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**Administrative Investigations of
Police Shootings and Other Critical Incidents:
Officer Statements and Use of Force Reports
Part Two: The Basics**

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[Part One](#) focused on the debate that has arisen in the criminal justice community as to when and how officers should be interviewed after a shooting or other critical incident. Part One posed seven questions, but did not directly address them. Part Two examines each of those questions.

- A *References* section at the end of this article lists more than 80 articles, books, reports and other materials, many of which can be accessed on the Internet.

1. What information needs to be obtained from an officer who has killed or wounded a suspect, before the officer is placed on paid, administrative leave?

Assuming the incident has ended, the first question a supervisor should ask is whether anyone needs medical attention. The supervisor should then inquire if any suspects have fled and could pose a danger to others.

The IACP policy recommends, “only minimal, preliminary questions should be asked about the incident. The officers should be advised that a more detailed debriefing will be conducted at a later time.” [1]

LAPD modified its Officer-Involved-Shooting procedures after implementing a federal consent decree in 2001. Before the involved officers leave the scene, supervisors obtain a “Public Safety Statement,” which contains the following: [2]

1. Type of force used.
2. Direction and approximate number of shots fired by the involved officer(s) and suspect(s).
3. Location of injured persons.
4. Description of outstanding suspect(s) and his/her direction of travel, time elapsed since the suspect was last seen, and any suspect weapon(s).
5. Description and location of any known victims or witnesses.
6. Description and location of any known evidence.
7. Other information as necessary to ensure officer and public safety, and assist in the apprehension of outstanding suspects.

None of those questions inquire as to why an officer resorted to deadly force! That information should be learned later (see the next section).

After making a preliminary oral report (such as a public safety statement) all involved officer(s) should be transported to a location where he (or they) can submit to alcohol and drug use tests. [3]

All sidearms that were fired should be collected for evidentiary purposes, and

immediately replaced with a similar firearm. [4]

All officers who were directly involved in a shooting should be instructed to contact a police psychologist affiliated with the agency, for initial debriefing. [5]

They also should be instructed not to discuss the incident with fellow officers, until permitted to do so. They may discuss the event with a family member, their attorney, a certified labor representative and a mental health care provider. [6]

2. How long should investigators wait, before formally interviewing an officer who has used deadly force?

Involvement in a shooting can be emotionally devastating:

1. Community activists might claim the shooting was unjustified and that the officer is racially biased.
2. The officer is likely to be sued for compensatory and punitive damages.
3. A grand jury will probably investigate the shooting.
4. An internal investigation will focus on whether the shooting was consistent with agency policy and the officer's training.

The IACP Police Psychological Services Section contemplates that an investigatory interview will not be initiated until after the involved officer(s) have met with a trained psychologist.

Recommendations for Post-shooting Interventions by a Mental Health Professional [7]

- 20. A post-shooting intervention should be conducted by a licensed mental health professional trained to work with law enforcement personnel. Care should be taken in selecting a mental health professional to ensure that he or she has a strong educational background, knowledge and experience in the treatment of trauma, and a full spectrum of clinical experience with law enforcement in all types of mental health issues. The credentials and experience of the mental health professional are crucial in conducting post-shooting interventions. Law enforcement administrators are encouraged to examine the mental health professional's background for training and experience with interventions in a law enforcement setting.

In no case should a formal interview be conducted in less than 24 hours, even if the officer is willing to participate. It is better to wait 48 to 72 hours before conducting the interview. An officer's recall can improve during this period. [8]

As noted by the IACP: [9]

- “It is quite common to experience **perceptual distortions** of various types. Some may experience time distortion in which events appear to occur in slow motion. ... For other officers, time accelerates.”
- “**Auditory distortions** are common among officers involved in a shooting. For most, sound diminishes and gunshots, shouts, or other sounds may be muffled or unheard. An officer may, for example, not hear all the rounds being fired and may not be able to relate this information at a later date. Other officers experience intensified sound — gunshots sound like cannons.”
- “**Visual distortions** occur in about half of shooting instances. In these cases, officers may experience ‘tunnel vision,’ a condition where the officer’s visual attention is so focused as to exclude all or most peripheral objects that would normally appear in the field of vision.”

Many officers will never remember some of the details of a critical incident. As noted by the IACP, that does not necessarily mean the officer is lying or trying to conceal information. He could have experienced the normal perceptual distortions that commonly occur during moments of peak stress. [10]

The IACP notes that the officer’s “shock disruption period” may last anywhere from a few minutes to a week or longer depending upon the individual “but usually it lasts two to three days,” which is why a 48 or 72 hour waiting period is recommended. [11]

- “Mounting behavioral evidence in humans supports the claim that sleep leads to improvements in recently acquired, nondeclarative memories.” [12]

3. Should officers be interviewed together or separately?

Interviewing officers separately does not prevent pre-interview collusion, but it does circumvent a dominant officer from intimidating coworkers. At one time, the LAPD would interview officers collectively and a lieutenant would write a narrative use of force report. The LAPD Manual now prohibits group interviews. [13]

Memory recall can improve when the interview is in a group setting. A prominent police psychologist wrote “in the course of conducting numerous group debriefings that many officers are not fully aware of their own memory and perceptual distortions until they are confronted with evidence that their memories

and perceptions are not as complete and accurate as they had previously thought.”

During a group debriefing, “officers enjoy the benefit of finding out what really happened overall and how their own version might differ from the big picture due to memory gaps, memory distortions, distance distortions, perceptual distortions, etc.” [14]

There are advantages to both, and individual debriefings can be followed by a group session.

4. Should officers be allowed to be accompanied, at the interview, by an association representative or attorney?

In most states, if an officer is a member of a bargaining unit, he or she is entitled to the presence of an association representative at a non-criminal interview if there is a possibility that disciplinary action can result. The requesting officer does not have to be the focus of the investigation to assert a *Weingarten* right. [15]

If the officer is not a member of a bargaining unit, there is no certified labor representative.

- It is a good practice to allow officers to be accompanied by legal counsel, whether privately retained or engaged by a union or association. A refusal to allow the presence of counsel undermines agency morale.

5. Who should complete the Use of Force Report: The involved officer(s), the field supervisor, or a member of the incident investigation team?

One advantage to writing a single comprehensive report, completed by a supervisor or a member of the incident investigation team, is to frustrate the ability of a plaintiff’s lawyer to point out inconsistencies between courtroom testimony and multiple reports written by each involved officer. This is particularly true when a report incorporates site diagrams, asks about distances, lighting conditions and other environmental information.

Management, however, has an obligation to seek the truth, and to impose disciplinary actions for misconduct. That mission is undermined if there is a loss of community support.

It is a good practice to require each involved officer to write a narrative of the incident, which can be attached as an addendum to the master report filed by the incident investigation team. Individual narratives (or parallel reports) are consistent with IACP Model Policies: [16]

IV. PROCEDURES

A. Responsibility for Reporting ...

- a. Each officer who uses force in an incident shall submit a separate written use-of-force report.
- b. Any officer who witnesses a use of force shall advise a supervisor and shall submit a use-of-force report.

6. Should the involved officer(s) be allowed a walk-through before giving an interview to investigators?

7. If there are videotapes, should the officer(s) review them before or after the formal interview?

In both cases, a walk-through and a viewing of videotapes will improve an officer's recall and lead to a more reliable interview and report. Remember that tunnel vision and other perceptual distortions are common experiences for officers.

Incredibly, some news media representatives and community activists have suggested that allowing officers to view tapes before an interview (or completing a use of force report) facilitates untruthfulness.

Litigation consultants have strongly urged that the officer walk-through should NOT be videotaped because they often reveal an officer's perceptual distortions and these are used by plaintiff's counsel to support a claim of untruthfulness. [17]

Recommendations

For too long, we knew too little about the dynamics of violent confrontations. No one scientifically measured response time during real life-or-death scenarios. Only recently have psychologists documented instances where officers have reported slow or fast motion experiences, tunnel vision, tunnel hearing, partial memory loss and recall distortions.

We still know too little, and must not rush to judgment that an officer (or a bystander) is lying. Dashboard cameras, Taser® cams, flashlight cams, commercial surveillance cameras and street mounted CCTV cameras are in wide use and have vindicated officers who might have faced termination and civil liability.

We do know that officer-involved-shootings must be thoroughly and impartially investigated. Smaller agencies often call on another agency to conduct an OIS investigation.

Agencies like LAPD have learned, painfully, that officers must be retrained in policy and procedures within three weeks following a shooting. It is not just embarrassing, it is costly when a jury learns that an officer cannot correctly recite his agency's use of force policy and does not remember any details about the last time he was trained on the use of force.

The IACP also recommends that officers re-qualify with their firearm after a period of mental recovery – to insure that they are mentally capable of resorting to deadly force again, if necessary. [18]

Mayors, managers, police chiefs and sheriffs need to exercise restraint, even when activists claim police genocide and cover-ups. Officers that are involved in shootings need recovery time, which differs individually. Some will never fully recover and will need months of therapy. [19]

Above all, *until the evidence proves otherwise*, officers should be respected as professionals and treated as victims, and not as aggressors or criminal suspects.

Notes:

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2. LAPD Manual, [Vol. 3, §795](#), *Obtaining a Public Safety Statement – Categorical Use of Force*.
3. In some jurisdictions, a breath test (or breath and drug tests) are mandatory. Even when voluntary, they are rarely declined because a negative result ends any speculation that an officer was under the influence of drugs or alcohol. In 1989 the Supreme Court upheld the constitutionality of mandatory, post-accident drug testing of railroad workers without a particularized suspicion of drug abuse. [Skinner v. Railway Labor Executive Assn.](#), 489 U.S. 602.
4. Post-Shooting Incident Procedures, IACP Model Policy 20 (1990), *Handling of Officers at Scene of Shooting Incident*, Part IV-A-6 and *Agency Protocol Recommendations*, Guideline 8, [Officer-Involved Shooting Guidelines](#), IACP Psychological Services Section (2004).
5. Guidelines 20-29, [Officer-Involved Shooting Guidelines](#), IACP Psychological Services Section (2004).
6. Post-Shooting Incident Procedures, IACP Model Policy 20 (1990), *Handling of Officers at Scene of Shooting Incident*, Part IV-A-5 (d) and (e). See sec. B of [Part One](#) of this article for background.

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10. Id.
11. IACP Post-Shooting Incident Procedures, Concepts and Issues Paper, Part II-A-2, *Physical and emotional reactions*, p. 2 (1991).
12. Ellenbogen, see note 8.
13. LAPD Manual, [Vol. 3, §794.37](#), *Force Investigation Division Investigative Guidelines*. See sec. C in [Part One](#) of this article for background information.
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17. W. Ken Katsaris, “Specific officer-involved shooting investigation techniques receiving emphasis during litigation,” AELE Seminar on the Legal, Psychological and Biomechanical Aspects of Lethal & Less Lethal Force, *presentation on March 26, 2008 and comments about James v. McCollister*, #6:03-cv-01371 (Unpub. D. Ore. 2005).
18. IACP Post-Shooting Incident Procedures, Concepts and Issues Paper, Part II-B-1, 8, *Post-Incident Procedures*, p. 2 (1991).
19. See, for example, [Jaffee v. Redmond](#), 518 U.S. 1 (1996). After fatally shooting a man that wielded a butcher knife, officer Redmond attended 2 or 3 counseling sessions a week for six months. Additional facts are at 51 F.3d 1346 (7th Cir. 1995) and http://en.wikipedia.org/wiki/Jaffee_v._Redmond

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- B. Articles in e format
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- D. Judicial decisions
- E. Model policies and guidelines
- F. Reports and studies

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