



MN CJ- 2017

POLICE CRITICAL INCIDENTS :


TIPS & PITFALLS

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100% FOOLPROOF ADVICE



KEEP CALM
&
SHUT YOUR PIE-HOLE©

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CRITICAL INCIDENT

Defined in , e.g., MGPD
Policy 305

Effective 10/5/16

What is a Critical Incident?

Defined in 305.2

- Officer-involved shootings
- Deadly force incidents
- Vehicle pursuits + serious injury or death
- Actions likely to cause...
- Natural disasters/mass casualty incidents
- Likely psychological effect



WHEN IN DOUBT WE ASSUME IT'S *CRITICAL*

Time Management

- ☐ DETERMINE ROLES:

- ☐ 1. SHOOTER

- ☐ 2. INVOLVEDS

- ☐ 3. WITNESSES

- ☐ ***SEPARATE THE OFFICERS!!!***

PROCEDURES: INVOLVED OFFICERS

- ① NOTIFICATION: SUPERVISOR
- ② NOTIFICATION: OUTSIDE CITY, OTHER AGENCY + SUPERVISOR
- ③ REMAIN ON SCENE
- ④ PUBLIC SAFETY STATEMENT
- ⑤ MEET W/ASSIGNED INVESTIGATORS (*"MEET & GREET ONLY!"*)
- ⑥ COOPERATE W/IA
- ⑦ COOPERATE w/OFFICER-IN-CHARGE ("OIC")+ SUPERVISOR
- ⑧ FOLLOW EAP PROCEDURES
- ⑨ WEAPON CONTROL

RESPONSIBILITIES (con't)

- SEPARATE SQUADS FOR EACH IO
- EXCEPT FOR PSS- **SILENCE**
- CHEM TEST: IN POLICY?
- MEET WITH INV RE *VOLUNTARY* STATEMENT

RESPONSIBILITIES (CON'T)

- MEET AGAIN W/UNION REP COUNSEL ASSIGNED
- DUTY BELT TURNOVER?
- DOCUMENT INJURIES
- UNIFORM PHOTOS OR TURNOVER
- ADMIN BREATH TEST

ROLE OF THE UNION

- **TO PROTECT THE SHOOTER & INVOLVED OFFICERS**
- **TO ARRANGE LEGAL COUNSEL**
- **TO HELP SEPARATE THE OFFICERS**
- **TO COORDINATE ATTORNEYS**

ROLE OF THE UNION (CON'T)

- **SUPPLY BEER**

Policy or No Policy?

- Many agencies have no policy
- Out of Jurisdiction: Provides little or no guidance for shooter/IOs

Weapon Control

- Where is/are the weapon(s)
- Chain of custody; follow protocol!
- Arrange for replacement

PUBLIC SAFETY STATEMENT

1. To focus the investigation,
ID suspects, victims, evidence
witnesses, shells, collateral D.
2. Explained in 305.5.2

Likely *Garrity* protected

“48 Hour Rule”?

- Invoke?
- BCA position
- No rule = the better rule?
- Most policy manuals are silent on this

HOLD YOUR HORSES!

- We slow everyone down
- Time concerns of Administration
- Time concerns of the press
- ***Time concerns for the officers trump all***

VIDEOS

- Is there a scene/incident video?
 - Body cam
 - Squad cam
 - Security:
 - Building, parking lot/ramp. Adjacent businesses
 - Taser
 - Personal/pen

VIDEOS (con't)

- NOTE: The Department, not the investigation, determines this.
- Conflicts will occur...

Anxiety/Stress Management

- Officers very anxious to talk
 - “Atta Boy”—100% support
 - The “house arrest” effect
 - Shrink

Information Control

- Who to talk to?
 - NYC case: Union/group communications are RISKY!
 - Debriefing?? **Caution!**
 - Cell Phones: **Caution!**
 - Texts: **NO!**
 - Facebook **NO!**
 - Emails: **NO!**

Suspect/victim Issues

- Is the decedent a protected class?
- Mental illness issue
- Toxicology
- Armed?
- Warrant
- “Was he a bad guy?”

Drug Testing

- Blood/Urine sub-policy
 - Ask re drugs & ETOH: steroids, pot, vicodin
 - Check with Union rep
 - Ultimately a client decision?
 - Withhold consent to release if unsure
 - *Garrity* applicable?

LONELINESS

- Private room: REQUIRED
- Union rep or OIC are outside door
- “ ***I AM IN CUSTODY!***”
- “***I AM ON HOUSE ARREST!***”

Scene Visit

- Do it!
- Permission
- Escort
- Pictures?

Internal Affairs Gateway

- Most often follows.
- Giving a Garrity statement usually not part of critical incident representation, in most cases.
- Avoids *Gault* taint.
- Coordinate with labor attorney



GARRITY

Express
Implied
Latent



GARRITY V NEW JERSEY, 385 U.S. 493 (1967)

- “Between a rock and a whirlpool”
- A sub-category of compelled testimony
- In re *Gault*

READ THE ADVISORY!

- Wrong advisory? *Tennesen* (bad, don't sign);
- *Garrity* (good, sign)
 - Many departments give *Miranda*, *Tennesen* and *Garrity*
 - Beware the trick/false *Garrity*
 - League of Cities policy

Latent Garrity Issues

- CAPRS statements may be *Garrity*: see *Lieter* decision
- Public safety statement
- Incidental command response
- Drug tests?

PHONE DUMPS BY BIG BROTHER

- Assume all cell phones are unsafe
- Never use work phone for any texts or calls re incident
- Even personal phones may be seized
- Land lines safest, especially 3d party

Advice Going Forward

- Advice: Do not talk to anyone except
- Spouses, MDs, Clergy, attorney, therapists, are OK
- Insurance "adjusters", co-workers, significant others. BFFs and FWBs are NOT OK.
- Investigators
- IAD/superiors (not without direct order)
 - All queries, except direct orders, go thru lawyer



Thanks!

We love our work!

We honor peace officer service!

Fred Bruno

Sammi & Steve Foertsch