Critical Issues Facing Law Enforcement Leaders

- Abuse of Authority
- Excessive Use of Force
- Breaches of Ethics and Integrity
- Loss of Community Trust and Confidence
- Racial and Ethnic Profiling
- Excessive Litigation
- Liability
HIGH RISK ACTIONS: PURSUITS
USE OF FORCE
Results:

Litigation and Liability
In one jurisdiction, the Justice Department “Patterns and Practices” investigation and resulting consent decree found that

“There was an abysmal lack of record keeping”
Headlines

Simi Valley to Pay $320,000 to Woman Hurt in Police Chase
The Los Angeles Times; Los Angeles, Calif.; Apr 11, 2001

Los Angeles; IN BRIEF / LOS ANGELES; Suit Accuses LAPD of Attacking Protesters
The Los Angeles Times; Los Angeles, Calif.; Aug 15, 2001;

Relatives of Man Killed in Police Raid Get $12.5 Million; Judgment: Jury award is believed to be a record for California civil suit against law enforcement agency.
The Los Angeles Times; Los Angeles, Calif.; Mar 16, 1999;
Detroit police lawsuits costly

In 3-year period, city paid out $32 million

August 3, 2000

Police told risk system not ready

Cop-tracking program needs 6 more months

May 18, 2001

Since 1987, the Detroit City Council has approved nearly $124 million to pay for police lawsuits.

Lawsuits target Detroit, city police

Victims were riding in car that was hit by fleeing van

March 10, 2000
Oakland to pay $2.75 million in police car crash
Mother of 4 broadsided during chase

$195,000 settlement in 'Riders' case

Suit one of dozens alleging misconduct by Oakland police

Cop of the year accused of misconduct
Oakland narcotics officer faces allegations of taking money, filing false reports
Oakland ready to pay $240,000 Settlement for child of man killed by cop

The city of Oakland is slated to pay $240,000 to the 4-year-old daughter of an Oakland man.

The payout would bring to $1.8 million the amount Oakland has paid this year to settle lawsuits alleging excessive force, negligence or wrongful arrest by police.
From 1987 – 2000, the Detroit Police Department’s own research showed that they paid out $123 million in damages and settlements for police shootings.
Between 1991-1995, Los Angeles paid approximately $79.2 million in civil lawsuit judgments and awards and pre-trial settlements against police officers (Human Rights Watch, June 1998)

AND

In 1999 alone, they paid $32 million in judgments and settlements!
An EWS is “a data-based police management tool designed to identify officers whose behavior is problematic, as well as to provide corrective intervention” (Walker, Alpert, and Kenney, NIJ, 2000)

“A proactive management tool useful for identifying a wide range of problems” or “inappropriate supervisory instructions” (The IACP)
An EWS is a personnel management tool designed to identify individual or group performance problems at the earliest possible stage so that intervention can be made to re-direct work performance toward organizational goals.

*(Amendola 2003)*
History of EWS

- In 1981, U.S. Commission on Civil Rights recommended use of such a system
- Over a fourth of agencies serving populations of 50,000 + have one, and many more are planning them

(Walker, Alpert, and Kenney, 2001)
National Statistics on EWS AS OF 2000

- 36% of agencies with 500 to 999 officers have an EWS, with 20% planning one

- 62% of agencies with 1,000 or more officers have an EWS, with 12% planning one

- Half of existing EWS were created in last five years
  
  (Walker, Alpert, & Kenney, 2000)
Why they are Helpful

- Focus on officers who are *AT RISK* or *POSE A RISK* to other officers, citizens, etc.
- Serve as a risk management device for reducing liability
- Improve credibility and establish mechanisms for *accountability*
- Identify “*problem officers*”
The “Problem Officer”

A small number of officers account for a disproportionate number of complaints and problem behaviors.
Benefits of EWS

• Identify potential problems at the *earliest possible stage* and reduce potential for serious problem(s)

• Provide a mechanism for intervention *prior* to discipline

• Promote positive performance

• Save law enforcement officers’ careers

• Can prevent intervention by the Justice Department and shield the agency from litigation
Benefits of EWS (continued)

- Reduce Liability
- Minimize Litigation
- Positively Guide Performance
- Improve Service Delivery
- Raise Public Confidence
Examples of Potential Risk Indicators

- Number and Type of Complaints
- Excessive Force
- Shootings
- Less than Lethal Force
- Missing Court Appearances
- Vehicle Pursuits and Accidents
- Abuse of Sick Leave
- Bias and Racial Profiling
- Damage to Property
- Excessive Off Duty Employment
- ETC.
EWS and Accountability

**EWS improve accountability within the organization by:**

1) providing supervisors with a tool for tracking and monitoring performance;
2) synthesizing important data and information related to individual, unit, and supervisory performance;
3) requiring command staff to act upon critical information in a positive way, prior to discipline
Successful Risk Management Requires:

- Interpretation of data and information
- Periodic monitoring of key risk indicators
- Supervisory judgment and authority to intervene
- Alternatives to discipline
Components of a Risk Management Strategy

- Identify Potential Indicators of Risk
- Implement an EWS
- Conduct Psychological Screening and Fitness for Duty Evaluations
- Conduct Routine Departmental Audits
- Implement Periodic Community Surveys
- Provide Alternatives to Discipline (e.g. training, counseling, CISD, EAP, etc.)
- WHAT ELSE?
Automated Early Warning System Technology

- Manual systems—starting point, not always sufficient
- Computerized system—more efficient, better analysis, centralizes data
- NEW TREND: Comprehensive risk management software integrated with all Records Management and CAD systems
How to Get an EWS

- Develop your own
- Purchase/license an existing system
- Hire a contractor to tailor make a system
Should You Develop Your Own System?

- **PROS**
  - Tailor made to your needs
  - Agency owned

- **CONS**
  - Very costly to develop
  - Very time consuming to develop (a matter of years)/"Re-inventing the wheel"
  - Dependent on in-house staff who developed system; what if they leave?
Should You License/Buy An Existing System?

• **PROS**
  – Efficient (costs and time)
  – Available immediately
  – More able to defend against liability claims
  – Ongoing system support

• **CONS**
  – Reliance on vendor for service/support
  – Lack of purchasing dollars
  – May not be specific to your agency
  – May encounter roadblocks to successful implementation
Should You Hire a Contractor to Build Your System?

- **PROS**
  - Tailor made to your agency and its needs
  - Shifts responsibility out of agency
  - Allows you to select a reputable and experienced vendor
  - Ongoing system support

- **CONS**
  - Reliance on vendor for service/support
  - Very expensive (Pittsburgh was estimated to cost in excess of $1 million)
  - May encounter roadblocks to successful implementation/many systems take years
  - Agency expectations of what can really be done may be too high
Proper Introduction of an Early Warning System

- Democratic process – involve union, commanders/supervisors, legal division, medical unit, psychological services, etc.
- Examine internal benefits
- **Do not** focus on it as an *internal affairs* tool; it should be used to prevent disciplinary actions
- Create openness/avoid secrecy
NO COMPUTERIZED SYSTEM MAKES DECISIONS –

IT IS ONLY A TOOL

SUCCESSFUL RISK MANAGEMENT REQUIRES YOUR KNOWLEDGE, EXPERIENCE, DISCRETION, AND JUDGMENT
Accountability

• A recent evaluation of Pittsburgh’s data since implementing the system found that:
  ✓ Complaints went down for several years after implementation of the system
  ✓ Disciplinary actions went down and then leveled off
  ✓ Sick days went down
  ✓ Separations went down
CRITICAL Issues

- Focus on the EWS as a positive, proactive, and preventative tool for managing personnel
- Include all levels in decision making or at a minimum, having input
- Include Union/Association Leaders EARLY ON (acceptance and buy-in)
- Do not house the system solely in internal affairs (seen as disciplinary tool)
- HAVE INTEGRITY: Use it properly; say what you mean and mean what you say
- It is all in the APPROACH
Conclusions

- Agencies who don’t have EWS are at risk of litigation and liability, and lack the tools necessary for accountability.

- EWS help to identify individuals who are AT RISK or POSE A RISK to the agency, as well as identify possible underlying problems so that appropriate assistance can be given.

- EWS promote positive performance.

- EWS are only a tool; people need to interpret data and make informed decisions.