

Training Officers to Shoot First, and He Will Answer Questions Later

By MATT APUZZO AUG. 1, 2015



William J. Lewinski, a psychologist who has studied police shootings, held a training session at the Association for Los Angeles Deputy Sheriffs in Monterey Park, Calif., last month. Credit Michal Czerwonka for The New York Times

WASHINGTON — The shooting looked bad. But that is when the professor is at his best. A black motorist, pulled to the side of the road for a turn-signal violation, had stuffed his hand into his pocket. The white officer yelled for him to take it out. When the driver started to comply, the officer shot him dead.

The driver was unarmed.

Taking the stand at a public inquest, William J. Lewinski, the psychology professor, explained that the officer had no choice but to act.

“In simple terms,” the district attorney in Portland, Ore., asked, “if I see the gun, I’m dead?”

“In simple terms, that’s it,” Dr. Lewinski replied.

When police officers shoot people under questionable circumstances, Dr. Lewinski is often there to defend their actions. Among the most influential voices on the subject, he has testified in or consulted in nearly 200 cases over the last decade or so and has helped justify countless shootings around the country.

His conclusions are consistent: The officer acted appropriately, even when shooting an unarmed person. Even when shooting someone in the back. Even when witness testimony, forensic evidence or video footage contradicts the officer’s story.

He has appeared as an expert witness in criminal trials, civil cases and disciplinary hearings, and before grand juries, where such testimony is given in secret and goes unchallenged. In addition, his company, the [Force Science Institute](#), has trained tens of thousands of police officers on how to think differently about police shootings that might appear excessive.

A string of deadly police encounters in Ferguson, Mo.; North Charleston, S.C.; and most recently in Cincinnati, has prompted a national reconsideration of how officers use force and provoked calls for them to slow down and defuse conflicts. But the debate has also left many police officers feeling unfairly maligned and suspicious of new policies that they say could put them at risk. Dr. Lewinski says his research clearly shows that officers often cannot wait to act.

“We’re telling officers, ‘Look for cover and then read the threat,’ ” he told a class of Los Angeles County deputy sheriffs recently. “Sorry, too damn late.”

A former Minnesota State professor, he says his testimony and training are based on hard science, but his research has been roundly criticized by experts. An editor for *The American Journal of Psychology* called his work “pseudoscience.” The Justice Department denounced his findings as “lacking in both foundation and reliability.” Civil rights lawyers say he is selling dangerous ideas.

“People die because of this stuff,” said John Burton, a California lawyer who specializes in police misconduct cases. “When they give these cops a pass, it just ripples through the system.”

Many policing experts are for hire, but Dr. Lewinski is unique in that he conducts his own research, trains officers and internal investigators, and testifies at trial. In the protests that have followed police shootings, demonstrators have often asked why officers are so rarely punished for shootings that seem unwarranted. Dr. Lewinski is part of the answer.

An Expert on the Stand

While his testimony at times has proved insufficient to persuade a jury, his record includes many high-profile wins.

“He won’t give an inch on cross-examination,” said Elden Rosenthal, a lawyer who represented the family of James Jahar Perez, the man killed in the 2004 Portland shooting. In that case, Dr. Lewinski also testified before the grand jury, which brought no charges. Defense lawyers like Dr. Lewinski, Mr. Rosenthal said. “They know that he’s battle-hardened in the courtroom, so you know exactly what you’re getting.”

Dr. Lewinski, 70, is affable and confident in his research, but not so polished as to sound like a salesman. In testimony on the stand, for which he charges nearly \$1,000 an hour, he offers winding answers to questions and seldom appears flustered. He sprinkles scientific explanations with sports analogies.

“A batter can’t wait for a ball to cross home plate before deciding whether that’s something to swing at,” he told the Los Angeles deputy sheriffs. “Make sense? Officers have to make a prediction based on cues.”

Of course, it follows that batters will sometimes swing at bad pitches, and that officers will sometimes shoot unarmed people.

Much of the criticism of his work, Dr. Lewinski said, amounts to politics. In 2012, for example, just seven months after the Justice Department excoriated him and his methods, department officials paid him \$55,000 to help defend a federal drug agent who shot and killed an unarmed 18-year-old in California. Then last year, as part of a settlement over excessive force in the Seattle Police

Department, the Justice Department endorsed sending officers to Mr. Lewinski for training. And in January, he was paid \$15,000 to train federal marshals.

If the science is there, Dr. Lewinski said, he does not shy away from offering opinions in controversial cases. He said he was working on behalf of one of two Albuquerque officers who face murder charges in last year's [shooting death of a mentally ill homeless man](#). He has testified in many racially charged cases involving white officers who shot black suspects, such as the 2009 case in which a Bay Area transit officer [shot and killed Oscar Grant](#), an unarmed black man, at close range.

Dr. Lewinski said he was not trying to explain away every shooting. But when he testifies, it is almost always in defense of police shootings. Officers are his target audience — he publishes a newsletter on police use of force that he says has nearly one million subscribers — and his research was devised for them. “The science is based on trying to keep officers safe,” he said.

Dr. Lewinski, who grew up in Canada, got his doctorate in 1988 from the [Union for Experimenting Colleges and Universities](#), an accredited but alternative Cincinnati school offering accelerated programs and flexible schedules. He designed his curriculum and named his program police psychology, a specialty not available elsewhere.

‘Invalid and Unreliable’

In 1990, a police shooting in Minneapolis changed the course of his career. Dan May, a white police officer, shot and killed Tysel Nelson, a black 17-year-old. Officer May said he fired after the teenager turned toward him and raised a handgun. But an autopsy showed he was shot in the back.

Dr. Lewinski was intrigued by the apparent contradiction. “We really need to get into the dynamics of how this unfolds,” he remembers thinking. “We need a lot better research.”

Raising a Gun and Running Away

A video, taken as part of one of William J. Lewinski's studies, shows how quickly suspects can raise a gun and turn to run. Dr. Lewinski uses videos like this to explain why police officers shoot suspects in the back.



Courtesy of the Force Science Institute

He began by videotaping students as they raised handguns and then quickly turned their backs. On average, that move took about half a second. By the time an officer returned fire, Dr. Lewinski concluded, a suspect could have turned his back.

Photo



Chuck Wexler, the executive director of the Police Executive Research Forum, said he was troubled by Dr. Lewinski's teachings. Credit Whitney Curtis for The New York Times
He [summarized his findings](#) in 1999 in The Police Marksman, a popular magazine for officers. The next year, it published [an expanded study](#), in which

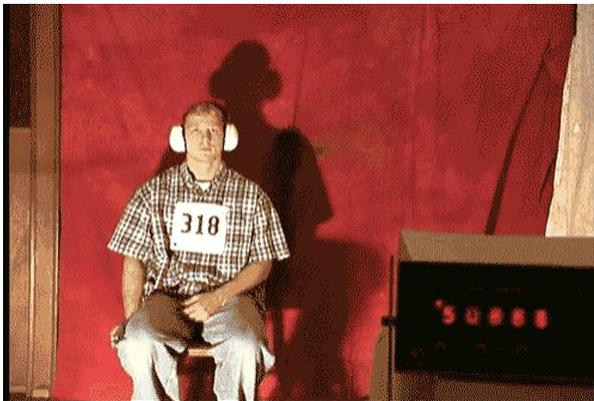
Dr. Lewinski timed students as they fired while turning, running or sitting with a gun at their side, as if stashed in a car's console.

Suspects, he concluded, could reach, fire and move remarkably fast. But faster than an officer could react? In 2002, a [third study](#) concluded that it takes the average officer about a second and a half to draw from a holster, aim and fire.

Together, the studies appeared to support the idea that officers were at a serious disadvantage. The studies are the foundation for much of his work over the past decade.

A Gun in the Car

This video simulates a driver with a gun stashed in the center console. It is used to help demonstrate how officers cannot always wait to see a gun before reacting.



Courtesy of the Force Science Institute

Because he published in a police magazine and not a scientific journal, Dr. Lewinski was not subjected to the peer-review process. But in separate cases in 2011 and 2012, the Justice Department and a private lawyer asked [Lisa Fournier](#), a Washington State University professor and an American Journal of Psychology editor, to review Dr. Lewinski's studies. She said they lacked basic elements of legitimate research, such as control groups, and drew conclusions that were unsupported by the data.

“In summary, this study is invalid and unreliable,” [she wrote in court documents in 2012](#). “In my opinion, this study questions the ability of Mr. Lewinski to apply relevant and reliable data to answer a question or support an argument.”

Dr. Lewinski said he chose to publish his findings in the magazine because it reached so many officers who would never read a scientific journal. If he were doing it over, he said in an interview, he would have published his early studies in academic journals and summarized them elsewhere for officers. But he said it was unfair for Dr. Fournier to criticize his research based on summaries written for a general audience. While opposing lawyers and experts found his research controversial, they were particularly frustrated by Dr. Lewinski's

tendency to get inside people's heads. Time and again, his reports to defense lawyers seem to make conclusive statements about what officers saw, what they did not, and what they cannot remember.

Often, these details are hotly disputed. For example, in a 2009 case that revolved around whether a Texas sheriff's deputy felt threatened by a car coming at him, Dr. Lewinski said that the officer was so focused on firing to stop the threat, he did not immediately recognize that the car had passed him.

Inattentional Blindness

Such gaps in observation and memory, he says, can be explained by a phenomenon called inattentional blindness, in which the brain is so focused on one task that it blocks out everything else. When an officer's version of events is disproved by video or forensic evidence, Dr. Lewinski says, inattentional blindness may be to blame. It is human nature, he says, to try to fill in the blanks.

"Whenever the cop says something that's helpful, it's as good as gold," said Mr. Burton, the California lawyer. "But when a cop says something that's inconvenient, it's a result of this memory loss."

Experts say Dr. Lewinski is too sure of himself on the subject. "I hate the fact that it's being used in this way," said Arien Mack, one of two psychologists who coined the term inattentional blindness. "When we work in a lab, we ask them if they saw something. They have no motivation to lie. A police officer involved in a shooting certainly has a reason to lie."

Dr. Lewinski acknowledged that there was no clear way to distinguish inattentional blindness from lying. He said he had tried to present it as a possibility, not a conclusion.

Almost as soon as his research was published, lawyers took notice and asked him to explain his work to juries.

In Los Angeles, he helped authorities explain the still-controversial [fatal shooting](#) of Anthony Dwain Lee, a Hollywood actor who was shot through a window by a police officer at a Halloween party in 2000. The actor carried a fake gun as part of his costume. Mr. Lee was shot several times in the back. The officer was not charged.

The city settled a lawsuit over the shooting for \$225,000, but Mr. Lewinski still teaches the case as an example of a justified shooting that unfairly tarnished a good officer who "was shooting to save his own life."

In September 2001, a Cincinnati judge [acquitted a police officer](#), Stephen Roach, in the shooting death of an unarmed black man after a chase. The officer

said he believed the man, Timothy Thomas, 19, was reaching for a gun. Dr. Lewinski testified, and the judge said he found his analysis credible. The prosecutor, Stephen McIntosh, however, told The Columbus Dispatch that Dr. Lewinski's "radical" views could be used to justify nearly any police shooting.

"If that's the sort of direction we, as a society, are going," the prosecutor said, "I have a lot of disappointment." Since then, Dr. Lewinski has testified in many dozens of cases in state and federal court, becoming a hero to many officers who feel that politics, not science or safety, drives police policy. For example, departments often require officers to consider less-lethal options such as pepper spray, [stun guns](#) and beanbag guns before drawing their firearms.

"These have come about because of political pressure," said Les Robbins, the executive director of the [Association for Los Angeles Deputy Sheriffs](#). In an interview, Mr. Robbins recalled how he used to keep his gun drawn and hidden behind his leg during most traffic stops. "We used to be able to use the baton and hit people where we felt necessary to get them to comply. Those days are gone."

Positions of Authority

Dr. Lewinski and his company have provided training for dozens of departments, including in Cincinnati, Las Vegas, Milwaukee and Seattle. His messages often conflict, in both substance and tone, with the training now recommended by the Justice Department and police organizations.

The [Police Executive Research Forum](#), a group that counts most major city police chiefs as members, has called for greater restraint from officers and slower, better decision making. Chuck Wexler, its director, said he is troubled by Dr. Lewinski's teachings. He added that even as chiefs changed their use-of-force policies, many did not know what their officers were taught in academies and private sessions.

"It's not that chiefs don't care," he said. "It's rare that a chief has time to sit at the academy and see what's being taught."

Regardless of what, if any, policy changes emerge from the current national debate, civil right lawyers say one thing will not change: Jurors want to believe police officers, and Dr. Lewinski's research tells them that they can.

On a cold night in early 2003, for instance, Robert Murtha, an officer in Hartford, Conn., shot three times at the driver of a car. He said the vehicle had sped directly at him, knocking him to the ground as he fired. [Video from a nearby police cruiser](#) told another story. The officer had not been struck. He had fired through the driver's-side window as the car passed him.

Officer Murtha's story was so obviously incorrect that he was arrested on charges of assault and fabricating evidence. If officers can get away with shooting people and lying about it, the prosecutor declared, "the system is doomed."

"There was no way around it — Murtha was dead wrong," his lawyer, Hugh F. Keefe, recalled recently. But the officer was "bright, articulate and truthful," Mr. Keefe said. Jurors needed an explanation for how the officer could be so wrong and still be innocent.

Dr. Lewinski testified at trial. The jury deliberated less than one full day. The officer was acquitted of all charges.