

What Uvalde and George Floyd tell us about policing and force

BY MICHAEL MCAULIFFE

Guest Columnist

In the confusion and anger emerging from yet another school massacre, the mystery hangs suspended over all else — how and why trained law enforcement personnel from multiple agencies waited to use lethal force against a mass murderer while beyond a door he finished assassinating 19 fourth graders and two teachers. The victims' parents, the Uvalde community and the nation demand to know why more wasn't done to intervene.

That “something more” would have been for law enforcement officers to use lethal force much earlier. The massacre's outcome may or may not have changed, but the desperate calls from terrified children during the attack suggest a possible answer.

A police officer's decision whether to use force plays the central role in almost all debates about law enforcement in America. Surprisingly, this is true whether protesting the use of force on an unarmed man outside a convenience store or questioning why deadly force wasn't used sooner against an active shooter. The two instances appear completely disconnected (and they are in terms of intent, as the officers in Uvalde certainly meant no harm to the victims), but they are bound together.

They share the common element of officers deciding whether, when and how to use force against another person. The Uvalde massacre and George Floyd's murder may occupy the opposite ends of a spectrum, but they are measured with the same ruler. That insight helps explain the current challenging state of police reform.

Nearly every recent death caused by police — either by action or inaction — results in cries for reform or of regret, all wrapped in outrage. The complexity of police reform is reflected in our persistent doubts about both types of decisions. In the Uvalde massacre, the victims were helpless and they faced immediate, deadly danger, so the timely use of force was compelling. With George Floyd's death, at some point, it was self-evident no cause existed to use any force. In most other instances, officers must evaluate whether to use deadly force with much less obvious criteria. Is the person moving forward in a threatening manner? What is the shiny object in his hand? Is that suspect running away or toward that other person?

The legal rules that govern an officer's decision regarding the use of force are essentially the same whether it's responding to an armed attack at a school, making an arrest for passing a counterfeit bill or conducting a traffic stop. Their actions ultimately are measured against the same abstract legal standards. Of course, a legal standard isn't the same as a best practice principle or a determination about what is most effective (that is, active shooter engagement).

Last week, the Department of Justice issued revised guidelines about the use of force to federal law enforcement officers and agents. Despite the headlines, the federal standards didn't change much. The relevant language was revised to encourage less-than-lethal force methods. However, in the end, the legal inquiry remains: Did the officers reasonably perceive an imminent threat of serious bodily injury or death to themselves or someone else?

Whether the leaders of state and local law enforcement agencies adopt the Department of Justice’s new tone regarding the use of force is uncertain. Notably, numerous large state and local law enforcement organizations already use policies and use-of-force guidelines similar to the Department of Justice document. The most sophisticated agencies have concluded that if an officer’s objective can be met using de-escalation techniques instead of plowing through the use-of-force continuum, then de-escalation should be the expectation. Admittedly, that simple sentence takes on extra weight when an officer faces a real-world confrontation. But enough data exists supporting a fundamental shift when it comes to the use of force by officers.

We rightly demand officers be accountable for their actions. The current reform movement must result in meaningful changes in police methods. One difficulty is the tension in our expectations. It is both about not hesitating to use force and also not using force. It’s about doing too much and not doing enough.

Recent tragedies provide clear examples of how certain officers couldn’t or wouldn’t or didn’t use force appropriately. People died as a result. That conclusion is the heavy burden, and the uncomfortable truth, of modern policing.

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In April 2021, a man holds a sign at George Floyd Square in Minneapolis, a day after former Minneapolis police Officer Derek Chauvin was convicted on all counts for the 2020 death of Floyd.
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