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WEATHER

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Brett Coomer / Houston Chronicle

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San Antonio Express-News

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SAPD more often uses force against minorities

Disparity can be seen in years' worth of records

By John Tedesco
STAFF WRITER

On May 20, 2014, San Antonio police officers were searching for a Hispanic man in a white shirt named Josue Rodriguez Gonzalez who was wanted on a felony warrant, had fled from police and was believed to be armed.

They found a Hispanic man in a white shirt. But his name was Roger Carlos, a father of three who was standing outside his wife's pediatric clinic in Westover Hills.

"I was basically just killing time before I had to go pick up my kids from school," Carlos recalled. But three officers ordered him to the ground and began pummeling him, he said.

One pressed his knee on Carlos' neck and all three hit him, later saying Carlos was refusing to show his hands and they thought he had a gun. He said the blows didn't stop until Carlos was in handcuffs.

"Why the hell did you kick my ass?" Carlos asked.

"You fit the profile,"



Jacob Beltran / San Antonio Express-News

Rates of force higher against minorities

A "use of force" database compiled by SAPD shows that police used force against African-Americans and Hispanics at nearly twice the rate of Anglo suspects from 2010 to 2015.

Race	Rate per 1,000 arrests	Total arrests	Total force
Black	35.7	23,045	822
Hispanic	35.9	89,700	3,217
Anglo	20.2	58,157	1,175

Source: San Antonio Police Department

San Antonio Express-News

"I'm a 45-year-old black woman. No, it's not surprising to me that the incidents are higher for minorities."

Mayor Icy Taylor

New fight on mental care is erupting

By Melissa Fletcher Stoeltje
STAFF WRITER

As it has statewide, the length of time mentally ill Bexar County Jail inmates languish on wait lists to be treated at the state hospital so they can stand trial has increased.

Across Texas, 143 inmates — all charged with nonviolent, misdemeanor crimes — currently sit in county lockups an average of 34 days as they await "competency restoration," or treatment that addresses their mental illness and prepares them to go before a judge or jury.

When felony defendants are added to the mix, the number jumps to more than 370 inmates on the waiting list.

Some inmates have waited as long as eight or nine months to get competency treatment before their criminal charges can be resolved, officials said.

To deal with the growing glut and ease wait times, the Texas Department of State Health Services, which oversees the state's mental hospitals, recently reallocated space in those facilities to provide more beds for misdemeanor offenders and take them away from nonoffenders whose mental illness is so severe that a judge has determined they pose a danger to themselves or others.

At the San Antonio State Hospital, or SASH, 32 spaces for adults in an acute-crisis unit were switched to low-level defendants on the inmate wait-

Robbing continues on A18

Online

Database: See the SAPD's use-of-force reports.

one of them replied, according to a sworn complaint Carlos filed with SAPD's Internal Affairs unit.

Signs of a disparity in how Anglo and minority suspects are treated by San Antonio police have existed for nearly 20 years, when SAPD began tracking in 1998 how often officers subdue

SHOOTING: Antonie Scott was killed by an SAPD officer who mistakenly thought that the suspect had a gun.



BEATING: Roger Carlos was pummeled by SAPD officers who mistakenly arrested him.

Blanco River life no longer so tranquil for the residents

By Zeke MacCormack
STAFF WRITER

WIMBERLEY — An overcast sky will trigger all-too-familiar anxiety among residents of this scenic tourist town that displayed grit and unity in rebounding from historic flooding a year ago but remains far from healed.

Repairs have been made to fewer than half of 350 residences damaged or destroyed when the Blanco River jumped its banks in a Memorial Day weekend catastrophe that claimed 12 lives, including two children who still are

Online

Look back: See coverage of last year's deadly flooding as it occurred.

missing.

Despite the installation of upstream river gauges and other measures aimed at warning residents of future floods, many in the Wimberley Valley say they get extremely nervous during storms.

"The town is scarred," Mayor Mac McCullough said Thursday. "And very apprehensive."

A second major flood in October contributed to the jitters and prompted many affected property owners to delay investing in repairs "until they see some solace in the weather patterns," he said.

"People are very sensitive about these overcast conditions we've had for days and days," McCullough said. "They've got their bags packed."

Few can forget the horrifying fate that befell nine visitors from Corpus Christi, whose riverside vacation home was torn from its pillars and floated

Blanco continues on A20



William Luther / San Antonio Express-News

A truck drives along River Road and past cypress trees killed in the Blanco River flooding last Memorial Day weekend.

WEATHER

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FROM THE COVER

Minorities more often face force

From page A1

suspects. Police records show that disparity still exists.

The San Antonio Express-News analyzed a “use-of-force” database compiled by SAPD that’s open to the public. The database tracks how often officers rely on force in cases ranging from common takedown maneuvers to deadly police shootings. The newspaper also reviewed cases of officers who were punished with suspensions.

The records show police rarely resorted to using force. But when they did, officers subdued Hispanics and African-Americans at rates that were up to 78 percent higher than Anglo suspects:

► From 2010 to 2015, police arrested more than 58,150 Anglo suspects and used force against them 1,175 times. That’s a rate of 20.2 incidents per 1,000 arrests.

For minorities, the rates of force nearly doubled over the same five years.

► Police arrested 89,700 Hispanic suspects and used force against them 3,217 times — a rate of 35.9 incidents per 1,000 arrests.

► Police arrested 23,045 African-American suspects and used force against them 822 times — a rate of 35.7 incidents per 1,000 arrests.

Experts caution that myriad factors — the suspect’s level of resistance, the severity and location of the crime, whether the suspect has weapons or warrants — could explain the differences between the rates of force.

“There’s enough research out there to indicate that officers tend to be more forceful against non-whites,” said William Terrill, a professor at Arizona State University who was asked by SAPD in 2003 to analyze how officers used force. Terrill found force was used “rather sparingly” by officers, but minorities, especially African-American suspects, were “over-represented across the board.”

Police Chief William McManus said race has absolutely no bearing in how officers decide to use force.

“The race or ethnicity of a suspect is not, nor has it ever been, a factor in determining whether to use force or the level of force used,” McManus said in a statement released Friday. “Any suggestion that our highly trained officers are choosing to use force based on any reason other than to protect themselves or others is false and disrespectful to our men and women in uniform.”

That’s not to say SAPD doesn’t face challenges. In a past interview, McManus acknowledged he’s been trying to reform SAPD for years, and one of his goals is adjusting use-of-force training to teach officers ways to back off and de-escalate tense situations if possible.

McManus also said he’s bringing in a consultant to discuss how everyone, including well-meaning police officers, can suffer from biases that color their interactions with people of different races, ethnicities and sexual orientations.

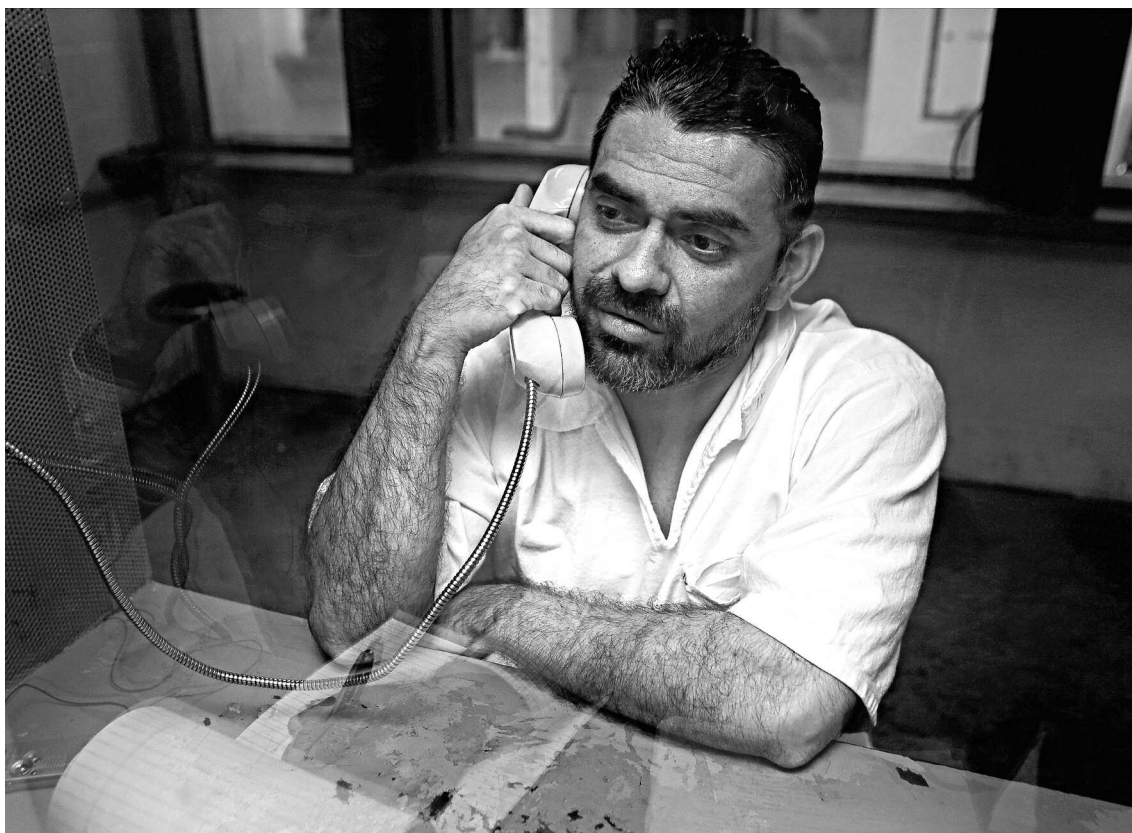
“We need to teach procedural justice, the tenets of procedural justice,” McManus said. “We need to teach de-escalation. We need to talk about tactics. It’s all along the lines of training, and how we approach use-of-force situations. How we deal with citizens.”

The U.S. Justice Department recently selected the SAPD and 14 other law enforcement agencies to help spearhead efforts to regain public trust in a project called “Advancing 21st Century Policing.” McManus said the SAPD has forged strong partnerships in the community built on trust, respect and transparency.

Mayor Ivy Taylor, who supports McManus’ leadership, said the differing rates between Anglo and minority suspects don’t surprise her.

“I’m a 45-year-old black woman,” Taylor said. “No, it’s not surprising to me that the incidents are higher for minorities. I don’t think that necessarily says anything about San Antonio per se. You can probably find that in most major American cities.”

There’s no standard method in how police agencies collect force data, making compar-



Bob Owen / San Antonio Express-News

Luis Tinajero, 37, was arrested for armed robbery in November 2014. He suffered three broken ribs and his front teeth were knocked out from being kicked by an SAPD officer.

sons difficult. And looking at trends at SAPD over time is problematic because its use-of-force policy has changed over the years.

In raw numbers, incidents of force have increased by nearly 75 percent since 2010, from 735 cases that year to 1,281 in 2015.

But the primary reason for that increase, officials say, is that the SAPD broadened the definition of force to include takedown maneuvers, which drastically increased the number of reports. Terrill called the change a “good, progressive move on their part.”

Amid rising public concern across the country about police officers using excessive force against minorities, Carlos said he didn’t know whether his ethnicity influenced how the officers treated him. The majority of police officers at SAPD are Hispanic, and all three officers who subdued Carlos were Hispanic.

Terrill said that’s a common trend.

“No one’s been able to parse out why that occurs,” he said. “The main speculation is that regardless of your race, when you become an officer, you become an officer. The old slang phrase is, ‘I’m not black, white or Hispanic. I’m blue.’”

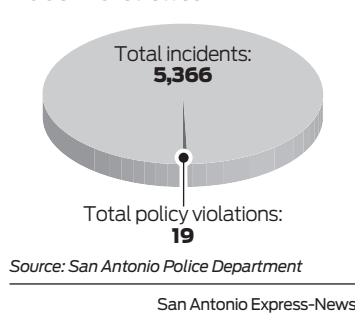
In Carlos’ case, his injuries led to chronic pain in his neck and back that rehabilitation didn’t alleviate. He underwent surgery to relieve the pain.

But the procedure went awry. Carlos was left paralyzed from the waist down.

“It’s important that this doesn’t happen to anyone else,” said Carlos, who complained to

Police say most force incidents followed policy

San Antonio police supervisors who reviewed more than 5,300 force incidents from 2010 to 2015 determined that less than one percent violated department policy. A police expert said that’s a low percentage that raises questions about how thoroughly each incident is reviewed.



the FBI and filed a civil rights lawsuit against the SAPD. “It’s been a bad dream.”

‘Stories jibe’

SAPD began requiring officers to fill out “use-of-force” reports in 1998 under the leadership of then-Chief Al Philippus, but the city refused to release the information to the public.

The Express-News sued the city to obtain the records, arguing they fell under the Texas Public Information Act. During a legal battle that lasted years, the city lost at the trial and appellate court levels, and finally released the records in 2002 after the Texas Supreme Court declined to consider the case.

It was the first time the public had access to a repository of

every force incident documented at the SAPD. But the reports only offer one side of the story — the Police Department’s.

“When you’re using official records to do this, you’re kind of at the mercy of how the Police Department codes it,” Terrill said. “They’re coding it from an interested-party perspective, right?”

After receiving an updated copy of the database, the Express-News found many of the reports offer only scant or contradictory details about what exactly happened, making it difficult to compare the level of resistance of the suspect to the level of force used by the officer.

In Carlos’ case, a red pickup sped toward him and stopped abruptly, almost striking him. A plainclothed police detective got out and ordered Carlos to get on the ground. Not far away, two officers in uniform were running toward him.

Carlos said he complied but the officers repeatedly struck him in the face and body.

Officer Carlos Chavez and the detective, who works undercover and wasn’t identified, later wrote in their reports that Carlos was “noncompliant” and the detective said he had to push Carlos to the ground. Officer Virgilo Gonzalez wrote that Carlos was resisting with his hands and arms.

“That is completely and utterly false,” Carlos said. “I had no reason to resist. I had no reason to be noncompliant.”

The officers later said they punched Carlos in an attempt to get him to comply with their orders to show them his hands.

Roger Carlos received physical therapy in Houston for paralysis resulting from complications of surgery to relieve pain he experienced in the wake of the mistaken beating by SAPD officers.



Courtesy photo

The undercover detective wrote in a separate report that he had seen Carlos holding an object. Carlos had been taking pictures of his property before the officers spotted him.

Police spokesman Jesse Salame said the three officers weren’t available to be interviewed.

Two sergeants reviewed the incident and checked off a box in the use-of-force reports stating the officers violated no policies. That stamp of approval happens often — less than 1 percent of more than 5,300 force incidents in the past five years were flagged for violating SAPD policy.

Terrill said that’s an extraordinarily low percentage that’s similar to what he found when he analyzed the SAPD’s data in 2003, and he said it raises questions about how thoroughly each incident is reviewed.

In at least one recent case, a police sergeant said he believed his job was to protect officers “as much as possible.”

“Basically what we are trying to do is cover the officer,” Sgt. Michael Garcia told officers at the scene of a disturbance at a Chevron gas station at 8210 Marbach Road on June 15, 2014.

Garcia was reviewing the actions of Detective Roy Naylor, who’d forced a man into his patrol car after a family altercation.

As Garcia discussed what happened with several subordinates, a dash-cam microphone worn by one of the officers recorded the conversation.

“He was trying to get him into the car by force,” Garcia said of Naylor. “And that would have been OK. The problem is we have two or three independent witnesses that say Naylor was kicking his ass.”

Garcia said he just wanted to make sure “everybody’s stories jibe according to what’s happening.”

“The No. 1 thing when I come out is to try to protect the officers as much as possible,” Garcia said. In this case, he said, it was “no big deal.”

“The only thing we needed to do extra was this guy looked like he had the (expletive) kicked out of him and we want to make sure the officer wasn’t responsible,” Garcia said.

“They’re gonna look at it and go, ‘Oh, (expletive).’”

In December 2014, Michael Garcia was suspended for three days without pay for his comments.

“Based upon these comments, Sgt. Garcia’s recorded conversation gave the appearance that he did not intend to properly investigate the case,” his suspension paperwork signed by McManus stated. “And in fact he did not.”

Salame said Garcia’s handling of the case isn’t the norm at the SAPD, and his punishment shows the department holds officers accountable.

“Garcia’s opinions are most definitely an isolated incident and not indicative of our core values and our training,” he said.

Missing reports

There’s also no guarantee that a use-of-force report gets filed at all. The Express-News found eight fatalities that weren’t included in the force data. Most of the cases were officer-involved shootings.

“In my experience being on the officer involved shooting team, some supervisors mistakenly believed that because homicide detectives were taking the officers’ statements, they didn’t have to complete (use-of-force) forms,” Salame said. “Those are honest errors and we do our best to catch most of them to ensure that it doesn’t happen with any regularity.”

Last year, the Bexar County district attorney’s office filed a motion to drop charges against Carlos Flores, who had been convicted of assaulting SAPD officer Matthew Belver in an incident that occurred in October 2009 when Belver arrested Flores on suspicion of driving while intoxicated.

Flores had admitted to kicking Belver, but only after the officer repeatedly punched him while Flores was in handcuffs.

His defense lawyer and prosecutors weren’t told that the SAPD had suspended Belver for 30 days for failing to take Flores to the hospital, and Belver had never filed a use-of-force report.

FROM THE COVER

"I told him, 'I'll kick your ass,'" Flores wrote in a complaint attached to his court appeal. He said Belver replied, "If you kick my ass, I'll let you go."

Flores said Belver started punching him, yanked him out of the patrol car into the street, and continued striking him in the face.

"Basically he was beating (me) like a dog in the street," Flores complained.

In February, McManus indefinitely suspended Belver, which is tantamount to firing, after the officer was accused of taking the handcuffs off another suspect, Eloy Leal, and trying to fight him.

"I'm gonna beat your ass," Belver told Leal, according to the suspension paperwork. "That's what I'm going to do. Are you ready?"

Leal didn't want to fight. Belver put him back in handcuffs, tightly, and berated him on the ride to the magistrate's office downtown, calling him a coward.

Belver is challenging his punishment in an upcoming arbitration hearing. Reached at his home on the Northwest Side, the officer accused of threatening and abusing prisoners cordially answered the door with a good-natured smile as he held a small, fluffy dog in one arm. He declined to comment.

"I appreciate it though," Belver said.

Mike Helle, president of the San Antonio Police Officers Association, said Belver made a mistake and let tough-talking prisoners get under his skin. It's not uncommon for people taken into custody to challenge police officers to fight, Helle said.

But Helle criticized the SAPD for trying to boot Belver off the force while letting other officers remain for similar infractions.

"I know personally throughout my almost 27-year career, there have been other officers who did what Matt did and they're still employed by this Police Department," said Helle, who didn't elaborate on other cases. "They were not terminated. Some of them, they were just given reprimands."

In addition to Belver, police officials have suspended at least six other officers since 2015 after they were accused of using excessive force or abusing handcuffed prisoners.

Interim Chief Anthony Treviño suspended officer Jonathan Reyes for two days after a police helicopter filmed Reyes kicking a robbery suspect, Luis Tinajero, who had been shot by police. Tinajero was disarmed, on the ground and had his hands up when Reyes kicked him.

"Officer Reyes' actions during the arrest brought reproach and discredit to both the department and himself," the suspension paperwork states.

The SAPD did not agree to let Reyes be interviewed for this report.

Tinajero, who is serving 15 years at the Dominguez State Jail near San Antonio for robbing a Citgo with a shotgun, said he had passed out and didn't remember getting kicked. But when he woke up in the hospital, three of his ribs were broken and he was missing his front teeth.

"I did what I did," Tinajero said. "I regret it. But I don't think I deserved the full wrath of what they gave me."

Worst fears

In Carlos' case, McManus suspended the three officers — but only after Carlos filed a complaint with Internal Affairs.

The findings of that investigation went to a police advisory board

that recommended suspending the officers for five days. McManus initially considered increasing the suspensions to 15 days, but ultimately opted to suspend all three officers for the original five-day recommendation.

At the time, he said, Carlos had declined to be treated by EMS at the scene, and the complications from his surgery occurred months later.

But the incident and how SAPD handled it sparked calls for police reform from critics such as U.S. Rep. Joaquin Castro, D-San Antonio.

Salame, the police spokesman, said the SAPD aggressively investigates the actions of officers, even in cases when residents don't bother to complain.

After Tinajero was arrested, he never filed a complaint about being kicked. He didn't even know Reyes had been punished. Salame said the suspension occurred because detectives reviewed the helicopter video footage as part of their due diligence in investigating the officer-involved shooting.

"It kind of surprises me," Tinajero said of Reyes' suspension.

Castro said that kind of verification process, using videos to corroborate or disprove the stories of police officers, needs to be systematic.

"We're in an era of technology where we have to move beyond the 'just trust me' era," Castro said.

Carlos' case joined a spate of controversial incidents in the United States involving police officers accused of using excessive force against minorities.

Last week, Baltimore police officer Edward Nero was acquitted in a criminal case involving the death of Freddie Gray, 25, who was arrested in April 2015 but suffered a spinal cord injury and later died after being transported in a police van without a seat belt.

In the wake of a fatal police shooting in San Antonio on Feb. 4 of Antronie Scott, who was unarmed and African-American, McManus drove to the scene and said he became upset when he learned the details.

Officer John Lee tried to arrest Scott, who was wanted on felonies that included possession of a firearm.

McManus said Lee had positioned himself too closely to Scott's vehicle during a felony traffic stop in an apartment complex. Scott turned around quickly, Lee saw an object in his hand and shot Scott, killing him.

The object turned out to be a cellphone.

"I was pissed off," McManus said. "I was angry that it happened. My anger stemmed from, we are doing so much training and trying to push reform. Now we got this thing that we read about that's happening in other cities. It happened here."

A vital role

McManus determined the shooting was legally justifiable. But he threatened to fire Lee for putting himself in a tactically poor situation, which upset rank-and-file officers and eventually led to a vote of no-confidence against McManus led by the police union.

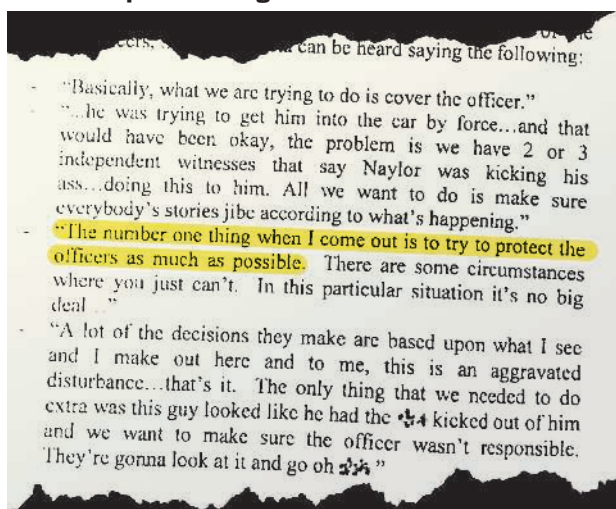
McManus later allowed Lee to stay on the force and ordered more training for him. The chief said he took into account that Lee was following instructions from undercover detectives who were following Scott and asked uniformed officers to arrest him.

Helle defended Lee's actions, emphasizing the officer was trying to apprehend a man facing a felony weapons charge.

In his own words

In December 2014, Sgt. Michael Garcia was suspended for three days after telling fellow officers that his job was to protect them "as much as possible."

Recorded quote from Sgt. Garcia:



Source: SAPD suspension papers

San Antonio Express-News

Regarding the bigger picture of how SAPD officers use force, Helle said the department doesn't have a rampant force problem.

"I would be concerned if we had all these use-of-force issues and a large majority of (suspects) are

going to the hospital because they have large abrasions all over their heads or broken bones or those type of things," Helle said. "I don't get the sense that's what's going on in our Police Department."

Lawyer Thomas J.

Henry filed a civil rights lawsuit on behalf of Scott's wife but said he's not alleging that race played a part in the shooting.

"Whether or not race is an issue in the killing of Mr. Scott is an issue that will be examined and looked at in this litigation," he said. "But that is not an allegation."

Several suspended officers also had been commended at the SAPD for volunteering in the community and taking initiative in tracking down suspects.

Belver was injured last year when he responded to a 911 call for a man screaming and found a pack of five pit bulls mauling him. The dogs attacked Belver, too, but he was able to fend off the pack by drawing his weapon and shooting three dogs.

San Antonio community activist Taj Matthews said police play a vital role in protecting the community — and the

community should play a vital role in demanding answers when police behave questionably.

"No one wants murderers, rapists and drug dealers to roam the streets freely," Matthews said. "But also, no one wants to be afraid of the people who are in place to protect us. That's where the issue gets clouded."

For Roger Carlos, the issue is crystal clear — a violent case of mistaken identity shattered his life. Paralyzed, he can't do things he loved, like playing baseball or riding bikes with his kids.

"My kids are my life," Carlos said. "Just to even hug them is almost impossible because I'm in this wheelchair."

"It's definitely turned our lives upside down."

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