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Now that almost every cellular phone has a camera, scrutiny of law enforcement is higher than ever before. Sites such as YouTube can broadcast the actions of law enforcement worldwide within minutes of a law enforcement contact.

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Consistent with the public's microscopic examination of law enforcement is the expectation that law enforcement agencies will police themselves to ensure that police officers perform in accordance with laws and with departmental policies and procedures.

One way that a law enforcement agency can meet the public's expectation of effective self-policing is through the establishment of a Critical Incident Review Board (CIRB). The focus of this article is to draw attention to the benefits of a CIRB process and to provide practical tips and guidance to creating or refining one.

Why Have a Review Board?

A CIRB is designed to help an agency review a critical incident, assessing both the positive and negative aspects of that incident. Without a review process, negative aspects of a law enforcement contact may go undetected. A department's lack of knowledge of issues resulting from a critical incident will certainly cause the department to be slow in taking remedial measures to address the incident or the conduct that caused the incident. Without critical assessment resulting in organizational changes, the negative conduct is likely to continue, generating increased liability for the agency, negative public perception, and potential government intervention.

What Is the Purpose of a CIRB?

Every CIRB should have a clearly defined purpose. Defining a CIRB's purpose in writing will allow active participants and those who see the outcomes to have an understanding of what the CIRB process is and, more importantly, what it is not.

Conferring with legal counsel regarding potential litigation is one primary purpose of a CIRB. Litigation is almost assuredly going to follow any truly critical event.

A CIRB also serves to review and address department deficiencies in a number of areas using real facts and circumstances as a catalyst. Several areas lend themselves well to this type of review, including training, tactics, policies, and procedures.

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A CIRB can recommend remedial action when necessary and ensure that recommended action is actually completed. Failure to take action when called for can cause an agency to be liable for being deliberately indifferent to a known risk of harm.

Who Are the Members of a CIRB?

A CIRB should bring together participants with multiple perspectives. A representative from each bureau of an agency is recommended.

Of note, the CIRB should contain a member from the human resources/training bureau of an agency. Training is a critical element in the CIRB process, and the human resources/training representative brings a perspective or focus that is different from that of someone working in patrol or in the jails.

The department's legal advisor also should be a member of the CIRB board. A legal advisor brings a risk/liability perspective to the discussion, as well as potentially provides the ability to protect the confidentiality of the discussion under the cloak of the attorney-client privilege.

CIRB members should be high-ranking command staff members who have the ability to make decisions and effect change. CIRB board members must be of significant rank so that their buy-in will signal a departmental philosophy of support for the process.

Who Else Should Be Present?

A CIRB meeting should be small enough to avoid a group-think mentality. Often, in large groups, people are afraid to speak out against the majority for fear of criticism or ridicule. It is important to minimize attendance at the CIRB meetings to only active participants. Those who feel the need to counterbalance any critical assessment with obvious observations about the difficulties that law enforcement faces on a daily basis or who attempt to shift the focus away from the police officer and onto the suspect or victim should not be present at the CIRB meeting.

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Training staff should be present to provide input on how the department trains its employees. Training staff should also be prepared to take direction on possible future training changes or modifications.

The investigator assigned to the incident should be present, make the presentation to the CIRB, and answer any questions that may arise concerning the incident.

Finally, someone should be present to coordinate the CIRB meeting and ensure that all of the after-action items are completed.

How Frequent Should CIRB Meetings Be?

A two-pronged approach might be better than simply one meeting to review one critical incident.

A pre-CIRB meeting should occur within two weeks of the occurrence of a critical incident. A pre-CIRB meeting gives all of the agency's bureaus, through CIRB membership, an opportunity to become aware of a critical incident shortly after its occurrence. The pre-CIRB meeting allows the agency to react quickly to changes that might need to be made, as opposed to waiting months or years for a full investigation to be completed before corrective action is taken.

Some pre-CIRBs may not require a full CIRB. These include minor incidents, incidents that are fully investigated prior to the pre-CIRB, and incidents where it is determined that no critical issues exist.

A full CIRB should occur within a designated period of time, such as 30 days, from the completion of an administrative or criminal investigation of a critical incident. A full CIRB may take a couple of years to occur.

How Should Incidents Be Selected for Review?

An agency should have a clearly articulated list of the types of incidents that are to be reviewed by the CIRB. The most commonly included items are in-custody deaths (other than by natural causes); uses of deadly force by department employees; and pursuits resulting in injury requiring hospital admittance or major property damage.

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Death or serious injury resulting from an action of a member of the department should also be included. In doing so, however, agencies must clearly define the term "serious injury." Police officer-related injuries requiring hospital admittance should trigger a CIRB review, as should the discharge of a firearm by a police officer. A CIRB policy should also include the opportunity for the agency head or high-ranking command staff members to request review of incidents that they would like reviewed.

What Are the Board Members' Responsibilities?

Prior to a full CIRB meeting, board members should receive and review the entire investigation. Board members may not know the appropriate questions to ask if they have not reviewed the investigation prior to the CIRB meeting. Board members should also be encouraged to listen to audio and view videotape files if they are available rather than relying on written synopsis.

How Does a CIRB and Discipline Differ?

The CIRB should *not* be conducting investigations nor involved in the disciplinary process. A model CIRB policy should simply have a mechanism to refer potential policy violations to internal affairs in the same manner that any other department-originated internal affairs case might be generated.

What Kind of After-Action Items Are Produced and How to Employ Them?

Training issues discovered during the course of a CIRB meeting should be directed to training staff for follow-up. A specific time period for compliance should be spelled out in the policy to ensure timely compliance with the CIRB's direction. Policy changes should be referred to the person responsible for drafting and implementing department policy and procedure. New and proposed policy changes should then be routed through the agency's normal policy and procedure enactment system.

Should After-Action Reports Be Generated?

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After-action reports should be kept to establish that a review has occurred and to memorialize actions taken by the department. A report should include a list of who attended the CIRB meeting and recommendations that came from the meeting. An after-action report should also include confirmation that assigned tasks were successfully completed.

What Are Some Key Issues to Establishing a Successful CIRB?

Agencies wishing to establish a successful CIRB process should work with their unions and associations to help obtain line officer acceptance. Additionally, middle managers may view the CIRB process as interfering with their ability to supervise "their" employees or as diverting their manpower and resources away from more important assignments. It is important that everyone understands that the CIRB process is a critical part of ensuring the health and prosperity of a law enforcement agency.

Agencies should select CIRB members who are not afraid to ask difficult and sometimes pointed questions. A CIRB member who acknowledges a problem but is unwilling to promote change because it might be unpopular is ultimately doing a disservice to the department.

Conclusion

The initial implementation of a CIRB process may be difficult. However, over a period of time, an agency can expect to see better presentations and more thorough investigations as peace officers become more accepting of the process.

A successful CIRB process will ultimately provide an agency with constantly updated training and thorough incident review. Byproducts of the CIRB process also include increased accountability and reduced numbers of future critical incidents. Reduced civil liability and improved public perception round out the reasons for ensuring that every agency has a well-formulated CIRB process. ■

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