Adding Insult to Injury: The Justification Frame in Official Narratives of Officer-Involved Killings

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Abstract
This article identifies the justification frame as a common narrative used by public officials to justify the use of lethal force by police. Officials deploy the justification frame to obfuscate the use of force or claim that victims posed a threat to officers in order to justify civilian deaths. I examine initial statements given in the aftermath of officer-involved deaths in 2016, focusing on incidents where an on-duty officer used force against victims who did not pose a threat when they were killed. I find that elements of the justification frame appear frequently in the explanations issued after these incidents. Statements about Black decedents are more likely to deploy the justification frame.

Keywords: Police use of force; Race and policing

Introduction

This article examines the ways that state actors portray the use of lethal force by police. I argue that police officers, mayors, and other officials deploy a specific narrative, which I call the justification frame, to explain their use of lethal force. I argue that this official narrative uses language that is designed to portray the officers' use of force as consistent with the requirements of the law. Under the justification frame, police departments and other public officials deny or obfuscate the role of the use of force in civilian deaths, and where that is not possible, claim that victim's dangerousness posed a threat to officers that justified the use of lethal force, regardless of the actual events that took place.

To test this claim, I examine the initial statements made by mayors, prosecutors, police chiefs, officers, spokespersons, or other investigating agencies in the immediate aftermath of officer-involved deaths in 2016. I focus on the 66 victims from that year who were not posing a threat to officers or bystanders when they were killed, but who died after an officer used force against them while on duty. Focusing on these cases allows me to examine the justification frame at the margins, where it arguably is least applicable, to see whether it still is deployed. In contrast,

I also examine a random sample of initial public statements issued in the wake of deaths involving force used against high threat decedents.

The public statements were coded for information that fit or contradicted the justification frame. Overall, I find that elements of the justification frame appear in almost all of the public explanations issued immediately after the deaths of low threat individuals. Most commonly, the public statements blamed the behavior of low threat victims for the use of force in 80.3% of the cases. Public statements attempted to paint low threat individuals as dangerous criminals in 31.8% of cases. For nine victims, police did not admit to using force against the victim in the initial statements, and in almost all cases of deaths due to restraints or stun guns blamed the person's medical history or intoxication as the cause of death. The public statements admitted mistakes or officer wrongdoing for only six victims.

For low threat individuals, I also find that the justification frame was more likely to appear in official statements about black victims. Black people, though only 13.4% of the U. S. population, were 47% of the 66 people who were not posing a threat to officers or bystanders when they were killed, but only 21% of the 62 high threat victims. Among low threat individuals, Black decedents were more likely to be portrayed as dangerous criminals than white decedents (35.4% vs. 26.3%, respectively). The public statements about low threat decedents were more likely to attribute officers' actions to victim behavior when the victim was black rather than white (93.5% vs. 73.6%, respectively).

These results contribute to our understanding of the politics of policing. R. Douglas Arnold argues that policy effects must be perceptible and identifiable in order to generate a citizen response (Arnold 1990: 48). This article highlights the attempts of local governments to shape these two phenomena by rendering the use of force against low threat individuals as imperceptible or inconsequential, or by identifying it as the fault of someone other than the officer. These attempts by police and other government actors reduce transparency, making this aspect of police departments part of the "submerged state" for many observers (Mettler 2011). In using the justification frame in this way, public officials attempt to reshape politics by presenting state actions as lawful to broader audiences who may rely heavily on these official narratives when forming opinions (Soss and Schram 2007). However, the state is not submerged to racial minorities and other people who are harmed disproportionately by state actions (Michener 2019; Rosenthal 2020).

Literature review and theory

Eduardo Bonilla-Silva defines frames "as set paths for interpreting information" (Bonilla-Silva 2006: 26). People filter information through frames or "intellectual road maps" that follow a "predictable route" (Bonilla-Silva 2006: 26). Frames matter because "(often small) changes in the presentation of an issue or an event produce (sometimes large) changes of opinion" (Chong, and Druckman 2007: 104). Different frames place emphasis on alternate facts or make new circumstances relevant or salient in ways that can alter public opinion.

With respect to officer-involved killings, the details make a difference to whether an incident is framed as an "injurious experience" that is attributed to the fault of the officer, police department, or city (Felstiner, Abel, and Sarat 1980). The ability to

identify specific government actions and then link them to effects is malleable (Arnold 1990; Hacker, and Pierson 2005; Pierson 1993). The complexity of an action matters; actions with long causal chains or multiple "stages or uncertainties" are less traceable to specific government actions (Pierson 1993). Arnold also argues that "Traceability is nearly impossible for any effects that stem from a multitude of complex governmental actions" (Arnold, 1990: 50).

Research shows that the complexity of the causal chain affects evaluations of officer-involved killings. For instance, political backlash to officer-involved killings such as protesting and voting occurs in limited circumstances with short causal chains, such as when injuries from the use of force are clear and not prompted by victim behavior (Burch 2021; Streeter 2019). Thus, to avoid that backlash, politicians have an incentive to manipulate the information available to voters through policy design or other strategies in order to avoid blame for bad outcomes (Hacker, and Pierson 2005; Pierson 1993; Weaver 1986).

In the case of officer-involved killings, I argue that officials manipulate the causal chain of events to frame incidents as justified by emphasizing facts or circumstances that (1) deny that an injury occurred, or, when that is not possible, (2) place blame for the death on someone other than the officer or department. These moves of denying injuries or deflecting responsibility for them are possible because they follow Bonilla-Silva's familiar and set paths to a predictable conclusion. I discuss each of these two aspects of the justification frame in turn below.

The justification frame: Denying the injury

The fact of injury might seem obvious given that a person died in an officer-involved killing. In a typical year, about three-quarters of officer-involved killings involve lethal force such as a gunshot. These injuries are typically clearly the result of police action; though occasionally in situations where there are multiple shooters, there may be some doubt as to who fired the fatal shot.

However, there also are many circumstances in which people died during an encounter after an officer used non-lethal force such as restraints or tasers (White et al. 2013). Research shows that using tasers or restraints on people under the influence of drugs or in medical distress can exacerbate medical distress or even cause death, such that many departments restrict the use of force on people in crisis (United States Department of Justice 1995; Pasquier et al. 2011). Official reports may attribute those deaths to the medical issues while ignoring or minimizing the contribution of the restraint or shock to the death (White et al. 2013). For instance, excited delirium is a controversial medical condition "associated with severe agitation, and autonomic arousal" usually brought about because of mental illness or drug use (O'Brien, and Thom 2014). Excited delirium has been blamed for sudden deaths in custody, but often subjects whose deaths are attributed to excited delirium also were restrained, tasered, or asphyxiated with choke holds or knees to the neck (O'Brien, and Thom 2014; Truscott 2008).

The case of George Floyd is the most prominent example of obfuscating the use of force by blaming a medical condition. George Floyd was killed by Minneapolis police officer Derek Chauvin in May of 2020 after Chauvin knelt on Mr. Floyd's neck for more than nine minutes. The initial statement released by the

Minneapolis Police Department, titled "Man Dies After Medical Incident During Police Interaction," denied that officers injured Mr. Floyd, failing to mention that officers used any force against Mr. Floyd other than handcuffing him (Wade 2021). Moreover, the statement made it clear that officers did not use weapons against Mr. Floyd (Wade 2021). Their framing of the event completely disconnected the "medical distress" from the knee on the neck, which medical experts later testified killed Mr. Floyd during Chauvin's trial (Williams et al. 2021).

The justification frame: Deflecting blame

Most commonly, victims are killed by a gunshot or other injury at the hands of police. In these circumstances, the justification frame admits the use of force, but places blame for the death on someone other than the officer or police department. In these instances, officials often craft narratives that emphasize victim characteristics and behavior that may have prompted the use of force. The importance of victim dangerousness to the justification of the use of force in these narratives closely follows the requirements articulated under federal and state law; in this way, the narrative of dangerousness follows a predictable, set path as Bonilla-Silva describes.

Although there is widespread disagreement over when the use of lethal force is justified in law and among legal scholars, almost all sources find that the most important frame for evaluating whether the use of deadly force is justified is the dangerousness of the person being arrested. In Tennessee *v.* Garner 471 US 1 (1985), the Supreme Court found that an officer shooting a person to defend themselves or another person from imminent danger to be a legitimate use of lethal force, but that lethal force may also be used to prevent escape when "the officer has probable cause to believe that the suspect poses a significant threat of death or serious physical injury to the officer or others." The Supreme Court further refined the use of force in Graham *v.* Connor 490 US 386 (1989), but still retained the emphasis on the danger posed by the person being arrested.

Victim dangerousness also is important to judgments of officer-involved deaths at the state level; however, states vary in their standards for assessing victim dangerousness. Twelve states maintain an anti-felony rule, which grants officers the right to use any means or any force necessary to arrest felony suspects or prevent them from fleeing (Tennenbaum 1994). The remaining states have higher standards for dangerousness that are similar to that adopted by the Court in *Garner*.

Legally, establishing that a person "poses an immediate threat to the safety of officers or others" should be an important component of the narratives constructed by officials in response to officer-involved killings. In particular, the narrative may discuss the victim's characteristics, demeanor, and behavior that officers perceived as threatening. People who were firing or pointing a gun or other weapon or assaulting officers or someone else can be threatening, but officers also use other behavior such as refusing to show one's hands as justification for the use of both lethal and non-lethal force (United States Department of Justice 2017: 39).

There is some evidence that these narratives that blame victim behavior are common even when the victim did not pose a threat to officers. In its report on the Chicago Police Department, the Department of Justice highlights several

instances of inaccurate descriptions of incidents by officers that were later undercut by video evidence. The report describes a narrative structure that uses similar language across reports to say that the use of force was justified because suspects struggled with, hit or kicked officers or refused officer commands, even when those claims were not true (United States Department of Justice 2017).

The narratives also establish dangerousness by highlighting particular characteristics of the victim. In this way, stereotypes about victims can influence whether people interpret police actions in a given case as just or unjust (Peffley, and Hurwitz 2010; Perkins, and Bourgeois 2006). These characteristics can make victims seem more or less sympathetic and more or less deserving of burdens and punishment regardless of their actual behavior during an encounter with police (Schneider, and Ingram 1993; Zhang et al. 2019).

Criminal background is an important characteristic shaping perceptions of whether the use of force was justified. It is built directly into the three-prong test articulated in *Graham* to the extent that the severity of the current offense is considered with respect to dangerousness. However, prior criminal history also shapes perceptions of dangerousness to the extent that people who commit crimes are constructed as amoral or evil, as violators of the laws of God and man (Claster 1992). Portraying people who died at the hands of police as criminals is common, even when the criminal history has no bearing on the incident. For instance, when investigating the murder of Botham Jean by Officer Amber Guyger, the Dallas Police Department publicized that they had found marijuana in the victim's apartment, a fact that was not relevant to Guyger's explanation for shooting Jean. As Lee Merritt, the attorney for Jean's family argues, the Dallas Police Department was "tarnish[ing] the image of this young man" in order to minimize the backlash against his killing (Shannon 2018). Police in other cities have sought to characterize other victims as dangerous criminals for similar reasons, such as when officials alleged that George Floyd and Michael Brown were engaging in minor criminal activity such as passing counterfeit bills or and stealing cigarettes when police killed them, respectively (Fitz-Gibbon 2020; Smith 2017).

Race also is key to evaluations about the justice of an officer-involved killing. Research has shown that African American suspects are perceived as more dangerous than White suspects, and racial stereotypes about Black people affect how White observers view police use of force (Dukes, and Gaither 2017). African American deaths also generate less sympathy on social media (Zhang et al. 2019). However, recent research also has shown that campaigns by Black Lives Matter have moved the public to view officer-involved killings of Black victims with greater suspicion. Research subjects are more likely to view officer-involved killings of Black victims as unjustified, and officers were believed to be more guilty of errors when they shot Black victims (Huff, Alvarez, and Miller 2018; Pica et al. 2020).

Alternatives to deploying the justification frame

There is some evidence that the use of the justification frame, particularly when the circumstances suggest that a victim was not posing a threat to officers or others when they were killed, can backfire. The ability of police officers to frame fatal

shootings as justified can be hindered by previous untrue claims that shooting victims were threatening officers. For instance, Laurence Ralph argues that in Chicago, the Burge torture scandal's particular place in the collective historical memory can provide a frame for interpreting police use of force with immediate suspicion, at least for Black city residents (Ralph 2013). The frame can also hurt police-community relations. As Chris Miles, a resident of Montgomery, Alabama, said in the aftermath of the police killing of his friend Greg Gunn:

> I don't want them patrolling here anymore, because we're either "suspicious," of if something happens, they say they were in fear of their life. Those "talking points" get them not indicted. We can't live under those conditions anymore (Miller 2016).

In its report on the Chicago Police Department, the Department of Justice similarly acknowledges that "trust and effectiveness in combating violent crime are inextricably intertwined" (United States Department of Justice 2017: 2). However, trust can be "broken by systems that have allowed CPD officers who violate the law to escape accountability" (United States Department of Justice 2017:1).

Instead of denying wrongdoing, police departments and cities might consider acknowledging and apologizing for harms. Officer-involved killings, particularly in cases of low threat individuals, might be seen as what Atuahene describes as a "dignity taking" or state actions that "directly or indirectly destroys or confiscates property rights from owners or occupiers whom it deems to be sub persons without paying just compensation or without a legitimate public purpose" (Atuahene 2014: 3). A better outcome might restore trust and cooperation through a process of "dignity restoration," which involves addressing actual economic harms along with "dignity deprivations" (Atuahene 2014: 4). Along these lines, O'Brien and Meares find that among Black respondents, statements that acknowledge police wrongdoing and apologize for it increase cooperation with police even among people who have negative views of them (O'Brien, Meares, and Tyler 2020).

Summary

To summarize the argument, in order to avoid backlash against officer-involved killings, public officials have an incentive to portray these incidents either as something other than an officer-involved killing or even as a justified killing. Describing victim characteristics and behavior are important to both of these strategies: by attributing deaths to victims' medical history or dangerousness, police departments can shift blame for the deaths away from their uses of force. Anecdotal evidence shows that departments can and do deploy these narratives in order to conform their uses of force to legal standards of justified force even when such descriptions are inaccurate.

Data and methods

In order to explore the presence of the justification frame, I conducted a content analysis of public statements from government officials within the days following an officer-involved killing. These statements often came from police department

spokespersons, chiefs, or sheriffs, but district attorneys, mayors, coroners, and other investigative bodies sometimes released information to the press instead. These statements include news releases or bulletins given directly to the public or summarized in the press, social media statements, press conferences or transcripts of press conferences, and print and television interviews given to reporters. In almost all cases, I was able to obtain the first statement or statements given within hours or days of the death.[1]

Data from the website of Fatal Encounters were used to identify incidents for analysis. This organization collects and then researches media- and crowd-sourced information on officer-involved killings. We coded each person killed by police for their threat level as described in the appendix. The analysis focuses on individuals coded as low threat individuals who were involved in officer-involved killings in 2016. It includes only victims against which on-duty officers used force—either guns, tasers, or restraints. Off-duty incidents, suicides, car accidents, and other causes of death were excluded from the analysis.

It is worth noting that of the victims coded as low threat in this analysis, at least 33 were unarmed.[2] Legal actions (either settlements with victims' families; termination of officers, and prosecution or convictions of officers) have finalized in 22 cases, with more still pending. Police admitted mistakes or wrongdoing in 6 of the statements. More information on the coding of threat and information about low threat individuals is provided in the appendix, and links to data sources for initial statements are available upon request.

As a comparison group, I also randomly selected 10% of people coded as high threat by all coders when they were killed. After cleaning the data of people killed by off-duty police, the sample size was 62 people. I analyzed the initial public statements for these individuals using the same rubric.

When coding the initial statements, several factors were analyzed, including the description of the victim, the reason given for the encounter, the type of force used, and the explanation for the use of force, where available. With respect to the description of the victim, statements were coded to account for the language used to refer to the victim as well as to information given about the victim's background. This description does not include references to the current crime, if one is alleged to be the reason for the encounter. Another aspect of the description of the victim, behavior, and demeanor, also was noted. This category includes any information about what the victim did that led to the use of force. These can be descriptions of demeanor or actions. More detail on the coding can be found in the appendix.

Results

The results confirm that in their early statements about officer-involved deaths, police departments deployed the justification frame often, attempting to criminalize and blame decedents for the incident while minimizing police responsibility. The departments undertook this behavior even when discussing victims who were posing no clear threat to officers or bystanders at the time of their deaths.

Portraying victims as dangerous

As noted in the literature review, the dangerousness of the victim matters for perceptions of whether a death was justified, and criminality is an important dimension for thinking about dangerousness. In 21 out of 66 cases in which low threat people died (31.8%), early official statements about the incident contained imagery or language that portrayed the victim as a criminal aside from information relevant to describing the current encounter. For instance, in 5 cases, statements referred to the low threat victim as a "suspect" or "suspicious." For instance, Montgomery Police Chief Ernest Finley said that an officer thought Greg Gunn looked "suspicious" as he walked along a street at 3:20am (Miller 2016). In a press conference, Austin Police occasionally referred to David Joseph, who was shot while he was unarmed and naked, as a suspect but refused to discuss his criminal history, at least (Cleary 2016). Disclosing a victim's criminal history (8 cases) or saying that they were "known" to police or law enforcement (6 cases) or had a "troubled past" (2 cases) occurred as well. For example, after Alfred Olango was shot by police, Immigrations and Customs Enforcement released a statement saying that Olango was a criminal immigrant under a deportation order (McLaughlin 2016). Unarmed Levonia Riggins was described as the "subject of a monthlong drug investigation," although police only recovered "a small amount of marijuana" during the drug raid where they killed him (Sullivan 2016). Michael McInnis was said to have "an extensive criminal record" (CBS Boston 2016). There were several other criminalizing statements, such as saying that a victim went by an "alias" (Dowty 2016).

The case of Sylville Smith of Milwaukee presents an extreme example of an attempt to criminalize a victim. During the press conference after his death, Chief Edward Flynn spoke at length about Smith's "lengthy criminal record," including about a case of witness tampering that was dismissed (CBS News 2016). Milwaukee County Sheriff David Clarke also said at a news conference that Smith had "a bunch of drug arrests here, robbery, use of force" (CBS News 2016). None of these incidents explained the use of force against Smith. At the officer's trial, the prosecutor said that Smith was shot when he was disarmed and on the ground with his "hands up, with no place to go" (Nolan, and Bosman 2017). Smith's family ultimately was awarded $4 million by the city of Milwaukee (Vielmetti 2020).

In another case, the attempt to construct the justification narrative was caught on tape. After Blount County, Kentucky deputies killed Anthony Michael Edwards, a lawsuit by his family alleges that deputies on the scene told dispatchers to search for a criminal record for Edwards. "When the dispatcher found a warrant on file in Sevier County, the audio showed, Burns and other law enforcers 'cheered', some saying, 'yay'. The mood changed quickly, though, when the dispatcher said it was for a misdemeanor offense"(Satterfield 2017). The deputy told the dispatcher, "OK. I was kind of hoping it was a felony" (Satterfield 2017).

Officials disclosed other negative information about low threat victims as well. Victims' drug abuse was discussed in seven cases, and mental illness was described in three cases. One victim was described as homeless.

With respect to race, 47.0% of low threat victims were Black, 28.8% of low threat victims were White, 22.7% of low threat victims were Latino, and 1.5% were Native

American. Black and Latino victims were the most likely to be criminalized in the official statements: 35.4% of statements about Black victims and 33.3% of statements about Latino victims contained criminalizing language. In comparison, criminalizing language appeared in 26.3% of statements about White victims.

The extent to which police portrayed victims as dangerous by discussing past incidents or using language such as suspect or suspicious does not differ dramatically based on victim threat level. Criminalizing language or imagery beyond that describing the current encounter was used in 24 out of 62 (38.7%) statements involving high threat individuals. However, with respect to the encounter that led to the death, high threat individuals were described as in the process of committing a crime in 23 of 62 cases. (37.1%)[3] Thirteen statements referenced high threat victims as suspects, eight provided criminal history, and three said that the individual was known to police. Other information, such as drug abuse and mental illness, was discussed three times.

With respect to race, 20.9% of high threat victims were Black, 16.1% of high threat victims were Latino, and 58.1 percent of high threat victims were White. As is the case with low threat victims, official statements were more likely to use criminalizing language or discuss prior criminal activity for Black and Latino decedents: 46.2% of statements about high threat Black decedents and 50.0% of statements about high threat Latino decedents contained criminalizing language or information, compared with 36.1% of statements about high threat White decedents.

Obfuscating officer involvement

According to Fatal Encounters, of the 66 victims coded as low threat, 50 died from gunshot wounds, 9 were tasered, 5 suffocated or were restrained, one was beaten or bludgeoned to death, and 1 cause of death was undetermined. However, 13.6% (nine victims) of the initial statements from officials did not admit to the use of any force against low threat individuals. Officials said that they used force against 57 low threat victims: they shot 43 victims, restrained 9 victims, and tasered 10 victims (some victims were subjected to multiple types of force). In cases involving deaths of high threat individuals, all of the initial statements admitted that police shot the victims, additionally, officers also used tasers in two cases. Neither medical issues nor drug use was blamed for any deaths of high threat victims.

Among low threat victims, official statements were the most likely to admit to shootings. However, when statements about low threat individuals did not admit responsibility for gunshots, typically it was to suggest that someone else could have shot the victim. For instance, the official statement said that Venita Keen may have been shot by Eddie Collins, whom police were trying to serve a warrant (WAFF News 2016).

Taser use sometimes was left out of official statements involving low threat victims. Fatal Encounters lists tasers as the cause of death in nine cases, but the fact that officers used tasers on these victims was mentioned only 77.7% of the time (seven cases). For instance, the Anaheim Police Department Spokesman said that Fermin Valenzuela became combative when officers tried to speak to him, and when they moved to arrest him his heart and breathing stopped (Vives 2016). The

statement did not mention that Valenzuela was tasered, and the news article explicitly mentions that all the information provided by the police was contained in the article (Vives 2016). Similarly, a press release from the Port Arthur, Texas police department said that a struggle ensued when Manuel Delacruz refused to comply with officers and medical personnel in the emergency room; "During the struggle, officers and ER personnel realized the subject was in distress" (Meaux 2016).

Similarly, medical issues or drug use were blamed for deaths of low threat individuals frequently, even when restraints or other force admittedly were used. For instance, a preliminary report from the state medical examiner said that "an enlarged heart" and "over-exertion" contributed to the death of 64-year-old Ollie Lee Brooks, even though officers chased him down a flight of stairs, tackled, handcuffed, pepper-sprayed, and tasered him (2News Oklahoma 2016). The statement also mentioned that Brooks had crack cocaine and a pipe in his motel room at the time of his arrest (2News Oklahoma 2016). Officials' statements said that Benston Clinkscales died from "probable excited delirium" caused by drug and alcohol use, despite the fact that officers used a stun gun on him *twice* and restrained him (WYFF4 News 2016). Jonathan Barrio experienced a "medical emergency and stopped breathing" after police placed him in hobble restraints even though he "appeared to be under the influence" (The Sun 2016). Police described Richard Gonzales as "a longtime cocaine user who may have died of drug abuse," but police struggled with him and restrained him as well (Chung 2016). Medical issues were the most likely to be blamed for deaths of Latino victims (26.6% of statements, compared with 19.4% of Black victims and 15.8% of White victims).

In several cases, deaths occurred after police used restraints or other force against people with obvious medical conditions. Officers said that Joel Huerta was highly impaired, "but officers restrained him and took him to jail," where he became unresponsive "almost immediately" after his restraints were removed (Staff 2016). Brian Steen was having a chest pains but refused medical treatment and ran into the street (Holland 2016). Police tackled him and restrained him, at which point he "went into medical distress" (Holland 2016). Marcus Dushane White was bleeding, sweaty, shirtless, and had "injuries" when police struggled with him, took him to the ground and arrested him (Scanlan 2016). He later died at the hospital. As the literature review notes, it is well documented that using tasers and restraints in these kinds of situations can lead to death (United States Department of Justice 1995).

In two cases, low threat victims suffered mysterious head injuries during their arrest or custody, but early statements did not admit these injuries were caused by law enforcement. In the case of Anthony Edwards, the Sheriff's Office said that during the arrest, Deputy Jerry Burns "took Edwards to the ground" and "Edwards hit his head on the pavement" (2016). Body camera footage later shows that Burns, an MMA fighter, admitted that he body-slammed Edwards to the ground (Satterfield 2019). Regarding Lorez Chambers, Oklahoma County Sheriff John Whetsel said, "At no time was Mr. Chambers struck or punched, nor was his head ever slammed against anything by any member of the Oklahoma County sheriff's office—or by any member of the Oklahoma City Police Department—*while he was on jail property* [emphasis added]. Our employees did absolutely nothing wrong, its all on video" (Clay 2016). Chambers's family later sued for wrongful death.

Blaming victim behavior

Nearly all statements, regardless of the threat level of the decedent, blame victim behavior for the officers' use of force. For high threat victims, all but one statement (98.4%) discussed victim behavior that led to the use of force. A smaller but still large number of the official statements involving low threat victims cite victim behavior or demeanor for the use of force: out of 66 cases, 53 statements (80.3%) say that the victim said or did something that caused police to use force. However, it is important to keep in mind that fully half of these low threat victims, 33 people, were unarmed and at least three had their hands up when they were killed. Several others died while restrained or when they were on the ground and subdued.

I also observe racial differences in whether official statements about low threat victims blame victim behavior for officers' use of force. Almost all statements about low threat Black decedents, 93.5%, blamed victim behavior for the use of force, compared with 73.6% of statements about low threat White decedents and 60.0% of low threat Latino decedents. For all groups, roughly half of low threat decedents were unarmed when they were killed.

Statements differed with respect to the kinds of behavior used to justify the use of force depending on the threat level of the decedent. For instance, "refusing commands" is the most common explanation for the use of force in incidents involving low threat victims. One-third, or 22 of the 66 low threat victims, were accused of refusing commands or being uncooperative with officers. In particular, 15 of the 33 unarmed victims had force used against them because they refused commands. In contrast, only 9 of 62 statements about high threat individuals mentioned that the person refused commands; in 7 of these cases, the specific command was to drop a gun or other weapon. Black victims were the most likely to have refusing commands listed as the cause of the use of force: 41.9% of statements about Black victims said that they refused commands, compared with 31.5% of statements about White victims and 20.0% of statements about Latino victims.

For these low threat victims, refusing commands sometimes resulted from impairment. Joseph Nathaniel Weber, a man with "special needs," "ignored instructions" of officers and "the situation escalated to the point where a shot was fired" (White 2016). Francisco Serna, a 73-year-old man with dementia, was shot and killed outside his home while holding a crucifix "when he refused to remove his hands from his pockets" (Walters, and Connor 2016). Daniel Landeros was tasered twice after a car accident in which he hit three other cars, but officers said that he continued to struggle and resist arrest until he became unresponsive (KCRA News 2016). Landeros died from a combination of intoxication and police restraints (Judson 2020). At other times, the reasons were less clear. For example, according to police, Michael McInnis also refused to pull his hands out of his pockets and "eventually one of the officers fired his weapon" (CBS Boston 2016). Officers also said of unarmed Terence Crutcher that "he refused to follow commands given by the officers . . . They continued to talk to him, he continued not to listen and follow any commands" (Associated Press 2016). Dylan Noble was on the ground surrounded by officers who had already shot him twice; officers say he refused to stop reaching for a plastic container full of clay when they shot him two more times while he was down (Elinson 2016). Michael Tyler Jacques, who was unarmed,

"did not cooperate" with officers and they shot him while he was sitting in his minivan (Bernstein 2016). The families of Serna, Noble, and Jacques ultimately were awarded settlements; the officer who killed Terence Crutcher was indicted.

Several statements said that low threat victims spoke or behaved aggressively toward officers. The statements describe officers and victims as engaged in a "struggle" (nine cases), "confrontation" (one case), or "altercation" (three cases). Low threat victims were described as "combative" in six cases, "belligerent" in two cases, or "erratic" in two cases. For example, police shot Todd Burroughs and his dog after Burroughs allegedly struggled with officers and threw a beer can at them; the city ultimately settled with Burroughs's family (Powell 2016). Daniel Landeros was in a car accident, then took an aggressive stance "as if he was preparing to engage the officers in a physical confrontation" which led to officers suing a stun gun on him twice (KCRA News 2016). Up to four officers also knelt on Landeros to restrain him in a prone position (Judson 2020). A lawsuit is pending (Judson 2020). Derek Adame reached down to start his car while being held at gunpoint; the police statement said Adame was shot during an altercation that "resulted in the officer discharging his service weapon at least one time" (Surprise Police Department 2016). These less-specific descriptors of decedent behavior or demeanor were used much less frequently in statements involving high threat victims; only 10 statements regarding high threat victims mentioned a verbal threat or used the words "struggle" or "altercation." Six additional statements about high threat individuals said that the individuals engaged in specific aggressive actions, such as assaulting or dragging officers or driving toward officers or bystanders with their cars.

In the majority of statements about high threat victims, 55 of 62 statements (88.7%) said that the officers' use of force was justified because the victim had a gun or other weapon. Forty-three (69.4%) statements mentioned guns, while twelve (19.4%) mentioned knives or other large, sharp objects such as a sword, pitchfork, garden shears, or an axe. The high threat individual was said to have fired at officers in 27 statements (43.5%); overall, the individual was said to have pointed at, approached with, stabbed, or fired at officers or others with a weapon 44 times (70.1%). Officers and other bystanders were mentioned as being injured or killed at the scene in 19 statements (30.6%).

For low threat victims, statements were less likely to imply that officers' use of force was justified because the victim had a weapon. Weapons were mentioned in official statements for 22 low threat victims. In ten of these cases, the weapon was a gun. Raleigh, North Carolina officials say that Akiel Denkins went for a gun in the waistband of his pants; however, some eyewitness and other evidence disputes this claim (Hall 2016). Wauwatosa, Wisconsin officers found Jay Anderson sitting in his car with a gun, but the police did not immediately accuse Anderson of threatening the officer with the gun or release details about what led to the shooting (Hutchison 2016). Sylville Smith had a gun, but was disarmed and on the ground when the officer fired the fatal shot (CBS News 2016). Some people were killed for having replica weapons. Daniel Enrique Perez had a replica handgun, and police said he was trying to commit suicide-by-cop (Suter 2016).

Having a gun and either making gestures or refusing verbal commands in combination led to shootings in several cases involving low threat victims, even though it

is not clear that the decedent threatened or fired at officers. Jamarion Robinson allegedly fired at officers, but his family says that it was impossible because his gun was inoperable (Georgia Bureau of Investigation 2016b). Atlanta prosecutors also tried to investigate this incident further but were blocked by the Department of Justice (Sharpe 2018). Kenney Watkins allegedly started to "turn toward" officers while holding a gun, but Watkins was shot in the back (Los Angeles Times 2018; Mather 2016). Keith Lamont Scott had a gun and refused officers' commands to drop his weapon, though his wife was on the scene and told officers that he was impaired by a traumatic brain injury (Larimer 2016). Police said that Alton Sterling was reaching for a gun in his pocket, even though he had already been tasered multiple times and was restrained on the ground by two officers (Mckneely Jr. 2016). Sterling's family was awarded millions of dollars because of the incident.

In twelve cases, official statements implied that victims had weapons other than guns; unlike with high threat victims, these items mostly were not large or sharp objects. Gregory Frazier, for instance, was said to have been shot by police after he "produced a knife," but other people at the residence said that Frazier was in the backyard eating takeout when he was killed (Barszewski 2019; The Ledger 2016). Albert Thompson "exhibited" a hand torch while officers were chasing him (Ahumada 2016). The cities of Miami and Ceres eventually settled with Frazier's and Thompson's families, respectively. Ariel Galarza died after being tasered twice; police say they found him "brandishing a glass bottle" after "menacing" a neighbor (Miles 2016). Galarza held a bottle of hot sauce in his own kitchen (Carrega 2017; Miles 2016). Greg Gunn was allegedly "holding what appeared to be a weapon and was later identified as a retractable painters stick" (Miller 2016). Gunn's family received a settlement as well.

Often, police say they used force against unarmed victims because the person moved or advanced or made other physical gestures. Some sort of motion was indicated as spurring the use of force in six incidents; officers said the victim advanced or moved toward officers in seven cases. Antronie Scott, who was unarmed, was shot when he "spun around toward an officer" and put his hands up (Beltran 2016). Alfred Olango pointed a "vaping device" at police; police released a still photo of Olango pointing the vaping device that advocates argued was out of context (McLaughlin 2016). David Joseph was completely naked and unarmed, but was shot and killed by Austin police officers after he "refused commands" and "charged toward" officers (Cleary 2016). Winooski Police were said to have shot Jesse Beshaw after he ignored commands and video shows him "advancing toward Deputy Palmier with his right hand concealed behind his back" (Baird 2016). William Bowers "appeared to be reaching for something in his pocket while he attempted to flee" (Tse 2016). Police shot Edson Thevenin, Deravis Caine Rogers and Jessica Williams for fleeing in cars, though neither posed a danger to officers or others at the time and department policies forbade firing into moving vehicles in this way (Georgia Bureau of Investigation 2016a; Holyoke 2016; Schultz 2016). The officer who shot Rogers was fired, and the police chief resigned after the death of Williams.

Sometimes, it is not clear from the statement whether the victim did anything to provoke officers. Adalid Flores "was confronted by officers and the shooting happened" according to Anaheim Police Sergeant Daron Wyatt (Coker 2016).

Constable Bobby Joe Smith was convicted of reckless homicide for shooting Brandon Stanley, who was unarmed and had his hands up, while attempting to serve a warrant for Stanley's arrest (WKYT News 2016). Police were looking for a man knocking on residential doors and found Gustavo Najera in a nearby park. An "officer made contact with [Najera] and an officer-involved shooting occurred" (Guinyard, and Arvin 2016). Gary Porter was shot at a Father's Day party in a park; according to the statement, the officer "faced a deadly force situation" that caused her to fire (Dowty 2016). In only one case involving a high threat victim did the statement fail to mention specific behavior by the victim that led to the shooting.

These claims that the behavior of low threat victims provoked officers are not always true. Sergeant French of the Troy, New York Police Department, said that he shot Edson Thevenin after Thevenin pinned Sergeant French against his own squad car with his car after a police chase. The police chief said in the initial statement, "It would appear that the actions of Sergeant French are certainly in line with the law, department policy, and his training, and we are fully supporting the sergeant" (Holyoke 2016). It turns out that the forensic evidence contradicts the claim that Thevenin pinned Sergeant French against his car. The Troy Police department attempted to cover up the incident, issuing their public statements even when they were in possession of evidence that Sergeant French was not pinned when he began to shoot. The Rennselaer County District Attorney attempted to block the State Attorney General from investigating the department and the incident and was ultimately indicted for prosecutorial misconduct (Gavin 2020).

Similarly, in the case of Terrence Crutcher, described earlier by officers as refusing to follow commands, video evidence disproved officers' assertions that Crutcher was not cooperating with police. Police said that Crutcher refused to put his hands up at officers' requests and that he was reaching into his car to get a gun, but videos clearly show Crutcher standing with his hands up when he was shot. The officer was tried and acquitted (Vera 2019).

The Blount County Sheriff's Department attempted to cover up the fact that deputies violently body-slammed Anthony Michael Edwards, his family's lawsuit alleges. In particular, the deputy who killed Edwards and others provided official statements that contradicted the ones they made on tape when they did not know they were being recorded (Satterfield 2017). In the suit, the family explicitly argues that the deputies were constructing a justification narrative to avert public backlash from killing Edwards, claiming that the deputies gave inaccurate statements "to the media and the public at large to create 'fake news' so that the public and citizens of Blount County could justify in their minds the actions of the officers" (Satterfield 2017).

In three cases, officials insinuated that the victim had a gun when evidence suggests that they were not armed. A Miami Police Spokesman said that Jamar Rollins was shot when he jumped from his car and "produced a firearm" and that there was "one firearm at the scene" (Harris 2016). However, later tests of the gun were not able to find Rollins's DNA on the gun (Lipscomb 2019). The press release regarding the death of Philando Castile mentions that "a gun was recovered at the scene," even though Castile was not armed and did not have the gun when he was killed (Gordon 2016; Smith 2017). Calin Rocquemore refused to show his hands after running from a traffic stop, and a trooper said: "he thought the

suspect was going for a gun" so he "fired his handgun in reaction to the perceived threat" (Marshall News Messenger 2016). No gun was found at the scene (KETK News 2016).

To summarize these findings, the justification frame appears in cases where officers use force against both high and low threat individuals. The use of criminalizing language (beyond that referencing the current incident) is used to describe high and low threat individuals at similar rates. Officials are less likely to admit to the use of force when describing incidents involving low threat individuals. Officials are less likely to blame victim behavior when making statements about low threat individuals; however, they still blame victim behavior in a majority of cases. The kinds of behavior used to justify the use of force also differ between low and high threat victims: high threat individuals are described as moving toward or injuring a person with a gun or knife, while low threat individuals are described as refusing commands or making other motions. Race matters as well: officials were less likely to use elements of the justification frame against White individuals, particularly criminalizing language and blaming victim behavior.

Discussion

I argue in this article that, in order to avoid backlash for officer-involved killings, public officials have an incentive to frame such incidents as justified by emphasizing facts or circumstances that (1) deny that an injury occurred, or, when that is not possible, (2) place blame for the death on someone other than the officer or department. The results of this analysis of official statements are clear: public officials often deploy aspects of the justification frame when explaining officer-involved killings to the public regardless of the threat level or dangerousness of the person killed. At least one aspect of the justification frame appeared in almost all of the initial public statements that I examined. However, the attempts to portray as dangerous persons killed who were not posing an immediate threat to officers or bystanders differ from portrayals of high threat individuals in some important ways. Statements involving high threat victims were fairly straightforward: in all but one case, the use of lethal force was openly admitted and described as occurring after an individual pointed or shot a gun, lunged toward or stabbed, or knocked down or drove toward an officer or bystander. However, among low threat victims, officers did not always admit to the use of force, and force was prompted by a wider variety of actions.

My analysis uncovered several instances in which public officials obfuscated their use of force or blamed factors such as other shooters or the victims' medical conditions for deaths. The analysis also showed numerous examples of blaming victims for their own demise by issuing information that painted victims as dangerous or threatening despite the fact that they were unarmed, subdued, restrained, or cooperating. In very few cases did public officials admit to mistakes or wrongdoing by officers initially.

The justification frame was more likely to appear in official statements about the deaths of black victims. In particular, Black victims were criminalized and blamed for their own deaths at higher rates than decedents of other groups. As a reminder, the extant literature shows that police are most likely to face public backlash over the

deaths of unarmed Black victims, such as those examined in this project (Burch 2021; Streeter 2019).

The literature review highlights the potential effects of the use of the justification frame in these contexts. As a reminder, the 66 deaths examined in this study took place in only one year, 2016. As documented above, in just that year alone, police killed an unarmed naked teenager, shot fathers in front of their children, killed people with autism, mental illness, and dementia for refusing to follow commands, and shot unarmed people while they were subdued, restrained, or cooperating. In many of these incidents, the initial response to the deaths was to portray the use of force as justified. Moreover, in some cases, prosecutors, Sheriff's Departments, and even the Department of Justice stalled and obstructed attempts to investigate the deaths. Failing to take responsibility for the incidents in which force was used inappropriately and refusing to hold officers accountable can "send a dangerous message to officers and the public that unreasonable force … will be tolerated" (United States Department of Justice 2017:5).

Notes

1 In some cases, I was not able to obtain complete original press releases or news conference footage. Because of this incomplete data, I may be underestimating the number of victims that police portrayed as dangerous or blamed for their deaths. I may also be underestimating humanizing language as well.
2 I use the language "at least" here because whether an individual was armed is disputed, see the case of Jamar Rollins, who is discussed later in the article.
3 When including statements describing the current encounter, such that the person was in the act of committing a crime, then 36 out of 62 (58.1%) statements about high threat include criminalizing information.
4 Meyer, Garcia, Keen
5 Powell, Colson, Knowlton
6 Valenzuela, Delacruz, Landeros, Brooks, Clinkscales, Huerta, Gonzales, Galarza, Steen, Macomber, Palmer, White, Webb, Barrio
7 Smith, Gulley, Noble
8 Thevenin, Williams, Rogers
9 Chambers, Edwards
10 Danner
11 Frazier, Tsingine, Thompson, Burroughs, Olango
12 Gibson, Perez
13 Denkins, Watkins, Robinson, K. Scott, Rollins
14 Beshaw, Najera, Bowers, Jacques, Ramirez, Riggins, Porter/Maddox, Webber, Roquemore, A. Scott, Serna, McInnis, Crutcher, Castille, Snell, Gunn, Augustine, Flores, Adame, Anderson, Sterling, Stanley, Ayers, Joseph
15 Hernandez
16 Unlike the initial public statements by public officials, the coding of threat relies on a broader group of sources and voices and covers months and years after a death, rather than just the first few days.

References

2News Oklahoma (2016) TPD Investigates Death of Man Tased at Arrest. 03 Jun 2016.
Ahumada R (2016) Ceres Police: Paorlee Pulled Out Hand. *Modesto Bee*, 7 January 2016.
Arnold RD (1990) *The logic of congressional action*. New Haven: Yale University Press.
Associated Press (2016) Tulsa Police Shoot, Kill Black Man in Street. Wall Street Journal, 17 Sep 2016.

Atuahene B (2014) *We Want What's Ours: Learning from South Africa's Land Restitution Program*. Oxford: Oxford University Press.

Baird JB (2016) Police: Sheriff's Deputy Fired Fatal Shots in Winooski. *Burlington Free Press*, 17 Sep 2016.

Barszewski L (2019) Man Eating Takeout in His Backyard Was Shot Dead by Deputies. Now His Family Gets $125,000. *Orlando Sentinel*, 21 Nov 2019.

Beltran J (2016) Man Wanted on Two Felony Warrants Shot Dead by San Antonio Police on North Side. *mysanantoino.com*, 5 Feb 2016.

Bernstein M (2016) Bend Police Officer Fatally Shot Motorist While Trying to Arrest Him After Erratic Driving, Police Say. *The Oregonian*, 24 Dec 2016.

Bonilla-Silva E (2006) *Racism without racists: Color-blind racism and the persistence of racial inequality in the United States*. Oxford: Rowman & Littlefield Publishers.

Burch T (2021) Not all black lives matter: officer-involved deaths and the role of victim characteristics in shaping political interest and voter turnout. *Perspectives on Politics*, 1–17.

Carrega C (2017) Exclusive: Family of Bronx Man who Died after Double Tasering by NYPD Files $10M Lawsuit. *New York Daily News*, 31 Jan 2017.

CBS Boston (2016) DA Indentifies Lynn Robbery Suspect Shot and Killed by Police. *CBS Boston*, 29 Nov 2016.

CBS News (2016) Milwaukee Man Fatally Shot by Police Officer Identified. 15 August 2016.

Chong D and Druckman JN (2007) Framing theory. *Annual Review of Political Science* **10**, 103–126.

Chung J (2016) Handcuffed Man Dies in Police Custody. *Gothamist*, 18 Mar 2016.

Claster DS (1992) *Bad Guys and Good Guys: Moral Polarization and Crime*. Westport: Greenwood.

Clay N (2016) Oklahoma County Sheriff Says Jailers Not to Blame for Trespassing Suspect's Death. *The Oklahoman*, 29 Jul 2016.

Cleary T (2016) David Joseph: 5 Fast Facts You Need To Know. *heavy.com*.

Coker M (2016) Adalid Flores Shot Dead by Anaheim Police. *OC Weekly*, 21 Nov 2016.

Dowty D (2016) Syracuse Shooting: Man Shot To Death Went By Alias; At Least 4 Guns Used in Fight. 20 Jun 2016.

Dukes KN and Gaither SE (2017) Black racial stereotypes and victim blaming: Implications for media coverage and criminal proceedings in cases of police violence against racial and ethnic minorities. *Journal of Social Issues* **73**, 789–807.

Elinson Z (2016) Fresno Police Release Body-Camera Video in Dylan Noble Shooting. *Wall Street Journal*, 14 Jul 2016.

Felstiner WLF, Abel RL and Sarat A (1980) The emergence and transformation of disputes: Naming, blaming, claiming. *Law and Society Review* **15**, 631–654.

Fitz-Gibbon J (2020) Counterfeit $20 Bill Now Part of George Floyd Murder Case. *The New York Post*. Online.

Gavin R (2020) Opening Arguments In Joel Abelove Trial Set For Tuesday. *San Francisco Chronicle*, 14 Sep 2020.

Georgia Bureau of Investigation (2016a) *GBI Investigates Officer Involved Shooting in Atlanta, GA*. Online: Georgia Bureau of Investigation.

Georgia Bureau of Investigation (2016b) *GBI Investigates US Marshalls Service Task Force Shooting in East Point, GA*. Online: Georgia Bureau of Investigation.

Gordon B (2016) *Update: BCA Investigating Officer-Ivolved Shooting in Falcon Heights*. Online.

Graham v. Connor 490 US 386 (1989).

Guinyard T and Arvin C (2016) Man Killed in Police Shooting at Anaheim Park. 9 Feb 2016.

Hacker JS and Pierson P (2005) Abandoning the middle: The Bush tax cuts and the limits of democratic control. Perspectives on Politics 3, 33–53.

Hall R (2016) *Preliminary Report Concerning February 29, 2016, Officer-Involved Shooting*. Online.

Harris A (2016) Police said man killed by cops had a gun. His family said he had his hands up. *Miami Herald*, 30 Dec 2016.

Holland C (2016) 'Combative' Man Running in Street Dies in Police Custody. *CBS5*, 20 May 2016.

Holyoke C (2016) Troy Police: Officer Justified in Weekend Shooting During Traffic Stop. 18 Apr 2016.

Huff J, Alvarez MJ and Miller MK (2018) Mock juror perceptions of police shootings: the effects of victim race and shooting justifiability. *Applied Psychology in Criminal Justice* **14**, 87–101.

Hutchison B (2016) Man Shot, Killed by Officer at Madison Park. 23 Jun 2016.

Judson A (2020) Deadly Restraints by Local Police Continue to Happen as Policies Go Unchanged, Costing Taxpayers Millions. 18 Nov 2020.

KCRA News (2016) Driver Dies After Struggle with Elk Grove Police. 1 Dec 2016.

KETK News (2016) Trooper Cleared in Fatal Shooting of Longview Man. 18 Aug 2016.

Larimer S (2016) Read the Charlotte Police Department's Investigative Summary on the Keith Lamont Scott Shooting. *Washington Post*, 24 Sep 2016.

Lipscomb J (2019) Family of Perrine Police-Shooting Victim Says Miami-Dade Cops Planted Gun at teh Scene. *Miami New Times*, 4 Jan 2019.

Los Angeles Times (2018) LAPD Officer Justified in 2016 Fatal Shooting of 18-Year-Old Man in South L.A., Jury Decides. *Los Angeles Times*, 2 Oct 2018.

Marshall News Messenger (2016) People Gather to Pray in Carthage After Man Killed by Trooper. *Marshall News Messenger*, 19 Feb 2016.

Mather K (2016) Death 'Happened So Fast'; Witness Says 18-Year-Old Ran from LAPD Before Officer Shot and Killed HIm in South L.A. *Los Angeles Times*, 18 Aug 2016.

Mckneely Jr. L (2016) Officer Involved Shooting On North Foster Drive.

McLaughlin EC (2016) Police: Man Killed by Officer Pointed Vaping Device, Not Gun. *CNN*, 30 Sep 2016.

Meaux M (2016) Delacruz Family Seeking Answers in Son's Death. 12 Aug 2016.

Mettler S (2011) *The Submerged State: How Invisible Government Policies Undermine American Democracy.* Chicago: University of Chicago Press.

Michener J (2019) Policy feedback in a racialized polity. *Policy Studies Journal* **47**, 423–450.

Miles D (2016) Emotionally Disturbed Man Shocked with Stun Gun by Police Dies in the Bronx. *abc7ny*, 3 Nov 2016.

Miller ME (2016) 'They Stood Over Him and Watched Him Die': Outrage in Alabama after White Officer Kills Black Man. *Washington Post*, 01 Mar 2016.

New York State Office of the Attorney General (n.d.) Report on the Investigation into the Death of Edson Thevenin. ed. N. Y. S. O. o. t. A. General. Online.

Nolan K and Bosman J (2017) Milwaukee Officer is Acquitted in Killing of Sylville Smith. *New York Times*, 21 Jun 2017.

O'Brien AJ and Thom K (2014) Police use of TASER devices in mental health emergencies: A review. *International Journal of Law and Psychiatry* **37**, 420–426.

O'Brien TC, Meares TL and Tyler TR (2020) Reconciling police and communities with apologies, acknowledgements, or both: A controlled experiment. *The ANNALS of the American Academy of Political and Social Science* **687**, 202–215.

Pasquier M, Carron P-N, Vallotton L and Yersin B (2011) Electronic Control Device Exposure: A Review of Morbidity and Mortality. *Annals of Emergency Medicine* **58**, 178–188.

Peffley M and Hurwitz J (2010) *Justice in America: The Separate Realities of Blacks and Whites.* Cambridge; New York: Cambridge University Press.

Perkins JE and Bourgeois MJ (2006) Perceptions of police use of deadly force. *Journal of Applied Social Psychology* **36**, 161–177.

Pica E, Sheahan CL, Pozzulo J and Bennell C (2020) Guns, gloves, and tasers: perceptions of police officers and their use of weapon as a function of race and gender. *Journal of Police and Criminal Psychology* **35**, 348–359.

Pierson P (1993) When effect becomes cause: Policy feedback and political change. *World Politics* **45**, 595–628.

Powell B (2016) Investigation Continues in Deadly Rockingham County Traffic Stop. 30 May 2016.

Ralph L (2013) The qualia of pain: How police torture shapes historical consciousness. *Anthropological Theory* **13**, 104–118.

Rosenthal A (2020) Submerged for some? Government visibility, race, and american political trust. *Perspectives on Politics* **19**, 1098–1114.

Satterfield J (2017) Lawsuit: Blount Deputy Accused of Killing Suspect, Agency Accused of Attempted Cover-Up. 24 Jul 2017.

Satterfield J (2019) Judge: Blount Deputy Used Excessive Force in Fatal 'Slamming' of Unarmed Man. 27 Mar 2019.

Scanlan D (2016) Jacksonville Man Dies Following Early Christmas Eve Police Confrontation on Golfair Boulevard. *Florida Times-Union*, 24 Dec 2016.

Schneider A and Ingram H (1993) Social construction of target populations: Implications for politics and policy. *American Political Science Review* **87**, 334–347.

Schultz K (2016) Woman Killed by SF Police Sergeant IDd as Jessica Williams, 29. 20 May 2016.

Shannon J (2018) Lawyer: Police Seized Pot to Smear Botham Jean After He Was Shot In His Own Apartment. *USA Today*.

Sharpe J (2018) Lawsuit–Fulton DA Sues Feds for Records in Police Shooting - Jamarion Robinson was Shot 59 Times in 2019 at an East Point Apartment. *Atlanta Journal-Constitution*, 28 Dec 2018.

Smith M (2017) Minnesota Officer Acquitted in Killing of Philando Castile. *New York Times (Online)*.

Soss J and Schram SF (2007) A public transformed? Welfare reform as policy feedback. *American Political Science Review* **101**, 111–127.

Staff (2016) County Jail Inmate Dies. *Santa Barbara Independent,* 05 Aug 2016.

Streeter S (2019) The Racial Politics of Police Violence in the United States. Ph.D., Stanford University, Ann Arbor.

Sullivan D (2016) Hillsborough Deputy Fatally Shoots Unarmed Man While Serving Warrant At Clair-Mel Home. 30 Aug 2016.

Surprise Police Department (2016) Police Investigate Officer Involved Shooting. *Online*: Surprise Police Department.

Suter L (2016) Boy, 16, killed in officer-involved shooting, had 'desire to end his own life,' LAPD chief says. *ABC7*, 6 October 2016.

Tennenbaum AN (1994) The influence of the Garner decision on police use of deadly force. *Journal of Criminal Law & Criminology* **85**, 241.

Tennessee v. Garner 471 US 1 (1985).

The Ledger (2016) Sheriff's Office: 2 Deputies Involved in Fatal Shooting. *The Ledger*, 10 Sep 2016.

The Sun (2016) San Bernardino County Sheriff's Department Investigating Trona Man's In-Custody Death. *The Sun*, 25 Dec 2016.

Truscott A (2008) A knee in the neck of excited delirium. *Canadian Medical Association Journal* **178**, 669–670.

Tse C (2016) Unarmed Man Shot and Killed by Sheriff's Deputy was Homeless, Say Witnesses. 3 Aug 2016.

United States Department of Justice (1995) *Positional Asphyxia–Sudden Death.* ed. N. L. E. T. Center. Department of Justice.

United States Department of Justice (2017) Investigation of the Chicago Police Department.

Vera A (2019) Federal Officials Say They Won't Pursue Charges Against Former Oklahoma Officer Who Fatally Shot Unarmed Black Man. 1 Mar 2019.

Vielmetti B (2020) Milwaukee to Weigh $4 Million Payment to Family of Sylville Smith, Fatally Shot by Police in 2016. *Milwaukee Journal Sentinel*, 23 Oct 2020.

Vives R (2016) Man Collapses During Arrest. *Los Angeles Times*, 04 Jul 2016.

Wade M (2021) Minneapolis Police Press Release Tells Different Story of George Floyd Death. 20 Apr 2021.

WAFF News (2016) Suspect and Woman Dead After Being Shot at Killen Standoff. 6 Oct *2016*.

Walters S and Connor T (2016) Family Blasts Police Shooting of Francisco Serna, Unarmed Senior. 13 Dec 2016.

Weaver RK (1986) The politics of blame avoidance. Journal of Public Policy 6, 371-398.

White K (2016) Questions Remain in Hays Officer-Involved Shooting. 19 Aug 2016.

White MD, Ready J, Riggs C, Dawes DM, Hinz A and Ho JD (2013) An incident-level profile of TASER device deployments in arrest-related deaths. *Police Quarterly* **16**, 85–112.

Williams B, Feshir R, Collins J and Sepic M (2021) Chauvin Trial: Breathing Expert Pinpoints Moment When 'The Life Goes Out of His Body'. 8 Apr 2021.

WKYT News (2016) Laurel Co. Sheriff's Office Investigating Fatal Shooting Involving a Constable. 5 Mar 2016.

WVLT News (2016) Attorney: Man Injured During Blount County Arrest Died, Law Firm Investigating Arrest's Circumstances. 28 Jul 2016.

WYFF4 News (2016) Coroner: Man's Death Caused by Drug and Alcohol Use, Not Taser. 2 May 2016.

Zhang Y, Shah D, Foley J, Abhishek A, Lukito J, Suk J, Kim SJ, Sun Z, Pevehouse J and Garlough C (2019) Whose lives matter? Mass shootings and social media discourses of sympathy and policy, 2012–2014. *Journal of Computer-Mediated Communication* **24**, 182–202.

Appendix

Appendix: List of low threat decedents by name

Adame, Derek	Surprise, AZ
Anderson Jr., Jay	Wauwatosa, WI
Augustine, Logan Ron	Carmichael, CA
Ayers, Cameron	East Wenatchee, WA
Barrio, Jonathan Wayne	Trona, CA
Beshaw, Jesse	Winooski, VT
Bowers, William	Castaic, CA
Brooks, Ollie Lee	Tulsa, OK
Burroughs, Todd Brent	Stoneville, NC
Castile, Philando	Falcon Heights, MN
Chambers, Lorez Rayfond	Oklahoma City, OK
Clark, Frank Nathaniel	Durham, NC
Clinkscales, Benston Calvin	Anderson, SC
Colson, Jacai	Landover, MD
Crutcher, Terence	Tulsa, OK
Danner, Deborah	Bronx, NY
De La Cruz, Manuel	Port Arthur, TX
Edwards, Anthony Michael	Walland, TN
Flores, Adalid	Anaheim, CA
Frazier, Gregory	Pompano Beach, FL
Galarza, Ariel	Bronx, NY
Garcia, Maria Isabel	Brownsville, TX
Gibson, Lionel	Long Beach, CA
Gonzalez, Richard	Bronx, NY
Gulley, Lamont	Kentwood, MI
Gunn, Greg	Montgomery, AL
Hernandez, Ricardo	Federal Way, WA
Huerta, Joel	Santa Barbara, CA
Jacques, Michael Tyler	Bend, OR
Joseph, David	Austin, TX
Keen, Venita	Killen, AL
Knowlton, Mary	Punta Gorda, FL

(*Continued*)

(Continued)

Landeros, Daniel	Elk Grove, CA
Macomber, Scott	Fall River, MA
Maddox, Terry	Syracuse, NY
McInnis, Michael	Lynn, MA
Meyer, Ciara	Duncannon, PA
Najera, Gustavo	Anaheim, CA
Noble, Dylan	Fresno, CA
Olango, Alfred	El Cajon, CA
Palmer, Sarah Louise	Hoquiam, WA
Perez, Daniel Enrique	Los Angeles, CA
Powell, William David	Stockbridge, GA
Ramirez, Jasen Scott	Douglas, WY
Riggins, Levonia	Tampa, FL
Robinson, Jamarion Rashad	East Point, GA
Rogers, Deravis Caine	Atlanta, GA
Rollins, Jamal	Miami, FL
Roquemore, Calin Devante	Beckville, TX
Scott, Keith Lamont	Charlotte, NC
Scott, Antroine Jerral	San Antonio, TX
Serna, Francisco	Bakersfield, CA
Smith, Sylville	Milwaukee, WI
Snell Jr., Carnell	Los Angeles, CA
Stanley, Brandon	East Bernstadt, KY
Steen, Brian	Phoenix, AZ
Sterling, Alton	Baton Rouge, LA
Thevenin, Edson	Troy, NY
Thompson, Albert	Ceres, CA
Tsingine, Loreal	Winslow, AZ
Valenzuela, Fermin Vincent	Anaheim, CA
Watkins, Kenney Ahmad	Los Angeles, CA
Webb, DeAngelo W.	Oklahoma City, OK
Weber, Joseph Nathaniel	Hays, KS
White, Marcus Dushane	Jacksonville, FL
Williams, Jessica	San Francisco, CA

Appendix: Reasons for coding as low threat

Decedents are noted in the footnotes by last name:

- 3 bystanders caught in crossfire: these individuals, all women, were the mother, wife, and daughter of police targets.[4]
- 3 accidental/police admit a mistake: unusual situations such as friendly fire, an exhibition exercise gone wrong, and police going to the wrong house.[5]
- 14 medical condition/impairment + taser/restrained: in these cases, police used tasers, restraints, and/or other force on individuals who were in medical distress, appeared to be under the influence of drugs, etc. which can lead to death. Police may also have deployed tasers multiple times or used controversial restraints such as hobbling.[6]
- 3 on the ground when shot: Individuals were on the ground and surrounded by police, unarmed, disarmed, or armed with a knife when they were shot.[7]
- 3 shot while driving away: police shot into a moving vehicle; the driver was not trying to hit police, passengers, or others.[8]
- 2 head injuries during arrest/restrained: victims blunt force trauma to the head and were unarmed.[9]
- 1 improper arrest protocol: in this case, police did not follow the protocol for wellness checks on mental ill patients, admitted by mayor and police.[10]
- 5 armed with "weapon": in these incidents, police allege they were threatened with ordinary objects such as nail scissors, a beer can, a vaping device, etc. and feared for their safety.[11]
- 2 replica guns, unclear threat: police say they were threatened with replica guns.[12]
- 5 guns disputed by witnesses, other evidence: In these cases, evidence and eyewitnesses call into question official accounts that victim threatened police with a gun. Rollins—his DNA was not on the gun found at the scene. Denkins—eyewitnesses say he was running from police and some evidence supports this theory. Robinson—local DA wanted to investigate because he found the official account suspicious but was blocked by the DOJ. Watkins & Scott: no clear evidence victim pointed gun at police[13]
- 24 victim motion or unclear what led to shooting: police either gave no reason or said the victim refused to follow commands or made some motion that caused them to feel threatened. Many cases disputed by video or other evidence.[14]
- 1 armed with knives but far away from police: in this case, victim had knife but was 15 or more feet away from police when he was shot.[15]

Appendix: Threat Coding

Fatal Encounters were used to identify officer-involved killings. Legewie & Fagan find that the Fatal Encounters data missed only 3 percent of the cases that fit their definition of officer-involved killings, a significant improvement over the federal data (Legewie and Fagan 2016). Fatal Encounters did not include indicators of victim threat or officer culpability, and such determinations are very complicated. As noted in the literature review, an observer might use many factors in determining whether they think officers were justified in using lethal force in a particular incident, including victim race and gender or criminal history. This study relies on just two dimensions to code culpability: whether the victim was posing a serious threat to the safety of officers or bystanders when their death occurred, and whether officers followed proper procedures during the encounter. Videos, news reports, agency reports, eyewitness accounts, court records, and police investigative records were used to code victim behavior into three categories: 1 if the victim was clearly not posing a threat to officers or others at the time of death, and 3 if the victim was posing a clear threat (and the officer followed proper procedures). The middle category, 2, is reserved for instances in which the victim may have engaged in some type of threatening behavior but officers may have made a mistake or acted outside of protocol. Another way of considering this coding, from the perspective of the officers' behavior, is that in categories 1 and 2, the officer bears all or at least some responsibility for the death of the victim.[16]

Multiple coders assessed the incidents of officer-involved deaths in order to figure out whether a person was posing a threat to police or whether officers were also responsible for a death. Coders relied on news reports, descriptions in the Fatal Encounters data, official statements and records, lawsuits, court proceedings, and dash cam or other videos to reconstruct the events surrounding the death. For most cases, local news provided a comprehensive accounting of events over time, and some cities and police departments published reports or made statements about incidents. Determinations about police mistakes or failures to follow procedures were based on witness accounts, police statements or press releases, investigative reports, court records, news reports, press conferences, or other sources that police lied, violated orders or a policy, or failed to follow standard operating procedures. In three or four cases, information was limited to only one short news article or a small entry in a database.

After cleaning the data, we coded 1284 deaths that occurred in 2016. Each incident was coded by at least two individuals. Victims were treated as "low threat" in the analysis if any coder rated their deaths in categories 1 or 2. Most incidents involving police use of lethal force tended to fall into a limited number of predictable scenarios. Coders agreed in 68.5 percent of cases. Often, the disagreement between coders was not a mistake, but rather reflective of the fact that reasonable people, viewing the same evidence and using the same standard, can disagree about the threat posed by a victim as noted in the literature review. For this analysis, only victims that were coded as "1" by any coder were selected; no victims were included if any coder thought the victim was a "3" or posing a high threat.

The coding sheet that was provided to coders is below, annotated for readers with additional information. First, I've included in brackets the standards articulated by the Supreme Court in *Tennessee v. Garner* and *Graham v. Connor* or other information about the use of force such as Department of Justice or other guidance about the use of non-lethal force as highlighted in the literature review on which the example is based. Second, the sheet has been annotated with examples of incidents that fit the description in the code in italics.

Again, for this article, the low threat group consists of people where at least one coder gave them a score of 1 and no coder gave them a score of 3. The high threat group consists of people coded as three by all coders.

3: Victim was threatening others; officers followed proper procedure

- Victim was restrained but died of a medical condition even after prompt medical attention (usually drug overdose or heart attack after a chase) [No or light force used]
  - *Kniles Akers, Summersville WV: Stole a deputy's cruiser, ran him over with it and killed him. He was arrested after fighting with a different civilian, then suffered a medical emergency and was taken to the hospital, where he later died.*
- Victim fired shots [imminent threat]
  - *Tyre Devon Privott, Norfolk, VA: Shot at officers when they approached him for questioning.*
- Victim brandished gun, sharp object, or other weapon and advanced toward officers or bystanders [imminent threat]
  - *Michael Quinn, Lancaster, CA: walked toward police with an axe*
- Officer injured [imminent threat]
  - *Keith Montgomery, Jr., Chester, PA: officer injured after shootout with three armed suspects, one of which was Montgomery*
- Victim drove car toward officers or rammed other cars [imminent threat]
  - *Victor Rivera, Phoenix AZ: Driving a stolen car, used it as battering ram to escape*
- Car/motorcycle crash during police chase (is driver or passenger and hits another car or loses control of car) [No or light force used]
  - *Roland Zanie, San Francisco, CA: their car crashed into a taxi and burst into flames while police were chasing them*
- Victim jumps into traffic/runs off bridge/jumps in water after foot chase [No or light force used]
  - *Paul Giacomoni, San Lorenzo Ca: Jumped off a highway bridge and landed in a cemetery while running from police*
- Hostage, kidnapping, or barricade situations [imminent threat]
  - *Anthony Bertoni, Kemp, TX: Shot his neighbor and barricaded himself inside his home, came out shooting.*

- Victim was holding someone at gunpoint or knifepoint [imminent threat]
  - *Raphael Bostick, Hardeeville SC: held store clerk hostage during attempted robbery*
- Victim struck or fought with officers or others [imminent threat]
  - *Earl Eubanks, Jr., Hampton, GA: Shot by police while he was assaulting a woman in an alley*
- Victim refused to drop weapon after warning [imminent threat]
  - *Scott Lance Bennett, Houston TX: Ran out of store after an armed robbery and refused to drop his weapons*
- Officers used tasers or other less-lethal force without success before lethal force [imminent threat]
  - *Michael Lanaido, Tom's River, NJ: Holding his girlfriend at knifepoint, pulled a knife on officers; they fired non-lethal rounds first and were unable to subdue him*
- Apprehending suspect reported or known to be armed (such as after murders, carjackings, armed robberies, escapes from custody, interstate manhunts) [imminent threat; fleeing dangerous felon]
  - *Blake Edward Fitzgerald, Milton FL: After a multi-day crime spree including armed robbery, killed after a manhunt*
- Suicide-by-cop (victim or bystanders say not going to prison, not taking me alive, comes out of barricade situation firing weapons, etc). These are distinct from suicides where police are trying to talk down victim, which are excluded. [imminent threat]
  - *Joshua Clay Dunne, Las Cruces, NM: after a lengthy negotiation, Dunn came out of barricade situation and pointed gun at officers.*

2: This is a medium category in which the victim was posing some threat to officers or others (speeding, driving recklessly, fighting, brandishing a weapon, etc), but the officers also acted in a way that was questionable or where the victim should not have died (such as an equipment malfunction, mistake or following improper procedures).

- Victim was restrained but died of an unknown medical condition such as "excited delirium"[16] [Force used on ill or impaired person]
  - *Donald Degraw, Oldsmar FL: Under protective custody and became unresponsive after deputies tasered and restrained him*
- Victim died from less-lethal force such as pepper spray or tasers [force used improperly or on ill or impaired person]
  - *Marlon Lewis, Badin, NC: tasered several times after fighting with an officer*
- Any of the above scenarios in "3" but with extenuating circumstances such as improper procedure followed (such as police chase with unmarked car or through residential neighborhood, warrantless searches) [Evidence that police violated local practice, command, or rule]
  - *Christopher Sowell, Philadelphia PA: Sowell went on a stabbing spree, and when officers were apprehending him, one fired his weapon and he was shot 109 times in a possible case of "contagious gunfire" according to the Chief*
- Any of the above scenarios in "3" but with credible eyewitness, autopsy, video, or other conflicting information that casts doubt on official account [victim not imminent threat]
  - *Joshua Sciscm, Schenectady, NY: plainclothes detectives said Sciscm had gun, but he was unarmed and shot in the back of the head*
- Executing a no-knock warrant*
  - *Eugene Craig, Saratoga CA: police shot Craig, age 86, after entering his home for a welfare check and finding him holding a loaded gun*
- Any of the above scenarios in "3" but a lawsuit, settlement, or criminal prosecution of officers goes forward [Evidence that officer did not meet legal standard for use of force]

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*No-knock warrants, where officers enter without knocking and announce who they are as they enter a premises, are controversial. Not only do they sometimes conflict with self-defense laws, they also often go wrong as police sometimes enter the wrong address or kill bystanders (Heinecke 2007; Patterson 2014).

-   ○ *Tawon Boyd, Middle River, MD: He "struggled" with law enforcement after he called 911 for help. Baltimore County settled with family for $1.15M*
- Victim died of injuries sustained during arrest when victim was no longer posing a threat (choke holds, suffocation, trampling) [Victim not imminent threat]
-   ○ *Thomas Lane, West Haven CT: Lane was in a car accident with a tractor trailer and was thrashing around from a head injury while first responders were trying to help him. He broke the fingers of a first responder. Two police officers tasered him and he died*
- Officer thought they saw a weapon but person was unarmed (typically during a chase) [Victim not imminent threat]
-   ○ *Eric John Wilson, El Paso, TX: Wilson moved toward officers with a cell phone in his hand*

1: Victim was not posing a threat

- Innocent bystanders such pedestrians or drivers killed in car accidents involving police chases of other cars, pedestrian, or drivers hit by police in car accidents, or bystanders in shootouts between police and suspects; [victim not imminent threat]
-   ○ *Maria Isabel Garcia, Brownsville, TX: "shot in the crossfire" during a shootout between police and her son according to Brownsville Police*
- Murder victims of police (such as an intimate partner homicide or murder suicide); [victim not imminent threat]
-   ○ *Nikki Bascom, Silver City, NM: killed by her intimate partner, a police officer*
- Foot chases where unarmed victim was shot without victim making other threats or fighting [fleeing but not imminent threat]
-   ○ *William Bowers, Castaic, CA: unarmed but police said he "appeared to be reaching for something in his pocket while he attempted to flee"*
- Traffic stops where unarmed victim was shot without victim making other threats or fighting [victim not imminent threat]
-   ○ *Terence Crutcher, Tulsa, OK: Video shows Crutcher standing with his hands up when he was shot after a traffic stop*
- Mistaken identity [arrest non-dangerous person; victim not imminent threat]
-   ○ *Gustavo Najera, Anaheim, CA: Police were looking for a man who was knocking on doors in a neighborhood. They found Najera in a nearby park and shot him; it is not clear that he was the person they were looking for*
- Mysterious deaths in police custody [victim not imminent threat]
-   ○ *Lorez Chambers, Oklahoma City, OK: died of blunt force trauma to the head while he was in custody; police deny wrongdoing*
- Child passenger under age 15 in car fleeing police [victim not imminent threat]

Appendix: Statement Coding Information

With respect to the description of the victim, statements were coded to account for the language used to refer to the victim as well as to information given about the victim's background. In particular, language or information provided by the police department that was designed to criminalize the victim, such as referring to them as a "suspect" or referring to past criminal history, gang activity, aliases, or other criminalizing language was noted, along with other background information such as homelessness, unemployment, mental illness, drug use or abuse, or drug sales. This description does not include references to the current crime, if one is alleged to be the reason for the encounter.

    Another aspect of the description of the victim, behavior, and demeanor also was noted. This category includes any information about what the victim did that led to the use of force. These can be descriptions of demeanor such as "erratic," "combative," "uncooperative," or "impaired." They also include specific actions such as "lunging," "threatening," "fleeing/running," "assaulting," "advancing," "made a motion," "moved," "gesture," "brandished," or "refused commands." Statements also contain information about whether a

victim was involved in a "struggle," "altercation," or "confrontation" with officers or others. Finally, any information about weapons, either held or possessed by the victim or found at the scene during the investigation, was noted as well.

Other information about the incident provided in the statement was recorded as well. Whether the police admitted to using force was recorded, as well as the type of force they admitted to using. Also, the reason police gave for encountering the victim was provided. Typically, these included traffic stops, responding to a 911 or other call for service, serving a warrant/warrant for arrest, or observe a current crime or suspicious behavior.

Finally, any humanizing or sympathetic information about the victims was noted. These statements include references to victims' families, youth, community service, or other mitigating information. Statements referring to the incident as "tragic" or to the family's or community's loss were counted in this category as well.