

AFTER THE SHOOTING STOPS:

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DEALING WITH THE AFTERMATH OF A LETHAL ENCOUNTER

When he turned off the light and laid back on his pillow that night, 71-year-old retiree, John Madison, had no idea that 27-year-old, armed predator, Jonas Scott, was lurking outside of his home. But within an hour, Scott invaded the Madison residence and lay dead on the floor, felled by two shots that were launched by the homeowner. As the sound of wailing sirens came closer, Jonathan turned to his wife and asked simply, “What happens now?”

Let’s face it. Much time is devoted to the “how to” of self-defense. But just as important is its timing. The decision to fire is not one to be taken lightly. Because of the consequences, it’s worthy of close examination by everyone who carries a firearm, whether for law enforcement or for personal protection. Here, we’ll examine the aftermath of a lethal encounter. The key is keeping your wits about you after the shooting stops.

PRESENCE OF MIND AFTER THE SHOOTING

After a defensive shooting, you may have successfully saved your own life or that of others. But make no mistake. You are at legal risk until the shooting has been officially characterized as “justifiable.” What you say and do in the minutes and hours after a lethal encounter will have a direct effect on how others perceive the shooting and how your actions will be legally treated later.

Even before calling 911, collect your thoughts. Replay in your mind the exact sequence of events. Recall precisely what you perceived on the part of your assailant before you drew your sidearm. Remember what it was that made you perceive an imminent danger, and then call 911 to get help on the way.

FIRST RESPONDERS ON SCENE

It's always best for you to call 911 and report what happened, rather than a third party who may distort or confuse the facts while trying to help. When the 911 operator answers, calmly and clearly state that an armed “suspect” assaulted you, give them your location, and request an ambulance for the suspect who has suffered a gun shot wound.

Remember that your 911 tape will probably be played back in court later. Stating your situation in these terms will get the communication process with law enforcement off to a good start. Once you've addressed those three main points, let the 911 dispatcher take over. Dispatchers care most about officer safety and necessary medical aid, so you should be prepared to provide the following vital information when asked:

- Number of “suspects” and number of “victims.”
- Who has been injured and what are the injuries?
- Where are those injured located?
- Who is armed and what are they armed with?
- Where are the weapons now (yours and the suspect's)?
- What is your exact location/position, and what are you doing right now?
- If you're in a house, is there anyone else there?
- How long ago did the assault/shooting occur, and was it at the same location?

Once the exigent circumstances have been relayed, the call taker may request more specifics about you and the incident, and may advise you to do a few things:

“Your post-conflict positioning and physical behavior are key to a safe and tactical after-action sequence.”

- What is your physical description? (So the officers know who the “victim” is.)
- If you're in a house, is it safe for you to go outside (and away from the crime scene)?
- What exactly happened? (The short version. Do not volunteer too much information.)
- Do you know the suspect? If so, what is the relationship?
- Was there anyone else with the suspect?
- Are there any vehicles involved, and what are the vehicle descriptions?
- If you haven't already done so, secure your weapon before police arrive.

Keep in mind, everything you say during this 911 call is being recorded, even the sound of your breathing. The tone of your voice and the words you choose will be listened to many times in the coming weeks or months by people who weren't there. Be careful about giving too much information. Keep your statements and answers simple and factual.

Most likely, the call taker will ask you to stay on the line until police arrive, which can be to everybody's benefit, especially if the situation changes and officers en-route need a critical update. Even though most law enforcement communication systems are very good, arriving officers will not know for sure if you are alone, whether you are still armed or if you were in fact the assailant. Upon initial contact, the police will present an overwhelming show of force to quickly dominate and control a (still) dynamic situation. This will likely consist of multiple officers tactically positioned with firearms at the ready,

firmly issuing verbal commands. Expect to be treated like a “suspect” and do not take it personally if you are forced into a prone position, handcuffed, disarmed and placed in the back seat of a patrol car. Specific circumstances will dictate the initial treatment you receive by law enforcement. In general, pay attention, cooperate, and be prepared for anything, as response protocols for these types of calls may vary from agency to agency.

Your post-conflict positioning and physical behavior are key to a safe and tactical after-action sequence. You may be required to multi-task like never before, depending on your environment, who is around you, the status of your assailant and how quickly law enforcement or EMS personnel may arrive. Do not let your guard down, but do not stand over your downed adversary with the smoking gun either. Do your best to balance readiness and the appearance of not posing an overt threat to anyone. If the incident occurred in your home, move your family to safety, inside or outside the residence, where this potentially horrific crime scene cannot be observed or disturbed. If the incident has occurred on the street, gain distance, get behind cover if possible, and stay aware of everyone and everything in your environment. Maintain control of your firearm, which may be holstered or at the ready, depending on the danger still perceived (until police arrive). Operate your cell phone with your support hand if possible, and verbally communicate with bystanders and/or the assailant if necessary.

Do not make the mistake of having a Clint Eastwood moment after you've won your gunfight. Blurting out macho, feel-good statements such as, “He had it coming.” or, “One less scumbag to crowd our prisons, right guys?” will not be well received by responding officers or witnesses. Instead, try to make friends with those who witnessed what occurred and encourage them to stick around so they can give their statement to the police and/or further assist you in other ways. Clear thought and communication immediately following a shooting

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will be difficult for most. Good, deep breathing will help immensely. Taking in oxygen will help to lower the heart rate and achieve a better state of physical and mental relaxation. When you are calm, you are in control. And after surviving a lethal confrontation, you must have absolute control of yourself, your adversary and your environment.

When initially questioned by the police, think very carefully about what you will say. You should expect to be read your Miranda Rights if you are asked any questions about the incident by police while in custody. It is your right to request an attorney before giving any written or verbal statements. However, decline to answer questions in a respectful manner. Tell them that you fully intend to cooperate with the investigation, but you'd rather wait to answer questions due to the traumatic event that you've just experienced. If you choose to answer questions on the scene, stick to the facts, do not embellish, and make sure that what you say then will be consistent with what you will say later.

KEEP YOUR WITS ABOUT YOU

This is a critical time. What you say and how you behave will make an impression on both the police and any witnesses. The comments you make now can make or break you.

Remember: You did not fire a "warning shot." You did not shoot to kill. You fired your weapon at another human being for only one purpose, and that was to "stop" the deadly attack initiated by the perpetrator. You took the action that you did because you were in fear for your life or the life of another, period. End of story. If you say more than that, you may dig yourself a legal hole. Whatever you say will be written down or recorded, so don't hang yourself now by saying something macho or dumb that you'll regret later.

As you sit safely reading this article, remember that after a shooting incident, even the smallest aspects of each pertinent fact associated with the shooting will be looked at in excruciating detail by people who weren't there when it happened.

You will probably be asked the same questions, in different ways, several times over, to see if your answers are consistent or if you 'change your story' from interview to interview. And remember that people standing nearby as witnesses may have been thinking about something else when you perceived a danger. They simply may not have been aware of the same things that you were, and this may be the reason that they have a different "version."

If the witnesses were completely unaware of the danger when you drew your side-arm, then from their perspective, they simply heard gunfire and turned to see someone (you) standing there with a gun over someone bleeding on the ground. For all they know, you may be the assailant. The witnesses may not have perceived exactly what you did, even though they may have been in close physical proximity to the event.

You will be questioned about details. The first police officers on the scene, as well as the investigators assigned to the homicide will take turns interviewing you. They will ask you questions such as: What happened? Why did you shoot your gun? What did the (dead) assailant do or say exactly? How far away from you (or the innocent intended victim) was the assailant at the time that you perceived a threat? Why did you think that this person was a threat? What did you do to avoid the incident, if anything? When did you act? Did you say anything before the shooting? What did he say? Repeat this phrase several times: "I was in fear for my life and I had no other choice, in order to stop him." When that consistently shows up in the incident report of several officers, the lead investigator will take it into account when deciding whether to press charges or let you go home.

THE EMOTIONAL AND LEGAL AFTERMATH

Mental and emotional suffering is common amongst survivors of lethal conflicts.

Depending on the circumstances of your encounter and whether or not you've experienced a situation like it before, your thoughts and feelings about the incident

may consume you for a short to a long period of time. Some may experience the affects of Post Traumatic Stress Disorder (PTSD), guilt, self-doubt or paranoia. These emotions resulting from a defensive shooting are normal; that is one of the reasons why police officers are routinely given time off after a shooting. During the following weeks, professional counseling may be beneficial, and discussing what happened with trusted friends can help us decompress emotionally from the seriousness of the experience. To be successful in the legal aftermath, this is what you should keep in mind:

No Other Choice: When the decision was made to use deadly force, your perception must have been that you or the person you were defending were about to die at the hands of the perpetrator or suffer unavoidable, serious physical injury if you did not act immediately.

Threat Specific Response: Remember, lethal force must be later determined to have been "reasonable" and "necessary," based on the surrounding circumstances at the moment force was used. What were "reasonable" and "necessary" will always be a deciding and critical factor in every single self-defense shooting.¹

CONCLUSION

You have a duty to know how and when to use the weapon. Don't rely on friends at the range or the gun shop to give you the word. Get yourself properly trained, take part in the IDPA or USPSA to improve your skills, and by all means, take the time to learn your state's guidelines for the use of lethal force. If you have undertaken the effort to gain multi-state carry rights through reciprocity, then you have more than one state to deal with. Plus, there's one more perspective.

The old saying goes, "When the only tool you have is a hammer, every problem starts looking like a nail." So don't tie your own hands. Expand your range of defensive options.² Non-lethal force may be what's called for. If your only option is that of lethal force, and you're faced with a serious self-defense situation that calls for "something less," you are at a distinct tactical and legal disadvantage.

A prosecutor could then try to make you into a poster child for gun control, by saying that you had trained and armed yourself with only one option in mind—that of killing—and that you were just waiting for an "excuse" to use it. The argument would be that you were a "gun nut" with a predisposition to killing, by virtue of your exclusive training with only one single tool—your firearm.



However, having defensive skills in both firearms and non-lethal force may well be central to both your tactical and your legal defense. That way, you have been trained in more than one option and can be shown to recognize the difference when it is called for. Let's face it. Self-defense is serious business, no matter what tools are in your toolbox. But sitting months later in a courtroom, facing the jury in a civil or criminal trial, you will want to know in your "heart of hearts" that your actions were not only timely, but appropriate for the threat that you were facing at the time.

1 'Reasonable' under the law refers to what the "reasonable and prudent person" would have done under similar circumstances with the same knowledge that you had at the moment the incident occurred.

2 Training in intermediate force options is prudent and street-wise for any CCW permit holder. Take it upon yourself to learn empty-hand tactics, takedowns, techniques, as well as the use of defense sprays and the proper use of the folding knife and kubaton. See www.pfctraining.com for more.

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