

OVERVIEW: *TENNESSEE v. GARNER* AND THE USE OF DEADLY FORCE

In the 1985 case of *Tennessee v. Garner*, the Supreme Court declared unconstitutional the use of deadly force by law enforcement officers against nondangerous, fleeing felony suspects. Avoiding both the due process and the cruel and unusual punishment analyses, the Court held that such action violates the fourth amendment prohibition against unreasonable searches and seizures. *Garner* is an interesting case on many levels, from the judicial process used to decide the case to the way in which its dictates will be implemented by police forces around the United States. The articles that follow analyze the *Garner* opinion from these various perspectives.

Steven Winter asserts that the case is an example of the Court's use of judicial review to reach a countermajoritarian decision. He concludes that *Garner* is not a revolutionary decision; rather it is an example of judicial articulation of a value already recognized and accepted by society. Richard Uviller explores the effects of the decision on the exclusionary rule and the doctrine of justification. Further, he describes the difficulties that police officers will have in "obeying" the case. James Fyfe looks at the equal protection argument advanced in *Garner*, and presents evidence that the use of deadly force in Memphis has had a racially discriminatory impact. Judge George Edwards, a former police commissioner of Detroit and a member of the Sixth Circuit panel that heard *Garner*, discusses the case in light of his own experiences.

