

## **Protecting the Public, the Officers and the Badge Managing Risk in Law Enforcement**

Risk Management is a term often used within the context of the business community. There is a robust industry dedicated to compliance and risk mitigation. The professionals dedicated to compliance and risk management are well trained and are seen as vital to the organizations they serve. The higher the risk environment the more important it is to have a cutting-edge compliance and risk management team, policies and procedures in place. That being said, a risk mitigation plan only works with the complete buy in of the members of the organization it is designed to protect. Failure to adhere to the mandated risk management policies adopted by the organization's leadership put all parties at risk on multiple fronts. It is hard to imagine a profession more rife with risk than law enforcement. The law enforcement profession spans the entire spectrum of risk for both the institutions and the communities they serve, to include; risk of bodily injury or death, legal, political, social, economic, reputational and psychological risks. The fall out of non-compliance to risk mitigation policies within the context of policing reach into all corners of society. That may seem like an unfair burden placed on a profession that is based on service to the public, but the reality is, with the authority to take life and liberty in the name of the government comes the ultimate need for compliance to the legal and ethical requirements affixed by society.

Law Enforcement agencies provide abundant training and policies which are designed to reduce risks. Rightly so, there is a strong emphasis on training, policies and tactics designed to mitigate risks associated with physical harm and death to officers and the public. Where the law enforcement community may have room for improvement is in investing in a holistic form of risk mitigation that addresses the entire risk spectrum in a coordinated and consistent way. In the dynamic and complex environment of law enforcement, the litany of risks are interrelated. The mitigation of one set of risks may accentuate others. For example, policies designed to protect the public can create higher risks for officers and vice versa. As society has increased the burdens placed on law enforcement the overall message of support and respect for the profession has diminished in many circles of society. That has created an environment of unprecedented stress on officers which has manifested itself in record numbers of members of the law enforcement community dealing with mental health issues and the taking of their own lives. Those types of societal and psychological risks are real and can be devastating. So, let's take a look at the different types of risks faced by law enforcement and discuss ways to mitigate those risks in a way that protects the officers, the law enforcement institutions, the public and society as a whole.

The unfortunate reality of humanity is there will always be a need to resolve certain situations with physical force. The reduction of physical harm to officers and the public has to be the primary objective of any LE institution's risk mitigation plan. For this reason, the majority of training, equipment and resources have traditionally been devoted to mitigating the

need for or effectiveness of resolving matters through the use of force. The LE profession is perpetually trying to find the correct balance between effectively doing their job and protecting themselves and the public from harm. LE needs to be constantly evaluating how this risk is mitigated and adjust when new equipment and tactics are developed. Unfortunately, the equipment available to officers that provide a less than lethal option on the use of force continuum have limitations. There needs to be a sustained effort to ensure every effort is made to continuously improve the less than lethal force options provided to law enforcement. That will require funding and robust Public - Private partnerships. Additionally, tactics and training must always be evolving to ensure every effort is made to reduce the need to rely on physical force to resolve conflict with members of the public.

Unfortunately, it is an undeniable fact there is a small percentage of members of the law enforcement community who have and continue to perpetrate acts of unjustified use of force on members of the community. The facts show race plays a role in some of those cases. It is imperative that the LE community address any misconduct or communications by its members which promotes any bias based on race, religion, color or creed in the most decisive manner possible. There must be a clearly recognized zero-tolerance culture within the LE institutions for racist behavior. The work of rooting out any vestige of racism and bigotry within the LE community has to be a cornerstone policy of every LE institution throughout the country. All members of the LE community have to understand the immense risk racism brings to law enforcement, the communities they serve and society as a whole. Law enforcement will always represent the government's ultimate authority. A racist police officer represents an ineffective government system that is failing to evenly protect the society it governs. Members of law enforcement can at times take for granted the awesome power they represent. It is the law enforcement community's responsibility to ensure that power is perceived as a force for good and is equally wielded across the spectrum of society.

Racism certainly plays a role in some of the cases concerning abuses of power by law enforcement. That being said, racism is one of several issues that are part of an over-arching dilemma of which law enforcement has and always will face. How to effectively serve a community that is made up of people with an infinite number of variables through which they view the world? Very little in the law enforcement context is black and white. Each interaction with the public is unique. All human beings bring their own biases with them into every person to person interaction.

Significantly, the training, tactics and policies provided to law enforcement are designed to try to mitigate the complexity of human-to-human interaction in what is often times highly stressful and rapidly evolving situations. That being said, that is why it is imperative that a great deal of time, money and effort is spent on ensuring the law enforcement community hires and then continuously trains people who have the ability and willingness to learn to be aware of their own biases, control their emotions and express empathy for others. It is critical for the LE community to be made up of to the greatest extent possible, people who can divorce themselves from emotion and bias when dealing with members of the public and on some level see the situation through their eyes. This character trait is vital to a successful law enforcement

professional. It is far more important than physical strength or tactical acuity. The law enforcement profession is about human beings and all the wonderful and horrible things that come with people living together in a community. The law sets the boundaries for human behavior and the law enforcement professionals are given that incredibly hard task of trying to keep society within those set boundaries. Law enforcement is a profession of service and sacrifice, it is imperative its members never lose sight of that. We serve at the will of the public. Any thought of an “us versus them” mentality is poisonous and leads to nothing but conflict and risk to all. We are all the “us” and we are all the “them”. In recent years there has been an emphasis in police training curriculums focused on communication skills and de-escalation techniques. These are vital skills and the training programs provide valuable techniques and theories to develop those skills. However, techniques and theories will only allow an individual to improve from a starting point which has been set by a lifetime of developing their character. There is a clear and proven path to teaching police officers skills such as marksmanship or report writing, it is infinitely harder to teach someone to be empathetic and to be a skilled active listener, especially if that is not their nature. As the complexity of society evolves, the complexity of law enforcement training must keep up. We need intellectually and emotionally mature individuals within the LE profession. That is easier said than done. It is extremely hard to consistently recruit people with the combination of all the personality traits we want and expect from our LE professionals mixed with skill sets required to do the job in a safe and effective manner. Many people are drawn to law enforcement are Type A personalities. When confronted with a dynamic situation they jump in and take charge. That is a wonderful quality for a law enforcement professional but if that is not tempered with the ability and willingness to defuse a situation through showing respect for other people coupled with a desire to understand why they are behaving the way they are, you run the risk of taking every confrontational encounter in one direction and that is toward escalation. At 5 Stones we often use the term Head and Heart when dealing with others. We believe the only way to truly “see” a person and reach a level of fundamental understanding of someone’s point of view is to connect on an intellectual, emotional and spiritual level. That is something that does not come naturally for most people and it requires a lifetime of commitment to living your life in that manner but if you can achieve that level of mutual understanding it leaves little room for conflict even if you don’t agree with each other on specific issues.

There are multiple levels of Legal risk associated with the LE profession. Negative actions of an officer can place themselves, their co-workers and their department in legal jeopardy. That jeopardy comes in the form of both criminal and civil liabilities. The consequences of an officer acting outside the scope of the law and/or department policies can be devastating. Every LE institution should do everything in their power to protect their people and the department from this risk. This requires instilling a culture that emphasizes the need for all members of the institution to take on the responsibility to protect themselves, their co-workers and the department from criminal and civil liabilities. The development of that culture needs to begin with the hiring process and thread through initial training, job performance evaluations, advanced training and promotions. Every officer needs to understand and buy into the culture that policies and training designed to mitigate the legal risks associated with law enforcement are for the benefit of themselves, the department, the greater law enforcement

community and society in general. Total and complete buy-in is essential and that will only happen through a sustained and consistent effort across the LE community. Leadership in the LE community should be receiving regular guidance on risk mitigation. Lessons learned throughout the LE community should be compiled and shared along with recommendations as to how to avoid similar adverse events. The professionalization of risk management within law enforcement can help its leadership implement policies, training and tactics which would mitigate the legal liabilities faced by the institutions they represent.

Complete dedication to risk mitigation can only be achieved if the leadership makes it a cornerstone of the department's ethos. That tone has to come from the top of each agency and permeate down to the most junior employee. As we have seen time and time again, the actions of one officer can have an effect on a magnitude that is hard to comprehend. A relatively routine call in small town, can quickly devolve into a matter that causes devastation to the families immediately affected, the officers involved, the community they serve, the nation in which they reside and even the greater global society.

An essential part of the holistic approach to risk mitigation within the LE community needs to include the process of investigating and adjudicating allegations of misconduct by members of the LE community. The importance of an effective internal review process regarding potential violations of the law and policy cannot be overstated. Allegations of misconduct need to be documented and investigated in a thorough and professional manner free from any bias. This is especially true with allegations of excessive use of force and/or bias tendencies from a member of the LE community. There needs to be an appropriate level of transparency concerning those cases with the findings being well documented. Law Enforcement institutions must not shy away from taking responsibility for taking corrective actions when an issue of non-compliance is identified. A common theme when discussing non-compliant behavior by law enforcement members is the idea that corrupt or high-risk behavior is something that evolves over time. Most officers who are caught engaging in egregious conduct had reached that point through a series of decisions and influences that compounded over the course of time. The implementation of an investigative and adjudication process that is designed to provide the proper incentive to change behavior for lesser infractions will help to keep employees from slipping into deeper waters. It also provides a way to document infractions so when an employee does begin to pose a significant risk to the organization, steps can be taken to terminate that individual before they cause a major problem for the institution or cause unnecessary harm to the community. There also needs to be a way to share information throughout the country when a member of the law enforcement community is terminated for cause. It is the responsibility of the law enforcement community as a whole to mitigate the risk posed by some of its members who do not adhere to the standards required by the profession. We need national standards regarding the termination of problem officers along with policies and practices to ensure those officers are not able to re-enter the LE workforce.

All though the majority of the risk mitigation efforts are and should be focused within the law enforcement community, ongoing efforts to educate and communicate with the public

need to continue and expand. There needs to be clear and consistent messaging delivered to the community which makes it clear that the way they behave during an interaction with law enforcement can greatly affect the level of risk of that interaction resulting in physical harm or death to themselves, other members of the community and the officers. It is imperative the message from the law enforcement community, politicians, community leaders and the family unit clearly articulates the importance of complying with an officer's commands when one finds themselves interacting with the police. That message needs to be consistent no matter the race of the individuals involved but it is especially true in areas with a high rate of violent crime. Members of the community need to understand that although it is true law enforcement profession swore an oath to defend and protect the community they serve and they are expected to take on a level of risk in the performance of their duties well beyond that of an average citizen, the officers are going to mitigate that risk to the best of their abilities. What that means is, if an officer perceives a life-threatening risk to either himself, other officers or members of the community, that officer is going to use what he/she deems to be the appropriate level of force to eliminate that threat. The information gathered to make that determination often happens in a matter of seconds. For that reason, it is imperative the public be educated and understand they have a certain level of responsibility to mitigate the risk to themselves and others by complying with a lawful command from a law enforcement official. Their own feelings about the justifications provided by the officer for the encounter should not out way their desire to prevent the encounter from escalating. First and foremost, on everyone's mind during an interaction with members of law enforcement should be the prevention of the situation escalating to a point in which any life could be put in danger. There are a number of community outreach programs both through official government channels and through community-based organizations which are designed to keep an open dialogue between law enforcement and the communities they serve. These programs are a vital component of the overall risk mitigation plan of any department.

So the idea of risk mitigation within the context of law enforcement is certainly not a new concept. The profession is fraught with risk and since the inception of the profession attempts have been made to mitigate those risks. That being said, it is our duty to ensure those risk mitigation efforts are constantly improving and adjusting to the times. We need to think about professionalizing, expanding and standardizing risk mitigation in law enforcement. All departments and law enforcement institutions should consider developing risk mitigation plans that span the broad spectrum of risks associated with the profession. They should also consider hiring specialists who can implement and oversee risk mitigation programs that are tailored to the specific LE institution's needs and budget. Any risk mitigation program should thread through the entire organization to include personnel issues such as; hiring, salary structures, promotions, training, discipline and employee support programs like mental health support as well as department mandates and structure such as; use of force policies, tactics, equipment needs, legal review, command and control, collection and use of data and community outreach. The stakes are too high to not constantly strive to improve the way law enforcement institutions conduct themselves. The law enforcement profession is one of the most honorable paths a person can choose but with that honor comes immense responsibility. The reputations of the institutions that make up the law enforcement community are fragile, and they are

interconnected. One bad decision by one of its members can overshadow decades of amazing, heroic work and progress forged by others who had nothing to do with the incident in question. All members of society need to be zealots in our desire to protect the reputations of each and every law enforcement department and agency across the nation and to help them strive for excellence and embrace their call to service to the communities they serve. Our founding fathers understood this, inscribed over the entrance to the Federal Court House in New York City are the words of George Washington, "The true administration of justice is the firmest pillar of good government" -

Thank you and God bless our Nation.