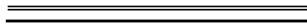


**The Bill Blackwood  
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**Releasing Information Following a Critical Officer Involved Incident**



**A Leadership White Paper  
Submitted in Partial Fulfillment  
Required for Graduation from the  
Leadership Command College**



**By  
Hollis D. Bowers**

**Corpus Christi Police Department  
Corpus Christi, Texas  
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## **ABSTRACT**

Historically, law enforcement agencies have been unwilling or unable to properly deal with the release of information following a high profile officer involved critical incident. The mishandling of these types of incidents has led to mistrust of the department. While there is no magic bullet when it comes to dealing with these types of events, releasing as much information as possible in a timely accurate manner is the best strategy. By releasing timely, accurate information as early as possible following the event, the agency will better protect itself and its officers. The agency will reduce speculation that leads to distrust and civil unrest. As a governmental agency that is held accountable for its actions, a policy of transparency is a must. All law enforcement agencies should have an aggressive, proactive plan to address these issue when they arise whether the officers involved acted exactly as they should have or not. All agencies will have one of these events arise and planning ahead of time and including all stakeholders in that plan is the only way to move forward. The recommendation is that every agency develop a proactive plan and policy to deal with these high profile officer involved incidents.

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## INTRODUCTION

The idea of law enforcement agencies having good media relations and a plan for dealing with the release of information is not new. Commissioner William P. O'Brien took the top job for the New York City Police Department in March 1949. One of the first things he did after taking the job was to create a public relations policy (Larson, 1950). Every agency has to deal with these issues on a regular basis. Every time there is a high profile crime or a question about an officer's behavior, the agency must decide what can and should be released. Historically, agencies have been reluctant to release any information in these cases. This policy is no longer a viable option. There are several reasons this no longer works for law enforcement. First of all, there are more media outlets than ever before in history, and these outlets compete to get the story out first. The public is bombarded with news from many sources. There have also been many high profile critical officer involved incidents around the country. The mishandling of these incidents has led to a loss of trust from the public toward law enforcement. This paper will take an in-depth look at the need for law enforcement agencies to have a proactive plan to release as much information as possible when dealing with these critical, high profile events involving an officer's actions. The benefits to proactively releasing as much information as possible to the department and even the involved officers far outweigh a policy of silence or "no comment." Departments should be proactive in contacting the media to inform them of incidents and upcoming events (Tyler, 2001).

Agency heads have an obligation to protect the credibility and viability of their department. This is necessary for them to have a department that functions in an

efficient and effective manner. Releasing accurate information when one of their officers is involved in a critical incident is one of the best ways to protect the department. This action will also protect the officer involved in the vast majority of cases. The protection comes from timely accurate information being released to the public.

The news outlets will cover the story with or without law enforcement participation. They will release whatever information they have collected, even if that information is inaccurate. They will interview friends, family, and neighbors of the citizen involved in the incident. This information is more likely to be skewed in favor of the individual involved with the police. The new media will also make speculations about the information they do get from these sources. Without any release from the agency, the stories released to the public will more likely be negative toward law enforcement.

Law enforcement agencies are governmental bodies and, as such, are accountable to the citizens. In today's atmosphere, where the media uses 20 second sound bites and news briefs, it is more important than ever to adopt a philosophy to ensure that law enforcement maintains a policy that fosters trust (Brooks, 2003). Therefore, it is also important that these agencies have a policy of transparency. Transparency is the best policy for all stakeholders. It keeps the agency honest as well as keeping the public informed. The average citizen has many misconceptions about the nature of law enforcement, and a policy of transparency is the best way to address many of these misconceptions. As Penshorn (2013) pointed out, "Building a high level of trust between the public and police must be a priority of all law enforcement

agencies” (p. 10). Departments should release as much information as possible regarding notable officer involved incidents.

## **POSITION**

The release of information during these critical incidents is a great tool to protect the department and the involved officer(s). Perceptions by the public of these critical incidents are usually “as wide and diverse as the population and often driven by media coverage, and sometimes influenced by long-standing bias and mistrust of government” (Bohrer & Chaney, 2010, p. 4). The way a department can have some effect on the perception and influence the opinions of the public it serves is the timely release of accurate information. The media will cover the news storm and it will slant the story based on the information it has, whether that information is accurate, complete, or not.

Every law enforcement agency has a policy to deal with officer involved critical incidents. These policies vary by agency to include an internal investigation or calling on an independent agency to come in and handle the investigation. These procedures will depend on the type and severity of the incident. Regardless of the investigative policy, the agency will also have to deal with the release of information. Departments should remember that the proverbial “no comment” gives the impression that the agency is hiding something (Bohrer & Chaney, 2010). Saying nothing is the same as saying “no comment. This loss of trust will make it more difficult for all in the agency to complete the mission”. Citizens who do not trust the agency will not cooperate at the same level. As Murray and McGovern (2013) stated, “The rationale here is that communicating effectively, and perhaps more importantly consistently, can reassure the public that the police are out there doing the police work expected of them” (p. 113).

When citizens trust the agency, they are more likely to cooperate with investigations that do not directly impact them. For instance, if they do not trust the agency, they will not call in tips as often, which is an invaluable tool in solving crime. This will make the job more difficult for all in the department.

There are times when officers will do something wrong. This could be due to lack of training, which is the department's fault; it could be from a lapse in judgment on the officer's part; or it could be that the person is a "bad egg" and should not be an officer. In any of these cases, it is equally important, if not more so, that the agency release timely accurate information. When such performances occur, police must quickly address the staging error and emerge anew (Lovell, 2001). If the agency does not release information when such incidents occur, the trust will be lost with the media and, more importantly, with the public. Once this trust is compromised, it can take years to mend (Aden, 2013). Protecting the image and trust of the department and its officers is paramount the effectiveness of carrying out the mission.

As mentioned earlier, the media is going to run with these high profile critical officer involved incidents whether the department releases information or not. As Vance (1997) stated, "The media will run the story whether law enforcement officials like it or not" (p. 1). The lack of released information will cause speculation. This speculation will be by the media as well as the public. This speculation will most likely be of a more negative nature than the truth. The Hands up! Don't shoot! narrative that was reported by the media and became the rallying cry of a movement following the shooting of a black teenager by a white officer ultimately turned out to be false (Martinelli & Jarmie, 2015). By the time that the Ferguson police chief released more complete information,

it was too late. The speculation had become reality. When attitudes are built on speculation instead of facts, then the community trust can be at risk. Often, it is not the critical incident itself that generates negative consequences but how the agency handles the incident that can foster and feed misconceptions (Bohrer & Chaney, 2010).

The citizens as a whole expect that these critical incidents will occur, but they also expect that the agency will be forthcoming with the truth in a timely manner. There is always information that must be protected in an investigation. The correct outcome of a criminal or internal investigation is paramount. However, the agency should not confuse what cannot be released with what they do not want to release. Texas Government Code Chapter 552 (2015) covers what must be released as public information by governmental entities. Of course, all agencies will obey the law. The information that needs to be released following one of the officer involved critical incidents should not use Chapter 552 as its standard. The standard should be to release as much as the investigation will allow. This will get the best most truthful word to the public, which will slow rampant speculation and maintain trust with the public.

Law enforcement agencies are a governmental entity and, as such, should be as transparent to the public as possible. This necessary transparency is partly because salaries and budgets are supported by taxpayers, but it goes deeper than that. Law enforcement is empowered by the citizens to do certain things that no one else is given the authority to do. Namely, law enforcement is allowed to use force necessary to keep the peace and citizens safe. This is an awesome responsibility and one that should not be taken lightly. However, with this also comes great accountability.

It is true that most people can make a mistake at work and the whole world does not find out, even if it means they caused the death of someone else. That is not the case in law enforcement. If all of an agencies officers do not know this fact, then that agency is lacking in its training. Most times the officer did everything right, but due to the nature of the incident, it will still become a public news story followed by possibly the whole world.

Of course, the best policy for a law enforcement agency is transparency. The public is owed that and the department needs it for legitimacy. By being transparent, it builds trust with the community that is served by the department. By being transparent even when someone in the department has made a mistake, the bond between the citizens and the department are even stronger. As stated, "in such instances, an agency's best media strategy is to offer a complete account of what happened, consistent with legal constraints, and let the issue run its course" (Vance, 1997, p. 2). Bad things do happen to law enforcement agencies, and the media will report these events, not to damage the agency but to inform the public (Penshorn, 2013). A policy of transparency will mitigate the negative response from the media and the public.

## **COUNTER POSITION**

All investigations require a certain amount of discretion, and the more serious the allegation, the more discretion is necessary. All officers are guaranteed due process just like any other citizen. There is always some information that cannot be released in any investigation. This is true even in investigations involving officer actions. The public may feel they have a right to know everything that the police know. Officers are guaranteed due process based on internal policy, agreements with the city or county,

civil service, the Texas Constitution, and the U. S. Constitution. These rights cannot be infringed by the public's right to know or by the agency protecting itself. Also, as in all investigations, some sensitive information cannot be released. Information that is pertinent to solving the case and information that would put a victim or witness at risk should be withheld, for example. Officers often think that the agency will release information to protect its own interest regardless of what that might do to an officer's reputation or due process.

The agency must be sensitive to these issues when releasing information. The best way is to sit down and hash out a step by step plan of information to be disseminated and media strategies, and keep it simple (Donlon-Cotton, 2011). An agency head or public information officer (PIO) should be very familiar with officers' rights and make sure these are not violated. They should also sit down with the investigator to ensure that information sensitive to the investigation is not released. These concerns are legitimate, but they are no reason to withhold all information. Much information can and should be released quickly. The time to plan a strategy is before an event happens. It is important to make sure that whatever the policy is going to be, everyone, down to the newest rookie, is aware of what will happen. Officers' names should be released as soon as practical. This should not happen until after the officers have been notified that it is going to happen. Some sort of instruction should also be given to the officer, such as suggesting they not watch the news and to stay off of social media. The reaction from some in the public will be hard for the officer to read. The agency does have a tricky obligation to ensure that the investigation is fair, but they

should also give the public as much information as possible in a timely, accurate manner.

Police unions and associations look out for their officers at nearly any cost. They will back the officer, whether they are in the right or in the wrong. Officers pay dues and expect legal representation as well as union backing, which means fighting administration when necessary. Officers often feel that the agency does not care about their well-being and that a release of information, especially their name, will result in negative consequences for them. In other words, they think the department is “throwing them under the bus” to protect itself. In some departments, the union or association is very powerful, and agency heads feel the need to confer with them before any major decision. These groups are only concerned about the officer and the officers’ rights. They are not concerned with the agency or agency head and the reputation of their ability to carry out the department mission. They often use tools such as litigation, mediation, and votes of no confidence against the agency to get their way.

It is important that the officer have someone who is looking out for their best interest and is able to provide legal representation for the officer. This is the officers’ right under the law and the American judicial system as well as internal affairs policies and civil service. These rights should not only be protected but should be respected by the agency. There are also laws that cover open records and the release of information to the public. Agencies should not wait for an open records request from the media; after all, the information will be released anyway and the reputation of the officer and the department will be compromised. A proactive policy to release information will better protect the officer and the department in the long run. If the officer is guilty of

some wrong doing, then the union legal representative will still be there to protect their rights and argue their case.

## **RECOMMENDATION**

All law enforcement agencies should have a plan and a policy to release as much information as possible when dealing with any high profile officer involved critical incident. Many departments have created a public information office (PIOs) to deal with all of the public pressures to release information. PIOs must effectively communicate proactively with the public responding to scandals, high profile events, and to help generate support for the department (Chermak & Weiss, 2005). The time to develop a plan for the release of information is not after the incident has occurred; it should be done long before the need for the policy. Legitimacy in law enforcement begins at the early stage of strategic planning, which will assist with what activities that should be addressed (Aden, 2013). Most departments have already created POIs or at least developed a plan to release information to the media and public. These plans have also included a social media component. However, as seen in cases such as Michael Brown in Ferguson, Missouri and Eric Garner in New York, departments have to extend their policies to include critical officer involved events, whether the officer acted correctly or not. Law enforcement agencies have to maintain their legitimacy and their effectiveness in order to carry out the mission of fighting crime and keeping the communities they serve feeling safe,

Departments can protect their legitimacy and protect an officer's actions by being forthcoming with timely, accurate information. The media will release and the public will receive whatever information is available. If this information is inaccurate or even false,

the reaction from the public will be very negative in most cases. The most accurate information will come from the source that was involved in the action and the agency itself. Departments need to include a continuous open dialogue as long as the investigation continues and more information can be released.

As details are available for release, they need to be given to the public. This will result in attitudes that are based in truth. Less speculation can only improve the situation. There will be bad things that happen in and to a law enforcement agency, but if they have a reputation of honest, timely information releases, then the long term effects will be diminished. As was seen with the false “Hands up, don’t shoot” narrative that took hold following the Michael Brown shooting, this type of speculation can be devastating to a department and the community (Martinelli & Jarmie, 2015).

Transparency for any governmental institution is not only necessary, but it is the best policy. For law enforcement agencies, it is even more necessary because it is required to maintain the trust and cooperation of the community they serve. Communities want a law enforcement agency that protects them and makes them feel safe. Fighting crime and keeping crime stats low is an element of this process; however, if the community does not trust the agency, then all is lost. Transparency has to be part of what the agency is about in order to effectively function in the community it serves.

If this policy of transparency when dealing with critical officer involved incidents is to work, it has to be part of the agency as a whole. That means that the entire organization, down to the newest rookie officer, must understand the need for this type of policy (Larson, 1950). Officers are guaranteed due process, investigations require a

level of discretion, and unions will protect the interest of their members. These issues are legitimate concerns when developing a policy to release information following a critical officer involved incident. This is another reason that the time to plan the agencies' course of action is before the event occurs. Talking to the unions, officers, citizens, community leaders, and any other stakeholder about the proposed policy will ensure buy in (Aden, 2013). Buy in is needed at all levels to alleviate their fears and avoid surprises when the incident occurs.

There are many factors that go into the reaction of the public following one of these high profile critical officer involved incidents, to include race, gender, socio-economic status, culture, and even religious beliefs. The law enforcement agency cannot control all of these by simply releasing information. However, the research shows that an aggressive, proactive, honest, transparent policy of releasing information in a timely accurate manner will alleviate many of the problems, especially long term, which the agency will face if they continue a policy of "No comment."

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