

A Police Killing Without a Hint of Racism

Daniel Shaver begged officers not to shoot him. What role will his death play in the push for law-enforcement reforms?



Eduardo Munoz / Reuters

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On January 18, 2016, Daniel Shaver, a traveling pest-control worker, finished his shift and returned to his motel, a La Quinta Inn and Suites in Mesa, Arizona. In the elevator, he met a man and woman who'd just finished their own workdays, the two [later testified](#) in court. Did they want

to join the 26-year-old Texan for Bacardi shots in his room?

They'd already begun drinking when one of the guests asked about an unmarked case in the corner. Was it musical instrument? No, a pellet gun. He used it at work. His job was to go hunt down birds that had flown into a Wal-Mart.

Soon he was standing by his room's window showing off his pellet gun to the man. Down below, two motel guests in the La Quinta Inn and Suites hot tub looked up and saw a man with a gun near a fifth-floor window. Someone called 911.

By the time six police officers gathered in the fifth-floor hallway, Daniel Shaver was intoxicated. The other man had already left and gone back to his own room. The woman was still there. When they were ordered out of the room by cops, Shaver appeared confused.

Still, Shaver exited unarmed, put his hands up, and did his best to comply with the demands of police, who ordered him to lay down on the ground. Soon after that, Officer Philip Brailsford, 26, shot and killed him with a service weapon on which he had etched, "[You're fucked.](#)" Brailsford is now on trial for second-degree murder.

The case hasn't attracted the higher degree of attention from the press, the public, or policing reform activists, partly because body-cam footage of the killing has been withheld from the media and partly because the cop and the dead man were both white, rendering the killing less controversial than one possibly animated by racism. But it warrants more attention than it has received.

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Police killings in the U.S. have come under intensified scrutiny since the death of Michael Brown in Ferguson, Missouri, and the subsequent rise of Black Lives Matter, a protest movement that seeks numerous policy reforms to stop unjust uses of deadly force. Although a Department of Justice investigation later cleared Ferguson cop Darren Wilson, it also documented decades of racist policing in the St. Louis suburbs; and a disproportionate number of the most egregious police killings involve black victims: [Eric Garner](#), Tamir Rice, [Walter Scott](#), [Laquan McDonald](#), [Philando Castile](#), [Freddie Gray](#), and more. African Americans make up a disproportionate percentage of all police killings, too.

Given the historic abuses African Americans have suffered at the hands of police and the disproportionate ways they are affected even today by racist or inept police officers, many find the racial framing of Black Lives Matter is essential. At minimum, it is both understandable and substantively defensible. And in my estimation, the race-neutral policy reforms [that the movement advances](#) are long overdue.

Its protests have certainly helped mobilize support for police reform among the subset of Americans who believe that fighting racism should be a high priority. Unfortunately, its explicitly racial focus has been alienating to others, including those who don't believe that racism is a significant factor in police killings; those who put fighting racism low on their priority list; and anti-black racists. In debates that ensue, critics of Black Lives Matter often try to argue that African Americans are not in fact disproportionately victimized by police killings. [Here](#) is a representative example.

Rather than engage that debate, though, I want to argue that it is largely irrelevant. Even if Black Lives Matter critics were right that police killings

in America are not racially suspect, that would not be a sufficient argument against police reforms. It would still remain the case that American police officers kill many more people overall—and many more unarmed and mentally ill people in particular—than do police officers in other democratic countries.

Why isn't that enough to warrant serious, systemic reform?

Black Lives Matter and its progressive allies who want to advance its reform agenda, believing that it will save innocents of all races and that it will disproportionately save lives in black communities, display a laudable commitment to speaking out every time the police killing of a black person illustrates a flaw of the status quo. But publicizing and protesting egregious instances of white people being killed would do as much to advance its agenda agenda.

Daniel Shaver's case is instructive. His killing deserves more journalistic coverage as a matter of substance and more activist attention as a matter of strategy. Here is how Mark Geragos, an attorney in the case, [describes](#) the body-cam footage, which has been shown in court but not released to the public:

I know why they have not released it. It's not bloody. It's the most chilling, horrific thing you've seen in your life. This kid was begging for his life. He raised his hands, did everything the cops told him to do. And then they just executed him. It's bone chilling. One of the worst experiences I've ever had in my life is sitting in a court room with his widow, who watched it for the second time, and she literally went into convulsions. I had to

grab her to hold her in a bear hug. It was just awful.

Ben has been with me for eight years and does nothing but the civil rights practice. I've been doing criminal and civil rights for 35 years. I've seen thousands of tapes. This is light years beyond anything I've ever seen... it burns a hole in your brain. I literally had nightmares about it.

And here is an excerpt from the incident report produced by a Mesa police officer, who watched the body-cam footage of the encounter and described what happened from beginning to end. Throughout the events about to be described, Daniel Shaver is totally unarmed, and wearing basketball shorts and a t-shirt:

Shaver could be partially seen walking from the alcove into the hallway a split second after Sgt. Langley shouted for them to stop. Shaver raised his hands in the air prior to any further command, round the alcove into the hallway and immediately dropped to his knees with his hands in the air facing the officers ... Sgt. Lanley shouted for both of them to get on the ground. Shaver placed his hands in front of him and laid down on the ground on the south side of the hallway with his hands extended above his head. In the video, Shaver appeared to be wearing a dark colored shirt and dark shorts. No weapon was visible in the video, but also it was not clear Shaver did not have a weapon from the camera view. Shaver was, however, obviously compliant and offered no resistance at that point.

Sgt. Langley asked Shaver if there was anyone else in the room and Shaver answered that there was no one else in the room ... Sgt. Langley then calmly asked if both of them could understand him ... Sgt. Langley then stated, "Alright, if you make another mistake, there is a very severe possibility you are both going to get shot, do you understand?"

Shaver responded "Yes" to this question ... Sgt. Langley then began to talk when Shaver started to ask a question by saying "what's—". Sgt. Langley told Shaver to shut up and stated that he was not there to be tactful and diplomatic with Shaver and they need to obey his commands. At that point, Shaver's outstretched arms had both palms facing up so the officers could see his hands. As Sgt. Langley was saying they needed to obey his commands. Shaver moved both his arms in front of his face in a similar manner to what would occur when someone is lying on their stomach and intending to rest their head in their crossed arms. Sgt. Langley took note of this and asked Shaver if he had told Shaver to move. Shaver immediately moved his hand back out in front of him with his palms facing up and said, "I'm sorry. No, sir."

Sgt. Langley then ordered Shaver to place his hands on the back of his head and interlace his fingers. Shaver was again compliant. Sgt. Langley then told Shaver to cross his left foot over his right foot. Shaver complied with this but appeared confused as to which foot Sgt. Langley had ordered him to cross. He crossed his feet both ways before finally crossing his feet as Sgt. Langley had instructed. Sgt. Langley then asked again who else was in the room and Shaver responded with "nobody."

Sgt. Langley then asked if both of them were drunk and they both responded that they were not ... He then told Shaver that he turn his eyes down and look at the carpet and not move. He further instructed that Shaver needed to keep his fingers interlaced on his head and his legs crossed. Sgt. Langley then told Shaver that if he moved, it would be considered a threat and the officers would have to deal with that and Shaver "may not survive it." Shaver acknowledged with "yes sir" when asked if he understood this.

This is already vexing. A guy who had done nothing illegal is ordered into a motel hallway. Six cops are there with their weapons drawn; he is presumably a bit drunk, which would only add to his alarm and confusion; he is clearly *trying* to cooperate from the start; but the cops are hostile, yelling at him for trying to ask a question, adding to his fear by shouting that he may not survive, and giving lots of complicated instructions—it isn't enough for the six men with guns that the man is laying on the ground with his hands outstretched and his palms up. They're ordering him to cross his legs with specific instructions for which leg goes on top; they want his eyes closed; they want fingers interlaced on his head.

At this point, the woman crawls to police, who get her out of the way. The other individual had already left the room by the time the cops arrived on scene.

Now back to the incident report:

Shaver remained compliant and was not moving ... Sgt. Langley

told Shaver to listen to his instructions and “do not make a mistake.” Portillo’s purse was clearly visible in the middle of the hallway approximately three feet in front of Shaver.

Sgt. Langley told Shaver to keep his legs crossed and to place his hands out in front of him and push himself up into a kneeling position. Shaver moved his hands in front of him and then when he started to push himself into a kneeling position, he uncrossed his legs. Sgt. Langley immediately shouted at Shaver to keep his legs crossed. Shaver crossed his legs and was now on all fours on his hands and knees on the floor. Shaver’s head was down and he could be heard saying he is sorry and continued to mumble something I could not understand. Shaver then attempted to raise his body into a kneeling position as he had originally been instructed and brought both of his hands behind his back. This did not appear to be an exaggerated movement and looked similar from the vantage point of the video as when someone is handcuffed with officers behind them.

I invite readers to lay face down on the floor, hands outstretched, legs crossed; and then attempt rising to a kneeling position without uncrossing your legs or drawing your hands toward your waistband. Do not make a mistake or you die.

Sgt. Langley began to tell Shaver that he was not interested in a conversation as Shaver pushed himself up and placed his hands behind his back. Sgt. Langley stopped mid-sentence and began

loudly screaming at Shaver about his hands. The initial command of what to do with his hands was loud and indiscernible on the recording as to what is being asked of Shaver. Sgt. Langley then followed up with shouting for Shaver to place his hands in the air. Shaver complied and rapidly put his hands above his head.

At approximately sixteen minutes and forty seconds on the recording Sgt. Langley shouted at Shaver, "If you do that again, we are shooting you. Do you understand?" Shaver immediately responded with the statement, "No, please don't shoot me." Shaver's voice appeared to be panicked and Sgt. Langley shouted that Shaver needs to listen to instructions. At that point, Shaver's arms were above his head with his elbows at approximately 90 degree angles. Shaver was ordered to put his hands in the air again by Sgt. Langley and he pushed his hands high above his head in compliance.

Sgt. Langley then shouted to Shaver that he was to keep his hands high in the air and that if he puts them in the small of his back again that they will shoot him. Shaver could audibly be heard sobbing at that point and Sgt. Langley asked if he understood. Shaver again said, "Yes, sir," but could now be audibly heard sobbing as he said this.

Sgt. Langley could then be heard telling Shaver to crawl towards him. Sgt. Langley shouted this command and Shaver again dropped to his hands and knees and again can audibly be heard sobbing "Yes, sir," as he began to crawl forward. Shaver reached the area where Portillo's purse was and his left hand moved

across his body and around the purse in order to crawl past it. Shaver was audibly sobbing as he crawled. Officer Brailsford's rifle was primarily pointed down the hall until this movement was made. Officer Brailsford then swung his rifle back towards Shaver where Shaver could be seen with his braced left hand and his right hand moving back towards his waist with his elbow raised behind him. Shaver's head appeared to be down with his face looking at the carpet. What appeared to be multiple voices, including Sgt. Langley's, then began to say "Don't" as Shaver's hand moved back toward the front of his body. When his hand moves toward the front it is very slightly balled and his thumb is towards the top. Officer Brailsford fired his first shot as Shaver's hand was moving toward the front of his body and as at least one officer was heard saying, "Don't."

The incident report recounts that "the movement of Shaver's right arm in the recording was a very similar motion to someone drawing a pistol from their waist band. Officer Brailsford rapidly fired five shots at Shaver and Shaver slumps to the ground on Portillo's purse. Shaver's underwear were clearly visible and it appeared his shorts had fallen partially down his legs at that point. Shaver's motion was also consistent with attempting to pull his shorts up as they were falling off. No other purposes for this movement appear to be viable."

Only one of the six police officers chose to shoot.

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Even if police killings were rare in America, this case would warrant more

attention, not only because of the deadly shots fired by Brailsford, but also due to the confounding commands issued by Langley. It would warrant more attention regardless of the race of the victim.

But we [live in a country](#) where 963 people were shot by police in 2016; where at least 48 unarmed people were shot; and where there was confirmed body camera footage in 144 cases. What's more, we live in a country where many [reasonably suspect](#) that neither the president nor the attorney general are as committed to protecting the civil rights of black people as the civil rights of white people; where Congress is controlled by a political party antagonistic to the Black Lives Matter movement; where some citizens are racist against blacks; where others don't believe racism is a significant factor in police killings; and where still others rank fighting or remedying racism low on their priority list.

Given all that—and understanding that police kill roughly twice as many white as black people every year, with some killings of whites among the most egregious and best-documented unjust killings—the tendency of some journalists and activists to put less emphasis on unjust killings of white people, whether because they are less controversial or less illustrative of disparities, undermines both the journalist's task of informing the public about the scope of the police-killing problem and the activist's task of building a winning coalition.

Those who believe that America is a racist country should be most persuaded that if the public more fully grasped how many white people police unjustly kill, that might move public opinion more than knowing that an identical number of black people were killed. That's awful. I find it depressing that some people are racists and others are unable to extend as much empathy or concern to those they perceive as different. Unjust

killings of black people alone should have been enough to prompt significant, nationwide reforms years ago. But it hasn't been enough.

That is just reality.

Now think of those who are not yet persuaded that police reforms are needed, but who could be brought on board. On average, are they more likely to be won over by today's approach, or one that highlights egregious police killings even when they don't implicate the newsworthy problems of racial bias and inequality?

Among police officers asked about killings of African Americans, "about seven-in-ten white officers (72%) but fewer than half of all black officers see these encounters as isolated incidents," Pew [found](#) in January. "By contrast, majorities of black officers (57%) as well as the public overall (60%) say the incidents are signs of a broader problem between police and the black community."

I suspect that 72 percent of white cops would be more easily persuaded that there is a training problem or a "bad apple" problem than a race problem. I further suspect that even some straightforward racists would be converted to supporting significant police reforms if they knew about Daniel Shaver and other cases like his. And even if the most deplorable of all Americans pushed policing reform efforts over the edge, their passage would help people of all races, and would disproportionately help demographic groups whose members are most likely to be killed, like African Americans, men, and the mentally ill.

All killings by police are worthy of attention, at least until American law-enforcement officers kills fewer rather than many more of the citizens they're sworn to protect than police in other countries. No unjust killing of

a black person should go uncovered. But I suspect it would be in everyone's interest if journalists and activists paid more attention to egregious police killings of white people. If you're horrified by Daniel Shaver's untimely death, yet against Black Lives Matter, consider that Shaver might well be alive if only the Mesa police department had long ago adopted reforms of the sort that Black Lives Matter suggests.

ABOUT THE AUTHOR



CONOR FRIEDERSDORF is a staff writer at *The Atlantic*, where he focuses on politics and national affairs. He lives in Venice, California, and is the founding editor of [The Best of Journalism](#), a newsletter devoted to exceptional nonfiction.

[Twitter](#) [Email](#)
