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Crisis Negotiations

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ABSTRACT

The discipline of crisis negotiation has been hailed as one of the most effective and successful tools used by law enforcement today. Despite its documented success, some law enforcement agencies remain ill prepared to adequately respond to a hostage/crisis situation. In most cases, this lack of preparedness can best be attributed to an agency's failure to implement a crisis negotiation component to respond in conjunction with a tactical intervention during a hostage/crisis situation. Complex factors such as the rising number of individuals effected by mental illness and the ease with which law enforcement agencies may obtain tactical equipment through government surplus programs have intensified the need for the development of crisis negotiation teams in agencies of all sizes. Although some agencies may be unable to budget for independent negotiation teams, or may not be staffed adequately enough to create a negotiations team, it is imperative that all agencies pre-plan in order to respond to such an incident. Low cost training and equipment grant options are available for agencies struggling with budgetary constraints, and task force or direct assistance options are available for agencies struggling with staffing shortages. Regardless of the issue, law enforcement agencies capable of employing any type of tactical response in a crisis situation should implement a crisis negotiation component in order to decrease liability and ensure the safest possible outcome for all parties involved.

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INTRODUCTION

In 1972, members of the Black September terrorist organization held eleven members of the Israeli Olympic team hostage on live television during the Munich Olympics. The incident ended tragically in the deaths of all eleven hostages as well as several hostage takers, and one German police officer (Royce, 2012). Three other highly publicized hostage situations occurred during that time period, including the Attica Prison Riots (September, 1971), Dog Day Afternoon (August, 1972), and John and Al's Sporting Goods Robbery (January, 1973). In total, fifty eight people, including twelve law enforcement officers, lost their lives as a result of poor negotiation techniques coupled with a predominately tactical law enforcement response to the incidents.

These tragic events forced law enforcement leaders to re-evaluate how their agencies were responding to such incidents. In the years that followed, the evolution of hostage or 'crisis' negotiation began (Thompson, 2014). Law enforcement agencies began training officers for true hostage situations as well as situations involving barricaded and suicidal persons.

Since its creation, crisis negotiation has evolved into a specialized skill and has been hailed as one of the most effective tools used by law enforcement today. According to the Federal Bureau of Investigation's Hostage Barricade Database System (HOBAS), hostage/crisis negotiations have a 79.5% success rate of resolving an incident without injury (National Council of Negotiation Associations, n.d.). Given those statistics, it is apparent that the negotiation models used by law enforcement today have

become highly effective in reaching peaceful resolution in these extremely high risk situations.

Despite its documented success, some law enforcement agencies remain ill prepared to adequately respond to a hostage/crisis situation. In most cases, this lack of preparedness can best be attributed to an agency's failure to implement a crisis negotiation component to respond in conjunction with a tactical intervention during a hostage/crisis situation. While a tactical response may be warranted in some hostage/crisis situations, law enforcement agencies should continually strive to meet the standards set forth by society, and make every possible effort to reach a peaceful resolution prior to resorting to a tactical response. Thus, all law enforcement agencies that employ a tactical response team should implement a crisis negotiation component.

POSITION

Just as the discipline of hostage negotiation has evolved over the course of the last 50 years, so has society's understanding of the role mental illness plays in crisis hostage/crisis situations. In the 1960s, the United States government began the process of deinstitutionalization of the mentally ill. The goal of deinstitutionalization was to provide more adequate and humane care for those suffering from mental illness. As a result, state run psychiatric facilities began to disband. These closures subsequently shifted the burden of mental health care to federally funded community health providers, making mental illness and mental health care a public health responsibility. Funding constraints and federal budget cuts over the last several decades have prevented many of individuals suffering from mental illness from obtaining proper long term care and

treatment. As a result, law enforcement officers have very often become the primary contact for individuals in the midst of a mental health crisis (Rossler & Terrill, 2017).

In 2017, the National Alliance on Mental Illness (NAMI) reported astonishing statistics regarding the prevalence of mental illness within the United States. According to NAMI's research, 18.5%, or 43.8 million of Americans suffer from some type of mental illness (NAMI, n.d.). Perhaps an even more alarming statistic states that 1 in 5 children ages 13 to 18 are believed to suffer from a serious mental illness (NAMI, n.d.). With these statistics in mind, it is important to note that perhaps the most dangerous hostage takers involved in a crisis situation are those suffering from some type of mental illness (Gordon, 2016).

Another significant factor in law enforcement's focus on mental illness involves the emergence of a growing population of soldiers returning home from Afghanistan and Iraq. The consequences of war weigh heavily on many of the service men and women who have experienced trauma as a result of their involvement in combat situations. A number of these individuals return to civilian life suffering from a range of mental illnesses, including depression, generalized anxiety disorder, and post-traumatic stress disorder. These conditions, coupled with tactical knowledge and weapons proficiency, can result in extremely dangerous encounters with police. Since 2009, 6% of crisis incidents involving suicidal persons, bank robbers, barricaded individuals, and domestic violence have involved veterans (Etter, McCarthy, & Asken, 2011). Law enforcement agencies must adequately prepare for a rise in these types of encounters as the number of soldiers returning to civilian life increases.

Mental illness is a complex and expanding issue faced by law enforcement in today's society. It is imperative that crisis situations involving the mentally ill be handled with the utmost regard to safety and accountability for all individuals involved. While tactical responses must be initiated based on an assessment of immediate threat during hostage/crisis incidents, a crisis negotiation approach is better suited in a majority of cases involving mentally ill persons. Such an approach can reduce undue risk or injury, reduce department liability, and maintain public confidence. Therefore, all law enforcement agencies facing a hostage situation, barricaded person, or suicidal individual should implement a crisis negotiations component to respond in conjunction with a tactical response team.

In addition to being able to address the complexity of crisis incidents, the existence of a crisis negotiations component aids in reducing liability for law enforcement agencies that deploy a tactical response in a crisis situation. Since the 1990s, law enforcement agencies across the country have benefited from the Law Enforcement Support Officer (LESO) Program. The LESO program (formerly known as the 1033 Program) allows for the transfer of military surplus items such as aircraft, armored vehicles, body armor, weapons, and other tactical equipment from the Department of Defense to federal, state and local law enforcement agencies. The Texas Department of Public Safety (DPS) reports that approximately 13,000 law enforcement agencies in Texas have participated in the LESO Program to date ("Texas LESO program," n.d.). As such, these agencies, without causing undue strain on departmental budgets, have obtained weapons, vehicles, and other equipment that bolster their ability to tactically respond to possible large scale incidents or mass

casualty situations, and if necessary to effectively respond to a hostage/crisis situation. However, the mere ability to elevate force options in a hostage/crisis situation does not justify a singularly tactical response.

By their very existence, tactical response teams indicate a need for law enforcement to elevate response or increase force options in certain high risk or crisis situations. Law enforcement agencies must ensure that tactical team members receive proper training and equipment to avoid liability before deployment. Civil litigation suits involving the actions of law enforcement tactical teams are often multi-layered arguments. In many cases an argument is made that the level of force used by law enforcement to resolve an incident was unjustified, or that the increased level of force intended to resolve the situation placed others in undue harm. As quoted by Morefield and Means (2014) in regard to tactical response teams, "The things they do and the training necessary to do them both create enormous risk of injury and death and multi-million-dollar liability exposures to individual law enforcement officials and their employing agencies" (para. 3).

Thus, law enforcement agencies must be ever-cognizant of the consequences surrounding a singularly tactical response in situations such as a hostage/crisis incident. This rings true not only in terms of liability, but also in the court of public opinion. In recent years, public perception of law enforcement has been at the forefront of many high profile crisis situations, and media attention on the LESO program has been somewhat negative. Following the officer involved shooting of Michael Brown in Ferguson, Missouri in 2014, rioting ensued throughout the community. Local law enforcement agencies donned military surplus equipment in an effort to protect

themselves from the impending threat of violence. However, the media likened the officers' equipment and tactics to that of a military response (Johnson & Hansen, 2016), causing additional tension in an already untenable situation.

While the LESO program may be somewhat controversial, it has profoundly aided many smaller law enforcement agencies in acquiring much needed resources that might otherwise be unobtainable. However, implementation of a crisis negotiations response component is a crucial addition for law enforcement agencies developing tactical response teams in order to avoid undue risk or injury, to reduce department liability, and to maintain public confidence in a hostage/crisis situation

COUNTER ARGUMENTS

Perhaps the greatest reluctance for law enforcement agencies to implement additional divisions or teams, such as a crisis negotiations unit, is the added budgetary concern for training and equipment. In 2007, the United States began to experience an economic downturn commonly referred to today as the Great Recession. By 2011, local governments around the country were greatly impacted by the financial crisis, and public safety budgets began experiencing significant cuts (Parlow, 2012). In 2010, Police Executive Forum conducted a survey regarding the reduction in law enforcement budgets across the country (Parlow, 2012). Of the agencies that responded to the survey, 51% had experienced significant budget cuts at an average rate of approximately 7%, and anticipated a continued decrease in future budgets (Parlow, 2012). Given this trend, law enforcement agencies might find it difficult to justify monetary allocations for additional training and equipment for new divisions and/or services, such as a crisis negotiations unit.

However, in many states law enforcement officers dedicated to the discipline of hostage/crisis negotiation have formed independent associations that provide low cost training and development courses for hostage negotiators. For example, the Texas Association of Hostage Negotiators (TAHN) provides basic and advanced training courses for as little as \$100.00 per participant (<https://tahn.org/training/>). Therefore, law enforcement agencies lacking a crisis negotiations component could avoid tremendous liability in a crisis/hostage situation by use of these low cost training options.

There have also been low cost innovations in common equipment used during the negotiations process. Many crisis negotiation teams employ the use of a device commonly referred to in the field as a 'throw phone' during an incident (Hicks, 2010). A throw phone is a telephonic device deployed by a tactical team to allow communication between the hostage taker and the primary negotiator. A commercial throw phone console can cost thousands of dollars, which some departments may not be able to afford (Hicks, 2010). While grants are available for such equipment, other options are available as well. Law enforcement agencies with budget constraints have the capability to fashion a throw phone from a basic cell phone and a delivery mechanism such as a pelican case (Hicks, 2010). The cost involved in the development of this type of deployable device can cost as little as \$20.

In addition to monetary concerns, some law enforcement agencies struggle with a lack of personnel and support resources available to respond to a hostage/crisis situation for extended periods of time. Law enforcement agencies across the country are suffering from staffing shortages, and declining recruiting and retention numbers have resulted in hundreds of vacancies within law enforcement agencies of all sizes.

Within law enforcement agencies where staffing numbers have reached critically low levels, a hostage/crisis situation can become too taxing on the resources available to that agency.

Even in instances where personnel shortages result in response deficiencies, it is imperative that law enforcement agencies approach a hostage/crisis situation with a team approach. Due to the complexity of these situations, it is widely accepted that crisis negotiations teams consist of a primary negotiator, secondary negotiator, intelligence officer, scribe, equipment officer, and an optional mental health consultant (Magers, 2007). While members of a crisis negotiations team can take on multiple responsibilities during an incident, the primary and secondary negotiators are not to have multiple assignments during a negotiation. If personnel shortages result in an inability for a law enforcement agency to adequately staff a crisis negotiations team, other measures must be taken to ensure the safety of officers, citizens, victims, and suspects. Developing partnerships with nearby agencies and coordination of training with those agencies can be crucial in order for agencies to properly respond to a hostage/crisis incident. One such option is to prepare and implement a task force approach for hostage/crisis incidents.

A task force is generally composed of individuals from several different agencies that come together as a cohesive unit in order to serve a specific purpose, such as a crisis negotiations unit. However, the task force option may ignite complications as larger agencies often become the biggest stakeholder due to their capability of contributing more financial resources, equipment, and personnel than smaller agencies

(Perkins, 2004). Therefore, a specific outline of the responsibilities to be contributed from each agency involved is key.

A second option that may assist law enforcement agencies struggling with personnel resources in a hostage/crisis situation may be that of direct assistance (Perkins, 2004). In a direct assistance approach, law enforcement agencies do not share responsibilities in the provision of resources. The agency lacking adequate resources necessary to adequately respond to a hostage/crisis incident must entirely depend on the response of another agency to appropriately negotiate the crisis. In short, one agency simply agrees to aid another in specific situations. Arrangements for direct assistance must be planned prior to the occurrence of a hostage/crisis situation in order for response to be efficient and effective.

While many agencies are currently suffering from personnel shortages, a failure to properly prepare for a hostage/crisis incident could be disastrous. Law enforcement agencies lacking the capability to adequately respond to these incidents must take appropriate measures to communicate with nearby agencies in order to ensure that a crisis negotiation component be available in all tactical response situations.

RECOMMENDATION

Since its inception in the early 1970's, the ultimate goal of the crisis negotiation process has been to save lives and to resolve crisis incidents peacefully while avoiding unnecessary risks to officers, citizens, victims, and suspects. As the discipline of hostage/crisis negotiation has evolved, so too has the success rate of law enforcement in reaching peaceful resolution during true hostage situations, incidents involving barricaded persons (with or without hostages), and suicidal subjects.

Law enforcement agencies must be vigilant in assessing the needs of society based on such trends, and must prepare and train their officers accordingly in order to adequately manage crisis situations as safely and effectively as possible. Research studies suggest that a staggering number of people are effected by mental illness in this country, and that those numbers continue to rise. A significant number of hostage/crisis situations involve individuals suffering from mental illness, or who may be in the midst of mental health crisis at the time of incident. One such example is the number of hostage/crisis incidents involving returning military veterans that suffer a variety of mental illnesses as a result of trauma experienced during combat (Etter, McCarthy, & Asken, 2011). Law enforcement agencies must prepare for these types of crisis situations in advance in order to reduce risk and liability for the department.

In addition to rising mental health concerns, law enforcement agencies must understand the gravity and liability of a singularly tactical response in a crisis situation. While assistance from governmental surplus programs such as LESO have greatly improved the ability for many law enforcement agencies to tactically respond to a hostage/crisis situation, the addition of elevated tactical response options without the advent of a crisis negotiations component can be a dangerous combination. It is imperative that a tactical response be coupled with a crisis negotiations component in order to reduce risk and liability for the department. Government assistance programs such as LESO, have also sparked public controversy over the use of tactical force in crisis situations. Thus, law enforcement leaders must be mindful to approach crisis situations with the least amount of force necessary to resolve high risk incidents when possible.

As a result of The Great Recession, law enforcement agencies of all sizes have experienced significant budget reduction in recent years. Law enforcement leaders may be resistant to the idea of adding new units or divisions within an agency due to a perceived large increase in training and equipment costs. However, such budgetary concerns may be negated by the availability of low cost training through organizations such as the Texas Association of Hostage Negotiations, as well as alternative procurement options for necessary equipment (Parlow, 2012).

Another issue faced by law enforcement agencies that wish to create divisions such as a crisis negotiations unit may be that of personnel shortages. As with budgetary concerns, law enforcement agencies across the nation are struggling to overcome staffing shortages. An agency's inability to adequately staff a negotiations team raises risk and liability when tactically responding to a crisis incident. Given that the team approach to the crisis negotiations process has proven so successful, it is necessary for law enforcement leaders to meet those standards in preparation for a hostage/crisis incident. Two possible means for law enforcement agencies to meet these standards include a task force approach and a direct assistance approach (Perkins, 2004) for response to a hostage/crisis incident. In the task force approach, law enforcement agencies allocate a small number of personnel to participate on a larger team structure in return for assistance. In the direct assistance approach, pre-arrangements are made for complete outside agency assistance in a hostage/crisis situation.

Although law enforcement agencies can encounter a multitude of hurdles when attempting to prepare for a hostage/crisis situation, it is incumbent upon the leaders of

those agencies to ensure the safest possible outcome for all parties involved. Thus, all law enforcement agencies that deploy a tactical response contingent during a hostage/crisis situation should implement a crisis negotiations component.

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