

Expectations and recommendations when you are involved in a law enforcement-related injury or officer-involved shooting

If or when the unavoidable happens and you find yourself involved in an officer-involved shooting (OIS), I want to empower you with very helpful knowledge courtesy of the law offices of Fullerton & Hanna, LLP. You should know and follow this checklist in the event of a law enforcement-related injury (LERID) or OIS.

Fullerton & Hanna, LLP is just one of the many outstanding law firms the Los Angeles Police Protective League has retained to represent you, and I thank them for their continued support.

1. If you become involved in a categorical use of force, be sure to focus on issues of officer safety, public safety and the identity and arrest of the suspect first.
2. You may have to provide a *public safety statement* to a responding supervisor. This statement is required of you under the proper circumstances and supersedes your right to remain silent. A public safety statement is required when there are outstanding suspects or there is the possibility of citizens being harmed or evidence being lost if you do not provide the information.
3. Now take a deep breath. Do *not* speak to anyone else about the incident until your attorney or employee representative arrives.
4. If you are tired or are having problems concentrating, let your attorney know. Tell your attorney every detail. There is an attorney-client privilege, but remember, no such privilege exists with your employee representative relating to criminal acts by you or other officers. The attorney and employee representative are not there to change what happened. They are there to protect your rights and assist you in articulating what happened and why you did what you did. You will *never* be told to change the facts because it is *always* better to tell the truth instead of possibly being charged with making false statements.
5. Force Investigation Division (FID) will be responding to investigate the incident. They are part of the Professional Standards Bureau. Besides conducting the administrative investigation relating to your actions, they are also responsible for investigating any actions by you that may be criminal or constitute misconduct. If necessary, they will initiate a crime report or a personnel complaint against you and conduct the necessary investigation to prosecute you.
6. FID will also document and investigate any crime perpetrated against you or other officers. But if the suspect has committed any other crime, you or your divisional detectives will most likely be responsible for the reports, excepting only the most serious of incidents.
7. FID is divided into three sectors: The Administrative Section, the Criminal Section and the Criminal Apprehension Section. The Criminal Section investigates possible criminal actions by the involved officers. The Criminal Section will interview all officers not

directly involved in the use of force, as well as civilian witnesses. The Administrative Section will interview all officers directly involved in the use of force. The Criminal Apprehension Section investigates and prosecutes suspects who have committed crimes against you.

8. Sometime after the incident, you will be asked to return to the scene to do a “walk-through.” When you arrive at the scene, get together with your attorney and view the scene. Look for the location of the evidence. This will re-familiarize you with the location and prepare you to provide a better and more accurate account of the incident. Before the walk-through, FID will ask you if you are willing to provide a voluntary statement. Your answer should always be “no.” You will then receive a short command to cooperate, which has the same effects as receiving the *Lybarger* admonition. This makes your subsequent statement compelled so that it can’t be used against you in subsequent criminal actions against you. But it can be used against the suspect or against any other officer.
9. The walk-through is designed primarily for positioning purposes so that FID can understand what happened and where the incident occurred. You will have to provide a thumbnail sketch of what led up to the use of force, but there should be no extensive questioning about tactical issues or your state of mind. Your attorney and the employee representative will accompany you. If you have questions or are unsure how to respond, do not hesitate to confer with your counsel. It is better to think about a response and get advice before you respond precipitously.
10. After the walk-through, you will return to the station and eventually be asked to provide a detailed, recorded account of the incident. It is important that you have a clear head and can provide a coherent statement. If you are so tired that you believe that you can’t think straight, advise your attorney. If you were injured and were provided with pain medication, advise your attorney. If it is determined that you are not physically or mentally prepared to go forward with your interview, all attempts will be made to delay it until you are fit to go forward.
 - a. You should be prepared to discuss tactics before, during and after the use of force.
 - b. “Tactics” also includes communication with fellow officers, Communications Division and suspects and citizens. Was a tactical plan developed? If not, why not? Did you go Code 6?
 - c. You must be prepared to articulate your probable cause for your actions.
 - d. If you drew your weapon, you must justify why it was drawn.
 - e. You must articulate why the use of force was necessary. Your actions will be evaluated based on a “Reasonable Officer” standard.
11. If you fired a weapon, it will be taken from you so that FID can have it test fired. If it can’t be returned to you before you go EOW, FID will provide you with a loaner weapon.
12. After your interview ends, you are free to speak with anyone about the incident *except* other involved officers who have not yet been interviewed. Additionally, if you are

specifically ordered to not speak about the incident, then do not do it. But keep in mind that civil lawsuits can result from a use of force, and any statements you make to others could come back to haunt you. Also, the district attorney and/or U.S. attorney could later file criminal charges against you or other officers. Keep discussion of your use of force to a minimum.

13. If you are involved in an OIS, you most likely will be ordered to Behavioral Science Services (BSS) for counseling and evaluation. The purpose of this meeting is to provide the Department with an expert opinion as to your fitness for return to duty. Remember, BSS can and will advise the Department about your mental frame of mind as it relates to your ability to perform your duties.
14. If you need or desire confidential psychological counseling, contact the Managed Health Network, otherwise referred to as the Employee Assistance Program, at (877) 646-5275. This is a League-supported service that is completely confidential.
15. If you are called in the future for a re-interview, call your attorney or employee representative before you make any additional statements. Even though you must cooperate, it is important that you refresh your memory by reviewing your prior statements. If you fail to do this and make inconsistent or contradictory statements, there is a possibility that you could be charged with making false and/or misleading statements because of your inconsistency.
16. Several months after the incident, a Use of Force Review Board will be convened to review your use of force. Your commanding officer will contact you to review the incident. He/she may just speak with you or actually go back to the scene and do a walk-through with you. He/she needs to do this because he/she must make a presentation before the Use of Force Review Board, explaining the incident and your actions. You should cooperate with him/her because it is in your best interest that he/she understands the incident and the reason why you did what you did. Normally it is not necessary for your attorney or employee representative to be present at this meeting. But if you feel uncomfortable or that your commanding officer is not being fair, please call for assistance.
17. You should attend the Use of Force Review Board. By listening to your commanding officer's presentation, you will know what was told to the board, and you will know the board's reasoning for their decisions. You will not be asked questions, nor will you be able to speak on your own behalf. By attending this board, you can and will gain valuable insight that may be beneficial to you in the future.
18. Never speak to the press. Call your attorney about any press inquiries.
19. If you are contacted by Internal Affairs, the district attorney, the grand jury or the FBI to make a statement relating to your use of force, call your attorney immediately.

20. If you receive notice that you are being sued in civil court because of your actions, immediately write a *15.7* to the city attorney requesting that they represent you. See the Department manual for the process. Most important of all, do not fret. As long as you have acted in good faith within the course and scope of your employment, the City will pay all damages against you or the City, even punitive damages. Even if you made a mistake, used bad tactics, etc., you will be represented by the city attorney and all damages will be paid on your behalf *as long as you acted in good faith*.

I hope you've found this information helpful. I can be reached via email at MarkCronin@lappl.org, or on my cell at (661) 510-6129.