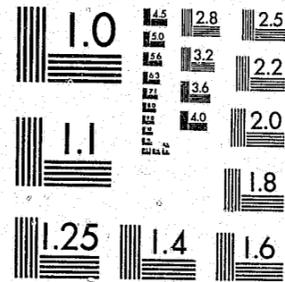


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FBI LAW ENFORCEMENT BULLETIN

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THE COVER: No elephant crossing! A Salt Lake City officer does his duty, citing the transgressing trunks as Orville Wilson, a crime laboratory photographer, captures the moment.

Federal Bureau of Investigation
United States Department of Justice
Washington, D.C. 20535

William H. Webster, Director

The Attorney General has determined that the publication of this periodical is necessary in the transaction of the public business required by law of the Department of Justice. Use of funds for printing this periodical has been approved by the Director of the Office of Management and Budget through December 28, 1983.



USPS 383-310

ISSN 0014-5688

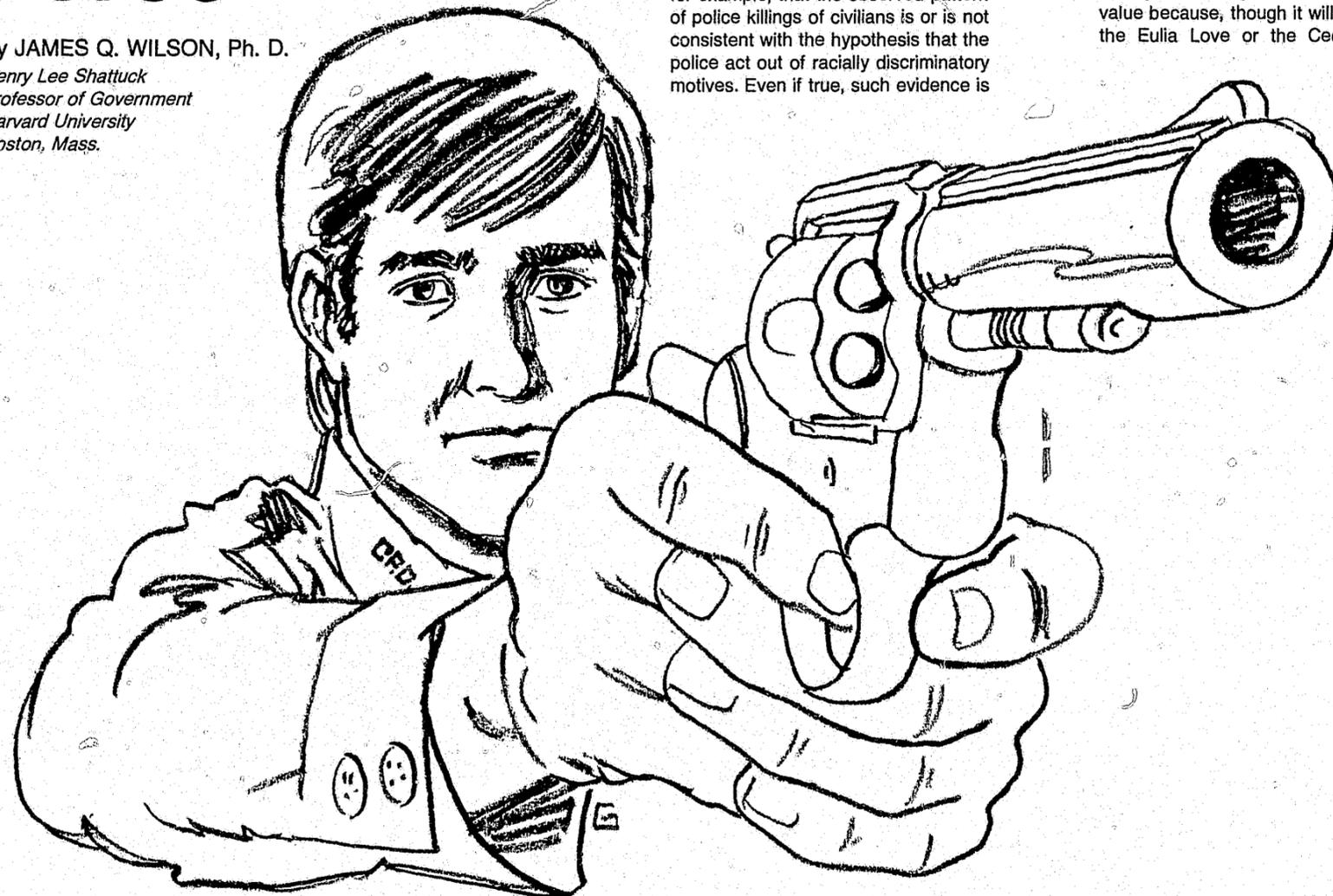
Published by the Public Affairs Office,
Roger S. Young
Inspector in Charge

Editor—Thomas J. Deakin
Assistant Editor—Kathryn E. Sulewski
Art Director—Carl A. Gnam, Jr.
Writer/Editor—Karen McCarron
Production Manager—Jeffery L. Summers

Police Use of Deadly Force

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No aspect of policing elicits more passionate concern or more divided opinions than the use of deadly force. Many community groups and minority organizations believe police killings of civilians are excessive and often unjustifiable; many police agencies are apprehensive and angry about unprovoked fatal assaults on patrol officers.

The opinions of those persons most deeply concerned are not likely to be changed by a scholarly discussion of the available evidence. This is not simply the result of the emotions

involved, though that may be part of the reason. More important, scholarly observations and popular concerns emphasize very different aspects of the situation, and thus, each side is likely to feel that the other has nothing to contribute. A scholar is interested in general patterns, broad trends, and statistical evidence; a citizen or a police officer is, understandably, more interested in particular cases, immediate circumstances, and unique or unusual events. Statistical and historical evidence might be assembled to show, for example, that the observed pattern of police killings of civilians is or is not consistent with the hypothesis that the police act out of racially discriminatory motives. Even if true, such evidence is

not likely to satisfy anybody attempting to explain what happened, and why, when two officers (one black, one white) shot a 39-year-old black woman who was carrying a kitchen knife or when a black police officer working alone is killed by a white man. Citizens and police officers are preoccupied with incidents and argue about whether the behavior of the persons participating in those incidents can be justified, and if not, what should be done about it.

Nonetheless, a review of what we know in general about police use of deadly force may have some limited value because, though it will not settle the Eulia Love or the Cecil Sledge

cases, it may permit us to test our general preconceptions—preconceptions that often shape the way we interpret particular incidents. Moreover, the evidence may permit us to make more reasonable guesses as to whether policies, or changes in policies, are likely to make a difference in how the police behave.

Number of Police Killings

Traditionally, we have looked to the National Center for Health Statistics (NCHS), a Federal agency that tabulates death certificates sent in by State authorities, for a count of the number of civilians killed by the police. In 1974, that number was 375. We now know, thanks to the research of Lawrence W. Sherman and Robert H. Langworthy, that these figures substantially undercount the true number of police killings. For a variety of reasons, death certificates are likely to be unreliable with respect to the circumstances surrounding a homicide (for example, the cause of death, such as a gunshot wound, may be indicated, but the origin of the gunshot may not). Sherman and Langworthy have estimated, using police department records of a number of jurisdictions, that the actual number of civilians killed by the police nationally may be as much as 50 percent higher than that shown in NCHS figures. This would mean that between 3 and 4 percent of all homicides are police-caused. Moreover, cities differ in the extent to which national figures accurately portray the number of police killings; thus, national figures should not be used to compare one city to another. For example, police and coroner reports on police killings are in rather close agreement in Boston and Cleveland, but very different in Houston and Memphis.¹ On the other hand, there is no reason, so far

as we now know, to question national figures on police officers killed by civilians. During most of the 1970's, these have numbered between 100 and 130 per year.

Owing to these data problems, it would be a mistake to try to calculate national trends in police killings of civilians or in the ratio of civilians killed by the police to police officers killed by civilians. Anyone interested in knowing whether the police are more or less likely to kill a civilian is best advised to confine his research to one or a few cities, using a variety of data from local sources.

Characteristics of Civilians Killed by the Police

If we limit our attention to data gathered in individual cities by independent researchers, we can draw some tentative conclusions about the characteristics of persons killed by the police and the circumstances surrounding police use of deadly force. The best known study is probably that done by Catherine H. Milton and her colleagues at the Police Foundation.² Police department records were examined in seven cities—Birmingham, Detroit, Indianapolis, Kansas City, Oakland, Portland (Oreg.), and Washington, D.C.—during the period 1973–1974. There were 320 instances of city police shootings that produced a civilian injury or fatality during the 2-year period. By reading departmental accounts of these incidents, the researchers concluded:



Dr. Wilson

- Between one-quarter and one-third of the shootings resulted in a fatality;
- The typical civilian victim was a young (under 30) black male;
- In about half the cases, the shooting victim was armed;
- About one-sixth of the shootings involved off-duty officers;
- The most common circumstance surrounding a shooting (accounting for nearly half the cases) was a crime in progress; the next most common (accounting for about a third of the cases) was a disturbance call; and
- During the period, 19 police officers were killed by civilians, and 111 civilians were killed by the police—a ratio of about 1 to 6.

The fact that blacks (and other minorities) are so frequently the victims of police shootings has, understandably, given rise to the most intense passions in the controversy over police use of deadly force. Some critics of the police charge that this finding proves that the police are engaged in a genocidal war against minorities; some defenders of the police reply that this finding merely reflects the greater likelihood of blacks committing crimes, especially violent ones, and threatening police officers. No single study can hope to settle the factual question, much less to calm the passions. Worse, these very passions lead many individuals and groups to produce inadequate or even self-serving studies that can be used to buttress one side or another of the argument.

In my opinion, the best investigation we now have of the significance of race in police shootings is that done by Dr. James J. Fyfe of the School of Justice, American University, Washington, D.C., and formerly of the New York City Police Department. Using data on nearly 3,000 police shooting incidents in New York City during the period 1971-1975, he attempted to assess the relationship between race and shooting in two ways. First, he examined the correlation between police shootings and levels of violent crime within the 20 police commands in New York City. He found that there was a very high correlation (+.78) between

the total homicide rate of an area and the rate of police shootings, and that this correlation was even higher (+.89) when the data were restricted to shootings by on-duty officers.³ This finding is consistent with the correlation found by Kania and Mackey between police violence and community characteristics more generally.⁴

Such findings are open, of course, to the obvious objection that the police may still be acting out of racially discriminatory motives, even in areas characterized by high rates of violent crime. Perhaps white officers assigned to high-crime black areas feel inclined to "shoot first and ask questions later," using the high prevailing rates of violent crime more as a pretext than as a reasonable justification for resorting to deadly force.

To deal with this possibility, Fyfe opened a second line of inquiry. Most studies of police shootings examine the racial identity of the victim but not of the officer. Fyfe was able to do both in New York City. Even though the race of the officer was not indicated in about one-third of the reports of police shootings, Fyfe was able to obtain this information by personal inquiries. He found that black officers were almost twice as likely to engage in shootings (208 per 1,000 officers) than were white officers (114 per 1,000 officers). Hispanic officers were about as likely to be involved in shooting incidents as white ones (118 per 1,000 officers).⁵

When Fyfe combined the race of the officer with the race of the victim, the difference persisted. Black officers were about twice as likely to kill a black civilian than were white officers; hispanic officers were more than twice as likely to kill a hispanic civilian than were white officers.

One should not conclude from this, however, that black and hispanic officers are trigger-happy. Much depends on the area of the city to which the officer is assigned. Fyfe tabulated police shootings by duty assignment, paying special attention to officers assigned to precincts having the highest hazard ratings. These are called "A" precincts and are generally regarded as the least desirable duty assignments. Blacks are much more likely to draw such duty assignments than whites, partly as a result of their relative lack of seniority (many blacks have only recently entered the force) and partly because of departmental efforts to place black officers in black precincts (which are disproportionately of the "A" variety). The rate at which white, black, and hispanic officers shoot at civilians within "A" precincts is virtually identical (roughly, 200 per 1,000 officers).⁶

In New York City, the evidence does not support the view that the disproportionately large number of black victims of police shootings is the result of a systematic pattern of white hostility to blacks. If the genocide theory is to be accepted, one has to believe that black officers are part of the conspiracy, an assumption that seems rather unlikely. Of course, the situation may be different in other cities.

The Effects of Policy

Even if white and black officers given comparable duty assignments are about equally likely to shoot at civilians, we still must ask whether the absolute level of police shootings is excessively high. One way to answer this question is to ask what proportion of police shootings are deemed unjustified. The report by Milton and her colleagues reviewed several hundred shooting incidents in seven cities and found that "the substantial majority appeared to be clearly justified under the applicable state laws and department policies."⁷

This finding, however, asks the question of whether the State laws and departmental policies provide a reasonable standard. Moreover, as Milton and her coauthors point out, many shootings found justified by departmental reviews under existing policies had questionable aspects. For example, the officer may have thought he was acting in self-defense, but used force out of proportion to any threat he faced, or a fleeing suspect was shot without the officer having probable cause to believe that the suspect had

... there is good reason to believe that shooting policies make a difference . . .

committed a felony and could not have otherwise been apprehended.⁸

Though the justifiability of a given shooting is the key issue from the point of view of both the police and civilians, it is not likely that social scientists will be able to shed much light on the issue given the available data. The evidence with which to make such judgments is ordinarily gathered by departmental review boards and not by independent inquiries, and the standards by which to judge the evidence, however gathered, are matters much in dispute.

However, systematic analysis of the data should permit us to say something about whether differences in departmental policies make a difference in the frequency of police shootings. If cities otherwise similar in their social composition and crime rates differ markedly in the incidence of police shootings, or if the rate of such shootings in a single city changes dramatically in a short period of time, then we can conclude that at some times and in some places, the wrong shooting policy is in effect. If city A experiences a dramatic decrease in shootings over the course of a 2-year period as the result of a change in policy, then either there were too many shootings in the earlier time period or there are too few in the

later one—the level of police shooting cannot be "just right" at both times. If cities A and B, otherwise similar in composition, have very different rates of police shootings, then either one city has too many or the other has too few. In short, large and policy-linked differences in shooting rates constitute prima facie evidence that some policies are wrong. Of course, establishing this finding presupposes our ability to control all other nonpolicy differences between cities or in one city over a period of time. Strictly speaking, this is probably impossible, but we can approximate it sufficiently so that the burden of justifying the consequences of one policy or another must fall on those who defend the policy.

The study by Milton, et al., finds large differences in shooting rates among the seven cities as of 1973-1974, whether calculated as shootings per 100,000 population or per 1,000 officers.⁹ These two rates are shown together in table 1.

Washington, D.C., and Oakland had crime rates that were much larger—in the case of Washington, D.C., twice as large—as the crime rates in Birmingham, but had a police shooting rate that was much lower (whether based on the population or on the number of officers). Even though, in general, shooting rates tend to be higher in cities with many blacks, Detroit and Oakland, whose racial composition in 1970 was roughly the same, had very different shooting rates, and Washington, D.C., with the highest proportion of blacks of any city in the table, had a lower rate of shooting per 1,000 officers than any but one city.

In a study of 50 independent police departments in Los Angeles County during 1970-1971, Gerald F. Uelman found that there was a strong correlation between the rate of firearms discharges and the restrictiveness of a department's firearms policies—the departments with the least restrictive policies had twice the rate of firearms discharges as those with the most restrictive ones. There was little relationship, on the other hand, between the restrictiveness of the policy and the arrest rates or social composition of the communities.¹⁰

These comparisons among cities are only suggestive, of course, for the communities may differ in unobserved ways that would justify disparate levels of shooting. For example, cities may differ significantly in the frequency with which an officer confronts an armed and dangerous suspect. It is almost impossible to detect these differences with the statistics now at our disposal. We can, of course, observe the rate at which persons are arrested for violent offenses and calculate the number of police shootings per 1,000 such arrests. When this is done, however, great differences among cities in shooting rates persist. For example, one study found that in San Francisco there were 1.5 police shootings per 1,000 violent crime arrests during 1978, whereas in Houston there were 21.5 shootings per 1,000 violent arrests. But other factors we have no easy way of measuring may explain some of the difference. Citizens in Houston may (indeed, almost certainly do) carry weapons more frequently than citizens in San Francisco. Even more important, felons in Houston may be more willing than those in San Francisco to shoot it out with the police. The "frontier tradition" is stronger in the South than the North, and this may help account for both higher levels of citizens shooting at police, as well as police shooting at citizens. Whether these factors explain all of the differences among cities is purely a matter of conjecture; in my opinion, they probably do not.

More conclusive are studies that examine changes in shooting rates over time within a single city. Milton, et al., note that police shooting rates declined substantially in Detroit (by 25 percent) and Kansas City (by 38 percent) in the period 1973 to 1974, even though the rates of violent crime were increasing.¹¹ In Washington, D.C., the police shot an average of 37 persons per year between 1970 and 1976, but only an average of 20 persons per year from 1976 to the present.¹²

thus the development and implementation . . . of a reasonable policy ought to be a matter of the highest importance for a police administrator."

The most detailed study of changes in shooting rates within a single city is that of James J. Fyfe. In August 1972, the New York City Police Department issued new shooting guidelines and established new shooting review procedures that were more restrictive than those previously in effect.* Fyfe compared the rate of shootings occurring during the 19 months before the new policy was instituted with the rate during the ensuing 3½ years. Before the new policy went into effect, an average of 18 officers per week discharged their firearms; after the policy went into effect, the weekly average fell to less than 13, a decline of nearly 30 percent.¹³ This decline persists after one subtracts from the totals accidental discharges, warning shots, suicide attempts, and the de-

* For discussion of the New York City Police Department's shooting guidelines, see James J. Fyfe, Ph.D., "Deadly Force," FBI Law Enforcement Bulletin, December 1979, p. 7

struction of animals. Further, the decline cannot be explained by a drop in the crime rate. The greatest decline was in shootings involving fleeing felons. There was no corresponding increase in the number of officers shot or stabbed in the line of duty; indeed, there is some evidence that the average number of officers injured per week declined somewhat.¹⁴

Again, the data only show, at best, that policy makes a difference; it does not and cannot establish which policy is the right one. However, if one can find evidence that a restrictive policy reduces the number of police shootings without producing an increase in the rate of injuries to police, then those who may wish to defend a less restrictive policy must be prepared to show what benefits follow from it.

The Policy Issues

At the time of the Police Foundation survey, there was great variation in the clarity, content, and effectiveness of police department standards governing the use of firearms. Since then, more departments have moved toward developing explicit rules and making them part of their training and command systems. It is hard to say that a consensus is emerging as these rules take shape, but certain guidelines seem widely shared. Most departments prohibit or strongly discourage firing warning shots; many departments discourage and some prohibit firing at moving vehicles, unless the occupants of the vehicle are themselves shooting. All departments recognize the right of an officer to use deadly force in self-defense or in defense of others. Many differ, however, in what standards are to be used in deciding that one is in jeopardy. Is the opponent armed? Have defensive means other than shooting failed? Is the threat to life imminent? Does the officer have reasonable cause to believe that death or serious injury will occur?

People disagree even more over the use of deadly force to apprehend a fleeing suspect. The FBI does not allow the use of deadly force under such circumstances. On the other hand, its Agents typically make arrests pursuant to a warrant and not on the basis of having probable cause to believe that a suspect has just committed a felony. Moreover, FBI Agents rarely are involved in disturbance calls or crime-in-progress incidents, and for these reasons, a policy that works well for the Bureau may not be appropriate for urban police forces. If shooting at a fleeing suspect is to be allowed, many questions arise. What constitutes "flight"? What distinctions (if any) should be made between adults and juveniles or between violent and non-violent crimes? The seven cities studied in the Police Foundation report differed more with respect to the fleeing felon rule than in almost any other aspect of firearms policy. Since at least 34 percent of all civilians killed by the police were killed in circumstances where a suspect may have been involved in or was fleeing from a burglary or robbery, the clarity of policies on this score seems especially important.

It is not my intention to recommend any particular shooting policy, only to suggest that there is good reason to believe that shooting policies make a difference and thus the development and implementation (by training, review, and discipline) of a reasonable policy ought to be a matter of the highest importance for a police administrator. Nor should the administrator suppose that the community will be willing to leave such policies entirely in the hands of professional police officers. It is unrealistic to imagine that on matters of life and death, elected officials and community organizations will defer entirely to police expertise.

Table 1

City	Number of Shootings	Rate Per 100,000 Population	Rate Per 1,000 Officers	Index Crime Rate
Birmingham	25	8.5	25.0	6628
Detroit	77	5.6	21.8	7817
Indianapolis	28	5.5	7.2	3977
Washington, D.C.	40	5.5	6.0	14,662
Oakland	10	2.9	9.6	11,502
Kansas City	10	2.1	12.2	6376
Portland	6	1.6	4.2	9523

Whatever policy is developed, it will be of little value unless it is codified in a single, easily understood document, made the basis of training programs (including roleplaying and simulation exercises), and linked to an internal review process insuring that careful departmental attention will be given to the circumstances surrounding each discharge of a firearm by an officer. It is possible that there are violence-prone officers just as there are violence-prone civilians, though the evidence is inconclusive on this matter. (One study in Dallas covering shootings over a 3-year period found no clear evidence that some officers are repeatedly involved in these incidents, but this survey was inadequate in a number of respects.¹⁵) Should it be the case that there are a few officers who frequently shoot under dubious or unjustified circumstances, reassignment to other duties may be in order. The last, and perhaps most sensitive step, is to take such reasonable measures as may enhance community confidence in the implementation and enforcement of a firearms policy. Prompt investigation of incidents, complete and impartial gathering of evidence, full disclosure of the findings of the inquiry, and opportunity for the participation of affected parties may help prevent the growth of suspicion and anger. **FBI**

Footnotes

- ¹ Lawrence W. Sherman and Robert H. Langworthy, "Measuring Homicide by Police Officers," *Journal of Criminal Law and Criminology*, vol. 70, 1979, pp. 554, 559.
- ² Catherine H. Milton, Jeanne Wahl Halleck, James Lardner, and Gary L. Abrecht, *Police Use of Deadly Force* (Washington, D.C.: Police Foundation, 1977).
- ³ James J. Fyfe, "Geographic Correlates of Police Shooting: A Microanalysis," *Journal of Research in Crime and Delinquency*, vol. 17, 1980, pp. 101-113.
- ⁴ R. R. Kenia and W. C. Mackey, "Police Violence as a Function of Community Characteristics," *Criminology*, vol. 15, 1977, pp. 27-48.
- ⁵ James J. Fyfe, "Officer Race and Police Shooting," paper prepared for the annual meeting of the American Society of Criminology (November 1979).
- ⁶ *Ibid.*, Tables 6, 8.
- ⁷ Milton, et al., p. 73.
- ⁸ *Ibid.*, pp. 73-78.
- ⁹ Adapted from Milton, et al., pp. 29-30. The Index Crime Rate was calculated from Federal Bureau of Investigation, *Uniform Crime Reports*, 1974.
- ¹⁰ Gerald F. Uelman, "Varieties of Police Policy: A Study of Police Policy Regarding the Use of Deadly Force in Los Angeles County," *Loyola of Los Angeles Law Review*, vol. 6, 1973, pp. 1-61.
- ¹¹ Milton, et al., p. 31.
- ¹² Michael Kiernan, "Shooting Policemen in District Declines," *Washington Star*, September 2, 1979, p. B1.
- ¹³ James J. Fyfe, "Administrative Interventions on Police Shooting Discretion: An Empirical Examination," *Journal of Criminal Justice*, vol. 7, 1979, p. 316.
- ¹⁴ *Ibid.*, p. 319.
- ¹⁵ Southern Methodist University Law School, "Report on Police Shootings," unpublished report to Dallas Police Department (1974), cited in Milton, et al., p. 95.

END