



TRAGEDY-FREE POLICING OR ELSE

The Need for Critical Thinking

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Research has shown a connection between the deaths of more than 251,454 people **each year** in the United States due to professional errors in judgment, skill, coordination and analysis as well as system failures and preventable adverse events. Clearly, the

concern is completely understandable and no wonder there are demands for immediate and sweeping change. Actually, there has been very little public debate associated with these deaths, as they were **not** the result of actions connected to the police profession. According to Dr. Martin Makary of Johns Hopkins University, these deaths were connected to doctors, hospitals and other medical personnel. Dr. Makary, a medical reform expert, calculated that deaths associated with the medical profession composed 9.7% of all 2,596,993 deaths recorded in the U.S. during 2013.¹ If deaths associated with the medical profession were their own official category, within the leading causes of death ranked by the Centers for Disease Control (CDC), they would rank as the nation's third-highest cause of death behind only heart disease and cancer.²

No, this article is **not** an attack on the medical profession. Like the police, medical professionals work within a complex environment with many shifting variables. The overwhelming vast majority of those working in both professions seek to do good, and every day they demonstrate their commitment to reducing suffering and saving lives. The intent here is to provide a reminder that there is an urgent need for critical thinking as the nation works through

how best to proceed with police reform. The American people have been misled about the linkage between policing and tragedy. Far too many have been far too confused for far too long. In fact, tragic incidents involving the police are rare within the many tens of millions of police–citizen encounters that occur each year. In 2018 alone, there were an estimated 61.5 million police–citizen contacts.³ At great harm to our communities, events with tragic outcomes have too often been deliberately utilized to generate highly charged emotional responses, which clouds critical thinking and the ability to make well-reasoned decisions.

The U.S. Bureau of Justice Statistics released study findings in 2015 estimating that, on average, there are approximately 928 police-related deaths each year in the U.S.⁴ By comparison, the CDC has reported that in the U.S. from 2005 to 2014, on average, 3,868 people died each year as a result of drowning.⁵ Based upon the data, relative to the annual number of police-related deaths, four times as many people drown, and 270 times as many people die as a result of an error or other issue related to the quality of care by the medical profession. **Every death** that comes before the end of a long and happy life, no matter what statistical category the death is placed, brings with it an associated tragic story.

The “Tragedy-Free Policing or Else” Standard

In the February issue of the *FOP Journal*, we spoke about the importance of “us” and the failure of being cast in the role of “them.”⁶ In the May issue, we continued the discussion by

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WHAT IS TRAGEDY-FREE POLICING?

It is a worldview that the police must proceed without taking any actions that could cause harm, without using force and without ever making a mistake.

examining two recent news items in New York state, and the phrase “tragedy-free policing” was coined.⁷ It is a concept that requires deep analysis and contemplation — particularly now.

What is “tragedy-free policing”? It is a worldview that the police must proceed without taking any actions that could cause harm, without using force and without ever making a mistake. Using a baseball analogy, the standard seeks “no runs, no hits, no errors.” From this view, no one ever runs from the police, and if they do run, the police should not pursue after them, as even in foot pursuits some “harm” may occur. Second, no one should be forced to comply with any police order; seeking voluntary compliance is the only acceptable approach for the police. Third, all police actions must be error-free, without exception.

The use of force, a key component of the “hits” part of the baseball analogy, is the most challenging element for individual police officers. Tragedy-free policing holds that the police are only minimally allowed to engage in actions that defend them from a direct physical attack — and police disengagement is the preferred approach. Even when seeking to intervene in a situation where one person is in the midst of causing harm to another person, again the police actions must be absolutely error-free. Most importantly, all police activities are evaluated from an outcome assessment. Did a tragedy occur? If so, there are two default assumptions that the police hold the burden of proof to address. First, the police should have prevented the tragedy. Second, any police action or inaction that failed to prevent the tragedy is assumed to have connections to an evil intent.

Tragedy-free policing or else? All police actions are subject to immediate and unending evaluation by any involved persons, their friends and family, police supervisors, internal investigators, external review boards, university professors, political commentators, the media, social activists, social media devotees, the community at large, any group of two or more persons, civil attorneys, criminal prosecutors, juries and judges. The summer of 2020 is the most visible expression of “or else.”⁸

The Dangers of the “or Else” Road to Utopia

First, tragedy and evil are not synonymous. Inherently all of us, particularly parents of small children, know that life is fragile and we

are all vulnerable to tragedy from a vast array of potential calamities and human actions. Clinical psychologist Jordan Peterson has observed that evil is differentiated from tragedy by evil’s “lack of necessity and its volunteerism.”⁹ The very nature of policing regularly necessitates propelling police officers into circumstances that are not of their own making, and into situations that are already tragic or at grave risk of quickly turning tragic. People generally do not call for the police because they are in the midst of a joyful life moment, and they call most urgently when they fear tragedy is imminent or has already begun to unfold, often at the hands of another person with evil intent. On a fundamental level, the duties we as a community assign to our police officers require them to: (1) be on watch to help prevent tragedies from occurring, (2) try to intervene when tragedies

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begin to unfold and (3) respond in their aftermath. Policing is inherently wrapped in the perpetual vulnerability of tragedy. The laws of nature, human behavior and averages portend that every police officer across the country will **not** be able to pitch a “no runs, no hits, no errors” inning endlessly into the future.

Concerns about how the police exercise their authority and utilize force are not new. Such was the case in October 1999 when the U.S. Department of Justice (DOJ), under then-Attorney General Janet Reno, issued its comprehensive report entitled “Use of Force by Police: Overview of National and Local Data.” After examining the data relative to police–citizen encounters generally, arrest situations specifically and the overall use of force by police, the DOJ concluded that the “data do not support the notion that we have a national epidemic of police violence.”¹⁰ Such remains

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the case two decades later.¹¹ Even the data collected and reported by *The Washington Post* shows a relatively stable level of police-involved fatal shooting incidents since 2015.¹² What has changed is the politicized epidemic-of-tragedy narrative around policing.¹³

Striving for the ideal is always a valid, even laudable, approach, but human history has shown us that policies that demand strict adherence to a utopian standard “now, or else” tend to come with significant dangers. In the article, “It’s High Noon for American Policing,”¹⁴ a warning was provided that if the most strident and contentious critics of the police were allowed to sever the bond between the police and community, we were all at risk of living in a “Hadleyville,” the setting for the classic 1952 film *High Noon*. The year 2020, provided a glimpse of a nation with many Hadleyvilles. As reported by journalist Andy Ngo, during 2020, a more visible Antifa movement aggressively pushed a narrative of division, and there was a surge in the drive to utilize tragic police incidents to maximize community tensions.¹⁵ Without question, the continued weakening of the police–community bond that occurred in 2020 contributed to severe increases in violence, particularly in our major urban areas. Fomenting the larger community to unwittingly demand what we now can describe as tragedy-free policing provides a useful platform from which to perpetually fan the flames of outrage against the police. As a consequence, the sharp rise in violence that emerged in 2020 has continued.¹⁶

What Guidance Can Critical Thinking Provide?

In this moment in history, efforts that further clarity are essential. We often hear about using a medical model to consider and respond to the issues related to crime, violence and policing. Is it not the medical profession that holds as its first tenet “do no harm”? Well, actually, it is a common misconception that the Hippocratic Oath contains the “first, do no harm” admonition. As noted by Dr. Robert Shmerling of Harvard Medical School, the words (in Greek) “do no harm” are actually in another writing by Hippocrates entitled *Of the Epidemics*, and the mention there was not cited as a priority for physicians over their goal of providing help. While Dr. Shmerling echoed the stated ancient desire not to cause harm, he provided hypothetical cases to highlight that such an absolute standard is not practical. He instructed, “[W]hen difficult, real-time decisions must be made, it’s hard to apply the

Police accountability efforts must distinguish between unintended or unavoidable tragedy and true misconduct.

‘first, do no harm’ dictum because estimates of risk and benefit are so uncertain and prone to error.”¹⁷ So, it seems the wisdom of the medical profession is that even in the cause of medicine to alleviate suffering, there are unintended consequences — errors — and tragedy can follow.

We have all heard the old quip, “The operation was a success, but the patient died.” Why are there no urgent demands for the immediate implementation of a utopian tragedy-free standard for the medical profession? Why are there no calls to have cameras record every medical procedure and surgery? Why have we not seen demands for civilian oversight boards, composed only of people without any medical training, to make rulings on the appropriateness of treatment in deaths related to the medical profession? In discussing Dr. Makary’s research, Johns Hopkins University noted: “The researchers caution that most medical errors aren’t due to inherently bad doctors, and that reporting these errors shouldn’t be addressed by punishment or legal action.”¹⁸ Only in the most extreme cases where doctors have knowingly engaged in fraud, acted as drug suppliers, taken advantage of patients or engaged in other deliberate wrongdoing is their medical conduct viewed as a crime. Intuitively, we understand why.

Criminally charging every doctor involved with a patient whose case ended in an untimely and tragic death would cripple the profession and interfere with its lifesaving mission.

So why then the rise of the tragedy-free policing (or else) standard? Tapping into long-established investigative practices provides us with the next step in the critical-thinking process. Asking ourselves, “Who benefits?” Certainly not the most vulnerable communities and not the community overall. *The Wall Street Journal* has reported that the spike in violence during 2020 occurred disproportionately in the poorest Black and Hispanic neighborhoods of America’s urban areas that had a long history of violence.¹⁹ Such was the case in Chicago, New York, St. Louis, Philadelphia, Minneapolis and many other cities across America.

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We also know that violence levels in these communities are at their lowest when: (a) the police–community relationship is the strongest, and (b) the police are proactively focused on addressing the unlawful activities of the criminal gangs, and other drivers of violence, in the areas where violence is most pronounced.²⁰

During the initial explosion of civil unrest and rioting in May 2020, following the George Floyd incident, Minnesota Governor Tim Walz pointed to agitators from outside of the state as a key issue. While PolitiFact quickly disputed the governor’s 80% statistic,²¹ what is commonly understood is that throughout the summer, protests provided cover for opportunists to engage in looting and acts of violence across the country, and for Antifa, anarchists and others to create chaos — leaving local communities to deal with the aftermath. Then-U.S. Attorney General William Barr also concluded that the protests had been “hijacked by violent radical elements.”²² In an analysis of the Antifa movement and its Marxist ideology, Soeren Kern identified law enforcement as a specific target of the group’s activities. He reported on a common Antifa tactic: “employ extreme violence and destruction of public and private property to goad the police into a reaction, which then ‘proves’ Antifa’s claim that the government is ‘fascist.’”²³ He further noted: “Antifa radicals increasingly are using incendiary events such as the death of George Floyd in Minnesota as springboards to achieve their broader aims.”²⁴ With each inflamed police-related tragic incident, the needs and desires for the community to reach consensus with its police on the way forward are further subverted to the detriment of the community.

Strengthening the Importance of Us

Tragedy-free medicine, tragedy-free policing, tragedy-free life in this world is unattainable. There will be tragedies — and we must learn from them. We must transcend the tragedies that occur, and

we must strive to lessen suffering where we can. Many professions do work intended to alleviate suffering in some way — medical and mental health professionals, social workers, firefighters, the clergy, among others. However, surely the combined scale, breadth, depth and intensity of the efforts displayed by the members of the policing profession, in the mission to alleviate suffering, is not less than that of any of these other professions. Police officers are continually engaged — every hour of every day — in this mission, directly in the streets of every community across the nation, and they are often doing so at great personal risk, while also serving as a key gateway access point to the services of so many other professions providing suffering relief. The police are **not** evil.

The way forward must be a proactive one. In this effort, it is essential for us not to be deceived by those who are seeking perpetual division for their own ideological and political purposes. When the police are one with the community, the community is safer, freer, more stable and better positioned to help foster the improved health and well-being of all the community’s members. Those seeking and participating in police reform efforts must not lose sight of this reality, and they must see the detriment to the community that comes with a “tragedy-free policing or else” standard and reject it. Police accountability efforts must distinguish between unintended or unavoidable tragedy and true misconduct. The way forward cannot cast the policing profession into the pile of “them,” as we have felt the painful lesson of weakened police–community relationships. The way forward must be one with broad outreach across community partners. As a community, we need our elected and civic leaders to foster unifying approaches that advance constitutional policing, reduce violence, address chronic crime conditions, improve public safety, protect victims, foster wellness and enhance community support for the police. In life, when you love something — you fight to protect it. **FOP**

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