Police Brutality and Excessive Use of Force

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Abstract

 Police brutality and excessive use of force have slowly become an epidemic sweeping across the United States with a rising number of cases emerging each year. There are hundreds of law enforcement agencies that have fallen victim to public scrutiny for police brutality and their efforts to eliminate the problem. Many factors seem to affect each case individually and often include socioeconomic class, race, education level and lack of penalties against officers involved in abusive situations (Feagin and Lersch, 1996). According to Kposowaw and McElvain (2008), “a reasonable level of force must be allowed to ensure an orderly society,” but, what happens when this “reasonable force” becomes brutal and excessive (Kposowa and McElvain, 2008)? We will review some of the root causes of police brutality and excessive force in an attempt to develop a course of action to reduce the number of cases that develop each year.

**Police Brutality and Excessive Use of Force**

 Police Brutality, as defined by Danilina of Black’s Law Dictionary, is the excessive and/or unnecessary use of force when dealing with civilians (Danilina, 2014). There is a misconception associated with police brutality that it is only a physical form of abuse, but few realize that it comes through as a verbal or mental form of abuse as well. Danalina describes this “excessive force” to be anything verbally or physically beyond what is absolutely necessary to subdue the situation to include everything ranging from false arrests, verbal abuse and [psychological](http://thelawdictionary.org/psychological/) [intimidation](http://thelawdictionary.org/intimidation/) all the way to assault and the improper or excessive use of Tasers (Danalina, 2014). Police brutality and excessive force are two forms of behavior that are extremely frowned upon and not tolerated by any law enforcement organization.

With increasing police-civilian interaction it can only be expected that the number of reported allegations of misconduct are to be expected. From January 2010 to December 2010, the National Police Misconduct Statistics and Reporting Project (NPMSRP) reported 4,861 cases of police misconduct, which included over 6,600 officers and 6,800 alleged victims. According to the NPMSRP, of the 4800 cases, 1,575 or 23.8%, of those were related to excessive force (Packman, 2011). While researches are realizing the seriousness of this data, they are feverishly working to determine reasons for this behavior. Some of the contributing factors thus far include race, socioeconomic class, education level and lack of penalties for officers found guilty.

Even with all of the statistical data available, many of these cases remain unreported and therefore go uninvestigated by law enforcement agencies. In this day and age where there are an increasing number of cases, and we expect police brutality to not exist, we still read about the government’s lack of investigative interest. For example, According to Huffington Post (2014), 99 percent of all police brutality cases go uninvestigated in central New Jersey (99 Percent, 2014). Too often, law enforcement agencies believe that “Self-Policing” is the best policy when dealing withw brutality. This “self-Policing” by either superiors or internal investigations units can occasionally prove to be effective, but too often can lead to scandal, corruption and continued unethical behavior by officers because of attempts to conceal the unethical behavior.

**Race and Police Brutality**

Power-Conflict Theory, by Feagin and Learsch (1996), describes a racial hierarchy within the United States socioeconomic classes and how it tends to affect law enforcement agencies. Feagin describes how throughout history, White Americans have positioned themselves substantially higher in the socioeconomic “hierarchy,” which has resulted in greater power and privilege than lower ethnic groups. Feagin also found that white citizens often rarely fall victim to police brutality and if they did it was by white officers only, whereas minority officers rarely assaulted up the hierarchy. Latino officers, who were below white officers but above black officers, were found to target their own group or down the hierarchy to the black citizens (Feagin and Learsch, 1996). This hierarchy is not a system that was intentionally put in place to govern our society, but is an outdated subconscious way to determine class passed down through generations. The table below demonstrates blacks being at the bottom of the hierarchy; in almost all cases black officers were only involved in excessive force and brutality cases with their own race and shows no confrontations with any group higher.

**Table I. Racial Classification of Officers and Victims**

|  |  |  |  |
| --- | --- | --- | --- |
|  | **Race** | **Number** | **Percent** |
| **Victims** | BlackLatinoWhite | 113135 | 86.310.03.7 |
| **Officers** | BlackLatinoWhite | 53104 | 4.52.792.8 |

*Note.* Adapted from “Violent Police-Citizen Encounters: An Analysis of Major Newspaper Accounts,” by J.R. Feagin & K. M. Learsch, 1996, *Critical Sociology, 22,* pg. 29-49. Copyright 2003 EBSCO Publishing.

It is also important to keep in mind that there are always other situational-based circumstances that factor into these confrontations and parallel to the racial hierarchy. For example, of the 113 cases listed above the largest attributing factor that led up to circumstances involving brutality, nearly 29 percent of all cases were due to lack of respect or compliance (Feagin and Learsch, 1996). It is very apparent that the hierarchy has developed a racial division and can often to lead to disrespect and mistrust both up and down the chain. In the same study by Feagin and Learsch (1996), the second and best demonstration of this mistrust is the characteristic of “the perceived threat.” This mistrust leads to quickly escalating situations from predispositions of mistrust based on race. Jackson (1989) argues that, “an increase in minority residential populations may pose a perceived “threat” to dominant group interests, possibly resulting in the over-deployment of police, a[s] well as in increased coercive strategies among police (Jackson, 1989). In reference to situational-based circumstances and racial hierarchy, Jackson (1989) best describes the policing as “a tangible manifestation of authority, [that] taps the pool of resentment in those without resources [causing] subordinate groups [to] view the police as a repressive tool of the dominant group… unleashing hostility and violence” (Jackson, 1989).

**Education and Police Brutality**

 Aamodt stated, “Better-educated officers perform better in the academy (especially shorter academies), receive higher supervisor evaluations of job performance, have fewer discipline problems and accidents, are assaulted less often, use force less often, and miss fewer days then their less educated counterparts” (as cited in Kaposawa and McElvain, 2008). It has been found that officers with higher education, to include a 4-year degree or higher have an easier time communicating their intentions with civilians to obtain their required result. Officers with higher education have a lower percentage of use of force, relate better and have a better overall attitude. It was found in a study conducted by Kaposawa and McElvain (2008), that out of a sample done in a study of the Riverside County Sherriff’s Department of 648 participants, 216 were college graduates whereas 432 were only high school graduates. The results proved the hypothesis to be correct, out of the 216 college graduates only 12 percent shot their weapon as compared to the 36.4 percent for the high school gradtuates (Kaposawa and McElvain 2008). These numbers demonstrate a direct correlation between education and use of deadly force. It is obvious that the same would apply to excessive force and brutality. This is also very apparent today as we see more agencies requiring more than just a high school education. Most state and federal agencies now require a minimum of a 2-year degree and offer incentives for officers with a 4-year or Graduate degree.

**Policies Against Brutality**

 The Fourth Amendment protects citizens from unnecessary or unreasonable search and seizure, limiting excessive force because it was determined that excessive force is all encompassing and is not only a physical disposition. This leads to the 14th Amendment, which guarantees, “No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty or property without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws." The 14th Amendment was put into place to prevent use of force before being tried before a judge. In 1985, the court Supreme Court Case of *Tennessee v. Garner* restricted deadly force to when a “citizen poses a serious threat of serious physical harm either to the officer or others” (Kaposawa and McElvain, 2008). Loosely defined, this definition restricted the use of deadly force on when there was an impending threat to the health and well-being of the officer or citizens. Lastly, there is the Civil Action for Deprivation of Rights (42 U.S. Code § 1983), which was created for the “deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress, except that in any action brought against a judicial officer for an act or omission taken in such officer’s judicial capacity, injunctive relief shall not be granted unless a declaratory decree was violated or declaratory relief was unavailable”(Civil Action, 1983).

With all of these policies in place to protect citizens, it causes many perplexities when we consider this is still occurring today. The issue that arises here is the fact so many states, just as Central New Jersey as listed previously, assumes most of these accusations are of a false or frivolous nature. Though there are occasionally false cases and accusations, it leads law enforcement agencies to ignore claims, which leads to the potential of legitimate claims “slipping through the cracks.”

**Conclusion**

What can be taken away from this research is police brutality and excessive use of force is not a new problem and can never be completely eradicated. The best plan of action is to reduce or eliminate some of factors that would lead up to the potential of police brutality. There isn’t much that can be done to change individual opinions regarding socioeconomic hierarchy and race in the U.S. except for educating officers on how to better understand it. If there is more emphasis placed on the understanding of other races and socioeconomic classes, it will provide a better understanding as how to better deal with them instead of utilizing an unethical means. Higher education also seems to be a key component when considering research proves that a college degree seems to make a better overall officer. Lastly, bringing in an outside entity, such as civilian review boards, to do investigations may be the key component in significantly reducing this behavior. These outside groups will not have a special interest with the agency under investigation and will provide more accurate results and actually enforce the policies in place to protect citizens.

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