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POLICE SHOOTINGS, RACE, AND THE FEAR DEFENSE

By **Benjamin Wallace-Wells**, JULY 12, 2016

A makeshift memorial for Michael Brown marks the spot in Ferguson, Missouri, where he was fatally shot by a police officer in August, 2014.

Within the ongoing story about race and killings by police there has been, from the beginning, a second story, about fear. For the shooters themselves, fear has been essential to their legal defense; it has also been, in a more basic way, their explanation. The situation was pressured; they could not control the person in front of them; violence seemed imminent and they were scared. When police interviewed neighborhood-watchman George Zimmerman the day after he killed Trayvon Martin, the officers seemed to expect that fear would be Zimmerman's explanation even before he offered it himself. "Did you confront the guy you shot?" they asked Zimmerman in a formal interview. "No," Zimmerman said. "Were you in fear for your life?" "Yes."

The shooters' protestations of fear have in some cases seemed cynical and absurd, because of the imbalance in power between the cops (armed, able to summon support, the arm of the law) and their victims, and because the suggestions that their victims were scary and impossible to control have tended to draw on the basest racial fears, and

to be expressed in the crudest language. “When I grabbed him, the only way I can describe it is I felt like a five-year-old holding onto Hulk Hogan,” the Ferguson police officer Darren Wilson said, of the man he killed, Michael Brown. Brown was six feet four and two hundred and ninety pounds, and Wilson is six feet four and two hundred and ten pounds. “Hulk Hogan. That’s how big he felt and how small I felt just grasping his arm.”

Sometimes the shooters have seemed less specifically scared of the suspect than generally alarmed by their environment. “When you fear for you and your partner’s safety, you would take your weapon out,” Peter Liang, the rookie cop who killed Akai Gurley when he fired blindly into a dark stairwell in an East New York housing project, told the jury. “When approaching these areas, I feel I need to take my gun out.” In the horrific shooting of Alton Sterling, in Baton Rouge last week, an officer named Blane Salamoni shouted out to his partner, “Lake, he’s got a gun!,” and then Sterling was shot, six times, and killed. We don’t yet know what the Baton Rouge officers’ defense will be, but, given the precedents, we can imagine it: this was a hair-trigger, stressful situation. A decision had to be made. The cortisol kicked in.

These arguments have usually worked, at least as instruments of acquittal. One thing that stands out about recent police killings is how few of the shooters are in jail; juries and grand juries have generally accepted their explanations and allowed them to go free. The moral logic of Blue Lives Matter is that we send the police into places where we are too scared to go—who are we, safe in our distance, to second-guess their judgment that a situation has grown too frightening to control? The argument has some power because the dangers, for cops, are real. The possibility of violence is overwhelming. In Baltimore last fall, I watched a veteran cop (African-American, a professor’s son) conduct a training session in which he described his state of mind when he was dropped, as a rookie, into a violent section of West Baltimore. He said he was terrified, because he was sure that surrounding him, undetectable to him, were people capable of killing someone, and because he knew he had a gun and that he was capable of killing someone, too.

But the fear defense can also feel like a euphemism, or a coverup—especially when it is used to defend a shooting, and when it becomes entangled in race. How much latitude

are we expected to grant someone because he says that he was scared? Like most voluntary descriptions of emotional states, the fear defense is useful because it is opaque. It is built to resist scrutiny.

Yesterday the Harvard economist Roland Fryer published an examination of racial bias in police shootings that was immediately understood to be both important and controversial. Fryer has a reputation for iconoclasm and for genius: not yet forty, he is the recipient of a MacArthur Fellowship, a winner of the John Bates Clark Medal, and the youngest African-American economist to be tenured at Harvard. Fryer said his interest in police shootings was motivated by outrage, but his inquiry was more specific: he wanted to see how racism contributed to police use of force, as it escalated. Because the databases for police encounters with citizens are less helpful than you might expect, Fryer relied on some twelve hundred reports from ten mostly urban jurisdictions that had some of the better records. He and his research assistants coded the reports to classify the situations in which officers found themselves—alone or accompanied, at night or during the day. In doing so, without being explicit about it and perhaps without realizing it, they were also breaking down the elements of fear.

What Fryer found, he told the *Times* yesterday, was “the most surprising result of my career.” He could detect racial bias in nearly every type of encounter that police had with citizens. They were more likely to stop African-Americans than white citizens. In those stops, officers were more likely to draw their guns when the suspect was black, and once the weapon was drawn, they were more likely to point it at someone who was African-American. Blacks were more likely to get handcuffed, thrown against a wall, and pushed down. The racial discrepancy, controlling for circumstance, was present in nearly every situation.

The exception was the most severe form of police force—shootings. There, Fryer’s team could find no racial bias at all. The limits of the shooting data meant that they leaned heavily on reports from just one police department, Houston’s. But in those situations, when an officer decided to pull the trigger (once suspects had been stopped, weapons drawn, guns pointed—each of those events containing its own racial bias), Fryer found that the racial effect disappeared. As the *Times* put it, “in various models controlling for different factors and using different definitions of tense situations, Mr. Fryer found that

blacks were either less likely to be shot or there was no difference between blacks and whites.”

The controversy is easy to spot. From a certain angle, Fryer seemed to be letting police officers off the hook. The Barnard economist Rajiv Sethi wrote a critique emphasizing the degree of Fryer’s reliance on the data from Houston, and suggesting bold conclusions like this might not hold up to further scrutiny. (The study, currently a working paper, has not yet been peer-reviewed). More skeptical journalistic accounts appeared, too. Plenty of other studies have found that racial bias runs through police encounters with civilians, writers argued. Why should we think something changes in the encounters where stress levels are the highest? Fryer’s study, the data journalist Mona Chalabi concluded, in the *Guardian*, was “not indicative of a wider picture.”

But Fryer’s account, in making distinctions between the different situations in which officers find themselves, offers something other than the wider picture: insight into the elements of fear, and their interaction with racial bias. Consider the emotional conditions. When an officer stops a citizen, he is entirely in control of the situation. When he handcuffs a suspect, or hurls him into a wall, he is perhaps only a little less so. When he draws his gun and points it at the ground, he recognizes that a danger is present but not acute; he is focussed on alleviating the possibility of violence. When he raises his weapon and points it, he believes that the possibility of violence is acute but not imminent. As the situation escalates, his own fear and stress are rising, his own sense of control slipping away. When he decides to shoot, he has lost control of the situation. His fear and stress are at their maximum. It is at this point when we expect him to act the most, because the pressure on his own control is so intense, because he is acting without thinking. And yet, if Fryer is right, this is precisely the moment when racial bias disappears, and where the officer perceives a white suspect to be as much a threat as a black one. The implication is that racial bias in these situations works differently than we had thought.

The fear defense, when it is offered by shooters, uses emotion and irrationality as a shield, to deflect attention from the bias beneath. But if Fryer’s results are to be believed, then it is hard to argue that racial bias emerges in the most extreme circumstances into which we send the police. Police bias no longer looks like a problem of instinctive

reaction, but of voluntary action. The emphasis shifts, away from the moment when shots are fired, and toward all the decisions that led to that point. If Fryer is right, then the whole phenomenon of police racial bias loses its shield of emotion and instinctual heat, and looks like a much colder operation. Maybe the racialized portrait Darren Wilson sketched of Michael Brown in his grand-jury testimony—a “demon,” he called Brown—was what he felt in the moment. But maybe it was something that he conjured after the fact, the way Brown occurred to him from a distance, and used as an excuse.

Benjamin Wallace-Wells began contributing to The New Yorker in 2007, and joined the magazine as a staff writer in 2015. He writes mainly about American politics and society.

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