

San Luis Obispo Sheriff's Office – Presenter # 2440
Officer Involved Incident Investigation – Course # 22457
8-hour Course
Expanded Course Outline

STATEMENT OF PURPOSE:

This course is designed for law enforcement personnel who respond to, and/or are assigned to investigate, shootings and use of lethal force incidents involving officers/deputies. The course examines some of the crucial items to consider during the response to the incident and subsequent investigation. This course provides updated legislative content of Penal Code Section 835a.

COURSE OBJECTIVES:

Upon completion of this course, students will be able to:

1. Respond to a police lethal force incident and effectively secure the scene, protect the evidence, and maintain appropriate incident command and control.
2. Conduct a comprehensive investigation ensuring the proper collection of evidence, conduct effective interviews, successful handling of the media and proper investigative management.
3. Create a presentation that effectively illustrates all of the salient factors associated with the incident for proper adjudication.
4. Evaluate the necessary factors involved in the use of lethal force to arrive at a just finding based upon the totality of the evidence.

I. INTRODUCTION AND COURSE GOALS

- A. Introduction of Instructor's experience in the investigation of lethal use of force investigations along with student introductions.
- B. Course Goals – After completion of this course, students will be able to:
 1. Respond to a police lethal force incident and effectively secure the scene, protect the evidence, and maintain appropriate incident command and control.
 2. Conduct a comprehensive investigation ensuring the proper collection of evidence, conduct effective interviews, successful handling of the media and proper investigative management.
 3. Create a presentation that effectively illustrates all of the salient factors associated with the incident for proper adjudication.
 4. Evaluate the necessary factors involved in the use of lethal force to arrive at a just finding based upon the totality of the evidence.
- C. Nature of Officer-Involved Lethal Use of Force Investigations
 1. Major incidents could happen to any agency. Examples of Incidents in Chino, CA; Savannah, GA, Oakland, CA; and City of Los Angeles.
- D. Examples of lethal force incidents in the host agency and surrounding areas.

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- II. FIRST RESPONDERS
 - A. Radio Communication
 - 1. Obtaining Information en route to the scene
 - 2. Radio discipline
 - 3. Summoning medical personnel and additional resources while en route
 - B. Arrival at Scene
 - 1. Make a quick assessment and request additional resources if necessary.
 - 2. Tactical considerations, containment, and the apprehension of the suspect are the most important. After the scene is rendered safe, do everything to protect it.
 - 3. Officer or witness rescue may be required. Be prepared to initiate a tactical rescue team. Oftentimes, first responders do not have the luxury to wait for highly trained tactical teams such as **Special Weapons and Tactics (SWAT) or Hostage Rescue Teams (HRT)**.
 - C. Establish the position of Incident Commander
 - 1. The incident commander is usually the first supervisor or senior officer to arrive at the scene.
 - 2. After the establishment of an incident commander, responding supervisors of higher rank may assume command or allow the original incident commander to continue command of the scene.
 - 3. Incident commander should ensure proper notifications are made to appropriate personnel.
 - D. Command Post
 - 1. Establish a command post close to the scene but not in the middle of the scene. Personnel should be able to stage at the command post without contaminating the scene.
 - 2. Command posts can always be relocated if necessary; however, it is desirable to select a safe zone that does not require relocation.
 - E. Ingress and Egress
 - 1. Ensure proper ingress and egress for emergency services response teams.
 - F. Transportation
 - 1. If an officer, suspect, or witness is transported to a hospital, appoint an officer to accompany them.
 - 2. Officers may be able to recover evidence or obtain statements during transportation.
 - 3. Injured officers should always have an officer to stand guard at medical facilities.

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- G. Officer Separation
 - 1. Separate involved officers preferably with a supervisor.
 - 2. Separation should occur prior to the public safety statement.

- III. PUBLIC SAFETY STATEMENT
 - A. The public safety statement should be asked by a supervisor at the scene. It should cover the following areas:
 - 1. Type of force used
 - 2. Direction and number of shots fired
 - 3. Location of injured persons and persons requiring medical treatment
 - 4. Suspect's information including direction of travel, time last seen, and weapons.
 - 5. Description and location of witnesses.
 - 6. Location of evidence
 - 7. Other information to ensure public safety and assist in the apprehension of the suspect.
 - B. Legal precedence for the public safety statement
 - 1. Quarles' decision

- IV. INVOLVED OFFICERS
 - A. Medical Treatment
 - 1. If officer(s) need medical treatment, ensure that treatment is provided immediately.
 - B. Officer's Clothing
 - 1. If officer's clothing is soiled with blood, take photographs.
 - C. Officer Separation
 - 1. Keep officers separated at the station. They should be monitored by supervisors if possible.
 - 2. Allow them to contact loved ones. Consider a companion officer to accompany the officer.
 - 3. It is usually not necessary to immediately take a holstered weapon; however, a chain of custody must be maintained for the weapon and the accompanying magazines.

- V. THE SCENE
 - A. Scene Protection
 - 1. Identify evidence
 - 2. Limit foot traffic
 - 3. Tape of the area
 - 4. Evidence markers and protections devices
 - B. Perimeters
 - 1. Inner perimeter

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- 2. Outer perimeter
 - C. Logs
 - 1. Logs should record all personnel who report to the scene with the time of arrival, duties, and departure.
 - 2. Logs should also be maintained for those who enter inner perimeter.
- VI. WITNESSES
- A. Types of Witnesses
 - 1. Involved Officers
 - 2. Percipient officers
 - 3. Civilian witnesses
 - 4. Heard only
 - B. Canvassing
 - 1. Proper recordation
 - 2. Uniformed officers responsibilities vs. investigating officers
 - 3. License plate numbers
- VII. MEDIA
- A. Media Area
 - 1. If possible, establish a media area.
 - 2. The media area should preferably not be adjacent to the command post.
 - B. Media Officer
 - 1. If possible, assign a Press Relations Officer (PIO) to handle media inquires.
 - 2. The officer assigned to the media should not release any information without checking with the person in charge of the investigation.
 - 3. Special access should not be given to some members of the media and excluded from others.
- VIII. ARRIVAL OF INVESTIGATORS
- A. Initial Information to Investigative Personnel should include:
 - 1. What precipitated the incident?
 - 2. Public Safety information and officer statements.
 - 3. Civilian witness information and statements.
 - 4. Canvassing results.
 - 5. Location of officers, witnesses, and evidence.
 - B. Transfer of Command
 - Investigative personnel should take command of the scene as it applies to the investigation. The incident commander will usually remain to protect the scene and assist investigative personnel.

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IX. THE INVESTIGATION

- A. Arrival and Assignments
 - 1. Investigators should check in to the command post and obtain all information including the public safety statement when **all** investigative personnel arrive.
 - 2. The supervisor who obtained the statements should be the individual who speaks to investigative personnel to eliminate inaccuracies.
 - 3. Assignments include interviews of police officers, civilian witnesses, and the suspect along with witness canvassing and crime scene processing.
 - 4. Use a white board or another visible board to record assignments and insert important phone numbers accessible to all at scene.
- B. Crime Scene Protection and Evidence
 - 1. Crime scene manager should be selected
 - 2. If possible, the crime scene manager should identify a safe route through the scene for walk-through purposes. It is also preferable that the evidence remain in position at the scene for the walk-through.
 - 3. **Gunshot Residue Test** (GSR) has limited evidentiary value – use it only when appropriate.
- C. Search Warrants
 - 1. Consider the use of search warrants in any criminal investigation. Remember, if an investigator orders an officer to provide evidence, there is a strong likelihood that the evidence will be suppressed in a criminal matter.
 - 2. The goal of a lethal force investigation is always to maintain the integrity of the investigation. Sometimes search warrants are necessary to achieve this goal.
- D. Walk-Through
 - 1. Begin the walk-through with the percipient officer and conclude with the involved officer.
 - 2. The primary purpose of the walk-through is for positioning purposes. The walk-through should not become an interview. Officer and suspect positions should be marked with careful consideration not to contaminate the scene.
- E. Crime Scene Processing, Photographing, and Measuring
 - 1. The evidence should be properly collected, photographed, and tested.
 - 2. Consideration should be given to aerial or elevated photographs.

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3. Positioning photographs should encompass the officer's position relative to the suspect and vice versa.
4. The scene should be measured "to scale." A Total Station and measuring software can be used for this purpose.

X. INTERVIEWS

A. Recordation

1. All interviews should be recorded.
2. Consideration should be given to transcribed statements. This is particularly helpful in controversial cases. Transcribed statements reduce investigative errors in interpretation during paraphrasing or summarizing.

B. Interviewers

1. It is recommended to have two interviewers. One should be designated as a lead interview and the other as a secondary interviewer. If there are other investigative personnel present, for instance a supervisor, they should not be engaged in the interview.

C. Type of Interview

1. An officer-involved lethal force incident is not a classic "who done it?" It is a "what happened?" The investigator's job is to substantiate or refute the officer's account of the incident by using their investigative abilities along with the evidence. Their goal is always to "seek the truth of the matter" and to maintain "investigative integrity."
2. The interview will either be a voluntary interview or a compelled interview. If the interview is a compelled interview, the statements of the officer cannot be provided for prosecutorial review (in most cases) and a bifurcated investigation must be conducted.

D. Questions

1. Leading questions must be avoided.
2. The investigator should avoid "finishing" the officer's sentence during an interview. This sometimes occurs when the investigator is trying to expedite the interview.
3. If the officer uses "canned language" the investigator must probe the officer to explain what occurred in specific language.
4. Investigators should avoid making statements that express a conclusion during the interview. It is best to use open-ended questions with follow-up specific questions.

E. When to Interview

1. There are benefits to both a contemporaneous interview and an interview several days after the incident. Contemporaneous interviews help maintain the integrity of the investigation and follow-

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up interviews allow the subject to recall facts that they were unable to discern during their initial interview. These interviews are not mutually exclusive and both should be used.

2. Physical condition, mental condition, and fatigue are all factors taken into consideration as to when to interview.

XI. LEGAL ISSUES, OVERSIGHT, LABOR AND MEDIA

A. Legal Issues

1. Miranda v. Arizona 384 U.S., 436 (1966)
2. Garrity Et Al v. New Jersey, 385 U.S., 493 (1967)
3. New York v. Quarles, 467 U.S.,649 (1984)

B. District Attorney (D.A.) and Oversight

1. Response Teams
2. D.A.'s role at a lethal force incident
3. Types of D.A. review
4. Civilian Oversight – types

C. Labor

1. Labor's role – MOU / MOA
2. Labor attorneys and representatives

D. Media

1. Designated Media Officer
2. Release of Information
3. Media Area
4. Pool Cameras
5. Interviews
6. Positive aspects of Media & Quid Pro Quo

XII. TRAUMATIC STRESS REACTION

A. Types of Traumatic Stress Reaction includes:

1. Perceptual Distortion
2. Physical Reactions
3. Emotional Reactions
4. Behavioral Reactions
5. Intervention
6. Behavioral Science

XIII. PUBLIC EXPECTATIONS AND SCIENCE

A. The CSI Effect

B. Fingerprints

1. Percentages of developed prints from firearms, magazines, cartridge cases and cartridges.

C. Wound Analysis

1. How effective is wound analysis?

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- D. Microscopy
 - 1. Bullet identifiers
 - B. Bullet Path Reconstruction
 - 1. Two points of contact are required for effective analysis.
 - 2. The use of lasers and trajectory rods in determining firing location
- XIV. LETHAL FORCE INJURIES AND IN-CUSTODY DEATHS
- A. Investigative Protocols
 - 1. Who should investigate the incident? Advantages of outside entities investigating the incident.
 - 2. Important evidence such as photographs, medical records, and contemporaneous interviews should be initiated immediately.
 - B. In-Custody Deaths
 - 1. Types: In-Custody vs. Jail Deaths
 - 2. Excited Delirium Deaths
- XV. CIVIL LIABILITY
- A. Immediate Settlements
 - 1. Fiscal advantages of immediate settlements
 - 2. Liability vs. Integrity
 - 3. What do you do if your investigation exposes your government entity to additional liability?
- XVI. DEBRIEFING
- A. Importance of debriefing for the following:
 - 1. Clarification and case status
 - 2. Newly assigned tasks and direction
 - 3. Case bifurcation and dissemination must be considered before debriefing to prevent contamination.
- XVII. PRESENTATIONS
- A. Oral Presentations: **Students will be divided into groups. They will be provided with an officer-involved shooting scenario with a specific fact pattern. Each group will be assigned a specific task. The tasks will consist of First Responders, Investigators, and Adjudicators. Depending on the number of students, more than one group can be assigned the same task since there are many variables with each assignment. After their individual group discussion, each group will chose a spokesperson and provide the class a step by step presentation as to what actions they would take in the presented scenario. The entire class will be able to comment or provide suggestions after each group presentation. The adult**

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learning style seems to work well in small group settings. Each member shares ideas, personal experience, and uses the material taught to them throughout the day.

B. PowerPoint Presentation of an actual officer-involved shooting will demonstrate to the students how to best communicate the incident to the adjudicator. Areas to be discussed will include how to construct such a presentation and how to effectively present a PowerPoint presentation.

XVIII. ADJUDICATION

- A. Adjudication Styles
 - 1. Totality of the circumstances
 - 2. Individual findings of tactics, drawing of the weapon, and force
- B. “Lawful but Awful”
- C. Miffeasance vs. Malfeasance

XIX. COURSE CLOSURE

- A. Course Evaluation