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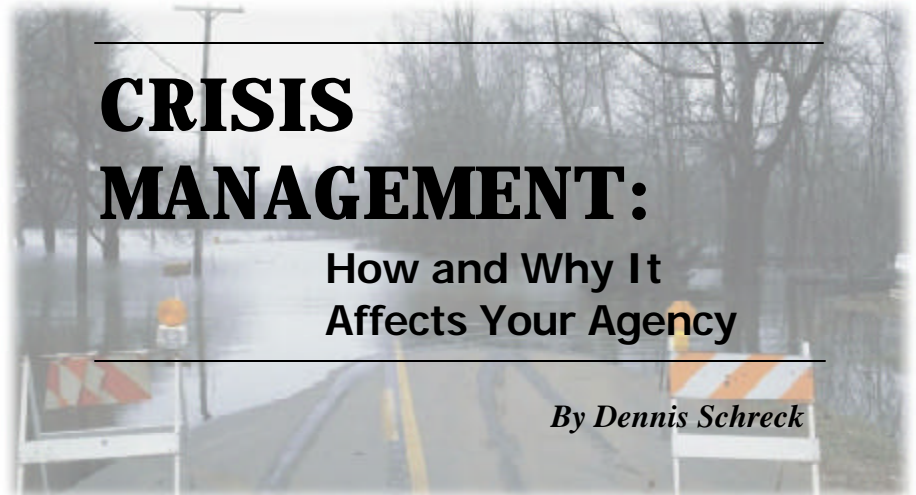
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The *Criminal Justice Institute* provides management, forensic science, and computer-related education and training, as well as research services and technical assistance, to Arkansas' law enforcement and criminal justice community.

This quarterly newsletter is designed to provide timely information to improve the management, leadership, and performance skills of law enforcement supervisors.

Your comments and suggestions are solicited and welcomed.

Please make copies of this publication and distribute them to others in your agency.



CRISIS MANAGEMENT:

How and Why It
Affects Your Agency

By Dennis Schreck

A crisis can take many forms, from the natural disaster that devastates a community to the domestic dispute that devastates a home. No matter the form a crisis may take, law enforcement professionals must always be prepared to face the unknown. The best way of doing this is having crisis management plans in place *before* a crisis occurs.

Crisis management is “the process of **identifying, acquiring, and applying** the resources to **anticipate, prevent, and/or resolve** a crisis.” The two main objectives of crisis management are to **preserve life** and **enforce the law**.

Crisis management is not a quick, easy solution. It is not a “solve all” for any problem that may arise, and most importantly, it is not an “exact” science. What may work in one crisis situation may not work in another.

Although each crisis is unique, there are five basic characteristics that typically define a crisis situation: time compression, a life-threatening environment, non-routine procedures, special planning, and unique legal considerations.

Time Compression

Time compression refers to those occasions where severe time constraints are placed upon the law enforcement personnel who are responding to an incident. For instance, during the commission of criminal acts such as hostage situations or kidnappings, those perpetrating the crime may place challenging deadlines upon law enforcement agencies. These deadlines often create an enormous amount of stress for law enforcement officers. While deadlines are certainly a strong determinate in the course of action officers decide to take, actions that result from hasty decision-making may worsen the situation and impede the desired outcome.

Life-Threatening Environment

Most functions of a law enforcement agency, fortunately, are not life-threatening. However, charged with the responsibility to “serve and protect” the public, law enforcement officers can place themselves in dangerous situations

when responding to calls of a critical nature. While on the frontline, law enforcement officers sometimes face a *life-threatening environment*, and the successful performance of that agency—from the agency head down to the line officers—will largely depend on whether or not there has been planning within that agency to handle the crisis.

Necessities

Most crises require the utilization of non-routine procedures—special actions that must be taken during the incident and are not usually used in day-to-day operations of that agency. This is why special planning by an agency must happen before a crisis occurs.

In addition, crisis situations often require immediate legal decisions that must be made by someone knowledgeable of Federal, State, and local laws and regulations, preferably a local prosecutor or deputy prosecutor. Keep in mind that some of the laws applicable to normal investigations may or may not apply in a crisis situation.

LIABILITY ISSUES FACED BY LAW ENFORCEMENT AGENCIES

In most law enforcement agencies, dealing with crisis situations is considered to be a *collateral duty*—not part of an officer’s everyday functions. Because of this, officers should be well versed in the unique variables that come into play in a crisis situation.

There are two important points that need to be considered regarding liability issues that can occur. The first is that in every life-threatening situation, the law dictates that a “**safe and peaceful** solution is paramount.” Second, every crisis management team should have a legal advisor.

Legal issues *cannot* be ignored, but the law does sanction a “**reasonable response**” to the crisis situation at hand.

The following are just a few of the questions that must be addressed in your agency crisis management plan.

- ◆ What facilities might be a target?
- ◆ What residents in your jurisdiction may be potential victims?
- ◆ Are evacuation routes in place, if needed?
- ◆ Can you mobilize enough manpower in a crisis?
- .. Do you have a list of telephone numbers of various federal and state agencies to contact and the names of individuals within these agencies?
- .. Can you get adequate medical assistance if needed?

The legal precedents listed below represent some of the primary liability issues that have already been addressed by the Courts and apply to crisis situation but not necessarily to “normal” situations faced by officers performing their duties.

**Use of Force:
*Tennessee v Garner***

In *Tennessee v Garner*, the courts held that deadly force could be used in “self defense, defense of others, or to prevent escape.” They further held that crisis situations cover one or, many times, all of the above.

**4th Amendment:
*Mincy v Arizona***

In some cases, tactical teams do not necessarily need a warrant during a crisis situation. In *Mincy v Arizona*, while an undercover officer was attempting to purchase drugs at the subject’s apartment, the backup team heard gunfire. They entered the apartment *without* a warrant and arrested the subject. The Courts held this was reasonable because there was a “need to protect or preserve life.” However, they also held that there must be an “immediate emergency” to do this.

**5th Amendment:
*Miranda v Arizona***

In a hostage situation, if the perpetrator admits to other crimes during the negotiation process, these statements **CAN** be used during a trial. The defense may attempt to exclude them based on a violation of *Miranda* Rights, but the Courts have held that these statements are admissible for three reasons:

1. The subject is not in custody;
2. It is not a custodial situation where an interrogation is taking place; and
3. The officer’s questions are prompted by a concern for public safety.

Promises Made To Subjects In Crisis (Hostage) Situations

When a subject demands immunity from prosecution if he releases a hostage(s), law enforcement can furnish the subject an agreement in writing, a video tape of an official agreeing to this, or furnish it to him in any matter. Your agency head, mayor, governor, or prosecutor can agree to this. The Courts have held that this agreement is not valid, and therefore, the subject can be prosecuted because

the agreement “was made under duress” by the official who issued the declaration.

Control of the Media: *Branzburg v Hayes*

In 1972, the Courts held that the media “can gather news from any source within the law” and further held that “newsmen have **no constitutional right of access** to the scenes of crimes or disasters when the general public is excluded.” This is why an outer perimeter must be established during a crisis situation to control the public and also the press. It is a very good idea to have an area set aside strictly for the press, in an area YOU control so

briefings can be made by a designated representative to members of the media.

THE CRISIS MANAGEMENT TEAM

As you begin thinking about crisis management, you must decide which officers should be a part of your crisis management team. The members of a crisis management team will vary because of agency size. In smaller departments, the team may only consist of the agency head and an assistant. The team within larger departments, such as the FBI or urban law enforcement agencies, will consist of an On Scene Commander, a tactical team representative, a negotiations coordinator, a

technical advisor, investigative support coordinator, clerical support staff, patrol liaison, and a legal advisor.

Regardless of the size of the team, there must be **ONE** person who is in charge of the situation—the On Scene Commander (OSC). The OSC is the official with the authority and responsibility to direct all of the actions toward the resolution of the crisis at hand. He/she is the overall authority.

It is extremely important that the OSC not be a component leader, such as a member of the tactical team or negotiations team, because the OSC must maintain objectivity throughout the crisis. This cannot be accomplished if the OSC has other duties to carry out

BOOK REVIEW

Reputable Conduct: Ethical Issues in Policing and Corrections

by John R. Jones and Daniel P. Carlson

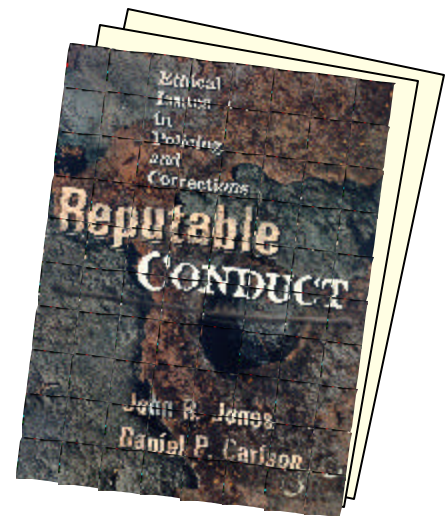
Would you ever lie to protect a fellow police or corrections officer? Is it ever ethical to tell your supervisor about the poor performance or objectionable behavior of a fellow officer? Have you ever considered how you would respond if you were assigned a duty as a police officer that conflicted with your personal values?

Reputable Conduct tackles these difficult issues and more in 200 pages of text that have been described as a “friendly and easy-to-read introduction to the difficult and sometimes peculiar ethical demands of the professions of policing and corrections.”

Law enforcement today is more complex than at any other time in history. Besides the growing number of financial, legislative, and managerial constraints placed upon the law enforcement profession, the individuals who are recruited for law enforcement positions come from diverse backgrounds, making it difficult to define shared values for the law enforcement community. Managing an agency comprised of officers who have differing values can introduce many gray areas into what may appear to be “black and white” issues.

Reputable Conduct explores this unique subculture of law enforcement and identifies general guidelines to assist in identifying the ethical and professional standards that will define your law enforcement agency. Authors John R. Jones and Daniel P. Carlson’s extensive backgrounds in criminal justice have given them a keen understanding of the diverse roles of law enforcement and corrections officers, therefore each chapter of **Reputable Conduct** has been carefully designed for classroom presentation, complete with chapter objectives, personal insights from officers in the field, and *Reflection* sections that provide questions for student debate. Utilizing this text as a training tool within your agency will not only shed light on some of the unique dilemmas currently facing law enforcement professionals, but will also provoke thoughtful discussion among your personnel.

This book is now available in the CJI Library. Call Gayle Harper at (800) 635-6310 for more details.



during the actual crisis. The old adage, “Commanders don’t negotiate, and negotiators don’t command” best describes this type of command structure.

Even if your crisis management team has only an OSC and assistant, don’t forget to include a legal advisor to issue legal opinions during a fast moving crisis. Someone from your local prosecutor’s office should be on hand in the command post to assist law enforcement with legal advice, as they will ultimately be charged with the prosecution of the subject.

CRITERIA FOR ACTION

When the OSC makes any decisions during a crisis, the “Criteria for Action” should be applied to any proposed activity that may affect the crisis site. Ask yourself the following questions:

1. **Is the action necessary?** Are you taking this action just because you want to show the subject “who is in charge,” or is it being taken to resolve the situation? If you are taking an action just to react to something the subject may have said or done, what might the consequences be?
2. **Is the action acceptable?** Is what you are proposing both legally and morally right?
3. **Is the action risk-effective?** Is the activity you are contemplating going to improve the situation? What happens if what you attempt is unsuccessful? Will the situation worsen because of what you decided to do?

Remember the “Five P’s” when planning for a crisis: *Prior Planning Prevents Poor Performance*. More importantly, always remember that crisis planning will save lives.

In the next issue of *Management Quarterly*, I’ll discuss the four phases of Confrontation Management, which can be used in most, if not all, crisis situations.

Dennis Schreck has a Bachelor of Science in Education and 26 years of experience with the FBI. He has trained law enforcement officers since 1970 and has an extensive background in organization and interaction with law enforcement agencies through instruction and practical applications.

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