How Cases are Analyzed

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• 2017 – Federal jury in Seattle awarded $15 million to family after sniper shot unarmed man in front of his child. Verdict included $2 million in punitive damages awarded against sniper who shot decedent and $3 million in punitive damages against the SWAT team commander. In addition, lawyers requested $2.4 million in attorney fees and costs.

• 2018 – Massachusetts jury awards $28.2 million in retaliation claim brought by Haitian-American nurse against her hospital/former employer. The award included $25 million for punitive damages.

• 2019 – Los Angeles jury awarded $15.4 million dollars to Los Angeles Times reporter who sued for age and disability discrimination. Plaintiff’s attorney has suggested prejudgment interest and attorney fees will be an additional $6 million.

• 2018 – Corizon Health paid $10 million to settle lawsuit involving heroin addict who died while detoxing in the Washington County, Oregon jail.
2019 – Minneapolis paid $20 million to the family of an unarmed woman killed by police after she approached patrol car after police responded to her 911 call. She had called 911 to report that she heard some (other) woman being attacked. Officer convicted of Third Degree Murder and Second Degree Manslaughter.

2019 - Jury awards $7 million to City of Baldwin Park’s at will female police chief after “no cause” termination (Plaintiff’s pretrial demand was $1.250 million plus fees).
Monetary Trial Risks

- **Punitive Damages**
  - Insurance coverage issues
  - Amount often far exceeds compensatory damages

- **Jury anger-hard to predict how jury will respond to the evidence**
Non-Monetary Trial Risks

- Law Enforcement and dealing with *Brady* ramifications
  - Ethical considerations in representing both the police officer and the employer

- Impact of adverse verdict
  - Loss of job for client
  - Adverse Publicity
Federal Claims

- Most federal claims are under 42 USC § 1983
- Most claims against LE are in federal court
- Attorney fees, often extremely large, if plaintiff prevails
- No limits on the amount of damages the jury can award
- Punitive damages against the officers are available to the plaintiff
Civil Litigation Process

- Discovery
- Depositions and preparation
- Summary judgment (when appropriate)
- Focus groups
- Settlement process
- Trial
To provide the fullest possible pretrial disclosure of evidence, to reduce the possibility of surprise and to ensure a fair contest.

- Preservation issues
- Scope of discovery
- Personnel files
- Discipline material
- Federal law not State governs production
Purpose
Preparation
Police officers are used to being witnesses in criminal cases not defendants in civil cases
Trial use
Focus Group - Overview

- History
- Purpose
- Timing
- Structure of Focus Group
  - Presentation
  - Deliberations
- What are your goals?
- Limitations
Focus Group – Typical Themes

- Why shoot so many bullets
- Why were less force options not attempted (such as warning shot, taser, shooting to wound, talking to subject)
- Why did officer fire so quickly and not make further attempts to de-escalate
- Why didn’t officer retreat
- Was officer properly trained and was it followed
Focus Group – Typical Themes

- It would have been simple to follow officer’s instruction
- Officers made a fast judgment call to eliminate a threat
- Subject was close enough to have been able to run or lunge at officer (immediate threat)
- Domestic disturbance calls are inherently dangerous
- Always assume the gun is loaded.
Whether to use Mediation

- Dealing with plaintiff’s emotions
- Mediators generally experienced litigators or judges
- Remove risk to parties of trial