

Jemel Roberson's avoidable death: Reform deadly force laws, require police to de-escalate

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ABSTRACT (ENGLISH)

State laws should require police de-escalation. That could have saved uniformed security guard Jemel Roberson, who was shot and killed by an officer.

FULL TEXT

The death of security guard Jemel Roberson is yet another in a long string of fatal police shootings of young black men. Why did the officer see Roberson as a threat even though he was trying to help the police? The officer saw a young black man with a gun and assumed Roberson was a dangerous criminal. Decades of social science research indicate that most people associate blacks with danger, criminality and violence.

What happened? On Nov. 11, 2018, a little after 4 a. m. , a police officer responding to a report of gunfire at a suburban bar shot and killed 26-year-old Jemel Roberson, a security guard at that bar. Roberson had just captured a man with a gun following a shooting at the bar, which is why police were called.

When police arrived on the scene, Roberson was outside the bar, holding one of the suspects in the shooting on the ground with his knee in the man's back and his gun pointed at the man's back. According to a spokesperson for the Cook County Sheriff's Office, Roberson was licensed to carry a firearm. He was in uniform and was wearing a hat with the word "Security" on the front. The officer shot Roberson even though many people around were screaming at him that Roberson was a security guard.

De-escalation could have saved Roberson's life

Roberson's death could have been avoided had the officer engaged in de-escalation measures, such as taking cover, waiting for backup, and trying to talk with Roberson before deciding to shoot. If a law had been in place requiring de-escalation, this officer might not have been so quick to pull the trigger.

Avoiding fatal police shootings of individuals who are not actually dangerous criminals posing an imminent threat of death or serious bodily injury is the reason legislatures need to reform state laws on police use of deadly force.

Most statutes currently in place focus solely on whether the officer believed deadly force was necessary to effectuate an arrest or prevent the escape of a felon or to protect against a threat to officer or public safety.

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When an officer claims justifiable use of deadly force, his or her use of force should be evaluated on two levels. First, was the officer's belief in the need to use deadly force to protect against a threat of death or serious bodily injury honest and reasonable? And second, were the officer's actions reasonable?

Focusing on actions as well as beliefs is very important for several reasons. If the focus is solely on the officer's beliefs, the question becomes simply whether the officer's fear was reasonable. Given the difficult job police officers do, it is too easy to conclude that an officer's fear was reasonable.

Actions mean more than beliefs and fears

If the focus is on actions as well as beliefs, however, the fact finder can get beyond an assessment of the officer's fear. In assessing the reasonableness of the officer's actions, the fact finder should consider whether the officer

engaged in de-escalation measures and whether the conduct of the officer prior to the use of deadly force increased the risk of a deadly confrontation.

Given the absence of legislation requiring de-escalation measures, fatal police shootings of civilians trying to help police are likely to occur with more frequency in the future —especially if there is follow through on President Donald Trump's call for teachers and other civilians to carry firearms. Roberson's death is a warning we should not ignore.

Cynthia Lee, a professor of criminal law at The George Washington University, is the author of "Reforming the Law on Police Use of Deadly Force: De-escalation, Preseizure Conduct, and Imperfect Self-Defense. "

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