

# POST-OIS FITNESS-FOR-DUTY DETERMINATIONS

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Officer-involved shootings (OIS) present a variety of challenges for officers and agencies, including decisions about when involved officers are ready to return to work. Some agencies require that involved personnel be declared fit-for-duty by a mental health professional before being allowed to return to full active duty. Whether or not this should be a standard policy is a complex issue which involves multiple factors such as local administrative rules, laws, politics, collective bargaining agreements and more. This article is not intended to be an endorsement of any particular policy, but rather an exploration of some of the issues and concerns involving post-OIS policies and procedures with reference resources.

## DOES A SHOOTING RENDER AN OFFICER UNFIT FOR DUTY?

Although rare, OIS are an expected possibility in an officer's career. Research shows that most officers perform and cope well with shootings and other traumatic incidents, and only a small percentage will develop disabling symptoms. For that reason, the Officer-Involved Shootings Guidelines (OIS Guidelines) written by the Police Psychological Services Section of the International Association of Chiefs of Police (PPSS/IACP) states that, "*It should be made clear to all involved personnel, supervisors and the community at large that an officer's fitness-for-duty should not be brought into question by virtue of their involvement in a shooting incident.*" (Guidelines are available at the Police Psychological Services Section portion of the IACP Web site: [www.theiacp.org](http://www.theiacp.org)).

Some may think that if even one percent of officers are negatively impacted, then all officers should be required to undergo a fitness for duty exam (FFDE) before returning to work. However, as with any population of workers, a certain percentage may become work-related disabled. This phenomenon by itself may not require that all employees be constantly evaluated, or that all employees be routinely evaluated after any event that might be upsetting or traumatic. There may be other factors requiring an FFDE after an OIS, but the assumption that most officers will be negatively impacted by an OIS to the point where his or her ability to function on the job is at jeopardy should be questioned and is not supported by current research. The OIS Guidelines point out that being involved in a shooting should not automatically be cause for such an evaluation before the officer returns to duty.

## SHOULD AGENCIES MANDATE A POST-OIS FFDE?

The decision to require an FFDE should be based on several factors including current policies, type of event, available resources, etc. Moreover, these types of decisions should not be solely based on the fact that it has always been done that way, or on false beliefs that all officers cope poorly with these events and therefore will require an FFDE. (See inset on right.)

"Police executives have a legal duty to ensure that police officers under their command are mentally and emotionally fit to perform their duties, and failure to do so can result in significant civil liability and serious consequences to citizens, other officers, and an employing agency's reputation. Various courts have interpreted this duty to include the authority to mandate psychological FFDE of police officers reasonably believed to be impaired in their ability to perform their job functions due to a known or suspected psychological condition.

The employer's duty to ensure a psychologically fit workforce does not, however, allow an unrestrained right to require such evaluations of any police officer in any circumstance. Instead, the employer's duty must be balanced by the public's interests and the employee's constitutional, civil and property rights and interests."

Trompeter, Corey, Schmidt and Tracy, "Psychological Factors after Officer-Involved Shootings: Addressing Officer Needs and Agency Responsibilities", *The Police Chief*, Jan. 2011)

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### COUNSELING VS. FFDE

Although most officers will cope well with an OIS and will not be rendered unfit for duty, all involved personnel should receive a mandatory debriefing with a police psychologist or other qualified mental health provider. This will let officers know what to expect, and when and how to seek further assistance, if needed. Sometimes agencies will then want the provider of these debriefings to render an opinion about whether the officer is fit to return to duty. However, it is generally not advisable for a provider to combine these roles with the same officers.

Fitness-for-duty evaluations should be conducted by a mental health professional who was not involved in the post-shooting intervention. When a mental health professional is providing counseling services, the person receiving the counseling is considered the client. When a mental health professional is providing an FFDE, the agency is the client. Trying to serve two clients at the same time can present ethical challenges that should be avoided when possible.

One of the ethical challenges for a provider who is trying to combine an FFDE with counseling is the issue of confidentiality. If the officer is assured of confidentiality, it is much more likely he or she will be candid. Worrying that comments will be reported to the agency could hinder the communication between the counselor and the officer. No information about the content of these sessions should be released without the officer's written authorization.

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### WHO SHOULD DETERMINE READINESS TO RETURN TO WORK?

While most officers can return to duty soon after an incident, agencies are encouraged to be flexible and consider the officer's input for those who may need some additional time off. The officers and their mental health providers can make this important decision together. For those few officers who may develop problems, the OIS Guidelines, section 5.10, point out that leaving this decision up to the officer *"... does not preclude a supervisor from requesting a formal fitness-for-duty evaluation based upon objective concerns about an officer's ability to perform his or her duties."*

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### SUMMARY

Determining officer readiness to return to work in the wake of an OIS is an important question with many psychological, legal, ethical and other considerations. Using sound resources like the OIS Guidelines illustrated here can help officers and agencies determine which might be the best policy for them. ▸

The PPSS/IACP publishes guidelines on these and other topics in their section of the IACP Web site at [www.theiacp.org](http://www.theiacp.org). The guidelines are updated approximately every five years, so officers and agencies are encouraged to check for guideline updates on a regular basis.

### REFERENCES

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- Trompeter, P.S., Corey, D.M., Schmidt, W.S., and Tracy, D. "Psychological Factors after Officer-Involved Shootings: Addressing Officer Needs and Agency Responsibilities," *The Police Chief* 78, January 2011, 28-33.