
The Militarization of American Police

BY STEVEN GREENHUT

In the summer of 2006 a frail, troubled 18-year-old girl named Ashley MacDonald ran through a nearly empty Huntington Beach, California, city park in the early morning holding a small knife. An onlooker called the police and soon two large male officers showed up. They shot the girl to death with 18 bullets, claiming she had lunged toward them and put their lives in danger. It was just another day for law enforcement in suburban Orange County, where—despite low crime rates—police have become increasingly aggressive and militaristic.

The MacDonald killing sparked an unusual amount of public outrage. This shooting, in particular, was hard to grasp. An empty park and a tiny teenager hardly make for a life-threatening situation for the officers. Couldn't they just have backed away and used non-lethal alternatives such as pepper spray? The police admitted that they were readying a beanbag gun in the parking lot when the officers claimed that "time ran out."

Angry that anyone would question their "split-second decisions," the law enforcement "community" said it was wrong to jump to conclusions before the details of the investigation were complete. The sheriff defended the police publicly before any investigation even started, so he apparently was jumping to conclusions, but never mind. The consensus: calm down and wait for the department to see what happened.

I called the Huntington Beach Police Department (HBPD) and asked for the completed reports for two other high-profile officer-involved deadly shoot-

ings from 2001 and 2004. In the one case a troubled man reportedly with a toy gun was shot 29 times and bullets riddled several houses behind him. In another case, officers followed a suspect, lost track of him, and then started following a different man, 18-year-old Antonio Saldivar. Police shot him to death after they claimed he pulled a toy gun on them. The officer who shot Saldivar, by the way, has a disturbing disciplinary history, including allegations of excessive force.

Plenty of time had passed, so the reports should have been completed in those two cases. Well, the

HBPD said I could have neither report because both are exempt from the California Public Records Act. What a great Catch-22: the public has no right to comment on police shootings until the investigation is complete, but once it is complete the public has no right to see the report.

In the teenaged girl's case district-attorney (DA) investigators ultimately prepared a report arguing

that the officers had "no choice" but to shoot. The DA's office did not conduct any of its own interviews with witnesses. Investigators simply took the reports produced by the sheriff's department, which detailed a "perfect storm" scenario: the police were backed up against a fence with nowhere to go; the girl lunged toward them; officers gently implored her to back away but reluctantly shot her as she intruded on their 21-foot safety barrier.

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Huntington Beach community members gather to protest the tragic killing of 18-year-old Ashley MacDonald

Daniel A. Anderson, *The Orange County Register*

Although a local newsweekly easily found witnesses who stridently disputed that account, the DA was content with what it found. No Orange County district attorney has ever filed charges against police officers for an on-duty shooting, which is typical of most DAs. And district attorneys, by the way, only look at whether officers committed a crime—whether they fired the shots with criminal intent. But no one thinks there was criminal intent. DAs do not look at police procedures, and the newspapers were quick to find police training officials who declared that the officers “did what they are trained to do.”

That’s what is so worrisome.

As the MacDonald case reveals, despite many official oversight channels and processes, there is no serious oversight of police behavior. Law enforcement writes the rules of engagement, investigates its own officers, and has a well-oiled public-relations machine that kicks

in whenever something disturbing takes place. District attorneys and grand juries are part of the law-enforcement establishment, and politicians usually defend the “heroic” officers. No information gets out until the family files a civil lawsuit against the department. No one ever discusses police policy, which is an internal matter.

Typical Shooting

Yet the MacDonald shooting is sadly typical. Here’s an *Orange County Register* report about a 2004 incident: “Robert Velarde said his son Jason stood beside the bed and appeared to freeze out of fear when four police officers, their guns drawn, entered the room the night of May 10. ‘They told him to drop the scissors. I told him to drop the scissors. He didn’t look like he could let them go, so I wrestled to take them away,’ said Velarde, a quadriplegic with partial use of his arms.

. . . ‘Then one officer yelled ‘knife’ and they all fired,’ Velarde, 62, said. His son, Jason Velarde, 22, was killed.’

In September 2007, a 15-year-old autistic teen went missing. The mother called the sheriff’s department, which, she said, did nothing to help find him. Ten hours later, someone reported that a man was wandering around a busy street. It was the missing teen. Deputies responded by tasing the teen and then handcuffing him. The teen’s father said his son was tasered when he already was on the ground and that the deputies treated him roughly as he tried to comply with their orders. The sheriff’s department alternately claimed that the deputies had no choice but to taser the boy because they feared he might have a weapon and that they tasered him to protect him from himself.

In one case I recall several years ago, Anaheim police went to arrest an elderly doctor for a nonviolent crime. They drove one of those mini-tanks into his wealthy suburban neighborhood, black-clad SWAT-team members hanging onto the sides clutching high-powered rifles. (SWAT stands for Special Weapons and Tactics.)

Police often tell me, “Our only concern is getting home safely at the end of the day.” Such statements reveal two common traits in modern police forces. The first is an outsized sense of danger. In reality, police work isn’t in the top ten dangerous professions, according to the federal Bureau of Labor Statistics. Indeed, no government job is in the top ten. The second attitude is the self-centered nature of police work. Concern for the public takes a backseat to concern for “officer safety.”

Police officials always depict their officers as reluctant warriors who rarely, if ever, use or even brandish their weapons. But this is a fiction from the past. Officers tell me the old-school guys are mostly gone and that the new breed of cop has a military mentality and often a military background. The SWAT-team members are the ones who do the training and get promoted to top positions in the departments.

There’s plenty of anecdotal evidence that police are far from reluctant to pull their weapons or feel much

remorse when they do. After Riverside police gunned down a sleeping girl named Tyisha Miller in a car in 1998 (she had a gun in her lap, was unconscious, and after police smashed her window, she moved and they immediately opened fire), the officers involved in the shooting stood around, joked, and animatedly reenacted the shooting, according to *Los Angeles Times* reports. One of the officers commented, “This is going to ruin their Kwanzaa,” after upset family members showed up at the scene. One local man arrived at the scene of another officer-involved shooting and reported that the police were high-fiving each other.

In another recent local case, a Costa Mesa police officer admitted pulling a gun on a teenager after the officer noticed that the boy and his friends were riding their bikes without helmets. He chased the boy into the boy’s backyard and drew his gun. After the boy’s dog came to defend him, the officer shot the dog 15 times. The city paid the family a large sum of money, but the police department insists the officer’s behavior was correct police policy. That’s perhaps the scariest part of this whole disreputable incident.

Former San Jose Police Chief Joseph McNamara, now a scholar at the Hoover Institution, cap-

tured the essence of the problem in a November 29, 2006, column he wrote for the *Wall Street Journal*. McNamara focused on an incident a few days earlier in New York, when several plainclothes police officers fired 50 shots at a car, wounding two men and killing a third, Sean Bell, who was to be married later that day.

How did this and other cases like it happen?

“Simply put,” wrote McNamara, “the police culture in our country has changed. An emphasis on ‘officer safety’ and paramilitary training pervades today’s policing, in contrast to the older culture, which held that cops didn’t shoot until they were about to be shot or stabbed. Police in large cities formerly carried revolvers holding six .38-caliber rounds. Nowadays, police carry semi-automatic pistols with 16 high-caliber rounds, shotguns and military assault rifles, weapons once relegated to SWAT teams facing extraordinary



NYPD tank

circumstances. Concern about such firepower in densely populated areas hitting innocent citizens has given way to an attitude that police are fighting a war against drugs and crime and must be heavily armed.”

According to McNamara, “Reasonable people accept that a cop’s job is difficult and dangerous, and most people understand that sometimes an officer will have to shoot someone. But the police are not and should never be allowed to think of themselves as soldiers or to believe they face the same level of danger.”

That’s exactly right. Even worse, there is virtually no public oversight or accountability, not only for police who follow these new policies and kill or hurt citizens, but for police who act outside proper authority and abuse their power. In Orange County, deputies spend about seven years patrolling the jail before being sent out onto the streets of our cities. Some critics wonder whether the experience dealing with prisoners leads at least some officers to treat members of the public with a high level of disdain. While police militarization is a problem on city streets, it is even worse for anyone under police custody.

Beaten by Inmates

In March of 2006, John Derek Chamberlain, who was stopped by an officer for public urination then arrested after he was found to possess child pornography, was savagely beaten to death for 20 minutes by fellow inmates. The *Register* reported that “[w]hile inmates beat John Derek Chamberlain to death, the senior deputy at the minimum-security barracks sat in the guard station, watching television. . . . The deputies’ failure to prevent the torture and killing of a man thought by jail inmates to be a child molester is at the center of an ongoing criminal inquiry.”

An inmate claims the deputy, who was several feet from the beating, actually instigated it after falsely outing Chamberlain as a child molester. Before any investigation was done, the county sheriff declared that his

deputies did nothing wrong. Although other agencies typically investigate these killings, the sheriff’s department took charge of the investigation itself and even “cleaned up” the scene before the county supervisors’ staff arrived. The department refused to give the inmate a lie-detector test to corroborate his accusations. According to many solid sources, a group of deputies that calls itself “The Psycho Crew” routinely inflicts rough justice on inmates, picking particularly on minorities and drunks. The department denies this, but county taxpayers end up paying civil settlements to abused victims.

The Chamberlain case led to enough of a public outcry that the county board of supervisors voted to take the first steps toward creating an independent oversight panel. The sheriff, DA, and deputies’ union have tried to derail the proposal. It has been approved but the current plan, although useful, would create only a few advisory responsibilities. And, under current state law, almost all information regarding the disciplinary records of deputies and police are off-limits to civilian oversight panels, the public, and the media. As the American Civil Liberties Union explained, “On August 29, 2006, the California Supreme Court in *Copley Press v. Superior Court* held that records of an administrative appeal of sustained misconduct charges are confidential

and may not be disclosed to the public. The decision prevents the public from learning the extent to which police officers have been disciplined as a result of misconduct.”

Police supporters claim the public already has plenty of oversight. But observers always find the same pattern: The internal investigations are not public, and the deputies stay on the force with no obvious punishment. The DA exonerates the deputies. The grand jury only gets involved in the most highly publicized cases, and such juries are controlled by the DA and represent a narrow, conservative demographic. (Around here, it’s

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mostly retired government workers who can afford to spend half their day working at the court for virtually no pay.) When a member of the public files a complaint with a police or sheriff's department, it typically takes months to hear anything back. Then the only legal requirement is for the agency to say whether the complaint was "sustained" or "not sustained." Such complaints are rarely sustained.

Code of Silence

Even when police engage in obvious misbehavior, fellow officers stand by the miscreants. There's a well-known "code of silence." Many people have watched the videotape of the savage beating of a barmaid by an off-duty Chicago police officer. The department had to be shamed into filing serious charges, and fellow officers showed up in force in solidarity when their compatriot had his court date. Juries in suburban communities are notoriously conservative, so when a case gets to trial, it's difficult to convict an ill-behaving cop. In February former Irvine Police Officer David Alex Park went to court for pulling over a woman motorist, threatening to arrest her, but letting her off after she performed a sex act. Park argued that he pulled the victim over for her own safety and that the sex was consensual—as if sex could ever be consensual when an armed police officer has pulled a woman over and threatens to take her to jail.

The jury, however, bought the argument, and Park went free. He did lose his job, however, and the woman received a civil settlement from the city. Indeed, the only real oversight and justice in police-abuse cases comes from trial attorneys who sue police departments. It's better than nothing, and such actions often dislodge police documents, but it's a sad day when the only serious oversight of the most powerful government agents most people will encounter comes in the tort system. In many cases when police are caught abusing their power, their union defends them and keeps them on the force.

No wonder police officers behave as if they can do

as they please. The *Los Angeles Times* reported last October 4 that Los Angeles County deputies play a game on the job called "Operation Any Booking," in which the winner is the deputy who makes the most arrests or most car seizures in a 24-hour period. "It's just a friendly competition to have a little fun out here," said the department spokesman. Never mind that such "games" encourage officers to make unnecessary arrests and seizures.

Officers at times behave like they are part of an occupying army, and there are many stories of excessive force that don't rise to the level of investigations and lawsuits, but are indicative of what's going on out there. One of the *Register's* independent contractors who services newspaper racks in the wee hours of the morning tells about the time recently when he was emptying money

from a rack while wearing his newspaper apron and he saw an officer looking at him. Rather than approach and ask him what he was doing, several police cars surrounded him and officers came at him with weapons drawn; he was shoved to the ground, his arms painfully wrenched behind his back, and he was even taunted by an officer. He was let go after a short time, but is this really the way we want our communities policed?

Police officers in California in particular are well paid, so this is not a case of insufficient funds to hire quality candidates, as some people argue. In Orange County the average deputy earns a total salary and benefit package of \$111,000 a year. They are eligible to retire at age 50 with 90 percent of their final pay after 30 years of service, guaranteed forever, courtesy of taxpayers. Police agencies in California complain about a hiring shortage. The reason for the shortage is simple: a) rapid increases in retirement benefits have encouraged a large portion of local forces to retire; and b) unions are always lobbying cities to provide more police positions, and politicians often comply for political reasons. Who can say no? Police and deputies, after all, have been afforded near-hero status following the 9/11 attacks. And the media often provide photo ops for their anti-terrorism training exercises, so the public knows about

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the importance of their work. In a recent political battle police organizations made direct references to 9/11 as a reason to oppose any rollback of benefits. Politicians who go against the blue tide pay a heavy political price.

There's no apparent limit to the political gains that can be made by pandering to the "law and order" crowd. Last June the Assembly Public Safety Committee considered a bill that would have overturned the Copley decision and restored some public oversight to police misbehavior. The room was filled with police officers speaking out against it. The cops told emotional stories about police officers being killed in the line of duty—even though news reports later revealed that none of the examples had anything to do with the release of public records. The committee could not muster a single Democratic or Republican vote for the bill. In the state legislature Democrats mostly oppose such reforms because of their ties to the unions, and Republicans mostly oppose such bills because of their commitment to "law and order." It's the perfect scenario for law enforcement, and a troubling one for the public.

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Yet something needs to be done. While I was writing this article, the Santa Ana police gunned down an apparently unarmed man in a stolen car, and then shut down the freeway for five hours. The department would say nothing, according to the *Los Angeles Times*: the police spokesman "referred questions to the district attorney's office, which investigates officer-related shootings. A spokeswoman declined to discuss the probe, citing district attorney policy." And so it goes.

Police use deadly force at their discretion. Police agencies then investigate themselves. They release only the information they choose to release. Few politicians are willing to discuss police procedures, and the courts and legislatures uphold the "right" of police agencies to hide information about misbehaving officers. In California, police have a special officer's "bill of rights." America may not be a police state—that is, a political system characterized "by an arbitrary exercise of power by police"—but it's getting too close for comfort.



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