

H A R L A N   R I C H A R D S

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The Standard For the Use of Deadly Force By Police

I have commented on individual instances of a cop shooting someone for no apparent justifiable reason. But with the latest incidents in New Orleans and St. Paul, as well as the Dallas shooting of police officers, I think it's time to state the acceptable standard for the use of force.

The U.S. Supreme Court said this in 1985:

"The use of deadly force to prevent the escape of all felony suspects, whatever the circumstances, is constitutionally unreasonable. It is not better that all felony suspects die than that they escape. Where the suspect poses no immediate threat to the officer and no threat to others, the harm resulting from failing to apprehend him does not justify the use of deadly force to do so." Tennessee v Garner, 471 U.S. 1, 11 (1985)

The Seventh Circuit Court of Appeals recently stated in Estate of Williams v Ind. State Police Dept., 797 F. 3d 468, 485 (7th cir. 2015):

"[O]fficers cannot resort as an initial matter to lethal force on a person who is merely passively resisting and has not presented any threat of harm to others."

The above standards have been in effect for decades and officers know this. That's why you will hear an officer yell "he's got a gun," even if there isn't any gun visible. That way, he or she can shoot the suspect and argue later that there was a reasonable belief that it was necessary to resort to lethal force.

We would all like to think that our officers are ethical and honest. But like any cross-section of people, you will find good ones and bad ones. Some of the incidents which have been exposed in the media leave me asking "what was the cop thinking?" They couldn't possibly have seriously believed the use of lethal force was necessary.

However, that does not give citizens a license to kill officers in retaliation for abuses, such as was done in Dallas. It is a shame that those officers were shot but what really surprised me was the lack of outcry about blowing up the shooter.

Are we in a war zone? I can't believe any rational decision maker could conclude that blowing up a suspect was an appropriate response. I think it was more of an act of retaliation for him shooting fellow officers than an appropriate response. Didn't they have any percussion grenades? Or tear gas? Are we a country of laws or of brute force? Are the police right only because they have the biggest and best weapons?

What happened to the police in Dallas was wrong, but blowing up the shooter was just as wrong. And as we all know, two wrongs don't make a right.