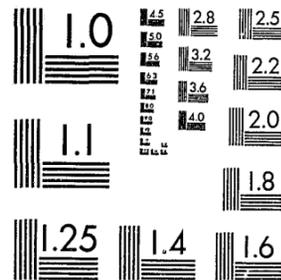


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ORIGINAL

UNITED STATES OF AMERICA
DEPARTMENT OF JUSTICE
LAW ENFORCEMENT ASSISTANCE ADMINISTRATION

POLICE OFFICER-INVOLVED SHOOTING:
IMPACT ON THE OFFICER, THE CHIEF,
THE DEPARTMENT

MR. RAY HOBLER

WASHINGTON, D. C.

SEPTEMBER 5, 1978

83364

WHD

1 nation.

2 Now, think about that for a while. It's a stretch
3 of beach, 1,000 feet long, where perverts line up to watch
4 perverts watching perverts.

5 (General laughter)

6 That came to fruition because one of our more
7 liberal Councilpersons had some complaints from her area that
8 the nudes were using their beach and the retired military
9 were a little upset, so they decided to transfer the problem
10 from the more centralized location to the outlying beach area,
11 but it didn't control it. And the only people who lost was
12 law enforcement.

13 It gives you an idea of the mentality that exists.
14 The City of San Diego is a City Manager form of government,
15 wherein it is a direct violation of the Charter for Council-
16 people to communicate directly with any department head. But
17 it's never been enforced because the City Attorney doesn't
18 have the necessary guts to do his job.

19 So we're in a very unique environment. I think that
20 possibly is fortunate for you because I can be very candid;
21 I don't have to worry about what the Council is going to say
22 when I get back to San Diego. I've been gone for three
23 years; I think my objectivity concerning police violence is
24 even more acute, and I think that my opinions are more valid,
25 because I am no longer trying to defend or protect a particular

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1 action or a particular agency. Hopefully, I will give you
2 some advice, some experience that I have enjoyed, and I use
3 that term advisedly, as a result of pressure from within the
4 Department, from within the community, and from the media.

5 First, I think I should say that I disagree with
6 some of the things that the representative from the FBI said
7 this morning, although we enjoyed a very good relationship
8 in the City of San Diego with the FBI. There were constant
9 problems in civil rights cases where they would, 1: fail to
10 advise our officers, and secondarily, gave my people the
11 impression that they were headhunters.

12 This is a selective environment; possibly, that
13 relationship does not exist throughout the nation, but quite
14 frankly, it did occur in San Diego.

15 Trying to separate the impact of violence from the
16 Chief, from the Department, from the officers, is very diffi-
17 cult, but I'll try to do so. In listening to the panel yes-
18 terday morning, I find that I am somewhere between Parsons
19 and Van Blairstone. However, I do believe -- that's how diffi-
20 cult this is.

21 (General laughter)

22 I truly believe that it is the responsibility of the
23 police administrator to set policy; Parsons indicates with
24 this nice diagram up here that you have to bring into action
25 all of the members of the community, so you can make your

WD

1 decisions.

2 Well, in my opinion, if you're an effective police
3 chief, goddamit, you have to know what's going on! And if
4 you're insensitive to what the people in the chicano commun-
5 ity are feeling, insensitive to what the people in the black
6 community are feeling, and insensitive to governmental atti-
7 tudes, you're spending all the time playing handball or golf
8 and you're not coming to work, nor are you reading the news-
9 paper.

10 Secondly, I do believe that in the development
11 of policy, you have to anticipate what the trends of society
12 are going to be to protect not only yourself but your offi-
13 cers.

14 Consequently, I developed a -- not a very popular
15 firearms procedure, but it was the most restrictive in the
16 State of California, and consequently, we did not have shoot-
17 ing problems. In five years as Chief of Police of the City
18 of San Diego, we had one -- one police shooting. We're
19 damned lucky; there's no question about that.

20 But I think that your personnel will perform to the
21 level of expectation of the administrator. If you don't
22 give them the guidance and the instruction you know damned
23 well they're going to go out and make up their own set of
24 rules.

25 So consequently, I developed a firearms policy that's

WHD

1 reasonably brief; first:

2 "To protect the life of an officer or any
3 other person, to prevent serious injury when there is
4 no other alternative."

5 Gives you a lot of lattiitude, but yet it's some-
6 what restrictive.

7 "To apprehend a violent person who is known
8 to be armed and dangerous, and who can not be appre-
9 hended without risking loss of life or serious injury."

10 It seemed to work in San Diego, and I know, by God,
11 we're no better than anybody else. In fact, we're probably
12 worse, because we don't have -- we don't have a height limi-
13 tation.

14 Now, think about that. If you are intelligent
15 enough to write your name and pass the examination, you can
16 become a San Diego police officer. It was designed so we
17 could take on more Mexican-Americans. You know what happened:
18 we got shorter white people!

19 (General laughter)

20 But I want to refute the fact that there's a common
21 story going around about the San Diego police officers, and
22 it's not so; they are not so short that every time they
23 pass wind they blow sand in their shoes.

24 Okay. I know you're getting bored, so I'm trying to
25 liven -- up, guys. You possibly have looked in the Handbook,

WHD 1 on page 151, which covers the California Peace Officers'
 2 Recommended Firearms Policy. I was slightly more restrict-
 3 ive, but I think it's a trend in California that we're try-
 4 ing to set up guidelines and policies that will protect our
 5 personnel as effectively as we possibly can, from making that
 6 wrong decision.

7 Now, you're all veterans here. But you take a
 8 young police officer -- 18 weeks in the Academy; we have a
 9 very good academy. He comes to the street; put him in a one-
 10 man car. The only thing he can really do effectively is
 11 write traffic violations, because that shows that he's doing
 12 something. But he doesn't have the judgment, he doesn't have
 13 the discretion that you experienced officers do.

14 So consequently, even though you've given him
 15 training at the range, the discretion, the decision-making
 16 concepts, he knows the policy -- how is he going to react
 17 on that first situation where he's looking down the barrel
 18 of a pellet gun?

19 Think about it. You've got to protect him from
 20 making that one mistake, because that mistake is going to
 21 haunt him, and he's going to live with it the rest of his
 22 life.

23 Additionally, I think that you'll find, as a
 24 result of our eliminating his using a warning shot, you're
 25 not protected if you fire a warning shot and you inadvertently

WHD 1 hit someone. You have the right to take a life, to use fatal
 2 force, but you don't want to take and use that right lightly
 3 or with a cavalier attitude.

4 25 years as a policeman; I never fired my handgun
 5 once. I was lucky, on a number of occasions. I have used
 6 a shotgun, very effectively. But never once my handgun,
 7 because I never felt that the alternatives had been exhausted.

8 Since I retired, there has been a change in attitude
 9 on the San Diego Police Department, and I'm in no way being
 10 critical of that; they are now shooting warning shots. They
 11 are now shooting at fleeing vehicles. Consequently, the
 12 present Chief is in deep yogurt because of an incident that
 13 took place not too long ago.

14 I think that you have to understand that the
 15 responsibility of the police administrator is not always to
 16 the protection of life and property within the community, or
 17 his function, but to protect the officers from their own
 18 mistakes and indiscretions.

19 Something I find interesting, that this seminar is
 20 designed towards the use of violence with a handgun. I
 21 have equal concerns about the use of violence with other
 22 police techniques and equipment. The baton, if you will,
 23 the neck come-along. Presently, in the City of San Diego,
 24 there is a civil litigation wherein a young officer found it
 25 necessary to use the choke-hold, the neck come-along; there

1 was a sergeant in observation, and he really cranked it down.
 2 The bottom line is: the victim in this case is now a quadri-
 3 plegic. Quite frankly, the officer would have been better
 4 off if he'd killed him, because the man is going to own a
 5 major segment of the City of San Diego!

6 Word is -- and I don't have documentation -- that
 7 two weeks ago, in Los Angeles, using the neck come-along, an
 8 individual was killed. We had one in the San Diego County
 9 Sheriff's office, where a subject died as a result of the
 10 application of a neck come-along.

11 Gentlemen, we don't have the right to use that kind
 12 of fatal force. During the Sixties, as mentioned here, when
 13 the civil rights laws were developed, the most recent ones,
 14 the use of the baton became very prominent. The only time
 15 you'd see a picture in the newspaper or on television was
 16 when the officer had the club above his head.

17 It was our policy never to strike an individual on
 18 the head, and if you did, you went up on department discipline.
 19 I'll give you an example.

20 We had a riot -- small riot, by Chicago standards,
 21 major riots by Birmingham's, I think -- but a sergeant lead-
 22 ing a group of men down the street, to clean the street; a
 23 vehicle pulled up behind him. How he got through the skirmish
 24 line on the other end, we don't know to this day.

25 The sergeant, emotionally charged because of the

1 circumstances, went to the car, talked to the driver, who
 2 happened to be a high school teacher; the driver merely was
 3 trying to get out of a theater parking lot to go home -- there
 4 were three witnesses in the car with him. He did react
 5 immediately, like -- refers: "to get the hell out of there."

6 The sergeant opened the door, drug the guy out,
 7 beat him senseless, left him lying on the street. And went
 8 on and took his skirmish line into battle.

9 Alright; there is considerable question on the judg-
 10 ment of the officer on the head. There was no overt action
 11 on the part of the driver of the vehicle; but more importantly,
 12 after severely kicking the crap out of him, he should have
 13 at least made arrangements to get him some medication. He
 14 didn't.

15 The guy was able, with the assistance of the passen-
 16 gers, to drive to the nearest hospital. Violation of Depart-
 17 ment policies -- two times, if you want. Failing to provide
 18 aid to an injured citizen, and obviously using a baton in an
 19 inappropriate manner.

20 I took him up on charges. It was mentioned yester-
 21 day about the impact of Civil Service. I took him up on
 22 charges; the media were giving me great headlines about
 23 police brutality. I fired him, what my charges were. After
 24 six months, civil investigation, and hearings where I was on
 25 trial -- not the officer, he was reinstated.

WHD

1 Now, think what that does to Department discipline,
2 and the impact of other policies within the Department. It's
3 devastating.

4 When officers are involved in shootings, it's not
5 just the fact that they are performing their duties, and it's
6 not just the fact that the investigation discloses that the
7 officer acted in a proper and just manner. In the clear light
8 of day, twelve "tried and true" may not believe that he acted
9 as a prudent individual.

10 Another example: six weeks ago, in the City of San
11 Diego, a young burglary suspect was being chased by an officer
12 in a one-man car. They got to an intersection where a motel
13 is located, the subject bailed out and went into some bushes.
14 A second officer, coming up an adjacent street, stopped, got
15 out of the car; while he -- why he had his baton in his left
16 hand, nobody seems to be able to figure out. He approached
17 the bushes with his gun drawn, trigger finger on the trigger;
18 the subject came out of the bushes and moved his way.

19 The officer grabbed him. This is where it gets a
20 little murky.

21 The officer said he struggled a little bit, so he
22 hit him on the gourd with his pistol. You know what happened?
23 He blew his brains out!

24 Alright; Number One: violation of Department policy
25 in use of a weapon as a bludgeon or striking anybody on the

WHD

1 head.

2 The Chief -- the present Chief -- made a statement
3 that the officer violated Departmental policy. Unfortunately,
4 he was a white officer in a black community. Criminal Affairs
5 investigated, Homicide investigated; justified by State law,
6 taking the life of a fleeing felon. However, as Departmental
7 policy, all cases of this type go to the District Attorney --
8 State's Attorney, in this area.

9 The District Attorney, reviewing it, returned a
10 decision that the killing was not done with gross negligence.
11 Not -- did not -- there was not gross negligence. Okay. That
12 covered voluntary manslaughter very well.

13 But it leaves that officer hanging out there on
14 tenterhooks as far as involuntary manslaughter. The result,
15 the next step in the scenario, is that several local minority
16 groups have taken up the charge, and he went to the City
17 Council, demanding the City Council hear him, mind you.

18 Now, I've cited the liberal attitude of the City
19 Council. They will bring the Chief of Police in before the
20 full Council, and the community gets to take all the shots
21 they want at him, and there's no possibility of even respond-
22 ing.

23 This did not come to fruition, however. It was the
24 decision of the Council to go to the Grand Jury and request
25 and investigation. So that's where it is at the present time.

WHD

1 However, the Chief then subsequently comes out and stated
2 that it was an unfortunate accident.

3 Now, my successor, Bill Collendar, is an exceedingly
4 popular young Chief of Police. He's well regarded in the
5 community, both in the minorities and the rest of the commu-
6 nity; he's community oriented, he's been in that kind of work
7 a long time, he's a politician, but even his popularity is
8 eroding as a result of this.

9 But what about the officer? It's always been my
10 opinion that when you have an incident of a police shooting,
11 it should go to the Grand Jury, and you should request an
12 indictment. I know damned well that in 99 percent of the
13 cases, we're not going to get one. But think, if you will,
14 we now have a very conservative Republican District Attorney;
15 if he should die tomorrow of a heart attack, and we could
16 have appointed an exceedingly liberal District Attorney.
17 Recognizing that there is no statute of limitations on murder,
18 they could run this young officer up on charges, or any other
19 officer who may have been similarly involved in similar
20 situations.

21 It's the responsibility of the police administrator
22 to protect his people, and it's not popular, because how do
23 you communicate this to the men? They do not understand, and
24 I would not have understood in 1951 when I was a patrolman.
25 The point being that if you're going to accept the job as

WHD

1 the top administrator, then you're going to have to be will-
2 ing to stand up and be counted.

3 Any comments or questions before I go on?

4 If the Chief fails to establish adequate policies
5 that are acceptable within the community, by the performance
6 of your personnel, then you're going to find -- or, he's going
7 to find, that the community has broken up into various camps,
8 and I'm not saying just the minority community. I'm saying
9 throughout, because each area has their own political activ-
10 ists. We in our community have Community Planning Councils,
11 but they're merely a forum for those people in a particular
12 area to stand up and be heard, and the media covers them
13 very, very completely.

14 As a result -- and I think I mentioned in the
15 Thomas case -- Collendar now is not getting the support of
16 the community leaders. They may talk to him in the anteroom,
17 they may have coffee with him, but they are not going to come
18 out front and say he's doing a good job, because their impact
19 in the community will be greatly diminished, and they may be
20 running for an office, or they may want to continue their
21 position in that organization, in that precise community, and
22 so consequently they are not going to jeopardize themselves.

23 Now, when you're involved in a police shooting,
24 you're always going to have the political activists who want
25 community control of the law enforcement agency. They're

WHD

1 going to stand up, and they're going to be very vociferous,
2 they're going to go to the media, they're going to take advan-
3 tage of this situation. But you can handle them.

4 The people that really concern me are the right-
5 wingers, who believe that you can use any force necessary
6 to rid the community of those people who do not fit the mold
7 of that element. These people are frightening. They are the
8 same ones who become vigilantes. We have an exceedingly
9 active Ku Klux Klan organization in San Diego; we had the
10 secret army organizations. That's the ilk that I'm talking
11 about.

12 So you have to be very careful.

13 Alright. I mentioned the prosecution of an officer.
14 In five years, I never had to prosecute an officer for the
15 use of a firearm. However, I have prosecuted for the use of
16 deadly force. At another riot, an officer became emotionally
17 involved, he picked up a nice-sized rock, let it go, right
18 through the window of a car, hit a 16-year old girl, right on
19 the nose. 163 stitches!

20 There was no choice. Even though we were all in
21 the street that evening, being hit with rocks and bottles
22 that were being thrown over the buildings, et ce \grave{t} era, that
23 does not justify the action on the part of the officer. He
24 used deadly force, and most probably, if it hadn't been for
25 the fact that the window was up, he could have killed her.

WHD

1 I prosecuted him. The Superior Court Judge threw
2 it out. That's fine with me. The case was adjudicated; that
3 officer was protected, and there was no civil suit filed.

4 So gentlemen, there are tough decisions that you
5 have to make as a chief, that very few people understand. But
6 the bottom line is: protect yourself, protect the officer,
7 protect the Department.

8 I mentioned that the -- in the Thomas case, that
9 the Council had called upon the Grand Jury. The local com-
10 munity organizations had called upon the U. S. Attorney, upon
11 the Attorney General of the State of California, and are ask-
12 ing for a Federal Grand Jury investigation. That's understand-
13 able in today's times.

14 The unfortunate thing is, regardless of the outcome
15 of those investigations, the stigma is still there. We as
16 law enforcement officers, are guilty because the media plays
17 it up, and probably 65 percent of our community predicates
18 their personal opinions and philosophies on what is on the
19 printed page.

20 So consequently, regardless of the outcome -- the
21 fact that the Grand Jury, or the U.S. Attorney, or the
22 Attorney General, is conducting an investigation -- that's
23 it: we're all guilty. There's no way, no way that you can
24 thwart that. It's just one of the realities.

25 Okay, the political reaction to police shootings.

WHD

1 First and foremost, the only thing that politicians are
 2 generally interested in is being reelected. So consequently,
 3 some, more than others, will take advantage of this breakdown,
 4 if you will, in emotion on the part of the officer, or the
 5 reaction on his part which creates publicity which is nega-
 6 tive. At least in our community it is.

7 They take this as an opportunity to discredit the
 8 administration, which is the Department as well as the chief.
 9 An accusation of a lack of sensitivity for the needs, and
 10 the reaction of your community. It was mentioned earlier by
 11 Mozee that they're interested in the removal of firearms
 12 from police officers. This is very popular.

13 The politicians use this as a method of gaining
 14 popular support at the expense of the chief of police. I'm
 15 sure that most of you are aware that the chief of police in
 16 most communities is a reasonably influential individual, and
 17 at any point in time, one of his adversaries may shoot at him
 18 and get good media coverage, he becomes exceedingly popular
 19 in those areas.

20 And unfortunately, contrary to some of the things
 21 that Mozee also said about the integrity of the media, they
 22 like to print it; they're not really concerned about the
 23 accuracy.

24 I mentioned the governmental hearings before Council,
 25 what the end result of this particular one is is that the

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1 Council has set up an ad hoc committee to set policy for the
 2 Police Department. Now, maybe I have my head screwed on
 3 wrong, maybe I don't approach this thing right, but I feel
 4 that the administrator's responsibility is to set policy con-
 5 sistent with the needs of the community, and the desires of
 6 the community. Because I think it's common knowledge that
 7 any community gets the type of law enforcement they want,
 8 need and demand. And when you allow a situation to develop
 9 that creates an ad hoc committee that makes your policy, you
 10 have abrogated your responsibility.

11 Obviously I'm wrong, or I'd probably still be there.

12 The membership of this committee is the Councilmen,
 13 the Chief, a member of the City Manager's staff, and two
 14 political activists. The end result is going to be devastat-
 15 ing. The unfortunate thing is that they will not stop at the
 16 firearms policy; each and every policy of the Department will
 17 come under their scrutiny.

18 The frequency of police shootings has a direct
 19 impact on the erosion of public support. Police officers
 20 live by their reputation; we're constantly fighting for
 21 salary increases, we're constantly fighting for good benefits,
 22 but if the community is not supportive of you and your efforts,
 23 and your performance, you're -- they're not going to be
 24 supportive of you when you want those things that you're
 25 entitled to.

WHD

1 There's a constant problem that was brought up in
 2 the panel yesterday morning of the divergence between the
 3 penal code, statutory law, and policy. In California, we
 4 --you know, you can shoot at a checkwriter, you can shoot at
 5 a car thief -- whatever you want to shoot at. And the
 6 Sheriff in our County hides behind that; and he may be right.
 7 He has more shootings than the San Diego Police Department
 8 does, so -- you know, statistically, I wonder.

9 But it creates a problem within the organization,
 10 in that the employees are very well read in the penal code,
 11 and they know that we're legally right, and so you're caught
 12 betwixt and between.

13 And I think, more importantly, one thing that has
 14 the greatest impact on the community is that you're charged
 15 with the double standard concept: Henry Johnson can be an
 16 aircraft mechanic at Consolidated, and he's involved in a
 17 shooting, and even though on the surface we're probably con-
 18 vinced that it's justified, we're going to put his finger in
 19 the mud -- we're going to put him behind bars.

20 And then you have a police officer, and that shoot-
 21 ing may be a little gray, but you don't -- you do not perform
 22 the same service for him, so you are constantly faced with
 23 trying to justify your actions.

24 There is no question but what the prosecution of an
 25 officer creates a great morale problem, because of lack of

WHD

1 understanding. But I think more importantly, when you per-
 2 form administrative discipline, that also creates a morale
 3 problem. It's accepted in most cases by the community; how-
 4 ever, when the officer goes back to the group and relates
 5 his side of the story, and that's what it is, fellows: it's
 6 his side of the story, he becomes either a martyr or a hero.
 7 And if the administration chooses to discipline him in any
 8 manner, in any form, we're insensitive, we're anti-department,
 9 we don't back the men up, but there is no way that you as an
 10 administrator can stand up and relate the circumstances.

11 Number One, the men interpret that as: "Well, you
 12 really want to do a job on old Henry, so you're going to tell
 13 everything about him."

14 Secondarily, you know full well in this day and
 15 age that there will be a Civil Service hearing, and this
 16 jeopardizes the case.

17 So consequently, there is no practical vehicle
 18 available to the administrator to provide that communication.

19 The media coverage that Dave covered exceedingly
 20 well this morning -- however, under the current environment,
 21 the Watergate Syndrome, if you will, there are more investigat-
 22 ive reporters than you ever thought possible, and they're all
 23 looking for that one thing: a by-line. They're not necess-
 24 arily interested in reporting the total truth; they thrive
 25 on half-truths, innuendo, a "reliable source," if you will,

1 but unfortunately there are some of them that will try to
2 orchestrate the actions of the Chief of Police.

3 I'll give you a classic example.

4 Three young officers, after the afternoon watch,
5 went out, had a little bit of beer. In fact, they probably
6 had a lot of beer. They decided that they were going to go
7 out and charivari a friend of theirs. 2:30 in the morning,
8 they stop by one apartment, get a shotgun; the other officer
9 naturally had his sidearm. The third officer, for some reason,
10 left his gun in the locker, so he got some fuzees.

11 They went up to this policeman's home. The officer
12 with the fuzees went up, torched them, stuck them in the
13 grass; the other two got out in the driveway and let off a
14 number of rounds in the overhead.

15 Nobody hurt; a lot of confusion. The police offi-
16 cer living across the street heard the confusion, jumped
17 out, leveled five rounds at that car as it's screaming down
18 the street. Fortunately, he was a bad shot.

19 The television media got on this, massive inter-
20 views, recovered even some of the projectiles from the drive-
21 way; there was no evidence. There was no way that we could
22 prove, or even identify, the officers involved. We assumed
23 they were policemen, because of the relationships with the
24 guys, and as a result of further investigation, we were able
25 to find out who was involved.

2 The officers came in, made a complete statement. I
3 decided, since there was no criminal act, no witnesses to
4 the incident, and we couldn't corroborate the testimony --
5 the statements of the officers, that I would handle it admin-
6 istratively, on the 30-20-10 concept: 30 days, 20 days, 10
7 days.

8 But I also chose not to make the identity of the
9 officers public. From that point on, it did not become -- or,
10 it was no longer a news item of "gunshots in the city;" it
11 was the media against yours truly. I was obstructing their
12 right to get information. The flip side is, if we go back
13 to talk about that aircraft mechanic, and he is disciplined
14 for showing up at work being intoxicated, that does not make
15 the newspaper. The media does not have the right, in my
16 opinion, to obtain that kind of information.

17 Consequently, it went on for a long period of time,
18 and I finally won out; they dropped it.

19 So the media -- although I'm sure that you each have
20 many friends in the media, who are accurate, and they do a
21 very effective job -- beware of the investigative reporter,
22 because they're trying to be another Woodward, and there's no
23 sense allowing them to be a Woodward at your expense. That's
24 a fact. I've got the scars and the clippings to prove it.

25 Okay. Let's -- Nancy, we want to take one quick
break.

END

END