

Fourth Amendment Seizures: The Processes of Investigating Police Force Incidents

A (book) guide for evaluating law enforcement use-of-force.

Sabbatical Leave Proposal Application Spring 2013

Submitted by

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Executive Summary

This proposal describes a compilation of academic work that has been gathered through force investigations and research to be completed for publication during the sabbatical term. The first objective (presently underdevelopment) is to complete book chapters based upon research and hundreds of case investigations. The second objective is to research and develop a theoretical model regarding the “interrogation” of police officers during investigations. The author has hypothesized that traditional interrogation methods are not accurate when applied to suspect officers. These two lines of research branch across the social and physical sciences utilized in the (criminal) investigation. This research driven (book) project will include both qualitative (case study) analysis and quantitative analysis based on the temporal and environmental variables of the fatal force events. Some research and study will take place at Wayne State University as an associate researcher and law student. Environmental and temporal variables will be analyzed through the use of contemporary Department of Justice Crime Stat data processing. This advanced study will be of benefit to the criminal justice and investigation disciplines; particularly to Lake Superior State University students participating in police procedure, legal and investigation courses.

Introduction (into field of study)

The investigation of law enforcement force decisions concerns knowledge of the overall criminal justice process, the law, social sciences of sociology/social psychology as well as the physical science disciplines (i.e. physics/ ballistics). Analyzing and investigating law enforcement (shooting) force incidents demands a good understanding of the nature of evidence and its understanding by the courts.

The standard of proof utilized by the courts and criminal justice practitioners is the “reasonable officer standard.” This standard was derived from two United State Supreme Court Cases (*Tennessee v. Garner* and *Graham v. Conner*). The Supreme Court decided that police force is a fourth amendment issue and is regarded as a seizure. The fourth amendment standard means the triers of fact in court must interpret what reasonable officer action is during the split second force decisions are made by the officer. Hence, this has opened up an academic and legal need to interpret police action as a “reasonable officer” during force encounters. The focus of my dissertation (1998) is “police phenomenology” a term I created and defined that examines how officers interpret and derive meaning during fatal force encounters. My education, experience and background have enabled me to interpret and explain what reasonable officer action is during particular incidents in academic and courtroom settings.

Most investigators are “trained” in interview and interrogation methods as well as having “training” in the understanding and gathering of physical (circumstantial) evidence. It is evident that the training given police investigators at times is not academically based and has led to an over reliance on direct evidence leading to erroneous eyewitness statements and false confessions. Evidence that is based in the natural sciences is overly simplified and often misunderstood. Dr. Judy Westrick, Dr. Marvin Zalman, Ph.D., J.D. (Wayne State University) and I developed a seminar in 2007 for criminal justice practitioners entitled, “The Sciences of Crime Scene Investigation.” This advanced multi-disciplinary academic seminar explores the physical science(s) of DNA, toxicology, ballistics, the nature and types of evidence as well as interrogation and false confession issues. We have also examined cases for the Innocence Project that have been widely publicized. The seminar and cases address the (lack of) training issue bringing university academics to the criminal justice practitioner training room.

This advanced study in criminal justice will bring together social and physical science into legal and evidentiary applied theory in the analytical investigation of police use-of-force processes.

Background

Some committee members may be aware of my extensive background in law enforcement, being a commissioned law enforcement officer for the past 31 years. In that capacity I have been victim to violence and used force, including deadly force in the law enforcement role. It is through my law enforcement experience that my quest for graduate education was sparked first with an MS in Criminal Justice and then with a Ph.D. in Sociology writing a dissertation on the effects of being shot and using force in the line-of-duty. What may surprise some of the members is my national reputation as an expert witness having testified in many cases throughout the nation. This testimony comes after investigation of “crime scenes” and the application of criminalistic as well as criminological theory. Over the years my work has been published in both trade and academic journals.

Academic Biography

Dr. Aaron J. Westrick is a Director of Research, Executive Consultant, Professor and Law Enforcement Officer with 31 years of applicable experience in policing and armor systems marketing, research and applications. He has served in many capacities (in business and public safety) including manager, supervisor, assault team member, negotiator, major case detective, and instructor. Dr. Westrick is a recognized court expert in a number of areas within “use of force”, policy, and ballistics/ armor. He is an Associate Professor at Lake Superior State University having taught at numerous universities, colleges, academies and organizations such as the International Association Chiefs’ of Police. Dr. Westrick is an active member in the Fraternal Order of Police, National

Association of Police Organizations, International Association of Chiefs of Police, International Law Enforcement Educators and Trainers Association, and Criminal Justice Academies. He is widely recognized as lightweight armor authority and an expert in use-of-force and law enforcement policy; creating the study of Police Phenomenology. Dr. Westrick is a highly decorated police officer. Early in his career Aaron became a Survivor when his body armor stopped a .357 magnum bullet over his heart, fired by a paroled robber.

Dr. Westrick has taught many advanced seminars regarding force issues and crisis management. He has published numerous articles regarding police action, violence and ballistics/body armor applications. Dr. Westrick has been a columnist for recognized police/ corrections journals. He earned a Bachelor of Arts degree in Social Science and Criminal Justice from Michigan State University, Masters of Science degree in Criminal Justice and a Doctorate of Philosophy degree in Sociology (Studying Police Shootings on Body Armor) from Wayne State University. Dr. Westrick has served as the Director of the Institute for Public Safety and Homeland Security Technologies at Lake Superior State University and is a notable armor systems consultant.

Dr. Westrick has participated in numerous defense contracts regarding the research and development of armor and non-lethal weapons systems. He has held Vice President and Directorship positions in private businesses. Dr. Westrick is the Principal in his Ballistic Armor Research Group, LLC. He has also developed, examined and marketed various law enforcement and military armor defense systems.

Dr. Westrick is a noted Use-of-Force, Law Enforcement Policy, and Ballistic Armor expert.

Outcome

The outcome of this research is to publish a comprehensive guide book to understanding the dynamics of police use-of-force investigations. The publication of this advanced applied research will further enhance the reputation of Lake Superior State University as a leader in Criminal Justice and Investigatory study. This timely and relevant work will provide scholarship and guidance to academics and practitioners. By examining how police act during violent force encounters, criminal justice practitioners will learn about the realities of evidence (testimony, objects, and documents).

Timeline

Summer 2012

-Self study Crime Stat Seminar/ Manual (United States Department of Justice)

2011-2012	Chapter/ Research	Location
Compilation of this work/ research to take place at while maintaining full academic schedule at Lake Superior State University during regular established schedule.		
	Organize/ Introduction Police Action (Legality of the Core Transaction)	LSSU/ WSU
	Social, Psycho-Physiological Action (Use-of-Force Maintenance)	Wayne State (WSU) Other
	Reasonable Force (4 th Amendment/ Legal) (Use-of-Force Maintenance)	WSU Other
	Sciences of Weapons (Firearms, Less Lethal) (Reasonable Force/ Investigation–Weapons-)	WSU Other
2013	Sabbatical	
January	Confidence and Competence of Officer Action (Police Phenomenology)	WSU
February	Methodologies: Interrogation of Suspect Police ("Psychological Warfare")	WSU
March	A Model: Interrogation of Suspect Police (Authority vs. Authority and the Law)	WSU
April	Critique/ Edit/ Summary	LSSU/ WSU
May	Submit for Publication	LSSU