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KICKING A SUSPECT WHEN HE'S DOWN

There may be an explanation for kicking a compliant suspect in the head, but there's no excuse



[Click here to link to video](#)

By Julius (Jay) Wachtel. One can imagine how frustrated El Monte (Calif.) officers must have felt the other day when the [arrest of a wanted parolee](#) turned into another cause célèbre for the ACLU.

A helicopter video depicts the event in remarkable detail, up to the moment that a cop, gun drawn, violently kicks the prone suspect in the head, drawing a startled gasp from the camera operator. Criminal justice experts who viewed the blow called it lots of things, none nice. “Outrageous” said one; “one of the worst incidents of this kind that I’ve seen” said another. Even an ex-cop found something to criticize: “You have an individual who is compliant....I don’t understand why an officer would want to get so close.”

The incident in the hardscrabble Los Angeles suburb of 122,000 began when an officer tried to stop a vehicle occupied by three heavily tattooed members of the Florencia street gang. The car took off, precipitating a wild chase. During a slow-speed stage an occupant jumped out and surrendered. Eventually the fleeing vehicle careened off a parked car and stalled. As officers approached a second passenger gave up. But the driver, parolee-at-large Richard Rodriguez bolted. Police soon cornered him in a yard.

In the video we see the man lie down and spread out his arms, as though he’s done it a thousand times before. An officer grasping a pistol approaches, then for no obvious reason delivers the formidable kick. More cops arrive. Rodriguez is handcuffed, although apparently not without receiving several flashlight strikes to the torso.

El Monte's beleaguered police chief refused to pass judgment. "I worked internal affairs for four years and I have learned that you do not make a decision in a vacuum," he said. "I do not know what was in the mind of that officer, as to why he did that. I saw the individual turn his head toward the officer."

On the other hand, police union lawyer [Dieter Dammeier](#) knew exactly what the cop had been thinking. "When you're going to have to take a bad guy into custody physically it is sometimes going to be aggressive and the cops are there to win...Better safe than sorry." [Dammeier](#) later insisted that the officer acted within policy:

The individual officer saw some movement. He feared the parolee might have a weapon or be about to get up. So the officer did what is known as a distraction blow. It wasn't designed to hurt the man, just distract him.... [El Monte officers] are trained to deliver a distraction blow to stop a [suspect] doing what they planning on doing.

"Distraction blows" isn't a brand-new concept. In an infamous [2004 incident](#) an LAPD officer ran up to a car theft suspect who was being restrained by other cops and repeatedly struck him with a flashlight. It was all caught on camera. LAPD's then-new head, Bill Bratton, was surprised to learn that department guidelines allowed so-called "distraction blows" to the arms and shoulders (but not the head) of combative persons. (Bratton did away with heavy flashlights and fired the officer. The blows' lightly injured recipient settled for a cool \$450,000.)

California law authorizes "any peace officer who has reasonable cause to believe that the person to be arrested has committed a public offense to use reasonable force to effect the arrest, to prevent escape or to overcome resistance" ([P.C. 835a](#)). Police agencies are required to adopt use-of-force policies consistent with this statute. For example, the [Riverside Police Department](#) considers kicking (along with punching, batons and less-than-lethal munitions) appropriate when facing "threatening actions of an aggressive suspect." Even then officers are cautioned to "avoid striking those areas such as the head, throat, neck, spine or groin which may cause serious injury to the suspect." Distraction blows aren't mentioned.

Enough said. Most law enforcement professionals are repelled by the thought of using force on compliant suspects. Really the issue here isn't about kicking the head, a potentially life-threatening act that's unacceptable except under the gravest circumstances, but whether the cop did so maliciously. Did he think he was about to be attacked? Did he even intend to strike the head? To lay such a heavy blow? Might another reasonably well-trained and well-intentioned cop have done the same thing?

The incident is under investigation, and we will be interested to learn the outcome. We're also curious about the officer. According to the [San Gabriel Valley Tribune](#) he owns an Internet e-commerce website, www.torcidoclothing.com, that sells "authentic jailhouse wear," mostly t-shirts bearing text and images that signify gang membership and drug use. ("Torcido" means "twisted" or "crooked".)

Officers are individuals, with unique backgrounds, personalities and temperaments. Two cops standing in the same spot and observing the same event can react completely differently. And while it's true that fear and adrenaline-charged incidents such as chases have led to beatings and worse, officers usually hold their emotions in check. Yet, as we've pointed out, police are reluctant to concede error. Cops whose blunders can be somehow justified often escape any consequences at all, while those whose mistakes can't be overlooked (perhaps, because they're caught on video) are vilified.

In the "old" days wizened Sergeants would get on the radio at the end of a chase and blurt out something like "watch your force!" Now that we're in the twenty-first century there are probably more sophisticated approaches. Selection, training and supervision are key. We must avoid hiring applicants who might easily panic, get angry or lose their moral compass. We must intervene when active-duty officers go astray and if possible help them reform. And real-time supervision (not just passive "oversight") is always essential.

Yes, when serious mistakes happen blame must be assessed. But policing would be much farther along if we'd expend half as much effort in preventing foul-ups as in putting Humpty-Dumpty back together again.