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I. Police attorney offers "best practices" tips to civil rights overseers

Last November, the Civil Rights Division of the US DOJ sent a 9-page "technical assistance" document to the mayor of Seattle, emphatically recommending certain changes in how the city's police department investigates officer-involved shootings. This communique is part of an ongoing federal scrutiny of the PD, underway for nearly a year, to "ensure compliance with constitutional rights."

The recommendations deal primarily with whether involved officers should automatically be given *Garrity* protection after any major use of force, particularly shootings. Automatic *Garrity* warnings that result in a statement being considered "compelled" are not appropriate or justified in most force investigations, the DOJ feels, in light of case law it cites in the document. Instead officers with rare exception should be encouraged to give strictly voluntary statements, which can then be entered without restriction into the investigative record.

Recently veteran police attorney John Hoag, a Force Science certification instructor whose law firm represents law enforcement unions throughout the Pacific Northwest, drafted a response to the DOJ directive, which he has circulated among his clients and their agencies. The issues he discusses may be useful to officers elsewhere who are trying to move their own departments, through persuasion or collective bargaining, toward more progressive practices in OIS investigations.

You can read the exchange in full online. Go to www.snyderandhoagllc.com and click on "Year 2012 Special Edition" in the left-hand column.

Essentially Hoag agrees with the DOJ's position on *Garrity*. He generally favors voluntary rather than compelled OIS statements because they permit the officer and his attorney much more leeway in controlling the investigative interview.

Only twice in more than 40 OIS incidents he has been involved in has *Garrity* been a contention, Hoag says, and both those cases were unintentional discharges and not intentional uses of force.

His point in writing to civil rights officials was "not to challenge their interpretation of *Garrity* but hopefully to expand their recommendations," he told *Force Science News*. "They need to understand that there are other critically important aspects to an OIS statement besides voluntariness that they should be supporting and advocating in the interests of a fair, impartial, and factual investigation."

Among other things, Hoag in his letter to DOJ explained what he considers "best practices" in the following areas, based on his personal experiences with officers he has represented and on Force Science research:

TAPE RECORDING. "We will never allow for an officer's voluntary interview to be tape recorded," Hoag wrote. "It is not uncommon for an officer to break down and cry" during an interview or to "express raw anger" that a suspect forced him to use lethal force. "In many states as soon as the investigation is complete it becomes a public record. In Oregon a videotape of an officer crying during an OIS interview got posted on YouTube."

"No officer who has been through an OIS and then relives it during an interview should have to have [his] emotions recorded for the world to view. The officer's family should not be subject to that as it is not uncommon for an officer's children to be...taunted about their parent being a killer."

"A skilled investigator can prepare a detailed report of what the officer said during the interview, and the officer can review and approve it. We owe officers who have been through an OIS the right to keep their emotions private."

WALK-THROUGH. Hoag favors a "walk-through with the [involved] officer, preferably under the lighting conditions that existed at the time the OIS occurred," he said. But "investigators do not accompany us" because "it is very common for an officer to have perceptual auditory, visual, or memory distortions after an OIS." Consequently, "we would not want the officer to be giving a statement before, during, or right after the walk-through." Aided by the walk-through as a stimulus, the officer should have time to "reflect on what occurred" without investigative pressure and questioning.

RECOVERY TIME. As to when an interview should be conducted, Hoag pointed out that "right after an OIS the officer is 'pumped up' for a period of time. The officer's mind is racing. It is hard to slow the officer down to get a fully detailed statement. Then at some point the adrenaline rush wears off and the officer feels like he or she has been run over by a steamroller. All that officer wants to do is to go home, and that can cause the officer's answers to questions to be shorter than they might otherwise be."

"[A] 'cognitive interview,' which we believe produces the best [statement], takes a lot of time and requires the officer's full cooperation and exhaustive participation. It should not be undertaken without the officer being well rested.... [W]aiting to conduct the interview for 48 hours seems to be a reasonable and prudent practice.... [I]n one case, based on [the] officer's condition, an agency [was persuaded] to wait 2 weeks to conduct its interview."

MEDICAL CHECK. "We suggest that an officer be given a medical exam with documentation of the officer's vital signs," Hoag wrote. "Many times they are highly or even dangerously elevated."

PEER SUPPORT. Unless conversation with a peer support officer is protected by a confidentiality statute, statements made by an officer in that context "would be admissible in court," Hoag pointed out. With that in mind, "officers should be instructed not to discuss the incident with peer support officers until the investigations and any civil litigation are over."

DEBRIEFING. In addition to a mandated, confidential visit with a police psychologist to debrief the incident and receive information about potential PTSD symptoms, Hoag recommended that OIS survivors be required to "go to the range and qualify before going back out on the street." He explained: "I want the officers to be able to say to themselves that they are ready to use deadly force again, if necessary."

CONFERRING. In a section of his letter sure to raise the hackles of police critics, Hoag wrote favorably of allowing officers to confer among themselves in preparing statements about OISs that involved multiple officers. "In the United Kingdom officers regularly confer before they give statements" and this is duly noted, he stated. He cited a Force Science study that found that conferring resulted in "better interviews afterwards with more details and fewer mistakes."

In addressing these and other recommendations to Jonathan Smith, chief of the Civil Rights Division's Special Litigation Section, and Jenny Durkan, US Attorney for the Western District of Washington State, who signed the directive to Seattle, Hoag said he hoped his suggestions would be "of some assistance" and offered to discuss them in greater detail. At this writing, he is awaiting a response.

Hoag can be reached by email at: jhoag@snyderandhoagllc.com

II. New project seeks to "unleash respect" in police subculture

Borrowing from the counter-insurgency strategy of the modern military, 2 Kansas City police trainers are launching an ambitious project to educate officers on how to get more crime-fighting benefit from their contacts with citizens and at the same time enhance their personal safety.

The campaign, called the "Unleashing Respect Project," is the brainchild of Jack Colwell and Charles "Chip" Huth, and without their hard-core street experience to back it up the effort might seem an idealistic pipedream. But Colwell, recently retired after nearly 29 years on the Kansas City (MO) PD, has filled patrol, tactical, and investigative assignments and is cofounder of the agency's Leadership Academy. Huth, a certified Force Science Analyst and an active KCPD sergeant, has 2 decades on the job and currently serves as a team leader for the Street Crimes Unit Tactical Enforcement Squad, where he has coordinated and executed over 1,500 high-risk tactical operations.

They've seen first-hand how their concepts can work in dangerous neighborhoods.

The foundation of their program, as the name implies, involves encouraging LEOs to treat everyone they encounter, including lawbreakers, with a basic level of "unconditional respect." Over time, they argue, this will mitigate community hostility, encourage citizen cooperation, improve crime stats, and reduce complaints and lawsuits, as well as sweeten officers' odds of survival.

"This is an invitation to think about things differently," Huth says. "In law enforcement, we need to understand the value of regarding people as human beings, not as objects. That doesn't mean you always trust them. It doesn't mean you let your guard down. It doesn't mean you don't have to use force on them. But you can be tough on bad behaviors without treating people like they're not worth anything and fueling their resentment."

For example, Huth and Colwell share a core belief that an officer needs to transition through multiple phases on his or her contacts, each requiring a different mind-set and framing, as well as different skills-sets:

- Initially arriving at a scene, an officer's primary responsibility is to establish safety for everyone, including himself, using whatever force is appropriate, Colwell explains. "Until people are actually safe, nothing else really matters. But officers should spend as little time as possible operating in this phase."
- When the scene is "as safe as can be reasonably accomplished," they need to move into a more "cerebral" phase, where officers present can "internalize" the safety that has been established and become "calm, collected, and thoughtful." In this phase, officers remind themselves of their "personal responsibility for their attitudes and behaviors" and monitor themselves and their colleagues so no one "gets 'stuck' in ineffective behaviors."
- While still maintaining safety awareness, officers should then become "listeners" in a phase of "empathy and compassion." Suspects, for instance, might be given drinking water, permitted restroom use, checked for medical needs, or have the safety of their children looked after. "You ask yourself, 'If I was this person in this situation, what would I need?'" Huth explains. Adds Colwell: "Showing some empathy in balance with good tactics actually makes you safer."

In this phase, why police action was taken is respectfully explained to suspects and other interested parties and community members are "patiently allowed to express their perspectives and feelings about what has occurred," with officers demonstrating that they accurately hear what's said. Crime victims need to be left feeling they "have been touched by heartfelt service."

- In time, a phase of "connectivity and synergy" is built with individuals and groups as trust in officers develops, and broad, positive changes that transform communities can be effected through mutually respectful police-community partnerships.

"Unfortunately, some officers find it difficult to move out of the first phase," Huth says. "They think that showing respect is a sign of weakness. They sometimes yell and belittle people and try to intimidate, often because of fear. They lack confidence in their ability to do whatever they have to do to handle a situation successfully, so they are tempted to bully their way through."

"We believe that officers first have to make themselves very, very tough--physically and mentally prepared for combat, in the warrior tradition. Once you have that, it's easy to show a little empathy and respect to folks because you're confident in yourself."

"With the right approach, we do have the power to influence folks, if we just realize it. From traffic stops to SWAT raids, we have every opportunity to build or destroy relationships with every police contact."

In a blog that supports their project, Huth and Colwell explain in detail how they believe the counter-insurgency strategy employed by the U.S. military in its latest wars can be successfully adapted to domestic law enforcement. Rather than simply a harsh zero-tolerance policing of tough neighborhoods, they argue that a more adaptive approach that focuses on building relationships is already proving effective in high-crime Kansas City areas where it has been tested. Check out the Westside C.A.N. project at www.westsidecan.org/html/about_us.html

"A lot of cops already 'get' that there needs to be a change in the police subculture," Huth says. "They want to be a part of the solution rather than a part of the problem. Our goal is to help officers become the change they would like to see."

He and Colwell intend to spread the mission of Unleashing Respect through the Internet, social media, video productions, print materials, classes, and word-of-mouth. They aim actively to reach out to community members, too, with forums to explain why police make the decisions and take the actions they do and to provide opportunity for citizen feedback and inquiries. "Besides influencing officers, we want to get the message in front of potential jurors, too," Huth says.

Eventually they hope to launch an Unleashing Respect Leadership Training Center as an accredited private institution where police and military can be trained with the principles they espouse.

You can view their initial offerings at www.unleashingrespectproject.org.

To raise funds for what he calls this "learning initiative," he and Colwell have created a non-profit organization whose board includes Dr. Alexis Artwohl, a faculty member of the Force Science certification course; Scott Buhrmaster, vice president of operations for the Force Science Institute; Chuck Remsberg, editor of *Force Science News*; and a dozen other persons with diverse backgrounds in and out of criminal justice and the military. [Click here](#) to see bios on the entire Board.

"Our big-picture goal," says Huth, "is to return to the nobility of policing. It's tough to say and hear, but today's officers often work in a profession steeped in outdated paradigms, traditions, values, and norms. We tend to make excuses and pass blame and to defend ourselves and our actions at all cost.

"The basis of the problem is the cynical unwillingness to have a true sense of respect for the realities of the people we police and serve. As a result, law enforcement has grown increasingly narrow-minded and unresponsive to the 'people' realities of the 21st century. I don't believe this narrow-mindedness is intentional, but merely a natural consequence of operating within the confines of out-dated paradigms."

"It does not take everyone on board to make a significant difference," Colwell says. "A humble, dedicated few can 'tip' a department and then its community. To that end, the Project offers systems designed to make changes inevitable. We got to the unsatisfactory place where we are now in the exact same manner we will evolve from it: one contact at a time."

Colwell and Huth are authors of the book, Unleashing the Power of Unconditional Respect: Transforming Law Enforcement and Police Training. For more information about the Unleashing Respect Project, contact Colwell at: unleashingrespectproject@gmail.com