

Policing: A Cop's-Eye View with Dr. Michael Sanchez (S2 Ep4)

SPEAKERS

Coleman Hughes (CH), Dr. Michael Sanchez

CH 00:30

Welcome to another episode of conversations with Coleman. My guest today is Dr. Michael Sanchez. Michael Sanchez is a criminal justice scholar with over 20 years experience in the criminal justice system. He's been a detention officer, booking officer patrol officer, patrol sergeant, administrative supervisor, training coordinator, firearms instructor, investigator, Lieutenant, Deputy Chief of Police, international police officer with the UN in Kosovo, and Regional Commander for the UN police in Haiti. He has a Master Peace Officer licence in the state of Texas, a bachelor's degree in Police Science from Ottawa University, a master's degree in Criminal Justice Administration from Utica College and a PhD in Business Administration with a specialisation in Criminal Justice from North Central University. He's been teaching at Utica College since 2012, and is also a full-time lecturer for the University of Texas, Rio Grande Valley in the criminal justice department. So I can honestly say this was the most interesting conversation I've had about policing in my life. And this conversation took place many months ago, when the death of George Floyd and the subsequent protests and riots were in the foreground of everyone's minds. So I was very excited to talk to someone who had both academic knowledge of policing and practical experience with it. We start by talking about the difference between policing in America and international policing. Then we talk about the steady stream of videos of unarmed Americans getting killed by cops. We talk about Briana Taylor, George Floyd and Rashard Brooks. We talk about the mechanics of shooting and why cops tend to fire so many bullets. We talked about the difference between tasers and guns. We talked about how to hold bad cops accountable. We talked about qualified immunity. We talked about why America is unique with regard to the issue of police killings. We talked about how police get trained, and whether it makes sense to use mental health professionals instead of police in certain cases. And the most interesting part of the conversation occurs toward the end, where we have a disagreement about what level of risk a cop should be expected to take on. So without further ado, Dr. Michael Sanchez. Okay. Dr. Michael Sanchez, thank you so much for coming on my show.

Dr. Michael Sanchez 03:25

My pleasure.

CH 03:26

So can you give people your background as a police officer in you know, in multiple different respects, and as an academic, before we get started?

Dr. Michael Sanchez 03:38

Sure. I started my police career back in 1988. I have over 25 years of experience in all aspects of the criminal justice system. I've worked in jails, detention policing. I worked in every capacity from patrolmen to Deputy Chief of Police in the United States. I served as the assistant project manager or assistant warden of an immigration detention centre, and I served four years as an international police officer for the United Nations. I served three years in Kosovo, where I reached the level of the Director of Administration for the UN police and I was a Regional Commander for the UN police in Haiti. I was actually in Haiti when the earthquake hit in 2010. That was a unique experience. I finished my bachelor's degree with Ottawa University in police science. I have a master's degree in criminal justice administration from Utica College in New York. And I have a PhD in Business Administration with a specialisation in criminal justice from North Central University, out of Arizona. I am published. I have a few book chapters out and I have one research monograph book out, *The Role of Culture in UN Policing*. And I currently teach criminal justice at the University of Texas Rio Grande Valley.

CH 04:56

So when were you in Kosovo?

Dr. Michael Sanchez 04:58

I was in Kosovo from December of 05 to December of 08.

CH 05:03

And where were you Chief of Police.

Dr. Michael Sanchez 05:06

I was Deputy Chief of Police in Indian Lake, which is down here in South Texas.

CH 05:12

Okay, so yeah, you have a huge well of policing, very different policing experiences to draw from. Which is great. I think a lot of civilians in the past six months or so are in the position of speculating what it's like to be a police officer or seeing videos of unarmed Americans getting shot and killed or videos of protesters getting beaten up. And also videos of cops getting beaten up. And often video clips that start the story in the middle. And I think many people, at least I've noticed, there's a conspicuous lack of police voices that I hear if I'm just paying attention to the op-ed pages, and you know, the talking heads, which sets up a situation where I think it's very easy to sort of play backseat cop, as someone who's never done the job. And I'm always aware of how my ignorance about the job can be informing my opinion on these videos are on the wider problem of police brutality, or racism in policing or racism in the justice system. So I think it's really useful to get someone who's been on the other side of it just to, you know, fill the gaps in people's knowledge about these issues. So I'm very excited to talk with you. First, can you talk about the difference between policing in America and an international policing with the UN?

Dr. Michael Sanchez 07:01

Yeah, international policing was the greatest experience of my life. In Kosovo, we were basically trying to bring stability to a war-torn region to develop an organic police force out of the ashes of Yugoslavia. And this is, when I was in the UN police in Kosovo, the UNMIK police consisted of 2190 police officers

from 47 countries. So I've lived in incredible multicultural existence. I've worked with police officers from all over the world. And the goal there was to bring democratic police reform to Kosovo and to help develop their police force into a modern police force. And, you know, the stakes in international policing were so much higher. I tell my students that when you make a mistake in America, okay, maybe you get sued, maybe you get suspended. You make a mistake in an international peacekeeping mission, you start a war. So the stake can be much higher, and you have to be much more careful about everything you do and the ramifications of each decision you make.

CH 08:11

So is the dynamic different at all? Because you're presumably exercising soft power. In the case of being an international police officer, where you don't have the teeth of a national or local law to back you up. It actually depends on where you are. When I was in Haiti, Haiti was already a sovereign nation. And that's what's called a development and capacity building mission. The UN was in Haiti to just help the Haitian police develop and improve. Kosovo, the UNMIK police in Kosovo actually had executive authority. So the UN police for the time that we were there, had the power to investigate, had the power to arrest. So we did have the hard police powers. So let's talk about the the American context. Was all of your, was everything from patrolmen to Deputy Police Chief in South Texas for you? I did work a little bit in Virginia, but the vast majority of it is South Texas. So when you see a video of an unarmed American getting killed by a cop, how does your perspective as a cop, lead you, if at all to see it differently, than the typical civilian might? Okay, I actually am a master firearms instructor and I teach a lot of use of force, deadly force. So what I'm going to tell you is what I teach police officers. Just because somebody doesn't have a weapon in his hand doesn't mean he's unarmed. If you're a police officer, and I have you on your back, and I have you by your collar, and I'm banging your head on the cement in my own arm. Because I'm hitting your head against the weapon and not the weapon against your head makes the sidewalk no less a weapon. There's something in use, of course called disparity of force. If you have a four foot nine female police officer trying to arrest 6'7, 350 pound football player, does he have the ability to kill her with his bare hands. So it's not just that someone doesn't have a weapon in their hand, it's a little more complicated than that. We had a constable here in the 90s killed, because three men who were much smaller than him, tackled him to the ground and beat him to death. So that scores of numbers, that's another disparity of force. So when I look at it, I look at it in the totality of the circumstances as to whether there was a disparity there that made escalation of force reasonable. And a lot of times it's not, but the mere fact of them being unarmed is touted as, well, the police had this have screwed up, he was on armed. And the best. Alright, I'll give you a scenario that I tell everybody. If a police officers shoot an unarmed man in the back from 100 feet away, is he wrong? And most people would say yes. If the police officer was answering a call on the second floor of an apartment building, and he heard a scream in the alley, and sees a man choking a woman to death, and the officer yells, maybe he throws his baton at the man but the man continues on. And the officer knows by the time he gets down the stairs out the building down to the alley, the woman's going to be dead. Now he shoots the man. Is the officer wrong? Just because the man was unarmed. Everybody asks me when the video comes out with a right or wrong. Okay, first of all, you have to wait and find out what the facts are. And second of all, you have to look at it based on the totality of the circumstances. Third, we in this country, we like to have binary choices. Politically, people want the magic button that's going to solve a problem, right? And one of my mantras is there are no simple solutions to complicated problems. But we want the simple answer. And a lot of times it's not that the police were wrong or the

police were right. Some things they did right, some things they did wrong. A great example would be the Brianna Taylor case. Now, whether or not no-knock warrant should happen is a whole other issue. But the officers were following their department policy. When the Sergeant entered the apartment, Taylor's boyfriend was absolutely justified in shooting at the police officer. The knock and bang, I don't really agree with because you're not going to hear somebody say police search warrant, you're going to hear your door being broken down, Right. Or you just might hear muffled voices. Or you might not, you might hear the word police and simply not trust that it's in fact the police, because it could be an imposter.

Dr. Michael Sanchez 12:57

And if I was going to rob somebody, I would come in the house saying "Police" because you're going to make them hesitate.

CH 13:02

Right.

Dr. Michael Sanchez 13:02

But the average person woke up by their door crashing down in the middle of the night. It's reasonable for him to defend his home. Now it was reasonable for the officer to fire back firing six shots. That's kind of high normal. But I wouldn't say it was ridiculously excessive. Where they went off the rails was the other two officers fired 26 shots through windows. So they don't have a clear identification of the suspect. They don't have the elements of deadly force. So to my mind, that was incredibly reckless. The officer was right. Taylor's boyfriend was right. But the officers fire from the outside were wrong. So a situation sometimes it's completely right or completely wrong. George Floyd was completely wrong. There's no mitigating factors in that. I don't think people are willing to accept a mixed answer.

CH 13:56

I want to get to the George Floyd case in a moment. But let's linger a bit on the Brianna Taylor case. My last reading of of the reporting on that was that, there were two officers coming in from the door and then the third officer shooting crazily from the window outside, who, you know, charges of reckless endangerment were brought against. And it seems as if I think I'm right about this, that the bullet that ended up killing Brianna was not from the first cop that got shot in the leg, but the cop very close to him also coming in through the door. The reporting that I saw was that only the Sergeant made entry. The other two were firing through the windows. And it wasn't the Sergeant's shot that hit Brianna Taylor, that was the killing shot. The fatal shot was fired from outside the apartment. So I think we're agreeing about everything except my impression was that the sergeant made entry into the apartment and then there was someone just behind him outside the threshold of the door also shooting. That's possible. I, like I said, If I could see the official reports, that's one thing. You know, you look at the reporting, and the reporting is all over the place. And I have to kind of use my experience to kind of sift through what probably happened when you get a dozen different scenarios. Yeah. Yeah, agreed. I want to talk about, a lot of the, at least part of the outrage from people watching this from the outside pertains to how many bullets are fired in these scenarios. And having spoken, I've never fired a gun myself, but having spoken to some people who have, I increasingly get the sense that we don't really understand what the number of round fired translates into. Can you explain what does it mean for someone to fire three

rounds as opposed to six rounds as opposed to nine? And what do you see from the point of view of someone who works? You know, in this? What number seems justified based on what level of threat coming a cops' way?

Dr. Michael Sanchez 15:21

No matter how you slice it, I don't think the sergeant did anything wrong. I would have to look at the police department's policy to know if they authorise shooting inside from outside of a building into a building blind. The problem is, this was a terrible tragedy. And the screams to charge the police officers with first degree murder is an emotional one. Because that case would not meet the elements of a first degree murder. Maybe reckless homicide for the person because he was shooting from the outside. But then, did he see Mr. Walker from the outside? Or was he just firing what we call sympathetic fire? It happens a lot where an officer shows up on the scene and you're you're shooting so I start shooting. I don't know what you're shooting that. But I'm shooting because you're shooting. So did they just start shooting because they heard shots? Or did they actually see somebody with a gun? So there's still a lot of unanswered question.

CH 17:11

Well, the application of deadly force doesn't just have to be justifiable, it has to be proportional and reasonable. So if a man approaches you with a knife, if you shoot him 50 times, that's not proportional and that's not reasonable. Okay? Why officers shoot so many rounds is, in my opinion, a combination of things. I actually have the good fortune of having started my police career with a revolver. Which means when I worked I had 18 bullets on my entire person. You're not looking to unload on a person when you have a revolver. So what we were trained to do was draw on fire to bang, bang, and then come to what we call low ready and reassess. If the target still a threat. If they're still executing that threat, then you fire another shot and you re-evaluate. So why they're shooting so many rounds is a couple of different things. Sometimes it's fear, they panic, and they just keep shooting. Sometimes it's a lack of training in the use of instinct shooting, and they do what's called spray and pray. Which is hoses down the area and hope you hit the suspect. And the third is really kind of a cultural thing. Where it's a statement of power, let's say, but it's not reasonable. And it depends on what the suspect is doing. Okay? If, let's say, I have my off duty weapon, and I'm at the mall, and a guy comes in and starts shooting with a fully automatic AK47, I'm probably going to shoot him five or six times because his weapon is so much outclasses mine, that I have to put him down hard to keep me from getting killed. Otherwise, I can't protect everybody else in the mall. If, a person comes in and charges with me with a knife, I might fire one time, if he doesn't go down, I'll fire again if he keeps coming. So each individual case is different. You get requirements manual where they fired 16 shots at a kid with a knife. There's no way to justify that. To me, firing 26 rounds from outside the apartment. That's not proportional. And to my mind, that's not a reasonable application of force. When you apply deadly force, it's not a switch. You don't flick it on and then shoot all your bullets at the guy Your goal is you don't shoot to kill you shoot to stop. Your goal is to stop the threat that is either putting your life or somebody else's life in jeopardy. Once that threat has been stopped, you stop shooting. You can see some of the videos, I use a lot of videos when I teach you some force, there's one video of a police officer that pulls a man over, asks the guy for his driver's licence, the guy said "Oh okay" and reaches into the car. And he reaches into the car to get his wallet because he left it on the console, but the officer starts shooting. And the last shot, the guy has his hands up and the officer is still firing, which means the officer stopped

thinking. He went on autopilot. Yeah, the thing about this conversation is that, of the roughly 1000 or so, Americans that get shot and killed every year by cops, you can find every possible scenario on every side of the spectrum. You can find cops emptying the clip into people that are facedown on the ground. You can find cops that didn't take enough shots and ended up getting hurt or killed as a result. And everything in between. And it can be hard to predict based on a limited clip from the middle of an interaction or the very tail end of an interaction, where on the spectrum that falls. So in the Breanna Taylor case, six rounds from the officer who himself got shot. That can still seem like far too many to people. If people can think, well, why didn't you just shoot once? Now we get into dynamics that neither one of us have the answers to. How far apart were they? Was his gun still up? Did he fire one shot and continue aiming it down the hallway? Did he drop it down to his side? Were they firing around corners? You know, now you get into and this is why I'm hesitant to say he fired too many shots. If he fired a shot and still had his weapon up and pointed at the officer, the officer is reasonable to think that more shots are coming. So I couldn't really answer that with any sort of accuracy without knowing the finer details. Because, what a deadly force decision comes down to is what we call the totality of the circumstances. And when it happens, I don't think the average person realises that these decisions come in microseconds. And you have to take everything into account. I'll give you an example from my own career. And this incident actually changed the way I see things. I was working with a partner of mine when I was the Deputy Sheriff in Virginia in the 80s. And we were at a Hardee's. And we're talking to a suspect and we had the suspect in a triangle. So I'm looking at the suspect and Paul is in my periphery on my left because we have the guy triangulate. As I'm talking to the suspect, and this is three o'clock in the morning in the parking lot. Out of nowhere, I see a hand enter my field of vision grab Paul's gun and take it out of the holster. I spun around and I drew, and I'm an advanced shooter, so actually, as I'm coming up with the revolver, I'm already pulling the trigger. And as I'm coming up, and I'm pulling the trigger, when I get up to this height, the suspects eyes went and I stopped. Because just that shift in his eyes changed the totality of the circumstances for me. And when I stopped, the hammer of my revolver was all the way back when I recognised that it was a friend of my partner playing a joke on it. And all said, the whole thing, he felt tugged, blur, and I was there, he said it happened that fast. To me, it felt like it took four seconds. But Paul said it couldn't have been more than a half a second. And of all the things I've been through, that is actually the one that will keep me up at night because I came thousandths of a second from making a widow and two orphans over a joke. Now by the rules that govern police, I would have been right. But being right and living with it are two very different things. So these things happen incredibly fast. And you have to be able to continue thinking, as some of the officers you're talking about who shoot too many times, stop thinking. They flick the switch, they go on autopilot and they start shooting. Yeah, that's an incredible story. There's a lot of directions we can go here. But, so another common thought that a lot of people must have is, if the goal is to shoot to stop, rather than to shoot to kill, why not just shoot them in the legs? You know what, I get this question all the time. And the answer isn't what people think it is. We teach police to shoot centre mass, because it's the safest place to shoot for everybody else. If I'm put in a position where I have to apply deadly force, my greatest responsibility is to everybody else in the area. I'll give you a very good example. There was a, I want to say 2014, there was a Constable in Pennsylvania who was serving an eviction. The man he was evicting arrives at the front door with a rifle and points it at the officer, so the officer fires one shot. Now the officer is probably aiming centre mass but the shot went through the suspects arm and killed his 12 year old daughter. This is why we don't shoot at the leg. First of all, under stress, a leg is a hard thing to hit, or a shoulder where the brachial nerve or the elbow where the gun hit him.

Have you ever had a real adrenaline dump? Yeah, like almost being hit by a car in New York City, or being followed, being chased. Yeah, a bit. Definitely. My first one was when that guy grabbed Paul's gun, and I remember lowering my hammer, and I just got my gun in the holster. And I started shaking, and that's adrenaline. So imagine under the adrenaline of being in a shootout, I'm supposed to aim for his leg. And if I miss the leg or the bullet goes through the flesh of the leg and doesn't hit the bone and ricochets and hits a three year old. Who's responsible? So we teach centre mass because, this is the largest safest place to shoot, to where you won't get a little penetration or you won't miss. Same concept with shooting at the gun. Guns are made of metal, if I shoot at the gun and it ricochets and hits a three year old, I'm responsible for that. So let's talk about tasers. Have you ever used your taser? Did you have tasers? Not in my day. Tasers came out when I started going to the UN and I haven't actually used one. I think taser is a great tool. Tasers don't always work. I know officers that used, before we had pepper spray, we had CN gas and I know an officer who maced somebody and then stood back and waited for this guy to I guess fall down on the ground in handcuff him. So sometimes they don't always work. There's cases where tasers don't work on people that are severely hopped up on drugs. Yeah, I've seen videos of people getting tased three and four times and it seeming to not faze them. That could be that the taser wasn't fully charged. There could be other issues. It could be drugs, but nothing works a 100% of the time. I think tasers are an excellent tool. But even a taser can be overused. You see a police officer who, tasers fall in the use of force continuum where a baton falls. So if I'm justified in hitting you with a baton, I'm justified in tasing you. But see cases where a kid in school won't comply with what the officer says so the officer tasers the kid. Or even a suspect on the street. Tell him sit down on the curb. They don't sit down on the curb, you tase them. If you envision applying the taser like hitting them with a baton, if I tell you sit down and you don't sit down, am I justified in hitting you with the baton? I'll say no.

Dr. Michael Sanchez 27:55

Because it doesn't cause permanent injury, in most cases, it could be overused.

CH 28:02

I've also heard some people say that the taser should not be so kind of blithely called a non lethal because it actually there's a small but you know not infinitesimally small chance that it kills you either if you have a pre-existing condition or if you just consider the fact that it makes your whole body stiff, and then you can go down on the pavement or on a curb headfirst and crack your head open or break your neck and die instantly.

Dr. Michael Sanchez 28:34

You actually hit on one of my pet peeves. I'm an instructor in specialty impact munitions, which is beanbags and rubber bullets and that sort of thing. And it grates my nerves when people call those less than lethal. Beanbags, tasers. None of those are less than lethal, they're less lethal. You can still kill somebody with a rubber bullet. It happened in Kosovo when I was there. Two people in a riot got shot in the temple with a rubber bullet and it killed him. Yeah, a taser could create circumstances if it doesn't directly, like you said if the person starts to move and they can strike their head and get a skull fracture or something. Nothing is completely non lethal. They are less lethal.

CH 29:21

So did you see the the case of Rashard Brooks in Atlanta I believe from a few months ago where they were trying to make an arrest at a drive through. The drive thru called them for for some reason, and this guy is beating on the cop, grabs the taser and then runs away from the cop but as he's running away, turns around and shoots the taser at the cop. So he's both running away and attacking the cop at the same time and then the cop open fires. What was your impression of that video? If you remember it.

Dr. Michael Sanchez 29:59

Yeah. That one and there was one in South Carolina where the officer shot at the guy like eight times and the guy was running away. And the officer his story was he grabbed my taser. And this is a great question because this is some of the hairs that have to be sliced here. Okay? If I am confronting you one-on-one and you get my taser, you have the ability to incapacitate me take my weapon and kill me. Right? Tasers are a one shot weapon. If there's two officers and you get my taser, can you take out both of us with the taser? No. So, with one officer, I may be justified in shooting because you can incapacitate me with that taser. When it's multiple officers, he can't take out everybody with a taser. So if he's running away, once he fires that taser, he's for all practical purposes unarmed because the taser has already fired it's cartridge.

CH 30:58

It's really tough because I often find myself in the position of defending police officers in these scenarios. Not because they don't make deadly mistakes. But because it seems like sometimes you're in a position where you're going to work every day, like all of us expecting to come home in one piece. But the nature of your work is such that, there could be a scenario where either you do it 100% correctly, or you're a murderer. Or you know, you're considered a murderer by the general public. And there's no grey area where you violated a department policy, did something you shouldn't have and get punished in a way that is but that doesn't rise to murder or even criminal punishment. And it seems people have a very difficult time admitting that a cop could be a bad cop. He could be a racist cop even, but not a murderer, that should rot in prison for murder. That's I think where a lot of these things fall.

Dr. Michael Sanchez 33:18

I think the problem we have with the current dialogue on this subject is that you basically have two poles. Everything the cops do was right. When the cop shoots, the cop needs to go to prison. Neither one of those are true. I can tell you from my own career, when I teach deadly force to cops, one of the things I tell them is, what makes the job challenging is that you have the power to decide whether or not to take a human life and your margin of error is zero. You can't be wrong. Take the incident I told you about. I had literally 1/4 of a second to split 1000 hertz and make a decision that can be picked apart by experts and judges and lawyers for the next six months. That's incredibly challenging. But, this is what I accepted. And this is what I signed up for. And that has to be understood as well.

CH 34:11

Yeah. Let's talk a little bit about accountability. I think another thing that makes many people angry is the sense that police officers routinely go unpunished when they do things that are unambiguously overstepping bounds. And I think this is a point that I tend to agree with. Even if you don't pay attention to the cases that make headlines if you just chase down local news stories about cops that shot

somebody in the back. It's very rare. It does happen but it's very rare to see that this shooting was ruled unjustified. The cop was immediately fired or fired after review. The more common story is the shooting was ruled justified, and no charges were brought. What's your sense of how effective our accountability system is right now?

Dr. Michael Sanchez 35:11

I honestly don't think that you can get full objectivity from a department that investigates itself. And that's not a knock on internal affairs investigators, because you can be the most ethical, call-it-like-I-see-it investigator. But once your report starts going up the chain of command, at some level, they start thinking about, how's this going to look to the public? What's this gonna cost us in a lawsuit? If the police come out and say, yeah, that shooting was absolutely wrong. They're looking at already capitulating before it ever happens to a major lawsuit. So how can a department be completely objective when it makes that kind of decision? And so I think maybe the state police should have a special unit that investigates that sort of thing. So at least there's some separation. And there's more objectivity. You can't really have the FBI investigate it. Because at the local level, it has to do with whether you're following your department's policies and your state laws. And the feds aren't really tied into that. So I think I would suggest the state police investigate. There's this idea of giving the officer the benefit of the doubt. And what you were talking about. I've seen a lot of people talk about, we need to improve selection of police officers. And that's actually looking at it the wrong way. Policing has an incredible amount of power. And although it's attributed to Lincoln, I actually think it was said about Lincoln, one of my favourite quotes is "Any man can withstand adversity, if you want to test the man's character give him power". When I have you on the side of the road, and you're at my mercy, I can search your car or I can arrest you. You know, that's a lot of power. And people respond to power differently, just like they respond to fear differently. I have a 22 year old applicant who worked at McDonald's and got a bachelor's degree in college. He's never experienced real power. So there's no way to predict how he's going to respond to the power and authority of being a police officer. So you can only do so much in the recruitment process. Where the process fails, is in the year or two after they get hired. It's not robust enough to weed out people and this is where police unions probably cause a lot of trouble because they will fight tooth and nail against any termination, whether it's correct or not. Take Derek Chauvin, okay. He had what 17 complaints against him throughout his career? If he had been nixed at year, two or year three, when the first complaint came, then it doesn't build into George Floyd. Some people panic and don't have the presence of mind to keep thinking, they have to be weeded out. Some people abuse their authority, they have to be weeded out. There is no training that is going to train out a character trait like abusing authority. I can give you tools to apply your authority. But if you choose to abuse it, I can't train that out of you. So I think the problem is that they need to be weeded out the first time that they show those proclivities. And this actually has an exponential effect in policing. Yet at that George scene, Chauvin was, I think, a 17 year veteran. And rookie cops look to the veterans for guidance, and for example, then I want to be like him. And so what they do is through their example, they hijack the police culture, and they make the rookies think that these excesses are the right way to do things because they've never gotten in trouble for it.

CH 39:04

Yeah, I think that's an interesting point that I had never heard before. I remember reading something in the Wall Street Journal about, I think, a former chief of police in New York, who was stressing how

important it was not to hire your problems, but it occurs to me, your point, you know, makes a lot of sense. It actually is difficult to predict who becomes the type of person you become when you have power. Let's talk a little bit about the George Floyd case. There might be a bit of distance between how you're describing it and how I've been thinking about it lately, at least. There's one crucial fact that changed how I looked at it. And I want to be careful about this because I don't know if it's a fact yet. I think it has to be, you know, corroborated by multiple journalistic outlets for me to totally say that this is a fact. But, you know, I've seen pictures of a handbook, alleged to be the training manual given to cops in that department. Which shows a recommended hold of the knee on the neck for cases of excited, quote unquote excited delirium. And that combined with the full George Floyd video, which didn't come out until several months after, which shows, you know, a man that is, you know, highly claustrophobic, probably as a result of an, you know, drug and fentanyl and combined with shock at being arrested. Who, who actually asked the cop to take him out of the back of the cop car and said, please put me on the ground. So that much is definitely fact. And I think I should just be cautious in saying it may turn out in the final analysis to be a fact that those cops were trained to put the knee on the neck in such scenarios. And conditional on that being true, it would seem to change my view of what Chauvin did there. What do you make of that? Okay. First of all, you remember the Rodney King beating?

Dr. Michael Sanchez 41:34

I wasn't alive, actually. But I do. I do know. Yes, yes.

CH 41:38

And the reason that none of the police officers wound up going to jail was because of the way the policy was written. And I think the policy said something like the officer will continue to use force until the suspect complies. So as long as he's not doing what they tell him, they kept beating him. If everything you said is true. I'm going to tell you what I tell a lot of rookie officers, just because you can, doesn't mean you should. Just because I can kneel on George Floyd's neck when it's obvious he's not struggling, he's not kicking, he's not flailing doesn't mean I should. You know, Floyd was difficult in the video. But he wasn't angry. He wasn't aggressive. He wasn't threatening. He was scared. And, you know, you should find better ways to deal with somebody who's acting out of fear than what they did. And, you know, I know that situation from the inside. And I know what was happening was he was teaching George Floyd a lesson. I, like I said, even if he was kicking and flailing, then secure his feet, hog tie if you have to. But in the use of force, when you're taught baton, you're taught not to swing at the neck because the neck is a red zone. If you swing up somebody's neck with a baton that constitutes deadly force. But kneeling on a neck is okay? And it brings up a good point. And I hear this a lot. And that people say, Well, if George Floyd was saying, "I can't breathe", it means he can breathe. Because he's saying it. And if you are being choked with a carotid choke, meaning the blood is being restricted to your brain, you feel like you can't breathe. Because your brain is not getting oxygen and your brain is saying, hey, breathe, get us some oxygen. So you can have restricted blood flow to the brain, in your moving air in your lungs, but blood oxygen isn't getting to your brain. So it feels like you can't breathe. And that's why people in that type of hold or in a carotid chokehold, say I can't breathe. Right. So do you have an opinion on qualified immunity? Have you thought about this at all?

Dr. Michael Sanchez 44:04

Oh, a lot, I actually. I'll give him his props. I have a colleague at UTRGV named Dr. Otoo, who came up with an idea a long time ago, that I think actually, it's time has come and what he proposed was getting rid of qualified immunity.

CH 44:21

Can you just sorry, can you briefly explain for listeners what it is? Sure. Qualified immunity means if I am on duty, acting under colour of authority, following the law and following department policy, I can't be sued individually. So it protects police officers from like losing their house in a lawsuit because they said the wrong thing to somebody. What this professor proposed was doing away with qualified immunity and requiring police officers to keep a certain amount of personal liability insurance, like a doctor's malpractice insurance. Now, if you modernise that idea, let's say, every police officer has to have \$5 million of personal liability insurance, whatever the mean, cost of that is, is paid for by the city. If you get a couple of lawsuits and you get a couple of excessive forces, then your rates go up, everything above the mean comes out of your pocket. If you do a lot of years with no trouble, and, no cases, no lawsuits, and your rate goes down, that differential goes to you. This puts it in the officers control. And this solves another problem that police officers hate. I know because when I was a cop, I hated to see this happen. Somebody accuses you of false arrest or excessive force, and the city rather than pay \$100,000 to defend you, will give the person \$50,000 to go away. But it makes it look to the public like you were guilty. So if you had your own insurance, then it would be in your insurance company's best interest to defend you or all the officers are going to pick another insurance company. Yeah, so I've thought about this idea as well. But my friend Noam Dorman pointed out to me that what this could amount to is a pay cut for cops who live in the highest crime, roughest neighbourhoods, where you know, the same quality of cop is likely to incur more violations. You know, the the places where policing is ironically, most important, would become less attractive and the nice, easy suburbs, you know, where it's easy not to violate. What do you make of that objection? Well, that's why I say that the rate should be the mean of the cost. And that should be covered by the city. So if you're, yeah, I, for sure, you know, small town Texas has a different rate of complaints and lawsuits than Detroit. But each of those would have a different mean, as far as what the average price of the insurance would be. So if you're working in a high crime place, and the average price because of all the cases of the insurance is higher, the city covers whatever that mean, is whatever that average. What about within a large city like New York, where different neighbourhoods have very different characters. Maybe calculate the mean by percent assignment? Yeah. It's a it's definitely an interesting idea.

Dr. Michael Sanchez 47:34

I think there's ways around to deal with that. But qualified immunity isn't working. And I don't think it's been quite applied the way it could or should be. If you do something that patently violates your policy, then you should be on your own, not splitting hairs, maybe he could have maybe, he didn't. If you just flatly, like the police officer shooting at the man who's running away. There's no policy in the country that was going to justify that, then you should be on the hook yourself. Because with the way qualified immunity is calculated now, there's no personal liability. So if you could drive any way you want it and somebody else would foot the bill, would people drive better or worse?

CH 48:23

Yeah. So I want to talk about, before I let you go, I want to talk about what makes policing in America different than policing in other nations? Because I think a lot of people have noticed that, you know, America is the country erupting over these issues, you know, uniquely, it's not a problem that we're seeing in Canada so much, or Britain, or other peer nations in in Europe. And the rest of the world looks on and says "what the hell is going on"? Why can't you manage to stop shooting unarmed people, and unarmed black people in particular? And I'll say my piece in a moment, but what do you what do you make of the international comparison here? Is there something to be learned from other nations? Is there something some some unique conditions in America that are making this a more difficult problem? I think the biggest problem, when I worked in the UN, almost everybody I worked with, in their whole country had one police force. The Police . In America, we have, I think, 18,000 different police agencies. And I never realised how complex our policing system is until I tried to explain it to somebody who only ever knew one police force. And that decentralisation has its benefits. It would almost be almost impossible to execute a coup in this country because no one person controls the police. But then no one person establishes guidelines and policy and use of force and use of force continuums and training and every department that does it differently. And this is a problem. Because there's no centralization, you can't standardise any. I think that's also been pushed by everybody trying politically, to be the 'tough-on-crime-law-and-order' candidate means they, they're not willing to go against the police and call the police wrong or restrict what the police can do. Because that's a substantial voting bloc. So other countries can say, this is what we want for your support, and it applies to the whole country. I know officers from countries that said, look in my country, you practically have to take a bullet before you can shoot somebody. That's their standard. And that's why they shoot fewer people. But do cops in practice actually follow that? I mean, can they really tamp down the self-preservation instinct? You know, it's, it's not self-preservation, per se. All right. This is one of my one of my hypotheses about all of this. When I teach use of force, one of the most important things I tell people is well, let me ask you, how many recent shootings have the justification been the police thought he had a gun, they thought he was reaching for a weapon, they thought he was reaching for a knife. And what I tell police officers is, if your explanation of why you did what you did includes the words, I thought, then you're wrong. Because I am not supposed to apply deadly force, because I think, I'm supposed to apply it because I know. Now, when you get to that, then the answer I get back is, but that means they might hurt me. Yeah, it does. But that's what you signed up for. I've been hurt many times on the job. And that's what I signed up for. So if, you know, if a suspect is reaching in his car, for his wallet, and the police officer shoots him because he thinks he's shooting, he's reaching for a gun. What he's really saying is, because I have a dangerous job, you have to be more afraid of your interactions with me. Because if I think you're a danger to me, then I can take your life. And what's happening over time, is that police are acting more and more out of fear. And they're actually shifting the danger of policing to the public, rather than to themselves. There are several times in my career that I had to decide whether or not to shoot somebody. And in each time I decided not to. And the best decisions I ever made in my career are the things I didn't do. We tend to think of good decisions as things we did, rather than things we refrained from doing. So it doesn't mean that they can't defend their life. But you don't shoot someone because you think he's reaching for a knife. Maybe you draw your weapon, you give him commands, you give a reactionary gap. And if he has a knife, okay, that's one thing. You don't just shoot him because he has a knife in his hand. You shoot him when an attack imminent, and you have no other alternative. I worry there's a survivorship bias problem. That I mean, there's this problem in a lot of areas in life, but something like 300 police get shot every year, according to the gunviolence.org.

And some number of those are killed. And, I wonder if their voices were included in the conversation, whether they would come to the same conclusion. Right?

Dr. Michael Sanchez 53:55

Yeah, I yeah. But that's kind of throwing a bit of emotionalism into it. You know, look, I was asked when I taught the police academy, aren't you afraid of getting killed? Yeah, like everybody I want to live to be 100. But if my time comes, my time comes. Would it be better for, and I think the average is between 30 and 50 cops get killed every year. So let's say 50 police officers get killed every year. But 40 unarmed civilians get killed every year. If 10 more cops got killed every year, but 20 less civilians got killed every year who were unarmed. Is that equitable?

CH 54:36

Tough question. Very tough question to answer. No, I didn't.

Dr. Michael Sanchez 54:38

Yeah, it's not equal. Right. But the officer accepts the risk of the job. The person I pull over in and I can't imagine what it is for black youth today. The fear of just getting pulled over. If he thinks you're doing something wrong, he can shoot you. That's to me that's approaching policing the wrong way. So I don't agree when they say we thought. You have to know. And if that puts you at a little more risk, it puts you at a little more risk. That's what you signed up for. And you see cases you never see them on TV. But I see cases of police officers. A Toronto Police officer in Candyland. Did you see that video? He stopped the guy in the man. And the guy was a terrorist. He just killed a couple of people. And the video shows the officer, aiming his gun across the vehicle and the suspect outside the van, like this, with something in his hand. But you can't see what it is. And the officer's giving him commands. But to the officer, just something about the totality doesn't seem right. So he refrains from shooting, and he's still giving the guy commands and then the guy, does this, a couple of times fast. Like he's trying to get the officer to shoot, now the officer realises he's trying to commit suicide by cop. The officer keeps his weapon on him. But he circles him until he sees what he had in his hand was a cell phone. And he holsters his weapon picks out this baton and takes him into custody. That is a disciplined application of the use of deadly force. It all didn't seem right. And like I said earlier, just because you can doesn't mean you have to.

CH 56:19

Yes, I, when I hear that story, I draw a different lesson from it. I mean, I wouldn't want to create a system that expects cops to have that level of restraint. I think that's what the public deserves. It's, you know, I think I just have a different intuition about it. Because I certainly understand you're signing up for something when you sign up to be a cop. But the conversation is what level of risk is reasonable to ask someone to sign up for, given that we need this job, we need people to want to be cops, we need lots of people to want to be cops so that we can have, we can pick the very best. And so that you know, the more you dial up the knob on how much risk you expect cops to take on, the less attractive, it seems to me, you make the job of being a cop, which is not only bad for cops, but ultimately bad for society. And so it's, maybe we're setting that knob in different places. But you know, it seems to me, in suicide by cop scenarios, if someone's drawing something that looks pretty close to a gun and pointing

it at you. You're right to shoot. You know, more than that seems unreasonable to me for 50,000 a year or whatever the typical cop salary is.

Dr. Michael Sanchez 57:44

But my point is that officer had to have seen something. If he knew the guy had a gun. Okay, yeah, I would shoot. And I think you're misinterpreting what I'm saying. All right, I'll give you a classic kind of Academy example. A guy is slow marching towards an officer with a knife. When he gets to a certain distance, the officer shoots him. The officer is not wrong. But could the officer had backpedaled away, given more commands, given reactionary gap, given him more chances to stop what he's doing? And there's actually a video of an officer that does this. The guy's coming at him with a knife saying, shoot me, shoot me, shoot me. And the officer keeps backing up, backing up, backing up, backing up, and finally the guy gives up. So there's a point where the officer can shoot him, but he doesn't have to. And what I'm saying is, take Philando Castillo. He told the officer, I have a concealed carry permit, I have a weapon. The officers answer, I thought he was reaching for his gun. Why would I tell you I have a concealed carry permit and then reach for my gun?

CH 58:47

Yeah. No, that's a very clear case. I think.

Dr. Michael Sanchez 58:51

if the gun is in the holster, if the gun is in his hand, then that's the time to shoot. But because you think, isn't, this is what I'm talking about. I'm not saying take incredibly crazy risks. When the elements are there, the elements are there. But what I'm saying is, when you think something, you have to show restraint until you know, if you're reaching inside your car, and I think you're reaching for a gun, should I shoot you? Or should I wait to see what you come out with? That's the kind of restraint I'm saying. Not let you fire at me three or four times, miss, and then I can shoot you.

CH 59:30

Yeah, there have been a lot of people commenting about how little police get trained and how, in certain cases, their professions, there are licences for totally mundane jobs that require more training than becoming a cop. So, what was the training like for you to become a cop and in your context, and how do you think training can be improved both in terms of the quantity of it and the type and quality of it.

Dr. Michael Sanchez 1:00:01

The whole Academy that you go through, and it varies from state to state, something like six months, they go through the police academy. And I used to tell police academy cadets, when you graduate this academy, don't think you're a cop. When you graduate this academy, you have the foundation of knowledge to start learning how to be a cop. The actual learning happens on the street, you learn by doing, you learn through field training. And if you're a good officer, you never stop learning. So when you talk about police training, there is initial training, and then there's in-service training. And in-service training is expensive. Because you're taking cops off the street, you have to put cops on the street to compensate for them being off the street. And whenever anybody gets a budget crunch, the first place they go for is police training. Most departments, actually every department I've ever been in, you qualify

once or twice a year. And that's it. So there's not enough in-service training, to keep people sharp, to keep those things in their mind. And let me explain something about use of force and this is what I think a lot of people don't understand. There is no mathematical formula for use of force. I can't teach you if A and B happen do C. Because every contact I ever had in my entire career was different. So what you do when you use of force is you teach the concepts of use of force, and then they apply the concepts based on the totality of the circumstances. I couldn't train you, hey, look in his eye changes, don't shoot. That's just what happened to me that one time. If the look in his eye hadn't changed, I would have shot him. You can't teach that. I had an incident where a guy was trying to run me down with a pickup truck. And in the half a second I decided whether or not to draw my gun and shoot him, a 1000 things went through my head. I can't teach you how to make that decision. I can teach you all the concepts. And then you have to apply them in the moment. So teaching use of force is not as quantitative as people think it is. A lot of people think it's A plus B equals C. And it's not I can't be.

CH 1:02:21

Yeah, so I was gonna let you go earlier. But there's so many interesting things to talk about. This will be my last question, though. There's a lot of talk right now about substituting calls to the police for calls to mental health professionals in cases where you have someone who's suffering some kind of mental health issue having an episode. And, have you dealt with any of these kind of scenarios on 911 calls in the past where it's immediately clear to you that this is not, you know, an otherwise normal but violent person doing something but someone who has a condition?

Dr. Michael Sanchez 1:03:03

Every police officer has dealt with this. And I don't agree with that concept. Because what you'll wind up with is dead mental health workers. Okay. Because the person is no less dangerous because they have a mental health issue. Right. And this is where I have issues with 'Defund the Police'. The idea of defund the police, although I think it was horrifically named, is to take some resources for the police and start beefing up like mental health responses in the field. The problem is, for decades, police officers have been expected to be a marriage counsellor, a mental health professional, you know, child care, I can't tell you how many people want me to discipline their kids and scare the crap out of them, rather than them be a parent and discipline their own children. So how about taking those responsibilities off the officer and augmenting them with that mental health presence. So let's say you have X number of mental health professionals who work every day on the street. And when the police encounter that type of situation, they call in that person and the officer respond. Now the officer can ensure that the mental health person is safe, and you know, they don't get hurt. And if the person goes off the rails and starts killing people, the officers there to take action, but the mental health person can apply their specialty and their skills and handle it in a different way. So I don't think it's an either or I think it needs to be both.

CH 1:04:36

Well, on that note, this has been, I think the best conversation about policing I've ever had in my life. And I'm very grateful to you for coming on my podcast. I think people will find this to be more valuable than then you can even understand probably. So thank you so much for this and hope to speak again, sometime in the future.

Dr. Michael Sanchez 1:05:03

Oh, it was my pleasure and I admire the way you think and the way you operate. I say it tongue in cheek, but it's true politically, I'm a hardline moderate. The answer is never at the polls, the answers in the middle. And when I was younger, I used to hate extremists until I realised that we need extremists because they define the parameters of the debate. But I believe the answer should never be ideological. The answer should be based on facts, data and common sense. And that's where, that's why actually I reached out to you because I like that approach that you're taking and we need more of. So it was my pleasure to be on here and feel free to contact me anytime if I can help.

CH 1:05:45

Alright, thanks so much.