

The Premature Indictment of Law Enforcement Officials

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Abstract

Recently since the start of 2020, there has been a worrying trend in the United States where law enforcement officials are indicted or found guilty in "trial by the media" for situations before a complete and impartial investigation is conducted. This is happening for various reasons: public perception, a political gain of involved parties, and even media created storms. In the following research paper, we discuss some of these situations in-depth and review some critical leadership solutions that can be presented to assist in navigating these issues. We also discuss how we, as leaders in our agency, can help the situation to protect the integrity of our officers, agency, and the impending litigation that follows these incidences. As learned in Adaptive Leadership, Colonel Ted Spain (2017) states, "One of the many things I learned is that leaders must be able to adapt to the ever-changing environment, we must expect the unexpected." The ability to adapt to a situation that has the potential of criminal charges for an officer falls in the lap of leaders in each agency. The probability of a law enforcement official being awarded due process, after being formally charged before all the facts of a case being discovered, is severely diminished. This misdeed is paramount to the future of our profession from everything from retention of senior officers who possess valuable knowledge, as well as recruiting the officers of tomorrow who possess credible characteristics. In today's political and community climate towards the law enforcement profession, would you be willing to take a job where you are presumed guilty until proven innocent?

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As a group, we are looking at maintaining the integrity of an investigation while still allowing an officer to have not only due process, but if needed, a fair and unbiased criminal trial. Currently, we see the demands of our local communities, the political pressure placed on leadership, and even the political gain of involved elected officials, causing the respect of the administration to cave in and show video footage before a complete and impartial investigation.

The primary case came from the George Floyd murder case in which Police Officer Derek Chauvin, placed his knee on Mr. Floyd's neck, and held him down for approximately eight minutes. This eventually contributed to Mr. Floyd's death. In this paper, whether the officer is innocent or guilty. However, due to the intense media coverage, and civil unrest, we pose the question: will Officer Chauvin be able to get a fair trial due to the fact he was arrested and charged before a complete investigation?

A similar situation occurred in Atlanta, Georgia, when a police officer was arrested and charged with murder after an officer-involved shooting. The officer was charged and placed in jail, by the district attorney's office before the investigation is completed. This caused several issues for the Georgia Bureau of Investigations. Again, this paper will not focus on whether the officer is innocent or guilty. Still, his due process was violated due to the District Attorney charging him with murder, before an investigation is completed.

The last case we present is from Denton Police Department in Denton, Texas, in which a college-aged male was shot and killed by a police officer after he charged at the officer with a knife and frying pan. The defendant started to have a mental health crisis and eventually started to act out in his apartment. During his mental health crisis, he began to praise his heavenly

father and recite bible verses. After several tense moments, officers were able to coax the defendant out of the dangerous area of his apartment, where he had multiple psychotic episodes. After failed attempts to negotiate with the defendant to drop his weapons, officers attempted to use less-lethal force, a Taser, to defuse the situation. This method failed, the defendant then charged and stabbed a Denton Police Officer, which resulted in the subject being shot. The officers rendered medical aid, and in the midst of providing care, the defendant re-engaged, which lead to him being shot again. Again, medical care was provided, and the defendant eventually succumbed to his injuries at the hospital.

In the aftermath of the Denton Police Department, officer-involved shooting, there were protests, and several unruly groups demanding the release of body camera video. The video was not immediately released because the investigation was not completed. After additional threats of violence, several massive protests, and threats of not only violence on police officers, but the possibility of burning down innocent property owners' businesses, the video was ultimately released under duress.

In each of the above cases, there were some forms of premature indictment or even informal trial or "trial by media," determining the guilt of the involved law-enforcement officials, before an impartial and complete investigation. We first dive into the research of law enforcement use of force statistics and show the rarity of being involved in a life or death situation at the hands of law enforcement. Then, we will discuss various conditions where the media, community, or elected officials have jumped into decisions too quickly for varying reasons. Next, we will examine issues that certain types of technological advances have presented about these cases. A clear leadership plan will also be discussed in-depth to deal with these incidences. In closing, this capstone presentation will look at how police officers are not

being provided due process, to be fairly judged on their case. It does not establish innocence or guilt, but the ability to have a fair and impartial investigation, along with the due process, before going forward with the next steps.

The Relevant Information

Statistical Analysis

To understand how many times officer-involved shooting incidents transpire, we must look at the statistical information. There are an estimated 17,000 police agencies in the United States; these agencies employ 686,665 full-time law enforcement officers, according to the FBI UCR program (Duffin, 2019). The interaction between police and the public average 62-54 million contacts with police in twelve months. Statistically, 21.1% of the U.S. population has interacted with the police in the past 12 months, according to the Bureau of Statistics (Davis, Whyde, Langston, & BJS Statisticians, 2018). According to The Washington Post (2020),

Since January 1st, 2015, 5442 people have been shot and killed by police. There has been no significant increase in the yearly average of people shot and killed, roughly 1000 per year. Police have killed around the same number of people each year — about 1,000 — since it began collecting the data. The overwhelming majority of use of force incidents are justified. Therefore, law enforcement does not dictate the number of shootings; the public does (para. 3).

Johnson (2016) asserted,

Numbers of deaths that approach a thousand per year seem staggering, and even one needless death is a tragedy, but we must also consider that the U.S. Census Bureau estimated that in 2015 321,418,820 people were residing within the United States. Using the Washington Post estimate of 990 deaths, this means that only 0.00031% of the U.S. population died from police use of force in 2015. This is hardly an epidemic (para 8, 2016).

In the same article Johnson (2016) states, "From a historical perspective, there is no doubt that police use of lethal force occurs only a fraction as often as it did 40 years ago, and official

government statistics suggest that it has been declining further since 2012." (para. 17). The New York City Police Department alone had 1,562 officer-involved shootings (4.2 per day) in 1971." (Johnson, para. 15, 2016).

Emerging Technologies and its Effects

According to statistics, the officer-involved shooting is a rare event. How does technology apply to this situation? Three main aspects that aid in the heightening of these statistics are T.V. shows, social media, and news organizations. From 2019-2020 about 70% of the network's dramatic programming is about law enforcement (Epstein, 2020). This is most of the population's only interaction with law enforcement.

Additionally, the misrepresentation of how crimes are solved aids in the misconception of how police perform an investigation. According to the FBI UCR in 2017, murders were solved at a rate of 62% (F.B.I. Statistics / U.C.R. Report, 2018) as compared to 100% in T.V. shows. Many of the shows involve violent crimes that are solved in 30 to 60 minutes. This gives the public a biased view of how the police should act and respond to incidents.

Social media is another platform that allows for the misrepresentation and spread of false information about law enforcement. Social media allows individuals to post information as they see fit. The information may have no validity to it as there is no requirement of validation for accuracy. People do not research to see if what they are reading is factual, and they take it as truth. Additionally, people will post audio or videos that show police officers in a bad light. Again, there is no requirement for these files to be accurate, as people can cut and edit the files to fit whatever narrative they see fit. This situation plays out repeatedly as people will post a

portion of a police video to paint the police in a bad light. If the entire video were to be played, there might be a different narrative and opinions.

The news channels are also a factor. Law enforcement contributes to 1000 shooting deaths annually. You cannot turn on the news without seeing constant coverage of police misconduct or brutality. Compare that to the 251,000 annual deaths by medical errors (Johnson, 2016). American citizen you are 251 times more likely to die at the hands of medical errors as opposed to police shootings. However, there is no coverage by the media on the deaths at the hands of doctors. Additionally, the media does not lump all doctors together, as they do with the police. One police officer misuses his position or commits brutality, and then all other officers must be the same. Mullis (2009) states, "The impact of the media on the public's opinion of the police is problematic because it may have a detrimental effect on the local community or make it difficult for an officer charged with some malfeasance to get a fair legal hearing." (p.5). While police officers like all citizens can be wrong and make mistakes, the media coverage constantly portraying law enforcement in a negative light must be curbed. There must be a happy medium that shows officers doing good work, which is far more common in the profession. While also holding officers accountable for the scarce incidents of misconduct. Facts must be presented, which allows the public to draw their own conclusions instead of being given biased narratives. (The Collegian, 2019)

Effects on Policing and the Future of Law Enforcement

The effect on law enforcement officers and their agencies due to the premature media convictions, formal charging, or indictment of officers is evident throughout the United States. Being a police officer in the United States is an already inherently dangerous and stressful profession. Along with the day to day stressors that are associated with police work, officers are

now faced with the undue burden of whether there split second, lifesaving decisions will ultimately result in the local district attorney's office pursuing criminal charges against the officer. Officers, just like everyone else in this country, should be offered the same protection of due process. Every officer in this profession knows that if charged with a serious crime, regardless of the outcome, they will never be able to be a police officer again. To quote an article from Fraternal Order of Police Newsletter (para. 2, 2017), "Officers who lose their careers due to administrative or political expediency almost always find it impossible to find new employment in public safety. An officer's reputation, once tarnished by an accusation, is almost impossible to restore" (Fraternal Order of Police Newsletter, 2017). In the above article from the Fraternal Order of Police, they sum up how police officers and agencies can help combat the issue surrounding officers not receiving due process. The Fraternal Order of Police recommends that police unions, police organizations, and police support organizations back federal legislation that helps protect police officers and ensures them the same constitutional rights as any ordinary citizen.

There is a similar movement within the retired law enforcement community to create Political Action Committees to help elect pro-police candidates. One such group has made their presence known in the recent uncertain times and anti-police movements. This group is identified as Protect our Police P.A.C., their mission is to raise funds to back pro-police candidates, independent expenditures for paid communication programs, and media plans (Pagones, 2020). If these Political Action Committees are successful in backing and electing pro-police candidates, it will overall positively affect officers and police organizations. These pro-police candidates can promote legislation that ensures police officer's rights as well as providing local prosecutors with guidelines regarding the legality of prematurely prosecuting

officers without a complete investigation. In a recent press release, the group said it would also promote pro-police stories often ignored by the mainstream media. By promoting the positive stories of service, self-sacrifice, and heroism, the group is hoping to turn the tide on the media's negative coverage and perception of law enforcement. There is some evidence that shows there are positive impacts on public opinion of the police through the media by creating support for law enforcement. "The primary means of this support is shown through the media coverage that draws attention to the good deeds and the hard work that law enforcement does daily" (Mullis, 2009, p. 62).

Another area in which we as law enforcement officers and leaders can combat this problem is to ensure that our agencies are offering the use of force simulation training, not only to the public but to elected officials such as local district attorneys. Many agencies have conducted such scenario-based training in the past with their local anti-police protestors with positive results, i.e., the Maricopa County Sheriff's Office conducted such an exercise in 2015 (policeone.com). In this article, the Maricopa Sheriff's Office extended an invite to a local anti-police protestor named Reverend Jarrett Maupin to participate in the exercise. Reverend Maupin accepted the invitation and went through several different scenarios that put him in the officer's shoes concerning the use of force by officers. By the end of his experience with these scenarios, the Reverend came out of the involvement with a completely new outlook at the split-second decisions that officers must face and encounter throughout their tour of duties. In the same breath, it would benefit the law enforcement culture to ensure that these types of exercises are offered to the public and their local prosecutorial bodies. This would help ensure that the public and prosecutors are familiar with the challenges that officers face and introduce them to or reaffirm their knowledge of objective reasonableness. The public and district attorneys would

also benefit from seeing these situations that officers face and can view these split-second decisions from the officer's perspective. In our opinion, this may also help alleviate the possibility that the concept of objective reasonableness is changing or even that the public and prosecutors are getting rid of this doctrine altogether.

Retention and Recruiting

Another area of concern due to the trend of media scrutiny and charging of officers is that some officers have chosen to retire early, while others choose not to show up to work. In a recent article, columnist Dean Balsamini (2020) for the New York Post, cited some statistics related to the number of NYPD officers who have retired since May 2020. According to Balsamini, 272 officers have retired from the department since May 25th, the first day of the George Floyd protests. Balsamini continues by stating that this is a 49% increase in the number of retirements from the same period last year, which was 183. In the case of the Atlanta Police Department, they have experienced an unusual amount of officers taking sick leave, not showing up for work, or not responding to calls. In reaction to the charging of one of their officers, several Atlanta Police Officers decided this would be their way of protesting the charges. In a recent CNN article, columnist Steve Almasy (2020) described a situation where only two Sergeants and one officer showed up for work in one of the six police zones in Atlanta. Sources within the Atlanta Police Department told CNN that in three of the six precincts, officers who were on duty were not responding to calls for service or only responding to officers in need of back up.

Another area of concern regarding prematurely charging officers is how police organizations are affected by a decrease in recruitment. Police agencies throughout the country are already struggling with recruiting enough employees. In 2019, a survey of 400 law

enforcement agencies was conducted based on recruitment by the Police Executive Research Forum, which found that nationally these agencies saw a drop in new applications by 66% (Tuccille, 2019). So how do we, as law enforcement leaders, contend with the recent turmoil surrounding policing and affectively recruit new applicants. To quote Police Chief Marcus Jones of Montgomery County, Maryland, "When you do a job that's being highly criticized daily, we have to ask ourselves, how do we find good candidates that really want to be under that type of scrutiny." This is not only a local law enforcement recruitment issue; federal agencies are also seeing a drop in recruitment. The Federal Bureau of Investigation reported a decline of new applications from 68,500 in 2009 to 11,500 in 2018.

Politics and Social Impacts

News media and social media are not only ruthless for a story, but they will not wait for the truth or a press conference to come out to give the "true story." What we are mainly seeing is a tidbit or preliminary story to come out with little or no facts, starting a chaotic process and stirring up certain political groups. On the other end of the spectrum, we see our local government leaders caving into the political expectations of society, and crucifying or not standing up for the officer or agency.

Based on our leadership experience, the act of leaving an officer or agency to fend for themselves is very destructive to the morale of an agency, and even more debilitating to officers. After a major incident, the officer is already under the stress of what happened and could be suffering from mental health aspects from that event. On top of this, the officer is at home listening to the media trash his decision and outcry from the community.

As an agency leader, we need to make sure that we do all that we can to foster the bond with our community, and not fall prey to the sabotage of the social media platforms, or media traps. In the cases we have highlighted in Denton, Texas, Minneapolis, Minnesota, and Atlanta, Georgia, it is our opinion the media had a clear plan to discredit the police officer(s) and agencies in question regardless of the facts of the case. It is the responsibility of the leadership of the agency, to get out in front of the message, and own the message that goes out to the media. In the Denton, Texas incident, Police Chief Frank Dixon advised the media that the body-camera footage was being withheld until the completion of the investigation. There were repeated requests for the body camera footage over several days. Chief Dixon was stern in his statements to the media of his intent to withhold the video, and that this was an ongoing investigation. One thing that Chief Dixon did try to show transparency to the family was to invite them for a private viewing of the body-camera footage before releasing the footage. As much as this gesture had good intentions, the family took this as a prime time to blast how the "police murdered," their son and made-up facts that did not happen on the video. After viewing the video, the family began slandering the officers and the agency. In his Fort Worth Star-Telegram article, Chief Frank Dixon (2020) told the news media, "I can no longer stand by and allow false, inaccurate information continue to foster in our community." He continued, "This is fostering public discourse, and at the point, we're at a tipping point, and it's very important to me...that accurate facts are out" (Manna, 2020). The transparency then started multiple protests at the local university with college students and continued throughout the weekend at the Denton Police Department and Denton City Hall.

From personal knowledge of the incident, during these protests, innocent local businesses were threatened with being burned down and looted. The protest started peacefully and

progressed to violence, resulting in the video being released before the completion of the investigation. In this case, multiple body-worn cameras benefitted the officers involved. As agency leaders, when we're forced to make this kind of political decision to prevent unnecessary violence, we need to direct the narrative to the media. The footage was presented in regular speed and slow motion, along with all four cameras on one screen to allow a multi-view perspective. The riots and protests ended a day after the video was shown, and the Texas Rangers who were in charge of the investigation were able to keep a majority of the case integrity for the Grand Jury. This case was presented to a Texas Grand Jury, and the officer was not indicted by the grand jury.

In contrast, as we look at the Minneapolis, Minnesota, and the Atlanta Georgia cases, a warrant was drafted, signed, and the officers arrested hastily due to the political pressure they faced from the community. It was after the Atlanta police officer was arrested expeditiously by the district attorney, some of the community members and other state law enforcement started to take a closer look at what was happening. In both high-profile cases, due to the intense media coverage, it will be hard for the officers to get a fair and impartial trial.

Leadership Role

As law enforcement leaders, we must have extreme ownership for the department and the members under our command. We must also realize that the buck stops with us, and we need to protect the agency that we work for, along with preserving the officer(s) in question during an incident. One of the major beliefs that we must have as leaders are to be fair and impartial, and ensure all parties have their due process hearings.

As we look at our leadership styles, we have chosen two that best fit our Capstone Project. They are community leadership and credible leadership. These two modules are vital to having the community relations and trust built within the community before an incident has occurred. Now more than ever, we need to sit down with key community leaders and have crucial conversations about law enforcement and community policing.

As we look at these two modules separately, credible leadership is one of the most vital modules we need to use. Larry Long, with the National Command and Staff College, describes the credible leadership style. The credible leadership style addresses that as a credible leader, we have the trust and satisfaction of our community (Long, 2020). In a credible leadership style, if our agency is trustworthy in the community, protests and other civil disorders have a decreased probability in occurring. Therefore, to be a credible agency, we have safeguards in place that teach officers morals, ethics, and values, and places our community as a partner rather than a stranger. As a credible leader, the desire to listen to the emotional intelligence of the community, and showing empathy when tragedy happens is a vital skill that is built within the community.

The second leadership style utilized is community-based leadership. According to Brian Ellis and the National Command College, this style of leadership helps combat cynicism that we may face off a decision from our community (Ellis, 2020). This extremely crucial partnership must be carried out in times of trouble. In this case study, the Denton Police Department, used principal public information officers, along with experts from outside agencies, to help write the narrative and get the message to the community. Being credible allows the community to know that any immoral actions will be dealt with swiftly and without hesitation. In every significant event, there will be some community cynicism that leads to turmoil in the agency. However, having community programs in your district, along with relationships with key groups, clergy,

and citizens, will not only help combat negativity but boost the community to aid in the agency's defense. This means a transparent investigation will be done, and the outcome will reveal the accurate results in the expected outcome.

As law enforcement leaders, we must promote and embrace a culture of transparency within our community. To keep the trust we have with our community, we must own our mistakes and praise the good things that occur in a case. What we see now as a society is a need for instant gratification or instant news footage of what happened in an incident. The problem with this is that a thorough investigation may not have been completed, nor the forensics returned from the crime lab. We must keep our relationship within our community transparent and open; however, we must protect the department image and integrity of the investigation. Community-based partnerships continue the trust of a significant case and allow the community to be informed while the investigation is ongoing.

As we close out this part of the capstone, the key to this section is community trust and relationships, which are built to assist in transparency. If we have done our jobs and formed a partnership with the community, then the overall result turns into a community trust, when things go wrong. This also plays a primary key in keeping incidents of civil and non-violent.

Personal and Professional Experiences

We have all had personal experiences with media-related issues in our respective agencies. One incident in March of 2002, four officers were involved in a shooting while executing a drug warrant of a known drug dealer within the community. As the investigation progressed, the public started becoming more vocal about the shooting and voicing that the officer did not have the right to shoot the suspect, who they claim did not have a weapon. The

next day, the local paper contacted the Sheriff, inquiring about the incident and the community's statements, requesting the termination of the officers involved. The family of the suspect began threatening legal action because of the incident, based on the public's opinion. Policy and procedures had required all officers involved in the shooting to be placed on paid administrative leave pending investigations. The Sheriff stood behind his officers, and spoke to the media with limited information, and advised them that he would give full press release and take any necessary actions to ensure the fairness to both his officers and the community. Dr. Terry Anderson (2017) states, "The skill of a leader to temporarily suspend his or her frame of reference is the most critical and important of all skills because creditability and effectiveness can sometimes rest solely on the performance of this skill." As a leader, the Sheriff displayed excellent Conflict Management skills by suspending his frame of reference, empathizing with his officers that were involved, and addressing the media to help de-escalate any negative community actions.

Conclusion

In conclusion, in the last few months, the relationship between law enforcement, their communities, and the media is in a constant state of distrust. This distrust is in part due to the use of social media (i.e., Facebook, Instagram, Twitter. etcetera) and the media network's continuous broadcast of incidences involving law enforcement officials. This constant broadcasting of events, without having all of the facts or allowing the investigation to be completed, has caused the community to distrust law enforcement, leading communities to protest both peacefully and violently. To help quell the protests and the violence associated with them, some agency leaders have prematurely terminated officers involved. Some district attorneys have charged officers criminally before the investigation has been completed. The accuracy of the information in the

use of force incidents, more so officer-involved shootings, can have a significant impact on the officer, agency, communities, and political leaders.

This attack on law enforcement by the communities they serve and political leaders has caused many officers to resign, retire, or worse not respond to calls out of fear of being publicly persecuted. This causes V.U.C.A (Volatility, Uncertainty, Complexity, and Ambiguity) within an agency. To combat VUCA, administrators and leaders must use adaptive decision making by using mental processes of effectively reacting to change in a situation and problem-solving (Dugan, 2017). For this to happen, leaders need to be adaptable to the crisis and proactively and effectively communicate their mission and vision statements as well as the agency's values to the officers, while ensuring they are committed to the safety and well-being of their officers.

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