Deadly Force by Law Enforcement Officers

By Salt Lake County District Attorney Sim Gill

It is a necessary conversation, though not necessarily an easy one. The use of deadly force by law enforcement officers, in the course of their duties, has captured both national and local attention. It is an issue implicating a diverse set of concerns ranging from disproportionate targeting of minority populations, racial inequality, police tactics, training, militarization, criminal conduct, officer safety, and the inherent danger of policing.

What are the current checks and balances, the expectations, and protocols in place that are making our public institutions accountable? In other words, have the institutions adopted protocols and practices that contribute to the loss of trust? If so, then what are they, and what changes may be helpful at a macro level resulting in changes at the micro level of policing?

The issues can be broken into categories of interactive contact. First, there is contact at the initial presence in the community. How are police agencies interacting with their community? Is the contact always response driven, complaint oriented, or is there a concerted interaction at the ground level of community? Do officers reach out to their community beyond the staged photo-ops for the local press? What is both the quantity and quality of interaction when the cameras are not on? Is the interaction or outreach in safe environments or within the communities that feel alienated or marginalized? This contact is at a human level of interaction as institutional public service.

Second, when issues do arise, what are the protocols in place to address them? How well are they shared with the public? Is it sufficient to say that agencies have internal affairs to address them? How does the agency interact with the complainant? Is the experience of the citizen viewed as an opportunity or a nuisance? That is, is it an opportunity to demonstrate access,
respect, and transparency to a citizen, or is it a formality to endure, steps to go through, to get to the finish line because you must? The culture of an institution will be on display here and ultimately the validation of procedural fairness that most citizens crave.

Third, when an incident does occur that requires the use of deadly force, how does the department react? Is it circling the wagons or is it with an effort to get to the truth and to learn from it? How are agencies communicating what they learned from the incident? Citizens want to feel assured that future actions will not repeat the same mistakes. Regardless of the intent, what is actually being communicated to the community that feels rightfully concerned?

Fourth, what is the process by which the truth is ascertained? Is it objective, transparent, and public? Are agencies self-investigating or are they investigated from outside to avoid conflict of interest claims? Or is the process private, shrouded in secrecy and not subject to public input nor review? Is the process that is adopted subject to criticism, valid or not, and how is that being addressed?

Fifth, what is the level of accountability? Accountability can range from criminal prosecution, to unjustified but not criminally chargeable, possible administrative actions for policy violations, to justification and no action. If internal discipline is taken against an officer, is it shared? There is also civil liability. How much has an institution paid out in a given year? How much of this is shared with the public and how much of it is subject to their input? How much of this is kept private and why? In some communities, civilian review boards fill this gap if they are appropriately empowered to act and have input.

Finally, what is the process by which internal values, culture, and trainings are implemented in an ongoing effort to continually self-monitor and share with the citizens the continued resolve to be more accountable to our community and its citizens? How invested does the community feel and how well are law enforcement agencies inviting participation? In almost every Department of Justice Civil Rights violation and recommendation, this is the most frequently cited area of concern.

I realize that this is not a definitive list nor a conclusive analysis, but it does start to highlight the underlying issues and the work that is necessary to address the interactive challenges that exist. Ultimately, it implicates concerns about invested interactions that are viewed by citizen as procedurally fair eliciting institutional legitimacy. The challenge, of course, is that this is not merely a checklist but a continued effort that must cycle back upon itself perpetually for improvement.

The short list of interactive opportunities articulated above provides a critical point to build public trust which must be viewed holistically—not in isolation. In communities where success has been found, the citizens feel involved, engaged, educated, and confident in accessing their public institutions. They see the affirmative actions of their public institutions advocating their concerns and changing their internal protocols to address them. Otherwise, we have only distance and the lack of public trust that so defines the perceptions of citizens alienated from their public institutions. Ultimately, every interaction is an opportunity to build public trust and is a good place to start.
“We either advance or we decline. Power comes from looking forward with faith and courage—of expecting and demanding better things.”

-Robert H. Hinckley