

BOLO

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On Combat

By Lieutenant Colonel Dave Grossman, U.S. Army (Ret.)

Lieutenant Colonel Dave Grossman retired from the military after serving in the U.S. Army as a sergeant and platoon leader, as well as a parachute infantryman, a U.S. army ranger and a teacher of psychology at West Point. Worldwide, police officers know and respect Dave Grossman as an author, guest speaker, educator and highly qualified expert on the physical effects of stress created by violence — ranging from tunnel vision and changes in sonic perception to post-traumatic stress disorder.

In support of LAAPOA and all LAX police officers, Dave Grossman has generously granted permission to publish the following excerpts from his book, On Combat, which is available at <http://www.killology.com/bio.htm>.

The Four Fs

“The natural man has only two primal passions, to get and to beget.” — Sir William Osler, *Science and Immortality*

Several of my professors have told me about one 1950s psychophysiology textbook that has a dry joke imbedded in it. It says that the function of the midbrain can be thought of as the “four f’s: fight, flight, feeding and ... mating.” There is value in understanding that this is, indeed, what the midbrain — the puppy — does.

I have already talked about fight or flight. You know that if you are under stress there is a distinct possibility that you might respond with inappropriate levels of aggression, which is something you must guard against. You also know that one of the healthiest ways to deal with stress is to get out from under it. Now let us look at the remaining two realms of the midbrain, feeding and ... mating, functions that generally manifest themselves *after* combat.

Some people lose their desire for food when overly stressed, but the more common response is to develop an enhanced appetite. The midbrain is a simple organism, and it can only do one thing at a time. When anxiety eats away at you, the puppy pokes his nose through the screen door, whining and whimpering. So you eat a big piece of chocolate cake, which is the same as giving him a bone to gnaw on for a while. While you overeat, the puppy stays busy and you get a break from your anxiety. When you stop, however, he is back at the screen door whining and whimpering, as once again your anxiety gnaws away at you. It is a vicious cycle because

not only are you not dealing with the cause of your stress, your attempt to placate it with food leads to obesity and the many health problems associated with it.

This is why daily vigorous exercise is so vital. Pumping iron, running and basketball burns off the stress hormones that motivate you to eat. It also burns off a few calories, which makes the body healthier (or the “tub” a little larger) so that you can more easily handle the incoming stress. The better shape you are in, the more motivated you are to continue to burn off stress hormones in a healthy way, rather than trying to appease it with comfort food.

Food has a powerful calming effect. I think that it may be virtually impossible to be in Condition Red and eat at the same time. When I train at national hostage negotiators conferences, I encourage them to use food as a calming tool with hostage takers. While a person is eating he is usually in Condition White or Yellow, which can be one of the best times to make rational arguments. This can also be one of the best times for the SWAT team to roll that flashbang grenade in the door. When the suspect is in Condition Red, his auditory exclusion, and other stress responses we have discussed, greatly limit the sensory overload caused by this device. Pick your time well, such as when he is eating, and there is a better chance that flashbang will stun the suspect and no one will have to die that day.

The Fourth F: Sex

“The sex is ever to a soldier kind.” — *The Odyssey* (Alexander Pope translation)

Some people lose their appetite for food in response to stress, but many have an enhanced craving to eat. In the same way, some individuals can lose their sex drive in response to great stress, but other people experience a tremendous sex drive, especially after a combat situation in which they were triumphant. Faced with death, destruction and horror all around, there can be a powerful life affirming drive toward sexuality. Frank Herbert, in his book, *Dune*, referred to this as: “The fertility drive of the species ... that profound drive shared by all creatures who are faced with death — the drive to seek immortality through progeny.” Others believe that it may just be the drive of a male, having defeated another male in a “mating” battle, to claim his “prize.”

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Understand that if this should happen to you, it is perfectly normal. There is nothing wrong with you if it doesn't happen, and there is absolutely nothing wrong with you if it *does*. Once I had the pleasure of training a large group of FBI agents and their spouses at a conference in Reno. I told them about this common response and that it was perfectly normal, and there was a sudden roar as many of them turned to their spouses and said, "See. I'm okay. It's all right."

That great pioneer in the field of warrior science, Bruce Siddle at PPCT, tells about a state trooper that he had trained who was forced to kill someone in the line of duty. Bruce called him the next day to see how he was doing. Bruce says, "I heard about the shooting and I wanted to be sure you're okay." The trooper said that he was doing fine. "As a matter of fact," he said, "I'm a little worried how *fine* I am, because last night my wife and I had the best sex we've had in months."

I tell the law enforcement officers I train that there are not many perks that come with the job. So if you find one, relax and enjoy it.

On the other hand, when I work with school resource officers I have to give them a little warning. After a traumatic incident on or near the campus, there *might* be a tendency for the female to be drawn to an alpha male who can protect her, and there *might* be a tendency for the male to spread the genes around in the face of anxiety and sudden death. I tell the officers that "forewarned is forearmed," and "biology is *not* destiny." If we know that these things *might* happen then we can avoid being blindsided by them.



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Number: 2013-01 **Date: 01-04-13**
By: Devallis Rutledge **Topic: Miranda Myths: "Hocus Focus"**

Issue: Is a police officer's subjective "focus of suspicion" relevant to determining whether a suspect is in Miranda "custody"?

Answers.com says that the expression "die hard" originated in the bloody 1811 battle of Albuhera, when soldiers of the 57th Regiment were exhorted by their wounded commander to "Die hard, 57th!" They did so, suffering a 74% casualty rate. (Tip for movie buffs: Bruce Willis will die hard for the fifth time, starting February 14.)

Hard-dying myths in the *Miranda* jurisprudence (and there are many) include the mistaken notion that a suspect is in "custody" once an interrogating officer focuses suspicion on him. California courts made this mistake early, *People v. Beasley* (1967) 250 Cal.App.2d 71, 80, and continued to perpetuate it for 28 years, to the point that it infected instruction in police academies, law schools and judges' colleges so deeply and so recently that some present-day officers, lawyers and judges impulsively embrace it still. The inertia of this myth long defied its clear **repudiation** by the U.S. Supreme Court:

"Although the '**focus**' of an investigation may indeed have been on Beckwith at the time of the interview, he hardly found himself in the **custodial** situation described by the *Miranda* courts as the basis for its holding." *Beckwith v. U.S.* (1976) 425 US 341, 347.

"Nor is the requirement of warnings to be imposed simply because the questioned person is one whom the police suspect." *Oregon v. Mathiason* (1977) 429 U.S. 492, 495.

"Our holding in *Mathiason* reflected our earlier holding in *Beckwith*, in which we **rejected the notion** that the 'in custody'

requirement was satisfied merely because the police interviewed a person who was the '**focus**' of a criminal investigation." *California v. Beheler* (1983) 463 US 1121, 1123, fn. 1 (reversing California's die-hard error on facts that were "remarkably similar" to those in *Mathiason*).

"The mere fact that an investigation has focused on a suspect does not trigger the need for *Miranda* warnings in non-custodial settings." *Minnesota v. Murphy* (1984) 465 U.S. 420, 431.

Could the repudiation of "focus" have been any clearer? And yet, subsequent to these U.S. Supreme Court pronouncements (and subsequent to Proposition 8's command that California courts apply them), the California Supreme Court continued to feature "focus" in its list of "factors" indicating custody. See, e.g., *People v. Stansbury* (1993) 4 Cal.4th 1017; *People v. Morris* (1991) 53 Cal.3d 152; *People v. Holloway* (1990) 50 Cal.3d 1098; and *People v. Boyer* (1989) 48 Cal.3d 247.

Finding it necessary to reject the "focus" myth for at least the **fifth** time, the U.S. Supreme Court unanimously reversed the California Supreme Court (per curiam):

"We hold, **not for the first time**, that an officer's subjective and undisclosed view concerning whether the person being interrogated is a suspect is **irrelevant** to the assessment whether the person is in custody." *Stansbury v. California* (1994) 511 U.S. 318, 319.

Forced to acknowledge its longstanding mistake, the California Supreme Court on remand disapproved of its prior rulings perpetuating the "focus" myth:

"To the extent language in our earlier opinions may be read to suggest that an officer's subjective **focus of suspicion** is an independently relevant factor in establishing custody for the purposes of *Miranda*, **such language is disapproved.**" *People v. Stansbury* (1995) 9 Cal.4th 824, 830, fn. 1 (disapproving *Morris*, *Holloway* and *Boyer*).

Bottom Line: An officer's subjective focus of suspicion "has no bearing on the question" of whether the suspect is in *Miranda* custody, which requires formal arrest or its functional equivalent. *Berkemer v. McCarty* (1984) 468 US 420, 442. (Emphases added and citations omitted in quoted material.)

This information was current as of publication date. It is not intended as legal advice. It is recommended that readers check for subsequent developments and consult legal advisors to ensure currency after publication. Local policies and procedures regarding application should be observed.



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