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THERE'S NO "PRETENDING" A GUN

Sometimes split-second decisions are right, even when they're wrong

By Julius (Jay) Wachtel. During the past decade this blog has commented on more than a few episodes of subpar policing that led to the loss of life. While some might argue that citizens often contribute to their own demise – see, for example, the post immediately below – in this imperfect world people frequently do crazy stuff. To avoid needlessly using force, and particularly lethal force, officers must regularly accept considerable risk, and fortunately most do. When in our opinion they should have but didn't, we've said so. When cops don't feel they can wait to collect more information, a tragic ending may be unavoidable. To be sure, "split-second" decisions are sometimes inevitable, but it's not Monday-morning quarterbacking to suggest that lives can be saved when officers pause for facts to surface, backup to arrive and hot heads (on all sides) to cool.

That, in essence, was our conclusion in "[A Reason](#)." Sometimes, though, the decision-making calculus is so unforgiving that deferring action – what we call "[making time](#)" – is out of the question. Consider what NYPD officers faced on April 4 when [three separate 9-1-1 callers reported](#) that a man was running around Brooklyn streets accosting passers-by with a gun, or at least with something that looked like a gun. Horrifying [video surveillance footage](#) assembled by NYPD confirms that these accounts were spot-on correct. As the episode ends the suspect suddenly pauses, takes up a shooting stance and aims his object at an undepicted target in the distance. That's where the video abruptly ends, but one can well imagine what happened next.

According to police, Saheed Vassell, a 35-year old bipolar man [was taking aim at responding officers](#) with a short length of metal pipe that had a knob on one end. They instantly opened fire with *real* guns, killing him. Area residents who knew Saheed considered him harmless; they guessed his pretend gun was something he picked up while walking around. His father, with whom he lived, said that Saheed was normally friendly and helpful but had been repeatedly hospitalized for mental problems, occasionally after run-ins with police. Saheed was not known to have a real gun, and beat cops reportedly did not consider him dangerous. Investigation of the shooting was turned over to the New York Attorney General.

On June 6, 2017 a 9-1-1 caller alerted Los Angeles police about a man who was walking around with a gun and otherwise behaving oddly. Patrol officers [soon spotted a pedestrian](#) who matched the odd-duck's description. He held what to them looked like a pistol in his hands. According to the officers, Eric Rivera, 20, ignored their commands to drop the gun; instead, he walked towards them and raised the object as though aiming it. They leaped out of their patrol car and fired, killing him. In his hurry to exit the driver failed to apply the parking brake, and the police vehicle wound up running over the man.

No firearm was found. However, officers recovered a "green and black colored plastic toy water gun." After a protracted investigation [police chief Charlie Beck determined](#) that the shooting had been prompted by "an imminent threat of serious bodily injury or death" that made it impossible for officers to take the time to de-escalate. It was thus "in policy." His decision was seconded by the Los Angeles Police Commission, which ruled the shooting justifiable. (Although the board has often been at odds with the chief over his agency's use of force, in this instance its five members acted unanimously.)

As might be expected, both killings sparked vociferous calls for change. One day after Vassell's shooting, [hundreds of demonstrators took to New York streets](#), calling for police reform and the officers' prosecution. Rivera's family [picketed the D.A.'s office](#) for twenty-six weeks, demanding that the LAPD officers (like Rivera, both are Hispanic) be prosecuted. A Federal lawsuit alleging that police used excessive force is pending.

Toy and other pretend guns have figured in many tragic police-citizen encounters. Perhaps the most widely publicized such incident took place four years ago when a Cleveland officer [shot and killed Tamir Rice](#), a 12-year old boy who was pointing a pellet gun at visitors to a recreation center. NYPD's shooting of Vassell is also not the first time that police have mistaken a non-gun object for a gun. "[First, Do No Harm](#)" recounts the December, 2010 incident involving Douglas Zerby, a drunk, unarmed 35-year old man who for reasons he would take to his grave pointed a pistol-grip water nozzle at cops responding to a man-with-a-gun call.

Prior posts (see "Related Posts," below) have suggested various measures that can help minimize or avoid the use of force. Alas, the shootings of Vassell and Rivera present a special difficulty, as the apparent threat they posed to officers and citizens was so immediate and extreme that stepping back and trying to "de-escalate" seems clearly inappropriate.

So what was the right thing to do? "[A Very Hot Summer](#)," which looked into a variety of fraught police-citizen encounters, suggested it may be best "to integrate patrol into all enforcement activities, to assure that someone familiar with the territory and its inhabitants is always present." [None of the officers who shot at Vassell](#) was a beat cop: three were part of a plainclothes anti-crime unit and the fourth, a uniformed officer, was with a crime hot-spots team. Shocked residents suggested that officers who knew Vassell might have handled things differently. They may be right. Problem is, while Vassell was running around unmolested, pointing a pretend gun at innocent persons, cops who might have made a difference were elsewhere. Really, beat officers are often busy on calls, so one can never count on their presence. And when the cops did show up, the situation they encountered was so urgent that it ruled out calling, say, a [mental health crisis intervention team](#), as it would have required officers to wait and not intervene until specialists arrived.

What about prevention? Little is known about Rivera's state of mind. Police had categorized Vassell as "emotionally disturbed," and over time he did receive some mental health treatment. Considering his persistently odd behavior, though, the mental health follow-through seemed clearly lacking. As we noted in "[Homeless, Mentally Ill, Dead](#)," the much-ballyhooed transition from state mental hospitals to community treatment was never adequately funded, leaving legions of mentally ill – such as Vassell – on the streets, with at best sketchy treatment and oversight.

Perhaps there's an intermediate step. "[A Stitch in Time](#)" suggested that dedicated police/mental health teams could proactively monitor and assist individuals whose behavior, like Vassell's, has led to multiple contacts with the authorities. Those who merit it could be flagged for treatment and, if necessary, commitment. In fact, [such services do exist](#). Unfortunately, resources are limited and intervention takes time to arrange. They're not the answer for sudden, serious meltdowns such as Vassell (and, probably, Rivera) experienced. In such cases, it's always up to the cops.

What else can be done? What's often missing from these discussions is the role of the community. The block. The next-door neighbor. [Here's what a local resident had to say](#) at Vassell's funeral:

I truly think it's a community problem. That's the reason why he's this way, because nobody came and pulled him to the side and say "Yo what are you doing, that's wrong. Yo what's going on? Stop that." No one.

"Making time" and "de-escalating" are useful concepts. While perhaps articulated in other ways, they've been around since the birth of policing. Sometimes, though, they're besides the point. Would it have been O.K. for cops to hang back and mull things over

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had Vassell and Rivera *really* been armed? In our oftentimes violent environment, officers sometimes *must* act. And when it comes to guns, there really *is* no pretending.