

Officer Involved Shooting. Now What?

Officer-Involved Shooting: Now What?

Lieutenant Miranda Rogers, Ouachita Parish Sheriff's Office
Lieutenant Kevin Johnson, Lafourche Parish Sheriff's Office
Lieutenant David Mascaro, Jefferson Parish Sheriff's Office
Captain Marshall T. Carmouche, St. John the Baptist Parish Sheriff's Office

National Command and Staff College, Session #012

July 2021

TOP CAPSTONE AWARD



Abstract

Throughout the United States, law enforcement is going through a transformation. All law enforcement officers, from the new recruit out of the academy, to the top brass tenured supervisor, as well as chiefs, sheriffs, and commissioners, must adapt to this changing environment. Law enforcement agencies across the nation are under the watchful eye of the public. Therefore, these agencies, when dealing with, responding to, and investigating an “Officer-Involved Shooting” must be transparent in all aspects of the incident. When an officer-involved shooting occurs the agency leaders will have to consider how they will address arising issues from within their agency, media relations, and the community concerns. Should the involved agency conduct the investigation? Are there other options? How does this decision impact the community? If you are the involved agency, do you investigate the shooting yourself, do you call upon the state agency to conduct the investigation, or do you form a regional task force that will conduct these incidents? The involved agency leaders should develop a plan to address this concern and employ the best practices that ensure confidence within the agency and the community.

Officer Involved Shooting. Now What?

Officer-Involved Shooting: Now What?

All force used by law enforcement officers must be objectively reasonable and consistent with law and agency policy. Whenever a law enforcement officer uses deadly force or force that results in serious bodily injury that may result in death, the law requires that a criminal investigation must be conducted to determine whether the officer's force was permitted under law and reasonable (42U.S.C.1983, LA. REV 14:18, 14:19, 14:20).

How certain can we be that law enforcement agencies will do a fair and sufficient job of investigating fatal interactions between their officers and the community? This is one of many questions asked by the community. In many cases, this question has materialized into a "cry" for officer-involved shootings to be investigated by an outside entity. There has been a cataclysm of trust in law enforcement due to the "us versus them" mentality taken on by society.

Investigations of an officer-involved shooting should be objective, fair, impartial, and consistent. These investigations should be thorough, providing facts to determine the lawfulness of an officer's use of force. This is crucial for the well-being of all involved, including the

Officer Involved Shooting. Now What?

officers, family members, involved agencies, and the community. Through transparent and ethical investigative practices, the respective agency will ensure public confidence in the outcome. A positive relationship is necessary to combat the fears of the public regarding shielding layers, suspected conspiracies, and overall suspicion of a cover-up by the agency involved.

According to the 2020 Police Violence Report; available data indicates approximately 1,126 officer-involved shootings occurred in the United States during 2020. Per the Washington Post, as of July 20, 2021, 488 people have been shot and killed by police officers nationally this year. Louisiana accounts for 7 of those deaths. According to the Police Violence Report (2020), these incidents were in self-defense, some were accidents, and others were to prevent harm to someone else.

On August 9, 2014, Michael Brown was shot and killed in Ferguson, Missouri by Officer Darren Wilson. According to a news report on cbsnews.com (2014), Michael and a friend were suspected of stealing from a local store in Ferguson. Officer Wilson was in the area for an unrelated call. After completing the call, Officer Wilson encountered Michael and his friend, Dorian Johnson, walking in the street. According to Dorian's account, Officer Wilson ordered him and Michael to walk on the sidewalk. Dorian advised Officer Wilson then grabbed Michael by the neck and attempted to pull him into the unit, before pulling his weapon and firing. Dorian advised Michael started to run and Officer Wilson pursued him, firing multiple times. Dorian advised Michael stopped and turned around with his hands in the air and started to get down. Officer Wilson continued to approach with his weapon drawn and fired more shots. Officer Wilson's report had a different account of the encounter.

Officer Involved Shooting. Now What?

According to Officer Wilson's report, one of the young men pushed him into his "unit" and the encounter became physical. A struggle ensued over Officer Wilson's service weapon. During the struggle at least one shot was fired inside the vehicle; before the incident spilled into the street where Michael was shot multiple times. Due to conflicting statements and the notoriety of the situation; the case was investigated by the Department of Justice.

Another controversial officer-involved shooting in the United States involved Officer Jeronimo Yanez (Minnesota Police Officer) and Philando Castile. According to an article posted on liberteriainstitute.org (2020) written by Johnny Liberty, On July 6, 2016, Officer Yanez pulled over Philando for a broken taillight. During the initial contact, Philandro advised Officer Yanez that he had a legal firearm in his vehicle. This resulted in Officer Yanez giving conflicting commands, which resulted in the death of Philando. Even though Officer Yanez was initially cleared of any charges and allowed to return to duty, an outpour of protests forced his agency to suspend him and was later charged with manslaughter. The county attorney John Choi stated, "Philando Castile was not a threat." Advising Philando was not resisting or fleeing. The attorney went on to advise that Philando did not attempt to reach for his gun or any weapon on his person or within the vehicle. Mr. Choi repeatedly advised and commented that Philando's gun and permit were both in his pocket, when his body was examined. In a rebuttal, Officer Yanez's attorney (Earl Gray) advised that THC was found in the system of Philando during the autopsy. These findings called for Mr. Gray to file a motion to have the charges dismissed. Photos of marijuana were found on the social media pages of Philandro. Which in turn Officer Yanez advised he "feared of his life" during the encounter because he "smelled marijuana." On June 16, 2017, Officer Yanez was acquitted of his charges. This landmark case caused several individuals and protesters to stand on the theory that "smearing the character of individuals killed" by police

Officer Involved Shooting. Now What?

officers is becoming quite common. Adding substance to the reason the trust between the community and law enforcement has become fragile and ultimately broken.

Literature Review

Use of Task Force to Investigate Officer-Involved Shootings

As stated in the International Association of Chiefs of Police (IACP) guide for law enforcement officers (2016), officer-involved shootings require rapid department responses and thorough investigation. These undertakings can be complex, and accurate and complete investigations require agency planning and following established protocols. The first step in the planning process is the designation of an investigative team. To ensure thorough, complete, and unbiased investigations, agencies may benefit from partnerships with one another. To ensure and demonstrate a law enforcement agency's commitment to a fair and impartial investigation, agencies call upon others to conduct or assist in investigations to help demonstrate integrity and impartiality.

Developing Investigative Task Forces are one of the recommendations from the IACP Law Enforcement Guide to address the need for a competent and thorough third-party investigation into these incidents. These Task Forces are often comprised of personnel from multiple adjoining or regional police agencies and will have a specified Memorandum of Operation. Team members are activated when an officer uses deadly force in the course of their duties. They are responsible for investigating the use of force to determine if the officer's actions were permitted under law and reasonable. Task Force Team members often include Investigators and support members from contributing agencies, to exclude Investigators from the involved agency. Many times, the involved agency assigns a liaison to assist with specific requests and

Officer Involved Shooting. Now What?

needs of the Task Force, however, they are not part of the investigation team. Commonly Task Force teams consist of a Team Leader, Case Agent/Lead Investigator, Assistant Case Agent, Scene Investigator, and Public Information Officer POI. (2016)

An example of a Task Force is the Northeast Louisiana Sheriff's Investigative Unit. This unit is comprised of the following agencies:

- Caldwell Parish Sheriff's Office
- Franklin Parish Sheriff's Office
- Lincoln Parish Sheriff's Office
- Morehouse Parish Sheriff's Office
- Ouachita Parish Sheriff's Office
- Richland Parish Sheriff's Office
- Union Parish Sheriff's Office

One of our participating authors shares an experience here. During my law enforcement career at the Ouachita Parish Sheriff's Office, I have been a part of all three investigative methods. I was tasked with investigating my agency's officer-involved shootings. I have acted as the liaison between my agency and the state authorities investigating our officer-involved shootings. My agency recently became a member of a Task Force, and now I am a team leader.

I think we recognize quickly that we cannot be successful alone, that it takes teamwork. It's more than group work. A team requires a group of people working together to achieve a common goal. Each member should be humble in the face of the challenge, curious about what others bring, and willing to risk learning quickly.

Dr. Anderson taught the importance of "Versatility Skills" in leadership. According to Anderson (2017), one must be willing to adapt to other's styles, skills, and characteristics for an effective outcome. Being able to recognize the strengths of members and assigning them to

Officer Involved Shooting. Now What?

proper roles can enhance the team's effectiveness and credibility. Earning and maintaining a credible reputation will also help build community trust in the investigation outcome (Anderson, 2017).

Agencies Investigating Their Own Officer-Involved Shootings

As previously mentioned, law enforcement agencies currently have two options when it comes to investigating officer-involved shootings. The respective agency will conduct the investigation themselves and present their findings to the District Attorney's Office for review or defer the investigation to either a state agency or a designated task force that has been established to conduct such investigations.

The Jefferson Parish Sheriff's Office currently investigates its own officer-involved shootings and does so based on the resources and experience of the Homicide investigators and supporting personnel, which includes a fully accredited crime lab and staff. Due to several high-profile incidents, recommended guidelines have been placed into effect to maintain a sense of consistency for all involved. No situation is alike; therefore guidelines were established for all parties involved in the investigation for continuity's sake. As referenced by International Chiefs of Police (2013), the term "guidelines" refers to recommended procedures for agencies. Guidelines are not intended to be mandatory and may not apply to every situation. These guidelines were based on observations gathered during Jefferson Parish Sheriff's Office investigations and based on best practices and recommendations from the IACP.

The Officer

Members of the agency should be trained and educated as to what to expect if they are involved in an officer-involved shooting, to ensure trust in the process and allow it to progress

Officer Involved Shooting. Now What?

quickly and efficiently. By having the guidelines in place, also ensures that the scene is properly secured, including any evidence, witnesses, and possible video evidence. This is crucial when it comes time for the formal recorded interview with the involved officer. If information is developed that leads investigators to believe that the officer is culpable, the officer will be Mirandized. If the officer chooses to invoke his/her rights and not provide a statement, the Sheriff or his designee has the option to initiate an internal investigation conducted by a group of investigators that are not part of the ongoing criminal investigation.

Several agencies have elected to enact a Force Review Committee to review the facts and circumstances surrounding the incident, once the investigation is complete. This group is comprised of command-level officers or supervisors that were not affiliated with the investigation. The intent of this group is to review the facts in a risk management context to determine whether they have potential implications for the agency's training, policies, and procedures. The goal is to improve the agency's response to such incidents and make any necessary corrections to training, policy, and procedures that may help prevent such incidents in the future.

Media relations and transparency

There is tremendous importance for law enforcement agencies to possess and maintain strong, honest, and trusting media relations. This working relationship will be beneficial to the agency and the community during and after an officer-involved shooting incident. The agency will need to get ahead of the negative publicity that will most likely follow an officer-involved shooting. Above all, the agency needs to relay truthful and honest information to the media. There will also be the need to explain that not all information will be able to be shared. Some

Officer Involved Shooting. Now What?

information will remain confidential as not to be detrimental to the investigation. With the media stretch reaching far and wide information will be able to get circulated quickly. The information will have to be relayed in an honest way the public can understand the ever-present challenges and risks that law enforcement officers face daily. The Public Information Officer or agency head will be the lead in these types of incidents. Therefore, the PIO needs to have credibility and trust with media outlets. The media must have a good relationship with the agency PIO as not to let the media start filling in the blanks to the incident and potentially influencing the public one way or another. Media relations built positively assures that reports are accurate, fair, and expeditious (International Association of Chiefs of Police, 2016).

Community Standpoint

Community involvement is an important and beneficial aspect of any law enforcement agency. Having the foundation of community involvement along with a good working relationship builds trust and shows that the agency and officers care for the public for which they serve and protect. Building friendships will foster understanding from the community that will be advantageous after the officer-involved shooting. On or off duty the agency, along with the public servant, is expected to always display professionalism in addition to a good character (Fogerty, 2017). Community leadership must be continuously built upon. The community has to be assured that the law enforcement agency involves itself individually and collectively as a personal choice (Fogerty, 2017). When an officer-involved shooting does occur, those involved will need the support of their community and its leaders.

Human Factors

Officer Involved Shooting. Now What?

Human factors, simplified, are how our brain interacts with the body in our decision-making ability during a stressful incident (Harrington, 2017). There is no doubt that an officer-involved shooting will be a stressful moment for law enforcement officers. There will be actions that need to be taken to assure those involved do not have problems compound. The vulnerabilities of an officer or officers that are involved in a shooting incident will be at a heightened condition. The necessity for debriefings and peer support will play key roles in getting the officer's minds in order and maintain their wellness. Fatigue too will be a factor that must be considered.

After an officer-involved shooting incident, emotions will be heightened. This is pivotal when leaders need to effectively, compassionately, and understandingly communicate with their subordinates. Leaders also need to allow their subordinates to be heard during this time. The emotional intelligence of fellow officers and the community will need to take center stage. Emotional intelligence within the agency after an officer-involved shooting will help ensure the survival of the agency, the agency's legacy, and may assist in grooming future leaders during the trying time. Although every officer-involved shooting incident is an event that no one wants to experience, it is an opportunity to capture the teachable moments that will spawn from it.

VUCA

Law enforcement by its nature will always have volatility, uncertainty, complexity, ambiguity. An officer-involved shooting will add exponential VUCA to the law enforcement professional. Those officers involved will be impacted most however the incident will no doubt resonate throughout the entire agency. Undoubtedly there will be problem-solving after an officer-involved shooting. Adaptive decision-making refers to problem-solving (Dugarn, 2017). Leadership will be important to counter VUCA. A good leader should already have their

Officer Involved Shooting. Now What?

subordinate's confidence knowing that they will be able to stay the course and maintain the daily operations of the department. The authentic and credible leader will also assure the public that the right and prudent steps will be taken for the investigation. The leader will keep the community's trust high and assure them that the investigation will remain fair, impartial, and honest in hopes that VUCA that will follow an officer involved shooting would be lessened.

Dr. Richard Conroy (2018) stated, "the daily work of law enforcement involves control of emotional labor. Emotional labor includes how individuals manage their own emotions while at the same time providing services to others in the execution and performance of job duties."

(p. 2)

Conclusion

The correlation between the communities and law enforcement has been weary due to these questionable and controversial encounters. Unconventional investigations by outside entities properly centered and transparent can be beneficial; both to the agency and the families involved. Allowing an outside agency to investigate a fatal encounter that involves a law enforcement officer, should build trust between the community and the agency. In addition, this would have a notable impact on the officers involved and the relationship between officers and their community. This would greatly enhance the perception and trust of public safety in the eyes of society. Shielding layers, suspected conspiracies, and suspicion are some of the obstacles to the public's confidence and trustworthiness in law enforcement. Even though several agencies across the country have gone to the extreme and put protocols, policies and standards in place. To improve transparency the public's trust is paramount.

The disadvantages or cons of an outside agency or bureau may give the officer-involved a feeling of wrongdoing. Along with the feeling of wrongdoing the officer and his agency have to

Officer Involved Shooting. Now What?

deal with significant and challenging questions. The officer's competency and credibility, the agency's credibility and transparency, and the policy of the department are all significant questions and topics. Having an outside agency investigate can also be stressful for the officer involved. The officer can and may suffer from posttraumatic stress disorder. These officers can suffer from guilt, depression, anger, and possibly suicidal thoughts. Adding the media to the equation only adds doubt and substance to the public's notion of lack of transparency and trust. Several agencies feel outside agencies or entities on the local, state, or federal level may have preconceived thoughts.

There here are pros and cons when it comes to allowing or requesting an outside agency or entity to investigate an officer-involved shooting. At times and in situations like this; the Chiefs, Sheriffs, Commanders, etc. display *transparency, responsiveness, morals (morally grounded)*, and the ability to *behave and operate based on a certain situation; as well as being flexible*. Transparency, morals, trust, and flexibility are paramount when investigating and dealing with officer-involved shootings. The empathy that is required by agency leaders regarding a traumatic situation; involving an officer is stressful. Showing the family members compassion and generosity is a sign of a genuine human being. At the end of your shift, regardless of the situation; your community's trust and support are vital.

References

- Anderson, T. (2017). *Versatility skills*. Weeks 1 & 2. Module 11. National Command and Staff College
- Conroy, R. (2018). *Emotional intelligence and law enforcement: A case for change*. P. 2 Paragraph 2
- Cornell Law School. (1983). Retrieved from, <https://www.law.cornell.edu/uscode>
- Dugan, K. (2017). *Adaptive decision making as a deliberate counter VUCA tactic*. Weeks 7 & 8. Module 5. National Command and Staff College
- International Association of Chiefs of Police. (2016). *Officer-involved shootings: A guide for law enforcement leaders*. Washington, DC: Office of Community Oriented Policing Services.
- Fogery, J. (2017). *Leadership in practice: community leadership*. Weeks 5 & 6. Module 8. National Command and Staff College.
- Harrington, R. (2017). *Human factors and leadership*. Weeks 5 & 6. Module #1. National Command and Staff College.
- International Association of Chief of Police. (2013) *Officer involved shooting guidelines*. Retrieved from <https://www.theiacp.org/sites/default/files/all/p-r/Psych-OfficerInvolvedShooting.pdf>.
- Liberty, J. (2020). *Philando Castile: murdered by police four years ago*. Retrieved from, <https://libertarianinstitute.org/articles/philando-castile-murdered-by-Police-four-years-ago/>
- Louisiana State Legislature. (2020). Retrieved from, <https://www.legis.la.gov/Legis>
- Police Report (2018). *Police violence report: police killings*. Retrieved from, <http://www.bing.com/search?q=police&violence&report&form=ANNTH1+refig>
- The Washington Post. (July 20, 2021) *Fatal force*. Retrieved from, <https://www.washingtonpost.com/graphics/investigations/police-shootings-database/>