

THE SUSPECT IS SHOT IN THE BACK

Is Your Shooting Clean?

Understanding the Limits of Survival Psychology

By Bill Lewinski, Ph.D. and Dave Grossi

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Dateline:

Flint, Michigan

It's Halloween night. You're on patrol, working a two-person unit. Officers are deployed throughout the city to keep an eye on the trick-or-treaters who are out in force. Groups of young people are walking the streets. In addition to the costumed gremlins and goblins, a local street gang is hanging out by a park. Suddenly a shot rings out. You hit the lights and head toward the group. The gang starts to flee. You see one of the gangbangers raise a large-frame revolver in the air and begin running across a field. "Police, stop!" Suddenly, the suspect starts to turn toward you and swing the revolver in your direction. With no cover available, you fire one round and the suspect goes down. A fatal shooting. The autopsy shows the suspect, a 15-year-old kid, has been struck in the back.

Dateline:

Providence, Rhode Island

Burglary-in-progress call. Homeowners return to find their house being ransacked. A television and stereo are stacked in front of the sliding glass doors and a suspect is seen running out of the rear of the home. As your partner interviews the victims, you head out the back door. You catch a glimpse of a suspect jumping a fence and call out the foot pursuit to alert other responding units. "Police, stop!" While running, the suspect turns in your direction. You see the glint of a shiny object in his hand. You fire and he goes down. You make your approach and see the object the suspect was pointing toward you is a screw-driver. The subject, who survives, has been hit in the back by your shot.

Dateline:

Oakland, California

"16 Robert 3. Possible drug dealing at 78th and Collins. Two youths on bicycles and a brown sedan involved." Upon arrival, you see a youth on a bike take off and the two occupants of the brown vehicle eyeball you as you pass by. As you negotiate your K-turn to call in the plate, the vehicle drives off and pulls into a driveway. You call out the plate, exit your squad and start an approach to the driver's door. Suddenly, the passenger door opens and the second subject starts to flee. As you move toward the rear of the car, you see a gun in the suspect's right hand. "Stop, police!" Rather than stop, the suspect twists to his left and starts to point the gun in your direction. With no available cover, you're forced to shoot two quick shots. The suspect goes down. You make an approach and secure the firearm. EMS responds and you discover your shot hit the suspect in the upper right-hand shoulder and he's DOA.

Action/Reaction: An Overview

The above scenarios all happened. While the circumstances of each were different, the obvious similarity was that the suspect in each incident had been hit in the back by the officer's shots. Of all the possible shooting scenarios that officers might think of during crisis rehearsal exercises, one that probably never pops into their minds is where they shoot a suspect in the back. Just the thought of such a situation in the minds of civilians conjures up images of a police execution. While we as police professionals know that

such is not the case, how do you explain to the DA, your supervisors, a civilian jury or review board how something like that could happen?

We know that in many police shootings, officers will reenact the details of their shootings in their minds over and over again. In their reports and their testimony afterward, they will swear (under oath) that the suspect, while turning toward them, was pointing what they perceived to be a gun in their direction. In the above three scenarios, the suspects were actually running away but made definite observable turns toward the involved officers when the officer decided to use deadly force. However, just as clear was the fact that in all three cases, the suspects were struck in the back of the body.

For years, police trainers have known how the action/reaction phenomenon can play into such a situation. In fact, co-author Dave Grossi testified in federal court and demonstrated to the judge and jury how the action/reaction phenomenon in the first incident attributed to the bullet strike appearing in the suspect's back. The demonstration was convincing enough that the jury exonerated the officer. In the second incident, Grossi explained to the jury both action/reaction and the biomechanics of body movement. In that case, the jury also was convinced that the shooting was justified. The action/reaction phenomenon also resulted in a Montreal, Quebec police sergeant being exonerated when Grossi demonstrated it as part of his expert defense testimony in a fatal SWAT shooting.

In the third incident, the case was settled the weekend before it was scheduled to begin. In that case, where both Grossi and co-author Dr. Bill Lewinski were retained as defense experts, the heart and soul of the defense centered on both the action/reaction phenomenon and the concept of survival psychology.

Previous attendees of the Street Survival® Seminar, produced by Calibre Press, will probably remember the action/reaction demonstration that Grossi performed during his Deadly Force block of instruction. Over 300 such demonstrations presented at the seminars by use of specially modified training guns loaded with cotton ball bullets showed attendees exactly how perception time, brain lag, response time all contributed to volunteer/officers being "shot" by "suspect" Grossi, even though Grossi had to execute a full 180-degree turn to acquire the officer as a target before he was allowed to have his gun out and pointed toward the "suspect". Plus, the volunteer officer knew that Grossi was armed with a gun since it was inspected and declared safe before the demonstration began; also he knew that most likely Grossi was going to point the gun at him and he would need to defend himself. Past seminar attendees know that despite the apparent tactical edge in favor of the officer, Grossi won a lot of gun fights during these demonstrations. Now, a study conducted by Lewinski has revealed not only why and how such a situation can happen but also that it may be impossible to prevent it. According to Lewinski, the answer lies in "Survival Psychology".

Survival Psychology

When an officer gets the signal that his life is in the danger, his concentration becomes exclusively focused on the threat, specifically the movement of the gun in his direction. Basically, he is simply not aware of any shoulder or hip movement that might be signaling that the suspect is turning back away from him. Furthermore, Lewinski found that once the brain decides it's time to shoot, it is virtually impossible to interrupt the completion of that action. In over 600 cases of shooting decisions examined by Lewinski over a seven year period, he could find only one in which an officer was able to keep himself from firing at the suspect once he had made the decision to shoot and had physically started pulling the trigger. Even in the one isolated case, the officer still shot, but had managed to jerk his wrist so the gun twisted away from the suspect. That round went errant into city traffic.

By using time-coded videotape, Lewinski recorded exactly how long it takes "suspects" to turn away from a stationary starting position, as if turning away from an officer who was attempting to deal with them. During Bill's studies, he had some "suspects" standing full-face toward the camera, while some started out standing sideways to the camera. Whenever the "suspect" decided to act, (per Bill's instructions to them during an earlier briefing) they first began to move the gun in a threatening manner and then turned away and ran. Regardless of what angle or position the "suspect" started from, they could initiate and complete the turn very quickly. In fact, the average "suspect" standing full-front toward the camera/officer took about ½ second (.50 second) to complete a 180-degree turn. The fastest time

Academy and one earlier joint study conducted by Dr. Martin Fackler and Ernest Tobin, as well as Grossi's own experiments during his firearms training classes, have shown that once an officer perceives a threat, like the movement of the gun in this case, it will take a minimum of 1/3 second (.33 second) up to 1.5-2.0 seconds for that officer's brain to process the information, complete his reaction and fire his weapon in self defense.

The conclusion is that in each of Lewinski's experiments, the "suspect" would have been hit in the back since his front would be turned away from the officer by the time the officer's reaction was complete. This would be true even if the officer had his gun up at eye level, aimed center mass on target, when the suspect started to turn.

Lewinski did some other experiments where suspects were running away and then turned to fire shots back toward the officer as they ran, either under their arm or over their shoulder, similar to Grossi's action/reaction seminar demonstrations. The average time to complete either of these movements was approximately 1/4 second (.24 second). Again, the suspect could turn back around after shooting and be in a whole different position by the time a defensive shot from an officer would hit him. Lewinski's studies concluded that no matter how well you're "set" psychologically; you're still limited by your neuromuscular reaction time.

Summary

Some shooting situations are simply unavoidable. Since we, as police officers, are many times forced to react to the suspect's provocation, our responses are often affected by the action/reaction phenomenon. Also, in many situations, cover just isn't available and deadly force is the only option. As a result, in some deadly force confrontations which are fully justified, the threatening suspect may end up being hit in the back as a result of your reactive deadly force response. In those cases, the media, special interest groups, angry family members and plaintiff's attorneys may all try to ignore the details of why the shooting was justified and get the focus on the fact that since the suspect was struck in the back, your shooting was nothing more than a "cold-blooded murder." The media hype could be incredible, the psychological impact devastating, and the legal ramifications career-ending. The relevant facts of the shooting may not even be addressed. What will become the focus in court and in the media will be "since the suspect was shot in the back" the shooting was unjustified – the officer was wrong.

Unfortunately, your defense counsel, although knowledgeable in civil rights litigation, may not know how to prepare an effective defense in such a case. In those matters, it is going to be critical that your attorney be educated not only on the action/reaction phenomenon, but also the characteristics of survival psychology. Furthermore, he should also be willing to present expert testimony, coupled with demonstrative evidence so that a judge or jury will be able to base their decisions on scientific facts rather than emotional rhetoric, meant only to skew the real issues of the shooting.

Lewinski's research has been added to material on Deadly Force Decisions material and is now being presented by Grossi at the Street Survival® Seminars. For more information on the action/reaction phenomenon, survival shooting techniques and survival psychology, contact: Calibre Press at (800) 323-0037.

About the Authors

A police psychologist and professor of law enforcement studies at Minnesota State University at Mankato, Bill Lewinski, holds a Doctorate in Psychology from Union Institute in Cincinnati, Ohio. He is also a trained hostage negotiator; testifies extensively in the field of performance psychology in force-related matters, and is currently researching police response to emotionally disturbed persons.

Dave Grossi is the senior instructor for Street Survival Seminars. He is a retired lieutenant from the Irondequoit (N.Y.) Police Department and holds a BS in police administration. He is a graduate of the FBI National Academy and sits on the board of the Police Marksman Association. Dave has testified in both state and federal courts on use-of force issues.