# 12-03 - Supervisors Interviewing a Suspect in a Use of Force Incident

Los Angeles County Sheriff's Department

**NEWSLETTER**

Field Operations Support Services, (323) 890-5411

**SUPERVISORS INTERVIEWING A SUSPECT**

**IN A USE OF FORCE INCIDENT**

One important responsibility of a sworn supervisor is the investigation of uses of force. A major part of such an investigation is interviewing all persons involved and all witnesses. It is as important as the tactical aspects of this type of event, such as managing the security of the scene, ensuring medical assistance is provided to all injured parties, and preserving evidence. Aside from the often-criminal aspects, many uses of force are also subject to civil litigation, and, therefore, establishing the facts of such an incident is critical in assigning proper liability to the individuals involved.

As in every investigation, involved persons and witnesses should be isolated from one another and interviewed separately and privately. The interviews of non-sworn witnesses and other involved persons (suspects, persons assisting deputies, etc.) should be video recorded. The camera should be operated by a person other than the supervisor conducting the interview or by use of a stand or tripod for the camera. The backdrop must be neutral and free of signs of violence. A video should not have anything bloody in the background, for example, or be filmed while a tactical operation is still on-going.

When interviewing non-sworn witnesses and other involved persons, the supervisor should, at minimum, ask the following questions:

**What happened?**

**What did you do?**

**What did the deputy(ies) do?**

**Are you injured? If so, where? Did you receive medical attention?**

**Do you have any pre-existing injuries?**

When speaking to a witness (any person that either observed the event directly or who saw events leading up to the force), the supervisor should also ask:

**What location did you see this from, or where were you, exactly?**

When interviewing a witness or other involved person who exhibits obvious signs of intoxication or other impairment or whenever interviewing a suspect, the supervisor should also ask:

**Have you consumed any alcohol or taken any drugs? If so, what and when?**

**Are you taking any medications? If so, what and when?**

**Do you have any history of mental illness?**

The interviewee must be allowed to give their statement without interruption (unless they are rambling or drifting off point). If the interviewee's statement is unclear, the supervisor should have them explain their statement. If the statement made is still vague or incomplete, the supervisor should ask clarifying questions. Specific questions should be asked to identify each deputy and each deputy's actions. The supervisor must allow the interviewee to tell the version of the story that THEY want to tell. The purpose of the interview is to obtain a voluntary, solid, and complete statement that locks in the interviewee's observations and actions. It is NOT to argue with the person interviewed or attempt to point out inconsistencies. Any questions asked should be:

- open-ended, not leading or showing any predisposition towards a specific conclusion;
- non-accusatory or implying any wrongdoing on the part of the interviewee;
- not given in a coercive manner or in a manner that could be implying coercion;
- asked from a neutral perspective and not given in a manner suggesting a particular bias or preference on the part of the interviewer;
- absolutely professional; and
- for the sole purpose of establishing the events that occurred during the force incident (questions asked for the purpose of establishing facts for a criminal investigation must be asked in the context of a criminal investigation and be clearly distinguished as such. These questions may, depending on the circumstances of the interview, require a Miranda advisement).

This applies to all persons, including the suspect(s).

The person interviewed must be asked if, when, and how they were injured. If a person was directly involved in the use of force or if they claim injury, the supervisor should document the person's injury(ies) thoroughly by photographing and/or video recording them, including the involved deputy(ies). Even if a directly involved person does not claim injuries or does not have visible injuries, as much of the person's body as is reasonably possible should be photographed or video-taped to appropriately document their physical state at the conclusion of the event. The supervisor must ensure that photographs taken and video recordings are successfully stored on the device used. If the person is in custody or several hours pass and the person is still available, a second set of photographs should be taken in order to document injuries previously not seen, or the lack thereof.

The supervisor should also document any notable characteristics of each interviewee such as: Did the person appear to be intoxicated or under the influence of drugs? Was the person rambling or seem unfocused? What was the person's demeanor? Did the interviewee have a hard time understanding your questions? If so, why?

**Note: The only time witnesses or involved persons not considered suspects should be asked questions pertaining to their sobriety or mental disposition is when they exhibit obvious signs of impairment. If such questions are asked, they should be made with empathy and tact.**

In addition, the supervisor should consider the following:

- At no time during an investigation should any deputy or supervisory personnel make any derogatory comments regarding any suspect, their disposition, or any opinionated statements regarding the event, or make any other statements not meant for the record. The incident should be treated as if recorded from notification until the point of the completion of the investigation in its entirety. Please remember equipment may record while the person using it is unaware, and altered recordings always lead to challenges of credibility. Especially in the case of high-profile events, supervisors must be cognizant that modern recording devices have no problems taking highly detailed pictures and are capable of recording sound at great distances.
- Photographs should be taken of all persons involved and/or present, including deputies.

- Photographs should be taken of the scene and any evidence of the altercation such as spit, excrement, urine stains, gassing containers, shanks, stabbing weapons, rocks, clubs, other weapons, torn uniforms, bent name tags, etc. The collection of any such evidence should ideally be video-recorded as well.
- Consider obtaining DNA sample containers for cases involving spitting and gassing and taking samples from the involved suspect(s) (as the law permits) and deputies (from impact areas, even if only one suspect is involved) as in some past cases, the identity of the perpetrator has been questioned in court. The recovery of this evidence should also be video-taped.
- The event area should be checked for security cameras that may have recorded the event, the video footage should be obtained whenever possible. When obtaining video evidence from a security camera, sufficient lead and trailer time before and after the event should be preserved. Any persons that may have video-taped or photographed the event (check policy regarding obtaining video or photographic evidence from witnesses) should be identified. Video should even be secured from cameras that did not directly cover the event but show material pre- or post- event incidents (such as locations and behavior of suspects, witnesses, and bystanders).

Information regarding the content of this newsletter may be directed to Field Operations Support Services.