



August 13, 2011

Chuck Remsberg
Editor-in-Chief

Training note: The *Force Science Certification Course* scheduled for San Jose, CA in December is now **sold out**. HOWEVER, registrations are still being taken for active law enforcement personnel for the course scheduled for **Oct. 17-21, 2011** in the Greater Toronto, Ontario area. To register or for details on the class, the location and a recommended hotel please e-mail: training@forcescience.org.

**Should ER docs be required to report suspected cases of police brutality?
Controversy flares over what's needed**

A resounding clash between researchers has erupted over the question of whether emergency room doctors should report suspected cases of excessive force by LEOs.

On one hand are American researchers--MDs and PhDs--who argue that in the interest of "violence prevention" ER physicians should notify Internal Affairs investigators whenever they see a patient whose injuries may be the result of "police abuse."

One of several physicians challenging the basis for recommending such a policy is Dr. Christine Hall, a practicing ER doc and clinical assistant professor in the department of emergency medicine at the University of British Columbia in Vancouver. Hall is well-known in LE circles for her landmark research into excited delirium, in-custody death, and conducted energy weapons.

She maintains that ER physicians are ill-equipped to "determine the appropriateness of police use of force" and that the American study that originally suggested that excessive use of force is a common problem encountered by emergency physicians was flawed and misleading because of "significant scientific shortcomings."

NOTE: To express YOUR VIEWS on the controversy, you can email us at: editor@forcescience.org.)

TIMELINE. The timeline of the controversy includes these milestones:

- In 2009, 5 emergency care experts reported results of a survey of more than 300 ER physicians, in which virtually all said they "believed excessive use of force [by police] actually occurs" and roughly 98% said they had "managed patients with suspected excessive use of force." Their study was reported fully in the *Emergency Medical Journal* and was synopsised by *Force Science News*. (The study's methods and conclusions were strongly criticized at that time by Dr. Bill Lewinski, executive

director of the Force Science Institute. [Click here to read the FS News article.](#))

- Last October, 2 physicians from this research team (Dr. H. Range Hutson of Harvard and Dr. Jared Strote of the University of Washington) joined 2 PhDs from the criminology department of the University of South Carolina (Hayden Smith and Geoffrey Alpert) in publishing an editorial in the *Annals of Emergency Medicine*. This piece reprised the findings of the original study and urged that ER physicians report their "concerns" about "police abuse" to police department Internal Affairs offices and make note of them in separate reports "not included in the case notes."

"Although physicians are required to report child abuse, gunshot wounds, and stab wounds, there are no guidelines for them to report alternative expressions of violence, such as the perceived use of excessive force by police officers," the editorial lamented.

- Christine Hall responded with a letter to the *Annals* editor last May, criticizing the original study and the supportive editorial as reflecting "a complete breakdown of the scientific process." Among other things, she pointed out that ER personnel are not in position to "determine the appropriateness of police use of force" and urged medical researchers to present "facts over fiction."

In the original article, the authors themselves reported that one of the study limitations was that the doctors surveyed were asked "to make a subjective judgment, most often without objective evidence," reflecting their "perception of the events rather than what actually happened."

- Last month [July 2011], the Canadian newspaper *National Post* reported on the conflict ([click here to read the article](#)), quoting Strote as asserting that police officers need to be "monitored extremely closely, because of the potential for abuse." Hall, in turn, discussed some findings from a new study that suggest that the widespread concern about force by cops is much overblown.

SHORTCOMINGS. Hall's criticism of the work of the U.S. researchers centers on what she believes was "poor" research methodology and therefore an inappropriate recommendation. While Hall believes that the issue of excessive force deserves attention, recommendations about reporting should not come from a study that claims it is widespread while relying on "physician omnipotence" to gain those findings, she says.

She argues that it is critical to understand that ER docs generally don't have the necessary context for judging whether the injuries they see were caused by force that was in fact excessive.

"They are not trained to identify excessive force," she told *Force Science News*. "While physicians are great at identifying injuries, they were not present to see the circumstances when force was applied to assess whether it was justified. They have no training in and therefore do not understand the police challenges of handling resistant individuals, nor the rules and realities of applying force.

"Most, for example, don't know that officers are justified in using force that's superior to the level of force presented by the suspect. Many believe that appropriate use of

force is a linear process that starts at a low level and gradually progresses upward in a toe-to-toe fashion with the suspect. That misconception would prompt an inappropriate assessment of many use-of-force events as excessive.

"Injury alone does not signify excess. What does a fractured arm tell you, in and of itself? Outcome cannot determine the appropriateness of the force used."

In other words, subjects surveyed in the original study--academic physicians randomly drawn from faculties of emergency medicine residency programs in teaching hospitals--were a questionable pool in terms of producing meaningful results. "They have relatively little contact with or understanding of use of force but still felt comfortable commenting on it," she says.

Furthermore, Hall claims, they were asked to specifically recall situations such as handcuffs that were too tight, with the implication that these could be indicators of unwarranted force. "They were prompted to remember something as being excessive which they might not otherwise have considered excessive," she says. She characterizes this as "measurement bias" on the part of the researchers.

Particularly disturbing, she says, was this obvious flaw: An unknown portion of the many doctors who said they had encountered "suspicious" cases based their conclusions on the fact that *suspects themselves* said they had been subjected to excessive force by the police! One study cited in the *Annals* editorial found (not surprisingly) that about three-fourths of the subjects against whom force was used claimed it was excessive. "How can this be a credible means of identifying excessive force?" Hall wonders.

"No one would be naïve enough to argue that excessive force never happens, and we don't want to ignore it," she continues. "But researchers should not bypass the requirements of sound scientific methodology in an effort to document it and the reporting of 'suspicious' cases should not be mandated on the basis of speculation in notes that are not part of the patient's case record.

"My biggest concern with the original article is that it gives medical readers the idea that there is hard evidence that police excessive use of force is widespread and represents a large medical issue."

In her letter to *Annals*, Hall stated: "Significant harm is done when data are presented out of context; that harm is magnified when the quality of the data is seriously flawed."

RESPONSE. FSN invited Dr. Strote, the designated spokesman for the researchers, to respond. He sent the following email:

"No one thinks that an emergency physician should decide whether a crime has occurred --and that goes for child abuse, domestic violence, elder abuse, excessive use of force by law enforcement, or any form of assault.

"Our responsibility is to our patients, however; and if they raise a question of having been assaulted, I believe it is our duty to 1) take them seriously; 2) offer them resources to seek help; and 3) provide proper documentation of their medical visit in

a way that gathers all the objective information necessary to protect (in the case of law enforcement use of force) **both** the officer and the patient.

"As for mandatory reporting, the issues are complex, as they are with other forms of assault. For example, some states require mandatory physician reporting of domestic violence, other don't. Understand that the argument for any type of mandatory assault reporting is to protect a group of people (like children) who cannot safely or effectively file a complaint themselves.

"This may with some frequency apply to incarcerated patients. One clear benefit would be that we would gather a tremendous amount of data about law enforcement use of force and excessive use of force that, I believe, would show how infrequently excessive use of force actually occurs.

"As we say in the editorial, law enforcement excessive use of force is a very serious event that requires investigation and accountability. When physicians do not take such complaints seriously and refuse to document the objective findings clearly and completely, we have done a disservice to our patients and to society.

"Dr. Hall's comments are simply off base. No one has said that physicians should judge guilt. The purpose of the study was to assess whether excessive use of force was an issue that emergency physicians had to deal with, which it clearly is.... [C]learly excessive force does occur and cannot be tolerated. That such events may occur infrequently doesn't mean that we should ignore complaints from patients about excessive force or that we should not take them seriously...."

NEW STUDY. Hall recently began analyzing a mountain of new data on the incidence and nature of force events involving Canadian LEOs, which she believes is largely reflective in spirit of the U.S. experience as well. This study has been described as "unprecedented and provocative." She's guarded in revealing details, pending publication in a professional journal, but she believes some findings will surprise civilians, including, perhaps, ER personnel.

"There is a huge public misconception that every time a police officer is in a room with someone, someone is getting wounded," Hall told the *National Post*. "I think harm is done when the public is exposed to the notion that use of force is rampant and it always turns out negatively."

In fact, use of force is a miniscule part of police work. In Canada, only one-tenth of 1% (0.10%) out of some 1.6 million officer-public contacts involved use of force, her new work is documenting. "That means that 99.9% of the time, police are *not* using force," she told FSN.

In studying 1,200 instances in which force was used, Hall's preliminary results indicate that more than 60% of the suspects involved were "violent or extremely violent at the time." And 86%--"the vast majority"--were "drunk, high, emotionally distressed, or some combination thereof."

That context is important, she says, in assessing injuries that may result from applications of force as officers exert necessary control over difficult individuals. "Obviously, that context becomes even more important when allegations of excess

are considered," she says.

So far as in-custody deaths are concerned, Hall says, the "core cause may not be Tasers or other police tools, but a pattern of behavior on the part of the victim that seems to be repeated over and over again in such cases. They tend to be violently agitated, sweaty, exhibit seemingly superhuman strength, are impervious to pain, are incoherent, and are oblivious to the police presence."

Hall believes knowledge of such factors "would change most physicians' assessments of police use of force and would alter the public's impression."

These findings, she says, are "only a small part" of a "large volume of data" from her study, which was funded by the Canadian Police Research Centre and which she hopes to publish months from now. *FSN* will be reporting on it.

ENDURING BELIEFS. Meanwhile, Dr. Strote on behalf of the U.S. researchers continues to advocate reporting by ER docs of cases they deem suspicious. He acknowledged in the *National Post* article that "the use of force is rare and excessive force very rare," although in their *Annals* editorial, he and his colleagues pointedly cited a source indicating that excessive force "is often underreported." Whatever the numbers, it is crucial to keep an eye on those cases and find out why they occur, he believes.

"There may very well be ways the police can decrease" the risk of their force interactions, he said. "Considering the extent to which police brutality "polarize[s] the community," he and his colleagues wrote, "criminology would benefit from efficacious partnerships with public health."

[Our thanks to Chris Lawrence, an instructor with the Ontario Police College and a member of the faculty for Force Science Analysis certification, for his assistance in facilitating this report.]
