



Law Enforcement Training Advisory Commission

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Ellen L. Petty, Director

LIABILITY MANAGEMENT

for Tactical, S.W.A.T, and Emergency Response Operations

July 29-30, 2010

8:00 a.m. – 4:30 p.m.

Law Enforcement Training Advisory Commission, MTU #10
3171 Greenhead Drive, Suite B, Springfield, IL

Co-Hosting with Public Agency Training Council

Tuition: \$295.00. Please register directly with PATC at www.patc.com

Instructor, James F. Desmarais, J.D., Public Agency Training Council. Jim is currently a lieutenant with 22 years of experience with the Providence Police Department. He is currently the Director of the Bureau of Criminal Identification. Jim served as the Director of the Providence Police Academy 2004-2007 and Commanding Officer of the Providence Police Prosecution Bureau 1998-2004. He graduated from the New England School of Law, Boston, MA, with a Juris Doctoral degree in 1997, and Roger Williams University, Bristol, RI, with a Bachelor of Science in Criminal Justice. Jim is an Adjunct Professor at Johnson and Wales University, and Roger Williams University School of Justice.

COURSE OBJECTIVES:

One of the most critical tasks in law enforcement involves the use of tactical officers to accomplish high risk operations. While the success of these operations requires extensive training and proper equipment; success also requires sound decision making from the moment the decision is made to utilize a tactical response to a police event. The decision itself may even be scrutinized with twenty-twenty hindsight. Over the last decade, tactical operations have come under the scrutiny of the courts. This scrutiny is largely the results of lawsuits filed against agencies and officers following a tactical operation. The purpose of this program is to highlight the state of the law with respect to tactical operations. Much of the developing law can be found in reported decisions of the federal courts.

The course utilizes the case-study approach in order to identify the important policy and practice considerations that will assist tactical commanders; supervisors and officers make legally defensible decisions without compromising operations during tactical events. The program takes a three-tier approach. First, Participants will be presented with the legal cases that impact tactical operations and ultimately, liability. Second, participants will be presented with policy issues that may be considered for implementation. Finally, the training turns toward the practical implementation of the legal and policy issues in a manner that does not compromise tactical operations or officer safety.

The course is unique in the fact that it takes a practical approach to legal principles impacting tactical operations and provides a road map to an operational implementation of the legal principles without hindering operations or compromising officer safety.

Upon Completion: Participants will gain knowledge in the following areas:

Liability in Law Enforcement Operations: This session focuses on civil liability for individual officers in the various law enforcement tasks. Using the task oriented approach; the session will be limited to those areas that are also applicable to the tactical officers.

Agency Liability: This session reviews the law with respect to agency liability. Students will be presented with the law relating to civil rights claims brought against an agency as the result of an officer's conduct.

Training: This session examines the law relating to an agency's failure to train officers for recurring (foreseeable) police tasks.

Liability in Tactical Operations: This session utilizes the principles from the previous sessions in reviewing cases with direct application to tactical operations.

Selection and Training: Case review with respect to how selection of candidates for specialized tactical units may impact liability as a result of operations. The session will incorporate the legal implications of entry-level and on-going training for specialized operations.

The Failure to Plan: The subject of discussion during this portion of the course involves cases where agencies failed to plan the tactical response, notwithstanding having the time to do so. A second category of legal issues will be reviewed involving cases where a plan was made, but developed in light of poor intelligence and leading to a failure of the mission as well as liability.

Tactical Issues: The session will begin with an examination of recent cases which consider the events leading up to the need to use deadly force as impacting the ultimate use of force. This section will also examine court decisions relating to various tactics utilized during tactical operations i.e. distraction devices; bean-bag rounds; tasers; chemical deployment and other less-lethal options.

Supervisory Liability: A supervisor may have liability where they actively participate in tactical operation. Supervisors also have liability when, although not participating in the incident giving rise the lawsuit, they have failed to supervise a subordinate tactical officer over a period of time leading up to the incident. This session focuses on the elements of supervisory liability in the tactical operations function.

Special Considerations: Several of the varying types of tactical circumstances that a team may face have already been the subject of legal scrutiny.

This section utilizes the case-study method to examine the developing law in the following areas:

Emotionally Disturbed Persons: The developing law with respect tactics utilized when dealing with emotionally disturbed persons.

Suicide by Cop: Legal issues applicable to tactical operations with known suicidal persons

Hostages: The legal realities of a duty to protect hostages.

High Risk Warrant Service/No Knock Warrants: The legal implications of utilizing a tactical unit for high risk warrant service.

Regional Tactical Units - Who takes the liability when things go bad?

Policy Development: Developing the most defensible policy and training for tactical teams. Making you and your agency a difficult target for plaintiff's attorney.

Applying the legal principles to an operational model that does not hinder tactical operations or compromise officer safety.

Why Have a Tactical Team?

The Cost of Having an Ostrich Approach to the Selection of Team Members.

Policies v. Tactics, which One is your team following?

Targets dictate Weapons, Weapons dictate Liability: Weapons evaluation - Are we using the right weapon for the right reason?

Training - How much training does the tactical team require - Agencies want to operate at 90 MPH but only want to give 10 MPH training.

The dangers of having the one-minute mind-set: Respond and liability goes down/React and Liability goes up.

Operational Philosophy: "I would rather be prepared for something that may never happen, then have it happen and not be prepared."

Putting it all together: Winning in the streets and winning in court.

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