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Aaron Campbell protesters want new laws on police use of deadly force

By Maxine Bernstein, The Oregonian
 February 23, 2010, 7:56PM



Michael Russell/The Oregonian

Protesters gather in Portland Courthouse Square last week to urge a state investigation of the Aaron Campbell shooting.

As community members disturbed by the Portland police shooting of Aaron Campbell prepare to lobby their lawmakers today to narrow state law on police use of deadly force, a Multnomah County judge also has urged authorities to clearly define limits for police deadly force to avoid unnecessary deaths.

"Training issues and even public inquests do not address the adequacy of current law that merely sets broad prerequisites to the use of deadly force," **Judge Michael Marcus wrote to Police Commissioner Dan Saltzman and Chief Rosie Sizer in a four-page letter Tuesday.**

In his letter, Marcus prefaced his recommendations, noting that he's speaking as a citizen and not taking a position on the Jan. 29 fatal policeshooting of Campbell.

But he urged local or state lawmakers to adopt ordinances or laws that would set standards for police training on the use of deadly force, instead of giving law enforcement "full rein" to interpret limits on deadly force.

With community and police input, local or state lawmakers should clearly establish the amount of risk officers should be expected to face, their responsibility to consider a person's emotional well-being (i.e., whether someone is intoxicated, mentally ill, or deaf) and their responsibility to consider alternatives to deadly force, such as backing off or calling in other resources, such as a public health worker, Marcus suggested.

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The Oregonian's full coverage of the death of Aaron Campbell -- including videos, police reports and grand jury testimony.

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"Arguing about training adequacy is understandable and worth the effort, as is arguing about whether an officer was within the limits of training," Marcus wrote. "But neither can solve the broader problem without such input in the laws that should set the standards to which officers should be trained."

State law says police can use deadly force to protect themselves or others from what they "reasonably believe" to be an imminent threat of death or serious physical injury. No Multnomah County grand jury in recent memory has indicted an officer in a fatal shooting. How reasonableness is interpreted is based on a U.S. Supreme Court ruling in **Graham v. Connor**, which held that the reasonableness of a particular use of force must be judged "from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight."

Marcus' push for further limitations are similar to recommendations from the Police Assessment Resource Center, Los Angeles-based police consultants who have reviewed officer-involved shootings across the country.

Last February, the consultants praised Portland Chief Rosie Sizer for breaking new ground by directing officers to use as little force as practical to accomplish their mission.

In a report to Denver police, the consultants stated what also has become obvious in Oregon. "In nearly all instances, the officer can demonstrate an objectively reasonable belief that his life and safety or those of others were in peril," and district attorneys rarely prosecute police in shooting cases.

"The criminal law alone is too blunt an instrument to deal with all the issues that arise when a police officer uses a firearm," the consultants wrote. That's why, they said, police must closely analyze tactics and policies that lead to avoidable or unnecessary deaths.

Sizer, during Oregon Public Broadcasting's "Think Out Loud" radio broadcast Tuesday, was asked why police are shooting unarmed people, and whether police should be trained to wait until they see a glimmer of metal or a weapon. "If you wait for a gun to be presented, you can be shot before you're able to return fire," Sizer said. She said she knows some police may wait until a gun is seen. "I know many officers have that as part of their personal ethos, taking personal responsibility to put themselves at greater risk." As a matter of policy, though, Sizer added, "I'm not willing to go there."

Last year, **PARC recommended** that Portland police strengthen field supervision of officers in critical incidents where the bureau's tactical squad or hostage negotiation team hasn't been called out. It also recommended that beanbag rounds only be used to subdue someone engaged in "active aggression" and not be used when someone is standing up, where a fall may cause serious injury or death.

Both recommendations might have played a role in the Campbell case -- in which a grand jury found a lack of coordination among officers at the scene where a patrol sergeant was supervising and a tactical squad wasn't present; and an officer fired beanbag rounds at Campbell seconds before he was fatally shot because he wouldn't put his hands in the air, although they were behind his head.

The Rev. Renee Ward, who organized a march Friday in protest of the Campbell shooting, is calling her group "I'm Everyday People" and said she expects about 50 people to carpool to Salem today. The goal is to propose changes that would narrow state law that governs police use of deadly force and dub it "Campbell's Law." "It's literally a concept now," she said. "But as a constituent, I'd like to know what are my lawmakers doing. Are they even looking at this?"

State Sen. Chip Shields, D-Portland, said he'd support reintroducing bills that would require all police use of deadly force be investigated by the state attorney general, and the public release of grand jury transcripts in such cases.

-- Maxine Bernstein

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Posted by **ppbmuckraker**
February 23, 2010, 9:23PM

It's about time for Judge Marcus to retire before he hands down more screwed up rulings. I guess the Supreme Court has nothing on the Honorable Judge Marccus.

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Posted by **spencer neal**
February 24, 2010, 11:00AM

Judge Marcus is a well-respected judge. His suggestions on improving the law make a lot of sense. Unlike your comment, it is reasoned and thoughtful instead of shooting from the hip.

I am not sure which Supreme Court your comment mentions, the US or the state's? The U.S. S.Ct. opinion mentioned in the article, Graham v. Connor, is very use-of-force friendly, far too much so from my perspective as a civil rights lawyer.

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Posted by **ppbmuckraker**
February 26, 2010, 10:04PM

I am well aware of the Graham vs Connor ruling. While he has every right to his opinions, Judge Marcus is known for erratic rulings. While a debate with you could be entertaining, it would likely be a waste of time on a attorney such as yourself. You should have some knowledge of the subject.

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Posted by **OregonizedCrime**
February 24, 2010, 11:07AM

So PPBmuckraker, you're suggesting that Uncle Fester's minions now begin the long arduous process of trying to "affidavit to death" Judge Marcus off the bench for simply publicly expressing opinions, you don't feel are in "The Local Legal / Law Enforcement System's" favor?

While it would seem to any reasonable citizen that The HONORABLE Judge Marcus is just sharing some thoughts that might help keep our citizens safer and solve the problem the city is currently having with The PPB, it seems reasonable for you to fight altering a decades old "system" of justice that has created a legal environment in which it is virtually IMPOSSIBLE to indict an officer who has negligently killed an innocent citizen.

And that rather large loophole can be summed-up, along with some additional reasonable observations AND solutions below:

"State law says police can use deadly force to protect themselves or others from what they "reasonably believe" to be an imminent threat of death or serious physical injury."

#1) Reasonably believe - Like Humphreys and Nice reasonably believed James Chasse was suspicious in The Pearl District, and as a result that, the innocent mentally ill man wound-up dead. Question for you PPBmuckraker, where was the reason?

#2) Reasonably believe - Scenario 1: officer is pondering whether a dark object clipped to a suspect's waistband is a gun, while in the back of his mind the officer also thinks it kinda resembles his own Nokia cell phone.

The current State Law regarding officers use of lethal force basically leaves officers with the option of: "When in doubt, shoot to kill and ask questions later." So it stands to reason if the officer jumps to the wrong conclusion, and ends up shooting and killing a citizen armed only with a Nokia cell phone, all he/she has to say is he/she "reasonably believed" there was danger.

In scenario 1, it turns out that the officer's assumption was close, the dark object clipped to the suspect's belt was a Verizon LG cellphone. But regardless of that, current State Law is if an officer reasonably believes there is a threat, the officer is entitled to use lethal force and kill the person only armed with a cell phone. Does that make sense?

When you think about it, the State Law on this very important matter is very broad.

And I do not believe State Law addresses previous the above officer's past incidents of his having "reasonably believed" someone presented a threat, when they actually did not, and that that officer's past mistakes resulted in harm to other citizens, possibly an indicator of: faulty decision-making perhaps? Or worse, serious emotional issues and/or cognitive reasoning deficiencies in the officer.

#3) Reasonably believe - I am quite sure Officer Green (making women expose themselves in order to get out of traffic tickets) and Officer Wild (calling women anonymously claiming to be in their basement and on his way upstairs to rape them and their minor children) were both not qualified to determine what "reasonably believe" was. But they were both armed with weapons and empowered by state law to take citizens lives if they ever had "reason to believe". Scary thought huh?!

So you have an officer with a past history of making mistakes with: pepper spray, and then a tazer, now armed with a AR-15, and in a position to be Judge, Jury and Executioner over unarmed citizens, who've had brushes with the law in the past. Events leading-up to Aaron Campbell's death should not have come as a surprise to anyone.

Here's my suggestion:

Clean house and start over. I'd actually make this priority 1, and then begin immediately initiating a whole new set of PPB policies listed below:

#1) Change the policy to have all officers; background checked, forensically profiled and drug tested prior to extending an offer of employment to them.

#2) Have an outside drug testing firm randomly test officers on a routine basis.

#3) Officers should be automatically tested for drugs after any incident involving injury to a suspect. It's a requirement that hospitals check drivers involved in accidents for drugs, the same should apply to armed police officers.

#4) One strike and you're out! I do not care how insignificant the PPB believes an officer's mistake with a citizen was, armed officers empowered to use lethal force against citizens, and found to have exercised faulty judgment to the detriment of a citizen simply SHOULD NOT be left in a position to exercise more, possibly deadly faulty judgment involving a citizen. The officer has proven they are not capable of safely managing the responsibilities of the job. Do you leave a baby with a loaded gun? No.

#5) Any incident involving a citizen that is suicidal and/or mentally ill should require a certified mental health specialist accompany officers and weigh-in on whether or not the citizen presents a risk, requiring lethal force.

#6) Change the policy to have an outside "special prosecutor" assigned to oversee grand jury's involving officers going forward.

#7) Videotape all police grand jury sessions, and make those sessions available to the public.

As for changing the State Law. I do not believe it should be changed as officers are in a dangerous position dealing with criminals and life and death situations.

*However, if it is found that an officer over-reacted and read the situation wrong, and that decision resulted in harm to and/or the loss of a citizen's life, the city should be liable and the officer should immediately be terminated.

We need more HONERABLE Judges and officials like Michael Marcus.

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Posted by [spencer neal](#)
February 24, 2010, 1:02PM

Judge Marcus is a well-respected judge. His suggestions on

improving the law make a lot of sense. Unlike your comment, it is reasoned and thoughtful instead of shooting from the hip.

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Posted by [Laughing at You](#)
February 23, 2010, 9:28PM

Glad to see that Jesse can still rally 30-40 protesters , probably most of them where hanging out at the Starbucks and where just there to begin with, throw in some street kids, a couple of hot dog vendors and some max riders and you got a crowd of 30-40 protestors.....

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Posted by [IvanGrozny](#)
February 24, 2010, 8:28AM

love it

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Posted by [lazyj](#)
February 23, 2010, 10:19PM

Why don't we just disband all police and let the righteous citizenry fend for themselves? Total anarchy-yes, that's the ticket!!

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Posted by [Sylverstorm](#)
February 24, 2010, 9:13PM

Why don't you get a clue?

Your two choices are hardly the only options available... allow armed thugs to kill at will or have no police.

I prefer the path where there are police but their paranoid fantasies do not let them get away with murder. Accountability.

Ah well...

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Posted by [newsflasher](#)
February 23, 2010, 11:01PM

couldn't we call them "the Minnis Laws" as they're sure mean and they were shepherded through the Legislature by this man's efforts, and he did oversee--till he was forced to resign his position--the so-called "training" and standards, certifications, qualifications, etc. etc. for the copsters in Oregon.

It's these laws that are the source of all the grief now being had in the community. Time to rewrite the laws to suit the vast majority of Progressive-Liberals rather than pandering to the tiny vocal minority of rightwing nutty Tea Party goers. Their day is done, so we need to let their laws fade into history as they fade away....

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Posted by **O'Brien**
February 23, 2010, 11:25PM

Certainly Judge Marcus would take into account a person's state of mind if they come to his courtroom armed. Indeed, why should my 4th Amendment Rights be violated at the door to the Courthouse if no one actually sees a gun. According to Judge Marcus that means I don't have one, right?

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Posted by **ednumrich**
February 24, 2010, 1:51AM

"If you wait for a gun to be presented, you can be shot before you're able to return fire," Sizer said.

There, in one sentence, you have "why" the Portland police are running amok and are a threat to all citizens.

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Posted by **chavez1909**
February 24, 2010, 4:24AM

It's always interesting to see which minkers our same local cowardly supporters of racism and facism are going to use when attacking anyone that really loves their freedom, constitution, country and has some respect for character and decency.. You little pooches are a disgrace to Portland and humanity.
Why is it always the morons that are at the front making all the chinmusic? Thanks Judge Marcus for taking a small step. Now let's get rid of Saltzman, Siser, and Westerwoman so we don't have anyone left at the top top to make excuses or apologies for our filthy, drugged up, psycho cowards working on the force.

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Posted by **chavez1909**
February 24, 2010, 4:26AM

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Posted by **RedFly**
February 24, 2010, 7:54AM

It's Wasteofawomen.

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Posted by **DB_Cooper**
February 24, 2010, 11:42AM

Hear, hear.

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Posted by **purplehayes**
February 24, 2010, 7:35AM

No big deal here. A simple addition to the police training manual should suffice. Something like: 'Possibly-armed black career criminals who ignore police orders, and reach for their waistband will NOT be shot. If a gun is produced (only by said career criminal) officers on scene will wait until shots are fired at them, and then they may return fire to any non-controversial body area'. Simple! Si Se puede!!!

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Posted by **jpdx**
February 24, 2010, 8:03AM

Are you people still here? Lets see nice picture of protestors, oh I see a sign that says Justice for Aaron Campbell. Interesting since he made it known he wanted to be shot by police to more then one person. Ok well I guess im wrong in not wanting justice for a man who ahead of time knew he would provoke the police to do to him what they did because he was too cowardly to do it himself.

Interesting the other police shootings in the surrounding areas have faded away, yet we are still rubbing noses in this one. Lets see Im going to tell the police im armed then im going to go out and provoke the cops but i want the rest of you to cry like babies when they take me out ok?

Oh if you can get a law named after me too that would be cool since Im a stand up law abiding citizen.

Thanks

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Posted by **hopmah**
February 24, 2010, 8:25AM

Present law is good, not needing modification. What we do have is a community populated with a generation that does not respect the rule of law, glorifies defiance of LEOs, threatens those who would cooperate with law enforcement, gives "street cred" to those who commit crime, oppose getting an education and embrace an entitlement mentality. The data and statistics bare this out. Until the community as a group in mass makes Social and Cultural changes there will be no progress, improvement in the crime rates, death rates (most by violence within their community) and or their interactions with Law enforcement and the court. Fix your own problems within your community then you might be taken seriously. The government has and never will fix anything. FDR,JFK and LBJ put into place entitlement programs that economically and socially enslaved the low income and minority communities. Takje a handout and you are owned.

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Posted by [DB_Cooper](#)
February 24, 2010, 11:55AM

Statistics and Stereotypes should only be placed before Truth in the dictionary, hopmah.

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