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BLIND JUSTICE: POLICE SHOOTINGS IN MEMPHIS*

JAMES J. FYFE**

The literature on police use of deadly force¹ has produced two major findings. First, researchers report extreme variation in rates of police shooting among American jurisdictions.² Second, regardless of its geographic scope, the research invariably reports that the percentage of police shootings involving black victims far exceeds the percentage of blacks in the population.³ This paper examines factors affecting both of these findings.

I. INTERJURISDICTIONAL VARIATIONS

Attempts to identify sources of interjurisdictional shooting rate variation have produced mixed results. Milton suggests that differences among shooting rates are associated with differences in levels of community violence and risk to officers.⁴ Kania and Mackey, in an attempt to test two related hypotheses, report strong associations between fatal police shooting rates and public homicide and arrest rates over the 50

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¹ "Deadly Force" generally is defined as force likely to kill or capable of killing. Since police deadly force most often occurs when police point and fire their guns at other human beings, and since such actions do not always result in death, "police deadly force" will be defined in this paper to include all police shootings at others.

² See C. MILTON, POLICE USE OF DEADLY FORCE (1977); Kania & Mackey, *Police Violence as a Function of Community Characteristics*, 15 CRIMINOLOGY 27 (1977); Kiernan, *Shooting by Policemen in District Declines*, Wash. Star, Sept. 2, 1979, § B, at 1, col. 2; Sherman & Langworthy, *Measuring Homicide by Police Officers*, 70 J. CRIM. L. & C. 546 (1979).

³ See C. MILTON, *supra* note 2, at 22; Fyfe, *Race and Extreme Police-Citizen Violence*, in RACE, CRIME, AND CRIMINAL JUSTICE 89 (C.E. Pope & R. McNeely eds. 1981); Harding & Fahey, *Killings by Chicago Police, 1969-70: An Empirical Study*, 46 S. CAL. L. REV. 284 (1973); Kobler, *Police Homicide in a Democracy*, 31 J. SOC. ISSUES 163 (1975); Meyer, *Police Shootings at Minorities: The Case of Los Angeles*, in 452 ANNALS 98 (1980); Takagi, *A Garrison State in "Democratic" Society*, in POLICE-COMMUNITY RELATIONS 357-71 (A. Cohn & E. Viano eds. 1976).

⁴ C. MILTON, *supra* note 2, at 144.

states.⁵ Despite flaws in the data employed by Kania and Mackey,⁶ their thesis, that shootings are associated with community violence and risk to officers, is supported by Fyfe. He reports close associations between police shooting rates and arrest and homicide rates across the geographic subdivisions of a single large police jurisdiction, where internal organizational policies and practices which might influence shooting rates are presumably constant.⁷ The relative influence upon police shooting rates of such internal policies and practices is suggested by Kiernan, who found that police shooting rates among nine American cities vary by as much as 1500% even when controlling for a measure of community violence and police exposure to shootings (arrests for violent felonies).⁸

Kiernan's suggestion that police internal organizational variables also affect shooting rates is reinforced by Uelman, who reports that the major determinants of the levels of police shooting in the California agencies he studied were the "personal philosophies" of police chiefs and the administrative controls they devised.⁹ Thus, variations in the shooting rates of American police jurisdictions apparently are associated both with "external" variables (*e.g.*, community violence; threats to officer safety) and with "internal" variables (*e.g.*, administrative philosophies; adequacy of training; restrictiveness of police shooting policies; intensity of shooting incident review).

II. BLACK DISPROPORTION

Goldkamp's survey of the literature of police deadly force offers a similar and useful construct of researchers' theories regarding minority disproportion among those shot and shot at by police.¹⁰ Those who have studied deadly force, he states, subscribe to one of two "Belief Perspectives." Belief Perspective I holds that minority overrepresentation among shooting victims is a result of differential police practices: that

⁵ Kania & Mackey, *supra* note 2.

⁶ Kania and Mackey necessarily included in their analysis only data on *fatal* police shootings, thus excluding many nonfatal exercises of police deadly force. Further, their data on fatal shootings were obtained from the United States Vital Statistics' annual reports on Causes of Mortality, a source subsequently found highly unreliable by Sherman & Langworthy, *supra* note 2, at 559.

⁷ Fyfe, *Geographic Correlates of Police Shooting: A Microanalysis*, 17 J. RESEARCH CRIME & DELINQUENCY 101 (1980).

⁸ Kiernan, *supra* note 2.

⁹ Uelman, *Varieties of Police Policy: A Study of Police Policy Regarding the Use of Deadly Force in Los Angeles County*, 6 LOY. L.A. L. REV. 1 (1973). See also Fyfe, *Administrative Interventions on Police Shooting Discretion: An Empirical Examination*, 7 J. CRIM. JUST. 309 (1979); Sherman & Langworthy, *supra* note 2.

¹⁰ Goldkamp, *Minorities as Victims of Police Shootings: Interpretations of Racial Disproportionality and Police Use of Deadly Force*, 2 JUST. SYS. J. 169 (1976).

"police have one trigger finger for whites, and another for blacks."¹¹ This perspective, therefore, attributes black disproportion among shooting victims to variables *internal* to police organizations (*e.g.* racism by officers and by the administrators who encourage or allow them to express it by shooting blacks in situations in which they would refrain from shooting whites). Belief Perspective II views black shooting victim disproportion as a consequence of variables *external* to police organizations. From this perspective, black shooting victim disproportion is seen as a consequence of justifiable police responses to the relatively great involvement of blacks in violent crime and other activities likely to precipitate shooting.¹²

Since the formulation of Goldkamp's two Belief Perspectives, there has been considerable research into the relationship of race and police shootings. Fyfe found that black disproportion among New York City police shooting victims was closely associated with the representation of blacks among violent crime arrestees and among homicide victims.¹³ Belief Perspective II is also supported by Blumberg's study of police shootings in Atlanta and Kansas City, which, like Fyfe's work, reports little variation in the degree of danger confronted by police officers involved in shootings of citizens of different racial groups.¹⁴

Despite these apparent confirmations of Belief Perspective II, it is possible that the relationships between high rates of police shooting victimization and indications of black violence are artifacts of differential police enforcement and reporting practices. In other words, it may be that the relationship between black shooting rates and black arrest rates is a result of arbitrariness in arrest and crime reporting practices, as well as in shooting practices. Further, given great interjurisdictional variation in police shooting rates, it is also possible that the validity of either of Goldkamp's two Belief Perspectives is place dependent.

In jurisdictions where police shooting is infrequent and closely controlled by stringent policies and incident review procedures conducted by administrators whose personal philosophies mitigate against arbitrary shootings, black disproportion may be explained by Belief Perspective II. In such places, it may be that internal organizational strategies have minimized officer arbitrariness, and that external variables (*e.g.*, crime rate differentials among the races) do account for black shooting

¹¹ *Id.* at 170 (quoting Takagi, *supra* note 3).

¹² *Id.* at 173.

¹³ Fyfe, *supra* note 3, at 93-94.

¹⁴ M. Blumberg, *Race and Police Shootings: An Analysis in Two Cities*, (1980) (paper presented to the Annual Meeting of the American Society of Criminology). *See also* W. GELLER & K. KARALE, *SPLIT SECOND DECISION: SHOOTINGS OF AND BY CHICAGO POLICE* (1981).

victim disproportion. Conversely, in jurisdictions characterized by high police shooting rates and loose or non-existent training, shooting policies and review procedures, it may be that officers are exercising their broad discretion in a manner that validates Belief Perspective I. In such places, it may be true that officers shoot blacks in situations in which they would refrain from shooting whites, and that their actions are congruent with the personal philosophies of their supervisors. In view of the wide range in restrictiveness of police shooting policies and other internal organizational variables across jurisdictions,¹⁵ therefore, it would be surprising if either Belief Perspective I or Belief Perspective II was universally valid among American police agencies. Indeed, it may be that the empirical support for Belief Perspective II exists because research access has been granted by only those police agencies that have attempted to control shooting discretion in a manner that minimizes the opportunity for officers to exercise "differential trigger fingers," and which, consequently, have little fear that researchers will publish embarrassing findings.

III. A MODEL FOR ANALYSIS

Blumberg has commented that without "baseline data with regard to the situational characteristics of all police-citizen encounters . . . , it is not possible to definitively refute the contention that the police are not more likely to shoot blacks than whites under the same circumstances."¹⁶ Such an observation applies equally to interjurisdictional variation. Without data on situations characteristic of all police-citizen encounters, it may not be possible to identify definitively the sources of interjurisdictional shooting variations.

Data regarding all police-citizen encounters are not likely to become available in the foreseeable future, but this author has argued that a useful surrogate may be found in data related to the situational characteristics of police shootings.¹⁷

At the most basic level, police shootings may be dichotomized into "elective" shootings (those in which the officer involved may elect to shoot or not to shoot at little or no risk to himself or others), and "nonelective" shootings (those in which the officer has little real choice but to shoot or to risk death or serious injury to himself or others). Like elective surgery, elective shootings—those involving unarmed fleeing property criminals, for example—are real exercises in discretion. Thus,

¹⁵ See Uelman, *supra* note 9.

¹⁶ M. Blumberg, *supra* note 14, at i.

¹⁷ Fyfe, *Toward a Typology of Police Shootings* in CONTEMPORARY ISSUES IN LAW ENFORCEMENT 136-151 (J. Fyfe, ed. 1981).

they are subject to reduction by internal police policies and practices designed to limit officer discretion. The chief can direct his officers not to shoot at the backs of unarmed fleeing property crime suspects without increasing risk to officers caused by encounters with such suspects. Nonelective shootings, by contrast, are largely a consequence of influences external to the police agency, and are less subject to administrative control strategies. The police chief has little direct control over the number or ethnic groups of armed robbers in his jurisdiction, nor can he direct officers not to resort to firearms when they come face to face with them in life-threatening circumstances.

Stated most simply, elective shooting rates are most greatly influenced by factors internal to police organizations, and nonelective shooting rates are most greatly influenced by factors external to police organizations.¹⁸

From this perspective, it is clear that *aggregate* shooting rates—either among police jurisdictions or among victim racial distributions—are of minimal informational value. If one is to know whether the police are “more trigger happy” in some jurisdictions than others, one must know something about the situations in which officers in those jurisdictions shoot at other human beings. To know whether police differentiate along racial lines with their trigger fingers, one must know something about the situations in which police shoot at members of different racial groups.

Thus, this author suggested the utility of a typology of police shooting based on a “scale of immediate hazard” to the officer.¹⁹ Using “degree of officer injury” as a criterion, such a scale (with eleven separate shooting types, which varied from clearly elective events to clearly

¹⁸ The elective/nonelective dichotomy proposed here is an attempt to simplify very complex phenomena. It should not be interpreted as a suggestion that nonelective shootings do not vary in degree of immediacy of hazard to the officers involved, or as a suggestion that nonelective shooting rates are not affected at all by internal police organizational variables. Two officers attacked by a lone man with a knife, for example, probably face less danger and have more alternatives to shooting than a lone officer who is fired upon without warning by several bankrobbers armed with shotguns. Indeed, if the officers in the knife situation are trained and equipped to employ nonlethal means of subduing their assailant without endangering themselves (*e.g.*, evasive or self-defense tactics; electronic “stun-guns;” chemical sprays; nets, etc.), any resulting shooting should be classified as elective. Conversely, if the officers are poorly trained and equipped, they may find themselves without alternatives to shooting, so that such an event would most accurately be classified as nonelective shooting. It is doubtful, however, that any existing training program or technology would provide the officer in the bank robbery situation with alternatives to shooting. Thus, a more detailed alternative to the elective/nonelective dichotomy would be a continuum which classified shootings along a scale ranging from elective to nonelective on the basis of gravity and hazard to officers and others, and availability of alternatives to shootings. Such a continuum (modified to fit data limitations) is employed in the remainder of this article.

¹⁹ Fyfe, *supra* note 17.

nonelective events) was constructed and used in this author's analysis of New York City police shootings; it was found that the situations in which officers shot blacks threatened life relatively more often and more seriously (and, thus were more often nonelective) than those in which they shot whites.²⁰ Blumberg employed a similar typology with similar results in his study of Atlanta and Kansas City police shootings.²¹ This paper employs such a hazard based typology to examine comparative shooting rates in Memphis and New York City, and to examine black shooting disproportion in Memphis.

DATA SOURCES

The New York City shooting data used in this research are part of a data set which includes all reported incidents in which members of that agency discharged firearms and/or were seriously assaulted or killed between January 1, 1971, and December 31, 1975. For the purposes of this analysis, only those reports involving shootings were employed.

The Memphis shooting data employed herein cover slightly different time periods, and were provided by the NAACP Legal Defense Fund, which had obtained them in connection with a civil suit resulting from a police shooting in that city.²² They consist of a Memphis Police Department condensation of the circumstances in which officers in that agency employed deadly force against property crime suspects, as well as summary data on other uses of firearms during the years 1969-74. In addition, this research employs data on all fatal police shootings in Memphis during 1969-76, except for those occurring between January 16 and December 31, 1972, a period for which no information is available.²³ In neither city was any attempt made to reconcile these official versions of shootings with other accounts.

IV. ANALYSIS

A. INTERJURISDICTIONAL VARIATIONS: MEMPHIS AND NEW YORK CITY

Table 1 presents the aggregate data for New York City and Memphis police shootings, along with mean annual rates of shooting per 1,000 officers. The table shows that between 1969 and 1974, firearms

²⁰ Fyfe, *Shots Fired: An Examination of New York City Police Firearms Discharges 921* (1978) (unpublished Ph.D. dissertation, State University of New York at Albany).

²¹ M. Blumberg, *supra* note 14, at i.

²² *Garner v. Memphis*, No. 77-1089 (6th Cir. 1979). The author is grateful to Steve Winter of the NAACP Legal Defense Fund for making the data available.

²³ TENNESSEE ADVISORY COMMITTEE TO THE U.S. COMM. ON CIVIL RIGHTS, CIVIL CRISIS—CIVIC CHALLENGE: POLICE COMMUNITY RELATIONS IN MEMPHIS (1978) [hereinafter cited as TENNESSEE ADVISORY COMMITTEE].

were discharged by one or more Memphis police officers on 225 separate occasions, producing a mean annual rate of 33.5 shootings per 1,000 officers. In New York City during 1971-75, there were 2,926 such incidents, producing a mean annual rate of 19.2 shootings per 1,000 officers.

TABLE 1
POLICE SHOOTING INCIDENTS IN MEMPHIS AND
NEW YORK CITY

MEASURE	MEMPHIS 1969-74	NEW YORK CITY 1971-75
Number of Police Shootings	225	2,926
Mean Annual Police Shooting Rate Per 1,000 Officers	33.5	19.6

These aggregate rates indicate that Memphis police use their guns considerably more often than their New York City counterparts. They tell us little, however, of the variations in violence and police hazard generally in those cities. Nor are they informative on the questions of percentages or rates of elective and nonelective shootings in Memphis and New York. Indeed, as explained below, not all of the shootings described in Table 1 involve shootings at other persons.

Table 2 presents surrogate measures of general police hazard in Memphis and New York City. As noted earlier, these were found by this author to be closely associated with police shooting rates over New York's 20 police jurisdictions where internal influences (policy, training, etc.) presumably were held relatively constant.²⁴ In that study, strong relationships between police shooting rates and the external influences of community violence (shooting rate per 1,000 officers and murder/non-negligent manslaughter rate per 100,000 population, where $r = +.78$) and police confrontations with violent suspects (shooting rate and rate of arrest for violent felonies, where $r = +.62$) were reported.²⁵ Table 2 suggests, however, that these external influences are not associated with the differences in shooting rates between Memphis and New York. The table indicates that F.B.I. Uniform Crime Reports derived murder rates per 100,000 population were relatively similar in those cities during the periods studied (Memphis = 2.97; New York = 2.75), and that New York City police annually effected approximately twice as many

²⁴ Fyfe, *supra* note 7.

²⁵ *Id.* at 107.

violent felony arrests per 1,000 officers (1148.13) as Memphis officers (587.12). Further, the table's rates of police shootings per 1,000 violent felony arrests effected indicate that Memphis officers were more than three times as likely to have used their guns in relation to this measure of police hazard than were New York officers (rates = 56.98 and 16.71, respectively).

TABLE 2

MEASURES OF PUBLIC VIOLENCE, POLICE HAZARD AND POLICE SHOOTING IN MEMPHIS AND NEW YORK CITY

MEASURE	MEMPHIS 1969-74	NEW YORK CITY 1971-75
Mean Annual Murder/Non-Negligent Manslaughter Rate per 100,000 Population	2.97	2.75
Mean Annual Violent Felony Arrest Rate per 1,000 Officers ^a	587.12	1172.95
Police Shooting Rate per 1,000 Violent Felony Arrests	56.98	16.71

^a Includes arrests for murder/nonnegligent manslaughter, rape, robbery, aggravated assault.

The absence of association between variations in these measures and variations in Memphis and New York City police shooting rates suggests that varying internal police organizational influences may be operative. In Table 3, the reasons for shooting given by the officers involved in the incidents in each city are presented. Before any attempt is made to interpret the table, however, several caveats are in order. The Memphis data include shootings to "apprehend violent suspects" within the "Defend Life" category, regardless of whether the officers or others were in imminent danger at the time shots were fired or whether the "violent suspect" was fleeing from a violent crime that had already been completed. Thus, the Memphis "Defend Life" cell includes both elective and nonelective shootings. Conversely, only nonelective shootings in which officers reported that they or others were subjects of attempted, threatened, or successfully completed deadly assaults at the instant of shooting are included in the New York City cell for the "Defend Life" category. Consequently, the Memphis "Apprehend Suspects" cell includes only shootings to apprehend *property* crime suspects, while the New York City "Apprehend Suspects" cell includes shootings to appre-

hend persons suspected of both property crimes and crimes of personal violence. Thus, the table *understates* the differences between Memphis and New York City in both the nonelective "Defend Life" and elective "Apprehend Suspects" categories. Finally, the aggregate Memphis figures upon which this table is based permit no analysis of the severity of threats to life precipitating shooting in that city; no data regarding suspect's weapon, etc., are available.

TABLE 3
OFFICER'S REASON FOR SHOOTING IN MEMPHIS AND
NEW YORK CITY

MEASURE	MEMPHIS 1969-74		NEW YORK CITY 1971-75	
Defend Life ^a rate ^b	28.0%	(n=63)	60.2%	(1760)
	9.4		11.8	
Apprehend Suspects ^c rate	50.7%	(114)	6.1%	(179)
	16.9		1.2	
Accidental rate	4.9%	(11)	8.5%	(249)
	1.6		1.7	
Destroy Animal rate	5.8%	(13)	9.2%	(270)
	1.9		1.8	
Warning Shots rate	4.4%	(10)	11.1%	(326)
	2.1		2.2	
Miscellaneous ^d rate	4.4%	(10)	4.9%	(142)
	1.5		1.0	
TOTAL RATE	100.0%	(225)	100.0%	(2926)
	33.5 ^e		19.6	

chi-square = 414.18, df = 5

p < .001

- a Memphis "Defend Life" includes apprehensions of "violent suspects;" New York does not.
- b Rate = mean annual rate per 1,000 officers.
- c Memphis "Apprehend Suspects" includes only apprehensions of property crime suspects; New York includes apprehensions of property crime and personal violence crime suspects.
- d Memphis = not ascertained; New York = suicides, criminal shootings, etc.
- e Subcell rates may not equal totals due to rounding.

Given those limitations, the table shows great differences in the reasons given for shooting by officers in Memphis and New York City (p .001). Three fifths (60.2%) of the New York City shootings reportedly occurred in defense of the lives of officers or others, while only slightly more than one fourth of the Memphis shootings involved either the defense of life *or* the apprehension of persons suspected of crimes of vio-

lence. Conversely, half (50.7%) of the Memphis shootings involved apprehensions of property crime suspects, while only one in seventeen (6.1%) of the New York shootings was precipitated by attempts to apprehend persons suspected of either property crimes or crimes of violence.

Even more striking that these percentage differences are the variations in annual shooting rates per 1,000 officers. Memphis officers were less likely than New York officers to shoot in defense of life (rates = 9.4 and 11.8, respectively), especially given that the Memphis shootings in this category include an unknown number of "violent suspect apprehensions" which were presumably elective in that the lives of officers or others were not in imminent danger. On the other hand, Memphis officers were at least fourteen times as likely as New York City officers to have fired in order to apprehend property crime suspects (Memphis property crime apprehension rate = 16.9; New York property and violent crime apprehension rate = 1.2). Interestingly, rates in the remainder of the table's cells—which generally do not involve authorized intentional shootings at other persons—are remarkably consistent between Memphis and New York City.

Before concluding that the variation in shooting rates between Memphis and New York is attributable to the great frequency with which Memphis officers engage in elective shootings of fleeing property crime suspects, an alternative explanation of these differences should be considered. Because the data analyzed in this study are based upon officers' reports of shootings rather than upon direct observations of such incidents, it is possible that any differences found are attributable to differential police reporting practices rather than to differential police shooting practices. Several considerations, however, suggest that this is not the case.

First, the Memphis-New York difference in Apprehend Suspects shooting rates ($16.9 - 1.2 = 15.7$) is greater than the total shooting rate difference between Memphis and New York ($33.5 - 19.2 = 14.3$). A difference of such magnitude amid the relative constancy of the other categories in Table 3 suggests that it could not be accounted for by differential reporting practices absent a massive conspiracy of report falsification and disposal of dead and wounded citizens by New York police officers and their superiors. If the New York rate for the Apprehend Suspects category were, in fact, identical to the Memphis rate, the number of such incidents in New York City during the period studied would have exceeded 2,500. Both logic and experience (the author was a member of the New York City Police Department for 16 years during which time he collected the New York data analyzed in this paper) sug-

gest that, even in that large city, 2,500 police shootings cannot be concealed from the public, the media and researchers.

Given the implausibility of this alternate explanation, the table provides strong evidence that the variation in shooting rates between Memphis and New York is largely attributable to the great frequency with which Memphis officers engaged in elective shootings of fleeing property crime suspects in the years studied in this paper. As indicated earlier, such relatively unrestrained use of firearms in elective shootings at fleeing property crime suspects suggests that internal agency controls in policy shooting are loose or nonexistent. In other work, this author has reported that the 1972 imposition of restrictive shooting policy guidelines and accompanying internal review procedures were associated with a 75 percent decrease in New York City shootings at fleeing suspects.²⁶ Those guidelines describe the New York City officer's weapon as an instrument to be carried "for personal protection against persons feloniously attacking an officer or another at close range,"²⁷ and are enforced stringently. During the period after which the guidelines become operative, fewer than one fourth of the New York City officers who fired at unarmed persons escaped departmental censure or arrest.²⁸

Thus, it is useful to examine the shooting guidelines operative in Memphis at the time the shootings analyzed in this study occurred. The 1975 Memphis Police department regulations, the most contemporaneous available, state in their entirety:

Use of force: Officers are confronted daily with situations where control must be exercised to effect arrests and to protect the public safety. Control may be achieved through advice, warnings, and persuasion, or by the use of physical force. While the use of reasonable physical force may be necessary in situations which cannot be otherwise controlled, force may not be resorted to unless other reasonable alternatives have been exhausted or would clearly be ineffective under the particular circumstances. Officers are permitted to use whatever force is reasonable and necessary to protect others or themselves from bodily harm.²⁹

Self Defense and Defense of Others: The law of justifiable homicide authorizes an officer to use deadly force when it is necessary to protect himself or others from what reasonably appears as an immediate threat of great bodily harm or from imminent peril of death. The policy of the Department does not limit that law. *Under certain specified conditions*, deadly force may be exercised against a fleeing felon.³⁰

²⁶ Fyfe, *supra* note 9, at 318.

²⁷ New York City Police Department, *Temporary Operating Procedure 237* (1972).

²⁸ J. Fyfe, *Police Shootings in Philadelphia, 1975-1978: A System Model Analysis* 43 (1980) (unpublished consultant paper presented to U.S. Department of Justice, Civil Rights Division).

²⁹ Memphis Police Department, *Policies and Regulations* 5 (1975).

³⁰ *Id.* at 9 (emphasis added).

Of these guidelines, the Tennessee Advisory Committee to the United States Commission on Civil Rights observes that:

Nowhere in the department's *Policies and Regulations* are those "certain specified conditions" written. It might assume conditions cited in the first paragraph, "Use of Force," apply. But that is not stated. The results of such broad State law and departmental policies appear to have been the frequent use of deadly force by Memphis police officers; use primarily employed against black Memphians.³¹

Thus, the committee suggests that black disproportion among Memphis police shooting victims is a consequence of the absence of clear shooting guidelines.³² If that assertion is correct, it may also be true that Goldkamp's Belief Perspective I—that police shoot blacks in situations less threatening than those in which they shoot whites³³—was also valid in Memphis during 1969-74.

B. BLACK DISPROPORTION IN MEMPHIS

As noted earlier, research that reports that blacks were shot or shot at by police in circumstances at least as life-threatening as those in which whites were shot was conducted in cities (Atlanta, Kansas City and New York City) where stringent shooting guidelines had been in place for some time.³⁴ Thus, it is useful to examine black shooting victim disproportion in Memphis, a city in which police shooting guidelines were very loose during the years studied and in which the pattern and frequency of shooting varied so much from at least one such city, in order to see whether similar results will obtain.

Table 4 presents a crosstabulation of the races and injuries of property crime suspects shot at by Memphis police during 1969-74 (race data on persons shot at in other incidents were not available). The table shows that 85.7% of those shot at were black, and that 14.3% were white, with similar racial distributions among all injury categories. Again, however, these aggregate percentages tell little about the relative presence of blacks in either the general population or the Memphis property-crime population. Thus, several rates were constructed to put these percentages in better perspective.

³¹ TENNESSEE ADVISORY COMMITTEE, *supra* note 23, at 80.

³² Memphis police officers are also limited in their use of deadly force by Tennessee state law. In addition to allowing officers to shoot in order to defend their lives or the lives of other innocent persons, the Tennessee statute defining officers' power to use deadly force in felony arrest situations states, "[i]f, after notice of the intention to arrest the defendant, he either flee or forcibly resist, the officer may use all the necessary means to effect the arrest. TENN. CODE ANN. ch. 40, § 808.

³³ See Goldkamp, *supra* note 10.

³⁴ Fyfe, *supra* note 3, at 102; M. Blumberg, *supra* note 14, at 10.

TABLE 4

RACE AND INJURY OF PROPERTY CRIME SUSPECTS SHOT AT BY
MEMPHIS POLICE, 1969-1974

SUSPECT'S RACE	SUSPECT INJURY				TOTALS
	NONE	WOUNDED	KILLED		
WHITE	13.6% (11)	7.1% (1)	23.5% (4)	14.3%	(16)
rate per 1,000 officers ^a	1.6	0.1	0.6	2.4	
rate per 100,000 population ^b	2.9	0.3	1.0	4.2	
rate per 1,000 arrests ^c	1.2	0.1	0.5	1.8	
BLACK	86.4% (70)	92.9% (13)	76.5% (13)	85.7%	(96)
rate per 1,000 officers	10.4	1.9	1.9	14.3	
rate per 100,000 population	28.9	5.4	5.4	39.6	
rate per 1,000 arrests	3.2	0.6	0.6	3.2	
TOTALS ^d	72.3% (81)	12.5% (14)	15.2% (17)	100.0%	(112)
rate per 1,000 officers	12.0	2.1	2.5	16.9	
rate per 100,000 population	13.0	2.2	2.7	18.0	
rate per 1,000 arrests	2.6	0.5	0.5	3.6	

n/a = 2

^a mean annual rate per 1,000 officers.^b rate per 100,000 population.^c rate per 1,000 arrests for burglary, larceny, auto larceny.^d subcell rates may not equal totals due to rounding.

First, the rate per 1,000 officers shows that, between 1969 and 1974, Memphis police were six times as likely to have shot at and missed black property crime suspects as they were for whites (noninjured rates = 10.4 and 1.6 per 1,000 officers annually), that they were 13 times more likely to have wounded blacks than whites under such circumstances (rounded black rate = 1.9; rounded white rate = 0.1), and that they were three times more likely to have killed blacks than whites at scenes of property crimes (rates = 1.9 and 0.6).

The second set of rates shows that black Memphians were nearly ten times as likely as whites to have been shot at in such circumstances (rates per 100,000 population = 39.6 and 4.2). Further, standardizing the table's raw figures on each racial group's population in this way shows that blacks were 18 times more likely to have been wounded (black wounded rate = 5.4; white = 0.3), and more than five times as likely to have been killed in these situations than were their fellow white citizens (black killed rate = 5.4; white = 1.0).

Neither of these rates, of course, gives a precise measure of the degree to which blacks disproportionately may expose themselves to the

risk of being shot while fleeing from officers at scenes of property crimes. Thus, the third set of rates presents the number of persons shot at for each category per 1,000 property criminals of that same category arrested by Memphis police. Here again, one finds great disproportion. During the years studied, 4.3 black property crime suspects were shot at for each 1,000 black property crime arrestees; the comparable white rate is 1.8. The table also indicates that the black wounded rate (0.6) is six times higher than the white rate (0.1), and that the black non-injured rate (3.2) is nearly three times higher than the white rate (1.2).

This last rate may hide other sources of this variation (*e.g.*, the legal categories used to define "property crimes" include many divergent activities; blacks may run from property crimes, while whites surrender). Even given this possibility, however, the table suggests that Memphis blacks were in far greater risk of being shot or shot at in these circumstances than can be explained by either their presence in the general population or the arrestee population.

Similar inferences may be drawn from Table 5, which crosstabulates the actions and races of persons fatally shot by Memphis police during 1969-76 (less the period January 15 to December 31, 1972). The table shows that more than three fourths (26) of the 34 persons whose race is known were black. Half of these blacks (13) were reportedly unarmed and nonassaultive at the time of their death. Only one of the eight whites shot and killed died in such an elective event. This disparity yields a black death rate from police shootings while unarmed and nonassaultive (5.4 per 100,000) that is 18 times higher than the comparable white rate (0.3). Looking into shootings involving situations which

TABLE 5
ACTIONS OF PERSONS SHOT FATALLY BY MEMPHIS POLICE,
1969-1976

VICTIMS' ACTIONS	VICTIMS' RACES		
	WHITE	BLACK	TOTALS
Assaultive—armed with gun rate ^a	62.5% (5) 1.3	26.9% (7) 2.9	35.3% (12) 1.9
Assaultive—not armed with gun rate	25.0% (2) 0.5	23.1% (6) 2.5	23.5% (8) 1.3
Non assaultive—unarmed rate	12.5% (1) 0.3	50.0% (13) 5.4	41.2% (14) 2.2
TOTALS rate	23.5% (8) 2.1	76.5% (26) 10.7	100.0% (34) 5.4

n/a = 5

^a rate per 100,000 population.

are more life threatening, we find assaultive blacks not armed with guns dying at a rate (2.5) five times higher than whites (0.5). Finally, black representation among those reportedly armed with guns and presumably leaving officers few alternatives to shooting (2.9 per 100,000) is slightly more than twice as high as the comparable white rate (1.3).

Taken into to, Table 5's percentages and rates clearly indicate black disproportion among shooting victims but they also indicate that this disproportion is greatest where elective shootings of nonassaultive, unarmed people are concerned. Unless Memphis officers differentially *reported* the circumstances of shootings of black and white citizens during the period studied, the data suggest also that the difference between the shooting rates of Memphis and New York was not an artifact of reporting practices, but was, in fact, a reflection of the great frequency with which Memphis police shot unarmed blacks. In addition, the table suggests that the Tennessee Advisory Committee was correct in its assessment of the negative impact upon Memphis blacks of the absence of clear shooting guidelines. Finally, they suggest that Goldkamp's Belief Perspective I was valid in Memphis during 1969-76. The data strongly support the assertion that police there did differentiate racially with their trigger fingers, by shooting blacks in circumstances less threatening than those in which they shot whites.

V. CONCLUSIONS

This analysis has demonstrated that one cannot generalize readily about police shooting rate disparities. Hopefully, it also provides some direction for future examinations of shooting rate variation among jurisdictions and among races. Intensive analyses of those phenomena are required so that policing in this democratic society can occur with minimal bloodshed. Police shootings *are* a consequence of violence in the community and the number of times members of various population subgroups expose themselves to the danger of being shot at by police; but levels of police shootings are also greatly affected by organizational variables. Thus, analysis of the circumstances under which shootings occur can point the way to police administrative action to reduce elective shootings. It may also suggest broader social action to change the conditions which spawn the nonelective shootings over which police chiefs and police officers have very limited direct control.

Administrative action to reduce elective shootings in Memphis has occurred since the end of the period studied in this report. In 1979, for example, that department instituted a more stringent shooting policy

and incident review procedure than had existed.³⁵ It has also recently initiated an "officer survival" training program designed to help police more safely respond to the potentially violent situations which often precipitate nonelective shootings. In short, apparently the Memphis Police Department has acted responsibly to address major problems in the use of deadly force by its officers.³⁶

Hopefully, future research conducted on the use of deadly force in Memphis subsequent to the implementation of these measures will find both reductions in the frequency of shootings and changes in the patterns of shootings. Hopefully also, the future research will encourage other jurisdictions in which Goldkamp's Belief Perspective I is valid to follow the example of Memphis by taking measures to reduce officer shooting discretion and, consequently, to reduce the rate of elective police shootings.

³⁵ Memphis Police Department, Training Academy, *General Order # 5-79, Deadly Force Policy* 1-2 (1979), states that officers may use deadly force in arrest situations only as a last resort in order "(t)o apprehend a suspect fleeing from the commission of a dangerous felony when an officer has witnessed the offense or has sufficient information to know as a virtual certainty that the suspect committed the offense." *General Order # 5-79* defines as "dangerous felonies" kidnapping, murder in the 1st or 2nd degree, manslaughter, arson, criminal sexual assault, 1st, 2nd, or 3rd degree (rape and attempted rape), aggravated assault, robbery, burglary 1st, 2nd or 3rd degree, or any attempt to commit these crimes. The order also establishes an internal shooting review procedure.

³⁶ See *Memphis Police Made Own Films on Deadly Force*, 6 TRAINING AIDS DIGEST 1 (Feb. 1981).