

Security Policy Analysis-Use of Force

Introduction

A 17th century philosophy by Locke defines a government as the creation of the people based on the social contract that allows it to take care of chaos in society through the maintenance of order, law and peace. Therefore, all the citizens of a government agree to confer the mandate of maintaining peace, law and order to the government. This mandate is in turn conferred on law enforcing agencies that constitute of police officers.

Through the powers granted, the law enforcement officers are granted powers to apply force when deemed necessary to arrest, detain or control an individual, and at times in deterring any individual from committing an offense. The use of force is many at times resisted or countered with either less force or extreme force. Therefore, law enforcement officers in the line of duty place themselves in a potentially dangerous position of encountering violence from people that may wish to resist any forms of law enforcing activities such as arrest and detention. The profession is thus dangerous and it exposes the officers to the risks of encountering physical resistance and violence that may lead to bodily harm or at worse death-as a matter of fact some policemen have been reported to have met their demise in the line of duty.

Problem statement

Though legalized, the use of force should be exercised with proper discretion which will ensure that it does not fall out of the legal confines provided. In recent past there have been excessive concerns about the application of excessive by police officers all over the United States of America. A case in point may be the shooting of a teenager named Oscar grant at "Bay Area Rapid Transit" which led to great public out cry-because the video footages captured indicated that the youth was unarmed and pinned down, therefore; over powered and under

control. Similar, occurrences have greatly been popularized by the media, which has greatly contributed to the great number of legal suits against police officers that have been filed in the recent past. The issue has acquired a controversial twist mainly because of media popularization, and the fact that there is no clear cut definition on how law enforcement officers should decide on what amount of force to apply, what method to use as well as whether it is necessary to apply force in the first place (Golles et al, 2000).

The few popularized cases have gotten the media “hype” effect, and led to a public outcry, greater sensitization of the citizenry and a subsequent increase in reported cases and filed suits against law enforcement officers. The public’s perception has been formed; and they believe that the law enforcement agencies are failing because a lot of cases on excessive use of force or “police brutality” are being reported. Seemingly, this is the biggest problem on the issue of the use excessive force. However, there another notable upcoming problem on the side of the law enforcers-perhaps not offered a lot of media attention-the fact that there are a number of police officers that lose their lives in the line of duty due to violence from suspects resisting arrest or fleeing from one (Fitzgerald, 2006). Other similar problems include the increase in injuries that the police officers sustain as well as the lowered confidence that results from inability to properly exercise discretion when determining whether or not to apply force and to what scale according to the situation at hand. So far these are the challenging problems identified in the policy related to excess use of force.

The use of force is inevitable in law enforcement because the police officers are obliged to provide security and this is an integral part of that provision. Whenever, there is a failure in its application; then the Justice system is mandated with the responsibility of checking the law enforcers’ compliance. Through this paper, an evaluation will be carried out on the effect the related policy has had on both the citizens and the law enforcement officers. An analysis shall be done on the legality of use of force, how, when and where problems arise, the potential alternatives or choices available for the problem, the choices that can be potentially adopted from the alternatives and the decisions that have been reached as well as those that may be reached in the future.

Use of force defined

Use of force that is injuries to another person is illegal in the U.S. However, Exceptions to this law exist and they may legalize the use of force or recommend less stiff penalties to the charged due to the consideration of the circumstances surrounding the application of the injurious force-such as an act of self defense. Force mainly involves the use of invasive modes of control that are physical in nature to detain or arrest a person. The extremity of excess occur when the individual is subjected to force that causes injury-this may occur if the involved person's resistance warrants the increase and in such instances the force is legal (Haley & Bohm, 2005). The legality in this case depends on the principle of "reasonableness". The Supreme Court states that the discretion on reasonableness should involve an assessment that is reasonable on the side of the officer-basing its arguments on the level of threat at the moment, nature of offense, the possibility of the suspect to evade arrest.

There is a two fold analysis to the problem-whether the problem was necessary in the first place and whether too much or enough force was applied. Any excesses are likely to lead to legal suits and/or disciplinary actions. Circumstances under which the use of excess force is allowed include in preventing the continuation of an on going crime, in defense of other people or oneself, in restricting self inflicting of injury or in retaining people trying to escape from detention or arrest. The degree of force may also vary depending on the type of tool used to enforce the action in question (e.g. the use of a gun can be termed as higher force that using a baton). The police have always found themselves in a conflicting situation whenever, they find that the application of excessive force is not justifiable. Thus while exercising leniency in such cases they have always found themselves in high risk.

Evaluation police choices meant to alleviate the problem

□□□□□□□□□□The fact that police officers have to enforce laws makes it mandatory for them to use force, and thus; there have been concerns on how to best use force without attracting criticism of excesses. It is common for police to encounter resistance, no matter the situation. Thus it becomes necessary for the police to use means that may include force to control and retain the suspect. In the past law enforcers had great limitations, with nothing to use beyond their hands and other defense skills or instrument that could be used to strike the suspect such as blackjacks and night sticks or at worse a firearm. Clubbing a suspect is indeed a use of high force, and even higher is shooting; but these may at times be justified depending on how aggressive they are in their resistance. However, the occurrence of illegality is more than legality (Dudley, 1991). Therefore, it becomes the police officer's burden to justify the use of excessive force. However, his considerations have to be well balanced-the provision peace and

order with the respect if individual freedom and right. Thus it has become necessary to engage police officers in training that can allow them to better understand and analyze situations before they can reach any decision.

The Supreme court has thus has advised that all policy makers should actively make reviews of activities of government employees and make upgraded training to ensure that their work is compliant with the laws. The police force has now shifted to the use of less lethal technique and force through the use of tools such as impact weapons, aerosol sprays-just mention but a few. The law enforcing agencies have also changed the firearms used by officers, for example; advances in ammunition have led to the development of the powerful calibers for use. Other less lethal considerations include the use aerosols that could temporarily incapacitate vision to allow for detention and arrest. Expandable batons have also been deployed-these have replaced the earlier used night sticks. Flash light earlier used were also re-designed to act as impact weapons, thus serving dual purposes. Restraint methods were also slightly changed through for example the use of handcuffs that were chain linked. All of these changes were in need of special training provision and a re-design of guidelines for procedures so as to mitigate the risks associated with technological changes. The actual lack of comprehensive training on the use of these new methodologies has even been cited as the cause of the increase in complaints due to ineffective use of these tools during restraint and arrest (Dudley, 1991).

This contradicting trend arose not due to the fact that introduced means were less effective but rather because the forces lacked proper training on the application of these new tools. However, this came to the notice of insurers that were incurring high payments for the victims and they therefore initiated training programs meant to improve the usage of new acquisition. The success and improvement observed after the training actually showed that the training sessions should be an integral part of the whole transformational process. These risk mitigation measures have initially worked by lowering the earlier reported rise in cases of excessive force application, however; at the moment there are some departments that have not comprehensively enacted the training programs (Fitzgerald, 2006).

Researchers have at times stated that many of the cases involving police brutality do not originate from the improper use of tools, tactics or lack of knowledge on the legal stipulations, but rather from the demand to be accorded a certain level of respect. At the moment the force is more concerned with making its officers understand how to hierarchically make shifts when dealing with a case of resistance. Police officers are trained on only invasive techniques and how to choose the highest in the hierarchy during a certain circumstance in order to handle a situation effectively. This is all being done at the neglect and expense of using “soft power”. Instead of emphasizing powerful means it is good for the law enforcement officers to be trained on how to use less invasive methods.

Integration of the newly conceived tactics and methods

There is actually no superior method that can be touted as being great among all these presented, but one solution clearly stands out as the most important solution. The provision of training to police can provide them with better discretionary power that can enable them to know when to act and how to act when they have to apply forceful arrest and restraints (Dammert & Bailey, 2006). Based on the principle of reasonableness they should be able to know when to apply a certain amount of force as well as know the method to use. This will be important in helping them to justify their actions after they ensure that they have been able to balance the suspect’s freedoms and rights against the obligation to offer services in providing order and peace. This training can also act as a confidence builder. If the officer is aware of what s/he is doing and has no doubt, s/he is likely to make a quick response and be able to confidently work without fear or doubts about the consequences. The training should also incorporate procedural restructuring whenever new tools and methods of carrying out their work are introduced. This will help in reducing the incidences of wrong use of new tools and tactics; which instead of eliminating the challenges present more problems instead.

Future considerations in the ongoing challenges

There has been no clear and comprehensive review and analysis of policies introduced as well as tools, new procedures and training programs that come with them. Therefore, it has not been easy for the law enforcement agencies to comprehensively understand the progresses made or the failures realized due to policy changes. A clear and good mode of data collection that can be exercised in the future may help the law enforcement agencies in re-evaluating their

new methods and procedures in order to make the reviews necessary. Data collected on techniques or weapons can be analyzed for success or failures against considerations such as the number of injuries on the police or suspects. This may also be used for departmental studies and design of new training programs as well as aiding management. Data collection in the law enforcement agencies is not up to date or comprehensive, probably due to fear that it may be used against the agencies. This perceived threat of negative portrayal is probably the hindrance to research backed practice in the law enforcing agencies (Dammert & Bailey, 2006). Officers may actually misrepresent data to avoid its usage against them. Therefore, it is prudent to let officers learn that doing wrong reports undermines data collection and fails to help them better their performance and reduce cases of brutality. This last aspect is very important because it will allow policy re-evaluation and re-formulation for the better.

References

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