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Introduction

Through my 23 years of investigative experience, I have learned that the police use of deadly force is a rare event. However, by the very nature of their jobs, officers are subjected to various kinds of violence on a regular basis. Violent events such as robberies, assaults, and domestic abuse are common police calls. Police today are better trained, and most departments have use of force policies in place. Most officers follow the use of force continuum in dealing with violent encounters. According to the Federal Bureau of Investigation (FBI), an estimated 500,000 police officers in the United States fatally shoot 3,600 people each year. (Cullen, 1996). Most police officials rarely encounter the need to draw a weapon, much less experience the need to shoot at someone. Police officials, crime experts, and research by the Associative Press of Law Enforcement Methods support that the majority of police officers will not have to use deadly force on an individual throughout their entire careers. New York City Police Commissioner Howard Safir said of his agency, “Well over 95 percent never shot their weapons here” (*Society*, 2000, pg. 2).

Even though police deadly force shootings are rare, they do occur; and when they do, they have a major impact on the community where they occur. The police officer’s authority to use force is based on the principle that the police are acting in the place of the state to maintain control. (McElvain, 2006). Officers have the right through the state to interject themselves into the affairs of other people—even to the point that it could require the officers to exercise lethal force. For the police, the authority and responsibility to employ force is “...a troublesome paradox because officers resort to using force, or in other words the application of violence, as a means to thwart others behaving in a violent manner” (McElvain, 2006, pg. 23). The fact that

police officers have the authority to utilize force to maintain control can produce complications. The laws governing the use of deadly force are vague when considering the circumstances in which force is required to be used, as well as what level of force is required. The officer who is responsible for maintaining the balance between lawlessness and social control is many times confused by what he perceives to be the desire of the community and his responsibility to protect the public. (McElvain, 2006).

As the public's guardians, sworn officers use deadly force under certain circumstances. Officers often place themselves between the criminal element and the citizens they serve and protect. Many times, officers are putting themselves in harm's way and must employ deadly force to safeguard innocent people and their fellow officers, as well as to survive the encounter.

As I have learned from my own personal experiences, police-involved shootings are a serious reality. When police officers are required to employ deadly force, it affects the officer, the community, and the responsible police agency. As managers, it is our responsibility to ensure that such an event is dealt with and managed in a way that addresses the many issues that will arise out of the incident. I will be focusing on five elements of management as they relate to officer-involved shootings. The first element will be responding to the shooting incident. The event is a crime scene, and it must be documented in such a way to aid in the explanation of the events that took place. The second element will be procedures for interviewing the involved officers and witnesses. How we handle the affected officers and witnesses will affect the outcome of the investigation. The third element will be handling the public and the media. The media can be considered to be an adversary or a partner in the reporting of the incident. The fourth element will be the presentation of the case to the prosecutor for review. How the case is managed will have a direct impact on the decision that is made as far as the shooting being

justified or not justified. The fifth element will be the debriefing and analysis of the event for training purposes. The review of the case will allow the effected officers to share their input and will allow for a critique of the investigation. We learn much from our past experiences, and we can learn something from every incident.

The Crime Scene Investigation:

The crime scene should be conducted by the most highly trained and seasoned investigators who will display neutral attitudes throughout the investigation. “Investigative techniques and physiological issues are inevitably intertwined and cannot be separated” (Artwohl, 2002, pg. 18). A reasonable and reliable investigation process must take physiological factors into account, must be negotiated meticulously, and must be set up prior to the incident. Failure to do so may cause the officers to be subjected to unnecessary additional stress and may produce concerns that their legal rights may have been violated by what takes place after the incident (Artwohl, 2002).

Appropriate legal and administrative considerations combined with a protocol laid out by Dr. Artwohl will increase the speed and detail of an investigation, as well as decrease the traumatization of officers, their families, and other personnel. It will also offer the best probability of recovering accurate memories of the incident. The following suggested protocol should be administered.

1. As a managers, we should see that the assigned investigator introduces himself and displays basic courtesy to the involved officer(s) and witnesses.

2. We need to see that the investigator is able to get certain immediate information without compromising personal, legal protection. In many instances the officer(s) is the only witness to the event. As on-seeing supervisors, we should get a short, basic description of the

event; it needs to be the least amount of information to communicate the nature of what happened. It is important for the officer(s) to identify the scope of the scene. The initial information should be given orally with as little detail required to get the investigation started.

3. We should make sure that the involved officer(s) is made aware of what will be taking place from the beginning of the investigation. It is important to keep him informed and updated throughout the process to reduce the probability of unnecessary anxiety.

4. We should require our investigators to inspect the weapons of all the involved officer(s), even if the involved officer(s) does not believe he fired the weapon. "It is possible for an officer to discharge a weapon during a critical incident and not be aware of it" (Artwohl, 2002, pg. 19).

5. Unless it is absolutely necessary or required by department policy, we should not seize the officer's weapon at the scene.

6. See that the officer's family or support team are contacted. Support teams and chaplains can be used to meet specific needs of the involved officer(s).

7. Ensure that the involved officer(s) is not isolated and that he has access to a family member or support team member. The officer(s) should be ordered not to discuss the specific details of the incident with his support member. "Be prepared for a wide range of emotional reactions from on-scene personnel" (Artwohl, 2002, pg. 19).

8. We should make sure the scene is secure and establish an inner perimeter to protect the crime scene. Also, we must secure the outer perimeter as a staging area for non-involved personnel.

9. If at all possible, we should establish a quiet area where the affected officer(s) can be isolated from the general commotion, on-lookers, and media.

10. We must make sure the basic needs of the affected officer(s) are met. This includes such things as a restroom, something to eat or drink, shelter, and a change of clothing.

11. We should not allow the affected officer(s) to drive from the scene to another location. A driver should be made available to transport the officer(s) when the need arises to relocate. The involved officer(s) could be promptly transported to the hospital which would provide a safe refuge and appropriate medical attention.

12. We should encourage the affected officer(s) to go home and get some rest before giving an official statement. It is suggested that an officer(s) wait 24 to 48 hours before giving a statement (Artwohl, 2002).

A methodical, thorough crime scene should be conducted. Many times the absence of a thorough crime scene will cause much needed questions to go unanswered. The integrity of the crime scene and the reputation of the crime scene investigators have a major impact on the public perception of a shooting incident. So many people seem to think shootings by police are murders and that in homicides police would cover up the murder (*Force Science News*, 2006 January 20). “Every officer-involved shooting needs to be investigated thoroughly but in a way that produces more factual disclosures and, in the end, the best representation of the truth” (*Force Science News*, 2006 January 20, pg. 3).

Known forensic scientist Matt Noedel of the Association of Crime Scene Reconstructionists says,

“The officer in an officer-involved shooting must be associated with what he must do, which means we must provide a higher level of documentation. We know that officer-involved shootings rise to a higher level. During such high-stress, dynamic shooting incidents, the recollections of both officers and witnesses can be different; and this is why crime scene investigators must approach an officer-involved shooting scene with an icy objective. You cannot assume it is a good shoot. The physical evidence has to tell the story” (Galvin, 2010, pg. 83).

The use of three-dimensional diagrams enables officers to reconstruct the shooting scene, as well as explain the evidence of the case in court. Also it is recommended that lots of photographs and a video recording of the scene be taken. An old adage states that a picture is worth a thousand words. The video could be viewed later by the involved officer(s) as a means to recall the event. The video will in many cases take the place of a walk-through of the crime scene by the affected officer(s). Documentation is essential in that if it is not on paper it did not happen. Therefore, thorough diagrams and field notes are a must.

Interviewing the Involved Officers and Witnesses

When it comes to handling the interviews of the officer(s) involved in the shooting, much controversy can arise. To begin with, we need to consider how much involvement the shooter(s) will have in the investigation. Some researchers feel that the involved officer(s) should be removed from the scene as soon as possible after giving basic information about the incident. Others feel that officer(s) should not be treated any differently than anyone else involved in a shooting incident. In an article in *Force Science News* the following question was addressed: “How do you think an officer should be treated after he has shot and killed an offender?” (*Force Science News*, 2006 January 20, pg.1).

Group A said that the officer(s) should be treated as a suspect or civilian witness and be required to give a statement without delay. They said that the officer(s) should be isolated to prevent him from colluding with others and developing his own self-serving account of what happened. They also believed that officer(s) should be interrogated rather than interviewed with every discrepancy and hole in his version of events regarded suspiciously as probable evidence of deceit (*Force Science News*, 2006 January 20).

In contradiction, Group B said that the officer(s) should be treated like a survivor of a life-threatening incident. They also felt that he should be given time to mentally recuperate and process the encounter which he has survived before being extensively interviewed. In addition, they said that the officer(s) should be given the opportunity to clarify what took place and should be interviewed with techniques that effectively stimulate memory recall. The group believed the officer's recollection of the event should be regarded as truthful until evidence suggests otherwise (*Force Science News*, 2006 January 20).

According to Police Assessment Resource Center (PARC), a non-profit police oversight and consulting organization, Group A's belief is the preferred approach to the investigation. In its Portland report, PARC explains what it considers to be the best practices for dealing with officer-involved shootings. Among its recommendations are the following:

1. The officer(s) should be interviewed as soon as possible with a delay exceeding no more than a couple of hours. There are no persuasive arguments that a waiting period produces more accurate accounts of the event.

2. The officer(s) and witnesses should be interviewed regardless of their emotional state, in the same manner used on any other homicide witness.

3. The officer(s) should not provide information about the incident off-record. The officer(s) could corrupt the integrity of statements made for the record.

4. The officer(s) should not be removed from the crime scene until he has been interviewed, preventing an alteration in his account of the event (*Force Science News*, 2006 March 31).

In theory, the PARC's approach will lessen the amount of distrust of the police by the public; however, in reality, it could produce a very different outcome. The immediate and

antagonistic interviewing of the involved officer(s) can lead to inaccurate details and unjustifiable suspicion, causing problems with the courts. This could lead to public distrust of the officer(s) as well as the courts (*Force Science News*, 2006 January 20).

In contrast to the views of PARC, there are those in the law enforcement community that disagree. Bill Lewinski, Force Science Research Center's executive director, having nearly 30 years of experience in law enforcement psychology, offers the opinion that the PARC's proposals are based on attitude rather than scientific evidence. He says that the PARC's attitude reflects a view of police officers as devious individuals who engage in shootings out of their own will. Based on this attitude, the PARC believes that these officers should be handled with some degree of suspicion, like any other criminal involved in a shooting incident (*Force Science News*, 2006 January 20).

John Hoag, who is an attorney for multiple public safety organization in Oregon and has responded to at least 40 law enforcement shootings, also contradicts the views of the PARC. He says that most all homicide investigations are for blatantly unjustifiable murders, in which case the guilty suspect needs to be arrested. Officer-involved shootings are unlike this for the reason that they can be justified; and therefore, the officer(s) should be treated differently. He says that society employs officers to use deadly force under appropriate legal circumstances. In nearly every police shooting incident, officers performed the role they were hired to fulfill. "They are not criminals, nor are they civilians, and they should not be treated as such" (*Force Science News*, 2006 January 20, pg. 4).

Oftentimes officers will experience perceptual distortions that can include auditory exclusion and memory gaps as a result of the physical and mental stress of a shooting. According to Dr. Artwohl extreme levels of stress and anxiety can impair to some degree the

officer's ability to recall the events accurately. Some officers have the ability to overcome the shock very quickly and feel prepared to give a statement, but most officers will experience a need for time to recover from the shock. Reports have shown that roughly 40 percent of officers involved in shootings will regain lost details by waiting before giving a statement. It is completely normal for the surviving officer(s) to second-guess themselves or others when relaying the occurrences of the event. Second-guessing is the result of emotional factors and is almost entirely irrational. It is believed that no human psyche is the same; therefore, the dynamics depend on such factors as experience, age, training, exhaustion, and elements of an officer's personal life. It is best to let the officer(s) make his own decision as to when he feels ready to provide an interview (*Force Science News*, 2006 January 20). If the officer(s) is forced to answer questions he is uncertain about, he may actually provide false information (*Force Science News*, 2006 April 14).

Because an officer(s) involved in a shooting incident wants to give the most accurate statement possible explaining what he did and why he did it, it is recommended that he revisit the crime scene. A review of the crime scene helps the officer(s) recall specific details about the event. Research has proven that subjects who return to the environment can remember about 50 percent to about 70 percent of the significant details. Those who try to recall details from another place other than where the event occurred only recall about 30 to 50 percent of the specific details. During psychological research people showed a much greater ability to recall words from a list when they were placed in the room where they memorized the list than when they were placed in an unfamiliar location (*Force ScienceNews*, 2006 April 14).

Addressing the Public and Media

Things have changed in the way we address officer-involved shootings. “Before, the police typically said ‘No comment,’ and the case went to a Grand Jury. Today, the community does not accept that” (Olson, 2007, pg. 1). As administrators, it is important that we strive to notify the public with general information regarding officer-involved shootings. This keeps the investigation open and up-front, instilling within the public a sense of trust towards the officers conducting the investigation.

During a deadly force encounter, high levels of stress and adrenaline can influence how a police officer reacts. Any time deadly force is required, it will cause an officer to make a series of choices, reactions, and movements. The public needs to be informed of the distortions that can occur. They also need to be made aware of the memory lapses and difficulty in recall that are produced by such high-stress situations (Alpert, G.P., 2009).

Chief Dolan of the Minneapolis Police Department talked about two recent incidents in Minneapolis where officers had to use deadly force. One case involved the shooting of an unarmed man; and in the other case, a suspect was shot 48 times. They were able to deal with both cases incident by incident. They worked with the community and the families involved for a positive outcome (Olson, 2007).

The department should demonstrate its willingness to cooperate with the media and the public when these incidents occur. By displaying a working relationship with the media, the communication process with the public will remain a positive one. Otherwise, mistrust can develop. The time to prepare a press-release for officer-involved shootings is before one occurs. This is done by encouraging the media to print and air stories and responsibilities of officers, as well as the training they have received on past shootings and similar experiences. (Bohrer,

2010). We should show the public that we are trained and working hard to do a better job when it involves the use of force.

Public perceptions of officer-involved shootings usually vary with the population. They can many times be directed by standing bias and lack of faith in the government. Oftentimes a law enforcement shooting does not produce the negative public opinion. Rather, it is produced by the approach that the involved agency displays in addressing the misperceptions (Bohrer, 2010).

Case Presentation to the Prosecutor

Many times as administrators it is our responsibility to review the file before it is presented to the prosecuting attorney for review. It is our responsibility to ensure that the case has been properly documented and all the results of specialized testing and crime lab analysis are a part of the file. Through my years of experience, I have learned that the investigative case file should be prepared and submitted to the prosecutor for review as soon as possible. The prosecutor must have all the information possible in order to make a decision on the case.

As supervisors, we must know the law as it pertains to the use of deadly force. This will enable us to gather the right kinds of facts and evidence to prove the case. In the state of Arkansas the reviewing prosecutor will follow the guidelines of the following criminal statute:

5-2-607

“Use of deadly physical force in defense of a person.

(a) A person is justified in using deadly physical force upon another person if the person reasonably believes that the other person is:

(1) Committing or about to commit a felony involving force or violence;

(2) Using or about to use unlawful deadly physical force; or

(3) (A) Imminently endangering the person’s life or imminently about to victimize the person as described in statute 9-15-103 from the continuation of a pattern of domestic abuse.

(B) As used in this section, “domestic abuse” means the same as defined in 9-15-103.

(b) A person cannot use deadly physical force in self defense if he or she

knows that he or she can avoid the necessity of using deadly physical force with complete safety:

(1) (A) By retreating.

(B) However, a person is not required to retreat if the person is:

(i) In the person's dwelling or on the curtilage surrounding the person's dwelling and was not the original aggressor; or

(ii) A law enforcement officer or a person assisting at the direction of a law enforcement officer; or

(2) By surrendering possession of property to a person claiming a lawful right to possession of the property.

(c) As used in this section "curtilage" means the land adjoining a dwelling that is convenient for family purposes and habitually used for family purposes, but not necessarily enclosed, and includes an outbuilding that is directly and intimately connected with the dwelling and in close proximity to the dwelling" (*Arkansas Criminal and Traffic Law Manual*, 2009, pg.28).

A thorough investigation will allow the law to be applied to the facts of the case enabling the prosecutor to make the best decision in the case.

The Debriefing and Analysis of the Investigation

At the completion of the investigation we as supervisors should hold a debriefing with all the investigating officers to determine the investigation is thorough and complete. It is also at this time that an evaluation of the affected officer(s) can be made in order to provide professional counseling service if necessary. As administrators, we can gain insight into the shooting incident from the debriefings. From the information that we receive we can make decisions and implement steps to correct any training problem that may have been identified.

In debriefing it should be our goal as administrators to minimize post-traumatic reactions from the involved officer(s). It is widely believed that talking in a structured and controlled environment helps to minimize post-traumatic reactions (Addis & Stephens, 2008). Research shows that individuals who experienced the debriefing process considered it very helpful. They said it provided them a safe environment to discuss shooting incidents, the affects that the incidents had on them as individuals, and the affects the incidents had on their family

members. However, research also shows that the benefits of debriefing only have short-term impact and offer no help with the long-term affects of post-traumatic stress. In a study involving officers who were debriefed after the incident, the reports show that the debriefing experience had no positive affects in dealing with Post-Traumatic Stress Disorder five years after the incident. These outcomes point to the serious limitations of a one-time debriefing experience. We must find ways to allocate more resources to assist the affected officer(s) and his family (Addis, 2008).

After the debriefing, we supervisors should make it a priority to provide long-term evaluations and assistance to the affected officer(s). We supervisors should always remain positive and should encourage the affected officer(s) in his road to recovery. By making long-term commitments to our officers, we are instilling their confidence in the agency's support of them.

Conclusion

As police administrators, we must approach officer-involved shootings in a methodical, well-structured investigation. As supervisors, it will be our responsibility to oversee the investigation until it has been completed and to see that the affected officer(s) receive proper counseling. Our responsibility begins with the crime scene. We must make every effort to secure and investigate the crime scene in order that valuable evidence will be seized and a detailed investigation can be completed. Without a reasonable and reliable crime scene investigation process, the officer(s) may be subjected to unnecessary additional stress and may feel their legal rights have been violated. As administrators, we must ensure that the most highly trained and competent investigators conduct the investigation. We should use investigators that will approach the investigation displaying neutral attitudes. We have the

responsibility to see that the affected officer(s) are kept will-informed throughout the investigation and that their personal needs are met. When dealing with the involved officer(s) and witnesses, we have a responsibility to get as much information and details of the event to ensure a thorough investigation. We should treat the officer(s) as what he is—a survivor of a critical incident.

It is recommended that the officer(s) should not be required to give a detailed statement for at least 24 to 48 hours after the event (Artwohl, 2002). There is much controversy as to when the officer(s) should be interviewed. There is supporting research that indicates the involved officer will have a greater ability to recall specific details of the event if he is given rest time. Some researchers have concluded that 40 percent of officers experience a return of lost details to their memories just by waiting (*Force Science News*, 2006 January 20). As administrators, we must ensure that the officer(s) is interviewed using the best technique possible. One such technique, cognitive interviewing, is used to invoke all of the officer's senses in recreating a frame by frame picture of the event. It is best if the officer(s) is not forced to answer questions of which he is uncertain. Forcing the officer(s) to answer questions he is uncertain about can cause him to give false information.

We must remember that the media can be an enemy or an ally. We must see that the media is given information that will satisfy the public's interest in the investigation. By providing information to the media, we do not want the public to think that we are covering up details of the investigation. We should encourage the media to print and air stories and responsibilities of officers and their training on past shooting experiences. It is not the police-involved shootings that generate negative consequences but how the involved agency handles the information about the shooting.

As supervisors, it is our ultimate responsibility to see that the case is thorough and complete. We are to be familiar with the laws governing the shooting incident. A thorough investigation will aid the prosecutor in arriving at a decision to prosecute or not prosecute. We must see that the case is provided to the prosecutor in an expedient time frame. The agency and the affected officer(s) need to know the prosecutor's decision as soon as possible.

Administrators should see that debriefing takes place soon after the incident. The debriefing will help identify problems that might arise in a future incident, as well as provide insight into additional training needs. It will allow us to see that the affected officer(s) receive the counseling and support he needs. These are the procedures we administrators must take in order to affect a positive outcome when dealing with officer-involved shootings.

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