

Force Science[®] News #227

To register for a free, direct-delivery subscription to *Force Science[®] News*, please visit www.forcescience.org. Articles are sent twice per month via e-mail. For reprint or mass distribution permission, please e-mail: editor@forcescience.org.

Dramatic shooting of a car thief...and persistent Hollywood myths

Congratulations to Force Science Certification Course instructor and UCLA Psychology Professor Dr. Ed Geiselman who we've learned is being honored by the Los Angeles County Sheriff's Department's Special Victims Bureau with a 2013 career contribution award, called the "Mary Ellen McCormick Award," for his powerful work in assisting in the investigation of child abuse. Ed is the co-creator of the Cognitive Interviewing Process which, in addition to being highly effective in the investigation of officer-involved shootings, has also been a powerful tool in these sensitive investigations as well. Ed will be receiving the award from Sheriff Leroy Baca himself following his involvement in the upcoming FS Course in two weeks. Congratulations, Ed! We're proud to have you on our team.

In this issue:

- I. Dramatic shooting of a car thief...and persistent Hollywood myths
- II. Letters to the editor from FSN readers
- III. New OIS guidelines under development by IACP

I. Dramatic shooting of a car thief...and persistent Hollywood myths

Note: The staff at the Force Science Institute of late has noticed "a definite uptick" in the number of inquiries being received regarding shooting at moving vehicles, according to operations vice president Scott Buhrmaster. From their various field locations, some Force Science instructors are reporting a similar increase as well.

FSI is in the preliminary stages of developing a research project that will address this use-of-force circumstance. More information is expected to be announced shortly.

Meanwhile, the following report describes the latest moving-vehicle shooting case FSI has played a role in...and the favorable result involved.

The auto theft detail tracking a dangerous suspect in a stolen Chevy Caprice thought they had him cornered in an ideal spot: inside the bay of a do-it-yourself car wash with both the Plexiglas entrance and exit doors closed and blocked to hamper a fast escape.

But the suspect had other ideas....

For more than six hours, members of the covert undercover unit of the Calgary (Alberta) Police Service called HEATT (High Enforcement Auto Theft Team) had been dogging the trail of career criminal Travis Oakes, suspected of "terrorizing" two of the city's police districts with his unlawful activities.

Over 20 warrants were out for his arrest, and at least four high-speed pursuits dotted his resume. Just in the time the constables from HEATT had surveilled him late on the night of Mar. 17, 2009 and into the post-midnight hours, he appeared to be casing stop-and-rob businesses, conducting hand-to-hand drug transactions, stealing from newspaper boxes, and smoking crack cocaine inside the stolen car.

When he swung into a multi-bay manual car wash facility at about 0300, the team sensed the opportunity they'd been waiting for. Washing his vehicle the suspect would be out of the car, isolated from innocent parties, and seemingly contained in the bay.

An unmarked police car pulled into the bay next to the one Oakes was using. The two largest police vehicles, a Dodge Durango SUV and a Chevy Silverado pickup, were driven up close to the large entry and exit openings, and officers ready for action were stationed near the vehicles. As Sgt. Dave Jennings activated his grille flashers and stepped out of the Durango facing the exit door, an officer with a Taser and another with a K-9 entered Oakes' bay from inside the facility.

The instant the cops yelled for Oakes to get his hands up, the suspect didn't miss a beat. He leaped back into the Caprice, tromped the accelerator to the floor, and charged. First, he roared backward and crashed into the Silverado through the Plexiglas barrier, then he peeled forward into Jennings' Durango, knocking it back a good two feet. Officers scattered as the ramming was repeated, tires squealing and the bay filling with smoke.

The second time Oakes smashed the Durango he kept the pedal floored, gradually nudging the barrier out of his way. His escape, Jennings thought, was inevitable and imminent.

Standing near the Durango, the sergeant aimed at Oakes' silhouette through the Plexiglas, assessing where he thought the suspect's center mass would be, and started firing. About half a second apart, he let fly three rounds. The Caprice's engine continued to roar and the Durango haltingly continued to give way. The driver had not shifted or moved at all behind the wheel.

Jennings fired one more round. "[T]here was almost an immediate reduction in the throttle of the vehicle," a report later stated, and Jennings stopped shooting.

His last round had bored through the suspect's right temple, "causing significant injuries to the brain and skull." He had also delivered a "more superficial" wound to Oakes' head and a right shoulder wound that "caused a significant...blood loss to the left chest cavity."

Travis Oakes was dead on the spot.

A use-of-force investigation and a prosecutor's review exonerated Jennings of wrongdoing, even though technically he had violated his agency's policy, which forbids shooting at a moving vehicle unless an occupant is using deadly force other than the vehicle itself.

The final step before the case was closed was a Public Fatality Inquiry. At these hearings a Provincial Court judge reviews the circumstances of the shooting and, where possible, makes recommendations on how such an encounter might be prevented in the future.

For the Oakes hearing, Dr. Bill Lewinski, executive director of the Force Science Institute, was consulted via videotape for his expert opinion.

He stated emphatically that given the suspect's history of recklessness and his threatening driving at the car wash, "there was no other way to stop" his desperate escape attempt than shooting him. Jennings, he said, "was the only officer in a position to target" him, and had the sergeant failed to do so, Oakes would have posed "significant" danger to officers and the public alike.

Could warning shots have been fired? Lewinski was asked. That might work "in some limited circumstances," he responded. But warning shots can have unintended "deadly consequences." They may ricochet and hit someone. They may provoke shooting by a suspect or "encourage fleeing behavior." Given Oakes' "agitated state and the fact he was under the influence of drugs," there was a "reasonable likelihood" that a shot intended to warn would likely instead to have "escalated his efforts to escape."

How about shooting at the tires of the suspect's Caprice? That would have been difficult, given the car's movement, Lewinski testified. Even if a tire was penetrated, the hole would have been small and deflation slow. A "determined" individual like Oakes "would continue to drive on the tires until they came off the rims and then would drive on the rims," continuing to pose a threat to innocent life and limb the whole while.

Could the sergeant have just shot to wound? In his opinion, Lewinski said, that "would have been almost impossible," given the dynamic actions and movements of the subjects involved and the time it would have taken for Jennings to acquire a reliable sight picture.

His "above-average skill" with the use of his weapon and his training to "shoot to stop the threat" were "undoubtedly" factors in preventing Oakes from leaving the car wash.

Questions of this nature are similar to those often raised after an OIS, a Canadian use-of-force trainer and investigator told Force Science News. "Thanks to 'training by Hollywood,' " he said, "many people don't always understand the difference between the real world of policing and the fake world of movies and television shows."

When Judge Shanon Van de Veen issued her findings from the Inquiry a few weeks ago, she firmly voiced real-world conclusions.

There was "no option but the use of lethal force in this case," she wrote. "The fact that Sgt. Jennings shot at a moving vehicle contrary to police policy was not only justified in this case, but may well have prevented significant injury or death to both police officers and unsuspecting members of the public...."

She offered "no recommendations which may prevent similar deaths from occurring...."

II. From our inbox...

"Looming" as an intimidation tactic

In several recent Force Science News transmissions (#218, 220, and 223), we discussed the visual phenomenon known as "looming"--the illusion that an object coming toward you appears to be bigger and moving faster than it actually is because it geometrically progresses to occupy more of your visual field as it gets nearer. A reader writes:

I am curious about the implications of looming from a training perspective--specifically, the tactical use of looming in terms of officers engaging suspects. It is an element of certain traditional martial arts practices and pertains to affecting the emotional state of an adversary; in other words, emphasizing on not turning away or recoiling in fear from a suspect's assault, but meeting it with posture, intent, and psychological pressure toward the subject.

In a recent example of looming from the adversary's perspective, the suspect essentially chased officers that he had engaged with gunfire around some cars , yelling: "What you got, _____?!" He demonstrated looming, while the officers recoiled in fear trying to escape the threat.

I feel teaching officers to turn the tables and use looming to their advantage may be an important element in officer-survival training.

Cpl. Chris Leblanc
Vancouver (WA) PD

Chris Lawrence, who instructs about the looming phenomenon during the certification course in Force Science Analysis, responds:

"Thanks, Chris, for keeping Force Science principles in mind as you think about training design. I certainly agree with your perspective.

Looming can occur with an individual or anything else (automobile, animal) coming directly at an officer. However, the incident you cite, I believe, was more likely about attitude, emotional preparation, and possession of a warrior spirit.

That said, telling LEOs that looming may be a feature in such an event, what might occur, how it could impact their assessment, and how to prepare for its potential contribution to their threat assessment is a wise move on your part.

An officer cannot always control the adversary's perspective. A hostile subject may experience the impact of looming, as might the officers--it's a human factor. If the subject is prepared for it or has a mental/emotional pathology and/or an altered chemical state (drugs/alcohol), the impact may not necessarily prove helpful in trying to overwhelm the subject.

Warning: Loose lips on social media can sink your ship

I did a short stint in the Internal Investigation section of the U.S. Marshals Service and have conducted numerous post-shooting administrative investigations and have testified for deputy marshals involved in shootings, most recently in Medford, OR. I have a suggestion regarding watching who you talk to after a shooting.

The deputies in Medford kept track of what family and friends of the offender were posting in social media (in this case Facebook) and repeatedly had to resist the temptation to interject their version of events or dispel blatant inaccuracies. Family and friends of the offender, for example, scoured the shooting scene (a grocery store parking lot) and came upon a spent rifle casing. They then claimed the deputies used rifles, contrary to initial reports. In reality, the casing had been there way before the shooting (rusted out, wrong caliber, etc.).

With the prevalence of social media, officers need to be aware of what they post, even outside of a shooting incident. Plaintiffs' attorneys are adept at accessing and utilizing posting by officers.

Insp./instructor Paul Duffy
U.S. Marshals Service Training Division
Federal Law Enforcement Training Center
Brunswick, GA

John Hoag, who instructs about legal and procedural issues surrounding OIS investigations in the certification course in Force Science Analysis, responds:

Very good comment. A warning to officers and others not to post comments, photos, or information on any electronic media should definitely be made. Cops post far too much even about their everyday work and it can bite them both on the witness stand and with their employer. During your police career, you should assume that anything you post can and will show up in court and be used against you.

On the other hand, many times friends or family of suspects who've been shot will discuss the cases and their "investigations" into them in these public forums. The OIS investigative team should not overlook this aspect of the investigation as a useful resource.

[Have a comment, insight or question to share with Force Science News readers or the editorial staff? You can e-mail them to: editor@forcescience.org anytime.]

III. New OIS guidelines under development by IACP

The International Assn. of Chiefs of Police has asked its Psychological Services Section to draft recommendations for revising and updating the organization's guidelines regarding officer-involved shootings. A special committee of some 30 members, including Dr. Bill Lewinski, executive director of the Force Science Institute, and Dr. Alexis Artwohl, a faculty member for the Force Science certification course, is currently formulating responses to this request. The focus is particularly on post-OIS interview protocols.

For the group's consideration, Lewinski recently submitted a report summarizing the latest research findings pertaining to the effects of stress, sleep, and fatigue on memory and cognitive performance. Final recommendations are expected to be voted on by the Psych Section and then forwarded to the IACP this spring.