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## Watch Your Six

Now, more than ever, officers must look out for their fellow officers. For the first time in over 33 years, District Attorney Steve Wolfson has decided to charge a LVMPD officer with felony crimes stemming from a critical incident.

While we hoped and prayed this day would never come, it was not a surprise to any of us when Wolfson chose to charge our officer. The DA presented another officer-involved shooting case to a grand jury in 2012. While the grand jury refused to indict the officer, Wolfson's failed attempt was a foreshadowing of future police prosecutions.

### LAPD Officers Do Not Give Statements in Critical Incidents

We have consistently advised officers to decline to speak to FIT detectives, realizing that local prosecutors and Department of Justice officials scrutinize every critical incident in Clark County. Our advice is not a novel concept, as LAPD and NYPD officers are given the same admonishment by their attorneys. In fact, the Los Angeles Police Protective League attorney has explained that LAPD officers have not provided voluntary statements in critical incident investigations since the 1970s.

In the July 2017 edition of the *Thin Blue Line*, LAPD Officer Mark Cronin advised officers that, after providing a mandatory public safety statement, they should "take a deep breath. Do not speak to anyone else until your attorney or employee representative arrives."

With respect to giving criminal investigators a voluntary statement, Officer Cronin advised, "Before the walk-through, FID [their version of FIT] will ask if you are willing to provide a voluntary statement. Your answer should always be 'no.' You will then receive a short command to cooperate, which has the same effects as receiving the Lybarger admonition (California's *Garrity* case). This makes your subsequent statement compelled so that it can't be used against you in subsequent criminal actions against you."

NYPD officers are given similar advice by their association's lawyers. Thus, our approach to protecting your legal rights is shared from coast to coast.

### LVMPD FIT

Since we have taken this very defensive stance, which dates back to 2012, several FIT investigators and command staff personnel have pushed back on our effort to protect our officers. A FIT sergeant has proudly stated, on several occasions, that our officers are considered suspects until proven innocent.

Please understand that FIT is tasked with investigating you and the facts of your critical incident. They are doing their job. Our responsibility is to protect your rights.

### Public Safety Statement

LVMPD policy requires a supervisor to ask you a series of questions immediately after the shooting or critical incident. The inquiries are intended to identify outstanding suspects, potential witnesses, physical evidence and others who may be injured. After the supervisor asks the standardized questions from a printed card, the supervisor is required to end the inquiry.

### Notify the PPA

As soon as you are able to make a phone call, contact the PPA on-call number to notify us that you have been involved in a critical incident. Additionally, officers who hear about a shooting on the radio should call us as soon as possible.

Unfortunately, the Department has decided to remove the PPA from its pager system. Consequently, we rely on our officers to let us know when a shooting has occurred. As soon as we learn about an incident, we roll out an attorney to represent you and numerous representatives to assist with your representation.

### Do Not Talk to Anybody Until Your Attorney Arrives

After you give your limited public safety statement, you should not speak to anybody until you meet with your attorney. Remember that other officers' body cameras may still be activated and third-party video may be recording your actions. If you are a witness officer, make sure the subject officer is not talking about the event. An officer who is involved in a stressful event may not be aware of his or her surroundings.

Recognize that for many reasons, your attorney will likely recommend you not waive your rights and speak with FIT. However, the decision to invoke your rights belongs to you. Either way, you will be compelled to give a statement to CIRT, with *Garrity* protections, within 48 hours.

Finally, it is important to remember that your PPA attorney is not a Department employee. Your attorney, who is paid by the PPA, is responsible for zealously representing you and protecting your rights.

Look out for your fellow officers and watch your six. Your PPA attorney and representatives will have your back. **VB**