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OCTOBER 18

CODY BELGARD
NOVEMBER 9

LIBERTY REPORTER

SPRING 2019

DELOREAN PIKYAVIT
APRIL 18

SPECIAL REPORT

Why did so many
Utahns die in police
shootings last year?

ELIJAH SMITH
APRIL 8

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OCTOBER 22

JAMES LYLE KUEHN
OCTOBER 17

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NOVEMBER 30

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MAY 29

ACLU
Utah

The Deadliest Year

Officer-involved shootings increased three-fold in Utah in 2018, but why?

A cell phone.

A silver pellet gun.

A screwdriver.

A .45-caliber handgun.

These were the objects found with the bodies of four of the 19 people killed by law enforcement officers in Utah last year. In each case, officers fearing for their lives or the lives of others, shot and killed the person holding the item. After the shootings, the objects were recovered, cataloged, and more details about them emerged. A screwdriver was “modified.” A knife was 10 inches long. Sometimes, the investigations revealed how police misidentified non-lethal objects as dangerous weapons. A perceived gun was actually a cell phone. What looked like a rifle became a realistic-looking BB gun. When violence occurs and someone dies, every detail is important to try to understand what happened. These objects, both lethal and harmless, joined the complex narrative that grows around each shooting, which police departments call Officer-Involved Critical Incidents (OICI). Add in body camera footage, witness interviews, and social media commentary, and the events become tragic, self-contained stories unfolding on lawns, sidewalks, and parking lots across Utah. Some people refuse to watch, but many others tune in to form their own opinions and debate the details. Almost always, one question looms over these incidents: “Did it have to end this way?”

A record year

The cycle of fatal shooting, investigation, and public reaction repeated 19 times in Utah in 2018, the deadliest year in the 15 years of records kept by the *Salt Lake Tribune*. For comparison, six Utahns were killed by law enforcement in 2017. But after the count reset to zero on January 1, 2019, the public seemed to move on. The first four months of 2019 saw only one fatal police shooting in Utah. Perhaps last year’s 19 deaths were an anomaly. Maybe there is nothing we need to change.

Except we shouldn’t move on, and we do need to change our reaction and response.

Moving on is not easy for the families of the deceased. They continue to deal with the grief and anger of losing their loved one, along with many unanswered questions. If they decide to seek information beyond the official investigations, they may face entrenched resistance. Marvin Oliveros, whose brother Cody Belgard was shot and killed in Salt Lake City on November 9, says his family has received little support or transparency from the police departments investigating the incident. “After we made public records requests and asked for more bodycam footage, we stopped getting calls back,” he said. “At some point, we felt like we were being hung up on.” Nor is it possible for many of the officers involved to move on. Although police officers often witness traumatic events, treating mental health is a new priority in many departments that must overcome decades of resistance. Recent studies indicate that police officers suffer post-traumatic stress disorder (PTSD) at rates much higher than the general population, a factor that could influence their response to stressful situations.

Finally, our society shouldn’t move on. If we don’t examine why 19 people died in police-involved shootings in 2018, we won’t know how to respond if the trend starts to repeat in future years.

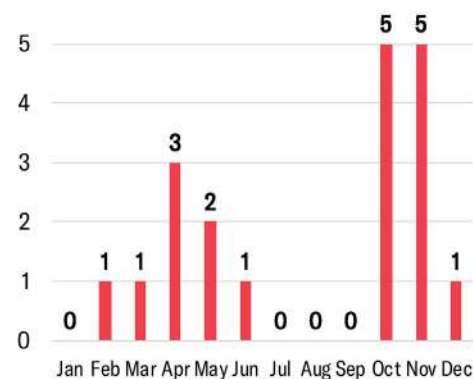
Utah’s reaction to a surge in county jail deaths should serve as an example. In late 2016, when newspapers like the *Ogden Standard-Examiner* began to note that record numbers of inmates were dying in Utah jails, both reporters and state officials realized that recordkeeping was spotty and explanations were lacking. As Utah earned the dubious honor of having the nation’s highest per capita jail death rate, lawmakers and advocates scrambled to investigate and address the problem. If jail deaths are too important for Utah to ignore, shouldn’t we devote the same energy to understanding last year’s three-fold increase in fatal OICIs? Plus, unlike jail deaths, the data on police shootings is available. Each incident is covered in the media, and follow-up investigations generate more records and attention. The first step to

uncover what made 2018 such a deadly year is to ask uncomfortable questions, starting with the most basic one: why?

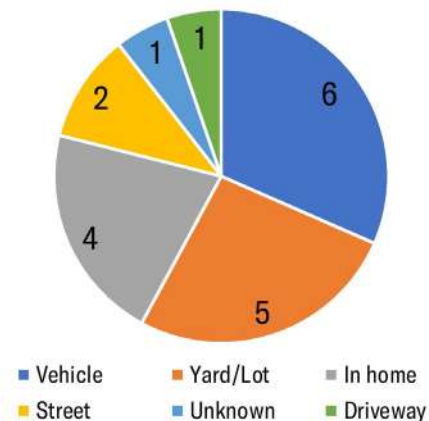
Seeking explanations

As soon as fatal police shootings set a record in 2018, explanations abounded. Some in law enforcement blamed it on the aggressive behavior of the people killed. “We are reacting to other people’s actions,” explained Salt Lake City Police Sgt. Brandon Shearer. “And there seems to be a shift in society of more people wanting to fight and oppose the police.” He said officers are encountering more individuals with mental health and substance use issues who don’t respond to verbal commands or non-lethal methods like batons and Tasers. Others claimed the number of shootings each year is random and shouldn’t be examined for any meaning. But any 200 percent increase is statistically important, even if the reasons are unknown. Salt Lake City Police Chief Mike

Incidents by month



Incidents by location



Brown admitted that no one knows why 2018 was such a deadly year. “A lot of people are scratching their heads as to what the cause is. We just don’t know,” he said.

Last year’s high number is also not a problem that can be pinned on one location or department. Although 13 of the 19 fatalities occurred in Salt Lake County, those incidents involved officers from 10 agencies. This scattering of incidents also means that each law enforcement team can point to its own low number of fatal shootings even though the statewide total set a record. Another challenge is that follow-up investigations usually focus on a single incident with less attention given to patterns appearing across multiple cases. In short, no one is reviewing the bigger picture even though data indicates that something is terribly wrong with that picture.

Reducing conflict

When Chief Brown joined the Salt Lake City Police Department (SLCPD) in the early 1990s, he said the “warrior cop” culture was

in full operation. “We were going home at the end of the day, no matter what,” he explained. But today, he claims, police culture is focused more on diminishing conflict. Officers are trained to maintain distance, which both reduces tension and generates more time to react. “We are taught that more time gives you more options,” said Sgt. Shearer. He added that officers sometimes have a fraction of a second to respond to hostile intent. Letting down their guard can be fatal. In November 2018, Officer David Romrell of the South Salt Lake Police Department was hit and killed by a car—the sole Utah officer to die in the line of duty last year. The driver of the car was later shot dead by responding officers. To prepare officers for unpredictable situations, many departments now offer training in de-escalation tactics and use realistic simulators. Others, like Salt Lake City’s police force, also give awards to officers who defuse tense confrontations. Chief Brown said his department has distributed de-escalation medals for more than 25 encounters since 2016. “In each of these incidents, officers would have been authorized to use deadly force, but they didn’t,” he said.

that public questions about police shootings were valid and important, including those asserting the officers’ response contributed to a fatal encounter. Gill’s official report suggested police should review these cases to determine if their reactions “narrowed the range of possible effective options to resolve the situation.”

Body camera footage of the April 18 fatal shooting of Delorean Pikyavit in a Salt Lake City neighborhood also raised questions about how police confront people suffering from mental illness and suicidal behavior. As Pikyavit, holding a knife and a broken pair of scissors, stood on a porch facing a SWAT team on the sidewalk, several officers can be heard telling him to drop his weapons and sit down. But seven times during the 90-second clip released by SLCPD, one officer can be heard telling another officer to stop shouting over the designated negotiator. When Pikyavit, who had dropped one of his blades, stepped off the porch, officers immediately shot him with a 40mm rubber bullet and a rifle round. Did Pikyavit leave the porch to sit down or to advance on the officers? It’s impossible to tell from the video, but confusing commands from multiple, shouting voices could make it difficult for someone suffering from mental illness to respond. “We see people on their worst days,” admitted Chief Brown. As a result, law enforcement should adapt their communication tactics to defuse encounters with people who can’t do it themselves. This is especially true when people call police to assist a family member experiencing a mental health crisis, and don’t realize the call could result in their relative being shot.

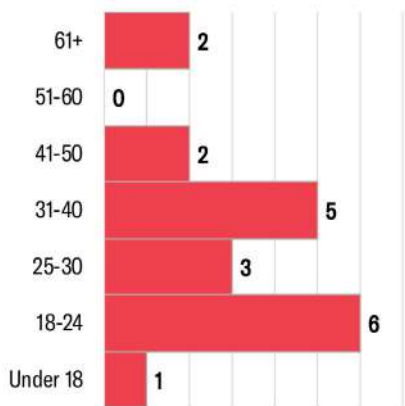
When de-escalation fails

Body camera footage from several fatal shootings last year appears to show Utah officers advancing quickly, reducing the space between them and their target, and shouting conflicting instructions—tactics that escalated the situations. When West Jordan police responded to a domestic violence call last October, three officers confronted Diamonte Riviore in a small apartment. Within 35 seconds of entering the cramped space, one officer fired two shots, killing Riviore, who had barricaded himself in a bathroom and threatened officers with a knife. The body camera footage shows officers removing a woman and child from the apartment and trying to use a Taser on Riviore before the fatal shots were fired. During a press conference on April 25, Salt Lake County District Attorney Sim Gill announced his office’s conclusion that officers were justified in using deadly force against Riviore. But he also acknowledged

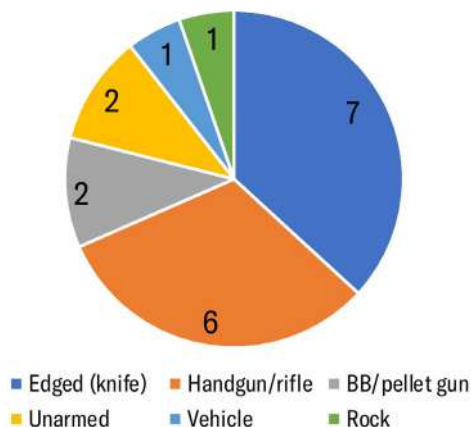
The role of accountability

If de-escalation training is the front-end of reducing fatal police encounters, then accountability is the backstop. Critics of law enforcement’s role in the rise of fatal shootings blame a lack of consequences for officers who are too quick to use deadly force and don’t follow policies. Utah Against Police Brutality (UAPB) has organized protests over several of 2018’s officer-involved shootings. UAPB member Jacob Jensen explained

Age of deceased



Weapon found at scene



DEADLIEST, continued from page 8

that more accountability is needed to alter law enforcement behavior. “You won’t change anything if you lacquer on a layer of de-escalation training to a system that says, ‘Here’s a gun, go solve a problem.’” Jensen explained his point with an analogy: Imagine if all restaurants were required to have food-handling permits, he says, but no restaurant was ever inspected or shut down for bad hygiene. Without accountability, the permit is useless because the restaurants lack an incentive to stay clean. The same is true with police departments, he says: Without real accountability, de-escalation training and medals won’t change ingrained behavior. In response to Jensen’s criticism, officers at the SLCPD claim they are held accountable in multiple ways, including outside investigations by a separate police department to avoid a conflict of interest. But Marvin Oliveros dismissed the idea that police agencies can adequately investigate each other: “You can’t say you’re unbiased when you work with other officers day-to-day, sharing information, and pursuing suspects.” Whether these outside reviews are truly independent or not, the investigations have determined that officers were justified in using deadly force in every 2018 shooting incident reviewed so far. Jensen cites that trend as evidence the legal standards being used to clear police shootings are off. “All they have to say is that they feared for their lives and it’s justified,” he said. “Just because a person can’t be found guilty in a court of law, doesn’t mean that they are a

police officer we want in our community.” One new element of police accountability that was recently rejected was the independent authority of civilian review boards—appointed groups that provide oversight of OICs and complaints against law enforcement agencies. Reacting to calls from UAPB to strengthen these boards, the Utah Legislature passed a law earlier this year that blocks civilian review boards from any independent authority over hiring staff, setting budgets, or reviewing police rules or policies. Jensen, who lobbied unsuccessfully against the bill, H.B. 415, said it was a logical response from lawmakers who feared the impact of increased oversight. “They were afraid that police weren’t going to get a free lunch anymore for protecting their abusive officers,” concluded Jensen. Ironically, Utah lawmakers passed another bill this year, H.B. 406, that expanded the scope of encounters that can be investigated as OICs—including the use of a police car to injure someone, or an incident that occurs while someone is escaping custody.

More than protest

The shooting death of Cody Belgard on November 9, 2018 in Salt Lake City represents what is both tragic and correctable about last year’s record tally. After fleeing in a car from a police encounter, Belgard was tracked to a Rose Park neighborhood and approached by multiple officers. The grainy body camera footage of the nighttime confrontation is jerky and streaked by blue and red siren

lights. As officers yell at Belgard to get on the ground, his barely-visible body casts a long shadow against a nearby house. Belgard doesn’t comply with their orders as his body twists and sways. Then, officers in separate locations call out “he’s got a gun,” and “he’s pointing,” followed by “drop it” a fraction of a second before five of them start firing. Later, officers searching for a gun at the scene found only Belgard’s cell phone. Oliveros said he has watched the video of his younger brother’s death “hundreds of times,” using it to develop a timeline of the encounter that he says raises more questions. “They knew Cody was non-violent and not the original guy they were searching for, they knew he was unarmed, they had a K9 team around the corner, an officer opens fire 30 seconds after he gets there, and they shot him in the back,” said Oliveros. “They had many opportunities to prevent this outcome, but they were so amped up they couldn’t back down.” Oliveros, along with other family members, and groups like UAPB and the Rose Park Brown Berets, have organized rallies to memorialize Belgard and to demand meetings with city officials. They’ve also made public records requests for additional body camera footage, the autopsy report, and medical examiner reports. “The police don’t expect that people will do what we’re doing,” explained Oliveros. “No one expects to deal with something like this, but you learn how.”

By continuing to ask questions and seek answers, Oliveros is not only honoring his brother, but also identifying many of the troubling patterns that arose in last year’s officer-involved shootings. These include decisions by officers to avoid or abandon non-lethal force; the aggressive mentality of some officers; ineffective communication among officers; conflicting and confusing instructions for people to surrender; and how officers arriving late to a scene can upset the existing dynamic. Each of these questions not only applies to Belgard’s death, but also to many of the other officer-involved shootings in 2018. Families, law enforcement, elected leaders—and all of us—should continue to ask these hard questions to find new and better answers to keep more people in Utah alive.

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State Bar, a process controlled by the Utah Supreme Court. This situation has created a barrier to employment for law school graduates who have satisfied every other requirement to practice law in the state. When a reporter covering the issue for KUTV interviewed Ciriac Alvarez, a DACA recipient who has been accepted at several law schools, Alvarez explained her hesitancy to matriculate unless she can be admitted to practice law. “There’s no point in going to a firm and saying that yes, I am technically a lawyer, but I haven’t taken the bar [exam] yet.”

“We support the ability of Dreamers to reach their professional goals to continue making important contributions to our society,” explains John Mejia, Legal Director of the ACLU of Utah. “Because the Utah Supreme Court governs access to the Utah State Bar, we believe that the Court can and should grant admission to DACA recipients and other qualified immigrants.” The Utah Supreme Court is expected to issue a decision later this year.

Track the ACLU of Utah’s legal docket online:
www.acluutah.org/legal-work