Risk Management and Liability Prevention
In a Law Enforcement Agency
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Risk Management
- Structured Common Sense?
- Really GOOD Management?
- Identification and Prioritization of Risks
- Risk Balancing
- Leadership Roles and Responsibilities

Understanding the Liability Battlefield
- What Most Lawsuits Are About
  - Fourth Amendment Issues: Stops/Arrests/Searches/Entries/ and Associated Uses of Force
  - Vehicle Accidents (Negligence)
  - Negligence in Supervision / Management / Administration (broadly?)
  - Suits by Our Own Employees Alleging Unfairness / Discrimination

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Organizational Goals

1. Maximize Effectiveness
2. Avoid Lawsuits (AOC)
3. Win Lawsuits (AOC)
4. Reduce Financial Loss
   - Safety and Survival

Risk Management Energies

Policy

Training

Feedback / Intervention

Discipline

Supervision

Prioritizing Risk Management Energies

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The Role of Standards

Keys to Making Policy Work
- Correctness and Clarity
- Detail and Conciseness
- Supervisory “Buy-In”
- Consistent Enforcement
- Rules vs. Guidelines
- On What?

Enhanced Training Systems
- Assuring Correctness and Consistency
- On What?
- By Whom?
- Identification of Critical Knowledge / Skills
- Testing / Assessment
- Training / Re-Training / Remediation
- Use of “Non-Traditional” Tools
- Documentation

Supervision
- The “Weak-Link”?
- Crystal Clear Expectations: Training/Re-Training
- Selection
- Accountability
- Consistency vs. Discretion
- Reducing Fraternization and Nepotism
The Role of Standards

- Discipline
  + The Proactive Effects of Reactive Discipline
  + Secondary Effect of Discipline: Correct Employee
  + "Sending Messages": Publishing Factual Dynamics
  + Assuring Consistency of Sanctions
  + "Plea Bargains?"

The Role of Standards

- Documentation / Disposition / Discipline
  + Failure to Document? Discipline?
  + Greatest Cause of Inability to Off-Load
  + Leading Cause of Liability for Supervisors at All Levels
  + Biggest Producer of Entity Liability
  + Creating Positives / Saving Careers

Proactive and Reactive Disciplinary Tools

- Recording Devices and Systems
- Audits and Inspections
- Quality Control Feedback
- Staffing and Rotation
- Close Supervision and Constructive Confrontation
- Supervisory Overlays
Early Warning Signs and Systems
- Avoiding Improper Use of Data
- Activity to Negativity Ratios
- Analysis and Intervention
- Officer Centered “Charge Clusters”
- Case / Evidence Performance
- “Personal” Issues
- Another “Layer” of Early Warning?

The Role of Standards
- Handling Negative Information
  - Definition of “Complaint”
  - Other Information / Documentation
  - Routing to Central Repository
  - Desk Where Someone is Paying Attention

Defending Against Fourth Amendment Claims
- The “legal” ethics of field law enforcement work
- Stops and Arrests
- “Officer Safety” measures: frisks, handcuffing, etc.
- Vehicle stops/searches
- Pretext and Profiling
Defending Against Claims

- Entries into private premises and associated “sweeps” and “securing”
- Misunderstanding of “exigent circumstances”

Force Management

- Keys to Winning in Force Cases
  - Assuring the Legal Validity of the “Core” Transaction
  - Assuring “Proportionality”
  - Avoiding Negative “Peripherals” (Poisonings/Burdenings)
  - Force Reporting Requirements

Force Management

- Training/Qualification
  - Emphasis and Cycles
- Equipment Issues
- Physical Fitness
- Emotion Management
- Interpersonal Communication Skills
Vehicle Operations
- Routine driving issues
- Getting a grip on high speed response driving
- Balanced pursuit policy
- The pursuit policy gap
- The dangers of the overtaking Run

Risk Identification
- The Three Most Dangerous Things An Officer Ever Does?
  - High Speed Response Driving
  - Foot Pursuit
  - Non-Consensual Entry Into Private Premises

Understanding the Battlefield
- Damage control:
  When we are right and when we are wrong
- Settlement Philosophy
Keys to Avoiding Liability

The Primary Cause of Both Supervisory and Organizational Liability:

Failure to Discipline

Risk Management Plans

Risk Management Plan
- Know and Follow Federal Constitutional Law
- Maximize HR/IPCS/EQ
- Slow Down in Response Driving
- Limit Pursuits
- Maintain Physical Fitness
- Teach open-mindedness/ tolerance

Questions/ Answers/ Discussion