

**THE PSYCHOLOGY OF POLICE
DEADLY FORCE ENCOUNTERS**

ABOUT THE AUTHOR

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THE PSYCHOLOGY OF POLICE DEADLY FORCE ENCOUNTERS

Science, Practice, and Policy

By

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With a Foreword by

Alexis Artwohl, PhD



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This book is dedicated to the men and women in law enforcement, medicine, mental health, criminal justice, military service, and education who work to reduce the risk and lessen the suffering of their fellow citizens.

FOREWORD

There are a handful of behavioral scientists who combine scholarship with real-world experience working with law enforcement. Dr. Laurence Miller is one of those rare individuals. His areas of practice include working with officers in a clinical setting, providing training and consultation services to police agencies, and entering the battleground of the courtroom to provide expert testimony in high profile officer-involved shootings and other cases.

Miller is neither a cheerleader for cops nor a critic. When examining police operations, he recognizes that the vital questions are: “what do the facts and the research show?” This scientific inclination gives him an evidence-based approach that can be sorely lacking with the media, politicians, anti-police activists, and others who want to exploit officer-involved shootings to score political points or for personal gain.

Miller and I agree that law enforcement, like all professions, has a small number of bad apples, but the rest are honorable people trying hard to perform one of America’s most demanding occupations. Each officer and every incident deserve what all other Americans desire and are entitled to: objective, forensically reliable investigations without rushes to judgment before the facts are known.

Miller’s latest book is an important contribution to the practice of psychology and the legal system. All critiques of critical incidents involving cops or citizens must take into account the science of human performance. Miller delves deep into the research and applies it to police use of force, but the same body of knowledge is essential to understanding a wide variety of high-stress events.

This outstanding volume makes a unique and much-needed contribution to law enforcement training, police operational assistance, investigation procedures, the courtroom, the clinician’s office, police officers and their families, and anyone who wants to understand how human beings operate under extreme stress.

Alexis Artwohl, Ph.D., Police Psychologist
and co-author with Loren Christensen:
Deadly Force Encounters, Second Edition (2019)

PREFACE

This was supposed to be a shorter book. I had originally intended to provide a concise, coherent guide to the psychology of deadly force that would summarize and integrate the existing literature on the subject and offer a few pithy recommendations of my own. What I discovered is that this field is neither concise nor coherent, but that there are multiple nuggets of data and insight scattered among disciplines as diverse as neuroscience, cognitive psychology, sociology, and politics. I also came to realize that when you are trying to understand and explicate the scientific and social foundations of life-and-death encounters, you inevitably run up against conflicting opinions and swirling passions that require some measure of time, patience, and perspicacity to unravel and comprehend.

Meanwhile, I'm hopefully able to draw on my 30 years' experience as a clinical, forensic, police, and neuropsychologist to flesh out and humanize some of the empirical data and theoretical models reported in this volume. Make no mistake: the science is paramount if we are ever going to come to a rational understanding of human nature and use it to devise practical measures for improving society. That's why this book may seem a bit top-heavy with empirical research from neuroscience, cognitive psychology, and social theory, but facts are facts, and understanding them and what they mean is vital to our system of justice.

But I want this volume to be a practical one, too, because for attorneys and expert witnesses who work on contested deadly force and other police misconduct cases, the lives, careers, and sanity of the involved officers may depend on our ability to explain to a factfinder (judge or jury) why that officer acted as he or she did, and why what may appear to be a case of excessive force may have, in fact, seemed reasonable from the perspective of that officer's brain at the scene. Thus, some of the recommendations offered herein stem from my experience in consulting and testifying in contested deadly force cases, as well as other types of cases in the civil and criminal justice systems.

Throughout, I try to portray a balanced, realistic view of police officers in general; neither a defeatist, cynical "they're all crooked cops" trope, nor a Pollyannish, overromanticized "noble guardians of civilization" homage.

Mostly, these are just ordinary men and women trying to do their jobs, carrying the full range of virtues, faults, and foibles that characterize the warp and woof of humanity in any society. Except that they are authorized to kill you if they have to, and then face the consequences of their actions—and that's where the not-so-ordinary complications lie.

This book contains nine chapters, arranged in three sections. Chapter 1 discusses the nature of police use of force, including deadly force, and some of the legal standards that apply. In Chapter 2, I describe the various circumstances that may cause a police-citizen interaction to evolve or explode into a deadly force encounter. Chapter 3 deals with features of officer attitude, personality, training, and job experience that may make some officers more likely than others to consider and deploy force as a preferred option, as well as to misuse their police authority more generally.

Chapters 4, 5, and 6 dive into the cognitive neuroscience of emergency responding in describing how officers perceive, react to, and remember deadly force encounters. An accurate understanding of these matters is essential to the fair adjudication of police deadly force cases, and one of the goals of this volume is to bridge the gulf between the dense productions of wonky researchers and the need for practical tools for police managers, law enforcement investigators, legal personnel, mental health consultants, and expert witnesses in dealing fairly with use of force cases.

Nowhere is this more important than in the area of race and policing, and Chapter 7 endeavors to focus the cold light of scientific scrutiny on the hot zone of police-community conflict and perceived bias in law enforcement. One of the encouraging experiences in researching this chapter has been the discovery that brain and behavioral scientists are taking these matters seriously in empirically studying the cognitive psychology of alleged race-based deadly force actions, but this important information has largely remained buried in professional journals. Hopefully, this chapter will spur more general interest in, and support for, vital research in this area.

But it's not just all about confrontations and court cases. The overwhelming majority of police deadly force actions are ruled justifiable, but the act of taking a human life can nevertheless reverberate in the lives of many officers. Chapter 8 describes the types of psychological reactions officers may display to any type of deadly force encounter and offers a suite of suggestions for practical management and psychological counseling of such personnel, including special considerations for those officers who are enduring the additional seismic pressure of surviving day-to-day under investigation or indictment for their alleged actions.

Chapter 9 jumps into the legal arena itself, describing the range of potential outcomes in a contested deadly force case. It then describes the structure and process of a law enforcement forensic psychological evaluation, and

offers a set of recommendations for officers on how to cope with the stresses of living under the microscope and how to deal with the challenges of investigation, litigation, and court testimony.

This book will thus be a useful guide and reference volume for police managers and supervisors, investigators and attorneys, mental health clinicians and psychologist expert witnesses, law enforcement educators and trainers, and rank and file police officers who may find themselves involved in a deadly force incident and need an authoritative roadmap for the complex journey ahead.

A note on terminology: to avoid the linguistic clumsiness of repetitive he/she, his/her, and him-/herself bumplets, I've elected, with a few exceptions where appropriate, to use the male pronoun for most descriptions in this book, rationalizing that, since most cops are still male, my readers will let me get away with it for the sake of readability. If I offend anyone, I'm sorry, and please feel free to do it your way in your next book.

In addition to poring over oceans of print, much of the content of this volume is informed by my own experience in working on police deadly force and other cases, and in this, I have been aided by the advice, counsel, and expertise of a short list of respected colleagues. A special shout-out goes to Dr. Alexis Artwohl, who, in addition to being one of the premiere researchers, authors, and teachers the field of police deadly force encounters and police psychology generally, has been extraordinarily gracious and supportive of my own work in this area, and it was a pleasure to meet her during one of my court trips to Arizona. One of the motivations for writing the present volume stems from the example of Dr. Artwohl's special ability to mold the ore of cognitive and social science into practical tools for helping cops on the job.

Within the broader field of police psychology, I've gained valuable experience in providing clinical, consultative, and training services to several local police agencies, particularly the dedicated personnel of the West Palm Beach Police Department, Boca Raton Police Department, Palm Beach County Sheriff's Office, Troop L of the Florida Highway Patrol, and also many other local, regional, and national law enforcement organizations. Captain Patrick Kenny of PBSO and Dr. Bradley Feuer, Chief Surgeon at FHP deserve special mention as the kind of law enforcement supervisors, trainers, and mentors who inspire their troops with the constructive amalgam of confidence, commitment, and authority that defines true leaders.

The rank and file officers whom I've evaluated, advised, and counseled over the years have highlighted the importance of mutual trust and respect in encouraging tough, resilient service members (that also goes for military personnel) to open up and share their thoughts, perceptions, and feelings. This kind of work reinforces the responsibility of mental health clinicians and

law enforcement leaders to promote a practice model that allows these tough guys and gals to see our counseling interactions with them, not as a threat, but as a resource, as a way of building them up, not breaking them down.

Contributing to this effort has been the work of several law enforcement personnel, clinicians, and scholars—some embodying all three descriptors. Dr. Richard Levenson of the New York State Highway Patrol presented many of this book's formative ideas in the pages of the *International Journal of Emergency Mental Health*, and then provided valuable guidance when I later inherited that editorial mantle from him for the next several years. Going decades back is the literary support of author, editor, and Agent James D. Sewell of the Florida Department of Law Enforcement, in who's learned and practical anthologies I still have the privilege of sharing my observations and ideas. Same goes for forensic-police psychologist and prolific author Dr. Jack Kitaeff, with whom I still enjoy a productive collaboration and friendship, and who possesses a unique and singular insight into Elvis (yes, that one).

In the field of forensic psychology you meet a lot of lawyers, and we've all heard what they say about lawyers, and some of that is more true than you want to know. But I've also worked with a few skilled and honorable attorneys who have represented their police officer (and other) clients with vigor, integrity, and compassion, and law enforcement is lucky to have these dedicated professionals on their side. The same goes for the hard-working State Attorneys and Public Defenders I've worked with at the Palm Beach County Courthouse, who understand that justice is never a part-time job.

To sharpen your ideas and consolidate your knowledge base, there's nothing like having to field questions from inquisitive and sometimes skeptical interlocutors. Over the years my students at Florida Atlantic University, Palm Beach State College, and the Police Academy-Criminal Justice Institute of Palm Beach County, as well as the law enforcement, criminal justice, and mental health professionals who have attended my continuing education and training seminars, have managed to keep me on my toes and remind me how much there still is to learn in any domain of study and practice.

And sometimes even the professors can help a little. My research and clinical work in psychology in general has been bolstered by the intellectual stimulation, collegial support, and friendship of a number of university faculty members, most significantly, Drs. David Bjorklund and Paul Peluso at FAU, Dr. Vincent Van Hasselt at Nova Southeastern University, and Dr. Paul Friedman at the Palm Beach County Criminal Justice Institute. These scholars embody the principle that teaching is not just an activity, but an organic state of being, and that those who teach most effectively are those who never stop learning.

Other professionals in law enforcement, mental health, and criminal justice who have contributed directly, philosophically, or inspirationally to this

volume include Nancy Bohl, James P. Cummings, Gerald W. Garner, John Violanti, and Howard Webb. I'm sure there are others I'll think of right after this manuscript goes to press, and to those I can only offer my assurance that such oversight is mnemonic, not motivational, and in recompense, I offer to send them a copy of this book or buy them lunch, whichever is cheaper.

As with several of my previous books, editor-in-chief Michael Thomas and the editorial and production staff at Charles C Thomas Publishers are a writer's dream to work with: helpful, courteous, efficient, and always dedicated to bringing out an author's message in the most authentic and expressive way. I look forward to a continuing productive relationship.

Of course, once again, gratitude to my wife, Joan, for her enduring support, and who, by now, has become used to my periodic sequestrations as I complete yet another project of this type. And thank you, Dr. Halle, for your substantive input and discussion into many of the clinical concepts that underlie this volume. It has been a pride and a pleasure to watch you mature from daughter to colleague.

Laurence Miller
November, 2019

BOOKS BY LAURENCE MILLER, PhD

Inner Natures: Brain, Self, and Personality.

Freud's Brain: Neuropsychodynamic Foundations of Psychoanalysis.

Psychotherapy of the Brain-Injured Patient: Reclaiming the Shattered Self.

Shocks to the System: Psychotherapy of Traumatic Disability Syndromes.

Practical Police Psychology: Stress Management and Crisis Intervention for Law Enforcement (Charles C Thomas).

METTLE: Mental Toughness Training for Law Enforcement.

Counseling Crime Victims: Practical Strategies for Mental Health Professionals.

From Difficult to Disturbed: Understanding and Managing Dysfunctional Employees.

Criminal Psychology: Nature, Nurture, Culture (Charles C Thomas).

Posttraumatic Stress Disorder and Forensic Psychology: Applications to Civil and Criminal Law.

Clevenger, S.M.F., Miller, L., Moore, B.A. & Freeman, A. (Eds.). *Behind the Badge: A Psychological Treatment Handbook for Law Enforcement Officers.*

The Psychology of Police Deadly Force Encounters: Science, Practice, and Policy (Charles C Thomas).

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**THE PSYCHOLOGY OF POLICE
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Part I

DEADLY FORCE: FACTS AND FACTORS

Chapter 1

OFFICER-INVOLVED SHOOTINGS AND DEADLY FORCE

Law is order in liberty, and without order liberty is social chaos.

Archbishop Ireland

*Death is always and under all circumstances a tragedy, for if it is not,
then it means that life itself has become one.*

President Theodore Roosevelt

The gun. Any account of police use of force must begin and end with the gun—as both weapon and symbol. Among all public safety and emergency personnel, no other civilian service group is mandated to carry a lethal firearm as part of their daily equipment, and no other service member is charged with the responsibility of instantly fusing strict rules of engagement with their own discretion and judgment in making the split-second decision to take a life. Watching any typical TV cop show or movie might convince viewers that most officers pop off multiple rounds every day. But in reality, the discharging of one’s weapon in the line of duty is typically a rare and profound event, one that can leave a lasting trace on the officer involved (Henry, 2004; Loughlin & Flora, 2017; Miller, 2006e, 2019b).

Commentators have noted that the power invested in the police to use coercive physical force against citizens, up to and including killing, may often put them at odds with a civil society which, ideally, does not countenance violence as a regular means of maintaining domestic tranquility (Bittner, 1970; Fyfe, 2000; Klinger & Brunson, 2009; Klockars, 1985). Accordingly, nothing places the police under more scrutiny than when officers exercise their ultimate power to take the lives of citizens through the use of their firearm in an **officer-involved shooting/deadly force encounter (OIS/DFE)**. Of course, deadly force is itself a rare and extreme example of other

use of force (UOF) actions that may become necessary in the course of police work.

PATROL POLICING

When most people think of police officers, they think of the traditional cop on the beat, and indeed, the police patrol function, on foot or in vehicles, continues to be the backbone of community law enforcement (Nhan, 2019, Peak, 2003). This seemingly simple police role is really composed of a variety of complex daily decisions and activities, which include the discretionary use of authority and the prevention of criminal activity by an assertive police presence. It also involves maintaining good relations with citizens in the community, because police may at times have to depend on the cooperation of those citizens to help them do their jobs effectively. Examples include obtaining useful information in trying to solve a crime, or helping to cool down contentious family members' or neighbors' anger to forestall a potential violent escalation. Officers know they will encounter the same people—"repeat customers"—on a regular basis, and so maintaining good relations works in everybody's favor (Miller, 2006i).

While the actual effect of patrol officers on crime statistics continues to be studied, surveys show that, overall, citizens feel safer and more confident in their local police department when the officers are a living, breathing presence in their daily lives. However, this is only true if there exists a baseline level of trust between community members and the police that serve them (Kim, 2018; Morin et al., 2017, Nhan, 2019). Another irony is that, in lean fiscal times, foot or vehicle patrols are often the first to undergo budget cuts in favor of more flashy special tactics and investigative units (Thibault et al., 2004).

Survey research has identified a number of tasks and responsibilities that officers must carry out in order to successfully perform their patrol duties (Peak, 2003). Although TV cop shows often portray police work as nonstop action, in real life the patrol officer's job is more like that of a firefighter, paramedic, or air traffic controller: long periods of monotony punctuated by brief episodes of intense activity. Officers have to be able to react quickly and go from "zero to sixty" at a moment's notice. They have to be able to respond courageously and aggressively in critical situations, yet possess sufficient tact and presence of mind not to overreact and risk inflaming the situation further. In between, they must deal with various and sundry crises, ranging from traffic violations, to citizen disputes, to gang activities.

For patrol officers to do their jobs effectively, they must adopt a constructive territoriality about their patrol areas, sometimes known as "owning the beat" (Peak, 2003). By becoming increasingly familiar with the geogra-