

LIABILITY ISSUES -- DEADLY FORCE

The use of deadly force by police officers has raised many managerial, legal and moral issues in the law enforcement community.

Attention devoted to the issue of police uses of deadly force is not a recent phenomenon; it has existed since the beginnings of policing in this country, when New York City police officers began arming themselves in 1858.

The guiding words issued by the International Association of Chiefs of Police (IACP) in the early 1940s are just as applicable today: "The use of firearms by the police is without question a very serious matter and should be resorted to only in cases of grave emergency. To shoot is without doubt one of the most serious decisions a police officer can be called upon to make and, once made, the officer must be prepared to stand by his decision."

The authority to use deadly force is the most critical responsibility that will ever be placed on a police officer. No other single official has the right and the immediate means to lawfully take another's life. The responsibility of the police administrator, the jurisdiction and the state to control the police officer's authority is similarly awesome.

The consequences of a decision to use deadly force are not reversible after the fact; they are final. No court of competent jurisdiction or administrative tribunal can ever reverse the decision.

In a like manner, a decision not to use deadly force can also mean finality. A hesitation or conscious decision on the part of the police officer could very well result in the death of the officer or another person the officer is sworn to safeguard. These are decisions unlike any others required by our society.

Today's society has determined that the taking of another person's life is acceptable and justifiable in certain incidents. The most commonly accepted circumstances is when the killing is committed in self-defense where the homicide occurs to save the life of another from the attacker using deadly force. Usually the self-defense action is quite evident and little controversy occurs regarding the justification for the use of deadly force. Often state laws allow police and citizens to use deadly force in situations other than self-defense. In many states, the use of deadly force is authorized when an assailant is in the process of committing or is about to commit a serious felony such as rape, robbery, felony assault, arson first degree, sodomy or kidnapping.

In addition, 22 states have laws permitting the use of deadly force to stop a fleeing felon. It is this law that has created the most turmoil in recent years.

We'll have more on the consequences of police officers using deadly force on fleeing felons in the next issue of The PRIMER.

LIABILITY ISSUES is a regularly scheduled feature of The PRIMER and is edited by Mike Giacoppo.