by new justices, who could go either way (C. E. Smith, McCall, and McCall, 2009). In the immediate future, it seems unlikely that President Barack Obama would appoint new justices who would favor the elimination of the exclusionary rule, but presidents cannot always predict accurately how their nominees will decide specific issues.

## CHECKPOINT

### ANSWERS

**⑪ Why was the exclusionary rule created and eventually applied·to the states?**

**⑪** The exclusionary rule was created to deter officers from violating people's rights, and the Supreme Court considers it an essential component of the Fourth and Fifth Amendments.

**⑫ What are the criticisms of the exclusionary rule?**

**⑫** The rule is criticized for hampering police investigations and permitting some guilty people to go free.

**⑬ What are the main exceptions to the exclusionary rule?**

**⑬** A "good faith" exception in warrant situations; cases in which evidence would have been discovered by the police inevitably anyway (inevitable discovery rule).

## Police Abuse of Power

The first sections of this chapter discussed legal rules that police are supposed to obey when carrying out their duties. But what happens when police violate the law? What if police make an improper arrest? What if they conduct an improper search but do not find any evidence of wrongdoing? The exclusionary rule provides a limited, after-the-fact remedy, but only in cases for which the police have found evidence of a crime or obtained incriminating statements during improper questioning. How can Americans be protected against illegal actions by the police when the exclusionary rule does not apply?

Think about other circumstances in which police may violate the law. Moreover, think about how such behavior can harm both individuals and society. Individuals' rights can be violated. The image of the police and their relationship to the community can be damaged. Moreover, extreme abuse can result in civil disturbances. For example, the videotaped beating of Rodney King by Los Angeles police officers drew worldwide attention in 1991 and eventually contributed to a major riot that took dozens of lives.

The issue of police misbehavior is not limited to the problem of violating citizens' rights. Police can also break the law and disobey departmental policies through corruption, favoritism, discrimination, and the failure to carry out their duties. Periodically, police corruption and abuse of power become major issues on the public agenda (Skolnick and Fyfe, 1993). Although police scandals have occurred throughout U.S. history, only in the past 40 years has the public been keenly aware of the problems of police misconduct, especially the illegal use of violence by law enforcement officers and the criminal activities associated with police corruption. Although most officers do not engage in misconduct, these problems deserve study because they raise questions about how much the public can control and trust the police. We now turn our attention to the problems of police misbehavior and to approaches for addressing these issues.

## Use of Force

Although most people cooperate with the police, officers must at times use force to make arrests, control disturbances, and deal with the drunken or mentally ill (R. A. Thompson, 2001). As noted by Jerome Skolnick and James Fyfe (1993:37),

> As long as some members of society do not comply with the law and [some] resist the police, force will remain an inevitable part of policing. Cops, especially, understand that. Indeed, anybody who fails to understand the centrality of force in police work has no business in a police uniform.

Thus, police may use *legitimate* force to do their job. It is when they use *excessive* force that they violate the law. But what is excessive force? Both officers and experts debate this question.

In cities where racial tensions are high, conflicts between police and residents often result when officers are accused of acting unprofessionally (Kane, 2002). Citizens use the term *police brutality* to describe a wide range of practices, from the use of profane or abusive language to physical force and violence. As shown in "What Americans Think," the percentage of Americans who believe that police brutality exists where they live has increased over the past four decades.

Stories of police brutality are not new. However, unlike the untrained officers of the early 1900s, today's officers are supposed to be professionals who know the rules and understand the need for proper conduct. Thus, reports of unjustified police shootings and beatings are particularly disturbing (Ogletree et al., 1995). Moreover, the public cannot know how often police engage in abusive behavior, even when it comes to light, because most violence remains hidden from public view (Weitzer, 2002). In 2008, a news helicopter filmed a dozen Philadelphia police officers beating and kicking a criminal suspect who had just been pulled from a car (Hurdle, 2008). If not for the videotape, how would the public know that the incident had happened? If criminal suspects claim to be beaten, will the public believe them? How can we prevent such incidents, especially when they occur without witnesses?

The concept "use of force" takes many forms in practice. We can arrange the various types of force on a continuum ranging from most severe (civilians shot and killed) to least severe ("come-alongs," or being grasped by an officer) (Terrill, 2005). Table 6.3 lists many of these forms of force according to their frequency of use. How often must force be used? Most research has shown that in police contacts with suspects, force is used infrequently and the type of force used is usually at the low end of the continuum—toward the less severe. Research in Phoenix found that the single largest predictor of police use of force was use of force by the suspect, to which the police then responded (Garner et al., 1995). For example, resistance by a suspect can contribute to the officers' decision to use force (Garner, Maxwell, and Heraux, 2002). Research in six urban jurisdictions in which 7,512 arrests were examined showed that in 97.9 percent of contacts, the police used no weapon such as a baton, flashlight, handgun, chemical agent, or canine (Garner and Maxwell, 1999:31). Again, it is *excessive* use of force, in violation of departmental policies and state laws, that constitutes abuse of police power.

A report by the National Institute of Justice summarized general conclusions from research about use of force (K. Adams, 1999):

1. Police use force infrequently.

2. Police use of force typically occurs in the lower end of the force spectrum, involving grabbing, pushing, or shoving.

3. Use of force typically occurs when police are trying to make an arrest and the suspect is resisting.

Police grab a protester off his bike after he taunted them at a protest against free trade policies during a meeting of international leaders in Miami, Florida. Does this appear to be an appropriate use of force? Do police officers sometimes use force out of anger rather than out of necessity?
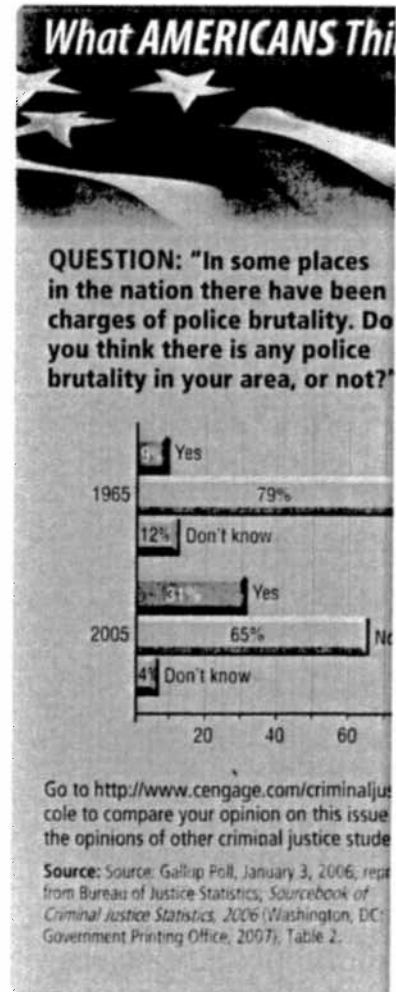


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**What AMERICANS Thi**

QUESTION: "In some places in the nation there have been charges of police brutality. Do you think there is any police brutality in your area, or not?"

| | Yes | |
| --- | --- | --- |
| 1965 | 79% | |
| | 12% Don't know | |
| 2005 | Yes | |
| | 65% | No |
| | 4% Don't know | |

| 20 | 40 | 60 |

Go to http://www.cengage.com/criminalju cole to compare your opinion on this issue the opinions of other criminal justice stude

**Source:** Source: Gallup Poll, January 3, 2006; rep from Bureau of Justice Statistics; *Sourcebook of Criminal Justice Statistics, 2006* (Washington, DC Government Printing Office, 2007), Table 2.

| TABLE 6.3 | Reported Uses of Force by Big-City Police |
|-----------|-------------------------------------------|

Police have the legal right to use force to make an arrest, keep the peace, and maintain order. Of the many types of force available to police, the less severe types are used most often.

| Type of Force | Rate per Thousand Sworn Officers |
|---------------|----------------------------------|
| Handcuff/leg restraint | 490.4 |
| Bodily force (arm, foot, or leg) | 272.2 |
| Come-alongs | 226.8 |
| Unholstering weapon | 129.9 |
| Swarm | 126.7 |
| Twist locks/wrist locks | 80.9 |
| Firm grip | 57.7 |
| Chemical agents (mace or Cap-Stun) | 36.2 |
| Batons | 36.0 |
| Flashlights | 21.7 |
| Dog attacks or bites | 6.5 |
| Electrical devices (Taser) | 5.4 |
| Civilians shot at but not hit | 3.0 |
| Other impact devices | 2.4 |
| Neck restraints/unconsciousness-rendering holds | 1.4 |
| Vehicle rammings | 1.0 |
| Civilians shot and killed | 0.9 |
| Civilians shot and wounded but not killed | 0.2 |

Source: Drawn from Bureau of Justice Statistics, *National Data Collection on Police Use of Force* (Washington, DC: U.S. Government Printing Office, 1996) 43.

Although more studies are needed, other research indicates that use of force is not linked to an officer's personal characteristics such as age, gender, and ethnicity. However, a small percentage of officers may be disproportionately involved in use-of-force situations. In addition, use of force occurs more frequently when police are dealing with people affected by drugs, alcohol, or mental illness. At this point, there is a great need for additional research to tell us how frequently wrongful use of force by police occurs and whether specific departmental policies concerning hiring, training, and supervision affect officers' decisions to use force (K. Adams, 1999).

By law, the police have the authority to use force if necessary to make an arrest, keep the peace, or maintain public order. But the questions of just how much force is necessary and under what conditions force may be used are complex and open to debate. In particular, the use of deadly force in apprehending suspects has become a deeply emotional issue with a direct connection to race relations. Research has shown that the most frequent use of deadly force by the police occurs in communities with high levels of economic inequality and large minority populations (Holmes, 2000; Sorensen, Marquart, and Brock, 1993).

When police kill a suspect or bystander while trying to make an arrest, their actions may produce public outrage and hostility. Fears about the possibility of similar public disorders arose in 2005 when a police officer fired ten shots that killed a 13-year-old boy who was driving a stolen car. The officer fired in the aftermath of a chase when the boy skidded across a sidewalk and then struck a police car while backing up (Chavez, 2005). The incident led Los Angeles police officials to revise their policies about firing at moving vehicles.

There are no accurate data on the number of people shot by the police. Researchers estimate that, in the United States, the police shoot about 3,600 people each year, with fatal results for as many as 1,000 of these people (Cullen et al., 1996:449). In Baltimore, the number of police shootings varied in recent years from a low of 11 in 2004 to a high of 31 in 2007 (Fenton, 2009). In the 189 police shootings in the Houston area from 1999 through 2004, the police used firearms against 65 unarmed people (Khanna and Olsen, 2004). An analysis of New York City's detailed records on police shootings

in 2008 showed drops in the use of firearms that coincided with the drop in crime rate over the preceding decade. Police opened fire at people only 60 times in 2006, compared with 147 times in 1996 (Baker, 2008). One troubling question that lingers is whether the New York City police are more inclined to use firearms against members of minority groups. Nearly 90 percent of those shot by the New York City police in the late 1990s were African American or Hispanic, but the police department has refused to release more-recent data in this regard. The police department also stopped providing information about injuries to innocent bystanders from police shootings (Baker, 2008). The selective release of information raises questions about whether the public is being kept in the dark about the nature and extent of police use of force. Data from other U.S. cities has also raised questions about use of force against minorities.

Until the 1980s, the police had broad authority to use deadly force in pursuing suspected felons. Police in about half the states were guided by the common-law principle that allowed the use of whatever force was necessary to arrest a fleeing felon. In 1985, the Supreme Court set a new standard in *Tennessee v. Garner*, ruling that the police may not use deadly force in apprehending fleeing felons "unless it is necessary to prevent the escape and 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." As in other cases concerned with use of excessive force, if officers violate standards established by the Supreme Court's decisions, they can be sued for violating individuals' Fourth Amendment right against "unreasonable seizures."

*Tennessee v. Garner* (1985) Deadly force may not be used against an unarmed and fleeing suspect unless necessary to prevent the escape and unless the officer has probable cause to believe that the suspect poses a significant threat of death or serious injury to the officers or others.

The standard set by *Tennessee v. Garner* presents problems, because it can be hard to judge how dangerous a suspect may be. Because officers must make quick decisions in stressful situations, the Supreme Court and other courts cannot create clear rules that will guide police in every context that arises. However, to clarify the rules for police, the Supreme Court justices also established the standard of "objective reasonableness," saying that the officer's use of deadly force should be judged in terms of its reasonableness for the specific situation that confronts the officer and requires the officer to make a quick decision about appropriate actions to take (*Graham v. Connor*, 1989). This means that the use of the deadly force should be judged from the point of view of the officer on the scene. The Court's decision recognized that "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" (Georgiady, 2008).

The risk of lawsuits by victims of improper police shootings looms over police departments and creates a further incentive for administrators to set and enforce standards for the use of force. However, as long as officers carry weapons, some improper shootings will occur. Training, internal review of incidents, and the disciplining or firing of quick-trigger officers may help reduce the use of unnecessary force (Blumberg, 1989:442; Fyfe, 1993:128).

Lawsuits also arise from other uses of force by police officers. Police officers have caused deaths and injuries by using choke holds and striking people in the head with flashlights or batons. Injuries can also result from seemingly routine procedures such as placing a suspect in handcuffs, but making the handcuffs too tight. Additional lawsuits can arise when people are injured by police vehicles, although courts reject some claims if judges conclude that a fleeing suspect's behavior caused the police to take actions—such as bumping the rear fender of the suspect's car—that led to the suspect's injuries (McCall, McCall, and Smith, 2008a; *Scott v. Harris*, 2007).

As a result of lawsuits by people injured at the hands of the police, departments have sought new means of applying force in ways that will not produce injuries. Some of the new methods center on specific holds and pressure points that officers can use to incapacitate people temporarily without causing permanent harm; officers can learn these techniques through training. In addition, police departments seek new weapons that use less-than-lethal force. In Chapter 14, when we discuss the impact of technology on police, we shall examine new weapons that use electric shocks, projectiles, and chemical sprays. Advocates claim that the use of these weapons has saved the lives of citizens and officers by permitting officers to restore order without resorting to the use of guns. However, critics have raised concerns about deaths and injuries produced by

less-than-lethal weapons. They have also pointed to the risk that officers will resort too quickly to such weapons when situations could be solved through patience and persuasion (Adang and Mensink, 2004).

## ■ Corruption

Police corruption has a long history in America. Early in the twentieth century, city officials organized liquor and gambling businesses for their personal gain. In many cities, ties between politicians and police officials assured that favored clients would be protected and competitors harassed. Much of the Progressive movement to reform the police aimed at combating such corrupt arrangements.

Although such political ties have diminished in most cities, corruption still exists. In 2008, for example, a New Haven, Connecticut, police detective was sentenced to 3 years in prison for taking bribes and stealing money seized in drug cases (Orson, 2008). Other New Haven detectives pleaded guilty to related charges stemming from an undercover investigation by the FBI (WFSB, 2007). In April 2005, two police officers in Chicago stood among the 14 reputed organized-crime figures indicted in a major investigation of unsolved mob murders. Both officers were accused of improperly providing information to mob leaders (Lighty, 2005).

Sometimes corruption is defined so broadly that it ranges from accepting a free cup of coffee to robbing businesses or beating suspects. Obviously, corruption is not easily defined, and people disagree about what it includes. As a useful starting point, we can focus on the distinction between corrupt officers who are "grass eaters" and those who are "meat eaters."

"Grass eaters" are officers who accept payoffs that the routines of police work bring their way. "Meat eaters" are officers who actively use their power for personal gain. Although meat eaters are few, their actions make headlines when discovered. By contrast, because grass eaters are numerous, they make corruption seem acceptable and promote a code of secrecy that brands any officer who exposes corruption as a traitor. Grass eaters are the heart of the problem and are often harder to detect than meat eaters.

In the past, researchers have cited low salaries, politics, and poor hiring practices as factors contributing to corruption. However, these arguments fall short of explaining today's corruption. Although some claim that a few "rotten apples" should not taint an entire police force, corruption in some departments has been so rampant that the rotten-apple theory does not fully explain the situation. Some explanations focus on the structure and organization of police work. Much police work involves the enforcement of laws in situations where there is no complainant or it is unclear whether a law has been broken. Moreover, most police work is carried out at the officer's own discretion, without direct supervision. Thus, police officers may have many opportunities to gain benefits by using their discretion to protect people who engage in illegal conduct.

Officers are often placed in situations where they can be tempted to enrich themselves by stealing money, property or drugs, or by accepting favors, gifts, and bribes. If you were a police chief, how would you reduce the risks of police corruption?

Examples of meat eaters in Cleveland, Ohio, came to light in January 1998 as a result of an FBI sting operation. Forty-one officers were charged with protecting cocaine trafficking. The Cleveland case was one of a series of police-corruption investigations that struck cities across the country around that time. From 1994 to 1997, 508 officers in 47 cities were convicted in federal corruption cases (*New York Times*, January 1, 1998, p. A16).

If police administrators judge success merely by the maintenance of order on the streets and a steady flow of arrests and traffic citations, they may not have any idea what their officers actually do while on patrol. Officers therefore may learn that they

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