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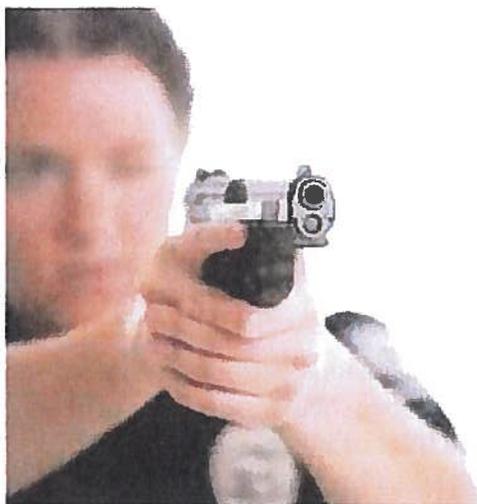
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Prosecutor's duty is to seek justice when police use force: Jackie Lacey

By Jackie Lacey

Thursday, February 25, 2016



When allegations of excessive force are leveled against law enforcement officers, it causes me deep concern. I understand the public's anger over what they may perceive as unjustified uses of force by those we entrust to protect us. I take these cases — and the public's demand for accountability — very seriously.

As the county's top prosecutor, it is my legal and ethical obligation to remain impartial until a rigorous and thorough investigation is completed in each and every case.

Since I took office in December 2012, there have been more than 290 officer-involved shootings throughout Los Angeles County.

My office conducts an independent investigation every time a police officer or sheriff's deputy shoots someone in the line of duty. We send our District Attorney Response Team (DART) to the scene immediately. Each team consists of an experienced prosecutor and a seasoned investigator. They are on-call 24/7 every day of the year.

We believe that being present at the scene of an officer-involved shooting reminds everyone affected — law enforcement officers, the family of the injured or deceased, witnesses and the community — that impartial prosecutors are watching.

By law and protocol, the DART team does not take over the investigation. The law enforcement agency involved must complete its own internal investigation and present its findings to our office for the possible filing of criminal charges.

After a comprehensive review of all of the evidence presented, there is only one question that we, as prosecutors, must answer: Can we prove beyond a reasonable doubt that the officer acted unlawfully?

In every case, we issue a detailed report that summarizes the event, witness statements and our legal findings. The report is public.

Sometimes, there is confusion over the district attorney's role when a law enforcement agency finds that an officer-involved shooting was out of policy or the officer used improper tactics. Acting out of policy and using improper tactics are not crimes.

But they may — and often do — result in costly civil lawsuits. State, county and city officials may make risk-management decisions: They settle these lawsuits for large amounts of money rather than go to trial and risk multimillion-dollar jury verdicts.

In civil cases, jurors must decide whether the officer's actions were the result of negligence: Was the officer properly trained? Did he or she use proper police tactics? Did the officer follow established departmental policies?

If not, the agency might be held civilly liable for the officer's actions.

The standard of proof in civil trials is much lower than for criminal trials. Civil juries do not have to reach unanimous verdicts. Additionally, they do not have to believe the evidence beyond a reasonable doubt.

By contrast, the U.S. Supreme Court has given criminal prosecutors very specific legal guidelines for filing criminal charges against police officers for using force while on duty.

Police officers are entitled to carry weapons. They have the right to protect themselves and are expected to protect the people around them. Under the law, an officer must reasonably believe that he or she or others are in imminent danger of great bodily injury or death before using deadly force.

In the end, that belief may be mistaken — the suspect may not have a weapon though the officer reasonably believed that he or she did.

Because law enforcement officers are required to make split-second decisions, our justice system gives them the benefit of the doubt. We, as prosecutors, must determine whether or not the officer reasonably feared for his or her life or reasonably believed that the lives of others were at risk. We also must consider whether another reasonable officer in the same situation would have responded in the same way.

The legal threshold is not whether the officer was in imminent danger— but whether the officer reasonably believed that he or she or others were in imminent danger.

As in every criminal case filed, my prosecutors also must determine whether or not a jury of 12 people would convict the person of the potential charges alleged. The suspect's potential defenses must be considered in that analysis.

This protects all of our rights against being unfairly accused of a crime.

I am not a prosecutor without a heart. I know when the use of force turns deadly, families are devastated. Family members and friends are grieving. The community is in pain.

People sometimes ask us to roll the dice and let a jury decide, regardless of the evidence or whether we believe we can prove the case beyond a reasonable doubt. I understand why people may feel that way, but that is something no prosecutor anywhere should do under any circumstance.

Prosecutors wield a tremendous amount of authority over the liberty of those charged with crimes. The public should have confidence in their elected district attorney to always exercise that authority within the confines of the law.

Rolling the dice to see what a jury might do or filing criminal charges because a community demands someone be held accountable should never become part of any prosecutor's analysis of whether someone's conduct is criminal and can, in fact, be proven beyond a reasonable doubt.

The hallmark of the American criminal justice system is that the burden of proving a crime beyond a reasonable doubt always rests with the prosecutor. Therefore, it is incumbent upon me as Los Angeles County's top prosecutor to ensure that every case filed by my office meets those very important ethical and legal standards.

It is understandable that people want someone held accountable. My duty as district attorney is to do what is right and fair under the law. I am committed to protecting all members of our community.

Some have suggested that the California Attorney General's Office take over the criminal investigation of officer-involved shooting cases. Critics contend that county prosecutors are too closely tied to their local police agencies to independently review these cases.

I take strong exception to the premise underlying this idea.

The Los Angeles County District Attorney's Office is the most experienced agency in the nation in evaluating use-of-force cases involving law enforcement officers. We do an extraordinary job of independently evaluating the evidence and applying the law.

Since 2013, my office has filed 15 cases against a total of 18 officers charged with either using excessive force or committing sexual assaults while on duty. Of the 18 officers charged, we have convicted 12 officers. Four officers have not yet gone to trial. One was acquitted. One case was dismissed because the charged officer died prior to the start of trial.

Our mission to represent the people of Los Angeles County is clear and unambiguous: We apply the law and file criminal charges based solely on the facts and the law — not on emotion, anger or external pressure.

When justice is perverted and decisions are made based on anything but the evidence, such as the defendant's social status, position in the community, education, job, power or lack of power, then we have failed and our community suffers irreparable harm.

My job is to make certain that every shooting is thoroughly reviewed in accordance with the law. To that end, I am confident that if you look at our legal analysis based on the evidence we had at the time, you will find that we made the right call in every case.

I am proud of the work we do.

Jackie Lacey is district attorney of Los Angeles County.

Editor's note: This commentary was corrected after it was first posted to say that four officers, not five, have not yet gone to trial, and that one was acquitted.

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