

The New York Times

Set a Higher Standard for Police Use of Force

By Trevor Burrus
December 4, 2014

Eric Garner died a senseless death. In the wake of this tragedy, two reforms should be considered. First, states should pass laws holding police officers who use lethal force to a higher standard. Second, in many cases, particularly in high-profile cases like Garner's, special prosecutors should replace district attorneys so as to remedy a system that is overly biased toward the police officer.

Not only should special prosecutors replace district attorneys in prominent cases, but officers should have to prove there was an imminent threat.

With the ubiquity of cellphone cameras, people are becoming aware of the epidemic of police violence that is creeping across the nation. Unfortunately, officers involved in these incidents are rarely disciplined. Most states and municipalities merely require that an officer "reasonably believes" that force is needed to make an arrest or to prevent a felon from escaping.

Moreover, in-house investigations of claims of police violence are notoriously cop-friendly, and some district attorneys have such strong ties to police departments that they are essentially an in-house investigator.

As public servants, police officers should be held to a higher standard. An officer should only be allowed to use lethal force if there is compelling evidence that force is needed to stop an imminent threat to himself or public safety and reasonable alternatives are unavailable. Of course they must be given freedom to protect themselves and others in dangerous situations. While officers' snap judgments in those situations should be considered, they shouldn't always be validated.

Police are tasked with protecting and serving the community, and sometimes that means practicing restraint and verifying whether the alleged perpetrator actually poses a threat. This will mean that sometimes an officer's safety will be compromised, but protecting police officers is not the only goal of law enforcement. Protecting the lives and liberties of citizens is equally important.

Given the infrequency with which police are charged with excessive force, a special prosecutor should investigate such cases. At the very least, this will give the process more perceived legitimacy. Perceived legitimacy is important, particularly in communities that feel they've been systematically harassed by police.

When a community perceives a justice system as illegitimate, it can be harder for police to solve crimes because witnesses are unwilling to come forward. Citizens can also become more confrontational, thus leading to escalating tension and violence.

Special prosecutors could help mitigate these problems and restore legitimacy to the process and, possibly, find justice for people like Eric Garner.

[Trevor Burrus](#) is a research fellow at the Cato Institute's Center for Constitutional Studies.