s, lower federal courts began determining and defining "reasonableness" in a variety of circumstances, often granting a wide interpretation of reasonable use of force and reasonable stops and searches for officers. From 2000 through 2009, the Supreme Court essentially agreed with such expansive interpretations of reasonable use of force (often disagreeing with lower courts). It also clearly established that reasonableness of force used was not the only criteria to establish officer liability and that the officer must be granted qualified immunity if he could not be reasonably aware that his actions were violations of "clearly established" law.

Essentially, during the first decade of the twenty-first century, the Supreme Court took Associate Justice Sandra Day O'Connor's dissenting opinion in *Tennessee v. Garner* to heart, even using similar language regarding not using 20/20 hindsight in establishing the reasonableness of an officer's actions and considering the specific circumstances of each incident when determining whether the force used was reasonable. Further, much as Justice O'Connor stated in *Tennessee v. Garner*, the Supreme Court in the early twenty-first century made clear that if laws against particular police actions are indeed conflicting, or "hazy," then the officer should be protected from liability under qualified immunity. In other words, whereas the 1980s established greater individual constitutional protection, in the first decade of the twenty-first century, the Supreme Court decisions regarding use of force set a very high bar for claimants to show officer liability in use-of-force cases, granting officers tremendous leeway in "reasonable" action under a wide range of circumstances.

Supreme Court Cases Involving Use of Force: 2010–2016

The first major Supreme Court decision involving officer-public interactions between 2010 and 2016 was *Plumhoff v. Rickard* (2014).²⁴ Initially pulled over for a reported nonoperational headlight, Donald Rickard drove away from the scene of the stop instead of producing identification for the officer. A high-speed pursuit (at times over 100 mph) ensued, with a total of six police cruisers unsuccessfully attempting a “rolling roadblock.” After hitting a police vehicle, Rickard spun his vehicle into a parking lot, where two officers exited their cars; one of them, with revolver ready, pounded on Rickard’s passenger window.²⁵ Rickard continued to step on his accelerator to flee. One officer fired three shots into the vehicle. Rickard reversed, with officers then firing an additional 12 rounds into the car. Ultimately Rickard drove away, swerved off the road, and crashed into a building. Both he and his passenger died. Rickard’s daughter filed the underlying action, alleging excessive use of force in violation of the Fourth Amendment. The officers moved for summary judgment, asserting qualified immunity and citing the decision in *Brosseau v. Haugen* regarding shooting inside a fleeing vehicle to prevent possible harm to others.

Both the district and Sixth Circuit Court denied the officers’ motion for qualified immunity.²⁶ Ultimately the Supreme Court heard the case, with Associate Justice Samuel Alito writing the majority opinion. The Court reversed the lower federal courts’ decisions, noting the officers did not violate Rickard’s Fourth Amendment rights and stating, “If anything, the facts here are more favorable to the officers than the facts in *Brosseau*; and respondent points to no cases that could be said to have clearly established the unconstitutionality of using lethal force to end a high-speed car chase.”²⁷ Ultimately the Court determined that driving a vehicle at excessive speeds and/or violating other traffic laws may potentially put others at risk; therefore officers can use deadly force to prevent the subject from continuing to flee.

The US Supreme Court once again took up the issue of excessive police use of force on May 18, 2015, in *City and County of San Francisco v. Sheehan* (2015). Teresa Sheehan was living in a group home for people with mental-health issues when she reportedly threatened to kill her social worker. Two officers came to the scene to detain her for a psychological evaluation. When they entered her room, Sheehan objected, grabbing a knife and threatening to kill them. The officers retreated, closing Sheehan’s door. When they reentered the room, Sheehan still held the knife, at which time officers dispersed pepper spray. The pepper spray proved ineffective in subduing Sheehan, so the officers opened fire, shooting her multiple times. Sheehan later sued the City and County of San Francisco for, among other things, violating Title II of the 1990 Americans with Disabilities Act (ADA)

by arresting her without accommodating her disability and for excessive use of force in violation of her Fourth Amendment rights.²⁸

The district court granted summary judgment (qualified immunity) to the officers, asserting that officers making an arrest are not required “to first determine whether their actions would comply with the ADA before protecting themselves and others.” Further, the district court ruled that the officers did not violate Sheehan’s Fourth Amendment rights. On appeal, the Ninth Circuit Court found that officers should consider the ADA accommodation requirement and that, although the use of force was reasonable, qualified immunity should not have been granted and a jury should hear the case to decide whether the officers representing the City and County of San Francisco should have given Sheehan more space and time to calm down and communicated with her in a nonthreatening manner, thereby possibly diffusing the situation rather than precipitating a deadly force confrontation. In other words, although the use of deadly force ultimately was reasonable in that moment, a jury might decide that the officers had “provoked” Sheehan by forcing the second confrontation (reentering her room while she was in there by herself). In denying qualified immunity, the majority circuit decision stated that clearly established law prohibited officers from forcibly entering “the home of an armed, mentally ill subject who had been acting irrationally and had threatened anyone who entered when there was no objective need for immediate entry.”

The Supreme Court granted the writ of certiorari on behalf of San Francisco and the officers, but San Francisco altered its original argument to state that since Sheehan posed an immediate threat to others, she was not a “qualified individual,” meaning that she was not due protection under ADA. (The previous argument had turned on whether the ADA applied at all for officers; the original district decision determined it did not, whereas the circuit decision determined that it did.) The Supreme Court decided not to rule on whether Sheehan qualified for ADA protection. In his rather scathing dissent, Associate Justice Scalia wrote,

I would not reward such bait-and-switch tactics by proceeding to decide the independently “uncertworthy” second question. And make no mistake about it: Today’s judgment is a reward. It gives the individual petitioners all that they seek, and spares San Francisco the significant expense of defending the suit, and satisfying any judgment, against the individual petitioners. I would not encourage future litigants to seek review premised on arguments they never plan to press, secure in the knowledge that once they find a toehold on this Court’s docket, we will consider whatever workaday arguments they choose to present in their merits briefs.

Justice Scalia viewed the “qualified individual” argument as a ruse to prevent the Supreme Court from ruling on the larger question of whether

police officers must consider a person's mental illness when deciding to use potential deadly force against him or her. Ultimately the City of San Francisco managed to defend its officers while not putting ADA legal precedents (that officers must accommodate for mental illness) up to reinterpretation by the Supreme Court. The Court ultimately upheld qualified immunity for the officers because they had no "fair and clear warning of what the Constitution requires"²⁹ (in terms of reentering the room). The most important aspect of *San Francisco v. Sheehan*, however, may be the City of San Francisco's withdrawing of the ADA determination, mainly because the current Supreme Court would very likely have decided the ADA no longer pertains to police officers, making it unnecessary for officers to accommodate people with mental illness (Stern, 2015). Such a decision would most certainly further increase the number of people with mental illness killed by officers per year (see "Policing Mental Health" in Chapter 5).

San Francisco v. Sheehan marked 30 years of Supreme Court decisions about police use-of-force, which during the 1980s seemingly expanded individual constitutional protections, setting stricter requirements for officers in determining when and how much force to use in situations. In the twenty-first century, the Supreme Court has ruled that any level of threat or potential harm to others provides reasonable justification for use of deadly force, and officers repeatedly receive qualified immunity, insulating them from personal liability. Given that federal statute heavily protects police actions and thus, by default, weakens the individual's civil liberties, the disagreement between officers and subjects about what constitutes reasonable force has become increasingly contentious, with individuals feeling that their constitutional rights have been violated and officers remaining immune from prosecution for perceived excessive use of force.

While police officers continue to enjoy strong federal protection from liability in excessive-use-of-force claims, the Supreme Court heard two separate cases, one in 2015, the other in 2016, focusing on the issue of illegal search and seizure (due to lack of probable cause) and rendered two very disparate decisions. The first case, *Rodriguez v. United States* (2015), involved a K-9 officer (Officer Morgan Struble) stopping Dennys Rodriguez (and a passenger) for a minor traffic violation (briefly veering onto the shoulder of the highway). After issuing a warning for the offense and checking each person's driver's license, Officer Struble asked for permission to walk his dog around the vehicle, which Rodriguez refused to grant. Struble then detained Rodriguez for seven to eight minutes until a second officer arrived, at which time Struble retrieved his canine and walked the dog around the vehicle. Halfway through the second walk-around, the dog signaled the possible presence of drugs. An ensuing search of the vehicle uncovered methamphetamine.

Rodriguez was indicted on federal drug charges based on the search. He filed a motion to suppress the evidence seized during the search partially because the stop had been prolonged without reasonable suspicion in order to conduct the dog sniff.³⁰ Although it was determined there was no probable cause to prolong the stop, the magistrate judge denied Rodriguez's motion to suppress based on Eighth Circuit precedent that a seven-to-eight-minute stop was a *de minimis*³¹ intrusion on Rodriguez's Fourth Amendment rights; therefore the evidence seized was admissible in court. The Eighth Circuit Court of Appeals agreed with the lower court's decision.³² Ultimately the Supreme Court agreed to hear the case, overturning the lower courts' decision to allow submission of the seized evidence at trial, stating that the eight-minute period after issuance of the warning constituted an "unreasonable seizure." As long as dog sniffs do not prolong the roadside detention (which is analogous to a Terry stop according to the Supreme Court ruling), they are constitutional; once investigations unrelated to the initial purpose of the stop prolong the detention, they violate the Fourth Amendment.

In a lengthy and derisive rebuttal, Associate Justice Clarence Thomas not only disagreed with the majority that waiting for a second officer to ensure safety to perform a dog sniff violates the subject's Fourth Amendment rights—he equated dog sniffs with warrant checks (which the Court has ruled are permissible during routine stops)—but further rebuked the Court for not addressing whether the prolonged detention to check for possible drugs was indeed reasonable (citing *Terry v. Ohio*). Justice Thomas noted Officer Struble's rationale for the dog sniff (strong smell of air freshener, nervous passenger, flimsy story about the purpose of their travels) as providing reasonable cause for suspicion that further criminal activity was going on; therefore there was no Fourth Amendment violation on the face of things. Justice Alito, in his own dissent, added, "This is an unnecessary, impractical, and arbitrary decision," agreeing with Justice Thomas that "the police officer *did have* reasonable suspicion, and, as a result, the officer was justified in detaining the occupants."³³ The justices' dissenting opinions seem to have had an impact on the final ruling: the Eighth Circuit Court of Appeals agreed that the additional detention to conduct a dog sniff was indeed reasonable based on the officer's suspicions; therefore, the evidence was ultimately admissible.³⁴

While *Rodriguez v. United States* led some legal commentators to believe the Supreme Court might be shifting again toward more constitutional protections for citizens (Feldman, 2015), the Court's 5–3 decision in *Utah v. Strieff* on June 20, 2016 (reversing a unanimous Utah Supreme Court decision), ultimately provides the police with even more reason to randomly stop individuals without probable cause. The Court ruled that if an officer stops an individual illegally (in violation of the Fourth Amendment

prohibition against unreasonable searches and seizures, which requires a warrant and probable cause), then after the fact discovers a minor outstanding warrant (say, for a traffic violation), the illegal stop becomes legal, and any evidence seized during the stop can be used in court. The Court's ruling only restricted "flagrant police misconduct," which, as in *Graham v. Connor* and all proceeding use-of-force rulings, the justices refused to define outside the situationally specific "reasonableness" test.

Thus, in the most recent ruling³⁵ regarding police-subject interaction, the Court decided to further restrict Fourth Amendment rights that American citizens have enjoyed for 225 years. As it pertains to the Fourth Amendment, the *Utah v. Strieff* ruling will have no effect for those citizens who have nothing to hide (i.e., no methamphetamine in their pockets, as Edward Strieff had). However, police will have more power and authority to arrest, and courts to sentence, those who are hiding something, thereby enabling better protection of "law-abiding" citizens from potentially "dangerous criminals." However, as Justice Sonia Sotomayor explained in her dissent,³⁶ "This case allows the police to stop you on the street, demand your identification, and check it for outstanding traffic warrants—even if you are doing nothing wrong." Sotomayor continues, "It is tempting in a case like this, where illegal conduct by an officer uncovers illegal conduct by a civilian, to forgive the officer. After all, his instincts, although unconstitutional, were correct. But a basic principle lies at the heart of the Fourth Amendment: Two wrongs don't make a right. . . . The mere existence of a warrant not only gives an officer legal cause to arrest and search a person, it also forgives an officer who, with no knowledge of the warrant at all, unlawfully stops that person on a whim or hunch."

Recalling the Tenth Circuit decision in *Gallegos v. City of Colorado Springs*, Terry stops such as the one discussed in *Utah v. Strieff* must involve the officer's having an articulable suspicion that the detainee is about to commit a crime. As the circuit court noted in *Gallegos*, "hunches" do not suffice. The second part to reasonable, thus legal, Terry stops is that officers' actions must be "reasonably related in scope to the circumstances which justified the interference in the first place" (*Terry v. Ohio*). In *Utah v. Strieff* (2016), neither step involved in a reasonable investigative detention was met; therefore, the stop itself was unconstitutional. The majority decision in that case allows police to collect evidence for use against citizens even when the initial detention violates their constitutional rights.

Perhaps the most sociologically important aspect of Justice Sotomayor's dissent is her contention that, while the Supreme Court insists the event in question was "isolated" with "no indication that this unlawful stop was part of any systemic or recurrent police misconduct," in reality "nothing about this case is isolated." Justice Sotomayor discusses the existing federal and state databases with over 7.8 million outstanding warrants that

themselves do not track the “staggering” numbers of warrants backlogged in many cities for traffic violations and ordinance infractions. She references Ferguson, Missouri, the place where Michael Brown was killed on August 9, 2014, a city with a population of 21,000 in which 16,000 people had outstanding warrants against them. Sotomayor also cites Newark, New Jersey, where officers stopped 52,235 pedestrians within a four-year period and ran warrant checks on 39,308 of them. A Justice Department analysis indicated that “approximately 93% of the stops would have been considered unsupported by articulated reasonable suspicion.” With myriad examples of how police conducted stops and checks for warrants without cause and used them to search for other more serious infractions, it indeed appears that the event in *Strieff* is not isolated, and as Justice Sotomayor concludes, the Supreme Court does not offer guidance on how an individual “can prove that his arrest was the result of ‘widespread misconduct,’” adding, “This Court has given officers an array of instruments to probe and examine you. When we condone officers’ use of these devices without adequate cause, we give them reason to target pedestrians in an arbitrary manner. We also risk treating members of our communities as second-class citizens.”

While *Strieff* is white, Sotomayor notes, “It is no secret that people of color are disproportionate victims of this type of scrutiny.”³⁷ She invokes the autoethnographic work of W. E. B. DuBois (1903), as well as the writings of James Baldwin (1963) and Ta-Nehisi Coates (2015), to further illustrate the prolonged history of racial disparity in certain kinds of policing practices, specifically invoking DuBois’ concept of “double consciousness,” or the sense of “always looking at one’s self through the eyes of others, of measuring one’s soul by the tape of a world that looks on in amused contempt and pity” (DuBois, 1903, p. 351). In other words, African Americans are often burdened with experiencing two “warring ideals”—being “American” and being “black.” According to Justice Sotomayor, the *Strieff* decision legitimizes police conduct that produces double consciousness; it says that “your body is subject to invasion while courts excuse the violation of your rights. It implies that you are not a citizen of a democracy but the subject of a carceral state, just waiting to be cataloged. We must not pretend that the countless people who are routinely targeted by police are ‘isolated.’ They are the canaries in the coal mine whose deaths, civil and literal, warn us that no one can breathe in this atmosphere. . . . Until their voices matter too, our justice system will continue to be anything but.”

Justice Sotomayor’s crucially important dissent in *Utah v. Strieff* coincides with what Feldman (2015) stated only the year prior, following the Supreme Court decision in *Rodriguez v. United States*, in which Feldman invokes the aftermath of broken-windows policing (Kelling & Wilson, 1982), a policing style that far too often results in differential experiences

not only across social class but, even when controlling for class, for specific racial groups (Fagan & Davies, 2000). In accord with the main arguments presented in Justice Sotomayor's dissent in *Utah v. Strieff*, Feldman (2015) states: "Today, a reasonable observer who isn't personally subject to broken-windows policing—someone like the justices, in other words—must be more conscious of the risks of excessive police engagement in the lives of citizens, especially racial minorities."

In this chapter, I have used majority and at times dissenting federal court opinions to show that since the Supreme Court has avoided determining what constitutes excessive use of police force and has in recent decades routinely sided with law enforcement practices that seem to infringe on the constitutional rights of citizens, a growing contingent in our society finds the state's use of force systematically illegitimate.³⁸ If the basis for society, its monopolization over legitimate uses of force is used in unjust ways (i.e., discriminatory outcomes for different groups of people), the implication is that the state itself is unjust, thus in serious need of change. It would be obtuse of me to completely ignore the fact that all around the country there are protests about these very issues,³⁹ including the NFL debate over standing during the national anthem, and in the 2016 US presidential campaign, one political party convention had former New York City mayor Rudolph Giuliani proclaiming "Blue lives matter," with the Republican nominee, Donald Trump, ultimately declaring himself the "law and order candidate" while the other party had mothers of police shooting victims come out on stage to share their stories and their ongoing grief. In other words, the topic of police-subject interaction, particularly as it pertains to use of force, including lethal force, is extremely politicized. This should be unsurprising considering Max Weber's point that a state only gains legitimacy once it has established a monopoly of the legitimate use of physical force. As Weber also notes, "The political element consists, above all, in the task of maintaining 'law and order' in the country, hence maintaining the existing power relations." In its refusal to clearly outline what exactly constitutes legitimate/illegitimate use of force by the state, the Supreme Court leaves the law vague, meaning police force remains a working, negotiable, ongoing concern, or what Anselm Strauss (1978, 1982, 1993) would describe as one important aspect of the "negotiated order" of society. The fact that order is negotiated indicates that society is an ordered system always capable of change. Such fluidity in the order of things generates the potential for a more just society. The major issue is whether the state enables citizens to participate in the negotiation process as it pertains to police use of force during contacts with subjects.

The first need to address, as I see it, is the creation of an objective measure of force and resistance in which reasonableness can be objectively determined. The *Graham v. Connor* Supreme Court ruling instructed

lower courts to always ask three questions to measure the lawfulness of a use-of-force incident. First, how severe a crime did the officer believe the suspect had committed or would commit (in near future)? Second, did the suspect present an immediate threat to the safety of officers or the public? Third, was the suspect actively resisting arrest or attempting to escape? The Court ruling added, “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.” This “calculus of reasonableness,” however, seems to slant enormously in favor of law enforcement officers’ ability to use force whenever they “feel” it is necessary (that is, the Supreme Court seemingly consistently views police-public encounters as always uncertain and therefore grants great leeway in officers’ rapid decisions about what force is necessary in any given moment).⁴⁰ Such court decisions have real consequences; for instance, Tulsa, Oklahoma, officer Betty Shelby returned to work on May 20, 2017, and received back pay for time on the job missed during her manslaughter trial for shooting and killing an unarmed black man, Terence Crutcher, because she “feared” for her life. While the mayor of Tulsa discussed the ongoing problem of “racial disparity,” it is hard to imagine achieving peace without first establishing justice and equal protection for all Americans, which in part includes greater accountability by law enforcement officers when they shoot unarmed, nonaggressive, civilians.

Emotions and feelings in tense moments during police-public encounters often appear to be based not on “a calculus” but rather on some inner reflection of potential threat and, at times, on frustration at not being listened to (noncompliance). If we are ever to measure use of force objectively, we must recognize and discuss feelings and emotions, but ultimately we do need to produce a calculus of threat and risk, in general terms, so that officers have a clearer understanding of various situations, as they pertain not just to local directives and federal law but also to protecting and serving their communities, in which virtually every subject they encounter takes an active part in some fashion. People will always feel emotional in tense police-subject encounters, but part of an officer’s task should be controlling emotions and fear so that serious use-of-force errors do not occur or are greatly reduced, particularly those that end in an American citizen’s death. Seriousness of the crime, immediate threat to others, and active resistance are all seemingly definable and measurable. Once these criteria are defined, the law should not protect police who err in measuring them, for if officers do err, they should do so on the side of protecting, not extinguishing, a citizen’s life (and constitutional rights).

The Supreme Court rulings on police use of force discussed in this chapter may cause one to wonder when police force is excessive. First, any police force not required to detain or arrest a subject is excessive. If a subject resists arrest, federal law condones virtually any force applied to achieve compliance. In this sense, subject resistance is the key in determining whether use of force is reasonable. For example, if one looks back at the Rodney King case in Los Angeles (Skolnick & Fyfe, 1993), officers surrounded and struck the subject with fists, batons, and kicks more than 50 times. Another public citizen videotaped much of the event and gave the footage to a local news channel. Eventually four officers were tried for excessive force in the case. Three were completely exonerated, with the fourth partially exonerated (assault with a deadly weapon), but the jury was deadlocked (8–4 in favor of acquittal) on excessive force. Mayor Tom Bradley stated, “The jury’s verdict will not blind us to what we saw on that videotape. The men who beat Rodney King do not deserve to wear the uniform of the LAPD” (Mydans, 1992). The US president at that time, George H. W. Bush, seemed to concur: “Viewed from outside the trial, it was hard to understand how the verdict could possibly square with the video. Those civil rights leaders with whom I met were stunned. And so was I and so was Barbara and so were my kids” (Fiske, 1996).

Given these powerful statements, what explains the discrepancy in determining excessive use of police force between the American court system and the American public, including national and local leaders? If monopolizing the legitimate use of force defines a legitimate state and federal courts rule on legitimacy (legality of actions as determined by the state), it is unsurprising then that courts grant wide leeway on state (police) use of force while often severely punishing members of the public who resort to force.⁴¹ Yet if the state carceral system is indeed the “new Jim Crow” (Alexander, 2010), then policing practices are at the heart of the issue, for law enforcement officers are the first line of contact between the state and citizens in such a system of segregation. As more Americans begin to question the legitimacy of police force, however, it seems increasingly important to ensure that the force police use is indeed reasonable, not just according to the state but according to the public as well. As Quinney (1997) said, “We [the people] have an idea of how things could be.” The first step in the process of ensuring a “just state,” then, would be to ensure that force incidents during police-subject encounters are not more likely against specific groups. If specific levels of force are statistically different at the national level, then this provides at least initial evidence of widespread discriminatory practices in our current justice system. To test for differences in police-subject outcomes we must analyze existing nationwide data on police-subject encounters to see if statistically significant differences in police-subject encounter outcomes exist across demographic categories.

Notes

1. The Supreme Court definitively determines the given constitutional issue at hand until such times as it hears a different case dealing with similar issues some point in the future. A case cannot by default be appealed to the US Supreme Court. A party seeking to appeal a decision made by a lower court may file a writ of certiorari. Certiorari indicates that at least four Supreme Court justices have determined the circumstances described in a petition are sufficient to warrant a review.

2. Quotes reprinted from “Excerpts from Decision on Use of Deadly Force,” *New York Times*, March 28, 1985, <http://www.nytimes.com/1985/03/28/us/excerpts-from-decision-on-use-of-deadly-force.html>.

3. From Legal Summary, *Graham v. Connor*, United States Supreme Court (490 U.S. 386, 1989), Metropolitan Alliance of Police, <http://www.mapunion.org/PDFs/Graham.pdf>.

4. *Johnson v. Glick* refers to the standard lower federal courts (e.g., circuit courts) had applied to excessive-force cases since 1973: namely, that the decision-maker must consider, among other factors, whether the officer applied force “in a good faith effort to maintain or restore discipline or maliciously and sadistically for the very purpose of causing harm.” For a thorough discussion of the influence of *Johnson v. Glick* (commonly referred to as the *Glick* test) and how the issue was being reconsidered post *Tennessee v. Garner* (1985), see Freyeremuth (1987).

5. *Whitley v. Albers* (1986).

6. The *Glick* test largely deals with the Eighth Amendment to the Constitution, which ensures citizens freedom from cruel and unusual punishments.

7. The Eighth Amendment states specifically, “Excessive bail shall not be required, nor excessive fines imposed, *nor cruel and unusual punishments inflicted.*”

8. See *Graham v. Connor*, 490 U.S. 386 (1989): <https://supreme.justia.com/cases/federal/us/490/386>.

9. For summaries of these circuit court decisions from the 1990s and the ability to click on links to the actual case syllabi, see “Use of Force,” Public Records Online, http://www.caselaw4cops.net/use_of_force/use_of_force.htm.

10. See “*Plakas v. Drinski*,” Case Law 4 Cops, http://www.caselaw4cops.net/cases_new/plakas_v_drinski_19f3d1143_7cir_1994.html.

11. CS (2-chlorobenzylmalononitrile), so named for inventors Ben Corson and Roger Staughton, may be used in lieu of OC spray.

12. I will simply offer a summary of some of the most pertinent circuit court cases from the 1990s here, for I merely want to establish a general sense of how federal courts have dealt with police use of force since the 1980s rather than to offer a detailed case-by-case description. Also, by mentioning some of the most pertinent cases as they relate to “reasonable” officer use of force, readers can easily search the internet for more detailed descriptions of any individual decision or case I mention.

13. “(1) an arrest which requires probable cause pursuant to the Fourth Amendment; (2) an investigatory stop which is a limited, non-intrusive detention and requires reasonable suspicion based on articulable facts; and (3) consensual encounters where an officer seeks voluntary cooperation of a citizen and requires no suspicion at all.”

14. The most pertinent points of the Fourteenth Amendment in terms of police use-of-force issues are that the state may not deny any person “life, liberty or property, without due process of law” or “deny any person within its jurisdiction the equal protection of the laws”—issues seemingly at the very heart of the current Black Lives Matter movement.

15. The court is quoting *Terry*, 392 U.S. at 20, 88 S.Ct. at 1879.

16. My analysis of federal court cases involving use of force between 1985 and 2015 is far from exhaustive. I have only discussed federally cited use-of-force cases dealing more specifically with situations I will statistically analyze in Chapter 4—namely, routine stops of subjects for traffic violations, or so-called Terry stops, in public.

17. For a thorough synopsis of the case, see “*Saucier v. Katz* (99–1977) 533 U.S. 194 (2001) 194 F.3d 962, reversed and remanded,” Legal Information Institute, <https://www.law.cornell.edu/supct/html/99-1977.ZO.html>.

18. For a thorough discussion of qualified immunity and the role of *Saucier v. Katz* (2001) in reshaping the understanding of that doctrine, see Stone & Berger (2009).

19. See Jack Ryan, “Supreme Court Update: Qualified Immunity,” Police Link, <http://policelink.monster.com/training/articles/2153-supreme-court-update-qualified-immunity>; also see “Per Curiam, Supreme Court of the United States, *Rochelle Brosseau v. Kenneth J. Haugen*, on Petition for Writ of Certiorari to the United States Court of Appeals for the Ninth Circuit,” Legal Information Institute, <https://www.law.cornell.edu/supct/html/03-1261.ZPC.html>.

20. See Jack Ryan, JD, “*Harris v. Coweta County*, Ramming during Pursuit Viewed as Deadly Force,” Legal Liability & Risk Management Institute, http://www.llrmi.com/articles/legal_update/ramming.shtml.

21. One can view the six-minute chase video at “*Scott v Harris* (USSC 05-1631) Pursuit Video,” video posted to YouTube by GreenwoodSO, September 2, 2008, <https://www.youtube.com/watch?v=qrVKSgRZ2GY>.

22. See “*Scott v. Harris*: Opinion of the Court,” Case Law 4 Cops, http://www.caselaw4cops.net/cases_new/scott_v_harris_550us372_2007.html.

23. See “*Scott v. Harris*,” Oyez, <https://www.oyez.org/cases/2006/05-1631>; see also “Syllabus: *Scott v. Harris*,” SCOTUSblog, http://www.scotusblog.com/archives/05-1631_All.pdf.

24. For a quick video of the moment under debate see “Police Appeal Suit for Deadly Force During Chase!” video posted to YouTube by The Attorney Depot™ on March 3, 2014, <https://www.youtube.com/watch?v=JTfGkVQz208>.

25. For a detailed description of the event, see https://www.washingtonpost.com/politics/supreme-court-justices-grill-plaintiffs-lawyer-in-suit-over-police-chase-that-ended-in-2-deaths/2014/03/04/93255382-a3de-11e3-8466-d34c451760b9_story.html?utm_term=.b4ffc9b7de1d.

26. It is important to remember that qualified immunity is not a defense of liability; rather, it prevents officers from being subject to any lawsuit at all with the case never going before a jury.

27. One can read the case syllabus here: “Syllabus: *Plumhoff et al. v. Rickard*,” US Supreme Court, https://www.supremecourt.gov/opinions/13pdf/12-1117_1bn5.pdf.

28. See “*City and County of San Francisco v. Sheehan*,” Legal Information Institute, <https://www.law.cornell.edu/supremecourt/text/13-1412>.

29. Interestingly, while the Supreme Court decision clears the officers of liability under qualified immunity for not having “fair notice” that immediate entry was not needed, it does not clear the city and county of San Francisco; therefore San Francisco may still be found liable under the ADA at the circuit level in the *Sheehan* case.

30. For a detailed description and Supreme Court decision of the case, see “Syllabus: *Rodriguez v. United States*,” US Supreme Court, https://www.supremecourt.gov/opinions/14pdf/13-9972_p8k0.pdf.

31. “*De minimis*” refers to a minor, or trivial, therefore “reasonable,” intrusion.

32. It should also be noted that in *Illinois v. Caballes* (2005), the Supreme Court ruled 6–2 that a dog sniff during a legal traffic stop does not violate a citizen’s Fourth Amendment rights since dogs only identify the presence of illegal items—items to

which citizens have no legitimate privacy interest; therefore the Fourth Amendment does not apply.

33. The emphasis was in Justice Alito's dissent.

34. In other words, officers cannot unnecessarily prolong traffic stops unless they have "reasonable" suspicion that the subject is indeed involved in other criminal activity (with causes for reasonable suspicion including things like having a new air freshener in the car or somebody in the vehicle not making eye contact with the officer).

35. Most recent in terms of the date of this publication.

36. To read both the majority opinion written by Justice Thomas and the dissent from Justice Sotomayor, see "Syllabus: *Utah v. Strieff*," US Supreme Court, http://www.supremecourt.gov/opinions/15pdf/14-1373_83i7.pdf.

37. Referencing Alexander (2010), 95–136.

38. See, for example, J. M. Smith (2016).

39. At the time of writing.

40. For a very thorough and thoughtful discussion on the "morass of reasonableness" when it comes to excessive use of deadly force by police officers, see Gross (2016).

41. In some cases this may not be so, at least when juries are involved, if a case such as *State of Florida v. Zimmerman* (2013) is indicative of a larger legal trend (citizens may use lethal force when they feel threatened by another person or have "reasonable" suspicion the other person may be engaged in or planning to engage in criminal activity even if such suspicion has no basis in fact whatsoever) in the United States.

3

Measuring Police Use of Force

As mentioned in Chapter 1 in terms of defining use of force in order to study it, and as discussed in Chapter 2 at the federal level in establishing what use of force is “reasonable” to decide if officer actions violate existing law, there are many ways of determining the type and amount of police force necessary during a specific encounter with a suspect, with no universally agreed-on method of pinpointing when force is excessive and requires departmental and/or civic punishment. Identifying officers who are most “at risk” of using unreasonable force on suspects is no easier. Predicting what “kind” of police officer is more likely to use force, let alone to use it excessively, is a difficult enterprise. One review of police use-of-force studies across a 20-year period (Klahm & Tillyer, 2010) reported mixed findings regarding officer characteristics that help predict use of force. For example, most studies reviewed by Klahm and Tillyer (2010) found no impact of officer gender on use of force. Findings were inconsistent regarding the influence of officer race on frequency of using force. Age was the only consistent predictor of use-of-force differences among officers, with younger officers more likely to use force. Klahm and Tillyer (2010) suggest that officer shift may influence force activity since serious crimes are more likely to occur between 9:00 p.m. and 3:00 a.m., and younger officers are more likely to work shifts that incur higher serious-crime rates. The shift difference between younger and older officers may reflect senior officers’ tendency not to work shifts in which violent and dangerous encounters are more likely (Brandl & Stroshine, 2013), not because they are “dangerous” but simply because they occur late at night (during the “graveyard” shift), when officers, like virtually all kinds of employees, prefer to be at home sleeping. As for those working in the hotel resort industry (Adler & Adler, 2004), afternoon and night shifts play havoc with family commitments and likely factor into the high divorce rate among

police officers. The influence of time structure on family life ultimately puts younger, less experienced officers on shifts in which troublesome encounters (with resistant or violent, intoxicated suspects) are more likely.

Considering that Klahm and Tillyer's (2010) meta-analysis was published seven years ago, I analyzed more recent literature to see if their findings are consistent with conclusions drawn from more recent use-of-force research. I also looked to see if any scientific findings in the literature might help answer some of the remaining questions regarding variables influencing officer use-of-force rates and assist with the development of recommendations for policing protocols at the national level (e.g., if shift time influences officer age, perhaps a universal policing protocol could mix senior and younger officers during late shifts, or a rotational schedule could ensure that all officers work late shifts throughout the year). In a review of police use-of-force studies published in peer-reviewed journals between January 1, 2011, and June 23, 2016, I discovered that researchers focus on many different variables across a wide variety of samples. For example, one report focused on the risk of injury when deploying CEDs across a nationally representative sample of over 600 police agencies. The report also presented a second phase of data collection from agencies in eight states (Columbus, Ohio; Charlotte-Mecklenburg, North Carolina; Portland, Oregon; Albuquerque, New Mexico; Colorado Springs, Colorado; St. Petersburg, Florida; Knoxville, Tennessee; and Fort Wayne, Indiana) for deeper analysis and exploration of CED use and injury risk (Paoline, Terrill, & Ingram, 2012). Another study (Hickman, Atherley, Lowery, & Alpert, 2015) used official reports ($n = 1,240$) of officer-suspect interactions in the Seattle Police Department over a two-year period to test the usefulness and accuracy of a specific methodology (force factor) when measuring use of force and determining if such force was excessive during police-public encounters. With so much variation in what constitutes use of force and how police use of force has been measured since 2011, I present a review of literature concerning measuring police use of force in Table 3.1, specifying the sample population included in each study, the methodology used, the main variables included in each study, and important findings.

Table 3.1 Summary of Recent Use-of-Force Research

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- Braga, A. A., Winship, C., Tyler, T. R., Fagan, J., & Meares, T. L. (2014). The salience of social contextual factors in appraisals of police interactions with citizens: A randomized factorial experiment.
- *Sample:* People aged 18 or older living in 15 US cities. A total of 1,361 completed interviews were obtained, reflecting a 62 percent completion rate.
 - *Method:* Randomized factorial experimental design to determine whether differences in social contextual framing factors produce variations in attributions of legitimacy to police during police-citizen encounters.

- *Main Variables:* Identification with the police, general political ideology, trust in government intervention, evaluations of police effectiveness, fear of crime, concerns about neighborhood disorder, personal experience with police.
 - *Important Finding:* Citizens with prior interactions who believe the police treated them disrespectfully and unfairly negatively assess officer actions in an independent subsequent event. Respondents also made negative appraisals of police actions where police departments were known for civil rights violations and other unlawful actions, particular officers were suggested to be problematic, and the stops that initiated the police-citizen interaction were illegal.
- Brandl, S. G., & Stroshine, M. S. (2013). The role of officer attributes, job characteristics, and arrest activity in explaining police use of force.
- *Sample:* Unnamed large municipal police department in 2010, with 2,000 officers serving a population of 600,000 (40 percent African American, 10 percent Latino).
 - *Method:* Statistical analysis (chi-square and t-test) of use-of-force reports completed by supervisory officers.
 - *Main Variables:* High rate/low rate of force officers; officer age, gender, beat, shift time, and arrest activity.
 - *Important Finding:* Number of arrests made is the strongest predictor of use of force. Male officers are more likely to use force. Officers working the first shift (7 a.m.–3 p.m.) are less likely to use force.
- Brown, G. R. (2016). The blue line on thin ice: Police use of force modifications in the era of camera phones and YouTube.
- *Sample:* 231 operational institutional policing officials in Toronto and Ottawa (Canada).
 - *Method:* Mixed methods: nonprobability convenience sample survey with 82.5 response rate; 20 in-depth interviews.
 - *Main Variables:* Level of awareness of/concern about the capacity for video-recorded documentation of police actions; awareness of new forms of “civil journalism.”
 - *Important Finding:* Of survey participants, 74 percent reported behavioral change(s) due to citizens’ ability to video-record their actions; 50 percent (115 of 231) now use less physical force than they would if video recording were not such a possibility; 48 percent now use force less often.
- Chaney, C., & Robertson, R. V. (2013). Racism and police brutality in America.
- *Sample:* National Police Misconduct Statistics and Reporting Project (NPMSRP) data consisting of reports that meet credibility criteria gathered from multiple media sources throughout the United States.
 - *Method:* Two-step design: step one examines findings included in the NPMSRP; step two reads comments provided by contributors on the NPMSRP site searching for themes.
 - *Main Variables:* Misconduct incidents, fatalities, civil settlements.
 - *Important Finding:* Statistics from the NPMSRP were compiled between April 2009 and June 2010. During this time, there were 5,986 reports of misconduct and 382 fatalities linked to misconduct, settlements, and judgments.
- Compton, M. T., Bakeman, R., Broussard, B., Hankerson-Dyson, D., Husbands, L., Krishan, S., . . . & Watson, A. C. (2014). The police-based crisis intervention team (CIT) model: II. Effects on level of force and resolution, referral, and arrest.
- *Sample:* Six diverse (primarily urban or suburban) law enforcement agencies in Georgia that had implemented CIT within three to five years of the study.
 - *Method:* Analyzed (using the statistical software package, SPSS) reports provided by 180 officers (91 with CIT training, 89 without) of 1,063 encounters

- with someone believed to have “a serious mental illness, alcohol or drug problem, or developmental disability.”
- *Main Variables:* Level of force, disposition (resolved at scene, referred or transported to treatment facility, arrested).
 - *Important Finding:* There was no difference in use of force between CIT-trained and nontrained officers. CIT-trained officers were more likely to stop at verbal force, more likely to refer or transport the subject to a facility, and much less likely to arrest when the situation required physical force.
- Crow, M. S., & Adrion, B. (2011). Focal concerns and police use of force examining the factors associated with Taser use.
- *Sample:* Unnamed medium-sized municipal police force employing 144 officers serving a population of 54,000.
 - *Method:* Department use-of-force reports and officer personnel data.
 - *Main Variables:* Taser used during use of force (y or n)?
 - *Important Finding:* Taser was used in over half of all use-of-force incidents. Taser was more likely to be used by older officers and with minority male suspects. Taser was used less when officer faced physical resistance or a suspect wielding a weapon.
- Eitle, D., D'Alessio, S. J., & Stolzenberg, L. (2014). The effect of organizational and environmental factors on police misconduct.
- *Sample:* 497 US city police departments.
 - *Method:* Analysis of data drawn from three different sources. These sources included the NPMSRP for police misconduct information, the 2007 Law Enforcement Management and Administrative Statistics survey for police department organizational information, and the 2000 decennial census for environmental (city-level) information.
 - *Main Variables:* Number of police misconduct incidents reported in 2009–2010 for a police department located in a city with population over 40,000; number of full-time police department employees; extent to which formal written rules, regulations, and policy directives govern an organization; number of district/police precinct stations for a given police agency; whether the police agency has a full-time internal affairs unit; bureaucracy; police professionalism; social disorganization.
 - *Important Finding:* Between 2009 and 2010, electronic media reported 8,304 unique incidents of police misconduct in the United States. Organizational factors (size, full-time internal affairs unit, in-service training) are important in accounting for police misconduct in city police departments. The violent crime rate influences police misconduct, but social disorganization and racial composition of the precinct do not.
- Hickman, M. J., Atherley, L. T., Lowery, P. G., & Alpert, G. P. (2015). Reliability of the force factor method in police use-of-force research.
- *Sample:* Seattle Police Department.
 - *Method:* Force factor (numeric coding of force and resistance deployed per situation as reported by agency).
 - *Main Variables:* Officer use of force, subject resistance.
 - *Important Finding:* Approximately 20 percent of force incidents were rated as “excessive.” There was stronger reliability in rating officer force than in rating subject resistance.
- Lee, H., Lim, H., Moore, D. D., & Kim, J. (2013). How police organizational structure correlates with frontline officers’ attitudes toward corruption: A multilevel model.

- *Sample:* Inter-university Consortium for Political and Social Research (ICPSR) (Klockars, 1997) survey of 3,235 police officers from 30 police departments researching police officers' perceptions and tolerance of corruption ($n = 26$ agencies, 518 supervisors, and 1,962 officers).
 - *Method:* Hierarchical linear modeling of factors impacting line officers' attitudes toward corruption.
 - *Main Variables:* Frontline officers' perceptions of the seriousness of corruption, rank, assignment, length of service, departmental strength of discipline, departmental deviant subculture.
 - *Important Finding:* Officers are more likely to take corruption scenarios seriously when supervisors discipline corrupt behavior harshly. They are less likely to do so when fellow officers are less likely to report corrupt behavior.
- Morabito, M. S., Kerr, A. N., Watson, A., Draine, J., Ottati, V., & Angell, B. (2012). Crisis intervention teams and people with mental illness exploring the factors that influence the use of force.
- *Sample:* Chicago Police Department.
 - *Method:* Officer interviews (45 minutes).
 - *Main Variables:* CIT training, subject mental health, use of force.
 - *Important Finding:* CIT officers are more likely to use higher levels of force but less likely to use force as the subject becomes more resistant.
- Paoline, E. A., Terrill, W., & Ingram, J. R. (2012). Police use of force and officer injuries comparing CEDs to hands- and weapon-based tactics.
- *Sample:* 2-phase study consisting of 600 national agencies, and an in-depth study of 8 state agencies (Columbus, Ohio; Charlotte-Mecklenburg, North Carolina; Portland, Oregon; Albuquerque, New Mexico; Colorado Springs, Colorado; St. Petersburg, Florida; Knoxville, Tennessee; Fort Wayne, Indiana).
 - *Method:* Multivariate models based on agency use-of-force reports.
 - *Main Variables:* Officer injury, force type.
 - *Important Finding:* Officers are more than twice as likely to be injured using hands-on tactics than when solely using a CED.
- Ready, J. T., & Young, J. T. (2015). The impact of on-officer video cameras on police-citizen contacts: Findings from a controlled experiment in Mesa, AZ.
- *Sample:* 3,698 field reports completed by 100 patrol officers working for the Mesa (Arizona) Police Department.
 - *Method:* Controlled experimental design, 50 percent of officers assigned body cameras, 50 percent not assigned body cameras (November 1, 2012–October 1, 2013).
 - *Main Variables:* IV—Presence of body camera (yes/no). DV—various activities (stop-and-frisk, number of citations issued, number of interactions with citizens, number of verbal warnings).
 - *Important Finding:* Officers without body cameras performed 9.8 percent more stop-and-frisks and made 6.9 percent more arrests. Officers with body cameras issued 23.1 percent more ordinance violations.
- Rojek, J., Alpert, G. P., & Smith, H. P. (2012). Examining officer and citizen accounts of police use-of-force incidents.
- *Sample:* Richland County (South Carolina) Sheriff's Department.
 - *Method:* Interviews with Richland County deputies involved in a documented use-of-force incident during the first six months of 2007 as well as the related interviews with the citizens whom they used force to control (21 of 105 incidents during the six months had complete officer and citizen data).
 - *Main Variables:* Type of force used by officer, type of resistance offered by citizen.

- *Important Finding:* All the officers presented their actions during the force encounters as reasonable behavior, and each of the citizens claimed the officer's actions were improper, if not excessive. Citizens were more likely to state they did not resist or offered only passive resistance (67 percent).
- Terrill, W., & Paoline, E. A. (2015). Citizen complaints as threats to police legitimacy: The role of officers' occupational attitudes.
- *Sample:* Eight US police departments.
 - *Method:* 116-item survey at roll call sessions designed to capture a variety of use-of-force, organizational climate, and occupational culture dimensions and officers' background characteristics ($n = 2,109$); records of citizen complaints investigated by each agency covering a two-year period.
 - *Main Variables:* Job satisfaction, job stress, perception of danger, organizational environment, total number of complaints (of discourtesy and force) per officer.
 - *Important Finding:* Of the officers, 82.5 percent had no discourtesy complaints, 85.4 percent had no force complaints, and 61.8 percent had no complaints. Officers with negative orientations toward top management were more likely to generate discourtesy, force, and total complaints. Officers who viewed their job as more dangerous were more likely to receive improper-force complaints. Officers with more positive views of community policing were more likely to receive discourtesy complaints.
- White, M. D., & Klinger, D. (2012). Contagious fire? An empirical assessment of the problem of multi-shooter, multi-shot deadly force incidents in police work.
- *Sample:* Philadelphia Police Department (PPD).
 - *Method:* Statistical analysis of all incidents in which members of the PPD struck citizens with gunfire between 1970 and 1978 and between 1987 and 1992.
 - *Main Variables:* Number of shooters, number of shots fired, type of event (high risk or not), whether suspect shot first, race.
 - *Important Finding:* The race of the officer or suspect was not associated with shooting outcomes. Multiple officer shooters are associated with high-risk calls and the suspect firing first.
- White, M. D., Ready, J. T., Kane, R. J., & Dario, L. M. (2014). Examining the effects of the Taser on cognitive functioning: Findings from a pilot study with police recruits.
- *Sample:* San Bernardino County (California) Training Center.
 - *Method:* Pilot study with 21 police recruits who received a Taser exposure. Each recruit was given a battery of cognitive tests 3 to 4 hours before exposure, within five minutes of exposure, and again 24 hours after exposure.
 - *Main Variables:* Taser exposure, cognitive functioning.
 - *Important Finding:* Recruits experienced statistically significant reductions in several measures of cognitive functioning following Taser exposure. All of these effects disappeared within 24 hours.
- Willits, D. W., & Nowacki, J. S. (2014). Police organisation and deadly force: An examination of variation across large and small cities.
- *Sample:* All police departments from all US cities with populations of 25,000 or greater ($n = 325$).
 - *Method:* Regression models derived from data from the Supplementary Homicide Reports, the 2000 US Census, and the Law Enforcement Management and Administrative Statistics survey.
 - *Main Variables:* IVs: Officer education, training, hiring guidelines, department size, arrest rate, race of officer, salary, specialization, number of civilian employ-

ees, number of substations, presence of the following four things: (1) internal affairs unit, (2) collective bargaining agreement, (3) civilian review board, (4) rules for hours worked. DV: Three-year sum (1999–2001) of deadly force incidents for each city.

- *Important Finding:* Departments with more stringent recruiting practices tend to have fewer deadly force incidents in small cities. Department size and arrest rates are positively related to deadly force incidents in large cities. Stringent hiring practices may result in police officers who are better suited to address complexities in policing.

My review of US police use-of-force research published in peer-reviewed scientific journals between January 1, 2011, and June 23, 2016, yields the following conclusions:

1. Most recent research uses either secondary data or official report data from one or multiple police agencies, analyzing various factors that may influence use-of-force level and frequency via multivariate statistical analyses.
2. Various studies look at Taser use in terms of risk of injury, frequency of deployment by officers, and the most likely situational contexts for deployment.
3. An area of published research interest that has seemingly increased since 2010 compares the levels and rates of force used against subjects with mental-health issues among officers with crisis intervention team (CIT) training and officers without such training.
4. Many investigators acknowledge the importance of subject resistance level when determining the legitimacy of police use of force and are designing studies that try to capture subject resistance along with level of police force used during a police-public encounter.
5. While race of officer or suspect does not appear significant in terms of use-of-force rates (as Klahm & Tillyer [2010] found), a few studies that examine lower-income, minority-resident-dominant police precincts have found that African Americans perceive unfair, differential treatment from police and are more likely to resist officer directives if stopped in the area. Further, at least in specific areas of the country (e.g., St. Louis, Missouri), it seems that the amount of organizational funding, history of police misconduct/corruption in the area, and previous negative experiences with local police negatively impact citizen perceptions of police regardless of officer demographics (such as race) within the organization.

Finally, recent research analyzing the impact of video surveillance of policing encounters on policing behavior seems to indicate that such surveillance may decrease certain policing practices that could lead to use of

force. In the United States, early research on the use of body cameras by police officers indicates that officers wearing cameras are more cautious and “risk averse,” less likely to stop and frisk, and more likely to engage with the public than officers from the same department not wearing body cameras (Ready & Young, 2015). In terms of public surveillance, one study conducted with 231 operational police officers and police officials in Toronto and Ottawa (Brown, G. R., 2016, p. 307) indicates relatively dramatic policing behavioral changes, perhaps due to officers reassessing their “calculus of reasonableness”:

As the data in the present study suggest, with “policing’s new visibility,” the probability of observation, video recording and consequential detrimental outcomes for an officer engaging in use of force misconduct has escalated significantly. Therefore, it seems clear that front-line officers have assessed that the risks associated with public revelations of their violent excesses outweigh any considerations mitigating illegitimate applications of force and many such officers have developed a mental framework to temper decision making (and/or to guard against spontaneous losses of composure) that could find them engaging in improper violence in public milieu.

While most body camera studies indicate a negative relationship with force used, arrests, and mild forms of officer misconduct (e.g., sleeping while on duty), a recent study (Pang & Pavlou, 2016) does report that departments in which police wear body cameras are associated with a 3.64 percent increase in shooting deaths of civilians by police compared to comparable departments that do not issue body cameras. One possibility for this result is that officers have become accustomed to being filmed and believe the video evidence will justify firearm discharge (Pang & Pavlou, 2016); thus officers wearing body cameras discharge their firearms at civilians at a higher rate than officers without body cameras. Considering the tremendous leeway in determining reasonable force and when firearms can be used, such an argument has at least *prima facie* support. Regardless, we need more research on the impact of body cameras on use of force before we can adequately assess the overall impact cameras have on policing activities.

While literature on police use of force published between 2011 and 2016 serves largely to reinforce the conclusions of Klahm and Tillyer (2010), a few key factors that I discovered in my meta-analysis of police use of force differ from Klahm and Tillyer’s (2010) conclusions. Some evidence suggests that male officers are more likely to use force (Brandl & Stoshine, 2013). The discrepancy across studies on the significance of officer gender regarding use-of-force rates may well stem from the analysis of different samples. For example, the Brandl and Stoshine (2013) study analyzed one unnamed large police department (2,000 officers serving a population of about 600,000 residents) where half of all area residents were non-white (see Table 3.1). Number of arrests made was the strongest predictor

of use of force in the study, with male officers making more arrests on average than female officers in that police department. One explanation suggested for this discrepancy in arrest rate between male and female officers found in some studies is that female officers are more likely to “talk through” a situation (Johnson, N., 1998; Myers, Giles, Reid, & Nabi, 2008), more effectively using an interpersonal communication style commonly referred to in the research literature as verbal judo (Davis, Mateu-Gelabert, & Miller, 2005; Dunham & Alpert, 2009; Johnson, R. R., 2004). While this certainly is not always the case, the results of the meta-analysis indicate that female officers do seem more adept at resolving issues via interpersonal communication and resolve issues through a variety of civil services rather than simply resorting to physically restraining and arresting a subject during an encounter. Also, at least in one US city and two large Canadian cities, the knowledge that one’s actions are always potentially being recorded by the public seems to engender positive behavior change among many officers (Brown, G. R., 2016; Ready & Young, 2015). I invite readers to peruse Table 3.1 to gain a general sense of the variety and depth of recent social scientific studies on officer use of force.

Tracking Police-Public Contact

Momentum in tracking, recording, and analyzing police-public contacts, particularly in terms of racial disparities, is increasing in the United States. The issue of police-public encounters, while not new, has certainly become a major political talking point, with some criticizing the police and others supporting the police and often criticizing the protesters. The most visible protest group currently is Black Lives Matter, which has garnered major media coverage and drawn both supporters and strong opposition. For example, a Black Lives Matter banner hanging on the property of the First Unitarian Church in Wilmington, Delaware, was vandalized, with the word “black” cut out (Duvernay, 2016). A few days prior to that incident, approximately 50 police officers and supporters held a rally in Somerville, Massachusetts (a suburb near Boston), to pressure the mayor to remove a Black Lives Matter banner from the city hall, chanting “All lives matter,” “Cops’ lives matter,” and “Take it down” (Marcelo, 2016). The mayor stated that it was fine for people to disagree and to hold a dialogue about race relations, but the banner would remain.

The Black Lives Matter movement has now spread beyond US borders. Thousands of Canadians gathered to protest the death of Somali immigrant Abdirahman Abdi, who died while being detained by police in Ottawa (Migdal, 2016). A Black Lives Matter UK protest successfully blocked roads leading to London’s Heathrow Airport (McKenzie, 2016) to

mark the five years since police shot and killed Mark Duggan in North London; a large banner across the highway read, “This is a crisis.” These examples do not represent an exhaustive list of Black Lives Matter protests, which continue to happen across the United States in places such as Milwaukee, Wisconsin, and have occurred in countries such as South Africa, Australia, Brazil, India, Italy, and Spain. The movement does not appear to be going away; nor should it, as racial disparities within the justice system involve critical issues that all citizens should address until justice is truly served for all. Beyond a focus on policing injustice from a purely emotional standpoint, however, we need an overall understanding of police-public encounters in the United States and of how they have been and are currently being measured and assessed. With that in mind, this chapter discusses a variety of existing databases that in some form track police-public encounters.

One intriguing, ongoing database is the Cato Institute’s National Police Misconduct Statistics and Reporting Project. As the NPMSRP website (<http://www.policemisconduct.net>) states, the project gathers “reports of credible allegations of police misconduct so policymakers (and others) can make informed assessments of the nature and circumstances of police misconduct, and consider proposals that can minimize wrongdoing.” Started in 2009 by David Packman, the project came under the Cato Institute’s aegis in May 2012. While its website includes all published reports of police misconduct across the United States, including many situations that do not involve use of force against subjects (e.g., officers accepting bribes, arrested for DUI, reinstated after failing drug tests, in possession of drugs, involved in prostitution, shooting a family’s dog), it is an extremely useful way of tracking alleged and confirmed police use-of-force violations across the country. The site includes interactive maps of the United States highlighting all media reports of police misconduct and all reported excessive-force incidents in the country for 2015. The excessive-force interactive map represents each excessive-force incident reported in 2015 in the United States with a small blue dot placed in the location where it occurred. As the number of incidents increases for an area, the blue dot grows, enabling users/viewers to easily see areas of the country where excessive-force incidents occurred with greater frequency for that year. By state, the number of officers associated with excessive-force reports is tracked by color, illustrating which states have more officers reported as involved in excessive-force incidents in 2015.

As one would expect, per the NPMSRP’s interactive map of 2015 data, the most populated cities (New York City, Los Angeles, Chicago) and states (California, Texas, Florida, New York) have a greater number of use-of-force incidents and officers involved in those incidents. There are, however, some interesting findings. For example, the cities of Denver, Colorado,

Atlanta, Georgia, Portland, Oregon, and Tulsa, Oklahoma, seem to have a higher number of incidents compared to other cities of comparable size. For example, in Galveston, Texas (zip code 77550), 20 different officers were involved in reported excessive-force incidents in 2010, involving a total of 11 victims. In 2010, according to the census, Galveston had a population of 47,836. Compare this to Las Vegas, Nevada, a city with a population of 584,378 (per the 2010 census), which had seven officers involved in excessive-force incidents involving three victims (one fatality) in 2015. States such as Colorado, Oklahoma, Louisiana, Missouri, Alabama, Georgia, North Carolina, and Oregon seem to have slightly higher incident rates than other states with comparable populations. For states like Louisiana, Colorado, Oregon, and Georgia, the number of incidents in their largest cities (New Orleans, Denver, Portland, and Atlanta) accounts for the higher number of officers involved in use-of-force incidents. In terms of overall police misconduct in 2015, the states with the highest rate of incidents (per 100,000 officers) are Montana, Oklahoma, Louisiana, Mississippi, and West Virginia. Maine, Virginia, Arkansas, and Kansas have the lowest rates of misconduct for that year.

One can mine quite a bit of information from the NPMSRP website. Along with the interactive maps from 2015, the site also contains a running “live-time” Twitter newsfeed of media reports of police misconduct. Linked to this newsfeed is a daily recap of misconduct reports, presenting a summary of each incident. The site also contains a summary of the “worst of the month” case. For example, the case selected as “worst of the month” for June 2015 involved a homeless man arrested for a petty offense and ordered by a judge to receive a mental-health evaluation. Rather than sending the individual to the hospital, however, the chief of police in Carrollton, Kentucky, had a deputy place him on a 28-hour bus ride to Florida without accompaniment and without arranging for someone to meet him at the destination. Although the police placed the man on the bus to Florida, they later charged him with “escape from custody.” While this “worst” case of the month does not involve use of force per se (although one can reasonably argue that putting someone on a bus that is traveling out of state is a form of coercion), it does highlight how law enforcement treats people with possible mental-health issues differently from other citizens. In addition to the NPMSRP newsfeed, there are similar Twitter feeds such as Copwatch (where contributors video-record police-subject encounters) and Cop Block (aimed at improving police accountability); however, these tend to present short video clips or linked news articles with rather one-sided accounts phrased using anti-law-enforcement language.

A valid scientific analysis of police-public encounters requires a scientifically valid data-collection methodology, theoretically grounded hypotheses or research questions, and sound, logical analysis of data that other

researchers can replicate, test, and either refute or verify. For these reasons, I have selected two primary databases to use for my quantitative analysis of police use of force in the United States. Both sets of data used for the analyses included in this book derive from federally funded social scientific studies. The databases include numeric information collected by a variety of police organizations across the country as well as from members of the public who have had recent contact with the police. I discuss each of these databases in extensive detail in the remaining sections of this chapter.

Discovering and Using Existing Use-of-Force Databases

One major research task when examining police use of force in the United States is assessing currently available federal data. Two national-level datasets are the FBI's Law Enforcement Officers Killed and Assaulted (LEOKA) report and the National Incident-Based Reporting System (NIBRS),¹ both part of the Uniform Crime Report (UCR). The LEOKA offers very detailed descriptions of officer fatalities by incident, categorized by state and year. The NIBRS is a new system for the UCR, shifting from summary reports to incident-based data collection so that researchers can better identify crime patterns. While the LEOKA does involve police-subject contact, it is limited to incidents in which officers have been assaulted or killed. The NIBRS involves criminal activities in more general terms, and while it may be used to identify "hot spots" of criminal activity (and thus increased risk for officers patrolling those areas), it does not deal with police contacts specifically. To answer whether there are demographic differences (race/ethnicity, age, sex, social class) in police-public contacts, one needs a database that includes such everyday face-to-face contacts between citizens and police officers. For that information, I searched the available data from the NIJ.

While the NIJ offers training and funding opportunities regarding police behavior (including use of force), it does not publish national or local statistics on its website. Rather, it disseminates data in a variety of forms through various other channels. Electronically, the National Criminal Justice Reference Service (NCJRS) website disseminates NIJ-funded research findings, with datasets archived on the National Archive of Criminal Justice Data (NACJD) website. Regarding the current analysis of police use of force included in this volume, two major sources for national data on police-public encounters are currently available: the Police-Public Contact Survey (PPCS) and the Multi-method Evaluation of Police Use of Force Outcomes: Cities, Counties, and National, 1998–2007 (MMEP), both available through the Inter-university Consortium for Political and Social Research (ICPSR), of which the NACJD is a part.²

Specifically, the PPCS presents findings from a nationally representative survey ($n = \sim 60,000$) of US residents aged 16 and over regarding police contact during the past year prior to the interview, with data collected and made available for 1996, 1999, 2002, 2005, 2008, and 2011.³ The US Census Bureau has administered the PPCS every three years, starting in 1996, as a supplement to the National Crime Victimization Survey (NCVS). The most recent PPCS reported by the Bureau of Justice Statistics (BJS) was conducted during the last six months of 2011 with 49,246 of the 62,280 individuals 16 and over included in the NCVS sample.⁴ The 2011 PPCS includes a total of 527 variables. The codebook and complete list of variables can be located on the ICPSR website. The actual survey can be reviewed and downloaded through the BJS website. This chapter discusses the descriptive statistics of 2011 PPCS data and begins testing specific hypotheses relevant to PPCS data.

The second database, the Multi-method Evaluation of Police Use of Force Outcomes: Cities, Counties, and National, 1998–2007 (Alpert, Smith, & Fridell, 2011), presents national use-of-force data as well as location-specific data on police use of force. Along with national findings, longitudinal data are also presented for Richland County, South Carolina; Miami-Dade County, Florida; Seattle, Washington; Orlando, Florida; and Austin, Texas. The study (Alpert, Smith, & Fridell, 2011) investigated how and why injuries occur to police and citizens during use-of-force events. The first part of the study involved a stratified random sample of US law enforcement agencies surveyed on deployment of, policies for, and training on less-lethal technologies. The survey included a total of 292 variables involving weapons deployment, force policies, training, force reporting and review, force incidents and outcomes, and CEDs. Surveys were mailed out to 950 law enforcement agencies across the United States in July 2006, with 518 providing information (54.5 percent response rate). Location-specific data included individual use-of-force reports from the specific agencies across various periods (from between 1998 and 2006). As with the PPCS data, this chapter discusses descriptive statistics related to data from the Multi-method Evaluation of Police Use of Force Outcomes: Cities, Counties, and National, 1998–2007.

There are many ways of measuring use of force by police officers. For example, the PPCS uses a nationally representative sample of Americans, asking them about recent police contact. Compared to the period spanning the 1970s to 2005, over the past decade there appears to be a growing interest in topics such as CED deployment, police interactions with people with mental-health issues, racial differences in stop-and-search techniques, levels of subject resistance leading to police use of force, and officer characteristics that may lead to higher use-of-force rates. In terms of recently published studies collecting primary data on

police use of force, social scientists tend to focus on one or more police departments across the country, gathering information from official departmental reports and/or brief interviews with officers to capture use-of-force incidents and the factors that influence officer force rates and outcomes. Outside academia, activist groups have used social media such as Twitter⁵ to begin disseminating police misconduct and use-of-force incidents reported across the country to anyone who wants to follow such activity. While increased general and scientific interest in the topic is a positive outcome in terms of understanding, measuring, and discussing police use of force in the United States, the varied ways people examine use of force also tends to make it difficult to reach universal, objective, valid conclusions. The best possible method of beginning to establish a more objective, universal understanding of police use of force in the United States may be to synthesize results from national data derived from citizens who have had recent contact with one or more police officers with a national database that includes official police reports and other use-of-force reports from officers across police departments in the United States. While such a project is beyond the scope of the present analysis, I will be able to closely examine available PPCS data along with data related to the kinds of weapons and tactics used by officers in various departments across the United States.

The most recent PPCS data available for analysis through ICPSR was conducted during the last six months of 2011 (July 1–December 31, 2011) by the US Census Bureau as a supplement to the National Crime Victimization Survey. PPCS interviews were obtained from 49,246 of the 62,280 individuals age 16 or older in the NCVS sample (which includes a representative sample of all persons in the United States age 12 and older). The nonrespondents (13,034) included individuals not available for the interview, those who refused to participate, non-English-speaking respondents (the NCVS includes non-English speakers, while the PPCS interviews are in English only), and those who could not participate for physical, mental, or other reasons. To produce national estimates on police-public contacts, sample weights were applied to the survey data so that the respondents better represented the entire population. After adjustment for nonresponse, the sample cases in 2011 were weighted to produce a national population estimate of 241,404,142 persons aged 16 or older.

The Department of Justice (DOJ) report on the findings indicates that 62.9 million US residents 16 or older (26 percent of the population) had at least one contact with police in 2011 (Langton & Durose, 2013). Contact was equally likely to be initiated by residents (51 percent) as by police (49 percent). The PPCS data indicate most residents who had contact with police in 2010 believed the police behaved properly, including those who requested police assistance (93 percent), residents who were pulled over for

a traffic stop (88 percent), and persons involved in street stops (71 percent). Fewer than 1 out of 20 residents who felt the police had not behaved properly filed a formal complaint regarding the situation in question (Langton & Durose, 2013).

One of the most useful aspects of the PPCS is tracking use-of-force estimates through time. The most recent estimate of police using the threat or application of physical force is 1.4 percent of police-public face-to-face encounters (Eith & Durose, 2011). This estimate is very close to the 1.5 percent national estimate reported by Hickman, Piquero, and Garner (2008).⁶ These estimates indicate that use of force during police-public encounters has remained remarkably stable over the past 20 or so years, with roughly 98.5 percent of all police-public encounters obtaining compliance with police directives through officer presence or standard verbal instruction alone. In other words, police threats or applications of force against people officers encounter in public, whether necessary or excessive, are quite rare. They become much more common when we limit analysis to people who are ultimately imprisoned after the encounter (Hickman, Piquero, and Garner, 2008). This aspect of the police-public use-of-force rate is important because ultimately there are two different populations: people whose encounters with police do not end in incarceration and those for whom jail time is the ultimate outcome of an interaction with police.⁷ With such different rates of force used within the nonarrested and arrested subject populations, it is important for researchers to specify exactly what population is being assessed within a dataset (e.g., Is one specific population being measured? Does the data include both nonimprisoned and imprisoned populations?). The population included in the data-collection strategy (prisoners, nonprisoners, mixed) will likely have a substantive influence on research findings because those subjects arrested during the encounter, charged with some offense, and ultimately jailed for an offense report much higher incidents of force used against them.

Persons interviewed for the 2011 PPCS were asked about their contacts with police during the past 12 months and presented with a list of specific reasons for the contact. Respondents with multiple contacts with police during the year were only asked detailed questions about their most recent contact. Any geographic information that may have been included in the study contents was ultimately blanked to ensure participant confidentiality. I constructed tables of various police-subject contact variables with the variable description, number of valid responses, and frequency of response (with percentage that includes only the valid cases in parentheses, excluding those who refused to answer or stated they did not know). Demographic variables such as sex, age, ethnicity, race, employment status, and income are not presented in the tables but rather will serve as independent variables in the factor analyses presented in Chapter 4.

In Appendix 1, Table A1.1 shows the percentage of respondents who noted having had recent (past 12 months) police contact and if they were arrested as a result. Considering the PPCS is part of the National Crime Victimization Survey and asks Americans about their police contact within the past 12 months, the data provided by the PPCS should be an excellent method of analyzing whether all generally nonviolent, everyday Americans express similar experiences during police contacts, or whether such contacts vary depending on respondent characteristics (e.g., age, ethnicity/race, gender, social class). The PPCS should be less accurate in measuring how police engage those involved in serious crimes. This appears to be the case, with only 0.6 percent of respondents stating they had been arrested in the past 12 months.

Once I was comfortable that the data were a valid representation of my target population—everyday, generally law-abiding Americans—I analyzed descriptive information concerning respondents' public contact (not while driving) with police that provided background information related to the nature of the stop, the reason for it, whether multiple officers were present, the time of the stop, and respondent perceptions of the legitimacy of the police contact and if the contact was too long or too short. These statistics related to public stops can be found in Table A1.2. As one may have noticed in Table A1.1, per 2011 PPCS data, roughly 10 percent of respondents were stopped while driving a motor vehicle, with only a little more than 1 percent of respondents having contact with police in public while not driving (stopped on foot or while parked). The small sample sizes within the PPCS for public stops indicate that police stopping people in public spaces is quite rare nationally. Localized data would seem likely to provide more accuracy when studying police contacts in public environments, particularly in areas where local police departments are known to utilize stop-and-frisk procedures. For example, a New York Civil Liberties Union (NYCLU) report (Dunn & Carnig, 2014) on stop-and-frisk contacts in New York City between 2002 and 2013 indicates a total of 5,081,689 such stops during that time (lowest was in 2002 with 97,296 stop-and-frisk contacts; highest was in 2011 with a total of 685,724 stop-and-frisk contacts). As indicated in the report, almost 4.4 million of the stops resulted in discovery of no offense or violation, with 41 percent of all stops involving black and Latino males aged 14 to 24 (only 4.7 percent of the total population). Almost 90 percent of all stops of black and Latino men aged 14 to 24 resulted in no offense, violation, or citation (Dunn & Carnig, 2014).

Thus, while the PPCS offers a glimpse of public encounters, more focused data on location-specific practices such as the stop-and-frisk data presented by the NYCLU are more likely to yield results that policymakers and law interpreters (the courts) can use to assess policing policies and procedures⁸ in locations where the likelihood of being stopped in public is sig-

nificantly greater than the national average. That is, policing practices are determined locally, by department heads, and such practices may change from one department to another at any point and even change within a department in a relatively brief time (say within 12 months). Any statistically significant discrepancies across groups discovered in public stops in the PPCS data are likely influenced by such stop-and-frisk “hotspots” that existed across the United States in 2010.

Comparing the PPCS 2011 public-contact data with the NYCLU report (Dunn & Carnig, 2014) on stop-and-frisk, almost 87 percent of respondents indicated they were not ticketed or arrested during the encounter (consistent with the findings in New York City from 2002 to 2013, which noted that 90 percent of those stopped were not ticketed or arrested). In the PPCS data, over 12 percent of respondents indicated police shouted at them, over 5 percent said an officer cursed at them, and almost 11 percent indicated they were threatened with arrest. Only 2.4 percent indicated an officer threatened to use force, with roughly the same number (2.8 percent) stating police pushed or grabbed them. Interestingly, even with such sparse numbers of actual force used against respondents, a substantial percentage (80 percent) felt the police actions were unnecessary, although 74 percent of respondents indicated they found the police use of force or threats not to be excessive (Table A1.3). This is important, for even though the actual number of respondents who experienced higher levels of force was minimal (0 who were pepper-sprayed or Tasered or had a gun pointed at them compared to a high of 14 who were handcuffed during the encounter, 6 who were pushed or grabbed, 1 who was hit or kicked, and 5 who were threatened with force), many respondents deemed police shouting, cursing, and threatening unnecessary, yet not excessive. This may indicate that situations where subjects feel “harassed” by police are much higher than feeling they are victims of excessive physical force.

The descriptive data derived from the 2011 PPCS indicate a potentially crucial disconnect in police-subject encounters in which officers at times feel the need to “take control” of the situation through loud and/or abusive language and threats; yet such behaviors are more likely to exacerbate and further challenge the officer’s command of the situation due to the subject’s perception of unfair/unjust treatment. If one goal of policing is to better officer-community relationships, then two suggestions are already apparent: (1) do not “target” specific groups of citizens (e.g., African American and Latino males aged 14 to 24) for being stopped and searched, and (2) remain calm and speak respectfully. It may be possible to further reduce use of force during encounters by remaining calm and nonthreatening while interacting with subjects (Alpert, Dunham, & MacDonald, 2004). The demand for respect is not one directional in any social interaction. Respecting citizens, even during tense situations, is an important component of reducing

unnecessary interpersonal conflict. Of course, equally important is the subject's respecting law enforcement officers, whose job involves engaging with people when a possible crime or emergency arises. It is also important to consider that while officers often see subjects "at their worst," remaining calm and speaking in a professional, businesslike manner will more likely stave off a need for physical force than becoming agitated, cursing, and making threats.

Over 10 percent of those stopped in public state they complained to officers, with just fewer than 9 percent admitting they argued with police. Of all respondents stopped in public, just over 18 percent said they were stopped and frisked (Table A1.4), with almost 45 percent of those saying the police had a reason to do so. Subject interpretation of the encounter influences level of resistance, which in turn influences an officer's interpretation of how much force to use throughout the interaction (Alpert & Dunham, 2004). Clearly and calmly stating the purpose of the encounter, in most cases, should help maintain a calm police-subject interaction. As these encounters do not involve any use of force or resistance. In the rare cases in which force and resistance are present during the encounter, the goal for both police and subjects should be to maintain, or at worst restore, a calm interaction, thus helping to ensure the safety of all involved.

If, using the force factor model (Alpert & Dunham, 2004) that states level of force police used is directly correlated with the level of resistance offered by subjects, one can predict that a respondent who reports complaining to police may likely have been shouted at during the encounter. Roughly the same percentage of respondents said police shouted at them ($n = 26$; 12.3 percent) as said they had complained to officers ($n = 22$; 10.5 percent) when stopped in public. I conducted a bivariate correlation analysis between complaining to officers and having officers shout at them to test the hypothesis that there would be a statistically significant relationship (at the .01 level of significance) between a respondent reporting having complained to officers during a public encounter and being shouted at by police. I ran a two-tailed test of significance using the Spearman's rank correlation coefficient (hereafter referred to as the Spearman's rho). I used the Spearman's rho instead of the Pearson correlation coefficient because both variables are discreet yes/no variables (once the "don't know" responses and refusals to respond are eliminated). Of those respondents who reported having had contact with police in public in the past 12 months, two respondents refused to answer the items I analyzed. Refusal to answer is scored an eight in the PPCS. I will consistently exclude those who report "don't know" (scored a three in the PPCS) and refuse to answer one or more items included in the statistical analyses that follow in this chapter and in Chapter 4.

Considering that once the refusals to respond are excluded from analysis, the variables are both dichotomous ("You complained to officers" and "Police

shouted at you”: yes/no response), and that my hypothesis (that those respondents who report complaining to officers are more likely to report police shouting at them) predicted a monotonic relationship, the Spearman’s rho is the most appropriate correlation to report when analyzing this specific relationship. The Spearman’s rho of .209 was significant at the $P < .01$ level, indicating a significant correlation between a subject complaining to police and being shouted at. The Spearman’s rho of .209 indicates a significant, albeit relatively weak, association between the two variables.

Due to the nature of the survey data, there is no way to know which came first—that is, whether the respondent initially complained to officers and then the officer responded in kind by shouting at the individual. Even with the inability to know for certain whether the complaint toward officers precipitated the officer shouting or vice versa, the data do make clear that although there remains quite a high level of variation in such encounters, one individual who either is seen as resistant (subject complaining) or forceful (officer shouting) in the interaction significantly increases the likelihood that the other party involved will react likewise (either by increasing level of resistance [complaining] or force [shouting]).

Computing a cross tabulation, with complaining to officers selected for the column and x -axis (independent variable) and police shout at you in the row and y -axis (indicating a dependent variable), produced a Pearson chi-square of 9.12 ($P < .003$) and a gamma value of .627 ($P = .042$). The Pearson chi-square statistic tests how likely it is that observations are distributed simply by chance. It is also referred to as the “goodness of fit” test since the chi-square measures how well observations would fit with expected outcomes if the variables were independent (no relationship). Chi-square tests are used to analyze categorical data (such as yes/no questions, racial categories, or sex). The gamma statistic tests for an association between two variables, with the association ranging from -1 to 1 . Values close to 0 show no or a weak association between the two variables, with values close to 1 indicating a strong positive relationship, while values close to negative 1 indicate a strong negative, or inverse, relationship. So, although the relationship between complaining and being shouted at is small, it remains significant across various statistical tests.

Without specifics regarding the context of complaints and shouts, it is difficult to determine fault in either the police officer’s or the subject’s actions. It is also difficult to know exactly what respondents were complaining about. For example, some respondents stopped by police in public may have been complaining about another person, for example, a neighbor playing loud music or someone who had engaged them in a public setting in a threatening manner (e.g., a nightclub brawl); therefore, the verbal complaint was not directed at the officer and could possibly be handled in a calm and friendly manner throughout the police-subject interaction. Due to

the various circumstances in which an individual may complain to an officer, a more specific variable such as arguing with an officer may offer a stronger relationship to being shouted at by an officer, since both kinds of interactions indicate antagonism between the officer and subject.

Testing the relationship between arguing with and being shouted at by an officer in a similar manner to how I tested complaining and being shouted at (bivariate correlation and a cross tabulation) produced a Spearman's rho of .254 ($P < .000$), a chi-square of 13.454 ($P = < .000$), and a gamma of .718 ($P = .025$), indicating a significant and slightly stronger correlation between respondents arguing with officers and officers shouting at respondents during the encounter compared to complaining to officers and officers shouting, although both correlation coefficients indicate a relatively weak association.

The raw numbers produced from the specific items analyzed (respondent complaining, respondent arguing compared with being shouted at) were almost identical across variables, with seven respondents indicating they complained and were shouted at and seven respondents stating they argued with officers and were shouted at. The increased significance of the correlation for respondents who argued with officers and were shouted at comes from the fact that there were fewer of them ($n = 18$) compared to respondents who reported complaining to officers ($n = 22$). Due to the very comparable results across the two situations (complaining and arguing) and the fact that the results indicate the same practical conclusions, I have only presented the cross tabulation for complaining in Table 3.2. In summary, for those respondents whose most recent interaction with police in the past 12 months occurred in a public space, there are significant relationships between subject complaining/arguing and police shouting at subjects, although the strength of such relationships is weaker than I anticipated (in terms of the Spearman's rho). Results appear to indicate that while one person (officer or subject) arguing, complaining, or shouting significantly increases the likelihood that the other party will respond with similar forms

Table 3.2 Complaining to Officers * Police Shouting (Public)
SPSS Cross Tabulation

	During contact, did you complain to officers?		Total
	Yes	No	
Did police shout at you?			
Yes	7	18	25
No	15	168	183
Total	22	186	208

of aggressive interpersonal communication, the high degree of variation (i.e., relatively weak correlations) discovered illustrates that many subjects and officers refrain from escalating a mildly hostile situation into an even more hostile one. In other words, not only is it possible to handle angry or aggressive police-subject interactions calmly, but it is rarer for both parties to act in an aggressive fashion than it is for one to act aggressively while the other (subject or officer) remains calm.

Along with public stops, I also compiled descriptive data from the 2011 PPCS that involved background information for the stop, perceptions of the legitimacy of the stop, levels of force used, and level of resistance offered by the subject for those respondents whose most recent police interaction in the past 12 months occurred while driving (Table A1.5). Almost half (48.8 percent) of those stopped were pulled over for speeding. Out of all respondents stopped while driving, just over 15 percent found the stop not to be legitimate, with only 7.1 percent exiting their vehicle during the stop. While the overall numbers are larger compared to the levels of force used in public (due to the much larger number of respondents pulled over while driving compared to being stopped in public while not driving), the actual percentage of respondents who experienced physical force used against them during a traffic stop, compared to those stopped in public, is considerably lower. For example, of subjects stopped in public, 12.3 percent were shouted at, 5.2 percent cursed at, 10.8 percent threatened with arrest, 2.8 percent pushed or grabbed, and 6.6 percent handcuffed; the percentages for respondents stopped while driving were 2.1 percent, 0.6 percent, 1.4 percent, 0.3 percent, and 1.1 percent, respectively (Table A1.6). Drivers were more likely to report having a gun pointed at them by an officer than those stopped in public, although the numbers remain very small ($n = 7$; 0.2 percent). Much like those whose most recent police encounter occurred in public, those stopped while driving who experienced some level of force (from shouting to having a gun pointed at them) generally (71.8 percent) found the officer's actions unnecessary, yet did not report the force used as excessive (only 32.2 percent said the force used was excessive).

The data on subject resistance when stopped while driving (Table A1.7) indicate that the most frequent kind of subject resistance during police-subject encounters is verbal complaining and arguing (5.5 percent said they complained; 2 percent said they argued with the officer). In fact, respondents are much more likely to complain, argue, curse, insult, threaten, or passively disobey an officer than they are to attempt to flee or physically confront an officer. Analysis of the PPCS 2011 descriptive statistics shows that most police-subject encounters result in no force being used and no resistance offered by the subject. In the rare cases that an officer does threaten or use force or shouts at a subject, many subjects do not respond in an aggressive or resistant fashion. In cases where subjects complain or argue with officers,

most officers do not respond aggressively, helping to ensure that the level of aggression during the interaction does not escalate. The PPCS data add validity to the conclusion that, overall, at the national level, higher levels of force against nonviolent subjects are extremely rare and at times (as with deployment of pepper spray or a Taser) virtually nonexistent.

Considering my hypotheses that a statistically significant relationship existed between respondents complaining to officers and being shouted at by officers and between respondents arguing with officers and being shouted at by officers in public encounters, I tested the same hypotheses for respondents who were stopped by police while driving, anticipating statistically significant but relatively weak correlations similar to the public encounter results I had discovered. As expected, the cross-tabulation results for respondents stopped while driving who complained or argued and were shouted at by officers were very similar to the cross-tabulation results discussed earlier in this chapter involving respondents who were stopped in public. The valid cases for those who had been stopped while driving, after elimination of the few refusals and “don’t know” responses, produced $n = 4,306$ for the complain * shout cross tabulation and $n = 4,305$ for the argue * shout cross tabulation. The Spearman’s rho for respondent complain * police shout cross tabulation was .229 ($P < .000$), with a gamma of .867 ($P < .000$) and a chi-square of 225.268 ($P < .000$). For the respondent argue * police shout cross tabulation, the results were a Spearman’s rho of .197 ($P < .000$), a gamma of .883 ($P < .000$), and a chi-square of 166.894 ($P < .000$). The strength of the correlations is very like those found in public encounters (significant but weak), with the significance tests showing greater approximate significance due to larger sample sizes included in the analysis. Again, as with the public encounter data discussed earlier in this chapter, the arguing data for driving encounters with police is so like that of the complain to officers * police shouting analysis that I only present the complaining to officers * police shout data in Table 3.3.

Table 3.3 Complaining to Officers * Police Shouting (Driving)
SPSS Cross Tabulation

	Did respondent complain?		Total
	Yes	No	
Did police shout?			
Yes	37	53	90
No	199	4,017	4,216
Total	236	4,070	4,306

I also examined overall respondent information concerning the level of helpfulness and overall satisfaction with police encounters that the respondents themselves voluntarily initiated (Table A1.8). Over 86 percent of respondents stated that the officers were helpful during the voluntary contact, with almost 92 percent stating they were treated respectfully by police. Only 44 (4.2 percent) of the 1,040 respondents who did not agree that the police behaved properly stated they filed a complaint, with 684 of 10,193 respondents (6.7 percent) saying they were not treated respectfully by police. These data indicate that most citizens who have grievances with police officers file no official complaint.

Tables A1.9 to A1.11 deal with earlier contacts within the past 12 months. As seen in Table A1.9, 1.7 percent ($n = 42$) of those who had multiple encounters with the police had force threatened or used against them during an earlier police contact. Out of those 42 respondents, 26 had force threatened or used against them during their second most recent encounter with the police while operating a motor vehicle. I here present information for these 26 respondents. I excluded the remaining 16 due to the extreme variation in circumstances, which produced extremely small numbers per group (so small they are beyond statistical analysis, at least for this project). Of the 26 respondents who had force threatened or used against them during their second most recent police encounter while driving, 20 (76.9 percent) stated police shouted at them and 24 (92.3 percent) stated that officers threatened to use force against them. Interestingly, slightly over 15 percent of the 26 respondents stated an officer pointed a gun at them. Nearly 77 percent of the respondents who experienced the threat or use of force against them found it excessive.

Part of the descriptive information I analyzed involved whether the respondent threatened ($n = 29$) or disobeyed ($n = 7$) the officer, with the data dealing with an earlier contact (not most recent contact with police) while driving during the past 12 months prior to the interview (Table A1.10). Just fewer than 87 percent of respondents stated they felt the stop was warranted. Only 16 respondents (3.1 percent) stated their vehicle was searched, with the clear majority (87.5 percent) of the 16 respondents stating the officer did not have a legitimate reason for the vehicle search. Illegal items were found on only 2 of the 22 respondents who either had their vehicle searched and/or were asked to exit the vehicle, patted down, and searched.

Roughly the same percentage of respondents who said police threatened or used force against them during this specific encounter stated they threatened the police. Based on the force factor model of police use of force and subject resistance (Alpert & Dunham, 2004), I tested the hypothesis that there would be a statistically significant relationship (at the .01 level of significance) between a subject threatening an officer during an encounter

and experiencing the threat or use of force. To do so, I conducted a bivariate correlation between threatening police and being threatened by police, running a two-tailed test of significance, excluding those who stated they did not know or refused to answer. (This eliminated one respondent, who only stated that he had threatened the police [indicating that he did not answer yes or no to whether the police had threatened or used force against him]; nobody who stated the police had threatened him [or her] was eliminated.) Of the 28 respondents who stated they had threatened police, 10 stated the police used or threatened force against them during the encounter, with 18 saying the police did not threaten or use force; 16 stated they did not threaten police in instances where police threatened or used force against them. These data are represented in Table 3.4.

The relationship between subjects threatening police and police threatening or using force on subjects is perhaps the closest to mutual aggressive behavior so far in the current analysis of PPCS 2011 data, in that subjects may complain or even argue in a relatively calm manner, but threats typically indicate a more aggressive, more forceful, and even more serious type of interpersonal engagement. Given the nature of police work, we can expect officers to deal with threats directed toward them in a relatively stern manner to ensure and maintain the safety of everyone involved. These data produced the strongest correlation, with a Spearman's rho of .359 ($P < .000$), a gamma of .960 ($P = .002$), and a chi-square of 188.210 ($P < .000$). These tests, like the other research hypotheses proposed thus far in the analysis, have been supported at the .01 level of significance. Unlike the first two cross tabulations, however, which indicated a relatively weak association between the variables tested, the threatening variables related to an earlier vehicle stop indicate a moderately stronger association, although it does not quite reach the standard "moderate" benchmark of between .40 and .59 for effect size using the Spearman's rho.⁹

Table A1.11 provides information on the outcomes of the "earlier" (not most recent) traffic-stop data. A little more than half of the respondents stated they were ticketed, with 63 percent of the remaining respondents

**Table 3.4 Threatening Officers * Police Threaten or Use of Force?
(Prior Encounter: Driving) SPSS Cross Tabulation**

	Did you threaten police?		Total
	Yes	No	
Did police use or threaten force?			
Yes	10	16	26
No	18	1,418	1,436
Total	28	1,434	1,462

(those not ticketed) indicating they were given a warning. Roughly 1 in 12 respondents said they were asked to get out of their vehicle by police. While 9 percent ($n = 47$) of respondents stated they did not believe police behaved properly, only 1 of the 47 respondents filed a complaint for improper police behavior during the encounter. Compared to those who stated they did not think the police behaved properly, a similar percentage of respondents stated they did not feel the police treated them respectfully. Finally, fewer than 3 percent of respondents indicated they had an additional earlier contact during the prior 12 months in which police had used or threatened force against them. As previously mentioned, due to the small sample size and varying nature of those incidents, they were not included for statistical analysis.

Descriptive Statistics for the MMEP

While the data presented in the 2011 PPCS are analyzed in more detail in Chapter 4, I now present the second database I used and analyzed extensively for this study, the US Multi-method Evaluation of Police Use of Force Outcomes: Cities, Counties, and National, 1998–2007. The MMEP (Alpert, Smith, & Fridell, 2011) administered a use-of-force survey to local, county, and national law enforcement agencies. Part one of this multiphase study covered law enforcement use-of-force practices at the national level, with surveys mailed out in July 2006 using a stratified random sample of all law enforcement agencies in the United States in 2005. The surveys were sent to 950 law enforcement agencies across the country. A total of 518 agencies provided information (54.5 percent response rate). The survey contains a total of 292 variables related to weapons deployment, policies regarding using force, training, force reporting and review practices, use-of-force incidents and outcomes, and specific items related to the use of CEDs (Alpert, Smith, & Fridell, 2011). The principal investigators used a weighting process to account for differences in the probability for agency selection due to the overall response rate of different kind of agencies (e.g., small town police departments, state police agencies, large metropolitan agencies) (Alpert, Smith, & Fridell, 2011).

Part of the MMEP use-of-force survey asked departments to provide a list of less-lethal use-of-force options, asking respondents to indicate the percentage of uniformed patrol officers/deputies and supervisors assigned to respond to service calls who routinely carried specific less-lethal weapons either on their persons or in their vehicles. The selection choices were “Not Carried,” “Less than 50%,” or “50% or Greater,” along with whether the department had used that weapon in 2000 and if most officers in the department carried the weapon on their persons or in their vehicles.

The list of weapons included straight or side-handle baton, expandable baton, CED, handheld chemical agent, weapon-deployed chemical agent, impact munitions (e.g., rubber bullets), and two additional boxes for other weapons not included in the list. Table 3.5 provides the weighted¹⁰ results from this portion of the survey.

While virtually all departments issued some form of baton in 2000 and 2005, the results presented in Table 3.5 show that the expandable baton was most frequently carried during service calls, the majority of the time on the officer's person (80.7 percent of departments that issue expandable batons have officers carry the weapon on their person during the majority of service calls). The majority of departments (52.9 percent) did not issue a CED

Table 3.5 MMEP Department Arsenal

Variable Description	Valid <i>N</i>	Freq 1 (%)	Freq 2 (%)	Freq 3 (%)	Freq 4 (%)
<i>Straight handle baton</i>	510	Not carried = 318 (61.5)	Less than 50% = 117 (22.6)	50% or greater = 75 (14.5)	Used in 2000 = 193 (37.2)
Most carry this weapon on their person or in their vehicles.	197	On their persons = 70 (35.5)	In their vehicles = 127 (64.5)		
<i>Expandable baton</i>	516	Not carried = 75 (14.4)	Less than 50% = 104 (20.0)	50% or greater = 337 (65.1)	Used in 2000 = 317 (61.3)
Most carry this weapon on their person or in their vehicles.	441	On their persons = 414 (93.9)	In their vehicles = 27 (6.1)		
<i>CED</i>	517	Not carried = 274 (52.9)	Less than 50% = 57 (11.1)	50% or greater = 186 (36.0)	Used in 2000 = 32 (6.2)
Most carry this weapon on their person or in their vehicles.	244	On their persons = 224 (91.9)	In their vehicles = 20 (8.1)		
<i>Personal-issue chemical agents</i>	509	Not carried = 3 (0.6)	Less than 50% = 15 (2.8)	50% or greater = 491 (94.8)	Used in 2000 = 429 (82.8)
Most carry this weapon on their person or in their vehicles	509	On their persons = 475 (94.3)	In their vehicles = 28 (5.7)		
<i>Weapon-deployed chemical agents</i>	515	Not carried = 441 (85.1)	Less than 50% = 67 (13.0)	50% or greater = 7 (1.4)	Used in 2000 = 30 (5.8)
Most carry this weapon on their person or in their vehicles		On their persons = 3 (4.7)	In their vehicles = 69 (95.3)		
<i>Impact munitions</i>	517	Not carried = 357 (69.0)	Less than 50% = 117 (22.6)	50% or greater = 43 (8.3)	Used in 2000 = 66 (12.8)
Most carry this weapon on their person or in their vehicles		On their persons = 1 (0.8)	In their vehicles = 159 (99.2)		

in 2005, with very few departments (6.2 percent) having issued CEDs to officers in 2000, indicating that CED use in law enforcement activities is a relatively new phenomenon, partly explaining the research focus on CED deployment in policing practices over the past 10 years.¹¹ The nonlethal weapon issued most consistently across departments in 2005 and 2000 was a personal-use chemical agent (pepper spray).

The next set of items on the MMEP survey of police departments across the United States in 2005 concerns use-of-force continuum model policies. Table 3.6 provides descriptive information concerning the number/percentage of departments that used a use-of-force continuum model in policy or training, with just fewer than 85 percent of departments stating a use-of-force continuum model was being utilized. Also of note, over three-quarters of officers are exposed to the effects of chemical sprays and almost two-thirds of officers are exposed to CED effects prior to being authorized to use those specific weapons (if the weapon is issued within the department). The departments that acknowledged using a use-of-force continuum model in policy or training were asked to indicate the type of continuum used (linear, matrix, circular, other). Table 3.7 presents the information regarding type of continuum model, with 44.5 percent indicating the use of a traditional linear model and over 36 percent using a matrix or circular model.

Another interesting aspect of the MMEP survey of law enforcement departments across the United States involves the presentation of five different scenarios that ask respondents whether their department would consider a variety of use-of-force options as a reasonable initial response to the suspect's resistance based on departmental training and/or policy standards. The five scenarios all contain the same basic premise of a routine traffic stop during daylight hours. The officer discovers the driver is wanted for a misdemeanor domestic violence offense. The subject is described as a 25-year-old male, 5'9", weighing 160 pounds with no criminal record. Backup is 10 minutes away with no other citizens present at the scene. Next, I will present the unique information for each scenario, followed by a table of descriptive information regarding types of force that are deemed reasonable in responding to subject resistance.

In scenario one, when told he is under arrest, the subject sits down on the ground with his hands clearly visible. The officer repeatedly orders him to get up or to place his hands behind his back, but the subject refuses to do so, saying only, "I don't want to go to jail." Department representatives were asked which of the following less-lethal options would be authorized under their department's policy or training standards as an initial response to the subject's actions. They were asked to mark "yes" or "no" for each force option. If the force option was not covered by department policy, respondents were asked to mark "no policy." If the specific type of force listed was not used by the department, the representative was asked to mark

Table 3.6 MMEP Department Use-of-Force Continuum Policy

Do you use a use-of-force continuum model in policy or training? ^a			
Response	Frequency	Percentage	Valid Percentage
No	56	10.9	11.4
Yes	440	84.8	88.6
Blank	18	3.4	
Don't know	4	0.8	
Total	518	99.9	100

Note: a. Officers experience effects of chemical sprays and CED before they are authorized to carry them in 77.4 and 63.7 percent of departments, respectively.

Table 3.7 MMEP Use-of-Force Continuum Type

If yes, please indicate which one of the following best describes your continuum or model:

Response	Frequency	Percentage	Valid Percentage	Total
Linear	230	44.5	52.4	52.4
Matrix	105	20.4	24.0	76.4
Circular	82	15.9	18.7	95.1
Other	22	4.2	4.9	
Total	440	84.8	100	

“force option not utilized by department.” Respondents were asked to mark only one option per use-of-force category. Table A1.12 provides the descriptive information for the first scenario and illustrates that soft empty hand techniques are generally permitted, with pepper spray permitted in less than half of departments. Use of hard empty hand techniques, the baton, and the Taser X26 is generally not permitted in such interactions as described in the first scenario.

The second scenario department representatives were asked to review involved the same basic circumstances: a 25-year-old male, standing 5'9", weighing 160 pounds, with no criminal record, pulled over during a routine traffic stop during daylight hours, with the officer discovering the driver is wanted for a misdemeanor domestic violence offense. Backup is 10 minutes away with no other citizens present at the scene. This time, however, the subject cooperates until the officer grasps his wrists to guide his hands behind his back. At that point, the subject tenses his arm and refuses to comply with the officer's orders to stop resisting. The subject continues to tense and pull (for 15 to 20 seconds). Soft empty hand techniques are generally permitted, but for more than half of all departments,

so are hard empty hand techniques. All the less-lethal force options available to the officer are more likely to be permissible per departmental policy in the second scenario than in the first (except soft empty hand techniques, which a few departments do not permit in scenario two, perhaps because such a technique is already being used in the scenario and proving ineffective). The difference between the two scenarios is that the subject in scenario one is simply offering passive resistance (remaining seated on the ground and saying he does not want to go to jail), while in scenario two he begins to offer active resistance (tensing and pulling away from the officer). As Table A1.13 shows, as the level of subject resistance increases, the force options available for use by the officer per existing departmental policy generally increase as well.

Scenario three features the same situation (routine traffic stop), same subject, and same outstanding warrant. This time, when told he is under arrest, the subject immediately turns away from the officer and begins to flee. The officer begins to give chase, closing the gap between him and subject. When they are 12 feet apart, the subject slows down, looks over his shoulder, but continues to run. With the subject fleeing, soft empty hand techniques decrease slightly in departmentally authorized use, and pepper spray, baton, and Taser (for departments in which these weapons are part of the arsenal) increase in their authorized use to subdue fleeing suspects (Table A1.14).

The fourth scenario describes a situation in which, when told he is under arrest, the subject states, "I'm not going to jail," and assumes a boxer stance with his hands raised. Essentially all less-lethal force options available to an officer are deemed appropriate for initial response in cases where subjects assume a boxer stance, indicating potentially hostile, active resistance (Table A1.15). In the final scenario, when told he is under arrest, the subject swings at the officer's head with a closed fist. The officer dodges the blow and backs away, but the suspect continues to advance with his fist raised. Much like in scenario four, once a subject actively resists and assumes body language that indicates hostile intent, most departmental policies allow officers to engage in a variety of less-lethal force options as an initial response. The only noticeable difference in this last scenario, where the subject is actively swinging his fists at the officer (Table A1.16) as opposed to merely assuming a boxer stance (Table A1.15), is that the departmental authorization of use of the baton as an initial response to the suspect's resistance increases from 68.4 to 85 percent.

The MMEP survey also has sections on training types and hours of specific training recruits receive, as well as various kinds of training active-duty officers receive. I will discuss the differences I discovered in police academy training hours in "Policing Mental Health," in Chapter 5, where I

statistically examine (using a comparison of means test) the differences in average total training hours that recruits receive in weapons use versus in mediation, dealing with people in acute mental-health crises, and conflict resolution. Also, as mentioned, the MMEP survey includes a series of items specifically concerning CED departmental implementation, procedures, and policies. I discuss and analyze the CED data in Chapter 5.

MMEP survey respondents were also asked to indicate whether documentation was mandatory for using a variety of use-of-force options and how use-of-force incidents were reviewed within the department. The survey also included various questions concerning how use-of-force incidents and injuries are recorded and tracked. Using these data, I offer an overview of mandatory documentation, reviews of force incidents, and how incidents and injuries are recorded and tracked. For example, in a review of whether the reporting of specific use-of-force incidents was mandatory in law enforcement departments across the United States in 2005, the weighted averages indicate that any use-of-force incident, ranging from pointing a CED at a subject to discharging a firearm and hitting someone, requires mandatory reporting in the vast majority of departments. Pointing a firearm at a subject was the use-of-force option that the highest percentage of departments did not require officers to report ($n = 144$; 27.9 percent). Fewer than 2 percent of departments did not require mandatory reporting of such activities as CED deployment, discharging a firearm (hit or miss), and ramming a vehicle. The fact that over a quarter of departments did not require officers to report drawing their weapon and pointing it at a subject and that almost half of the departments that used CEDs in 2005 ($n = 110$; 21.3 percent nonmandatory, compared to $n = 133$; 25.7 percent where it was mandatory; over half of departments did not implement CEDs in 2005) did not require reporting when the officer presented and/or pointed a CED at a subject could possibly lead to more threatening incidents (since they would not necessarily be reported and thus superiors/others would not know they had occurred unless the subject filed a formal complaint) in departments with nonmandatory reporting. The use of a personal chemical agent ($n = 80$; 15.5 percent) and physical bodily force that did not result in subject or officer injury ($n = 73$; 14.2 percent) were the only other use-of-force options in which the weighted nonmandatory percentages were over 10 percent.

One real-life example of a threatening incident that police could perhaps have avoided (by not mistaking the reason for pulling the vehicle over and by approaching the driver directly) occurred in August 2016 in Williams, Arizona. The driver, Ken Walton, and his seven-year-old daughter were traveling through the southwestern United States in a rental car. An Arizona Highway Patrol officer pulled them over after tailing them for a couple of miles. Walton had no idea why they were being pulled over but

waited in his car. The officer, Oton Villegas, who in 2013 was named in a civil rights lawsuit that was settled and dismissed out of court without prejudice (Wang, 2016), rapped on the rear passenger-side window with his pistol (according to Walton), yelling at Walton to roll down his window and pointing his service revolver directly at the driver. Walton said¹² he remained calm but felt nervous at having a loaded weapon pointed at him. He tried to explain that he was in a rental car and unfamiliar with all the window controls. The officer continued to shout at him. The seven-year-old girl attempted to get out of her booster seat in the back of the car. The officer then pointed the gun at her, yelling at her not to move. Walton was ordered to exit the vehicle, raise his hands, and turn around. Walton claims at this point the officer yelled, “Get your hands away from your waist or I’ll blow two holes through your back right now,” even though Walton stated in his account that his hands remained in the air and were not moving toward his waist. At this point, Walton greatly feared for his life. He continued to comply with the officer’s orders until more officers arrived and Walton was eventually placed in the back of a squad car. The issue at hand was that the rental car’s front license plate had been reported as lost or stolen. The officer had misinterpreted the report as indicating that Walton was driving a vehicle with a stolen plate.

Captain Damon Cecil of the Arizona Department of Public Safety, who issued the press release about the incident on behalf of law enforcement, did not deny that the patrol officer drew his weapon and threatened to “blow two holes through your back right now,” noting the behavior was appropriate for “high-risk” traffic stops. Nor did Captain Cecil deny that the officer had pointed his service revolver at Walton’s seven-year-old daughter. Captain Cecil added that this situation was “a prime example of how things should be done” (Wang, 2016). The official law enforcement account of the situation does vary in certain ways from Walton’s Facebook account, but there is no way of verifying which account is more accurate (did the officer approach first without gun drawn, provide commands that were ignored, then draw his revolver, or did he approach the vehicle with revolver already drawn?) since neither a body camera nor a dashboard camera was used to record the event. Per Captain Cecil—who asked, “Should he deescalate the yelling? Or should he escalate? . . . You weren’t there. And I wasn’t there” (Wang, 2016)—the threat to shoot Walton was justified because Officer Villegas “perceived a threat.” That perceived threat came from an unarmed man driving with his seven-year-old daughter on vacation in a rental car in which he had not violated any traffic or other kind of law. Walton noted in his Facebook post that as a “48-year-old white guy” he was lucky where others such as Philando Castile were not. Police are responding to the possibility that anyone might be carrying a loaded firearm in ways that escalate rather than deescalate dangerous situations. One suggestion might be not to have officers on individual

patrol, to require the use of some recording device, and to require more stringent policies involving removing a firearm from its holster, pointing it at an unarmed subject, and threatening his life.

According to the MMEP, the person who completes the mandatory reporting of use-of-force incidents is most likely to be the officers/deputies involved in the incident or their first-line supervisors. The highest level of review of incidents depends on type of incident, with reviews most likely to be handled at the command level, except in the event of a firearm discharge (hit or miss), in which case the chief/sheriff is most likely the highest level of review. Electronic tracking of use-of-force incidents across departments in 2005 remained relatively infrequent. For departments that employed a use-of-force form that was separate from a standard incident report ($n = 286$; 55.2 percent of all departments), 45 departments (8.6 percent) tracked the use-of-force incidents in an electronic database. There was also wide variation in the kind of information (force incident only, $n = 189$; 36.6 percent; officer/deputy who used force only, $n = 90$; 17.4 percent; both incident and officer/deputy information, $n = 228$; 43.9 percent) that departments could report to others after the fact.

Considering the level of variance in department reporting data, mandatory reporting of all use-of-force incidents, including the pointing of a weapon, the discharge of pepper spray, and the use of bodily force even if no injuries are officially reported, coupled with a national electronic system that enables the tracking of all use-of-force incidents by department, officer/deputy involved (not identified to those outside the department except by some dummy variable), and type of force used during the incident, would be useful in better assessing which departments are more likely to use specific kinds of force on subjects and why (for example, is a handful of officers using force at a higher rate, or is the issue more systemic or organizational). This system of tracking would seem important, considering the number of citizen complaints per department had a mean of 1.77, with a standard deviation of 12.55 and a range of 689. It may be that population size is the strongest predictor of civilian complaints, but more consistent (all law enforcement departments report the same information electronically each year to the DOJ) national electronic use-of-force reporting might enable better assessment of other factors influencing complaint levels, controlling for population size. Only reporting firearm discharges (at best) or lethal-force incidents to a national database does not assist with avoiding such incidents, but merely counts such outcomes to compare annual fatality rates. The reporting of less-lethal force incidents to a national database could help identify specific departments or cities in which police-public contacts produce higher than average use-of-force outcomes.¹³ Once identified, use-of-force outcomes of these agencies or communities could be assessed and a program

developed to help reduce use-of-force incidents, perhaps decreasing overall fatality rates.

* * *

In this chapter, I have attempted to describe the two databases I analyzed for this book: the PPCS (US Department of Justice, 2011) and the MMEP (Alpert, Smith, & Fridell, 2011). In doing so, I have presented descriptive variables containing a wide array of subject report (PPCS) and law enforcement departmental (MMEP) variables concerning less-lethal use of force. I also tested several research hypotheses based upon the force factor model that produced statistically significant but relatively weak correlations between subjects complaining to, arguing with, and threatening officers and officers shouting or threatening subjects. Most police departments in the United States employ use-of-force continuums in some form, helping officers determine what is “reasonable” force across a variety of circumstances. In terms of use-of-force options officers may use in specific scenarios, while a good deal of variation exists, one can see from the MMEP data that as subject resistance goes from passive to active (tensing and pulling once an officer grabs the suspect, fleeing, assuming a boxer stance, swinging a fist at an officer), department policies tend to permit use of a wider variety of force options as an initial response. In reviewing responses concerning departmental policy, if a subject offers nothing more than passive resistance, then officer force should be limited to empty hand control, with pepper spray being an accepted force level for passive resistance in fewer than half (41.4 percent) of departments. Ultimately one can discern thus far in the study that while there is a statistically significant relationship between level of subject resistance and level of officer force, there also is a great deal of variation in when officers will increase their level of force, even when faced with somewhat resistant/argumentative subjects. Controlling for such variables as race, gender, and age of subject may add predictive power to when officers decide to move “up” the use-of-force continuum. The next chapter presents and analyzes these control variables.

Notes

1. Readers interested in analyzing national crime patterns can check out “The Expansion of NIBRS,” FBI, <https://ucr.fbi.gov/nibrs/2015>.

2. The Bureau of Justice Statistics (BJS) provides a list of publications and products generated by BJS using the PPCS.

3. PPCS data were not collected in 2014, but rather from July 1 through December 31, 2015. In email correspondence with a BJS statistician involved in the project, I discovered

that as of June 1, 2017, the data were still being analyzed by BJS as part of their report, with the earliest possible data release for researchers being the end of 2017.

4. As noted, the collection cycle expected for the second half of 2014 was conducted during the second half of 2015 and has not been reported by BJS at the time of this writing.

5. Twitter feeds also frequently link to general websites such as killedbypolice.net.

6. To create the national estimate, Hickman, Piquero, and Garner (2008) conducted a meta-analysis of surveys from public respondents and compared that with surveys of jail inmate populations. The 1.5 percent estimate is derived from public surveys like the PPCS. For jail inmates, the threat or application of force during a police encounter prior to incarceration is estimated to be around 20 percent.

7. The wide difference in threats and physical force among subjects not arrested compared to those who were arrested during contact may explain why the percentages for threats was higher in the police-public research in Indianapolis and St. Petersburg (Reisig et al., 2004); namely, the observed encounters included those arrested with those not arrested during the encounter.

8. For example, if African American and Latino males aged 14 to 24 are significantly more likely to be stopped and frisked than members of other groups, with close to 90 percent of those stopped not revealing any legal infraction, does this practice violate citizens' civil liberties granted to them by the Fourth (protection from unreasonable searches and seizures, the probable cause requirement) and Fourteenth amendments (no state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws)?

9. See "Spearman's Correlation," Statstutor, <http://www.statstutor.ac.uk/resources/uploaded/spearman.pdf>.

10. The principal investigators weighted results by determining the extent to which different kinds of law enforcement agencies were represented in responses compared to their actual national representation, thus allowing for data adjustments that are representative of a national survey of all law enforcement agencies. They provided a "weight" variable. Using SPSS 24 > Data > Weight Cases by > Frequency variable "Weight produces the weighted results that can then be used for analyses and generalized to all US law enforcement agencies.

11. It should be noted that CED use across departments was a focus of the original MMEP study. I will discuss that portion of the study in more detail in Chapter 5.

12. Walton posted his account of events on his Facebook page on August 12, 2016. Obtained from <https://m.facebook.com/kenwalton/posts/10154366570523077>.

13. The federal government has not yet made any mandatory changes to all law enforcement departments but rather has focused on specific departments across the country with "poor" ratings.

4

Do Police Treat Different Groups Differently?

It seems clear that nationally, as some barriers, like Jim Crow laws, have been torn down, new barriers, like mass incarceration of inner-city minority males, get built and reinforced. In terms of mass incarceration, the foundation of this racial barrier lies in large part in the “war on drugs” (Alexander, 2010). Structural discrimination in policing illegal drug possession and distribution persists (Nelson, 2015). In late July 2017 within my hometown, a major “roundup” of drug offenders occurred (Cross, 2016). The area of focus was not one of the many predominantly white developments emmeshed in an ongoing opioid crisis but rather the predominantly poor and African American section of town.¹ As Alexander (2010, p. 124) notes, “When police go looking for drugs, they look in the ’hood. Tactics that would be political suicide in an upscale white suburb are not even newsworthy in poor black and brown communities. So long as mass drug arrests are concentrated in impoverished urban areas, police chiefs have little reason to fear a political backlash, no matter how aggressive and warlike the efforts may be.”

There is little doubt that differences in police-public contact vary in specific areas around the United States. I previously reported the stop-and-frisk data for New York City, and a *New York Times* report shows that in various places in Connecticut, Illinois, and North Carolina, black drivers are 1.5 to 5.0 times more likely to have their vehicle searched, even though contraband is found less frequently in vehicles driven by African Americans as opposed to whites (LaFrainiere & Lehren, 2015). An investigation of the Baltimore City Police Department (US Department of Justice: Civil Rights Division, 2016) indicates a pattern of clear violations, such as unconstitutional stops, searches, and arrests heavily concentrated in the business district of the city and in several poor, urban neighborhoods with mostly African American residents. This is not close to an exhaustive list of

area-specific differences in searches and arrests by race; yet certain research indicates that race is not a predictor of police contact at the national level (Pollock, Oliver, & Menard, 2012). In analyzing National Youth Survey data over a span of 24 years, Pollock, Oliver, and Menard (2012) found that being male, having more delinquent peers, and committing more serious types of deviant behavior increases the likelihood and frequency of police contact, whereas other variables, including race, were not statistically significant in this regard. However, in separate analyses run on National Youth Survey data for respondents with and without serious offending, the researchers found that race does have an indirect effect on police contact, with whites more likely to be questioned and arrested compared to black youth (Pollock, Menard, & Hill, 2016). The data presented in the work of Pollock and colleagues is intriguing, suggesting that any portrait presented of police-citizen contact in the United States, particularly regarding racial disparities in police-citizen arrests and force incidents, likely only tells part of the story.

Testing the Impact of Race and Ethnicity on Police-Public Contact

The first step I made in analyzing the impact of race on police-public contact using the 2011 PPCS data was to create a race “dummy variable” where white-only respondents were coded as 1 ($n = 51,454$; 82.6 percent) and black-only respondents as 2 ($n = 6,574$; 10.6 percent); these groups made up 93.2 percent of the overall sample. Asians made up 4.8 percent, with the rest of the racial categories constituting just fractions of a percentage, such as American Indian/Alaskan native (0.5 percent) and white-black (0.3 percent). Comparing the racial demographics contained within the 2011 PPCS with the 2010 US census indicated that blacks were underrepresented in the PPCS data (10.6 percent compared to 13 percent of the overall population). White, including white with Hispanic origin, made up 77.1 percent in 2010 census, compared to 82.6 percent in the 2011 PPCS, indicating this group was overrepresented in the 2011 PPCS sample. The 2011 PPCS study includes a weight variable that can be applied to the analysis to weight the data so that the overall sample is representative of the US population. The procedure for weighting cases is rather simple: click “weight cases by” in Statistical Package for the Social Sciences (SPSS), and then move the weight variable to the frequency variable field. At that point in the procedure, I ran the statistical analyses included in this chapter. In other words, the analyses presented here have been weighted so that the racial demographics in the sample matched those in the overall population at the time of sample collection (last six months of 2010).

Hispanics in the 2011 PPCS study were all English speaking (a selection criterion for PPCS inclusion). Hispanic respondents were included in a separate category (Hispanic/not Hispanic). Due to the wide differences in Hispanic identity in US census data—51 percent identify not as white or black but as “some other race,” 36 percent identify as white, and 3 percent identify as black (Taylor, Lopez, Martinez, & Velasco, 2012)—I have included them in this chapter fully aware that Hispanic origin is an extremely diverse ethnic category and not at all a racial category. The best way to include Hispanic Americans in the use-of-force analyses is to analyze police-citizen contact data using four categories: two race categories (white, black) and two ethnic categories (Hispanic, not Hispanic), with the understanding that some of those who indicated they were of Hispanic origin were also included in the white racial category, with a much smaller percentage of Hispanic respondents indicating they were black. Hispanic is at best an ethnic category that contains a variety of different ethnic backgrounds and provides little information regarding one’s “racial” identity. In looking at the 2010 census statistics on the way Hispanic Americans racially identify and comparing those data with the 2011 PPCS, one can logically assume that most Hispanics who did select a race category on the PPCS selected white, with a small minority selecting black and some not selecting any racial category at all. In other words, while there is significant overlap between respondents included in the white/black racial categories and the Hispanic/not Hispanic categories, the latter will contain a larger overall number of respondents for a couple of reasons (the not-Hispanic category will include Asians, for example; Hispanic Americans will fall into the Hispanic category but not necessarily into either the white or black categories). Note that Hispanic respondents to the 2011 PPCS made up 14.1 percent of the sample, whereas they made up 12.5 percent of the US population according to the 2010 census; therefore, I also analyzed their data in a weighted fashion so that my results better matched the overall US population.²

Risk Ratios by Race and Ethnicity

The 2011 PPCS database includes hundreds of variables involving police-citizen contact. There is no simple answer as to which variables should be included for analysis and presentation or which statistical method is best for such an analysis (for example, should one just run a logistic analysis procedure and be done, or is it better to run a series of cross tabulations to test and report race-/ethnicity-specific outcomes prior to constructing and testing an overall regression model?). Because the relationship between subject race and police-public contact outcome is so widely discussed and debated both in policing research and in current public discourse, I have

decided to first test relationships between race/ethnicity (white, black, and Hispanic) and a variety of outcome data (police encounters in public and while driving) and present these tests as contingency tables in which chi-square statistics are calculated to determine “goodness of fit”:

$$\chi^2 = \frac{\sum (\text{observed} - \text{expected})^2}{\text{expected}}$$

Essentially goodness of fit is used to determine how “close” observed values are to the expected values (for example, if race or ethnicity has no impact on police-citizen contact outcomes, then the sum of observed-minus-expected squares would be very close to the overall expected value for each race/ethnicity category). Considering the data are weighted to match the overall population, the sample sizes for each category are quite large, indicating that any difference between observed and expected outcomes is likely to result in a statistically significant chi-square value. Indeed, virtually every variable I analyzed resulted in a chi-square (represented in statistics as χ^2) significant at the .05 level, with most significant beyond the .01 level. With this information in mind, I determined that conducting risk ratios for each police-citizen contact outcome would be not only the most practical statistical test, since thinking in terms of “risk” makes logical sense when talking about force outcomes (e.g., the risk Hispanics report of being sworn at during a public police encounter), but also the most meaningful for readers in that the data I analyzed and discuss here will provide the relative risk, for example, black Americans have of being handcuffed during a police encounter compared to whites. This is a very important consideration to keep in mind, for the general discussions of police-citizen encounters that I have heard over the past several years on my college campus, among associates, or in social media have often involved comments such as “Whites are hit by police, shot by police, sworn at by police too. It’s not just black Americans.”³ That is, of course, accurate. The argument involving racial and/or ethnic disparity in American policing is not zero-sum but rather entails odds ratios and, more specifically, risk ratios. That is, the argument is that racial and ethnic minorities experience higher risk of use-of-force incidents than non-Hispanic white Americans. The 2011 PPCS data I present in this chapter offer one way of testing the research hypothesis that blacks are at higher risk for various use-of-force activities compared to whites and the second research hypothesis that Hispanics are at higher risk for various use-of-force activities compared to non-Hispanics.⁴

Risk ratios offer one way of measuring the “strength of association” across two variables. A risk ratio is a straightforward statistic dividing the

cumulative incidence in one group (e.g., whites) by the cumulative incidence in a population outside that group (blacks). A risk ratio greater than 1 represents a higher risk of incidence compared to the population outside that group. A risk ratio less than 1 represents a lower risk. It is also important to remember that the risk ratio (say, 2.6) indicates that the group has x (in this example 2.6) times the risk of experiencing a use-of-force incident compared to subjects outside the group. Risk ratios thus express how many times more probable an outcome is. In other words, the risk ratios I discuss in this chapter represent the probability of an event occurring (level of risk) in one group compared to outside that specific group (so for race, it is whites/blacks; for ethnicity, it is Hispanic/not Hispanic).

For example, one item on the 2011 PPCS asks if respondents were arrested during their most recent contact with the police (within the past 12 months). Table 4.1 presents the results for that item, as well as whether respondents had multiple contacts with the police within the past 12 months and if they experienced any level of officer force in those other contacts. The table also includes total frequency by racial or ethnic group (the overall number who experienced a given scenario along with the percentage that number represents within the group) and the relative risk ratio (risk of a group member being arrested compared to others outside that group). Note that for the “been arrested” variable, all groups had a chi-square statistic significant at $p = .000$. With virtually any difference in percentage from within the group compared to outside the group being significant,⁵ the relative risk ratios offer a clearer picture of police-citizen encounters by race and ethnicity than does simply testing whether there is a statistically significant association between two categories (race/outcome or ethnicity/outcome). For example, those citizens who identified as black reported having 1.847 times the arrest risk of those who identified as white. Whites reported having .879 times the risk of arrest (therefore less likelihood compared to black Americans). Those who self-identified as Hispanic reported having 1.48 times the risk of arrest compared to non-Hispanics. In terms of having had multiple contacts with police (for any reason) within the past 12 months, the relative risk was only slightly higher for blacks and highest for Hispanics, although both ratios are very close to 1 (indicating that the relative risk ratio is only slightly higher than that of control groups [nonblack respondents, non-Hispanics]). Black Americans are over twice as likely to report having force used or threatened against them in other contacts with police (other than the most recent one) as whites who reported having multiple contacts with police over the past 12 months prior to the interview (with that risk going up slightly, from 2.156 to 2.304, once Hispanic origin is controlled for).⁶

While these data do not clarify why black and Hispanic Americans have a higher risk than white and non-Hispanic Americans of arrest during

Table 4.1 Arrested or Had Multiple Police Contacts in the Past 12 Months

Variable	White	Black	Hispanic	Not Hispanic	Total
Was arrested	1,149,556 (0.6%) Risk = .879	346,365 (1.2%) Risk = 1.847	309,952 (1.0%) Risk = 1.484	1,308,222 (0.6%) Risk = .928	1,618,774 (0.7%)
Had multiple contacts with police	11,156,263 (30.5%) Risk = .994	1,505,648 (31.7%) Risk = 1.047	1,577,559 (33.2%) Risk = 1.119	11,935,940 (30.5%) Risk = .986	13,513,499 (30.8%)
Experienced use or threat of force in previous contacts	186,700 (1.5%) Risk = .826	73,370 (3.9%) Risk = 2.156	41,016 (2.4%) Risk = 1.385	225,890 (1.7%) Risk = .952	266,906 (1.8%)

the previous 12 months or of experiencing the use or threat of force in contacts with police other than their most recent, that they do is not debatable. Reason for contact and level of resistance to police directives may influence the relative risk of arrest, as might racial/ethnic bias in police-citizen interactions or discriminatory methods of stopping and frisking that lead to the disparate outcomes presented in the 2011 PPCS. All the respondents were living at home at the time of the interview (as the PPCS is part of the National Crime Victimization Survey, which looks at a nationally representative, stratified, multistage cluster sample of US households), indicating that respondent interactions with police likely involved low-level criminal incidents such as failing to signal or speeding (if the contact related to a legal violation at all). Still, one should control for reason for contact and level of subject resistance to officer directives before concluding that the differences in relative risk of arrest during police-citizen contact is a result of racial or ethnic bias on behalf of officers.⁷

Table A2.1 shows the race and ethnicity information pertaining to being stopped in public and the corresponding respondent-reported outcomes of those public encounters with police. Please note that the information included for each data cell within the table is the weighted number of citizens 16 or older in the United States who answered yes to the PPCS item (with the percentage of all citizens who fit into that racial/ethnic category in parentheses) and the corresponding risk ratio. The public police-citizen encounter outcome data reveal several interesting findings when cross-tabulated by race (white/black) and ethnicity (Hispanic/not Hispanic). First, black and Hispanic citizens report a higher relative risk of being stopped in public compared to white and non-Hispanic Americans, although the overall percentage differences are not extraordinarily large. The second variable I included, “reason for stop: officer stated you matched someone’s description,” is very informative in that white respondents had .639 the risk

of being stopped in public because they matched someone's description compared to black Americans. Compare that ratio to black respondents having close to 6.1 times the risk of being stopped for matching someone else's description compared to whites. Hispanics reported a slightly higher relative risk of being stopped in public because they matched someone's description compared to non-Hispanics.⁸ These data may influence the next variable, "Did the police have a legitimate reason for stopping you," in which white Americans reported a higher relative "risk" of being stopped for a legitimate reason by police than blacks and Hispanics.

In other words, (1) blacks have a much higher probability of being stopped in public because they allegedly match someone's description; and (2) black and Hispanic Americans have lower probabilities of believing being stopped in public is legitimate compared to whites and non-Hispanics. The perception that a police encounter is illegitimate may influence the proceeding police-citizen interaction during that encounter (for instance, increasing the risk that the subject will resist police directives in some fashion). More specifically, those who believe they have been stopped by police due to racial/ethnic bias or for some other illegitimate reason (being unjustly targeted and/or harassed by police) may be less likely to adhere to subsequent police directives and may appear agitated (because frustrated by the perceived illegitimacy of the encounter in the first place), which in turn may lead officers to increase their responses along the specific use-of-force continuum employed by their departments to obtain subject compliance to their directives.

Continuing the analysis of public police-citizen outcomes by race and ethnicity, black subjects report experiencing nearly 3.5 times the risk of being shouted at by police (Hispanics report 2.6 times the risk of being shouted at compared to non-Hispanics) and over 2.8 times the risk of being cursed at compared to other racial groups (Hispanics report 1.8 times the risk of being cursed at compared to non-Hispanics). Interestingly, while black and Hispanic respondents tend to report higher levels of risk in being shouted and cursed at compared to the other groups, only black respondents indicate experiencing higher risk levels of being threatened with arrest (2.5) or force (1.7). It is difficult to reach definitive conclusions regarding police-citizen encounters from these data considering they are subject reported and do not include police officer accounts. However, at minimum, black Americans are more likely to report being threatened with force and/or arrest than other citizens, and along with Hispanic Americans, black Americans report have higher risk for use-of-force outcomes (being cursed at, shouted at, pushed or grabbed, and handcuffed during the encounter).⁹ Finally, although both black and Hispanic Americans reported higher risk of force used during police encounters, only black respondents indicated a higher risk of experiencing excessive use of force (1.94).

The relationship between citizen resistance level and police level of force during a public encounter is clearly complicated. First, perspectives on resistance level will often differ between subjects and officers. Second, perceptions of the legitimacy of the stop and of police conduct during the encounter may also differ between the two parties involved. Furthermore, one should hesitate to assume, for instance, that a subject verbal complaint directed at an officer came before or after the officer conduct the subject deemed unnecessary, if indeed the officer conduct ever escalated during the encounter at all. In other words, given the numerous different combinations of possible causal effects and the subjective nature of public reports of previous police encounters, one should be cautious in making definitive statements regarding cause and effect and instead focus on levels of association and differences across racial/ethnic groups in terms of associated risk for specific force-related outcomes during encounters with law enforcement. Regardless of all other factors involved in assessing police use of force during public encounters, I am certain, after analyzing these data, that black Americans at minimum perceive themselves to be at higher risk (by almost two times) of experiencing excessive use of police force compared to white Americans.

As previous social-psychological research has shown (Moorman, 1991), there are direct causal relationships between perceptions of justice (being treated fairly) and various dimensions of citizenship. A person who feels his group is experiencing systematic injustice (e.g., excessive use of police force) is more likely to feel alienated from the system he is expected to cooperate with and participate in. When looking at subjects' reports of their level of resistance, I discovered that while no black respondents reported disobeying police directives, they were much likelier to flee, resist, and curse at the officer (see Table A2.2). Black Americans were also at much higher risk of being frisked compared to whites and less likely to report that officers had a valid reason for the body searches. The 2011 PPCS data clearly indicate racial disparities in police-public contacts, both on the part of officers and subjects, at least from the viewpoint of individuals stopped by police in public places (not while driving).

While 1.2 percent of the weighted sample stated they had been stopped by officers in a public place within the past 12 months, over nine times that number (11.8 percent) stated they had been stopped by police while driving a motor vehicle during that time frame. I next report the outcomes of these stops in terms of level of officer force used, if any (Table A2.3), the odds of having one's vehicle and/or person searched (Table A2.4), and the self-reported resistance outcomes during these stops (Table A2.5). The data pertaining to driving stops partially support the research hypothesis that black and Hispanic Americans will report being at higher risk for experiencing a range of force options deployed by officers during traffic stops

than white respondents. Analyzing the risk ratios for white, black, and Hispanic Americans, I discovered that the odds of being stopped are similar across groups. While black Americans do report a higher risk of being stopped compared to Hispanic and white Americans (and, as I have noted, due to weighting of the sample, even slight differences across groups are statistically significant at the .000 level), the difference is within 1.7 percent across all groups. Whites are more likely to say they believe the stop was legitimate than black and Hispanic Americans. Perhaps surprisingly, considering what was discovered in the public stop contact data, black Americans report less risk of being shouted and cursed at, threatened with arrest, or pushed or grabbed by officers (Hispanic Americans more often report these events having occurred to them while driving). Controlling for Hispanic origin, threat of arrest is the only outcome that black Americans reported experiencing significantly more often than nonblacks (changing from a risk ratio of .971 to 1.158 once Hispanic origin is controlled for).

This trend for African Americans is reversed when it comes to reports of having force threatened or used against them. Blacks are at 1.7 times the risk of this during a vehicle stop compared to whites. Both black and Hispanic Americans report higher risk for being handcuffed and having a gun pointed at them during the interaction than whites. When Hispanic origin is controlled for, black Americans' risk of having a gun pointed at them goes from 3.362 to 4.259, indicating that black Americans are at four times greater risk than whites of this eventuality. Unsurprisingly, perhaps, both black and Hispanic Americans are more likely to feel that the force used during the encounter was excessive compared to their comparison groups (whites, non-Hispanics).

Somewhat surprisingly, Hispanic Americans reported more than double the risk of having their vehicle searched (in comparison to non-Hispanics), while black Americans only reported slightly greater risk (1.294) compared to whites. In fact, Hispanics represented 29 percent of all respondents who reported having their vehicle searched. The relative risk of an officer's asking to search one's vehicle, having one's vehicle searched, an officer's asking to frisk, and subjects being frisked all increase for black respondents once Hispanic origin is controlled for. In general, we can conclude from the data that, in comparison to whites, black and Hispanic Americans are at higher risk of having their vehicles and persons searched and have a higher probability of deeming such searches illegitimate, with black Americans reporting a lower risk of having police find illegal items during the search. As with public stops, searches of vehicles seem more probable when the driver is black or Hispanic, even though, from respondent-report data at least, there is no higher risk of police finding illegal items during these searches.

Of interest in the findings related to cross-tabulation analyses performed on data pertaining to subject resistance during vehicle stops is that whites and non-Hispanics report a slightly higher risk of disobeying an officer's command during the encounter compared to black and Hispanic Americans, although black and Hispanic Americans report over double the risk of fleeing than their respective comparison groups (Table A2.5). Black Americans report a higher likelihood of complaining and arguing during the encounter than whites, while Hispanics report a lower likelihood of such activities compared to non-Hispanics. Both black and Hispanic respondents report experiencing a higher risk of being arrested during the encounter than whites and non-Hispanics, respectively.

Overall, the data indicate rather clear racial/ethnic disparities during police-initiated stops. In summarizing the risk ratio tables on being stopped in public and while driving, minority respondents express greater risk of being searched and frisked, a greater likelihood of finding such stops unjustified, and greater risk of being handcuffed and, when stopped while driving, of having a gun pointed at them and being arrested. While both minority groups express substantially greater risk of being shouted at, cursed at, and pushed or grabbed when stopped in public, this only holds true for Hispanic Americans when stopped while driving, even though they have the lowest probability of complaining or arguing when stopped.

The final kind of police-public contact I analyzed involved respondent-initiated contacts. The variables included differ from those previously discussed for public and motor vehicle stops and pertain more to overall satisfaction with the contact and whether respondents found the police helpful and respectful. The findings indicate that black Americans have the lowest probability of finding self-initiated police contacts helpful. Both blacks and Hispanics express lower probability of believing the situation improved because of police contact or of feeling satisfied with the contact or that they were treated properly or with respect (see Table A2.6). Compared to other racial/ethnic groups analyzed, those who identify as black Hispanic are much less likely to say the police were helpful in self-initiated contacts (.273), to be satisfied with the results of the contact (.472), or to feel respected (.475), and they are extremely less likely to call again in a comparable situation (.125). Black Americans are twice as likely as whites to file a complaint after the contact, accounting for 38.7 percent of all complaints about subject-initiated contacts with police.

The univariate (white/black; Hispanic/not Hispanic) and bivariate (white/black with Hispanic origin as the layer, or control, variable) cross tabulations yield some important findings to keep in mind:

- Black Americans are twice as likely as whites (1.2 percent compared to 0.6 percent) to report having been arrested in the past 12 months.

- Black Americans are more than twice as likely as whites (3.9 percent compared to 1.5 percent) to have force threatened or used against them in previous contacts (not their most recent one) with police.
- When stopped in public, black Americans are more than six times more likely than other Americans (34.2 percent compared to 5.2 percent) to have been stopped because they allegedly matched someone else's description.
- Black Americans are much less likely than white Americans (31.3 percent compared to 70 percent) to deem being stopped in public legitimate.
- Blacks and Hispanics are more than three times more likely than other racial and ethnic groups to be pushed or grabbed by officers when stopped in public.

I have highlighted these statistics because these data pertain specifically to stop-and-frisk activities found to be racially discriminatory in various US cities (Fagan, Braga, Brunson, & Pattavina, 2016; Greenawalt, 2014). The disproportionate number of black and Hispanic citizens found to be stopped and frisked in New York City is one example. Perhaps most importantly, statistical analysis has discovered that precincts that decrease reliance on stop-and-frisk reduce the odds of officers' using force against blacks and Hispanics to nonsignificant differences from other racial/ethnic groups (Levchak, 2017). In other words, the elimination of racial profiling during stops appears to have a domino effect in which stops that do occur appear more justified and legitimate and subject resistance decreases, decreasing police use of force against these citizens. These data support that notion, in that groups with a higher probability of finding the stops unjustified also report greater resistance and subsequently higher experience of police using or threatening force against them.

Stop-and-frisk policies are not just ethically and legally questionable; they are also ineffective and make the job of policing much more difficult. The perception of justice is at the heart of the matter when it comes to police-subject contact. The foundation of decreasing police-subject contacts that result in use of force against citizens is ensuring that stops, frisks, and searches are nondiscriminatory in nature (that all citizens are treated with equal respect as it pertains to their constitutional rights of protection against unlawful searches and seizure). Until all Americans feel they are treated equally under the law, the other variables that lead to more antagonistic police-public contacts for minority groups will not likely be reduced. Still, the example of New York City illustrates that it is rather easy to mitigate these higher risks for resistance and force (by eliminating aggressive stop-and-frisk activities) while maintaining high standards for effective policing.

One study of racial differences in frisks and searches while driving (Carroll & Gonzalez, 2014) concludes that the racial disparities found in vehicle searches and body frisks of drivers are more likely in more homogeneous neighborhoods (areas where the overall percentage of black residents is low), leading officers to feel these drivers are “out of place.” Reacting to an individual based on “race” is not only discriminatory and unjust but also dehumanizing (Brown, 2013; Goff, Jackson, Di Leone, Culotta, & DiTomasso, 2014). It has been shown that black Americans perceive police officers as stereotyping them as criminals based on racial characteristics, while whites do not, leading to “downstream consequences,” such as anxiety and other behaviors often defined as “suspicious” by law enforcement officers, for black Americans who encounter police in their everyday routines (Najdowski, Bottoms, & Goff, 2015). A study of vehicle stops clearly outlines the personal violation black Americans feel at being racially profiled, eroding their perceived legitimacy of policing in general (Epp, Maynard-Moody, & Haider-Markel, 2014). The risk differences seen in the data I have reported on thus far are not likely to disappear until all citizens believe that the state (and therefore the state’s representatives in the form of law enforcement officers) equally protects their constitutional rights as citizens.

Racial, Ethnic, Income, Age, Sex, and City Population Differences in Police-Subject Interactions

While the findings of other social scientists who have studied these issues support the many differences noted in the cross tabulations of national subject self-report data of police-public contacts that I have presented,¹⁰ factors such as age and sex of the subject (Hickman, Piquero, and Garner, 2008), social class (Klahm & Tillyer, 2010), and population size (Willits & Nowacki, 2014) have also been shown to influence police-subject interactions. Being a younger, male, poorer, racial/ethnic minority living in an urban environment likely maximizes one’s risk of being involved not only in a police stop but also in some type of use-of-force incident. I analyzed the PPCS data using a logistic regression model (considering the dependent variables were all dichotomous [yes/no]). To make interpretations a bit simpler, I transformed all the dependent variables’ response categories to 1 = no and 2 = yes (the values are reversed in the PPCS [1 = yes and 2 = no]). This way, once the responses are transformed in the logistic regression outputs to 0/1, 0 will represent the absence of the item (no) and 1 the presence of the item (yes).

The logistic regression analyses enabled me to ensure that the race/ethnicity differences found in the cross tabulations remained significant when controlling for the variables of Income, Age, Sex, and Population

Size of location in which the respondent resides. The specific independent variable response categories included in the regression model were (1) Race (1 = white; 2 = black); (2) Ethnicity (1 = Hispanic; 2 = not Hispanic); (3) Work¹¹ (1 = yes; 2 = no); (4) Income (1 = less than \$20,000 or N/A; 2 = \$20,000–\$49,999; 3 = \$50,000 or more); (5) Age (1 = 16–20; 2 = 21–25; 3 = 26–30; 4 = 31–36; 5 = 37–45; 6 = 46–55; 7 = 56–64; 8 = 65–75; 9 = 76–90); (6) Sex (1 = male; 2 = female); and (7) Population Size (1 = under 10,000/not in a place; 2 = 100,000–499,999; 3 = 500,000–999,999; 4 = 1 million or more). I excluded the don't know answers and refusals to respond for all variables (independent and dependent) included in the analyses. I have already explained how and why I constructed a dichotomous race variable for the analyses when discussing the cross-tabulation procedures. I left the Hispanic origin, work, income, and population variables as they were provided in the PPCS database. The PPCS editors collapsed the income and population variables to ensure confidentiality of respondents. Age ranged from 16 to 90. Considering that the age range generates 75 different categories, I truncated age to those below the legal drinking age (16–20), then attempted to generate age-range categories that would provide as homogenous a group as possible while still resulting in a total number of categories practical for logistic regression analysis (in terms of analyzing significance of and odds ratios for each category of the Age variable across all the different dependent variables).

Statisticians have long agreed that backward, forward, and stepwise automated selection algorithms are prone to computational errors, such as overestimation of regression coefficients of selected covariables, that result in model selection bias (Derkzen & Keselman, 1992; Steyerberg, Eijkemans, & Habbema, 1999). Rather than relying on mathematical criteria for which variables to include for final analysis, I wanted to ensure inclusion of each subject factor indicated in the policing literature as influencing frequency and level of force used. Understanding that race, ethnicity, age, and sex influence police-public contact, I wanted the theoretical model to include these variables. While the intersection of social class (employment, income) and race often results in issues of multicollinearity (Ragin & Fiss, 2016), I believed it important to at least attempt to measure the significance of each as it pertains to police stops and force incidents during these stops.

In terms of population size, the reports of stop-and-frisk practices often occur in large metropolitan areas, thus leading me to hypothesize that population size may impact stops and use-of-force outcomes found in these data. The first step was to run a bivariate correlation analysis of my independent variables to check for any troubling multicollinearity effects between variables (see Table A2.7). While the Pearson correlations were all significant (.01-level two-tailed),¹² that was not surprising as any correlation between variables would be significant given the sample size. I expected that the

highest correlation would be between the two variables I included for socioeconomic status, namely, Work and Income. This was indeed the case, but only with a Pearson's r of $-.214$,¹³ which is far from even the most conservative cutoff for multicollinearity at $r = 0.5$ ¹⁴ (Vatcheva, Lee, McCormick, & Rahbar, 2016). I also thought the Race/Income relationship could be high in terms of multicollinearity, but the Pearson's r of $-.122$ indicated that both variables could be used in my overall model without serious concerns regarding multicollinearity effects (considering that $r = -.122$ produces $R^2 = .0149$, which indicates the proportion of variance in Race that can be accounted for by knowing Income).¹⁵

With my independent variables (beyond race/ethnicity) identified, I ran logistic regression analyses on the dependent variables I had included in the cross tabulations already discussed. The main effects analyzed for each independent variable on the dependent variable were the odds ratios produced for each category of an independent variable compared to a base category for that variable. For instance, an odds ratio was produced for each of the logistic regression analyses performed for blacks (with whites being the comparison group). Considering that I was using the group I expected to express the least amount of risk for use-of-force incidents (whites) as my race comparison group, I wanted to keep that pattern consistent across independent variables. With that in mind I used non-Hispanics as the base category for ethnicity (thus I have simply labeled that category as Hispanic in the regression tables); Yes as the base category for Work; \$50,000 or more as the base category for Income; 76–90 as the base category for Age; Female as the base category for Sex; and Under 10,000/Not in a place as the base category for Population Size (with this independent variable just labeled as “Size” in the regression tables). Thus there is only one category listed with its corresponding Exp(B) for Race (black); one for Hispanic (Hispanic); one for Work (did not work in the past week); two for Income ([1] less than \$20,000 or N/A; [2] \$20,000 to \$49,999; eight for Age ([1] 16–20, [2] 21–25, [3] 26–30, [4] 31–36, [5] 37–45, [6] 46–55, [7] 56–64, [8] 65–75); one for Sex (Male); and three for Population Size ([1] 100,000–499,999, [2] 500,000–999,999, [3] 1 million or more). The structure and format for analyses should become clearer when looking at the first group of logistic regression results related to having been arrested in the past 12 months and having force used or threatened by police in earlier contacts (not the most recent one) in the past 12 months (see Table A2.8). I have not provided p values in the data tables because all numbers reported here were significant at .000. “N/A” represents nonsignificance for that category (all of which were well beyond even the .05 level). The 99 percent confidence intervals for each category are very close to the actual odds ratios reported and would not alter the summary of findings in any way. For the sake of clarity in terms of reading the tables, I have left these out.

Next, I tested effects for two separate regression models, one with “Have you been arrested in the past 12 months?” and a second with “Other contact [not most recent]: Was force threatened or used against you?”¹⁶ The odds ratio ($\text{Exp}[B]$)¹⁷ that blacks will respond yes to having been arrested in the past 12 months compared to whites is 1.798, indicating they have approximately 1.8 higher odds of having been arrested in the past year compared to whites (with the other independent variables now serving as controls when testing for relationships between race and outcome). This is a good indicator for checking the data with previously reported statistics that there are important race differences in arrests for males but not for females (Brame, Bushway, Paternoster, & Turner, 2014). Considering that some arrestees are arrested, tried, and incarcerated (thus unable to participate in the PPCS) and that variables such as Sex, Age, Income, and Population Size are now being controlled, the odds of 1.8 would seem to indicate quite powerfully that racial differences in arrests exist at the national level.

Beyond the difference in odds of having been arrested in the past year for white and black Americans, the regression analysis indicates slightly higher odds for arrest for Hispanics compared to non-Hispanics, for those who did not work in the past week prior to the interview, for younger folks (highest odds being for the 21–25 category, second highest for the 26–30 category), and for men. The one result I did not expect was that the lowest odds for arrest occurred in locations with populations of 1 million or more. In terms of subjects’ experiencing the threat or use of force in previous contacts with police during the past 12 months, the results were somewhat consistent with arrest outcomes with a couple of significant differences—namely, the second income category (\$20,00–\$49,999) had slightly lower odds than the comparison group (\$50,000 or more), respondents aged 16 to 20 had the lowest odds of having force used or threatened against them in previous contacts, and locations with populations of 1 million or more had the highest odds of for use or threats of force. The fact that large metropolitan areas have higher odds for use of force being used but lower odds for arrest may indicate different methods of policing exist in more populated contexts. Comparing the relative risk for whites/non-Hispanics and for blacks/Hispanics of having been arrested in the past 12 months and having had force used or threatened against them during previous contacts is not possible in a 1:1 fashion,¹⁸ but one can see that the general pattern remains consistent (blacks and Hispanics are more likely to be arrested and have force used or threatened against them; they also have higher odds of these outcomes compared to whites/non-Hispanics, even when controlling for other possible significant factors). Being black or of Hispanic origin significantly increases one’s odds of experiencing use or threats of force, as do social-class predictors (Work and lowest category for Income), being male,

and, to an extent, age (31–36 had odds of 6.550 for reporting use or threats of force by police), and residence in metropolitan areas.

When we examine the binary regression equations for outcomes for those who were stopped in public places (see Table A2.9), the data begin to tell the story of where racially discriminatory policing practices do and do not exist in the United States. For example, the odds for blacks and Hispanics of being stopped in public are quite close to the odds for whites and non-Hispanics. Lower-income categories exhibit slightly higher odds for being stopped, as do men and those living in areas with populations of 100,000 to 499,999 or 1 million or more. Age is the most significant factor (keeping in mind that the comparison group is respondents aged 76 to 90), with younger people reporting higher odds of being stopped in public. While most of these findings are not surprising and strongly support those in previous literature, the similarity in odds of being stopped across race/ethnicity was a bit surprising as I expected blacks and Hispanics to report higher odds than observed. The odds of blacks reporting they were stopped because they matched someone's description are rather large (10.765), while age becomes insignificant. Being male, black, not employed recently, and living in a large metropolitan area greatly increases the odds of being stopped for matching someone's else's description. Blacks are much less likely to perceive the stop as legitimate compared to whites. Again, the patterns I have mentioned hold true outside population size, in which metropolitan areas have marginally slighter odds that stops will be deemed legitimate compared to small towns.

As describing the odds ratio per item for each independent variable category would become cumbersome, I will simply highlight findings of seminal importance and conclude by offering an overall interpretation of the data for each regression table I constructed as part of my analysis of police-subject contact outcomes for this book. For example, the finding that men report lower odds of being shouted or cursed at than women (Table A2.9) was unexpected. Further, the odds of being threatened with arrest do not differ much for men and women. Generally, the patterns for force noted in the cross tabulations for public contact outcomes remain consistent for blacks and Hispanics in the logistic regression models. The difference in odds of being threatened are quite striking for blacks compared to whites, while Hispanics have lower odds of being threatened and much lower odds of finding the threats excessive. The odds for blacks and Hispanics of being pushed or grabbed are much greater than for whites/non-Hispanics regardless of age or income. While both blacks and Hispanics have higher odds of being searched and frisked in public, blacks have extremely low likelihood of believing the police had legitimate reason to do so, while Hispanics report significantly higher likelihood. Being stopped in larger cities does not increase but lowers one's odds of being threatened by police. Generally,

population size is the variable least supported in my original hypothesis (that metropolitan areas—those with a population of 1 million of more—will report higher levels of stops, threats, and force), with quite varied results in the measured public contact outcomes.

I kept the subject resistance variables as dependent variables in the logistic regression model mainly because it would be impossible to conclude whether resistance occurred prior to officer force or after. Without the order of events established, it would be of little value to use these variables as “predictors,” specifically because the conclusion that subject resistance precipitated officer force could not be validated. Regardless, one can still test to see if the numerous factors used in measuring public contact outcomes also influence subject resistance during public stops. For example, while race is insignificant in determining whether a subject disobeys an officer’s command (see Table A2.10), not having worked in the past week, earning under \$20,000, and living in higher-population areas do increase a subject’s odds of disobeying an officer directive. The finding that men were less likely than women to report resisting, complaining, and arguing was unexpected. Although I predicted the odds of blacks resisting to be higher than for whites, the ratio of 298.960 is striking, although with resistance to officers such a rare event, such enormous differences should be viewed with caution, as a few outliers in a group can have a substantial impact on the overall statistic. It is also interesting to see that those working with incomes over \$50,000 have higher odds of complaining to and arguing with officers.

The odds of being stopped while driving are not overwhelmingly different across race, ethnicity, or income group in the PPCS 2011 data (see Table A2.11). Younger groups have higher odds of being stopped, as do men compared to women. People living in the largest areas have lower odds of being stopped while driving. Even with similar odds for being stopped, blacks and Hispanics have lower odds of deeming the reason for the stop legitimate compared to whites/non-Hispanics. Although the odds of being stopped in highly populated areas are lower, the odds of finding such stops legitimate are also lower. Blacks have lower odds of being shouted or cursed at or threatened with arrest and only slightly higher odds of being made to exit their vehicle compared to whites. Strikingly, unlike in public stops, men have higher odds of being shouted and cursed at and threatened with arrest or force compared to women. Blacks and Hispanics have substantially higher odds of having an officer point a gun at them compared to whites/non-Hispanics.

The logistic regression results pertaining to vehicle and driver searches (see Table A2.12) indicate that younger minority males in lower income brackets tend to have higher odds of experiencing these outcomes. Looking at black/white odds in terms of vehicle searches when controlling for other

factors results in only a minimal increase in odds for blacks compared to whites (1.2:1); yet the odds of blacks feeling police had a reason to search their vehicle are much lower (.335). In alignment with recent research involving traffic stops made in Rhode Island (Carroll & Gonzalez, 2014), while blacks have higher odds of being searched compared to whites, they experience even higher odds of being frisked. Also of interest in the Carroll and Gonzalez (2014) study is that the racial composition of the community the stop occurred in influenced racial disparities in frisks but not searches, and the race of driver was not significant in police finding illegal items during searches. If there is a clear difference in the national-level data compared to the results from Rhode Island, it is that the odds of finding illegal items in the vehicles or on the persons of black (and Hispanic, although not looked at in the Rhode Island data) drivers are substantially lower than for whites (and non-Hispanics) nationally. While men have higher odds of having their vehicle searched and much higher odds of being frisked, they also have much higher odds of having illegal items in their vehicles or on their persons than do women.

Despite having lower odds of finding vehicle stops, searches, and body frisks legitimate, blacks and Hispanics are also less likely to disobey an officer's command (see Table A2.13). It appears that whites in higher income brackets have higher odds of disobeying an officer's command compared to other groups. There is a certain privilege in disobeying: the confidence that one can disobey a police officer's commands without being shot. In that light, there is also an expressed power in disobeying an officer's command, a challenge to state authority that minority groups do not feel safe making to the same degree as whites. There is a difference between fleeing a scene (more common among blacks, Hispanics, and women), or attempting an escape from state authority, and arguing, challenging, or disobeying, that is, directly challenging or openly confronting state authority.

The final set of variables I used my logistic regression model to test for statistically significant relationships was subject-initiated contacts (see Table A2.14). The odds-ratio data for blacks and Hispanics resemble the relative risks related to subject-initiated police contact satisfaction and treatment presented earlier in this chapter. Of additional interest beyond a lower likelihood that minorities will express satisfaction and claim respectful treatment in such contacts is that while younger groups also express dissatisfaction with such contacts and are less likely to feel they have been treated properly or with respect, those under 26 have lower odds of filing formal complaints.¹⁹ The barriers to filing complaints after self-initiated contacts with police among young people and Hispanics are a critical area for future study.

The statistical analyses of PPCS data have presented the following discoveries:

1. There are minimal differences across race and ethnicity in actual frequency of stops, although blacks and Hispanics do have a higher risk of being stopped in public, and blacks have higher odds of being stopped while driving.
2. Blacks have a substantially higher risk of being stopped in public because they allegedly match someone's description (walking while black).
3. Being stopped in public because one looks "suspicious" or like someone else leads to minorities having higher odds of feeling the stops are unjust and ultimately that policing activities in general are illegitimate.
4. While the direct relationships are often complex (as outlined in the many tables I have included for this chapter in Appendix 2), minorities are also more likely to have force threatened (blacks) or used (blacks and Hispanics) against them during police-public contacts, particularly as pertains to body searches.
5. There is no evidence, in these data or in other published reports on the topic, that these racial/ethnic disparities in frisks result from those groups tending to have illegal items or to have performed an illegal activity.
6. The feelings (and direct experiences) of unjust/unequal treatment under the law (greater odds of having higher levels of force threatened and used against them, including being handcuffed or having a gun pointed at them; greater odds of being searched and frisked) leads to higher odds of resistance (such as fleeing) among minorities.
7. Higher-income whites enjoy the privilege of shouting, disobeying, and arguing, which other groups do not feel they have when interacting with police while stopped in a motor vehicle.
8. Minority groups and younger people in general have lower odds of finding police helpful during self-initiated contacts.

Ultimately these data indicate and reinforce the well-established racial differences in policing outcomes (often using state-level or city-level data) at the national level. The difference in outcomes for Hispanics and non-Hispanics is an understudied topic, and these data clearly indicate the need for more research in that area. It is important to make clear that these data do not indicate that police officers are racist. Statements like "The cops I know never shot anybody"²⁰ and "The officers I know aren't racist"²¹ do not rebut these findings but rather reflect a logical and statistical error known as an ecological fallacy: inferences about individual behavior cannot in any logical or valid way be deduced from aggregate data (derived from the overall group to which an individual belongs). Thus, while personal examples are often powerful and poignant, they do not necessarily illustrate a larger social fact (selection bias).

While researchers realize the related validity issues vis-à-vis committing an ecological fallacy or drawing from a sample ridden with selection bias, members of the public often do not understand the serious differences regarding individual and aggregate occurrences or the importance of drawing aggregate-level conclusions only from a randomly drawn sample of the larger population. For example, while someone I know focuses on Michael Brown's having stolen a candy bar and being a "thug," I try to point out that the issues go beyond any one incident, that racial discrepancies hold true at the aggregate level, and that by insinuating that a group of people are at best more "thuggish" than other groups of people is erroneous and overtly racist.²² When another acquaintance posts on his Facebook page "If you don't want to be shot by police don't break the law!"—a person who himself has spent time in prison (and has admittedly broken serious laws many times throughout his own life)—I wonder how he makes logical sense of that statement, or if he even thinks about the illogical nature of his reasoning at all. That one does not have to break the law to be stopped by police, let alone to be shot by them, has been clearly established. It just may be that people are so personally invested in specific brands of identity politics that they will never listen to logical analysis. Thinking in illogical, disproven, invalid ways is an individual choice,²³ however, and not one that should be made at the aggregate level. That is ultimately why I find the PPCS data so powerful; namely, the PPCS database enables investigators to move beyond the personal, beyond the individual level of occurrences, to see the entire picture.²⁴ The national-level data on police-subject contact outcomes enable us to see the forest despite the trees. When it comes to institutional, policymaking decisions regarding police use of force, insisting on valid conclusions is no longer a matter of hanging up a telephone or blocking someone on Facebook. These policies quite literally influence rates of life and death for human beings. Such serious decisions require thoughtful, structured, unbiased analysis. The PPCS offers one data component in the overall statistical analysis of US policing practices. There are, of course, serious issues not covered by the PPCS data, issues I will turn to in the next chapter.

Notes

1. It should be noted, however, that while the neighborhood in which the arrests occurred is predominantly African American, the suspect charged with distribution was African American while the clear majority of arrests that day were of white suspects who did not reside in the area, all charged with attempting to possess a controlled substance.

2. For a clearer understanding of the weighting process and how the age limit of the PPCS data (at least 16 years of age) was accounted for when weighting the data to best match the overall US population, contact the Bureau of Justice Statistics. The 2011

PPCS methodology section does clearly state that in order to obtain national estimates, the weight variable must be used (see “Police-Public Contact Survey, 2011 [ICPSR 34276],” ICPSR, <http://www.icpsr.umich.edu/icpsrweb/NACJD/studies/34276/version/1#method>).

3. I feel risk ratios help dispel obvious racial connotations to such arguments as “all lives matter” and “white people are victims of police use of force.” For example, one will see in this chapter that yes, white people are sworn at, arrested, and handcuffed, but they do not experience the same risk for these outcomes during police encounters as do black or Hispanic Americans. Simply put, a just society is one where every person, regardless of age, race, ethnic identity, religious affiliation, sexual orientation, or social class, has the same risk of experiencing various use-of-force outcomes when controlling for subject resistance level.

4. Obviously, each risk ratio would present its own null and research hypothesis, with the null hypothesis being that the race or ethnic group included in the statistical test has no statistically significant increase (or decrease) in risk of experiencing the outcome in question compared to those outside that group. For the sake of brevity and for a better overall reading experience, I will not list hypothesis after hypothesis prior to discussing the results of the statistical tests. I will simply make clear that my tests involve the research hypotheses that whites experience less risk in experiencing use of force compared to nonwhites, while black and Hispanic Americans experience higher levels of relative risk in experiencing various low levels of force that are reported in the PPCS.

5. Particularly since the data were weighted to match US population numbers.

6. I use the total from the Hispanic origin variable since it excludes a much lower number of respondents (roughly .1 percent of the sample who did not answer that item) than does the dichotomous race category of white/black Americans (which excludes various multiracial categories, Asians, and Pacific Islanders).

7. While reason for stop is included in the PPCS, I will discuss the general relationships across race, ethnicity, and police contact outcomes, along with the more specific context of being stopped in public for matching someone’s description. I have included these variables because there are specific theoretical reasons for doing so (racial profiling in stop and frisk and traffic stops). There is a wide range of reasons for being stopped by or contacting police, the number of officers present varies across cases, at times the race of officers present varies, and almost half of the time others are present when the respondent was stopped, but there is no clear theoretical reason for including these variables in the analysis, at least not from the research into police-public contact that I am aware of. Most respondents had no police contact. Of those who did, the clear majority did not experience even low levels of force. Further reducing these samples by reason for stop (such as speeding as opposed to failure to signal) would likely only muddle the picture—that is, there is no sociological insight that would lead me to test if there are specific disparities in these kinds of stops. Further, the respondents answering the PPCS items tend to be everyday, nonfelonious Americans whose police contacts tend to be of the very general variety (the result of speeding, loitering, matching someone else’s description). The nature of these contacts is different in context (public, driving, or respondent initiated) but not greatly varied in terms of seriousness of alleged infractions.

8. Keep in mind that per 2010 census data, most black respondents are also in the non-Hispanic category, therefore influencing the overall risk expressed by non-Hispanics for any specific outcome such as being stopped in public because one matched the description of a suspect, but also offset from the lower risk one sees in most of these variables reported by non-Hispanic whites.

9. It should be noted that higher levels of force such as hitting, kicking, use of a Taser or pepper spray, and pointing or discharging a gun at the citizen are either zero or nearly zero in the actual PPCS responses and offer little validity in their statistical analysis. These higher levels of force may occur so infrequently that they are difficult to accurately measure at the national level, or it may be that those citizens who experience such levels of force are much more likely to be arrested and incarcerated after the incident, and thus very few of these respondents are available for household surveys such as the PPCS.

10. Outside the copious references already mentioned in proceeding pages of this book, also see, for example, Epp, Maynard-Moody, & Haider-Markel (2014), Kahn et al. (2016), and Tillyer & Engel (2013).

11. The specific question in the PPCS is “Did you have a job or work at a business LAST WEEK? (Do not include volunteer work or work around the house.)”

12. With the data weighted, the sample sizes (n) ranged from 225,621,574 (race) to 241,404,142 (multiple variables).

13. Recall that not working in the past week equals 2; thus a negative association would be expected here.

14. Or considering this is a negative correlation, -0.5 .

15. Although there is an assumption that both variables tested for shared variance are at the interval level, dichotomous nominal variables (such as white = 1, black = 2) can be safely interpreted because the interval property is assumed to be met (see “Introductory Statistics: Concepts, Models, and Applications,” David Stockburgers’s Psych-Stat at Missouri State, <http://www.psychstat.missouristate.edu/introbook/sbk17m.htm>).

16. Considering the very marginal differences across race and ethnic categories in terms of having had multiple contacts with police, I eliminated that variable prior to the regression analysis.

17. Keep in mind that for the cross tabulations, I could report the relative risk across groups (thus interpret a risk ratio of 2.0 as “twice as likely” since relative risk concerns probabilities of an outcome occurring). For the logistic regression equations, the comparison statistic between variables are odds ratios. Considering the sample is weighted to directly represent the overall population, and most positive (yes) outcomes are under 10 percent, the odds ratio should be quite a good approximation of the relative risk (Lieberman, 2005). Still, it should be kept in mind that with odds ratios I am simply stating that the relative odds of an event occurring in a group (say blacks or Hispanics) compared to the relative odds of that event occurring in the comparison group (whites, non-Hispanics) are higher or lower. Thus, instead of saying one group is x amount more likely to experience an outcome compared to another group, we talk in terms of higher or lower odds of an outcome occurring for one group compared to the other.

18. To keep it simple, partially because odds ratios tend to be higher than relative risk.

19. Hispanics also have lower odds of filing formal complaints as compared to non-Hispanics.

20. Of course, while such a statement may be accurate from the standpoint of the person making it, the most sociologically important aspect is the differences in odds, at an aggregate level, among groups of people (minorities, young men) of having a gun pointed at them, being shot at, or being killed.

21. This is on some level likely the case, but rather than individual-level racism the larger issue is systematic institutional discrimination, which these data indicate exists across the country.

22. And of course, at that point the conversation comes to an end.

23. And as so eloquently illustrated by the reactions of the “fully human” crew members aboard the starship *Enterprise* to the always rational, “mixed” human-Vulcan

Spock (portrayed by the great Leonard Nimoy), humans don't always act or think rationally. Emotion (the area in which Spock was famously lacking) and particularly stories (Holstein and Gubrium, 2000) are not only powerful in relating subjective experiences but also guide the overall meanings we give the world (that is, our stories shape the world we see). Whether or not these stories are rooted in sound, logical conclusions drawn from scientific data is most often irrelevant to us as humans in our everyday lives. The converse is true, however, once we take on the role of scientist.

24. Or at least as much of the entire picture as one has the time and/or ability to analyze.

5

Current Controversies

So far in this book I have outlined the issues involved in establishing and utilizing a use-of-force continuum (Chapter 1); analyzed contemporary federal court use-of-force decisions (Chapter 2); discussed existing data bases that could be useful in measuring police use-of-force outcomes (Chapter 3); provided descriptive statistical results from the two databases I used for the analyses found in this book (Chapter 3); and presented the statistical results and empirical findings related to disparate outcomes in police-subject contacts (Chapter 4). Before concluding the current work, I would like to address existing controversies in police use of force for which I was not able to test with available data but which involve some of the most prominent issues in modern-day policing as it pertains to subduing suspects—namely, police contacts that involve a person experiencing a mental-health crisis, the increased and now institutionally established use of CEDs such as the Taser X26, and finally the use of lethal force against subjects.

Policing Mental Health

Police frequently engage bodies in mental-health crisis situations, often serving as gatekeepers in deciding whether a person should enter the mental-health system or the criminal justice system (Lamb, Weinberger, & DeCuir, 2002). While additional training in dealing with people with mental-health issues may help increase the efficiency of such gatekeeping activities, police are not health-care professionals (Lamb, Weinberger, & DeCuir, 2002) and should not be confused with them. Such gatekeeping decisions are greatly affected by the presence of a mental-health specialist

in responding to incidents involving “emotionally disturbed persons” (Steadman, Deane, Borum, & Morrissey, 2000). People with mental-health training can make gatekeeping decisions in the moment, enabling officers to move on more quickly to actual criminal situations. This either requires intraorganizational cooperation among mental health/medical specialists, law enforcement, and community groups (such as creation of mental-health-care teams or specialized bed units) or specialized response teams within the law enforcement agency itself. One study showed that law enforcement agencies provided a median of 6.5 hours of mental-health-related training for recruits,¹ and 1 hour of in-service training (Hails & Borum, 2003). In the national-level data collected for the MMEP (2007), the weighted percentage of all US law enforcement departments that had provided some form of mental-health instruction within the past two years was 67.0 (31 percent not provided; 2.0 percent missing for some other reason). The weighted percentage of departments that had provided officers with training in mediation/conflict management in the past two years was 59.0 (39 percent not provided; 2.0 percent missing). The weighted mean hours recruits spent training in firearms skills was 55.81 (median = 44.00).

The 2015 Supreme Court case *San Francisco v. Sheehan* shows the difference in expertise (focused training) between policing and treating bodies.² Two officers shot and pepper-sprayed a mentally ill woman after she had approached them brandishing a knife. The main issue in the case was not whether the amount of force used was reasonable but whether the police adhered to ADA standards that require officers to make reasonable accommodations for people with mental illness. Police officers are not social workers or mental-health experts; nor should we expect them to be. The data indicate, however, that while specialized responders such as crisis intervention teams are effective (Compton et al., 2014), due to the independent nature of police departments, such specialized training is inconsistent across the country, with 15 percent of police jurisdictions operating 2,800 CIT programs across the country (Lucas, 2016). A federal mandate requiring departments to provide CIT training and to have a specialized CIT unit, with at least one specialized member on duty, would help eliminate such discrepancies in overall responses to mental-health incidents and possibly help avoid shootings of civilians such as Teresa Sheehan. While that may be practical in metropolitan areas like San Francisco, the many rural communities throughout the country simply may not have enough resources to provide such around-the-clock expertise. Protocols and safeguards, however, can be put in place to ensure the protection of people suffering from an acute mental-health issue. As of now the safety of people with mental illness depends on the first responders dealing with the crisis situation or, after the fact, on the courts, which at times

provide protections to people who are severely intoxicated, are under the influence of controlled substances, or have a “discernible mental condition” that is apparent to the officers present;³ at other times they rule officers’ deadly acts justifiable.⁴

The police have regular contact with people with mental illness and report that up to 6 percent of individuals considered suspects have a serious mental illness (Engel & Silver, 2001; Teplin, 1984). A *Washington Post* report (Lowery et al., 2015) of the 462 police shooting deaths that occurred in the United States during the first six months of 2015 indicated that 25 percent of those killed were experiencing an emotional or mental-health crisis. A recent (Lord, 2014) analysis of National Violent Death Reporting System data indicates that the predictors for police actions in suicide-by-cop (SoC) incidents are different from the set of predictors in other use-of-force incidents. A review of suicide-by-cop literature (18 studies spanning 1994 to 2014) showed that the typical SoC perpetrator is a younger adult white male experiencing romantic relationship conflict who has a significant mental health and criminal history and is intoxicated at the time of the incident (Patton & Fremouw, 2016). Patton and Fremouw (2016) further found that less-lethal means and verbal negotiation strategies are commonly not effective at preventing subject death unless the officer focuses verbal negotiation strategies on the perpetrator’s problems.

Any notion that mental illness may lead to higher rates of disrespect toward officers during police interactions seems off the mark as reportedly only 3 percent of suspects who were disrespectful to officers during contacts displayed behaviors indicating mental impairment (Reisig, McCluskey, Mastrotoski, & Terrill, 2004), and a more recent study indicated that subject mental illness was not a significant predictor of the likelihood of injury to officers or subjects (Morabito & Socia, 2015). Another report discovered that people with serious mental illness who interact with police are less likely to resist when they believe they are being treated with respect and fairness (Watson & Angell, 2013). In *Kesinger v. Herrington*, the Eleventh Circuit Court ruled that shooting a mentally ill person who is threatening an officer or others,⁵ even if unarmed, is justified. Considering the overall variations in incidents as they pertain to both subject behavior, location of the incident, and the people present during the interaction, it is unlikely that all mental-health incidents in which police are the first responders will end without injury or, in rare cases, fatality. The goal should be to minimize force incidents, particularly as, considering the issues many returning veterans have with anger (Dillon et al., 2017) and problem drinking (Miller, Pedersen, & Marshall, 2017), responding to people in crisis and vulnerable situations is unlikely to decrease for law enforcement officers soon.

One mental-health issue directly linked with police use of force is “excited delirium” (Lam, 2017; Vilke & Payne-James, 2016). The signs of

excited delirium include “superhuman” strength, extreme agitation, diaphoresis,⁶ and unwillingness to yield to overwhelming force (Vilke et al., 2012). A checklist for diagnosing excited delirium includes

- Violent, agitated, and combative behavior
- Psychosis, such as hallucinations and delusions of grandeur or persecution
- Possible influence of stimulant drugs that include cocaine
- Hyperthermia (extremely high temperature)
- Great strength and non-pain compliance
- Incoherence and failure to respond to simple commands
- Sudden collapse and death, which may result during the application of physical restraint (Parent, 2006, p. 20)

An analysis of 61 cases of excited delirium from medical, legal, and police documents (Ross, 1998) revealed that in all cases the person fought with and was restrained by police, the person was more likely to die at the scene of the incident or during police transport, and the police were likely to be responding to a disturbance call. In many cases, survival time was less than one hour after the initial symptoms of excited delirium were reported being noticed in the individual (Ross, 1998). In most cases, acute cocaine toxicity and physical restraint in police custody contributed to death (Ross, 1998).

Excited delirium syndrome was first observed in 1982 when investigators in Seattle described the sudden death of people in states of acute psychiatric agitation and hyperactivity who were being restrained by law enforcement officers using neck holds (Mitchell, Roach, Tyberg, Belenkie, & Sheldon, 2012). It has since become apparent that some acutely excited, agitated, and violent people, in states of so-called excited delirium, are at risk of unexpected death when restrained by law enforcement officers or hospital personnel (Zipes, 2012). Positional or postural holds are most frequently associated with unexpected death in susceptible people with excited delirium. These holds are used to subdue; those being restrained are positioned prone on the floor with their wrists or ankles bound (e.g., with handcuffs). The most extreme example of prone restraint is “hog-tying,” in which the person is positioned prone with ankles and wrists bound together at the back of the torso. Some who experience excited delirium die from cardiac arrest regardless of the level of treatment received. Fatalities resulting from excited delirium are linked to stimulant drug use (78 percent), chronic disease (56 percent), and obesity (56 percent), with observed cases of fatalities all including physical restraint, with the wrists and ankles bound behind the back (Stratton, Rogers, Brickett, & Gruzinski, 2001).

Conducted Electrical Devices (Taser X26)

Along with high levels of physical restraint, the repeated/extended use of electronic control devices (ECDs) may also lead to sudden death, but shorter ECD⁷ use should not lead to fatality (Jauchem, 2010). Per Taser International, nearly 10,000 police departments in the United States have deployed the Taser as a less-lethal force alternative in some capacity (White & Ready, 2009). One randomized field-training experimental study within the Las Vegas Police Department (Sousa, Ready, & Ault, 2010) found that officers assigned a Taser were less likely to deploy pepper spray or to use a baton in response to aggressive resistance. They were also less likely to discharge their firearm in training scenarios in which they felt the resistance was potentially fatal. In other words, officers assigned a Taser are likely to use it more than other device options such as pepper spray, a baton, and a firearm when facing a resistant subject.

One possible negative to increased Taser use is that police may resort to force (Taser) rather than verbal negotiation to deescalate situations. One possible positive is that Taser deployment may prevent a situation from escalating to the point of deadly force. Deploying a Taser has been found to result in fewer injuries than using a baton. Also, deploying a Taser rather than using a firearm is much less likely to cause serious injury or fatality. Other researchers, however, have suggested that officers may be over-reliant on CEDs when less forceful options, such as verbal control, might suffice in obtaining citizen compliance (Alpert & Dunham, 2004). In other words, relying on Taser deployment as the primary force option may be proper in terms of limiting risk of injury to subjects and officers in some cases but not necessarily in other situations, where pepper spray or verbal commands would work or where a suspect may be overly excited, overweight, and/or on stimulants to the point that an electric shock could cause cardiac arrest. A study of California police departments five years preceding Taser deployment through five years after deployment (Lee et al., 2009) found overall fatalities increased during the early Taser-deployment period, with in-custody deaths increasing 6.4-fold and firearm deaths increasing 2.3-fold in the first full year after Taser deployment, compared to the average rate in the five years before deployment. In years two to five after deployment, however, the rates of in-custody deaths and firearm fatalities dropped to predeployment levels. No significant changes in serious officer injuries were found after Taser deployment (Lee et al., 2009).

The MMEP (Alpert, Smith, & Fridell, 2011) extensive database on Taser use in US police departments showed that a CED in probe mode was used in 46.9 percent of departments in 2006, with all but 1.3 percent of the departments using that mode of force requiring mandatory submission of documentation when an officer used it in the line of duty. The data related

to CED deployment in drive-stun mode was extremely similar (47.2 percent of departments; all but 1.3 percent mandatory reporting). Mandatory reporting decreased (25.7 percent mandatory; 21.3 percent not mandatory) when a CED was presented, arced, or laser pointed. The years with the highest percentage of departments using CEDs on the street were 2004 (15.5 percent), 2005 (11.2 percent), and 2006 (7.7 percent). The highest percentages of required training hours officers must have received before being permitted to carry a CED were 13.6 percent (4 hours) and 22 percent (8 hours; the mode [most frequent occurring result]) with the next highest percentage being 4.2 percent (16 hours). Less than 20 percent (19.6) of all departments had a stand-alone CED policy in 2006, with 55 percent of departments including CED language in their general use-of-force policies. The policies outlining when and how to deploy CEDs varied widely across departments.

Different groups of interested people have different views of officers' preference for deploying their Tasers rather than using other methods of force to compel compliance. For example, recent research consisting of in-depth telephone interviews with 27 in-training officers in Ohio and Idaho (De Angelis & Wolf, 2013) discovered that most officers find CEDs safe and effective in a variety of situations. Some of the main benefits officers see in using a Taser X26 include injury reduction for officers and subjects; deterrent effect (the mere threat of using a Taser can get subjects to quickly comply); avoidance of contact with the subject; and equalization for female officers (stated as a benefit by two male respondents). Despite widespread reports of the safety and effectiveness of the Taser, roughly half of the officers in the study noted their department had received citizen complaints regarding inappropriate Taser deployment.

Officers also felt the community was not informed about the actual injury risk of Tasers (De Angelis & Wolf, 2013). More officers felt the media attention regarding officer Taser use was positive ($n = 8$) rather than negative ($n = 1$) or mixed ($n = 4$). Overall, officers felt that Tasers were a generally safe method of compelling compliance when necessary, but they believed citizens did not understand the actual risks of Taser use. Per many of the officers in the study, this disjuncture between reality and public perception of the injury risk associated with Taser application created public anxiety about officers' use of Tasers, leading to unwarranted citizen complaints. Officers also stated that media often exaggerated the danger of Taser use by focusing on one specific case, but if officers continued to communicate with the media and the community about the realities of Taser deployment, then correct, useful information could be transmitted and a more positive bond formed among officers, media, and citizens in their daily interactions. Although many officers (De Angelis & Wolf, 2013) believe Tasers are generally safe and effective in the field, controversy does exist regarding exactly how dangerous Taser deployment is for citizens

(White & Ready, 2009). De Angelis & Wolf (2013) have noted that officers are cognizant of the information Amnesty International disseminates regarding the dangers of Taser use on subjects. For example, Amnesty International reported at least 500 deaths related to Taser deployment in the United States between 2001 and the first half of 2013 (Black, 2013). Susan Lee, the Americas program director at Amnesty International, has stated that dozens and possibly scores of the 500 deaths the organization attributes to Taser deployment resulted from unnecessary use of force by police (Amnesty International, 2012).

A wide disparity exists between the fatality numbers linked with Taser deployment used by Amnesty International and the fatalities directly linked to Taser deployment listed by coroners (Planty et al., 2015; White & Ready, 2009). Most clinical studies indicate that the high-voltage electrical pulses created by a Taser do not cause cardiac arrhythmia (Boseman, Barnes, & Winslow, 2009; Cevik, Otaibachi, Miller, Bagdure, & Nugent, 2009; Levine, Sloane, Chan, Dunford, & Vilke, 2007; Vilke, Chan, Sloane, Neuman, & Castillo, 2011; Vilke et al., 2008). Other reports, however, do suggest some risk of serious injury/fatality post Taser application for specific types of subjects. One report by the *Guardian* (Laughland, Lartey, & McCarthy, 2015) illustrates how most US police departments fail to regulate Taser deployment among officers, even though 47 fatalities occurred after Taser deployment during the first 10 months of 2015, with 40 percent of victims being black and, in all but three cases, unarmed.

A direct link between Taser application and fatality is difficult to assess in part because patients who die following undergoing restraint via Taser frequently have preexisting conditions, such as cardiovascular disease, and/or are under the influence of drugs that place them at higher risk of serious a cardiac event (Cevik et al., 2009; Sanford, Jacobs, Roe, & Terndrup, 2011). The combination of acute stress and electric restraint may adversely impact those with various health concerns. For example, through an internet search, Strote and Hutson (2006) identified 75 people who died after Taser application from January 1, 2001, to January 1, 2005. A total of 37 autopsy reports were obtained from the original sample of 75. Use of Taser was considered a potential or contributory cause of death in only 27 percent of the autopsy reports. All 37 autopsy reports examined were for men; over half of them had a record of cardiovascular disease, more than 78 percent had an illegal substance in their system, with 86 percent found to have been using stimulants, and more than 75 percent were diagnosed with excited delirium.

Determining if a fatality was at least partially caused by Taser application and if such application was indeed unnecessary is very difficult. One study conducted of Taser applications during crisis intervention responses in Akron, Ohio, over an 18-month period found that none of the

35 incidents involving Taser deployment (out of a total 541 CIT responses during the same period) indicated a definitively inappropriate or abusive use of the Taser (Munetz, Fitzgerald, & Woody, 2006). The appropriateness and risk involved in Taser use, however, are often far from clear. For example, one case report describes rapid ventricular tachycardia associated with Taser exposure in a 53-year-old man with a dual-chamber pacemaker (Cao, Shinbane, Gillberg, & Saxon, 2007). Another case report describes new-onset atrial fibrillation after Taser exposure in a healthy 16-year-old boy (Multerer, Berkenbosch, Das, & Johnsrude, 2009). One experimental study used a detailed numerical-anatomical model of an adult man and ran computerized 3D cardiac exposure patterns that mimic cardiac exposure to Taser X26 (Leitgeb, Niedermayr, Loos, & Neubauer, 2011). The researchers discovered that the limited probability of critical hits to the upper chest area (close to the heart) reduces the overall fibrillation risk due to Taser application. The experiment illustrated that cardiac fibrillation risk from Taser X26 application in dart mode is small but still significant. For distance mode and worst-case dart hits (direct application to the upper chest near the heart), the researchers suggest that cardiac exposure can reach the 30 percent fibrillation risk level (Leitgeb et al., 2011).

One controversial study (Zipes, 2012), which analyzed police, medical, and emergency response records, automated external defibrillator information, depositions, and autopsy results for seven people shot in the chest by a Taser X26 found that the Taser X26 may induce cardiac arrest leading to death. Taser advocates noted that the study author had previously testified on behalf of plaintiffs in lawsuits against Taser (Goode, 2012). Proponents of Taser use by police cite a 2011 National Institute of Justice report that states no evidence exists that Tasers pose a significant risk of cardiac arrest “when deployed reasonably.”

The phrase “deployed reasonably” is at the heart of the issue. Older subjects who may have heart issues, children, and subjects who may be under the influence of stimulants (e.g., cocaine, PCP, methamphetamine) may be at risk of serious injury or fatality due to Taser application. While a review of police and medical records of suspects exposed to a Taser during a two-year period found that fewer than 1 percent received moderate injuries and only one suspect (0.1 percent) received severe injuries (MacDonald, Kaminski, & Smith, 2009), subjects under the influence of drugs who resist arrest and receive a Taser application are more likely to be fatally injured (White & Ready, 2009). White and Ready (2009) add that continued resistance by the suspect after Taser deployment is a significant predictor of reported fatalities. The combination of being under the influence of drugs, particularly stimulants, and continued physical exertion while resisting arrest may generate enough stress on the body to produce excited delirium.

There have been many court decisions regarding Taser use at the federal level in 2015–2017. *Aldaba v. Pickens* (13-7034, Tenth Circuit, 2015) determined that officers who had Tased a hospital patient multiple times, forcing him to the ground and handcuffing him, which ultimately resulted in the subject's death, were not entitled to qualified immunity. The court ruling concluded that a person with known mental-health issues and a deteriorating health condition should be treated differently than a criminal who is a threat to the community. In *Armstrong v. Pinehurst* (No. 15-1191, Fourth Circuit, 2016), Ronald Armstrong, who was mentally ill, left a hospital to avoid being involuntarily committed to a psychiatric facility. Finding him near the hospital, police tried to take him into custody. Armstrong resisted by clinging to a pole. Several officers tried to pry him loose, using a Taser multiple times to little effect. He eventually was pulled from the pole, held face down, and handcuffed. Shortly afterward, Armstrong stopped breathing and died. The Fourth Circuit ruled that using a Taser on a stationary, nonviolent, outnumbered, mentally ill individual who posed a danger only to himself was “unreasonably excessive force.” The court added that officers are expected to deescalate a situation that involves an encounter with a minimally threatening mentally ill person and to “adjust the use of force downward.”

In another ruling involving a death post Taser use (*Perea v. Baca*, No. 14-2214, Tenth Circuit, 2016), officers chased a bicyclist on foot after he had run a stop sign. Without warning or verbal commands, they pushed Jerry Perea off of his bicycle. He resisted arrest and received Taser probes, followed by nine more shocks in “stun mode.” Perea died as a result. The court ruled the officers used excessive force because (1) the use of a Taser 10 times within two minutes was disproportionate to the seriousness of the subject's crime; (2) Perea did not pose a threat to justify that level of force, and (3) Perea's resistance (thrashing around, swinging a crucifix) did not justify such a severe response.

Earlier circuit court rulings in the past decade found that deploying a Taser against an intoxicated subject who was cursing and mildly resisting arrest (holding his hands behind his back in a way that made it difficult to handcuff him) constituted excessive force (*Parker v. Gerrish*, No. 08-1045, First Circuit, 2008); deploying a Taser against a nonthreatening, passively resisting (not returning to his vehicle) subject was excessive, and the X26 and similar devices constituted an intermediate, significant level of force that must be justified by “a strong government interest [that] compels the employment of such force” (*Bryan v. McPherson*, No. 08-55622, Ninth Circuit, 2009); deploying a Taser against protestors chained to a several-hundred-pound barrel, after trying other means of removal, warning that if they did not disperse, they would be Tased and that a drive-stun shock would be painful, and still meeting with resistance, was indeed reasonable (*Crowell v.*

Kirkpatrick, No. 09-4100, Second Circuit, 2010); deploying a Taser against a 73-year-old man who was being disorderly, tried to flee the scene in his vehicle, was drive-stunned twice in the arm, was thrown out of the car onto the ground face down, remained resistant (not allowing officers to handcuff him), was warned he would be Tased if he persisted, still refused to comply, and was drive-stunned in the upper-back, amounted to proportional force to the threat perceived and thus reasonable (*Brown v. Cwynar*, No. 11-1948, Third Circuit, 2012); deploying a Taser after an intoxicated female refused to enter a patrol car, stiffened up and resisted, was warned several times she would be Tased if she persisted in her refusal to cooperate, then was drive-stunned, amounted to the “minimal amount of force needed under the circumstances to accomplish this objective [getting subject into the squad car]” (*Gorman v. Warwick Township*, No. 10-CV-6760, US District Court for the Eastern District of Pennsylvania, 2012). From these court rulings, it appears established that if the subject survives, had displayed resistance, and was warned, the use of a Taser is often deemed reasonable. If the person is known to have mental-health issues, however, such force may remain unreasonable, and lower forms of force (verbal negotiation) should be used.

The state expects obedience. Those who exhibit clear mental-health issues are at times afforded additional protection under the law (ADA). Although people with mental-health diagnoses are not shown to resist at higher levels compared to the general population, they comprise a significant number of annual officer-initiated fatalities (related to shootings, CEDs, and excited delirium post physical restraint). The legitimacy of such deaths remains generally unclear, with courts ruling police force excessive at some times and reasonable at others. In terms of mental health, the presence of a threat in the form of a weapon (knife, ax) seems enough to deem lethal force reasonable. In terms of Taser deployment, much the same appears to apply, with a warning, coupled with active resistance from subjects not known to possess mental-health issues, enough to render deployment reasonable.

Lethal Force

“The situation last night was unfortunate,” New York City mayor Rudolph Giuliani said at the outset of his daily news conference, police commanders standing behind him. “But from everything that we can tell from a preliminary analysis of the facts, the police officers should be given the benefit of the doubt.”⁸

While we should not use individual instances of police interactions to describe policing outcomes in general, individual outcomes can be very powerful in shaping the way one sees policing generally, particularly if it

involves someone we know and/or love or a tragic death widely reported on and at times even recorded and released in social media. Giuliani was discussing the 1999 fatal shooting of Amadou Diallo, a 22-year-old immigrant from Guinea who was shot at 41 times⁹ while reaching for his wallet to provide identification. The police killings of Diallo, Patrick Moses Dorismond, Sean Bell, Oscar Grant, and Jonny Gammage were widely shown across media outlets and discussed at length by those interested in issues of racial and ethnic disparities in police outcomes that occurred between the Rodney King incident in 1991 and the “renewed” media focus on such disparities in officer-initiated fatalities after the shootings of Michael Brown and Tamir Rice in 2014. Despite the seemingly unjust nature of these killings, only Oscar Grant’s case resulted in an officer’s being sentenced to prison (Johannes Mehserle). Nobody involved in any of the other four cases was found criminally guilty;¹⁰ Kenneth Boss, who fired 5 of the 41 shots at Diallo, was promoted to sergeant in December 2015 (Parascandola, Marcus, & McShane, 2015) and even honored as a “Sergeant of the Year” in September 2016. While he remained with the police force after his acquittal on criminal charges related to the shooting, Boss was not permitted to carry a firearm until 2012 (Parascandola, Raymon, & Tracy, 2016). Boss even sued the state of New York, claiming that prohibiting him from carrying a firearm violated his constitutional rights, noting in his affidavit that he was a department “pariah,” forced to endure being mocked by other officers as “Kenny No-Gun” (Celona, 2012). Boss lost the suit, but New York City police commissioner Raymond Kelly ultimately reinstated his gun-carrying privilege.

Given the absolute rarity with which officers are found criminally guilty of wrongdoing in fatal shootings (Elinson & Palazzolo, 2014; Kindy & Kelly, 2015; Ryley, Hicks, Tracy, Marzulli, & Gregorian, 2014), clearly former Mayor Giuliani was not alone in giving police officers “the benefit of the doubt” when it comes to firing on unarmed civilians. The mayor himself, in his attempted slander of an unarmed victim who had committed no crime, presented the stark contrast denoting white privilege and institutional discrimination against people of color. Giuliani ordered the release of Patrick Moses Dorismond’s sealed juvenile records after his killing, stating on television that Dorismond “was no altar boy”; in fact, Dorismond had been an altar boy during his youth, even attending the same Catholic school Giuliani had attended as a child. During the same interview, Giuliani noted Dorismond’s “extensive criminal record” as justification for the shooting, although Dorismond was only ever convicted as an adult of disorderly conduct. During that time (2000) Giuliani admitted that his own father was a felonious criminal (Newman, 2000). To limit institutional discrimination, the people who work in and oversee the institutions must make decisions that help eliminate injustice, strengthen the

protection of all citizens in an equitable fashion, and do not perpetuate racial/ethnic disparities in policing outcomes.

Sean Bell, a 23-year-old male who was in a car with two friends, was killed after police fired 50 bullets into his vehicle on the early morning of what would have been his wedding day (Flegenheimer & Baker, 2012). Detectives Giscard F. Isnora, Mark Cooper, and Michael Oliver were all acquitted on charges of manslaughter, assault, and reckless endangerment. Detective Isnora testified that he had overheard an argument in front of a club the men had exited and believed they were about to take part in a drive-by shooting. Nobody in the car, however, was armed, and no gun was ever found in the vehicle. The case revived memories for New Yorkers and others concerned with police shootings of unarmed black men, who recalled the fatal incident involving Amadou Diallo and the concept of “contagious firing,” in which multiple officers fire multiple rounds at unarmed suspects (White & Klinger, 2012). As noted by White and Klinger (2012), while officers and the media recognized the existence of contagious firing anecdotally, more than 50 years of empirical research on deadly use of force has never documented the phenomenon. In testing for contagious firing, White and Klinger (2012) discovered that the preconditions for such shooting rarely occur, and when they do, there is no support for a contagion effect in police firearm discharge. Essentially, “contagious firing” is not an actual phenomenon but rather a constructed fiction.

Oscar Grant was shot and killed in a subway station on January 1, 2009. Several passengers recorded the event on their cellphones and uploaded the footage to YouTube (Antony & Thomas, 2010). The videos generated online protests and ultimately were used in the ensuing trial against BART officer Johannes Mehserle. Mehserle claimed he had mistaken his handgun for his stun gun (Taser). Policing practice acknowledges the idea of “weapon confusion,” but no empirical studies regarding its established existence and frequency currently exist. According to witnesses, after the fatal shooting, Mehserle placed his hands on his head, stating, “Oh shit, oh shit, I shot him” (Amaya, 2017). He was ultimately convicted of involuntary manslaughter and sentenced to two years in prison. A California appellate court unanimously confirmed the original decision. During the Mehserle trial, it was reported that the mistaking of a firearm for a Taser had occurred a documented six times throughout the United States and Canada out of the hundreds of thousands of Taser deployments by over 13,000 US police agencies in the first decade of the twenty-first century.¹¹ The appellate panel added, “We find sufficient evidence that his conduct of mistakenly drawing and firing his handgun instead of his taser constitutes criminal negligence under the second prong of manslaughter liability: that defendant committed a lawful act in an unlawful manner, or without due caution and circumspection—i.e., he

believed he was tasing an arrestee, but mistakenly, and criminally negligently, drew and fired his handgun with lethal results.”

Weapons confusion among police officers may constitute a rare case of “inattentional blindness,” in which a psychological lack of attention not associated with any physiological visual defect causes an individual to fail to recognize an object or stimulus that is in plain sight. While the psychological realities of such a situation (mistaking one’s firearm for one’s Taser) remain generally unstudied, the federal courts have established that such mistakes are typically not protected under qualified immunity (Murphy, 2011).

Jonny Gammage was killed not by a firearm, as were Diallo, Bell, Grant, and Dorismond, but rather by asphyxiation due to pressure applied to his chest and neck. Gammage was driving his cousin Ray Seals’s Jaguar, when he was stopped for “erratic driving” on October 12, 1995. Gammage was from Syracuse, New York, and visiting his cousin. Police followed Gammage for over 1.5 miles, noting he had hit his brakes when approaching the police car, then 1.5 miles later braked again to slow the vehicle.¹² Ultimately five white police officers beat Gammage with flashlights, pinned him to the ground, and suffocated him, all for applying his brakes to remain within the assigned speed limit of the road he was driving on. Seven minutes after exiting his vehicle, Gammage was dead. On November 3, 1995, a coroner’s jury recommended homicide charges be filed against the five officers involved in the killing (“Timeline: Events in the Jonny Gammage Case,” 2005). The district attorney charged only three of the officers, Michael Albert, Milton Mulholland, and John Vojtas, not with homicide but with involuntary manslaughter. The case against Albert and Muholland resulted in a mistrial, and the DA was barred from retrying them. Vojtas was found not guilty by an all-white jury (Timeline: Events in the Jonny Gammage Case, 2005). The state supreme court ruled a retrial for Albert and Mulholland permissible. The second trial also ended in mistrial after the jury deadlocked 11–1 for acquittal, the one juror holding out being the only black juror of the 12. On February 19, 1996, the US Justice Department decided not to file civil rights charges in Gammage’s death, stating it could not prove unreasonable force was used to subdue him (Timeline: Events in the Jonny Gammage Case, 2005). Vojtas, the officer seen to be at the center of the violence against Gammage, not only remained on the force but, like Kenneth Boss, was promoted. Unlike in Boss’s case, however, the promotion did not take 16 years; it occurred only six months after the unarmed Jonny Gammage breathed his last breath (Kalson, 2003).

The issues of excited delirium and cardiac arrest after Taser use often come to the fore in assessments of arrest-related deaths (ARDs). An ARD is defined as any death (e.g., due to gunshot wound, cardiac arrest, asphyxiation, or drowning) that occurs during an interaction with state or local law enforcement personnel, including those that occur during an attempted arrest

or in the process of arrest, while the person is in law enforcement custody (before transfer to jail), or shortly after the person's freedom to leave a scene is restricted. ARDs do not include deaths of bystanders, hostages, and law enforcement personnel; deaths occurring during an interaction with federal law enforcement agents; deaths of wanted criminal suspects before police contact; and deaths by vehicular pursuits without any direct police action (Burch, 2011; Mumola, 2007). States are required to submit quarterly data on deaths that occur in the process of arrest. The Bureau of Justice Statistics designed the ARD program's scope to include homicides, suicides, accidental deaths, and deaths attributed to intoxication and medical conditions that occur during a civilian interaction with state or local law enforcement.

An analysis of the Deaths in Custody Reporting Program indicates that almost 40 percent of deaths that occur in the process of arrest arise from causes other than officer-involved homicides of suspects (Burch, 2011; Mumola, 2007). The most common types of noncriminal deaths reportable to the ARD program occur during law enforcement's response to service calls for assistance or transport often involving requests for mental-health or medical assistance (Burch, 2011; Mumola, 2007). These incidents may involve individuals who are suicidal (potentially SoC) or display erratic behavior or may occur during transport to a mental-health facility or hospital. An epidemiological study of over 3.25 million police-public interactions (August 2006–March 2013) in Canada found that out of the 4,828 use-of-force events reported in those interactions, no subject died in a prone position, and one subject died while not in a prone position after exhibiting multiple signs of excited delirium (Hall et al., 2015). The Canadian study suggests that it is indeed possible to virtually eliminate excited delirium deaths (subjects survived 99.8 percent of the time post restraint).

A study of lethal force by police from 2010 to 2014 indicates that of the 2,285 "legal intervention" deaths,¹³ males age 10 or older represented 96 percent of all fatalities, with the mortality rate for this group being 2.8 and 1.7 times higher for non-Hispanic blacks and Hispanics, respectively (Buehler, 2017). In cases of restraint and Taser use, subject fatality may not have been the objective. In cases of firearm discharge, however, the goal is often to eliminate a disobedient body deemed threatening by an officer. In terms of officer-initiated firearm-related fatalities, a minimum of 102 unarmed black people were shot in 2015, representing 37 percent of unarmed people killed by police that year, five times the rate for unarmed whites (Police killed more than 100 unarmed black people in 2015). Of the 102 cases, only 10 resulted in the officer being charged with a crime, with two deaths resulting in convictions of the officers involved; one officer was sentenced to one year and allowed to serve his time on weekends (Police killed more than 100 unarmed black people in 2015). This number, however, appears to have dropped significantly in 2016, with a total of 258

blacks killed by police, 39 of them unarmed. Of these, 4 died because of CEDs and another 9 died while in custody, with 232 of those killed dying by gunshot. The overall police killings for 2016 totaled 957, a relatively stable number from 2015. While the total numbers of unarmed victims decreased in 2016, unarmed black men still made up 34 percent of all unarmed people killed that year (Kelly, Lowery, Rich, Tate, & Jenkins, 2016). Another consistent number, along with total killings, is the 25 percent of killings involving people with mental illness. While an average of 5 officers were charged in killings annually between 2005 and 2014, 18 in 2015 and 12 in 2016 were charged, with video recordings of the incidents extant in almost 60 percent of shootings resulting in charges in those years (Kelly et al., 2016).

While overall civilian fatality numbers remain consistent, as does the percentage of fatalities for those with mental illness, we have seen progress in overall fatalities of unarmed black men shot during police-subject contacts.¹⁴ This is a good sign, especially considering the staggering differences in percentages of minority males who are shot and killed while unarmed compared to their overall percentage of the population. Still, black men continue to comprise a disproportionate percentage of unarmed victims. Only when the number of victims is proportional to each group's overall percentage of the population—not only in killings but in being stopped, frisked, searched, sworn at, shouted at, pushed, grabbed, handcuffed, and arrested—in every town in America can we begin to speak about a system of justice. Still, to me, nothing shows the “power of the people” more clearly than the ability to turn tragedy into positive social-structural change. Black Lives Matter has helped elevate public discourse about police use of force from a local community issue to a national one (Jones, 2016). The following is a list of 11 men who died far too young, but whose deaths were not completely in vain, for each in his own way helped spark one of the most successful global social movements we have seen thus far in the twenty-first century (Jee-Lyn García & Sharif, 2015):

1. Jonny Gammage (July 20, 1964–October 12, 1995), Pittsburgh, Pennsylvania
2. Amadou Diallo (September 2, 1975–February 4, 1999), New York City
3. Patrick Moses Dorismond (February 28, 1974–March 16, 2000), New York City
4. Sean Bell (May 23, 1983–November 25, 2006), New York City
5. Oscar Juliuss Grant III (February 27, 1986–January 1, 2009), Oakland, California
6. Eric Garner (September 15, 1970–July 17, 2014), Staten Island, New York
7. Michael Brown Jr. (May 20, 1996–August 9, 2014), Ferguson, Missouri

8. Tamir Rice (June 25, 2002–November 23, 2014), Cleveland, Ohio
9. Walter Scott (February 9, 1965–April 4, 2015), Charleston, South Carolina
10. Alton Sterling (June 14, 1979–July 5, 2016), Baton Rouge, Louisiana
11. Philando Castile (July 16, 1983–July 6, 2016), Falcon Heights, Minnesota

Although higher levels of force that result in subject death have not been the focal point of this book, it is important to realize that they are structurally linked to stop-and-frisk policies, targeted policing of specific communities, unequal treatment under the law, and lack of overall respect police feel they receive when interacting with specific groups of citizens (Hickman, Atherley, Lowery, & Alpert, 2015), and these outcomes have lasting repercussions that serve to (re)generate poor relations between police and local communities. While not headline grabbers,¹⁵ the incidents analyzed in this book—situations in which people feel they have been stopped unjustly and treated unfairly—are the building blocks of distrust and more severe policing outcomes, such as higher subject resistance and higher levels of police use of force (Brunson, 2007). Outside the important issues of justice and equality, excessive police force costs taxpayers in cities large sums of money. For instance, New York City alone paid \$964 million in settlements and trial awards from 2000 to 2009 (Calvi, 2010). Increased training in deescalating situations (Prenzler, Porter, & Alpert, 2015), along with stronger national laws ensuring equal protection (and equal treatment) under the law and by law enforcement, will ultimately help decrease the number of unnecessary police killings and build stronger relationships between police (and therefore the state) and minority communities.

Notes

1. The MMEP (2007) data collected around the same time indicates a mean of 600 hours of overall training for recruits and a median of 560.00.

2. For a detailed description of the incident, see Chapter 2 of this book.

3. See *Cruz v. City of Laramie*, 239 F.3d 1183 (10th Circuit, 2001) (people whose diminished capacity from severe intoxication, controlled substances, a discernible mental condition, or any other condition apparent to the officers at the time, are not to be “hog-tied,” restrained with arms and feet together behind their back, but must be restrained through less restrictive means); *Deorle v. Rutherford*, No. 991788ap (9th Circuit, 2001) (Deorle, a “mentally disturbed person,” was shot with a bean bag gun without any warning, losing an eye; the court ruled this excessive force, and the Supreme court denied hearing the case on appeal); *Glenn v. Washington County*, 661 F.3d 460 (9th circuit, 2011) (an intoxicated man armed with a pocket knife, who held the knife to his own throat, was shot six times by officers with a bean bag gun; as he moved away from the bean bag shots, other officers shot him multiple times with their revolvers,

killing him; the court ruled the shooting excessive, since the person only threatened harm to himself and thus the use of deadly force was not “indisputably reasonable”).

4. See, for instance, *Isom v. Town of Warren Rhode Island*, 360 F.3d (1st circuit, 2004), in which an emotionally disturbed man entered a liquor store armed with an ax, taking hostages. Police pepper-sprayed Isom, who then raised the ax, charged at officers, and was shot and killed. The family claimed that the pepper spray incident inflamed the situation, leading to deadly force. The Court found the officers’ actions reasonable.

5. Kesinger reportedly told the officer, “We’re both going to die,” then followed the officer to his patrol car and broke the car windows with his fists. The officer, stating he thought the loud sounds of the windows breaking indicated he was being shot at, opened fire and killed the subject.

6. Profuse sweating.

7. CED and the brand/product name Taser X26 are used interchangeably in the literature.

8. Quoted from Herszenhorn (1999).

9. Struck 19 times.

10. Civil guilt is a different story. The Diallo family reached a \$3 million settlement with the city in 2004, and the Dorismond family reached a \$2.25 million settlement with the city on March 12, 2003. The Bell family received \$3.25 million in 2010. The Gammage family received \$1.5 million in 1998.

11. For a thorough legal discussion of the Oscar Grant case and weapon confusion as a defense against excessive use of force, see “2012 (6) AELE Mo. L. J. 101, Civil Liability Law Section—June 2012,” AELE, <http://www.aele.org/law/2012all06/2012-06MLJ101.pdf>.

12. See “Death of Jonny Gammage,” Wikipedia, https://en.wikipedia.org/wiki/Death_of_Jonny_Gammage.

13. Legal intervention is the classification used in the *International Classification of Diseases, 10th Revision*, external-cause-of-injury codes Y35.0–Y35.7, excluding Y35.5 [legal execution].

14. This appears to be a result of fewer unarmed people being shot and killed by officers overall last year.

15. And rightly so, since someone who is sworn at or handcuffed or grabbed is not only still alive to see another day but rarely injured at all physically.

6

Demanding Justice

*From the ignoble hope not to obtain
The due requital of good service done.*

—Jataka Tales

Policing is hard work. Much like the woodpecker who saved the lion's life only to receive no thanks, police in the United States likely save many lives every year in rescues and first responses to violent incidents where a perpetrator is threatening the public. The good police do at a national level is more difficult to track than the incidents of force that must be reported and are often used in national-level research (Krieger, Chen, Waterman, Kiang, & Feldman, 2015). Often police interact with people who are at their worst (intoxicated, experiencing an emotional crisis, suicidal, paranoid and/or delusional from controlled substance toxicity, involved in property or violent crime). It would be naive to think the stress and overall trauma of serving as frontline law enforcement does not take a toll on officers (Chopko, Palmieri, & Facemire, 2014; Violanti, Mnatsakanova, & Andrew, 2013). Officer lives matter. We can take that as a given. This book focuses on whether all Americans are treated in a similar fashion by state representatives and all lives receive equal protection under the law. These are important considerations in assessing the overall legitimacy of a social system.

The theoretical premise that a state must at its foundation monopolize the use of legitimate force against a populace (Weber, 1919) ties directly into the societal importance of ensuring police use of force is justified and equitable across all groups of citizens, or at a minimum ensuring no member of society faces a higher risk of having force used against him due to non-criminal aspects of his personhood (race, ethnicity, age, sex, social class, area of residence). With the differences in lower levels of force established

in the previous chapters, we now must examine why these system-level differences in policing outcomes continue to persist in US society.

The statistical data available to measure police-subject contact outcomes indicate that there exist clear differences in such outcomes by race and ethnicity, among other variables, such as income, sex, and age of subject. The reality, though, is that while humans live within the forest, they interact meaningfully with the trees, with the people, places, and things they encounter daily. When it comes to policing, as with all social interactions, the human-human contacts do not occur in a vacuum; rather, police-subject interactions take place in a specific place, at a certain time, involving certain people, who are part of specific groups.¹ Participants carry tremendous ideological “baggage” into these situations, including ideas about the nature of police officers, suspects, or specific “types” of people in a more general sense (e.g., young minority males, heroin users, white professionals driving a little too fast). The connection between any specific interaction and the larger social structure derives from the systems of knowing² we each adhere to and regenerate through our social engagement within multiple environments. The process of regenerating knowledge structures about “the way things are” involves our linguistic system and the way we attach meaning to people, places, and things (Foucault, 2002). This is how we order our reality; we structure society by describing it. In a very meaningful way, we talk structure into being. By accepting a specific way of understanding a situation, we imprison ourselves within that self-generated knowledge structure. We learn how to understand things, then actively apply these ways of knowing about the world throughout our daily lives.

The first step in understanding the process of talking structure into existence throughout our everyday lives is to become aware of how these knowledge structures arise and to begin understanding the purpose these structures serve. For example, in their work on the production of knowledge structures in the areas of French psychiatry and English geography, Goodson and Dowbiggin (1989) note that these areas were not produced to fulfill the needs of citizens but rather in the interest of professional status and authority. Much the same can be said about doctors, lawyers, and policing. While policing generally aims to protect and serve the citizens of the community, the motto “Protect and Serve” has also been used to call into question a hypocritical society that sets up laws and a system of law enforcement to serve the interests of the groups that established the laws and control their enforcement (Alexander, 2010; Chambliss & Mankoff, 1976; Quinney, 1977). In other words, the system and its representatives are in place to protect those who profit from and control the system. To truly protect and serve all community members, police-subject outcomes must be demonstrably unbiased. Until truly equitable outcomes are established in police-subject contacts, criticism of current social-control mecha-

nisms will logically continue, and “supporting the police” without addressing the well-established patterns of racial discrimination discussed in this book amounts to supporting systematic injustice.

Why do so many citizens reinforce social controls that appear in need of thorough systematic change? In discussing courts and policing, Michel Foucault (1980, p. 1–2) highlights the nature of judicial power in keeping the population under control through the “protection” of defending people against foreign and local enemies. Foucault finishes his thought on the nature of “policing” by wondering if rather than a form of popular justice, the court system is “its first deformation” (p. 2). Courts (along with police and prisons—the three main components of the judicial system) draw upon a specific ideology created, reinforced, and managed by the ruling class. According to Foucault, in the shift from feudalism to capitalism, the income generated by private wars was replaced by “a compulsory and lucrative judicial system” (p. 5) that enabled the bourgeoisie to erect “an ideology about crime, criminals, theft, the mob, degenerates, ‘animals,’ which was linked with racialism” (p. 17). In other words, we gain part of our understanding of the world through the process of generating knowledge about the “other,” people who differ from us in some noted fashion, be it race, sex, age, social class, education level, or professional interest. The “other” must be controlled, monitored, and ultimately punished (Foucault, 2012).

The intersection of policing and social control is perhaps best expressed in Foucault’s *Discipline and Punish* (2012, p. 25–26), in which he outlines a “political economy of the body”:

It is always the body that is at issue—the body and its forces, their utility and their docility, their distribution and their submission. . . . [T]he body is also directly involved in a political field; power relations have an immediate hold upon it; they invest it, mark it, train it, torture it, force it to carry out tasks, to perform ceremonies, to emit signs. The political investment of the body is bound up, in accordance with complex reciprocal relations, with its economic use; it is largely a force of production that the body is invested with relations of power and domination; but, on the other hand, its constitution as labor power is possible only if it is caught up in a system of subjection.

The production of docile bodies as one component of governmentality has been well-outlined as it pertains to Hong Kong and its early-twenty-first-century educational system (Pennycook, 2002). Pennycook notes that twentieth-century Hong Kong education and other institutionalized discourses replaced opium in (re)producing docility among the populace. Clearly in interactions with police, one important consideration for subjects is exhibiting docility (I am a body that can be easily managed and does not

need physical coercion to obey commands). Police are often interacting with strangers, with those who have a “potential” to become violent, who possess the “potential” to become unmanageable at any moment. Errors in use of force appear to stem in large part from errors in calculating a subject’s risk potential (believing the person is armed when he is not; stating that a subject is resisting even when he is face down on the concrete with an officer applying pressure to his back; mistaking a BB gun held by a 12-year-old boy for an actual firearm). Part of this error may be explained through general stereotype formation (Smith & Alpert, 2007). Stereotypes stemming from social conditioning and illusory correlations cause officers to overestimate negative behaviors associated with minority group members, leading to an overestimation of the risk minority subjects pose to them as they patrol areas of the community. The fact that such errors in judgment—as in the 2017 case involving Officer Betty Shelby and her fatal shooting of an unarmed black man, Terence Crutcher—often go unpunished reinforces and justifies such stereotypes and the negative outcomes in police-subject contacts these stereotypes help produce.

Considering the wide range of crises any human may experience in a lifetime, it is not surprising that such police-subject interactions at times become “problematic.” It is also not surprising that the state supports and protects its own representatives, that the state and its various institutions act in ways that reinforce the codes that help these systems of knowledge/power reproduce themselves. Considering the nature of discursive practices, it is not surprising either that most in the general population act and speak in ways that reinforce this system of absolute control and systematic subjugation, mainly because they are part and parcel of the capitalist political economy that we were all born into. Monopolizing legitimate forms of violence—Max Weber’s notion of what defines the modern state, what keeps anarchy at bay—becomes “administering justice,” a process of producing manageable bodies that serve state/corporate interests. We all are active parts of the injustice meted out through state regulatory systems. Simply by living, working, playing, and sleeping in such systems, we reproduce them. Still, there is hope, because coded systems can be recoded; an unjust virus can be discovered within a system and wiped out. Systematic inequality can be systematically eliminated. Our docility can be flipped into truly productive activity through a systematic “reboot.” The real task, however, may be to determine exactly where and how to begin the rebooting process. In this book, I have suggested the process begin with policing practices to ensure that the frontline state representatives (law enforcement) at minimum interact with all subjects in a similar, unbiased fashion. While those interactions would most likely continue to serve corporate interests, at least all Americans would be under the same form and level of state subjugation. Ultimately it is up to each of us to think about the kinds

and levels of social controls we are comfortable living with, but it should not be socially permissible³ to set up different sets of rules for distinct groups of citizens.

There remain serious departmental concerns in American policing as recent DOJ reports on Baltimore, Los Angeles, Miami, Cincinnati, Pittsburgh, Detroit, Albuquerque, Cleveland, New Orleans, and most recently Chicago⁴ suggest. Positive change does occur, however, and such positive changes are often initiated by department chiefs. One recent example is the Las Vegas Metropolitan Police Department (LVMPD). With a peak of 25 officer-involved shootings in 2010, the incidents grabbed media attention through a five-part series in the largest local newspaper. The LVMPD's Critical Incident Review Team and Reality-Based Training Program were established, a Collaborative Reform Model was implemented, the Use-of-Force Review Board was reformed (new members), and a Collaborative Reform Model Report was published. The LVMPD completed 56 of the recommendations established by the Use-of-Force Review Board and made demonstrable progress on another 15 recommendations (Fachner & Carter, 2014). The rapid changes seen in the LVMPD were spurred by the DOJ's Office of Community Oriented Policing Services initiative (Fachner & Carter, 2014). The initiative, called the Collaborative Reform Model, involves an in-depth assessment of the department's use-of-deadly-force policy and procedures, training and tactics, investigation of officer-involved shootings, and external review of officer-involved incidents (Fachner & Carter, 2014). The LVMPD experience shows that implementing positive policing practices within problematic departments is not only possible but can be accomplished fairly quickly when following federally outlined guidelines.

There appears to be evidence that body cameras are effective at improving public perceptions of policing practices and increase overall community interaction with police, although younger people and racial/ethnic minority residents are less likely to experience or express these benefits (Crow, Snyder, Crichlow, & Smykla, 2017). Officers maintain concern about camera mandates (Pelfrey & Keener, 2016). Certainly, when it comes to use-of-force rates, the use of body cameras seems to decrease force rates for some departments while increasing force rates for other departments (Ariel, 2016). We can see the impact of personal camera phones in the fact that videos made by observers during public-police contacts were used in the trials of 60 percent of officers taken to court after killing an individual. Transparency is often a positive step in changing undesirable behavior and preventing undesirable outcomes. Camera phone recordings also illustrate one way individual citizens can become part of the process of demanding police reform. Studies not only of the LVMPD but also of the Pittsburgh, Washington, DC, and Cincinnati police indicate federal reform policies

have a positive effect (Chanin, 2015). Federal mandates will become more likely the more the public demands them.

Conclusion

It is important to remember that Max Weber's idea of the modern state as an entity that claims a monopoly over legitimate use of force was, for him, a recognition of how humans interact, at the individual and state levels, in self-interested ways (Anter, 2014). For Weber, the power of monopolizing force lies in its potentiality, in the threat of its always being available for use against disobedient individuals. For Weber, the monopolization of legitimate violence is how the state ensures obedience. The state is "action oriented" and makes a society possible (Anter, 2014). The values of the state, of the government, should reflect the values of the people. At the very heart of American values are justice, equality, freedom, independence, and friendly cooperation. It is a pioneering spirit, one filled with hope, with promise, and with love. It is essential that we as American citizens ensure that our state, our nation, our governments represent and work in ways that carry out, instill, and reinforce these values. As the Declaration of Independence says, each of us has been granted "unalienable rights" under God: "Life, Liberty, and the Pursuit of Happiness." It is our responsibility as citizens to ensure these rights are protected, not just for ourselves but for every individual residing, working, or currently existing within our nation's borders. Rather than us against them, it is "we, the people." Protecting our neighbors, defending the rights of our ideological opponents—that is what it means to be an American citizen. Perhaps we will not be rewarded or thanked, but those responses are unnecessary, for freedom truly is its own reward.

The "bottom line" is this: the statistics presented in this book matter. Racial inequalities in police contacts and policing outcomes exist at the national level. Once aware of these inequalities, every one of us has a responsibility to demand justice, to demand social change, to demand equality under the law and equal treatment by the law. That is an essential step in improving the "life chances," the odds for success, of all individuals. Beyond that, it is important to ensure that our analysis of police-subject contact outcomes remains empirically grounded, that theories regarding policing outcomes are testable, that the concepts we discuss are measurable, and that those in governance address significant differences in outcomes, with clear cases of excessive force by police eliminated or at worst prosecuted fully. It seems clear that when it comes to justice being "blind," we as a nation are not there; we have yet to establish a truly "just" society in which people of all races, ethnic groups, and social classes

receive equitable treatment by the state. The exciting aspect, for me at least, is that the potential to establish a true system of justice exists in America. A truly equitable system of justice is possible, and even probable, if we as a people demand it.

Notes

1. Be it social class, race, ethnicity, age, or profession.
2. The closest philosophical term referring to such systems of knowing is “episteme.”
3. At least in any ethical manner.
4. And this list is certainly not exhaustive.

Appendix 1: Statistical Tables for Chapter 3

Table A1.1 2011 PPCS: Recent Police Contact

Variable Description	Valid <i>N</i>	Freq 1 (%)	Freq 2 (%)
Any time in the past 12 months have you . . .			
Been stopped by police in public place (including parked vehicle) —not vehicle	41,531	Yes = 449 (1.1)	No = 41,020 (98.8)
Been stopped while in motor vehicle	41,526	Yes = 4,281 (10.3)	No = 37,176 (89.5)
Been passenger in vehicle that was stopped	41,523	Yes = 1,126 (2.7)	No = 40,331 (97.1)
Been arrested	41,522	Yes = 246 (0.6)	No = 41,204 (99.2)
Been stopped or approached by police in other fashion	41,520	Yes = 663 (1.6)	No = 40,784 (98.2)
Had multiple contacts with police (regardless of who initiated them)	7,475	Yes = 2,304 (30.8)	No = 5,168 (69.1)

Table A1.2 Police Contact in Public (Not Driving): Contextual Information

Variable Description	Valid <i>N</i>	Freq 1 (%)	Freq 2 (%)	Freq 3 (%)	Freq 4 (%)
Most recent contact with police (public)					
Did police give reason for contact in public place?	212	Yes = 179 (84.4)	No = 32 (15.1)		
Were other persons with you during stop?	212	Yes = 115 (54.2)	No = 95 (44.8)		
Did police suspect you of something?	179	Yes = 76 (42.5)	No = 101 (56.4)		
Were you told you matched someone's description?	179	Yes = 15 (8.4)	No = 163 (91.1)		
Were police investigating a crime?	179	Yes = 45 (25.1)	No = 130 (72.6)		

continues

Table A1.2 Continued

Variable Description	Valid <i>N</i>	Freq 1 (%)	Freq 2 (%)	Freq 3 (%)	Freq 4 (%)
Most recent contact with police (public)					
Did someone you were with match description of person police were looking for?	95	Yes = 8 (8.4)	No = 87 (91.6)		
Was more than one officer present?	212	Yes = 114 (53.8)	No = 95 (44.8)		
Was there a legitimate reason for stopping you?	212	Yes = 142 (67.0)	No = 68 (32.1)		
What was the contact time frame?	212	6 a.m.–12 p.m. = 20 (9.4)	12–6 p.m. = 65 (30.7)	6 p.m.–12 a.m. = 79 (37.3)	12–6 a.m. = 44 (20.8)
Did the stop last an appropriate amount of time?	212	Yes = 151 (71.2)	Too long = 43 (20.3)	Too short = 2 (0.9)	

Table A1.3 Contact in Public (Not Driving): Level of Force Used

Variable Description	Valid <i>N</i>	Freq 1 (%)	Freq 2 (%)	Freq 3 (%)
Most recent contact with police (public)				
Were you ticketed or warned	212	Warning = 24 (11.3)	Ticket = 28 (13.2)	Neither = 155 (73.1)
Did police give direct command?	212	Yes = 89 (42.0)	No = 113 (53.3)	
Did you comply with request?	91	Yes = 87 (95.6)	No = 4 (4.4)	
Did police shout at you?	212	Yes = 26 (12.3)	No = 184 (86.8)	
Did police curse at you?	212	Yes = 11 (5.2)	No = 199 (93.9)	
Did police threaten to arrest you?	212	Yes = 23 (10.8)	No = 187 (88.2)	
Did police threaten to ticket you?	211	Yes = 9 (4.3)	No = 200 (94.8)	
Did police threaten force?	211	Yes = 5 (2.4)	No = 204 (96.7)	
Did police push or grab you?	211	Yes = 6 (2.8)	No = 203 (96.2)	
Did police handcuff you?	211	Yes = 14 (6.6)	No = 195 (92.4)	
Did police hit/kick you?	211	Yes = 1 (0.5)	No = 208 (98.6)	
Did police use pepper spray?	211	N/A	No = 209 (99.1)	
Did police use stun gun?	211	N/A	No = 209 (99.1)	
Did police point gun?	211	N/A	No = 209 (99.1)	
Were police actions necessary?	50	Yes = 10 (20.0)	No = 40 (80.0)	
Did you feel force/threats were excessive?	50	Yes = 13 (26.0)	No = 37 (74.0)	

Table A1.4 Contact in Public (Not Driving): Level of Resistance and Search

Variable Description	Valid <i>N</i>	Freq 1 (%)	Freq 2 (%)	Freq 3 (%)
Most recent contact with police (public)				
Did you disobey or interfere with officers?	210	Yes = 5 (2.4)	No = 203 (96.7)	
Did you try to get away?	210	Yes = 1 (0.5)	No = 207 (98.6)	
Did you hit an officer?	210	N/A	No = 208 (99.0)	
Did you resist being handcuffed, arrested, or searched?	210	Yes = 4 (1.9)	No = 204 (97.1)	
Did you complain to officers?	210	Yes = 22 (10.5)	No = 186 (88.6)	
Did you argue with officers?	210	Yes = 18 (8.6)	No = 190 (90.5)	
Did you curse at, insult, or threaten officers?	210	Yes = 3 (1.4)	No = 205 (97.6)	
Were you injured?	19	Yes = 1 (5.3)	No = 18 (94.7)	Note: No medical attention sought for the injury.
Were you arrested?	210	Yes = 8 (3.8)	No = 199 (94.8)	
Did police search, frisk, or pat you down?	210	Yes = 38 (18.1)	No = 170 (81.0)	
Did police ask permission to search, frisk, or pat you down?	210	Yes = 16 (7.6)	No = 191 (91.0)	
Do you think officers had reason to search, frisk, or pat you down?	38	Yes = 17 (44.7)	No = 21 (55.3)	

Table A1.5 Police Contact (Driving): Contextual Information and Perceived Legitimacy

Variable Description	Valid <i>N</i>	Freq 1 (%)	Freq 2 (%)	Freq 3 (%)	Freq 4 (%)
Were others in car at the time?	3,554	Yes = 1,101 (31.0)	No = 2,446 (68.8)		
Did police offer reason for stopping vehicle?	4,319	Yes = 4,180 (96.8)	No = 117 (2.7)		
Reason—Speeding	4,181	Yes = 2,040 (48.8)	No = 2,138 (51.1)		
Reason—Defect	2,141	Yes = 599 (28.0)	No = 1,540 (71.9)		
Reason—Record check	1,542	Yes = 381 (24.7)	No = 1,159 (75.2)		
Reason—Roadside check	1,161	Yes = 66 (5.7)	No = 1,093 (94.1)		
Reason—Seatbelt violation	1,095	Yes = 202 (18.4)	No = 891 (81.4)		
Reason—Illegal lane	893	Yes = 257 (28.8)	No = 634 (71.0)		
Reason—Stop sign or stop light violation	636	Yes = 275 (43.2)	No = 359 (56.4)		
Reason—Cellphone	361	Yes = 76 (21.1)	No = 283 (78.4)		
Reason—Other	285	N/A	No = 283 (99.3)		
Was stop legitimate?	4,318	Yes = 3,503 (81.1)	No = 658 (15.2)		
Were you given traffic ticket (not including a warning)?	4,318	Yes = 1,995 (46.2)	No = 2,313 (53.6)		
Were you given a written or verbal warning?	2,307	Verbal = 978 (42.4)	Written = 444 (19.2)	Both = 40 (1.7)	Neither = 813 (35.2)
Did you get out of vehicle?	4,317	Yes = 306 (7.1)	No = 3,992 (92.5)		

Table A1.6 Police Contact (Driving): Level of Force Used

Variable Description	Valid <i>N</i>	Freq 1 (%)	Freq 2 (%)
Did police shout?	4,315	Yes = 90 (2.1)	No = 4,218 (97.8)
Did police curse?	4,315	Yes = 24 (0.6)	No = 4,284 (99.3)
Did police threaten arrest?	4,315	Yes = 62 (1.4)	No = 4,245 (98.4)
Did police threaten to ticket?	4,314	Yes = 122 (2.8)	No = 4,184 (97.0)
Did police threaten force?	4,314	Yes = 20 (0.5)	No = 4,288 (99.4)
Did police push or grab?	4,314	Yes = 14 (0.3)	No = 4,294 (99.5)
Did police handcuff?	4,314	Yes = 47 (1.1)	No = 4,262 (98.8)
Did police kick or hit?	4,314	Yes = 1 (0)	No = 4,308 (99.9)
Did police use pepper spray?	N/A	0	N/A
Did police use ECD?	N/A	0	N/A
Did police point gun at you?	4,313	Yes = 7 (0.2)	No = 4,301 (99.7)
Were these actions necessary?	245	Yes = 53 (21.6)	No = 176 (71.8)
Was force excessive?	245	Yes = 79 (32.2)	No = 160 (65.3)

Table A1.7 Police Contact (Driving): Level of Resistance and Search

Variable Description	Valid <i>N</i>	Freq 1 (%)	Freq 2 (%)
Did Respondent . . .			
Disobey officer?	4,313	Yes = 14 (0.3)	No = 4,295 (99.6)
Try to leave?	4,313	Yes = 3 (0.1)	No = 4,306 (99.8)
Push, grab, or hit officer?	4,313	Yes = 2 (0)	No = 4,307 (99.9)
Resist arrest, handcuff, or search?	4,313	Yes = 3 (0.1)	No = 4,306 (99.8)
Complain?	4,313	Yes = 237 (5.5)	No = 4,071 (94.4)
Argue with officer?	4,313	Yes = 88 (2.0)	No = 4,219 (97.8)
Curse at, insult, or verbally threaten officer?	4,313	Yes = 7 (0.2)	No = 4,302 (99.7)
Was Respondent . . .			
Injured?	66	Yes = 2 ^a (3.0)	No = 64 (97.0)
Arrested?	4,313	Yes = 49 (1.1)	No = 4,261 (98.8)
Did Officer . . .			
Conduct vehicle search?	4,313	Yes = 106 (2.5)	No = 4,192 (97.2)
Search, frisk, or pat you down?	4,313	Yes = 92 (2.1)	No = 4,214 (97.7)
Have legitimate reason for vehicle search?	106	Yes = 44 (41.5)	No = 57 (53.8)
Have legitimate reason to search, frisk, or pat you down?	92	Yes = 34 (37.0)	No = 49 (53.3)
Find illegal items during search?	144	Yes = 11 (7.6)	No = 133 (92.4)

Note: a. Both of the injured said they received medical attention for injuries.

Table A1.8 Subject-Initiated Contacts

Variable Description	Valid <i>N</i>	Freq 1 (%)	Freq 2 (%)
Were officers helpful?	5,151	Yes = 4,454 (86.5)	No = 625 (12.1)
Were you satisfied with police response?	5,148	Yes = 4,390 (85.3)	No = 723 (14.0)
Did police behave properly?	10,196	Yes = 9,156 (89.8)	No = 835 (8.2)
Did you file complaint against police?	1,040	Yes = 44 (4.2)	No = 988 (95.0)
Did police treat you respectfully?	10,193	Yes = 9,357 (91.8)	No = 684 (6.7)

Table A1.9 Other Contacts: Police Use or Threaten to Use Force

Variable Description	Valid <i>N</i>	Freq 1 (%)	Freq 2 (%)
Did police use or threaten force against you (any earlier contacts)?	2,488	Yes = 42 (1.7)	No = 2,441 (98.1)
Did Police . . .			
Use or threaten force (during specific contact)?	1,468	Yes = 26 (1.8)	No = 1,438 (98.0)
Shout?	26	Yes = 20 (76.9)	No = 6
Curse?	26	Yes = 9 (34.6)	No = 16 (61.5)
Threaten force?	26	Yes = 24 (92.3)	No = 2 (7.7)
Push or grab?	26	Yes = 8 (30.8)	No = 18 (69.2)
Point gun at you?	26	Yes = 4 (15.4)	No = 22 (84.6)
Use excessive force?	26	Yes = 20 (76.9)	No = 6 (23.1)
Were you . . .			
Injured?	26	Yes = 5 (19.2)	No = 21 (80.8)
Arrested?	1,468	Yes = 48 (3.3)	No = 1,418 (96.6)
Handcuffed?	1,468	Yes = 53 (3.6)	No = 1,411 (96.1)

Table A1.10 Other Contacts: Resistance and Legitimacy of Police Actions

Variable Description	Valid <i>N</i>	Freq 1 (%)	Freq 2 (%)
Did you threaten the police?	1,468	Yes = 29 (2.0)	No = 1,434 (97.7)
Did you disobey officer?	1,468	Yes = 7 (0.5)	No = 1,459 (99.4)
Did officer suspect you of something?	206	Yes = 54 (26.2)	No = 151 (73.3)
Was the stop warranted?	501	Yes = 435 (86.8)	No = 56 (11.2)
Did officer ask you for permission for vehicle search?	520	Yes = 14 (2.7)	No = 505 (97.1)
Did officer conduct vehicle search?	520	Yes = 16 (3.1)	No = 501 (96.3)
Did officer ask to search, frisk, or pat you down?	520	Yes = 9 (1.7)	No = 509 (97.9)
Did officer actually search, frisk, or pat you down?	520	Yes = 14 (2.7)	No = 504 (96.9)
Did you give permission for a vehicle search?	520	Yes = 17 (3.3)	No = 501 (96.3)
Did officer have legitimate reason for vehicle search?	16	Yes = 1 (6.3)	No = 14 (87.5)
Did you give permission for the search, frisk, or pat down?	17	Yes = 5 (29.4)	No = 11 (64.7)
Did officer have legitimate reason to search, frisk, or pat you down?	14	Yes = 5 (35.7)	No = 8 (57.1)
Did officer find illegal items?	22	Yes = 2 (0.09)	No = 20 (90.9)
Did search occur before arrest?	8	Yes = 3 (37.5)	No = 5 (62.5)

Table A1.11 Other Contacts: Outcomes

Variable Description	Valid <i>N</i>	Freq 1 (%)	Freq 2 (%)	Freq 3 (%)
Were you given a ticket?	520	Yes = 274 (52.7)	No = 245 (47.1)	
Were you given a warning?	246	Yes = 155 (63.0)	No = 90 (36.6)	
Did you get out of vehicle because you were asked to?	520	Yes = 43 (8.3)	No = 475 (91.3)	
Did police behave properly?	520	Yes = 465 (89.4)	No = 47 (9.0)	Note: Only 1 of 47 answering no reported filing a complaint against police.
Did police treat you respectfully?	520	Yes = 467 (89.8)	No = 40 (7.7)	
During earlier contacts, did police threaten or use force against you?	411	Yes = 11 (2.7)	No = 398 (96.8)	

Table A1.12 Department Force Options for Scenario 1

Force Type	Yes (%)	No (%)	No Policy (%)	Not Utilized (%)
Soft empty hand	499 (96.2)	1 (0.2)	16 (3.1)	0 (0.0)
Hard empty hand	46 (8.9)	437 (84.4)	20 (3.9)	3 (0.5)
OC spray/foam	214 (41.4)	263 (50.8)	19 (3.7)	3 (0.6)
Baton	42 (8.0)	400 (77.2)	12 (2.2)	53 (10.2)
CED (probe)	47 (9.0)	185 (35.6)	3 (0.7)	274 (52.9)
CED (stun)	68 (13.2)	162 (31.3)	4 (0.8)	274 (53.0)

Table A1.13 Department Force Options for Scenario 2

Force Type	Yes (%)	No (%)	No Policy (%)	Not Utilized (%)
Soft empty hand	489 (94.4)	7 (1.3)	20 (3.9)	0 (0.0)
Hard empty hand	283 (54.6)	195 (37.7)	26 (5.1)	3 (0.5)
OC spray/foam	369 (71.3)	108 (20.9)	16 (3.0)	3 (0.6)
Baton	92 (17.8)	353 (68.1)	7 (1.3)	53 (10.2)
CED (probe)	125 (24.2)	107 (20.7)	0 (0.0)	274 (52.9)
CED (stun)	161 (31.1)	71 (13.6)	1 (0.1)	274 (53.0)

Table A1.14 Department Force Options for Scenario 3

Force Type	Yes (%)	No (%)	No Policy (%)	Not Utilized (%)
Soft empty hand	416 (80.2)	76 (14.7)	24 (4.7)	0 (0.0)
Hard empty hand	326 (62.9)	158 (30.5)	21 (4.0)	3 (0.5)
OC spray/foam	392 (75.6)	84 (16.3)	19 (3.7)	3 (0.6)
Baton	179 (34.5)	272 (52.5)	1 (0.3)	53 (10.2)
CED (probe)	198 (38.1)	43 (8.3)	2 (0.4)	274 (52.9)
CED (stun)	184 (35.5)	46 (8.9)	3 (0.6)	274 (53.0)

Table A1.15 Department Force Options for Scenario 4

Force Type	Yes (%)	No (%)	No Policy (%)	Not Utilized (%)
Soft empty hand	402 (77.6)	89 (17.2)	22 (4.2)	0 (0.0)
Hard empty hand	439 (84.8)	39 (7.5)	23 (4.4)	3 (0.5)
OC spray/foam	476 (91.9)	9 (1.7)	16 (3.0)	3 (0.6)
Baton	355 (68.4)	96 (18.5)	0 (0.0)	53 (10.2)
CED (probe)	222 (42.9)	19 (3.6)	0 (0.0)	272 (52.5)
CED (stun)	214 (41.3)	17 (3.2)	1 (0.1)	272 (52.5)

Table A1.16 Department Force Options for Scenario 5

Force Type	Yes (%)	No (%)	No Policy (%)	Not Utilized (%)
Soft empty hand	420 (81.0)	71 (13.7)	22 (4.2)	0 (0.0)
Hard empty hand	466 (90.0)	21 (4.1)	23 (4.3)	3 (0.5)
OC spray/foam	471 (91.0)	10 (2.0)	21 (4.0)	3 (0.6)
Baton	441 (85.0)	19 (3.7)	0 (0.0)	53 (10.2)
CED (probe)	235 (45.4)	6 (1.1)	0 (0.0)	274 (52.9)
CED (stun)	234 (45.3)	6 (1.1)	1 (0.1)	274 (53.0)

Appendix 2: Statistical Tables for Chapter 4

Table A2.1 Stopped in Public Outcomes

Variable	White	Black	Hispanic	Not Hispanic	Total
Were you stopped by police in public?	2,323,374 (1.2%) Risk = .963	436,560 (1.5%) Risk = 1.259	486,699 (1.6%) Risk = 1.285	2,448,367 (1.2%) Risk = .958	2,935,066 (1.2%)
Did you match someone's description?	52,295 (5.2%) Risk = .639	35,365 (34.2%) Risk = 6.068	15,385 (9.8%) Risk = 1.276	78,299 (7.6%) Risk = .959	93,684 (7.9%)
Did police have legit reason to stop you?	799,682 (70.0%) Risk = 1.279	58,078 (31.3%) Risk = .250	112,387 (51.2%) Risk = .584	806,015 (66.7%) Risk = 1.111	918,402 (64.3%)
Did police shout at you?	122,410 (10.7%) Risk = .715	68,485 (37.0%) Risk = 3.490	69,251 (31.6%) Risk = 2.603	145,797 (12.1%) Risk = .774	215,048 (15.1%)
Did police curse at you?	47,912 (4.2%) Risk = .734	26,795 (14.5%) Risk = 2.834	21,761 (9.9%) Risk = 1.838	58,971 (4.9%) Risk = .856	80,732 (5.7%)
Did police threaten arrest?	116,135 (10.2%) Expected = 140,872 Risk = .805	47,596 (25.7%) Expected = 22,859 Risk = 2.456	21,828 (9.9%) Expected = 26,079 Risk = .819	147,993 (12.2%) Expected = 143,742 Risk = 1.034	169,821 (11.9%) Expected = 169,821
Did police threaten or use force?	30,317 (2.7%) Expected = 34,179 Risk = .887	9,309 (5.0%) Expected = 5,551 Risk = 1.713	5,113 (2.3%) Expected = 6,105 Risk = .834	34,514 (2.9%) Expected = 33,522 Risk = 1.03	39,627 (2.8%)
Did police push or grab you?	25,315 (2.2%) Expected = 41,902 Risk = .595	23,413 (12.6%) Expected = 6,826 Risk = 3.781	24,892 (11.3%) Expected = 7,507 Risk = 3.612	23,835 (2.0%) Expected = 41,220 Risk = .570	48,727 (3.4%)

continues

Table A2.1 Continued

Variable	White	Black	Hispanic	Not Hispanic	Total
Did police handcuff you?	59,329 (5.2%) Expected = 74,079 Risk = .790	26,818 (14.5%) Expected = 12,068 Risk = 2.429	32,807 (15.0%) Expected = 14,210 Risk = 2.539	59,431 (4.9%) Expected = 78,028 Risk = .749	92,238 (6.5%)

Table A2.2 Subject Resistance Variables by Race/Ethnicity

Resistance Variables	White	Black	Hispanic	Not Hispanic	Total
Did you disobey?	38,927 (3.4%) Risk = 1.154	0	5,113 (2.3%) Risk = .839	33,815 (2.8%) Risk = 1.026	38,928 (2.8%)
Did you flee?	0	5,857 (3.5%) Risk = 7.968	0	5,857 (0.5%)	5,857 (0.4%)
Did you resist?	13,183 (1.2%) Risk = .481	17,893 (10.6%) Risk = 4.857	9,329 (4.3%) Risk = 1.968	21,747 (1.8%) Risk = .826	31,076 (2.2%)
Did you complain?	132,642 (11.7%) Risk = .958	25,534 (15.1%) Risk = 1.291	52,866 (24.1%) Risk = 2.246	121,469 (10.2%) Risk = .805	174,335 (12.4%)
Did you argue?	102,788 (9.0%) Risk = .956	20,159 (11.9%) Risk = 1.303	36,325 (16.6%) Risk = 1.810	102,781 (8.6%) Risk = .863	139,106 (9.9%)
Did you curse?	15,132 (1.3%) Risk = .665	10,850 (6.4%) Risk = 3.379	15,132 (6.9%) Risk = 3.940	10,850 (0.9%) Risk = .490	25,982 (1.8%)
Did police search/frisk?	179,119 (15.8%) Risk = .747	82,301 (48.7%) Risk = 3.779	75,308 (34.3%) Risk = 2.161	198,226 (16.7%) Risk = .830	273,534 (19.5%)
Did police have reason to search/frisk?	82,125 (45.8%) Risk = 1.205	25,747 (31.3%) Risk = .648	37,478 (49.8%) Risk = 1.387	76,484 (38.6%) Risk = .880	113,962 (41.7%)

Table A2.3 Stopped While Driving Outcomes

Variable	White	Black	Hispanic	Not Hispanic	Total
Were you stopped in a motor vehicle?	21,104,138 (10.7%) Risk = .986	3,349,526 (11.8%) Risk = 1.098	3,162,358 (10.1%) Risk = .926	22,997,771 (11.0%) Risk = 1.011	26,160,129 (10.8%)
Was stop legit?	17,650,899 (85.3%) Risk = 1.14	2,297,412 (72.3%) Risk = .514	2,411,896 (77.7%) Risk = .691	18,802,183 (84.3%) Risk = 1.061	21,214,079 (83.5%)
Did police shout at you?	493,994 (2.3%) Risk = 1.023	64,971 (1.9%) Risk = .856	103,268 (3.2%) Risk = 1.448	485,842 (2.1%) Risk = .938	589,110 (2.2%)
Did police curse at you?	154,078 (0.7%) Risk = 1.067	13,026 (0.4%) Risk = .574	46,524 (1.4%) Risk = 2.116	134,687 (0.6%) Risk = .846	181,211 (0.7%)

continues

Table A2.3 Continued

Variable	White	Black	Hispanic	Not Hispanic	Total
Did police threaten arrest?	338,346 (1.6%) Risk = 1.005	51,214 (1.5%) Risk = .971	99,006 (3.1%) Risk = 1.935	325,838 (1.4%) Risk = .872	424,844 (1.6%)
Did police threaten or use force?	105,785 (0.5%) Risk = .890	31,521 (0.9%) Risk = 1.703	4,407 (0.1%) Risk = .240	145,074 (0.6%) Risk = 1.106	149,481 (0.6%)
Did police push or grab you?	109,920 (0.5%) Risk = 1.157	0	31,028 (1.0%) Risk = 2.158	87,180 (0.4%) Risk = .840	118,208 (0.4%)
Did police handcuff you?	222,295 (1.0%) Risk = .864	74,898 (2.2%) Risk = 1.882	61,901 (1.9%) Risk = 1.637	249,783 (1.1%) Risk = .912	311,684 (1.2%)
Did police point gun at you?	30,586 (0.1%) Risk = .633	25,291 (0.8%) Risk = 3.362	16,716 (0.5%) Risk = 2.454	39,161 (0.2%) Risk = .798	55,877 (0.2%)
Was force excessive?	399,842 (31.3%) Risk = .908	108,853 (44.5%) Risk = 1.595	110,518 (38.2%) Risk = 1.189	430,409 (33.3%) Risk = .961	540,927 (34.2%)

Table A2.4 Vehicle and Driver Searches Risk Ratios by Race/Ethnicity

Search Variables	White	Black	Hispanic	Not Hispanic	Total
Did police search vehicle?	550,474 (2.6%) Risk = .954	115,519 (3.5%) Risk = 1.294	194,057 (6.0%) Risk = 2.308	517,416 (2.2%) Risk = .825	711,473 (2.7%)
Did police ask to search?	487,682 (2.3%) Risk = .938	112,309 (3.4%) Risk = 1.403	186,446 (5.8%) Risk = 2.456	457,392 (2.0%) Risk = .805	643,838 (2.5%)
Did police have reason to search?	207,204 (39.3%) Risk = 1.016	41,892 (37.1%) Risk = .928	58,672 (32.8%) Risk = .711	220,315 (43.5%) Risk = 1.121	278,987 (40.7%)
Did police frisk you?	421,084 (2.0%) Risk = .811	176,951 (5.3%) Risk = 2.242	152,032 (4.7%) Risk = 1.957	499,176 (2.2%) Risk = .870	651,208 (2.5%)
Did police ask to frisk?	247,667 (1.2%) Risk = .880	76,963 (2.3%) Risk = 1.777	115,229 (3.6%) Risk = 2.628	252,551 (1.1%) Risk = .780	367,780 (1.4%)
Did police have legit reason to frisk?	157,738 (40.6%) Risk = 1.145	48,654 (29.7%) Risk = .709	52,485 (38.3%) Risk = 1.023	176,479 (37.7%) Risk = .993	228,964 (37.8%)
Did police find illegal items?	66,124 (9.4%) Risk = 1.105	12,405 (5.8%) Risk = .663	18,288 (8.0%) Risk = 1.015	60,240 (7.8%) Risk = .996	78,528 (7.9%)

Table A2.5 Subject Public Resistance Risk Ratios by Race/Ethnicity

Resistance Variables	White	Black	Hispanic	Not Hispanic	Total
Did you disobey?	68,893 (0.3%) Risk = 1.016	9,502 (0.3%) Risk = .895	7,456 (0.2%) Risk = .736	75,336 (0.3%) Risk = 1.037	82,792 (0.3%)
Did you flee?	11,116 (0.1%) Risk = .802	4,902 (0.1%) Risk = 2.263	4,407 (0.1%) Risk = 2.252	11,611 (0.1%) Risk = .826	16,018 (0.1%)
Did you complain?	1,144,112 (5.4%) Risk = .959	232,171 (6.9%) Risk = 1.265	143,467 (4.5%) Risk = .776	1,349,160 (5.8%) Risk = 1.032	1,492,627 (5.7%)
Did you argue?	448,232 (2.1%) Risk = .991	74,643 (2.2%) Risk = 1.055	43,209 (1.3%) Risk = .596	544,165 (2.4%) Risk = 1.057	587,374 (2.2%)
Were you arrested?	223,320 (1.0%) Risk = .890	66,652 (2.0%) Risk = 1.713	56,028 (1.7%) Risk = 1.446	262,677 (1.1%) Risk = .938	318,705 (1.2%)

Table A2.6 Subject Initiated Contact Satisfaction by Race/Ethnicity

Variable	White	Black	Hispanic	Not Hispanic	Total
Helpful?	21,685,844 (88.0%) Risk = 1.028	2,551,780 (85.3%) Risk = .810	2,511,288 (88.8%) Risk = 1.108	23,187,123 (87.6%) Risk = .990	25,698,411 (87.7%)
Situation Improve?	15,936,369 (77.2%) Risk = 1.025	1,882,549 (73.2%) Risk = .827	1,692,273 (71.7%) Risk = .771	17,199,493 (77.2%) Risk = 1.030	18,891,766 (76.7%)
Satisfied?	21,386,834 (86.2%) Risk = 1.042	2,464,820 (81.6%) Risk = .739	2,329,905 (82.5%) Risk = .789	22,950,785 (86.0%) Risk = 1.028	25,280,690 (85.7%)
Treated Properly?	45,061,014 (91.8%) Risk = 1.081	5,821,903 (86.8%) Risk = .634	5,853,059 (89.3%) Risk = .801	48,250,991 (91.5%) Risk = 1.031	54,104,050 (91.2%)
Treated with Respect?	46,008,659 (93.1%) Risk = 1.068	6,042,515 (89.6%) Risk = .675	6,030,263 (90.3%) Risk = .732	49,306,203 (93.0%) Risk = 1.047	55,336,466 (92.7%)
File a complaint?	150,612 (3.1%) Risk = .745	95,040 (8.5%) Risk = 2.191	20,136 (2.3%) Risk = .551	243,339 (4.4%) Risk = 1.072	263,475 (4.1%)

Table A2.7 Correlation Matrix of Independent Variables

Variable	Race (<i>r</i>)	Hispanic	Age	Work	Sex	Income	Size
Race	1.00	.124	-.061	.025	.031	-.122	.153
Hispanic	.124	1.00	.158	.016	.016	.061	-.161
Age	-.061	.158	1.00	.190	.040	-.044	-.073
Work	.025	.016	.190	1.00	.129	-.214	-.008
Sex	.031	.016	.040	.129	1.00	-.047	-.005
Income	-.122	.061	-.044	-.214	-.047	1.00	-.056
Size	.153	-.161	-.073	-.008	-.005	-.056	1.00

Table A2.8 Logistic Regression: Been Arrested in Past 12 Months

Variable Name	Race Exp(B)	Hispanic Exp(B)	Work Exp(B)	Income Exp(B)	Age Exp(B)	Sex Exp(B)	Size Exp(B)
Arrested in past 12 months?	1.798	1.241	1.728	1) 2.063 2) 1.564	1) 62.361 2) 95.000 3) 69.115 4) 62.704 5) 30.086 6) 24.617 7) 14.344 8) 6.317	2.403	1) .905 2) .934 3) .607
Other contact—force threatened/used?	2.582	1.772	2.175	1) 2.852 2) .936	1) .270 2) 2.499 3) 1.811 4) 6.550 5) .916 6) 1.363 7) 1.393 8) 1.284	2.134	1) .705 2) 1.101 3) 1.442

Table A2.9 Logistic Regression: Public Contact Outcomes

Variable	Race Exp(B)	Hispanic Exp(B)	Work Exp(B)	Income Exp(B)	Age Exp(B)	Sex Exp(B)	Size Exp(B)
Stopped by police in public?	1.088	.916	1.068	1) 1.322 2) 1.432	1) 12.839 2) 9.308 3) 6.495 4) 5.143 5) 3.877 6) 3.035 7) 2.014 8) 1.346	1.858	1) 1.346 2) .802 3) 1.331
Matched someone's description?	10.765	1.407	3.690	1) 4.986 2) 12.641	All categories N/A	6.159	1) .728 2) N/A 3) 3.626
Legit reason to stop you?	.198	.636	.440	1) .413 2) .728	1) .377 2) .497 3) .338 4) 1.685 5) .589 6) 2.482 7) .811 8) N/A	.568	1) 1.694 2) 1.649 3) 1.048
Shouted at you?	8.705	5.767	.745	1) 5.029 2) 4.245	All categories N/A	.556	1) .583 2) .426 3) .806
Cursed at you?	12.993	11.753	.413	1) 1.028 2) 1.633	All categories N/A	.719	1) .608 2) 1.251 3) N/A
Threatened to arrest?	3.404	.610	.426	1) .631 2) N/A	1) .426 2) .141 3) .290 4) .028 5) N/A 6) .061 7) .200 8) N/A	1.104	1) .900 2) 1.737 3) 2.292
Threatened or used force?	6.146	.794	.664	1) N/A 2) 2.879	All categories N/A	.176	1) 1.431 2) N/A 3) .654
Threats excessive?	13.190	.161	1.335	1) 1.524 2) 23.438	All categories N/A	N/A	1) .114 2) .038 3) .620
Pushed or grabbed you?	42.899	52.910	.091 N/A	All categories	All categories N/A	2.980	1) .287 2) N/A 3) .272
Searched/frisked?	6.005	2.943	.824	1) 2.671 2) 2.385	All categories N/A	2.930	1) .551 2) 4.305 3) 1.202
Reason to search/frisk?	.009	13.572	5.360	1) .012 2) .14	All categories N/A	.025	1) 5.034 2) 8.790 3) 12.875
Handcuffed you?	7.504	7.090	.759	1) 1.407 2) 2.963	All categories N/A	.237	1) 2.131 2) .809 3) .946
Officer's actions necessary?	.858	21.126	.264	1) 13.264 2) N/A	All categories N/A	.448	1) N/A 2) N/A 3) .091

Table A2.10 Logistic Regression: Public Subject Resistance

Variable	Race Exp(B)	Hispanic Exp(B)	Work Exp(B)	Income Exp(B)	Age Exp(B)	Sex Exp(B)	Size Exp(B)
Did you disobey?	N/A	.131	11.315	1) 6.452 2) .356	All categories N/A	.859	1) N/A 2) 13.384 3) 9.367
Did you flee?	N/A	N/A	N/A	All categories N/A	All categories N/A	N/A	All categories N/A
Did you resist?	298.960	9.291	10.869	All categories N/A	All categories N/A	.027	1) 30.894 2) N/A 3) N/A
Did you complain?	3.720	17.641	.604	1) .769 2) .391	1) .200 2) .322 3) .909 4) N/A 5) N/A 6) .167 7) .290 8) 1.361	.394	1) .266 2) N/A 3) .064
Did you argue?	3.895	14.128	.597	1) .689 2) .527	All categories N/A	.705	1) .375 2) N/A 3) .039
Did you curse?	N/A	N/A	.179	All categories N/A	All categories N/A	N/A	1) .132 2) N/A 3) N/A

Table A2.11 Logistic Regression: Driving Contact Outcomes

Variable	Race Exp(B)	Hispanic Exp(B)	Work Exp(B)	Income Exp(B)	Age Exp(B)	Sex Exp(B)	Size Exp(B)
Were you stopped in a motor vehicle?	1.160	.828	.641	1) .734 2) .904	1) 4.028 2) 5.873 3) 4.323 4) 3.577 5) 3.194 6) 2.561 7) 2.099 8) 1.743	1.421	1) .926 2) .884 3) .588
Was stop legit?	.478	.635	.887	1) .693 2) .814	1) .960 2) .747 3) N/A 4) .954 5) .845 6) 1.030 7) 1.081 8) 1.284	.810	1) .739 2) .870 3) .616

continues

Table A2.11 Continued

Variable	Race Exp(B)	Hispanic Exp(B)	Work Exp(B)	Income Exp(B)	Age Exp(B)	Sex Exp(B)	Size Exp(B)
Did police shout at you?	.730	1.291	1.442	1) 1.113 2) 1.268	1) .890 2) .760 3) 1.308 4) .746 5) .714 6) .952 7) .714 8) .667	2.018	1) 1.946 2) 1.541 3) 1.856
Did police curse at you?	.454	1.616	1.515	1) .935 2) 2.598	All categories N/A	10.153	1) 1.635 2) .876 3) 1.801
Did police make you exit vehicle?	1.199	1.374	1.088	1) 2.268 2) 2.233	1) 14.905 2) 14.427 3) 9.113 4) 13.464 5) 10.883 6) 11.134 7) 8.993 8) 3.809	1.822	1) 1.404 2) 1.941 3) 2.068
Did police threaten arrest?	.801	1.558	1.554	1) 1.743 2) 1.340	All categories N/A	3.099	1) 1.346 2) N/A 3) 4.038
Did police threaten or use force?	1.260	.195	1.306	1) .923 2) 1.836	All categories N/A	3.215	1) 2.244 2) .708 3) .858
Did police push or grab you?	N/A	1.716	1.343	1) .945 2) 1.191	All categories N/A	1.869	1) 5.587 2) 2.323 3) 1.709
Did police handcuff you?	1.399	1.137	2.577	1) 3.620 2) 2.481	All categories N/A	1.934	1) 2.517 2) 1.330 3) 6.370
Did police point gun at you?	4.705	3.768	2.151	1) .709 2) 2.596	All categories N/A	1.285	1) 5.811 2) N/A 3) 2.340
Was force excessive?	1.435	1.372	1.246	1) .665 2) .758	1) 1.411 2) 2.162 3) 2.139 4) .665 5) 2.592 6) 2.992 7) 5.584 8) 3.002	.723	1) 2.208 2) .764 3) 4.608

Table A2.12 Logistic Regression: Vehicle and Driver Searches

Search Variables	Race Exp(B)	Hispanic Exp(B)	Work Exp(B)	Income Exp(B)	Age Exp(B)	Sex Exp(B)	Size Exp(B)
Did police search vehicle?	1.203	2.120	1.670	1) 1.810 2) 2.562	1) 5.452 2) 3.114 3) 3.253 4) 3.240 5) 2.588 6) 2.209 7) .807 8) .769	1.466	1) 2.390 2) .951 3) 2.703
Did police ask to search?	1.477	2.438	1.035	1) 1.837 2) 2.953	1) 3.798 2) 1.837 3) 1.827 4) 1.752 5) 2.315 6) 1.842 7) .671 8) N/A	2.196	1) 1.877 2) .678 3) 2.574
Did police have reason to search?	.335	.363	.213	1) 10.905 2) 1.568	All categories N/A	1.224	1) .470 2) .136 3) 1.867
Did police frisk you?	2.270	1.905	1.949	1) 2.864 2) 2.237	All categories N/A	4.277	1) 2.035 2) 1.182 3) 4.158
Did police ask to frisk?	1.980	3.257	1.395	1) 2.305 2) 2.843	All categories N/A	5.322	1) 1.733 2) .744 3) 2.722
Did police have legit reason to frisk?	.394	.386	.648	1) 18.657 2) 4.522	1) 24.268 2) 3.962 3) 21.364 4) 3.767 5) 15.852 6) 1.822	3.790	1) .505 2) .559 3) .883
Did police find illegal items?	.256	.301	.304	1) 7.124 2) 2.644	All categories N/A	4.163	1) 4.551 2) N/A 3) .620

Table A2.13 Logistic Regression: Subject Resistance (Driving)

Resistance Variables	Race Exp(B)	Hispanic Exp(B)	Work Exp(B)	Income Exp(B)	Age Exp(B)	Sex Exp(B)	Size Exp(B)
Did you disobey?	.638	.538	1.195	1) .729 2) .775	All categories N/A	1.020	1) 3.450 2) 5.447 3) 3.442
Did you flee?	2.955	2.293	1.394	1) 1.460 2) N/A	All categories N/A	.290	1) 7.406 2) N/A 3) 9.027

continues

Table A2.13 Continued

Resistance Variables	Race Exp(B)	Hispanic Exp(B)	Work Exp(B)	Income Exp(B)	Age Exp(B)	Sex Exp(B)	Size Exp(B)
Did you complain?	1.140	.664	1.158	1) 1.408 2) 1.218	1) 1.054 2) 1.533 3) 1.109 4) 1.181 5) 1.483 6) 1.351 7) .657 8) 1.283	1.303	1) 1.177 2) .445 3) 1.543
Did you argue?	.881	.485	.926	1) 1.102 2) 1.059	All categories N/A	.929	1) 1.246 2) N/A 3) 1.903
Were you arrested?	1.394	1.211	1.429	1) 3.435 2) 1.694	All categories N/A	2.033	1) 1.518 2) 1.047 3) 3.696

Table A2.14 Logistic Regression: Subject-Initiated Contact Satisfaction

Variable	Race Exp(B)	Hispanic Exp(B)	Work Exp(B)	Income Exp(B)	Age Exp(B)	Sex Exp(B)	Size Exp(B)
Were police helpful?	.867	1.165	.874	1) .755 2) .995	1) .748 2) .843 3) .571 4) .548 5) .723 6) .615 7) .706 8) .813	1.014	1) .764 2) .841 3) .875
Did the situation improve?	.834	.781	.964	1) .942 2) 1.129	1) 1.036 2) .850 3) .604 4) .631 5) .832 6) .850 7) .724 8) .709	.832	1) .856 2) .606 3) .719
Were you satisfied?	.774	.801	.910	1) .747 2) .938	1) .493 2) .413 3) .347 4) .406 5) .464 6) .426 7) .453 8) .601	.974	1) .791 2) .707 3) .740

continues

Table A2.14 Continued

Variable	Race Exp(B)	Hispanic Exp(B)	Work Exp(B)	Income Exp(B)	Age Exp(B)	Sex Exp(B)	Size Exp(B)
Were you treated properly?	.639	.830	.928	1) .668 2) 1.010	1) .514 2) .561 3) .451 4) .585 5) .657 6) .659 7) .707 8) 1.064	.847	1) .664 2) .935 3) .662
Were you treated with respect?	.712	.812	.821	1) .616 2) N/A	1) .318 2) .444 3) .314 4) .417 5) .460 6) .531 7) .632 8) 1.097	.795	1) .704 2) .774 3) .642
Did you file a complaint?	2.548	.646	1.198	1) 1.225 2) 1.485	1) .295 2) .484 3) 1.384 4) 1.692 5) 3.200 6) 1.658 7) .606 8) .350	1.802	1) 1.204 2) .400 3) .978

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About the Book

New technology has offered the public the opportunity to witness police use of force far more frequently than in the past—and has brought into sharp focus a number of big questions. Where does police power to use force come from? How have the federal courts ruled on the subject? What sort of guidelines have police departments given their officers, and are they appropriate guidelines? Do the officers follow them?

Craig Boylstein draws extensively on nationwide data to explore these questions, addressing current controversies, analyzing how force is applied in various contexts and across various populations, and considering the role of policing as social control in the modern state.

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