POLICING AND FORCE

POLICE USE OF FORCE:

- Police have a monopoly on state violence
- Force is necessary to policing
- 'police are to governments as the edge is to the knife' David Bayley
- BUT use of force must be legitimate:
    - Legal
    - Ethical
    - Pragmatic

My Notes:

- Vital agency in the CJS
- Can also be dangerous
- Only legitimate agents of state violence in the CJS
- Role is to use force but they have to use it lawfully within social norms, acting on behalf of the community as a whole in order to protect.
- Authoritarian institution
- Can use force in name of the state even though we are a democratic society. They are a threat to democracy. Can go too far.
- More to law than group force.
- Can't rule by force alone.
- Need checks and balances.
- Need to be vigilant.
- Need to constrain police.
- Force is essential.

THE REALITY:

- How many people were fatally shot by police in Australia between 1989 and 2011?
    - 105
- How many people were fatally shot by police in America in 2015?
    - 991
- How many people were fatally shot nby police in England & Wales in 2015?
    - 1
    - (zero in 2012-13).

Sources:

- Australian Institute of Criminology (2013) Police Shootings of people with a mental illness. Available online.
- Washington Post (2016) Available online: https://www.washingtonpost.com/graohics/national/police-shootings/
- Sydney Criminal Lawyers (2015) People shot dead by police in US, UK and Australia. Available online: https://www.sydneycriminallawyers.com.au/blog/people-shot-dead-by-police-in-us-uk-and-australia/

POLICE USE OF FORCE:

- Illegitimate use of force
    - Unlawful
    - Immoral
    - Foolish
    - Threatens public confidence in police
    - Threatens consent necessary to policing

    - Threatens entire basis of police power

See PPT for example videos.

'EXCESSIVE FORCE' OR 'EXCESSIVE USE OF FORCE':

EXCESSIVE FORCE:	EXCESSIVE USE OF FORCE:
• A particular incident in which police use of force was unethical and unjustified • Individual misconduct	• Patterns of incidents showing that use of force routine/unexceptional in police organisations • System failure.

SYSTEM FAILURE:

- Victoria Police:
    - 1987-1994 there were 29 fatal shootings
    - Operation Beacon
    - "The success of an operation will primarily be judged by the extent to which the use of force is avoided or minimised"

My Notes:

- Started carrying firearms in the 80s.
- Only given to the right officers. But how do you determine who is the right officer?

SYSTEM FAILURE, REVISED:

- January 2003 - May 2005:
    - 6 fatal shootings
    - OPI finds drift of focus from safety
    - Example:
        - Tyler Cassidy, killed in 2008
        - Further review
        - Need for training in mental illness
        - Very poor data

VICTORIA POLICE - OPERATIONAL SAFETY PRINCIPLES:

Include:

- **Safety first** --> the safety of police, the public and offenders or suspects is paramount.
- **Cordon and containment** --> unless impractical, adopt a 'cordon and containment' approach.
- **Avoid confrontation** --> a violent confrontation is to be avoided
- **Avoid force**
- **Minimum force** --> where use of force cannot be avoided, only use minimum amount reasonable necessary
    - De-escalate
    - 'slow things down'
    - Win by appearing to lose.

FUNCTION CREEP:

- Capsicum spray
- Tasers
- 'non-lethal alternatives'
- Become standard, and gradually used more readily

- NSW Ombudsman 2012
    - 30% person's behaviour was cooperative, passive resistant or active resistant
    - 74% taser subject did not have a weapon
    - 31% taser subjects had suspected mental health issues

POLICE USE OF FORCE - HOW DO WE MANAGE IT BETTER?

- Good management needed
- Strong leadership and clear direction
- Clear guidelines
- Good training and adequate resources
- Acceptance of accountability
- Individual ethical behaviour

SEMINAR ACTIVITY

- Was it inevitable and unavoidable that the police shot Tyler Cassidy?

Yes, I believe so. Tyler was a threat to the police officers, himself and the wider community. The police had to act in order to ensure the safety of everyone involved and the broader community.

- What were the key moments and decisions made by the officers on the ground that resulted in Tyler's death?

The warning shots to show Tyler that they (the police) weren't afraid of him and weren't going to shy away from the fact that he was a 15 year old. If they had to shoot, they were going to. Also when the police felt threatened by Tyler and when Tyler wouldn't stop targeting and advancing on LSC Dods. This showed Tyler's intention to cause harm on the police.

1. One officer takes out his capsicum spray and the other took out the gun. Officer posed the threat of enforcing harm. They were responding to a call where someone claimed he had a shotgun. But they arrived and he didn't have one so should they have taken that precaution?
2. In using a taser, you have to get really close and have to puncture the clothing. Could be wasting time and the officer would be closer to the perpetrator which can cause the perpetrator to fireback and use his weapon.
3. They didn't wait for the crisis team. They didn't try to deescalate it. they kept issuing commands. Firing tyler up.
4. Backed one officer into a corner. Why didn't the other three act on this and try to knock the knives out of his hands and arrest him?

- Did events have to play out like they did? What could have been different?

No, I don't believe so. The police officers could have shot him in the leg at the beginning to deter him from harming or to try to get Tyler to drop the knives. This could have allowed them time to advance on him and arrest him rather than kill him. However, I do think that the police did the best they could have in the given situation.

- Would you have reacted like the officer's did? Would most police officers have done the same?

As said above, I would have reacted the same way as the officers. However, I would not have fired as many shots. 10, I believe, is a bit excessive and unnecessary. I believe most police officer's would have done the same.

- If this incident had taken place in another country, how might it have played out differently? Is there something 'Australian' about it? Would another police force had handled this type of incident less violently?

In somewhere like the UK where the police force aren't allowed to carry firearms on patrol, they would have had to try to deescalate the situation by trying to calm the offender. And if they failed to do so, the police officers may have been attacked, stabbed and possibly killed.

- Would another police force have handled this type of incident more violently?

In somewhere third-world like Pakistan for instance, they probably would have been shot straight away. As soon as the police approached and the offender refused to de-arm themselves, the police would have shot.

- As a society how can we better manage the harm of police use of force? What are the policy options for addressing this issue? Discuss the policy options below:
    - **Disarm the police and remove firearms**

      If we were to disarm the police, they would have no way of protecting themselves from offenders and establishing authority. They would be like any other citizen trying to fight a 'bad guy' which wouldn't have much of an authoritative response or result.

    - **Punish police officers who engage in excessive force more harshly**

      They could strip police officers of their badges for a little bit, as an example of a punishment for this crime, in hopes of the officer considering their actions and changing when they re-join the police force.

    - **Use body-worn cameras**

      This goes against the privacy of all citizens around them, however, would reduce the amount of hear-say in courts when it comes to the police force. Could act as evidence and also act as a deterrent for the officers to inflict any type of excessive force.

    - **Encourage more females to join the police**

      Although sexist, I do believe males have more grunt and are able to handle aggressive offenders more so than females. By having more females in the force, there isn't much harm they could inflict to make an offender surrender. However, due to the motherly nature of most women, they may be able to coax some offenders rather than using force to bring them into custody.

    - **Enforce tougher standards for training and qualifications of police officers**

      By enforcing higher training qualifications for police officers, it would mean that these officers are highly trained and highly skilled meaning only the best of the best are in the field and managing those with mental illnesses a lot more carefully when on suicide missions as an example. However, this could also deter other people from wanting to become an officer if they don't 'pass' each training or qualification and make them feel as if they aren't good enough.

    - **Develop and roll-out alternative forms of 'non-lethal' weaponry such as tasers, capsicum spray, plastic bullets and so on.**

      This would prevent more harm from being caused by police officers. Although, cases in the past have shown that these forms of weaponry have not had the same effects as a gunshot wound, for example, as the offender has continued on with their attack rather than being affected by these 'wounds' caused by the other non-lethal weapons.

    - **Train the police to be better equipped to handle mental health issues**

      This can only mean good things. Allows the police to approach people with issues such as these in a different manor rather than using force. Allows them to mediate and

encourage the offender that things will get better and that there is another way out by coaxing them instead of using force.

- **Put more political pressure on the police to be non-violent (protests, media campaigns, criticism from politicians etc.)**
  I don't think this would work. Only make the police force harder and harsher. Feeling like everyone is against them and that they don't understand the job.

- What solutions do you prefer? What really addresses the core problem?

Training the police force in dealing with people with mental illnesses.
Using body-worn cameras.
Punish police officers more harshly.
These address the core problem by putting officers in their place when they do something wrong to prevent it from happening again and to deter other officers for behaving the same way.

- Which are most likely to make a credible impact?

Training the police force in dealing with people with mental illnesses.
This will allow the officers to approach these situations a lot lighter and more encouraging than they would with any other citizen.

- What difficulties can you foresee with enacting your preferred solution? What opposition would your suggested proposal face?

By enforcing harsher punishments on police officers that use excessive force, this could deter other people from wanting to become an officer if they don't 'pass' each training or qualification and make them feel as if they aren't good enough.

- What are the solutions that are most likely to be accepted or embraced by police themselves?

Training the police to better handle people with mental health issues. This will enable them to take care of more situations easily as they understand the mentality a bit better and know how to handle it without having to get into a situation to use force.