

Crisis Management for Officer-Involved Shootings



Taking Appropriate Action In The Wake of High-Profile Use of Force Incidents

October 6, 2016

League of Cities Annual Conference – Long Beach, California

Presenters: Howard Jordan (former Chief of Police, City of Oakland)
 Johnna A. Watson (CIO, Oakland Police Department)
 Scott Whitney (Chief of Police, City of Oxnard)

Moderator: Steven P. Shaw (Partner, Renne Sloan Holtzman Sakai LLP)

The Aftermath of a Shooting and How it Affects a City

Crisis Management for Officer-Involved Shootings


- Handling Media at the Scene and in the Immediate Aftermath
 - Balancing pressure to make statements with need for accuracy, transparency and development of unbiased investigation
- Providing Stress Management to Officers and Agency Employees
 - Leave for officers or affected employees, counseling, and support
- Handling Investigation Internally or Outsourcing
 - Pros and cons
- What Comments/Statements May Be Made Publicly
 - Statements to press, officers, directors and governing bodies
- Compliance with Public Safety Officers' Bill of Rights
 - Restrictions on disclosure of peace officer personnel information

 3

**Handling Media at the Scene
and in the Immediate
Aftermath**


**Handling Media at the Scene –
Alan Blueford**

- Example: Alan Buford - Oakland
- May 6, 2012
 - 11:55 PM- Oakland Police Officers dispatched to investigate a report of a fight
 - Officers observe 3 males passing a gun around and possibly dealing drugs
 - Officers contact the subjects and order them to a specific location in order to separate them

 5

**Handling Media at the Scene –
Alan Blueford**

- One of the males (Blueford) begins to run from officers with right hand in his front waistband area
 - Confirmed by video surveillance footage
- One of the officers pursues Blueford on foot
- Blueford suddenly pulls a gun from his waistband, turns and points it at officer
- The officer discharges his firearm at Blueford striking him several times, resulting in his death

 6

Critical Incidents in Oxnard in 2012

- 6/23/12: Robert Ramirez – In Custody Death
- 8/14/12: Michael Mahoney – Officer Involved Shooting
- 10/12/12: Alfonso Limon – Officer Involved Shooting



Community Relationships

- Must have previously established relationships
- Must be able to articulate that Department is restrained, professional, and accountable
- Is there a history of collaboration
- Cultural Proficiency



Department Practices

- Use of force oversight (Supervisor/Manager Review, Track Stats, Audit, Report)
- User-Friendly Complaint Process
- Audits
- Training

Alfonso Limon: Community Safety Day



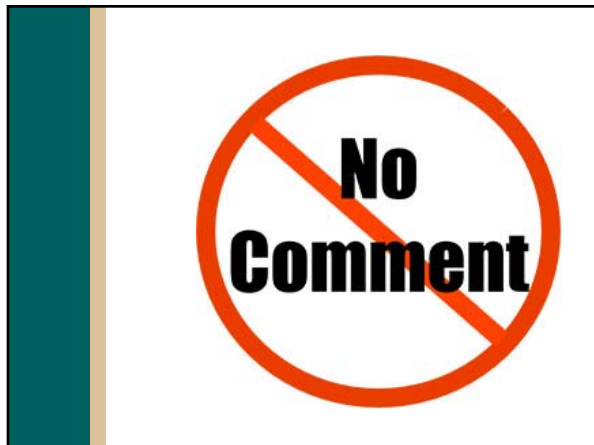
Learning Organization

- Don't let potential liability keep you from finding and addressing problems
- Administrative Review is more than: Is it in policy or out of policy?
- Commitment to lessons learned
- Training Unit also responds to incident
- Audit of investigation and after action plan for remediation

Media
It's not IF, it's WHEN
Are you ready?

Handling Media at the Scene – Social Media

- Public's demand for information fueled by social media
- How to appropriately use social media and/or respond to inquiries
 - City and/or PD website (e.g., press releases)
 - Appointment of Public Information Officer
 - Emails from public and stakeholders
 - Facebook, Twitter, LinkedIn
 - News articles
 - Public Records Act requests



Relationships

- Media
- City Hall/City Council
- Internal



Team

- Identify PIO/Backup/Support
- Practice/Mock Scenarios
- Connect neighboring agencies

Media Relations

- Be cautious of pressure to put out rushed information
- Avoid sharing inaccurate information early. Verify the facts before you put them out. 911 tape and officer radio transmissions won't change.
- Chief or A/C Speaks for Department, not lower ranking officer
- Department can't hide from bad incident
- Chief should not be hesitant to express remorse

Media Relations (Cont.)

Release of information: Officers' Names, Almost 5 Months Later

OXNARD
Jeri Williams
Chief of Police

OXNARD POLICE DEPARTMENT
R. Jason Benites
Assistant Chief
Scott Whitney
Assistant Chief

NEWS RELEASE

FOR IMMEDIATE RELEASE
December 5, 2012

CONTACT: Mike Adair
mike.adair@oxnardpd.org
(805) 385-7801

(Oxnard, CA) The Oxnard Police Department is releasing the names of the officers who responded to the 300 block of South H Street on August 14th, 2012 in response to a man with a gun. During the incident, Michael Mahoney pointed a gun at the officers and was shot. Mahoney later died from his wounds.

The Oxnard Police officers (all assigned to the Field Services Bureau) who were involved in the incident are as follows:
Officer Joe Bentley, 6 years of fulltime law enforcement service
Officer David Hopkins, 7 years of fulltime law enforcement service
Officer Manuel Perez, 10 years of fulltime law enforcement service

Anyone with additional information about this incident is asked to contact Detective Martin Perez at (805) 385-7800

Media Relations (Cont.)



Release of 911 Audio Example:

III. PHYSICAL EVIDENCE

A. SOUTH L STREET

The scene was secured immediately after emergency personnel transported Ramirez from the scene. It was broken into two separate crimes scenes: the area around 1174 South L Street and the area around 1158 South L Street, one house up the street.

1158 South L Street 1174 South L Street

Handling Media at the Scene – Interjurisdictional Issues

- Multiple law enforcement agencies may be involved in an incident
- Oscar Grant – BART and Oakland Police Department
- Need for coordination between entities re: responding to inquiries, controlling scene of incident, initiating investigation, etc.

Managing Protests


- Command Staff Ownership
- Over-prepare/lots of officers/equipment in reserve
- Incident Action Plan
 - "...officers will make every effort to meet with organizers..."
 - "...allow those in attendance to peacefully exercise their right to free speech"
 - "Operations Chief will make the decision whether to engage the protestors"



Providing Stress Management to Officers and Agency Employees


Providing Stress Management to Officers and Agency Employees

- Mandatory leave for officers involved in shootings and/or use-of-force incidents
 - Common policies
 - Immediate leave even when facts tend to support that officer acted appropriately or justifiably
 - Administrative leave for misconduct investigation
- Counseling and Employee Assistance Programs
- Granting of additional leave where necessary (assuming officer not already on Administrative Leave pending completion of investigation)

 23

Providing Stress Management to Officers and Agency Employees

- Dealing with “hot button” issues
 - Police Chief serves as face of department on particularly high-profile or sensitive issues, but initial statement should be from Chief Information Officer and/or spokesperson
- Proper handling of issue by Police Chief and CIO takes pressure off other commanding officers, while reassuring public and other officers in department that situation has been contained and is being addressed appropriately
- Regular updates and follow-up during and after investigation has been completed and determination has been made

 24

Providing Stress Management to Officers and Agency Employees

- Systems for protecting officers and agency employees from extensive press inquiries
 - Policies
 - Spokesperson and/or Chief Information Officer
- Balancing community's interests in being heard with ensuring safety for officers at department and on patrol

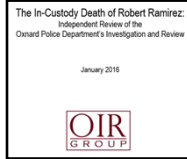
Office Support

- Chief contact early and follow up afterward
- Professional psychological support
- Peer support
- Keep them updated
- Scenario training prior to return to work
- POA Relations

Handling Investigation Internally or Outsourcing

Administrative Investigation

- This report done concurrently, but separately from criminal investigation
- Primary issue is whether or not officer(s) followed Department policy
- Consider outside, independent review
- Progressive Departments will also complete tactical review, identify areas for improvement, issue training memorandum for every critical incident



Handling Investigation Internally or Outsourcing

- Factors for consideration
 - Degree of "high-profile" subject matter
 - Capacity/capability of Internal Affairs
 - Rank of officers involved in shooting or use-of-force incident
 - History of police department, similar incidents, trust in community
 - Potential for litigation from citizens
 - Potential for arbitration/litigation from officers
 - Some departments are subject to special boards, consent decrees, citizen commissions

Handling Investigation Internally or Outsourcing

- Pros of handling internally
 - More "control" or ownership over investigation (e.g., timelines, oversight of investigators)
 - May have capable and experienced Internal Affairs investigators who have handled similar incidents
 - Familiarity with local policies/statutes
 - Costs
- Cons of handling internally
 - Department or agency may appear biased if charges against officers are unsubstantiated
 - Some agencies may not have experienced investigators with necessary expertise
 - Could have situations where officers too closely intertwined with Internal Affairs or involving high-ranking officers

Handling Investigation Internally or Outsourcing

- Pros of outsourcing
 - Freedom to select investigator(s) with expertise in complex use-of-force and/or OIS incidents
 - Substantially reduces possible appearance of bias
 - Avoids potential conflicts with Internal Affairs investigating higher-ranking officers
 - Acts as a "buffer" between press/public and agency (agency can point to third party investigation)
- Cons of outsourcing
 - Possibility of some delay in locating investigator, control over timing of investigation, etc.
 - Costs
 - But need to account costs of Internal Affairs staffing if investigation is complex/high-profile

Criminal Investigation

- In Ventura County, each law enforcement agency investigates their own critical incidents
- Investigation is reviewed by DA's Office to determine if officers' actions
- Some cases referred to FBI's Office if there's a public concern of possible civil rights violation

What Comments/Statements May Be Made Publicly

What Comments/Statements May Be Made Publicly

- Competing considerations
 - Need to assure public that they are safe
 - Need to make sure that "story" in the press is consistent with actual facts and not distorted
 - Need to ensure investigation (whether internal or external) may proceed organically and not biased
 - Need to engender trust of community that matter is being addressed promptly and fairly and appropriate action will be taken after investigation
 - Need to maintain trust of department and fellow officers
 - Need to avoid taking position on officer (exoneration and/or culpable conduct) where events are disputed

What Comments/Statements May Be Made Publicly

- Consequences of improper statements
 - Facts initially reported turn out to be incorrect
 - Need to balance public's interest in learning information about incident with risk of inaccuracy
 - Not enough information provided
 - Public/media may jump to wrong conclusions where lack of information shared
 - Statements could affect legitimacy of investigation and/or litigation against department
 - Public Safety Officers' Procedural Bill of Rights

What Comments/Statements May Be Made Publicly

- EXAMPLE
 - Suspect was ingesting large amount of cocaine, attempting to swallow to avoid being arrested with drugs on person
 - Officers sought to intervene and prevent from swallowing large amount of drugs
 - Officers had hands around suspect's throat, appeared suspect was being "choked"
 - Suspect later died
 - Suspect's attorney agreed to autopsy showing that death was result of ingestion of 36 rocks of cocaine, not due to force

Public Safety Officers' Procedural Bill of Rights ("PSOBOR")

Public Safety Officers' Procedural Bill of Rights

- Public Safety Officers' Procedural Bill of Rights ("PSOBOR") – Gov. Code section 3300, et seq.
 - Prohibits disclosure of peace officer personnel information and/or records – see Penal Code section 832.8
- Applies in following circumstances:
 - Officer under investigation for possible misconduct
 - Subjected to interrogation by his or her commanding officer, or any other member of employing public safety department involving a matter "that could lead to punitive action"
 - "Punitive action" means any action that may lead to dismissal, demotion, suspension, reduction in salary, written reprimand, or transfer for purposes of punishment (Gov. Code section 3303)
 - Does not apply to interrogations in "normal course of duty, counseling, instruction, or informal verbal admonishment by, or other routine or unplanned contact with, a supervisor or any other public safety officer." (Section 3303(i))

Public Safety Officers' Procedural Bill of Rights

- PSOBOR
 - No public safety officer shall have any adverse comment entered into personnel file without opportunity to read/sign (Gov. Code section 3305)
 - Officer has 30 days to file written response (Section 3306)
 - Investigation must be completed and public safety officer notified of intent to discipline within one year of discovery of alleged misconduct (Section 3304(d))

Public Safety Officers' Procedural Bill of Rights

Practical tips:

- Avoid public statements that go beyond factual description of shooting and/or use-of-force incident
- Avoid interrogation of subjects before investigation
- Avoid comments concerning possible discipline or actions with respect to officers (Note: officers may be on automatic leave in aftermath of shooting)
- Ensure subjects and other officers are well aware of department policies not to speak about incident
- Need to balance demands for information with PSOBOR rights and completion of investigation