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THE STANDARDIZATION OF SPECIALIZATION: REGIONAL TASK FORCE SWAT TEAM RESPONSE TO CRITICAL INCIDENTS

by

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Critical incidents that involve multiple responding Special Weapons and Tactics (SWAT) teams frequently result in interoperability, command-and-control, and familiarity challenges for all involved. Time and time again, after-action reports have shown that these challenge points are not easy to overcome, and this is a key problem because those with advanced knowledge of effective tactics in handling complex and rapidly changing incidents often contribute to these evaluations. Given the scale, scope, and complexity of modern mass-casualty or critical incidents, how do SWAT team structures dealing with interoperability, training, familiarity, and command and control need to change for SWAT response to remain viable? This thesis used the case study method of structured, focused comparison for two complex critical incidents involving SWAT units, drawing commonalities from among those incidents and juxtaposing them against a task force–based approach. These key commonalities were then discussed in depth, and several recommendations were made for strategic planners around the country to consider. The ultimate goal of this thesis was to provide a foundational guideline for homeland security leaders to change how SWAT teams are structured when responding to critical incidents from manmade threats in the United States.

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THE STANDARDIZATION OF SPECIALIZATION: REGIONAL TASK FORCE SWAT TEAM RESPONSE TO CRITICAL INCIDENTS

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ABSTRACT

Critical incidents that involve multiple responding Special Weapons and Tactics (SWAT) teams frequently result in interoperability, command-and-control, and familiarity challenges for all involved. Time and time again, after-action reports have shown that these challenge points are not easy to overcome, and this is a key problem because those with advanced knowledge of effective tactics in handling complex and rapidly changing incidents often contribute to these evaluations. Given the scale, scope, and complexity of modern mass-casualty or critical incidents, how do SWAT team structures dealing with interoperability, training, familiarity, and command and control need to change for SWAT response to remain viable? This thesis used the case study method of structured, focused comparison for two complex critical incidents involving SWAT units, drawing commonalities from among those incidents and juxtaposing them against a task force–based approach. These key commonalities were then discussed in depth, and several recommendations were made for strategic planners around the country to consider. The ultimate goal of this thesis was to provide a foundational guideline for homeland security leaders to change how SWAT teams are structured when responding to critical incidents from manmade threats in the United States.

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LIST OF ACRONYMS AND ABBREVIATIONS

AAR	after-action report
EMS	emergency medical services
FBI	Federal Bureau of Investigation
ICP	incident command post
IED	improvised explosive device
LAPD	Los Angeles Police Department
Metro-LEC	Metropolitan Law Enforcement Council
MOU	memorandum of understanding
NTOA	National Tactical Officers Association
NYPD	New York City Police Department
OPD	Oakland Police Department
SBSO	San Bernardino Sheriff's Office
SED	Special Enforcement Detail
SWAT	Special Weapons and Tactics

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EXECUTIVE SUMMARY

The ever-changing world of critical incident response involving deadly threats continues to challenge law enforcement resources around the country. This is especially true when incidents involve attacks by suspects resulting in multiple major injuries and fatalities. The ability of law enforcement to respond quickly and effectively is often related to a region's resource availability. Important elements to that resource cache—the ability to communicate seamlessly, the command and control of multiple groups of personnel and equipment, and the arrival on scene of advanced tacticians who are familiar with each other and understand roles and responsibilities—are paramount to the success of a region's law enforcement response model.

Teams composed of personnel with Special Weapons and Tactics (SWAT) expertise are some of the most important resources for these critical incidents. Time and time again, SWAT teams are counted on to handle complex, protracted critical incidents involving manmade threats that exceed the abilities of first responders. Sadly, recent history in the United States is full of such examples, and SWAT teams are commonly the last line of defense for law enforcement response to extreme violence and unique challenges created by attackers, who continually evolve their tactics and methods to befuddle the homeland security enterprise.[1]

In responding to these incidents, leaders around the country have encountered a perplexing outcome. While these critical incidents often require flexibility and paradigm shifts of thought processes among SWAT leadership—skills that these teams are known to possess—similar or even identical challenges re-emerge in the after-action reports following the events. Reviews of many of the cases that involved SWAT response to mass casualty shootings or complex incidents show commonalities among suggested improvements for the next incident. Problems with interoperability, command and control, and required training and familiarity consistently appear as themes in these SWAT

[1] Frank Straub, Jennifer Zeunik, and Ben Gorban, "Lessons Learned from the Police Response to the San Bernardino and Orlando Terrorist Attacks," *CTC Sentinel* 10, no. 5 (May 2017): 1–7, https://ctc.usma.edu/lessons-learned-from-the-police-response-to-the-san-bernardino-and-orlando-terrorist-attacks/.

incidents. If these issues have persisted for SWAT units and their parent agencies in many regions around the country, why are leaders not looking for new ways to address them?

The goal of this thesis and associated research was to provide a viable alternative to homeland security leaders around the country to this query. More specifically, the author of this thesis sought to answer the following question: Given the scale, scope, and complexity of modern mass-casualty or critical incidents, how do SWAT team structures dealing with interoperability, training, familiarity, and command and control need to change for SWAT response to remain viable? The research involved a deep dive into the literature surrounding SWAT team formation and structure, as well as a decision-making model that the author argues is applied by many tactical teams today. The model, derived from the theory of open systems, is an organizational-based system of information processing that occurs in an open loop. This loop allows for information to flow from both internal and external origins, providing the decisionmaker with the ability to continually weigh whether a decision made by the organization had a positive or negative outcome. This outcome is then examined after the fact, and that information is applied for future, similar decisions by the organization.

Additionally, two case studies were explored to reveal commonalities between teams in distinct critical incidents, as well as the common challenges seen in the aforementioned after-action reports of modern SWAT teams. More specifically, a structured, focused comparison of these cases was applied to extrapolate these common challenge points. To assist with the qualitative structure of this comparison, the challenge points discovered in this case study process were then grouped into three categories: 1) interoperability, 2) command and control, and 3) training and familiarity. While the incidents described in the case studies had other issues or challenges that could have been studied, the scope of this thesis was intentionally capped so that strategic planners could better focus on the discussion points mentioned.

What emerged from this research process was a need to look at the practicality of standardizing specialized tactical units when dealing with manmade threats that result in critical incidents. Standardizing law enforcement for increased efficiency is not a new idea; indeed, literature arguing for organizational or governmental standardization both

regionally and nationally has been written and studied.[2] While these studies have a nexus to what the author of this thesis hypothesizes is a prescriptive solution to SWAT teams' critical incident response challenges, they do not focus adequately on tactical teams. This is an important distinction; while the standardization of any law enforcement process regionally or nationally would need to overcome several hurdles, SWAT teams are known for a culture that often struggles to interact seamlessly with outside entities. Thus, further research into the standardization of this highly specialized and skilled unit was warranted. Therefore, one prescriptive recommendation, as a result of this study, was to apply task force principles to a regional SWAT unit composed of local, state, and federal personnel and resources so that the aforementioned challenges have a logical pathway to be overcome. By combining these multijurisdictional assets into a standalone response entity, the byproduct of standardization for the unit's equipment, training, and command structure is increased efficiency.

This thesis explored similar examples of standardization for SWAT response as potential models. The Metro Law Enforcement Council (Metro-LEC) is a regional group of law enforcement agencies with combined personnel and resources to handle specialized calls, which would have stressed the resources of any single agency, including a SWAT team, in the given region.[3] This thesis derived elements of the Metro-LEC's model as background for its recommendations. Ultimately, the need to incorporate all levels of government, however, differentiates recommendations in this thesis from any other known model of SWAT response to manmade critical incidents. The author argues that federal participation is a needed part of this task force–based recommendation; as the history of task forces in law enforcement and the military has shown, interagency cooperation toward

[2] Holly Campeau, "'The Right Way, the Wrong Way, and the Blueville Way': Standards and Cultural Match in the Police Organization," *Sociological Quarterly* 59, no. 4 (2018): 603–626, https://doi.org/10.1080/00380253.2018.1483782; I. C. Banks and R. M. Tackley, "A Standard Set of Terms for Critical Incident Recording?," *British Journal of Anaesthesia* 73, no. 5 (November 1994): 708, https://doi.org/10.1093/bja/73.5.703.

[3] Julie Schnobrich-Davis and William Terrill, "Interagency Collaboration: An Administrative and Operational Assessment of the Metro-LEC Approach," *Policing: An International Journal of Police Strategies & Management* 33, no. 3 (2010): 506–30, https://doi.org/10.1108/13639511011066881.

a common mission works best when every regional stakeholder is engaged.[4] This is true from a communication, combined subject-matter expertise, or fiscal responsibility standpoint. The author also submits that in deciding to create a task force–based SWAT team, homeland security partners must continually re-evaluate the efficacy of this unit and set clear parameters for when this unit should *not* be used.

This thesis argues, however, that the likely efficiency benefits that would result from the formation of this type of unit outweigh the likely drawbacks, which is why the recommendations posed all center on a task force approach. Thus, the outcome of this thesis and associated research provides homeland security leadership around the country with alternative concepts for future SWAT team formation when planning for the mission of critical incident response involving active and deadly manmade threats.

[4] Kip Schlegel and Edmund F. McGarrell, "An Examination of Arrest Practices in Regions Served by Multijurisdictional Drug Task Forces," *Crime & Delinquency* 37, no. 3 (1991): 408–26, https://doi.org/10.1177/0011128791037003007; Danforth Newcomb, Rachel Barnes, and Saamir Elshihabi, "US Tackles Money Laundering in Anti-Terror Push," *International Financial Law Review* 20, no. 12 (2001): 40–42; Peter W. Phillips and Gregory P. Orvis, "Intergovernmental Relations and the Crime Task Force: A Case Study of the East Texas Violent Crime Task Force and Its Implications," *Police Quarterly* 2, no. 4 (1999): 438–61, https://doi.org/10.1177/109861119900200403; Jean-François Thony, "FATF Special Recommendations and UN Resolutions on the Financing of Terrorism," *Journal of Financial Crime* 14, no. 2 (2007): 150–69, https://doi.org/10.1108/13590790710742645; Richard H. Shultz, "U.S. Counterterrorism Operations during the Iraq War: A Case Study of Task Force 714," *Studies in Conflict & Terrorism* 40, no. 10 (2017): 809–37, https://doi.org/10.1080/1057610X.2016.1239990.

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I. INTRODUCTION

U.S. Special Weapons and Tactics (SWAT) teams face ever-changing interoperability, command-and-control, and resource-allocation challenges in today's modern world. Asymmetrical warfare strikes, employed by foreign and domestic terrorists, have occurred in cities all across the United States. As Bobko et al. note, the San Bernardino terrorist attack of 2015 showed that "militarized terrorist tactics designed to inflict maximum damage to armored military units are now being employed by terrorists and purveyors of violence against unprotected civilian targets and domestic law enforcement agencies. . . . Complex, coordinated attacks appear to be the new norm, and they require rapid adaptation in response tactics."[1] The growing sophistication of terrorist attacks in modern-day American society is a disturbing trend. Improvised explosive devices, high-powered rifles, and armor-piercing ammunition are becoming more commonplace in these incidents.

Such events could result in significant strain on first responders who do not typically train for the carnage or advanced tactics that were traditionally seen only on battlefields during wars.[2] The complexity of such incidents demands greater preparation from America's law enforcement SWAT units, which rarely have the resources to respond by themselves. This challenge has prompted many of the agencies in these incidents to call for SWAT mutual-aid agreements as the solution due to the demand of large-scale critical incidents on resources beyond one unit's capabilities. A lack of interoperability, familiarity with other teams, and command and control, however, impede operations during these complex incidents. Historically, SWAT units from multiple jurisdictions have struggled to integrate seamlessly at critical incidents. SWAT team after-action reports following mixed jurisdictional SWAT team responses have repeatedly highlighted issues with

[1] Joshua P. Bobko et al., "A Tactical Medicine After-Action Report of the San Bernardino Terrorist Incident," *Western Journal of Emergency Medicine* 19, no. 2 (2018), https://doi.org/10.5811/westjem.2017.10.31374.

[2] Bobko et al.

communication and interoperability, a lack of training familiarity and trust, and poor resource allocation.[3] Each challenge is worthy of individual discussion.

First, regardless of the updates in technology or communications infrastructure, SWAT units struggle with interoperability.[4] Uncommon SWAT radio codes, differences in protocols and equipment, and variances in technological updates are examples of these struggles; research on interoperability problems among governmental entities are further proof that no single agency or governmental unit can solve this challenge.[5] SWAT units require precise and timely communications paired with functional technology. In these rapidly evolving situations, radio traffic from a SWAT commander, or any other police entity for that matter, cannot be subject to misinterpretation, electronic interference, or delay. For example, the multiple sheriff's offices, police departments, and emergency medical services that converged on the scene of the Columbine High School shooting in 1999 could not communicate using their incompatible radio systems.[6] Moreover, it is difficult to reach and maintain an agreed-upon level of technological performance across jurisdictional boundaries.[7] Improvements to communications and interoperable technology alone have not solved the problem because federal, state, and local units frequently use different technological solutions than SWAT teams do.[8] This "mixed bag" of technology only increases the chances of confusion during the critical incidents for SWAT teams while assisting first responders.

Second, SWAT team members are often inadequately trained for all their possible missions. This deficit may be the result of, for example, the SWAT team's duties being

[3] Frank Straub, Jennifer Zeunik, and Ben Gorban, "Lessons Learned from the Police Response to the San Bernardino and Orlando Terrorist Attacks," *CTC Sentinel* 10, no. 5 (May 2017): 1–7, https://ctc.usma.edu/lessons-learned-from-the-police-response-to-the-san-bernardino-and-orlando-terrorist-attacks/.

[4] Bennet Bolton, "Lessons Learned: Planning for and Executing an Interoperable Communications Exercise," *Sheriff* 59, no. 3 (2007): 15–19, ProQuest; Gerald Faulhaber, "Solving the Interoperability Problem: Are We on the Same Channel? An Essay on the Problems and Prospects for Public Safety Radio," *Federal Communications Law Journal* 59, no. 3 (2007): 493–515.

[5] Faulhaber, "Solving the Interoperability Problem"; Bolton, "Lessons Learned."

[6] Faulhaber, "Solving the Interoperability Problem."

[7] Faulhaber.

[8] Faulhaber.

seen as collateral, budgetary restrictions placed on personnel training, or the team's inability to produce scenario-based training realistic enough to simulate particular missions. For multijurisdictional teams, this training conundrum is exacerbated by the need for additional training time above and beyond what each individual team requires for certification, which is hard to justify for many agencies. The reason is that the more complex critical incidents become, the more training SWAT teams need. Moreover, because many SWAT team members are collaterally assigned, their respective departments do not have the resources to send them to additional training with cross-jurisdictional teams.[9] Multijurisdictional training helps to alleviate this concern, breeds familiarity between personnel, and most importantly, can add a layer of trust between all SWAT units in a given region.

Third, resource allocation is a continual problem for many smaller SWAT units throughout the United States. SWAT mutual aid, which is used by many cities and counties, is a way to share resources that may be unique or in short supply during large critical incidents. This shortfall could be due to an incident of longer duration, or a specific need for a complex solution to a problem that only one agency in the area has. A single agency often struggles to muster the hybrid mix of personnel, technology, and unique subject-matter expertise that mutual-aid protocols require. Moreover, a federal SWAT response, while a force multiplier, is not likely to arrive at a critical incident or mass casualty event without a long bureaucratic delay or a special circumstance.[10] All of these challenges need further exploration to determine whether a better solution can be brought to bear.

A. RESEARCH QUESTION

Given the scale, scope, and complexity of modern mass-casualty or critical incidents, how do SWAT team structures dealing with interoperability, training,

[9] Karan R. Singh, "Treading the Thin Blue Line: Military Special-Operations Trained Police SWAT Teams and the Constitution," *William & Mary Bill of Rights Journal* 9, no. 3 (2001): 673–717, https://scholarship.law.wm.edu/wmborj/vol9/iss3/7.

[10] Oliver B. Revell, "Structure of Counterterrorism Planning and Operations in the United States," *Terrorism* 14, no. 3 (1991): 135–44, https://doi.org/10.1080/10576109108435871.

familiarity, and command and control need to change for SWAT response to remain viable?

B. LITERATURE REVIEW

The purpose of this review is to explore the research on the proper use of task forces in a law enforcement setting. The first section addresses the varying mission, structure, and application of task forces while the second discusses expert perspectives on interagency cooperation in task forces.

1. Varying Mission, Structure, and Application

Much of this body of work shows a continual theme of large crime group investigatory missions. An example of this was the task force formed to investigate Al Capone in the 1920s. Before 9/11, most task forces focused their investigative efforts on organized crime; after 9/11, the focus shifted to terrorism.[11] According to Savasta as well as Baker and Fowler, the task force mission after 9/11 changed the primary mission to focus heavily on foreign crime that could lead to terrorism in America.[12] They argue that the investigatory tools used to go after suspects under the Racketeer Influenced and Corrupt Organizations Act should be similarly applied to terrorist organizations.[13] Thony and Newcomb, Barnes, and Elshihabi take it even further, as they assert that the focus of law enforcement task forces should be on the specific problem of terrorism financing and the ways to prevent the funding of the next big attack.[14] Task forces have seen success in such crime interdiction in past decades, so the logic behind this tactic seems sound. Goodman,

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[11] *Leveraging Mutual Aid for Effective Emergency Response: Hearing before the Subcommittee on Emergency Communications, Preparedness, and Response of the Committee on Homeland Security*, House of Representatives, 110th Cong., 1st sess. November 15, 2007, ProQuest.

[12] Michael Savasta, "The FBI Joint Terrorism Task Force: History, Integration, Success," *Law & Order* 63, no. 9 (September 2015): 32–35; Brig Barker and Steve Fowler, "The FBI Joint Terrorism Task Force Officer," *FBI Law Enforcement Bulletin* 77, no. 11 (November 2008): 12–16.

[13] Barker and Fowler, "Joint Terrorism Task Force Officer"; Savasta, "The FBI Joint Terrorism Task Force."

[14] Jean-François Thony, "FATF Special Recommendations and UN Resolutions on the Financing of Terrorism," *Journal of Financial Crime* 14, no. 2 (2007): 150–69, https://doi.org/10.1108/13590790710742645; Danforth Newcomb, Rachel Barnes, and Saamir Elshihabi, "US Tackles Money Laundering in Anti-Terror Push," *International Financial Law Review* 20, no. 12 (2001): 40–42.

however, suggests that the best use of such collaborative units is to investigate the attackers directly while leveraging their information and knowledge of the organization to work back to the organization's leadership.[15] Literature documenting the discovery of Osama bin Laden via his courier system supports Goodman's assertions.[16] While practitioners and scholars support these focus areas and claim that many attacks have been averted with these approaches, it is unclear from the literature whether either approach directly correlates with an absence of similar attacks in the United States since 9/11.[17] In fact, Mueller has argued that the increased focus on terrorism prevention from task force units has done little to prevent further attacks.[18]

The topic of law enforcement task forces has gained the attention of scholars from a societal policing standpoint. Much as task forces in the previous decade were seen as potential terrorism prevention tools, many believe these units could be used to solve other unique and emerging crime trends in America. To this end, Helton and Carter see task forces as the solution to many of society's ills. They suggest that multijurisdictional units can be used as force multipliers, even to the point that non–law enforcement personnel, such as medical professionals in the human trafficking context, can be included in the mission.[19] They believe that societal crime trends in human trafficking and cyberspace cannot be effectively fought without the formation of task force groups singularly focused on these issues. Creek and Yoder, however, express concern over the use of task forces in questionable or heavy-handed roles that potentially overstep their boundaries. Their concern over past governmental entities' abusing enhanced access to information or

[15] Will Goodman, "Making Consequence Management Work: Applying the Lesson of the Joint Terrorism Task Force," *Homeland Security Affairs* 4 (2008), ProQuest.

[16] Erik J. Dahl, "Finding Bin Laden: Lessons for a New American Way of Intelligence," *Political Science Quarterly* 129, no. 2 (2014): 179–210, https://doi.org/10.1002/polq.12183.

[17] John E. Mueller and Mark G. Stewart, *Chasing Ghosts: The Policing of Terrorism* (Oxford: Oxford University Press, 2016).

[18] Mueller and Stewart.

[19] James W. Carter, "Local Law Enforcement in the Realm of Cyberspace: The Role of Local Law Enforcement Agencies in Controlling Internet Crime" (PhD diss., University of Cincinnati, 2011), https://etd.ohiolink.edu/pg_10?0::NO:10:P10_ACCESSION_NUM:ucin1299008028; Megan Helton, "Human Trafficking: How a Joint Task Force between Health Care Providers and Law Enforcement Can Assist with Identifying Victims and Prosecuting Traffickers," *Health Matrix* 26, no. 1 (2016): 433–73.

resources as a potential challenge that would counteract any benefits of these task forces.[20] The literature in both cases paints law enforcement task forces in "zero-sum" response roles regarding the mission's definition. In other words, police task forces are either completely right or all wrong when used in these contexts.

The diverse investigatory mission sets of task force enforcement have driven their time in service, as well as their overall design. Recently, a push for tactical mission focus by task forces has gained more attention. Frazzano and Snyder argue that current task force–like structures do not account for changes in current criminal activity, which is especially true with mass casualty attacks requiring a multijurisdictional response.[21] They argue that the ferocity of these attacks demands that task force personnel be specifically trained and adequately equipped to respond immediately. In other words, they suggest that SWAT-level training be applied to multijurisdictional response groups as a standard for mass casualty active events.

Task force structures and operations have been a source of contention for several years. Boetig and Mattocks discuss the need for task forces to take a strong look at their structure from a goal standpoint before building out the personnel who compose the unit. They contrast the examples of case-specific task forces whose goals are defined by shorter timeframes with specialized investigations that require training, experience, and resources to maintain momentum for an extended time.[22] While this argument makes sense, other scholars suggest that general crime trends during the last several decades have not justified a big change to task force structures.[23] Reppetto's description of how crime was fought with task forces in the 1950s is not much different from the way groups were used to

[20] Heather M. Creek and Stephen Yoder, "With a Little Help from Our Feds: Understanding State Immigration Enforcement Policy Adoption in American Federalism," *Policy Studies Journal* 40, no. 4 (2012): 674–97, https://doi.org/10.1111/j.1541-0072.2012.00469.x.

[21] Tracy L. Frazzano and G. Matthew Snyder, "Hybrid Targeted Violence: Challenging Conventional 'Active Shooter' Response Strategies," *Homeland Security Affairs* 10 (2014), ProQuest.

[22] Brian Parsi Boetig and Mike Mattocks, "Selecting Personnel for Multi-Agency Task Forces," *Law & Order* 55, no. 12 (December 2007): 51–54.

[23] Thomas Reppetto, *The Blue Parade*, vol. 2 of *American Police, A History: 1945–2012* (New York: Enigma Books, 2012); Robert G. Kroeker, "The Pursuit of Illicit Proceeds: From Historical Origins to Modern Applications," *Journal of Money Laundering Control* 17, no. 3 (2014): 269–80, https://doi.org/10.1108/JMLC-01-2014-0005.

investigate terrorism in New York's first Joint Terrorism Task Force in the 1990s. Moreover, Repetto argues, "The best way to handle a task force is not to form one after a crime has occurred but to have a permanent body in existence that takes charge in certain cases."[24] Nevertheless, the literature from this camp is dated and does not account for the more diverse mission sets that today's law enforcement task forces face.

More recent research supports a long-term unit structure. Kroeker points to task force investigatory groups as having long-term expertise for the specific crimes they are investigating, which have not changed dramatically over time.[25] He specifically notes that task force groups that investigate terrorist financing, for example, should structure themselves to focus solely on investigating illicit financial gains of these organizations, with subject-matter experts working these cases long-term instead of moving on after a case has been adjudicated.[26] Both short- and long-term structure models have value, but putting subject-matter experts in place for as long as possible to solve the goals established by task force leadership is a common theme among current literature.[27] As previous mentioned, those who write about the structure of task force groups often discuss its connection to the group's goals. This connection does not change when those goals are tactical in nature, rather than investigatory.

The basis of any task force in law enforcement or the military includes "operations or operational planning involving two or more enforcement agencies that cross geographic or criminal justice system boundaries."[28] Schnobrich-Davis and Terrill argue that the modern model of law enforcement in America must be one that maximizes the resources of multiple agencies in fighting a more substantial and unified front against multiple types of crime. In studying the Metropolitan Law Enforcement Council—a conglomerate of

[24] Reppetto, *The Blue Parade*.

[25] Kroeker, "The Pursuit of Illicit Proceeds."

[26] Kroeker.

[27] Julie Schnobrich-Davis and William Terrill, "Interagency Collaboration: An Administrative and Operational Assessment of the Metro-LEC Approach," *Policing: An International Journal of Police Strategies & Management* 33, no. 3 (2010): 506–30, https://doi.org/10.1108/13639511011066881.

[28] Schnobrich-Davis and Terrill.

SWAT personnel in the Northeast comprising 42 different regional agencies cooperating under an "all-hazards" response capacity—Schnobrich-Davis and Terrill found that a regional model was successful in streamlined response. The Metro model is not alone in its regional task force–like structure. Makins describes an interagency network of personnel who can act as a force multiplier for smaller, water-based communities that lack a singular agency with the same resources.[29] Makins has labeled this network the Special Maritime Action Response Team and discussed the crucial need for interagency cooperation among this group based on the governmental studies done by the Department of Homeland Security regarding maritime security gaps.[30] Indeed, the overwhelming push for task force structures in much of the literature has been to combine resources in some capacity.

The literature on task force structures in the armed forces reveals that they have similar goals to their law enforcement counterparts, as well as similar challenges. Bartone and Adler discuss the need for interagency cooperation among military tactical groups.[31] They state this specifically when describing the task force model in the armed forces: "The U.S. military is increasingly involved in operations that require specially configured task forces that are tailored to the demands of a particular operation."[32] Similarities to law enforcement's task force mission and structure are evident here, especially the description of these groups' structure during peacetime policing operations. Modern versions in both of these governmental arenas have adapted to the changing demands of their respective mission sets. In both, short-term task force groups, prevalent in previous decades, have been described by scholars as adapting to the changing environments they faced. McChrystal discusses this adaptation in the military context: "Driven by the necessity to keep pace with an agile enemy and a complex environment, we had become adaptable. . .

[29] Marion C. Makins, "Revitalizing Maritime Security: Is SMART the Next Element?" (master's thesis, Naval Postgraduate School, 2019).

[30] Makins.

[31] Paul T. Bartone and Amy B. Adler, "Cohesion over Time in a Peacekeeping Medical Task Force," *Military Psychology* 11, no. 1 (1999): 85–107, https://doi.org/10.1207/s15327876mp1101_5.

[32] Bartone and Adler.

. In doing so, we had a structure unlike any force the U.S. military had ever fielded."[33] Adaptation to the changing demands of their environments were common themes in the literature for both law enforcement and military task forces.

2. Interagency Cooperation

The continual "pressure" task forces apply directly relate to how well these units mesh. According to Nagl and Burton, this use of task forces should include foreign military units co-deployed with U.S. fighters in a task force mode to establish a foothold for democracy after the battle is over, as it allows for a smoother transition.[34] Switzer agrees, seeing this type of joint force as a positive in that American units have been able to transition primary fighting responsibilities back to the foreign countries' soldiers in a semi-controlled environment.[35] Block disagrees, however, writing that units involving foreign and U.S. forces are fraught with complex challenges not worth the joint effort.[36] She cites repeated incidents of insider attacks that have plagued foreign military task force involvement with U.S. military forces.

The military has seen the benefits and drawbacks of interagency cooperation during wartime as well. Pope describes the use of an interagency task force to navigate many of the missions that the armed forces face. He has studied several past models, including counterinsurgency and humanitarian models, that had varying levels of success and failure. Ultimately, Pope argues that this task force model, as he proposes it, works due to each unit's having a single leader with clear authority and direction for the group.[37] Lamb has similar beliefs in the viability of interagency cooperation among military units from

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[33] Stanley A. McChrystal, *Team of Teams: New Rules of Engagement for a Complex World* (New York: Portfolio/Penguin, 2015).

[34] John A. Nagl and Brian M. Burton, "Striking the Balance: The Way Forward in Iraq," *World Policy Journal* 25, no. 4 (2008): 15–22.

[35] Cody Switzer, "Local Troops Support Iraqi Forces: Commander Says Area Unit's Mission 'Working Out Well,'" *Erie Times-News*, June 12, 2009, ProQuest.

[36] Melissa Block, "Fear and Mistrust Travels with Troops in Iraq," National Public Radio, June 10, 2005, https://www.npr.org/templates/story/story.php?storyId=4698396.

[37] Robert S. Pope, "Interagency Task Forces the Right Tools for the Job," *Strategic Studies Quarterly* 5, no. 2 (Summer 2011): 113–52.

different disciplines.[38] He takes it a step further than Pope, however, in that he bases the success or failure of these units, since 9/11, on the intelligence they are provided with before deployment.[39]

Another body of work discusses problems that must be addressed for successful task force implementation. Schneider and Hurst discuss the problems that arise from interagency cooperative units, namely rivalries among the personnel assigned and statistics-driven missions that sometimes fog the real intent of the unit.[40] These stress points, they argue, can affect trust in these units if leadership does not take clear and decisive action to prevent it early. Interestingly and predictably, both military and paramilitary (law enforcement) literature describes similar issues regarding the importance of leadership and interagency cooperation.[41] Moreover, much of the literature portrays a strong leadership role in these groups as paramount.

In addition to the aforementioned group dynamics, there are other challenges these groups need to overcome. For one, Schneider and Hurst argue that differing mandates create a gray area in decision making, which can slow the unit's performance.[42] While Schneider and Hurst stop short of dissuading agencies from creating and maintaining cooperative interagency groups, they do address several key issues that have historically caused friction with multijurisdictional personnel working together. Lamb, Schneider, and Hurst all discuss the themes of large delays in response during an operation or incident when multiple leadership approvals are needed to make a decision, the unwillingness to accept needed changes, and "elitism" or empire building.[43] None of the sources offer

[38] Christopher Lamb, "Global SOF and Interagency Collaboration," *Journal of Strategic Security* 7, no. 2 (Summer 2014): 8–20, http://dx.doi.org/10.5038/1944-0472.7.2.2.

[39] Lamb.

[40] Stephen Schneider and Christine Hurst, "Obstacles to an Integrated, Joint Forces Approach to Organized Crime Enforcement: A Canadian Case Study," *Policing* 31, no. 3 (2008): 359–79, http://dx.doi.org/10.1108/13639510810895759.

[41] Schneider and Hurst; "Obstacles to an Integrated, Joint Forces Approach"; Lamb, "Global SOF and Interagency Collaboration."

[42] Schneider and Hurst, "Obstacles to an Integrated, Joint Forces Approach."

[43] Lamb, "Global SOF and Interagency Collaboration"; Schneider and Hurst, "Obstacles to an Integrated, Joint Forces Approach."

simple solutions to these problems. Regarding the Metro model, Schnobrich-Davis and Terrill suggest one answer is requiring that all agencies involved defer to a standalone entity for decision making.[44] Their description of this model suggests that independent decision making, separate from the groups directly involved in the process, streamlines delays.

The challenges of evolving missions for task forces, the need to reconfigure structures to handle these missions, and the nexus of strong leadership to successful interagency cooperation are clear focuses throughout the literature. More directed research is needed, however, to explore how SWAT-specific task forces might function in these areas. Schnobrich-Davis and Terrill's breakdown of the Metro model seems promising, but the friction from a multijurisdictional standpoint due to problems with interoperability, joint training, and command and control needs further analysis. In sum, there is a noticeable gap in describing how these units integrate outside of a purely investigatory role; specifically, research on tactical response, from an American law enforcement task force perspective, is lacking.

C. RESEARCH DESIGN

This thesis explored the challenges of interoperability, familiarity, and command and control for SWAT teams during critical incidents using a combination of case study analysis and the structured, focused comparison method. Specifically, a clear, concise, and consistent set of commonalities and differences between both case study subjects was explored to find gaps that need addressing in future SWAT team structures. The case studies juxtaposed a large-team response and a mutual-aid team response; these are models that many cities and counties in America use.

The structured, focused comparison method was used to qualitatively compare direct and indirect resource allocation for SWAT teams working under these two models because "aspects of each case . . . [were] believed to be relevant to the research objectives

[44] Schnobrich-Davis and Terrill, "Interagency Collaboration."

and data requirements of the study."[45] The structured, focused comparison method is a variation of the case study method or process. By limiting the scope of research to the aforementioned categories in each case, this thesis could extrapolate commonalities from the cases that were continual challenge points for the SWAT units involved. In addition, these challenges were similar to ones still faced by SWAT units to this day, as explored in Chapter II.

The purpose of using the structured, focused comparison variant of the case study method was to expose those focused commonalities that structurally appeared repeatedly in the documented incidents. These findings—focused on specific challenges—could better address the research question posed by this thesis. Quoting George and McKeown, Gläser and Laudel posit, "A comparison of two or more cases is 'focused' insofar as the researcher deals selectively with only those aspects of each case that are believed to be relevant to the research objectives and data requirements of the study."[46] These cases were meant to highlight critical incident response and resource allocation from a SWAT perspective, and not common uses of SWAT teams such as warrant service or special event overwatch or protection.

The mutual-aid model relies on providing SWAT resources to regional law enforcement partners in the event of a specific need or incident. The first case study, the Christopher Dorner manhunt, discusses an incident that involved the use of mutual aid during a critical incident where SWAT responded. This incident spanned several jurisdictions and required the coordination of a large group of SWAT units working together to locate and capture Dorner. Specifically, the case focuses on how responding outside agency SWAT teams interacted with each other and the San Bernardino Sheriff's Office SWAT team during the incident. This case was chosen because it highlights the

[45] Jochen Gläser and Grit Laudel, "The Discovery of Causal Mechanisms: Extractive Qualitative Content Analysis as a Tool for Process Tracing," *Forum: Qualitative Social Research* 20, no. 3 (September 2019), https://www.qualitative-research.net/index.php/fqs/article/view/3386/4495.

[46] Alexander L. George and Timothy J. McKeown, "Case Studies and Theories of Organizational Decision Making," in *Advances in Information Processing in Organizations: A Research Annual*, ed. Lee S. Sproull and Patrick D. Larkey (London: JAI Press 1985), 45, quoted in Gläser and Laudel, "The Discovery of Causal Mechanisms."

independence of the SWAT teams involved for normal operations while making themselves available for a large-scale critical incident in an assistance capacity.

Large-team SWAT units are usually able to handle large-scale events without the assistance of outside SWAT resources. The second case study involves a large-team SWAT model. This 2009 incident involved the response of the Oakland Police Department's SWAT unit when a shooter killed four sworn members of the department. This group was chosen because it is a large group of personnel responsible for a major metropolitan city, and the incident demonstrates of some of the identified SWAT team challenges.

The data used to construct the case studies was a combination of scholarly and open-source research material on the subject of SWAT teams as it pertains to these cases, as well as literature relevant to organizational effectiveness. This included policies and procedures from the Oakland Police Department and San Bernardino SWAT teams and after-action reports from both incidents. It also included memoranda of understanding from other similar law enforcement groups. A "resource internode" diagram, or diagram of resource links between nodes, was developed to show how the same types of resources for the two case studies were directly or indirectly accessible. Specifically, the diagram helped to address each case study group's access to SWAT resources based on its individual organizational design, structures, policies, and procedures. The research sources used to develop the resource internode diagram also came directly from the case study materials and other scholarly sources.

In addition to using a structured, focused comparison variant of the case study model, the theory of open systems was briefly explored and discussed to better guide the reader through the decision-making processes among internal and external organizational stakeholders; in this thesis, the stakeholders are SWAT teams interacting with their environment from either an internal or external standpoint. Open systems theory, when applied to organizational situations, is a process of decision making that incorporates both

internal and, more importantly, external factors.[47] These factors, or inputs, drive transformative thought and action, resulting in a changed output that is then tested when a similar incident occurs in the future. A continual feedback loop allows for the testing of processes for improvement, or deterioration, in a specific environment. This process is explored in Chapter II.

The intended output of this thesis is a set of best practices and policy recommendations for both current and future SWAT team structures based on the case studies, as well as the consideration of a task force option. The goal is for policymakers to use these best practices and policy guidelines as a scholarly source when considering the long-term planning of their SWAT teams and the use of task force resources.

The author of this thesis has made assertions at several points in the paper based on his training and experiences over 20 years as a law enforcement officer. This experience includes over a decade in SWAT-specific training, response, and networking in relation to tactical decision making. He acknowledges that these experiences have led to an inherent set of biases that shaped this project and study. It also provided a perspective of theoretical sensitivity toward the topic, which was used to expand on the literature sources used. Theoretical sensitivity, part of a research process called grounded theory, acknowledges the background and experiences of the researcher as an important part of the overall research conclusions made.[48] While the combination of open and scholarly source literature, along with the author's background, allowed for these assertions to be grounded in sound logic, it is important to be transparent in how some of the conclusions were drawn.

[47] Patrick Y. K. Chau and Kar Yan Tam, "Factors Affecting the Adoption of Open Systems: An Exploratory Study," *MIS Quarterly* 21, no. 1 (1997): 1–24, https://doi.org/10.2307/249740; Vincent Reitano, "An Open Systems Model of Local Government Forecasting," *American Review of Public Administration* 48, no. 5 (2018): 476–89, https://doi.org/10.1177/0275074017692876.

[48] C. Owen Lo, "Literature Integration: An Illustration of Theoretical Sensitivity in Grounded Theory Studies," *Humanistic Psychologist* 44, no. 2 (2016): 177–189, https://doi.org/10.1037/hum0000029; Lily Orland-Barak, "The Theoretical Sensitivity of the Researcher: Reflections on a Complex Construct," *Reflective Practice* 3, no. 3 (2002): 263–78; Louis H. Wilson, "A Grounded Theory Study to Discover How Life Experiences Influence Leader Competencies" (PhD diss., University of Phoenix, 2006), ProQuest.

II. CURRENT MULTIJURISDICTIONAL SWAT TEAM CHALLENGES AND CONCEPTS

With the help of technology and updated tactics, SWAT teams have evolved, but they still face challenges that are not easily solvable. Critical incident debriefs continually highlight weaknesses in interoperability, training, and command and control, which compel strategic leadership to re-evaluate SWAT protocols. This chapter examines those problems and explores open systems theory as a tool for decision makers in targeting the root causes.

A. INTEROPERABILITY

1. Communication Issues

While it may not surprise most people that communication issues exist for police units in the 21st century, the fact that SWAT teams still deal with them should be troubling. These units are expected to respond to any tactical situation requiring advanced levels of expertise that patrol-level officers cannot handle. Additionally, when these units come from separate departments, such as multiple agency teams responding to a large-scale event, the communication challenges become much more significant.[49] Regardless of the protocols put in place, a critical incident response—which requires specialized training in tactics, team movements, and detailed planning—can be put in peril rapidly when the SWAT responders are unable to communicate with one another.

The history of SWAT response is full of after-action reports calling for tighter controls on interoperability among outside agencies.[50] One of the reasons this tends to be a recurring problem is that SWAT units are fraternal in nature and prefer to rely on the tools, tactics, and techniques they are accustomed to using. In addition, there is no agreed-

[49] B. S. Manoj and Alexandra Baker, "Communication Challenges in Emergency Response," *Communications of the ACM* 50, no. 3 (March 2007): 51–53, https://doi.org/10.1145/1226736.1226765.

[50] Amy Donahue and Robert Tuohy, "Lessons We Don't Learn: A Study of the Lessons of Disasters, Why We Repeat Them, and How We Can Learn Them," *Homeland Security Affairs* 2, no. 2 (2006); Elena Savoia, Jessica Preston, and Paul D. Biddinger, "A Consensus Process on the Use of Exercises and After Action Reports to Assess and Improve Public Health Emergency Preparedness and Response," *Prehospital and Disaster Medicine* 28, no. 3 (2013): 305–8, https://doi.org/10.1017/S1049023X13000289.

upon set of tenets nationally, which tends to result in a wide range of group abilities from region to region. Avdija mentions this when discussing the range of SWAT team training, equipment, and overall readiness: "There is no specific set of requirements that can be uniformly used by all police departments, especially for small departments."[51] The bottom line is that without a clear understanding of every SWAT unit's communication, training, and nomenclature in a given area, it is unlikely these units can communicate effectively during a critical incident.

While dated, the Columbine High School example shows what can happen when any police entity cannot talk on the radio at a critical incident due to nomenclature, unrelatable codes, or other inhibiting factors. This delay can raise doubt in response or, even worse, cause a "blue-on-blue" incident where a law enforcement officer mistakes another agency's sworn staff member for a bad guy. SWAT teams are especially at risk for this problem because they are frequently dressed in clothing designed to mask their appearance while trying to approach a suspect quietly. In addition, they generally carry high-powered automatic rifles that can easily be mistaken for weapons employed by an active shooter at a chaotic scene. This has tragically happened multiple times during SWAT operations.[52]

2. Standardized Technology Issues

Early communication via trusted, standardized equipment and nomenclature is needed to help prevent these issues from developing. While there is evidence that technology used in a region by SWAT teams is often similar, communications issues arise when federal entities must access different bands or frequencies from local or state police.[53] Seamless interaction among these types of SWAT teams—federal, state, and

[51] Avdi S. Avdija, "Special Weapons and Tactics Operations: Examining the Effects of Differential Police Training on Hostage Rescue Effectiveness," *Policing: An International Journal* 41, no. 5 (2018): 651–58, https://doi.org/10.1108/PIJPSM-11-2016-0161.

[52] Stuart A. Meyers, "Why Are We Killing Ourselves: A Look at Accidental Shootings of Police Officers by Police Officers" (Hagerstown, MD: OpTac International, 2005), http://www.optacinternational.com/officersafety/pdfs/WhyAreWeKillingOurselves.pdf.

[53] Nathan James, *Federal Tactical Teams*, CRS Report No. R44179 (Washington, DC: Congressional Research Service, 2015), https://www.hsdl.org/?view&did=787682.

local—in a critical incident is paramount. As these units often work without the benefit of time, they must be able to trust that back-and-forth communications are both acknowledged and understood. "Work arounds," such as pairing units to "clear" a scene or lending equipment between teams, can serve as a last resort, but they often cause bigger issues among the teams when tactical decisions are made quickly. Ultimately, without a standardized equipment list for all SWAT teams—which seems very unlikely—this issue will continue to be a challenge when mixed jurisdictional SWAT units converge on scene.

The Metropolitan Law Enforcement Council (Metro-LEC) on the East Coast is an example of multiple regional agencies, including SWAT team personnel, working together under a common communication framework:

> The third division of the Metro-LEC is the Metro Regional Communications Division, which provides proactive planning and implementation services to aid the radio communications infrastructure across member agencies. It expands the inter-operational abilities among member agencies and provides for tactical communication operations for a large-scale incident. Additionally, the division has engaged in several projects to expand the radio network utilized in the event of a critical incident.[54]

Unfortunately, such practices are uncommon in the United States, and even this example excludes regular federal interaction among SWAT teams. Thus, the interoperability challenge for SWAT teams goes beyond equipment and nomenclature. It necessitates a paradigm shift in team structure and continual operations at all jurisdictional levels.

B. TRAINING

1. Time and Cost of Scaled Training

In addition to interoperability concerns, modern SWAT units are frequently challenged by the need to train continually for the variety of incidents to which they respond. Such requirements vary dramatically based on the areas of responsibility, but even smaller teams may be called on to assist in a large critical incident. The training needs to

[54] Schnobrich-Davis and Terrill, "Interagency Collaboration."

maintain operational readiness can be significant—especially when factoring in specialty calls for service like hostage rescues and active shooters, the resource needs become vast.[55]

The National Tactical Officers Association (NTOA) provides guidance for SWAT teams around the country regarding training, capabilities, and other tactical-related metrics.[56] The NTOA categorizes teams based on training hours completed and mission capabilities, advising that Tier 1 or Tier 2 teams—the highest levels of response—train 16 to 40 hours per month on core SWAT skills, with additional time suggested for any specialty skills.[57] SWAT teams with a smaller capability level are labeled "tactical response teams" and, thus, not addressed specifically in the NTOA's training guidelines. The general suggestion for all of these teams, however, is to also attend 40 additional hours of team training annually.

Based on the need for these groups to train regularly, these guidelines are reasonable. The reality, unfortunately, is that many SWAT teams are collateral duty–structured. This structure means that the team's members perform SWAT-related duties in addition to their normal assignments, which can range from patrol to investigations, to other administrative assignments. Training regularly to meet the NTOA's guidelines is difficult at best, considering the numerous other demands in a law enforcement officer's daily or weekly schedule.

In the background is the need for these teams to work as seamlessly as possible with outside agency SWAT units. When a critical incident occurs, the expectation from the public is that a SWAT team, regardless of size, will handle the most complex of incidents. The resource demands of larger incidents, however, often dictate that multiple SWAT teams come together to handle the call.[58] To do this effectively, these units need to train

[55] Avdija, "Special Weapons and Tactics Operations."

[56] National Tactical Officers Association, *Tactical Response and Operations Standard for Law Enforcement Agencies* (Colorado Springs: National Tactical Officers Association, April 2018), https://ntoa.org/pdf/swatstandards.pdf.

[57] National Tactical Officers Association.

[58] Christopher C. Holbrook, "The Preparedness Web: Regional Collaborative Networks for Homeland Security Preparedness" (master's thesis, Naval Postgraduate School, September 2007), http://hdl.handle.net/10945/3292.

together continually.[59] When one considers the time demands for this training—layered on "normal" time needs for interdepartmental SWAT training—it is easy to see why these units might struggle to smoothly integrate at a critical incident.

2. Structure of Continual and Standardized Training

Currently, large-scale training for SWAT units typically comes in the form of regional exercises that involve multiple disciplines. Fire, emergency medical services (EMS), police, first responders, and others come together to respond to mock scenarios, many of which are based on real-life incidents. The SWAT portions of these exercises are usually designed by the training coordinator to be intensive and time-consuming (e.g., hostage situations, improvised explosive devices, and barricaded active shooters), so SWAT teams can work on advanced skills in a regional environment that forces collaboration with other teams.[60] It is common for these types of large regional training exercises to occur once to several times a year, depending on the scale, resource allocation, and complexities of the training.

While exercises are useful in creating networks for personnel to communicate with members of outside teams, it is difficult to build the necessary trust and muscle memory in the few hours dedicated to such training events. Additionally, these large-scale training sessions are expensive to administer for the groups involved, and supplemental funding for them is not always available. Thus, the usefulness of these types of training events is difficult to gauge. While this thesis is not recommending that training of this kind be stopped, arguably, the complex training that SWAT units need more regularly is not addressed during these exercises that attempt to simulate real-life scenarios.

Standardized training for regional training exercises geared specifically toward SWAT teams is even harder to administer. For one, bringing multiple SWAT teams to one large location to train generally means that the areas these teams cover will not have the full resources available should a call for service occur at the same time. The result is that

[59] Frazzano and Snyder, "Hybrid Targeted Violence."

[60] Felicia Kitzmiller, "Officers Practice Emergency Response," *News Tribune* (Tacoma), February 12, 2011, ProQuest.

these teams send several representatives to the training event to learn and bring back the information to the rest of their teammates. This option does allow for the sharing of current trends in the field of SWAT and provide networking opportunities, as previously mentioned. Unfortunately, it rarely allows for whole teams to work with other similar-sized SWAT elements from neighboring municipalities, yet large-scale SWAT training from a regional response perspective should be the primary goal of these types of training sessions. Without the ability to train entire SWAT units alongside their federal, state, and local partners' entire teams, any pass-down from the training will inevitably pass through the filter of a specific SWAT operator's—or smaller group of operators'—unique perspective. Again, this type of process makes future large-group integrations difficult to predict in terms of success.

C. COMMAND AND CONTROL

1. Jurisdiction and Culture: Who Is in Charge?

SWAT teams, and law enforcement agencies more generally, still face the challenge of determining which agency's team will take the lead during critical incidents. While resource sharing and willingness to help are often given without hesitation during the first few minutes of these types of situations, as the incident and resource needs become greater and as time passes, that willingness to defer may also change.

SWAT teams operate in an "alpha mentality," meaning that most teams want to lead from the front rather than play a supporting role. This is a result of their team members' competing to get onto their respective teams, striving to be the best at what they do, and wanting to be positive role models for other SWAT units. These types of law enforcement personnel can struggle mentally and culturally with the idea that another team will come in and handle a call for them.[61] This is not to say that SWAT team personnel are bad teammates; to the contrary, SWAT team members are generally selfless, and their success is built on the belief that the team succeeds or no one does. Being a good teammate, however, does not preclude the desire to be in charge of an incident. This thought process

[61] Singh, "Treading the Thin Blue Line."

is not exclusive to SWAT teams at a law enforcement call; frequently, the decision over who makes the final decisions can be contentious, and who is in charge can be equally challenging to a successful outcome of the incident. Such concerns arose in the after-action report of the Las Vegas high-rise shooting of 2017.[62] It was also a concern during the San Bernardino shooting incident that heavily involved SWAT units.[63]

Jurisdictionally, it is usually understood that when a crime can be prosecuted federally, that route of investigation is preferred. For locally or regionally based law enforcement agencies, that means at some point the Federal Bureau of Investigation (FBI) will be involved. SWAT teams from the FBI are located across the United States, with a specially trained full-time FBI SWAT unit located on either coast to handle incidents that require specific training (e.g., advanced hostage rescue and major incident response).[64] It is not uncommon for local teams to train with their local FBI SWAT team, as it is expected for these groups to interact frequently at incidents. This interaction is usually cordial, but as with the discussion of decision making from a whole-incident perspective, tactics that conflict between federal and local SWAT units can make joint response a problem.

This is especially true if the FBI or another federal entity will be handling the follow-on investigation once the incident no longer requires SWAT resources. In these situations, the FBI SWAT unit—the federal tactical element of the incident—usually makes any and all strategic decisions involving tactical response. Local SWAT units could be used in a support role, and are a force-multiplier for the FBI. Conflicts may arise, however, when an FBI SWAT element attempts to direct an outside or local agency's SWAT unit in a way that puts the local team at unnecessary risk. Deciding when and where that happens works only when the overall group's leader is a known and trusted person. This is not always the case in critical incidents involving multijurisdictional SWAT teams.

[62] James J. Seebock, "Responding to High-Rise Active Shooters" (master's thesis, Naval Postgraduate School, 2018).

[63] Bobko et al., "A Tactical Medicine After-Action Report."

[64] James, *Federal Tactical Teams*.

2. Lack of Familiarity at Critical Incidents

Critical incidents involving highly technical decision making (i.e., SWAT team involvement) make familiarity with and trust among regional partners all the more important.[65] As highlighted in the training challenges discussion, trust is bred over time during multi-agency training sessions with regional SWAT partners with which each SWAT unit has established formal relationships.[66] This outcome, of course, assumes that the training sessions are appropriately structured for trust to be established. The *regional* portion of such training is crucial; while local agencies can train with other local agencies and feel comfortable intermingling with their respective personnel, leaving out regional partners like the FBI undermines the goal of familiarity.

Unsurprisingly, this is a common challenge at large-scale critical incidents. One reason could be that the responding SWAT units have not had a chance to establish formal relationships through training. Another could be that personnel have moved on to other positions in their respective agencies. Regardless of the specific cause of the unfamiliarity, it is unrealistic to expect the numerous SWAT teams to have regularly trained or been in contact with all of the other regional SWAT units before every possible critical incident. Therefore, a lack of familiarity may lead any or all SWAT teams involved in a critical incident to question the principal agency's decisions.

Of course, some leadership models mitigate this concern. Formal chains of command involving a unified command team structure, once established, are means for managing large-scale events appropriately.[67] Such structures are in place nationally and regionally and serve as a "best practice" in establishing trust and efficient lines of communications and decision making.[68] Incorporating SWAT teams into this framework is not a new concept, so on the surface, these types of "forced" relationships make a lot of

[65] Leonard Johns and John P. Jarvis, "Leadership during Crisis Response: Challenges and Evolving Research," *FBI Law Enforcement Bulletin*, May 11, 2016, https://leb.fbi.gov/articles/featured-articles/leadership-during-crisis-response-challenges-and-evolving-research.

[66] National Tactical Officers Association, *Tactical Response and Operations Standard*.

[67] H.R., *Leveraging Mutual Aid*.

[68] Department of Homeland Security, *National Response Plan* (Washington, DC: Department of Homeland Security, 2004).

logical sense. Unfortunately, SWAT teams, and law enforcement in general, can struggle with an environment where trust is a necessity due to the incident presented.[69] Rather, trust established as an organic byproduct of familiarity is more likely to equal efficient, effective, uniform tactics and decision making. SWAT units that can pre-establish this familiarity usually need less oversight during a critical incident, which allows leadership to focus on bigger strategic problems during the response, rather than getting "into the weeds" from a tactical perspective.

One of the worst things that can happen at a critical incident is for SWAT or any other law enforcement personnel to misunderstand or disagree on what their mission is, assuming it is based on proper moral and ethical grounds. This disagreement or misunderstanding can lead individual team members, or even entire teams, to modify or completely ignore orders or directions from leadership. The term *mission creep* is used to describe a group or team's being deployed to accomplish a mission it is either not designed to handle or inadequately prepared to accomplish. Multiple examples highlight SWAT teams' being inappropriately used, whether by design or by accident.[70]

One example involving SWAT team deployment, as well as other police officer resources, was the manhunt for Christopher Dorner in 2013. Officers who either were confused or refused to follow mission orders put others at risk by creating their own missions. While this example did not directly involve SWAT units, the actions and motivations were similar:

> Once on the mountain there were numerous examples of individuals and small teams of officers conducting searches and activities without direction from the incident commander. There were incidents of officers deliberately working outside the scope of their mission so they could be the ones who captured Dorner. While these officers acknowledged they were working independently and outside of established mission guidelines and policies, the desire to capture the suspect appeared to outweigh training, policies, and common sense. What these officers failed to realize is they needlessly put

[69] Johns and Jarvis, "Leadership during Crisis Response."

[70] Cadman Robb Kiker III, "From Mayberry to Ferguson: The Militarization of American Policing Equipment, Culture, and Mission," *Washington and Lee Law Review* 71 (2014): 282–98.

> themselves and others in harm's way and that made the event more complicated.[71]

The last thing that any well-intentioned SWAT team or member wants to do is cause mission creep, but it can happen in rapidly evolving incidents. Familiarity with decisionmakers and why they are giving those orders, both from a ground-level and leadership perspective, can be a major factor in establishing trust while preventing such overstepping.

This chapter has discussed some of the main challenges facing U.S. SWAT teams, regardless of region. Communication, training frequency, command and control, and familiarity are all common struggles when multiple SWAT teams converge on a critical incident and are forced to work together to accomplish a goal. These challenges exist in large part because of the advanced expectations placed on SWAT teams by themselves, the departments they work for, and society as a whole. Viewed as the "last line of defense" against complex attacks or prolonged law enforcement calls that require tactical response, SWAT teams cannot afford to be inefficient in their response capability.

Access to resources, from a structure that allows for direct or indirect procurement, is explored later in this thesis. This discussion attempts to determine whether a change in SWAT team strategic structures needs to be realized to make SWAT units more effective in responding to critical incidents that affect large regions. SWAT team critical incident case studies in Chapters III and IV—involving a mutual-aid response (indirect access to resources) and a singular large-team response (direct resource use), respectively—shed light on this question. In addition, Chapter V explores a hybrid format that involves multijurisdictional team members brought together in a task force model as a potential solution to these challenges.

[71] Police Foundation, *Police under Attack: Southern California Law Enforcement Response to the Attacks by Christopher Dorner* (Washington, DC: Police Foundation, 2015), https://www.policefoundation.org/wp-content/uploads/2015/07/Police-Under-Attack.pdf.

D. OPEN SYSTEMS

A discussion of the open systems model is relevant in examining SWAT team challenges holistically. This model is not new but has been applied in different contexts to describe how things interact with each other, both externally and internally, from an organizational standpoint.[72] The open systems model, for the purposes of this thesis, "suggests that an institution is subject to both internal and external factors in decision making."[73] The system is in a constant feedback loop, receiving inputs based on its interaction with the environment surrounding it and emitting outputs in response to inputs and environment. Thus, the system is "open," as it is in a continual state of evaluation from those inputs and their interactions. This process is no different for governmental organizations when this theory is applied.[74] Figure 1 illustrates the process.

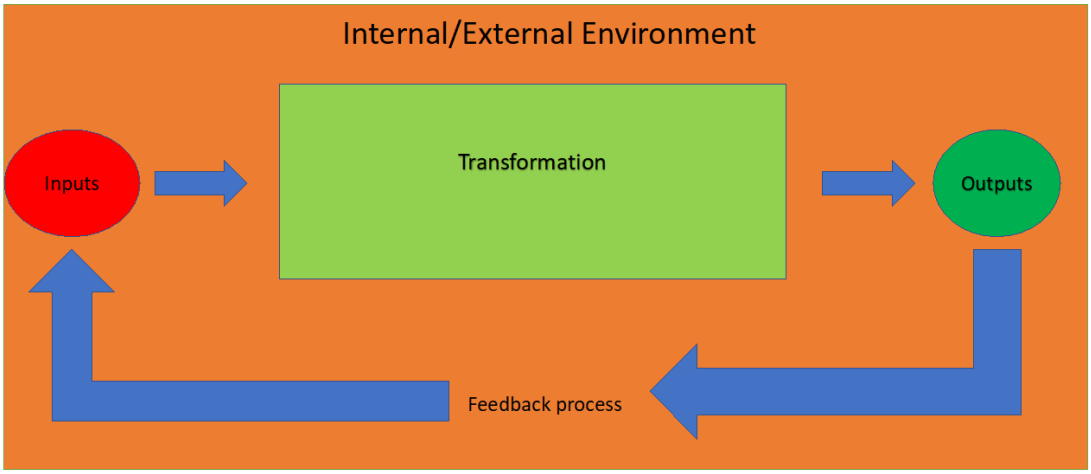

Figure 1. A Model for Open Systems Theory

As previously mentioned, SWAT teams interact regionally, or externally, with each other in any critical incident requiring multiple resources to respond. How these teams

[72] Chau and Tam, "Factors Affecting the Adoption of Open Systems"; Reitano, "Open Systems Model."

[73] Reitano, "Open Systems Model."

[74] Reitano.

interact from an interoperability, command and control, or training and familiarity standpoint (inputs) while working during a large critical incident (environment) eventually leads to some version of performance or informational breakdown that results in a change in results (transformation) when applied. After an action has been taken and deemed successful or unsuccessful (output), this information is recorded and analyzed (feedback).

This feedback can take the form of after-action reports (AARs), "hot washes," incident debriefs, or another informational process. The changes made hopefully equal improved response to later critical incidents (inputs), and the process cycles again. As an example, a regional SWAT response to a critical incident may experience interoperability issues during the incident. After the incident concludes, recommendations to correct those issues appear in an AAR or incident brief, and those recommendations are ideally implemented by the teams involved before the next critical incident response. This cycle ideally occurs continuously until optimal interoperability performance is met. In the interoperability case, a regional SWAT open systems process might resemble Figure 2.

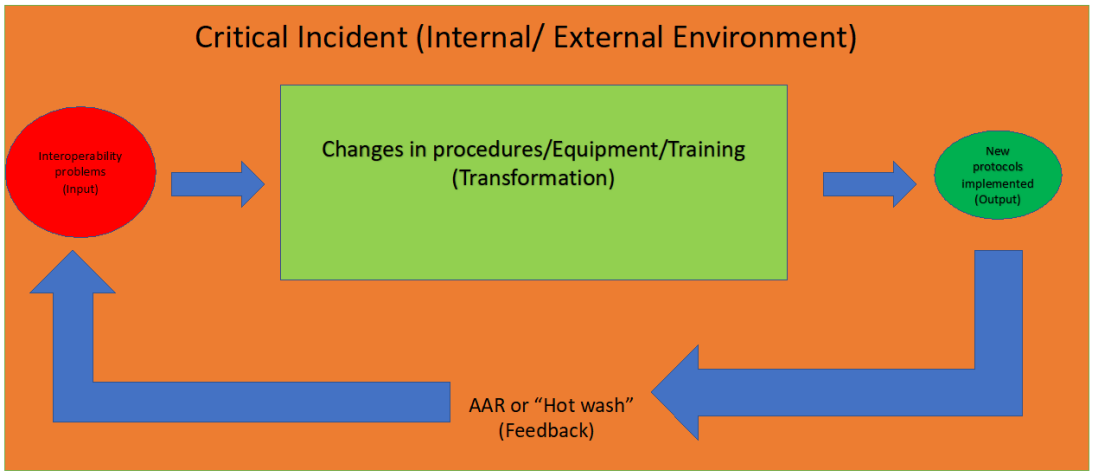

Figure 2. A SWAT Open Systems Theory Model

The open systems model could be applied to study and improve regional SWAT team performance in an ideal world from a case-by-case standpoint but is likely applied consciously or unconsciously by many SWAT units. The repeated challenges found in the case studies of Chapters III and IV, however, demonstrate that AARs and critical incident

debriefs have yet to move the needle enough toward long-term improvements.[75] Indeed, applying open systems modeling to these studies still results in numerous recurring themes. Regardless, this model provides a framework for a foundational understanding of the feedback and revisional decision-making process of many organizations.

It is undoubtedly frustrating for homeland security practitioners and strategic managers to experience the phenomenon of addressing issues or challenges immediately, only to encounter them again in another region; evidence of this frustration is found in literature debating the effectiveness of AARs from a long-term perspective.[76] While there is little doubt that the information in these AARs and briefings is useful, accurate, and informative, the challenges discussed in this thesis are not new or unique to the cases discussed.

Table 1 summarizes this chapter and the main points of this thesis on SWAT challenges. A similar chart will help to summarize Chapters III and IV as well.

Table 1. Chapter II Summary of Challenge Points for Modern SWAT Units

Challenges	**Interoperability**	**Training and Familiarity**	**Command and Control**
Modern-Day Ongoing Concerns (Chapter II)	1) Lack of common communication equipment and terminology	1) Difficulty in scaled training for large group scenarios 2) Continual and consistent training challenges on a larger scale	1) Cultural and jurisdictional issues in determining command and control 2) Lack of familiarity at critical incidents

[75] Donahue and Tuohy, "Lessons We Don't Learn."

[76] Donahue and Tuohy, "Lessons We Don't Learn"; Qian Hu, Claire Connolly Knox, and Naim Kapucu, "What Have We Learned since September 11, 2001? A Network Study of the Boston Marathon Bombings Response," *Public Administration Review* 74, no. 6 (November 2014): 698–712, https://doi.org/10.1111/puar.12284.

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III. CASE STUDY IN SWAT MUTUAL-AID RESPONSE

This chapter presents the Christopher Dorner critical incident from primarily a SWAT perspective, while noting the repeated challenges discussed in this chapter. This chapter and the ones that follow put a sharper focus on these recurring difficulties—with the goal of informing the reader of their importance in future critical incidents involving multiple SWAT team response while providing context toward answering the original research question of this thesis.

A. THE CHRISTOPHER DORNER INCIDENT

1. Background

Christopher Dorner, a former Los Angeles Police Department (LAPD) officer with a history of military combat training, went on a shooting rampage that terrorized and affected multiple jurisdictions in Southern California in 2013.[77] Dorner had originally been with the LAPD for approximately three years (2005–2008), during which time he served in the U.S. Navy Reserve while being deployed overseas to Iraq.[78] Dorner's training and experience both with the military and LAPD gave him an arguably extensive background in firearms and shooting tactics. Dorner was ultimately terminated and left disenfranchised with the LAPD and several supervisors there, which ultimately led to him shooting and killing an LAPD captain's daughter and her fiancée in Irvine, California, in 2013.

After Dorner's initial killing of these two victims, he began a crime spree that included, among other crimes, the attempted hijacking of a vessel, kidnapping, and additional shootings in San Diego County, the city of Corona, and Riverside, California. These crimes seemingly were in an effort to evade law enforcement after the initial killings in Irvine.[79] Dorner went on to kill law enforcement officials in Riverside County while on the run, and ultimately fled to Big Bear, California, where he became involved in a shootout

[77] Michael Dowd and Robert Brown, "Officer Involved Fatal Incident" (interoffice memorandum, San Bernardino County, February 10, 2014), http://fliphtml5.com/bookcase/eajbu.

[78] Dowd and Brown.

[79] Dowd and Brown.

with the San Bernardino Sheriff's Department (SBSO). The Big Bear shootings involved both the SBSO's patrol staff and their SWAT team. This portion of the incident resulted in an SBSO deputy's death as well. Dorner barricaded himself in a cabin in Big Bear during the final portions of this shootout, where he ultimately committed suicide with a self-inflicted gunshot wound.[80] Dorner challenged the scale, scope, and flexibility of law enforcement response during the several weeks this spree commenced, including having to deal with extreme winter conditions, as Figure 3 depicts. Dorner showed no empathy in committing multiple violent crimes against police and civilian personnel, and his advanced training in police tactics made countering his acts much harder for law enforcement, as officers had to think of multiple consequences for every decision they made.

Figure 3. SWAT Personnel Returning to the Command Post during the Dorner Manhunt in Big Bear[81]

[80] Dowd and Brown, "Officer Involved Fatal Incident"; Michael E. Saltz, "Crisis Leadership and Complex Crises: A Search for Competencies" (master's thesis, Naval Postgraduate School, 2017).

[81] Source: David Whiting, "The Christopher Dorner Shootout Showed Us the Best and Worst of Humanity," *Press-Telegram*, February 9, 2018, https://www.presstelegram.com/2018/02/09/the-christopher-dorner-shootout-showed-us-the-best-and-worst-of-humanity/.

As mentioned earlier, this incident involved multiple jurisdictions and law enforcement agencies both investigating crimes committed by Dorner and responding to him tactically as he attacked them. Interestingly enough, mutual aid was never officially declared by the SBSO in Big Bear. However, the response to this critical incident mirrored a mutual-aid callout in many ways and, as such, was treated as a mutual-aid event involving SWAT.

Once Dorner's vehicle was located in Big Bear, burned and with tactical equipment left behind, it was clear that due to Dorner's experience and knowledge base, a large-scale "manhunt" or search needed to occur quickly.[82] Much of the tactical coordination of the search, and the eventual incident resolution plan, fell on the SBSO's SWAT personnel due to Big Bear's being squarely in their jurisdiction. As the SBSO's SWAT team, called the Special Enforcement Detail (SED), had significant resources at its disposal from a department standpoint, it used mutual-aid protocols to handle the mission. Several reasons likely necessitated this choice: the immediacy of the problem, the remote area of the search, Dorner's advanced combat experience and understanding of police tactics and protocols, and multiple law enforcement agencies' involvement in the previous incidents outside Big Bear.[83]

This incident did have its challenges, which from a complexity standpoint were not surprising. Hundreds of law enforcement personnel converged on Big Bear to assist. The AAR following the incident would highlight command and control and adequate allocations of resources as deficiencies in the response.[84] SWAT personnel, acting in a de facto mutual-aid capacity along with the rest of the law enforcement staff on scene, realized success in certain aspects of this critical incident, while also experiencing several struggles with aspects of response.[85]

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[82] Dowd and Brown, "Officer Involved Fatal Incident."

[83] Dowd and Brown.

[84] Police Foundation, *Police under Attack*.

[85] Police Foundation.

2. Successes and Challenges

According to multiple accounts after the incident concluded, the bravery, dedication to selfless acts of teamwork, and initiative displayed by all personnel involved in the Dorner incident were evident.[86] Early on in the discovery process of Dorner's presence in Big Bear, SWAT team personnel made wise decisions based on sound tactical judgement. An example of this was relocating Dorner's burned-out vehicle, with evidence in it, to another location in Big Bear due to the involved personnel's exposure to potential ambush from Dorner.[87] SWAT leadership communicated this need with critical incident leadership, and it was not questioned based on the totality of the circumstances. This action may seem like a minor thing but was an important decision based on the incident's being close to local ski slopes that were crowded due to the Presidents' Day holiday.

Additionally, SWAT personnel from the SBSO worked with responding partner agencies to handle many of the minor calls for service in the area around the city of Big Bear so that the sheriff's office could focus on the tactical response elements of the Dorner incident.[88] This was ultimately a vital partnership and decision; as the critical incident effectively lasted close to a week in Big Bear, the SBSO's SWAT personnel could not be re-deployed elsewhere or be tasked with collateral, non-related duties in the event that Dorner re-appeared. Dorner's quick resurfacing is what ultimately occurred, and the SBSO's SWAT team responded fairly quickly from a staged location in the city to assist with patrol deputies during the active shooter portions of the cabin scene.[89] The actions there were praised by the experts who wrote the after-action report on the incident:

> When Dorner finally was discovered, deputies were successful in containing him from escaping out of the mountains. The final confrontation at the cabin was chaotic—and led to the tragic death of Deputy Jeremiah MacKay and serious injury to Deputy Alex Collins. However, the situation

[86] Police Foundation, *Police under Attack*; Dowd and Brown, "Officer Involved Fatal Incident."

[87] Police Foundation, *Police under Attack*.

[88] Police Foundation.

[89] Dowd and Brown, "Officer Involved Fatal Incident"; Police Foundation, *Police under Attack*.

> was swiftly brought under control by the department's Specialized Enforcement (SWAT) Division.[90]

The challenges this incident revealed are important to note for several reasons. First, many of the critical incidents SWAT teams may face in the future will involve multiple agencies responding to assist. While potentially a force multiplier for even agencies as large as the SBSO, these resources can be just as perplexing if communication and control issues are not managed immediately.

Second, SWAT units involved in a complex critical incident may be highly trained to deal with the threat but still struggle with understanding the importance of logistically managing the call. Interoperability and general communication challenges were recurrent themes for this event.[91] Leadership, both on the team and in the department, must recognize and understand why SWAT teams do what they do, when they do it; a strategic leader in an agency, regardless of one's individual SWAT expertise, might not have the luxury of deferring to a SWAT commander to make decisions that are outside the scope of one's span of control.

The Dorner incident included moments of potential blue-on-blue incidents for SWAT personnel on scene from multiple agencies that could have been avoided strategically. An example of this problem was apparent when the LAPD's tactical units attempted to respond to Big Bear via helicopter without clear direction from the SBSO's SWAT team, nor from anyone else in charge of the Big Bear incident for that matter.[92] This incident is covered in more detail in the command-and-control section of this chapter, but is an excellent example of just how complex the scene at the cabin was.

While situations like the one described above are hard to avoid in complex incidents, such as the Dorner case, the reality of the extreme threat, at least from a communication and interoperability standpoint, should have slowed the response down somewhat from the LAPD. What underlay the Dorner case was the emotionality of the

[90] Police Foundation, *Police under Attack*.

[91] Police Foundation.

[92] Police Foundation.

situation. An LAPD captain had lost close family members to Dorner, and Dorner had also killed other law enforcement officers in his escape. To that end, every agency involved wanted to have a part in this case ending as safely and as quickly as possible. Regardless, the SBSO believed it had the situation under control, so any belief to the contrary by an outside agency should have sparked a formal mutual-aid discussion. Short of that discussion or request from the SBSO, any response into the "hot zone" might only put all of the agencies' personnel on the ground in Big Bear in more danger.

3. Interoperability, Command and Control, Training and Familiarity: Structured, Focused Comparison

In examining the tactical response to this incident from a de facto mutual-aid perspective, the goal is to narrow the scope of retrospection to three elements: interoperability, command and control, and training and familiarity. This thesis attempts to answer this question using a "building block" comparison of these components. Specifically, how does a focused comparison of these elements hold up in searching for an answer to the main research question: Given the scale, scope, and complexity of modern mass-casualty or critical incidents, how do SWAT team structures dealing with interoperability, training, familiarity, and command and control need to change for SWAT response to remain viable?

a. Interoperability

The after-action report of the Dorner incident heavily critiques the interoperability issues for most of the law enforcement resources that responded to Dorner's actions in Big Bear.[93] The units that responded to the incident—as it crossed multiple jurisdictions—neglected to share common radio frequencies, and modern-day technologies were not available for several of the involved agencies to communicate seamlessly over a police radio.[94] Such technology involves the "patching" of radio frequencies into one common channel so that during a large-scale event like the Dorner case, all agencies within that

[93] Police Foundation.

[94] Police Foundation.

patched channel's range can communicate without relaying from their respective dispatch hubs.[95] This incident did not occur 30 years ago, nor did it involve agencies without budgeted access to this technology. In 2014, most if not all California-based law enforcement departments should have had this capability. Thus, it makes sense why the after-action committee found this detail so disturbing.

Effective interoperability is not an optional tool in today's world of critical incident response. This statement is especially true when one considers that many of the incidents are handled by just one law enforcement agency, regardless of whether that incident occurs in only one or across multiple jurisdictions. SWAT teams attached to any agency, regardless of size, are beholden to the same radio technology and interoperability limitations of that parent agency. In other words, the LAPD's SWAT unit carried LAPD-issued radios, the SBSO's SWAT team carried SBSO-issued radios, and so on. While this makes sense from an interdepartmental communication standpoint, outer-agency interoperability was found to be a problem for field communication in the Dorner case. When given commands that were open to interpretation, the LAPD's SWAT units responded via helicopter to the wrong location. In fact, they responded to a location that exposed them and other law enforcement SWAT operators to unnecessary danger.[96] Moreover, this issue was not limited to SWAT personnel on the mountain:

> The most significant and pervasive lack of radio interoperability occurred in the mountains above Big Bear during the hours before Dorner was finally cornered and stopped. . . . [I]t has been estimated that hundreds of self-deployed law enforcement personnel converged on the remote mountain area during those final hours. Many of those personnel had no radio contact with San Bernardino Sheriff's Department and sheriff's officials had no way to communicate with them or coordinate their actions.[97]

[95] Jerry Brito, "Sending Out an S.O.S.: Public Safety Communications Interoperability as a Collective Action Problem," *Federal Communications Law Journal* 59, no. 3 (2007): 457–92.

[96] Dowd and Brown, "Officer Involved Fatal Incident"; Police Foundation, *Police under Attack*.

[97] Police Foundation, *Police under Attack*.

The bottom line is that without the ability for all agencies involved to communicate in this incident, "it was a miracle that more officers were not injured in the resulting chaos of hundreds of independently operating personnel."[98]

The after-action committee suggested several ways to better prepare for a similar incident. One of these is the use of a liaison officer attached to a separate unit from another department to serve as a communication "go between" for both agencies. This suggestion has merit, assuming that the liaison officer has the appropriate trust and understanding of the unit to which he is attached. In comparing the interoperability challenges present in the Dorner case to the research question posed in this thesis, it is clear that interoperability among regional law enforcement partner agencies, especially among partner SWAT units, must evolve to a model that allows for common equipment. It is highly doubtful that a given region will agree on equipment standardization, however. Among many different standardization challenges, this could be due to a multitude of budgetary, cultural, and political roadblocks. Department leadership in every region needs to take a closer look at solutions that suggest more than one solution to the standardization challenge. These solutions are covered in more depth in the recommendations section of this chapter.

b. Command and Control

As with the interoperability gaps experienced during this incident, the need for a formal command-and-control structure that would follow state mutual-aid or National Incident Management System guidelines was not recognized by the departments working the active incident.[99] Either system would have given leadership a better handle on resource management from a strategic level. Instead, there were several incident command posts (ICPs) established for the multiple scenes and areas in which Dorner was contacted. Even after the critical incident moved into Big Bear, there was no attempt by the SBSO to establish the protocols associated with mutual-aid response:

> The complications in maintaining command and control started to occur following the shootings in Corona and Riverside, and the discovery of the

[98] Police Foundation.

[99] Police Foundation.

> burned truck in Big Bear Lake. . . . [T]he San Bernardino Sheriff's Department opened an incident command post at Big Bear, in addition to a department operations center at the San Bernardino Sheriff's Department headquarters in San Bernardino.[100]

Staging areas and logistics and planning stations, among other elements, would have been extremely useful in preventing the overwhelming response from self-deployment, which stifled the ability of SWAT units from the SBSO to move up and around the mountain at once. Dorner was eventually found in Big Bear:

> When the pickup truck was discovered burning in the mountains on February 7th, law enforcement officers from throughout Southern California rushed to Big Bear Lake. Officers came by car and by helicopter. . . . There was no operational need for additional officers, and no request from the on-scene incident commander for mutual aid.[101]

It appears that the SBSO and other assisting agencies did not realize that even though mutual aid was never officially declared or requested, all of the agencies involved with the response to Big Bear were acting as though it had been.

This response dynamic was dangerous for many reasons, not the least of which was that the incident involved a subject who arguably possessed a skill level well beyond the average armed suspect. When dealing with an armed subject, the goal for SWAT and first responders is to isolate and contain the threat to the greatest extent possible to minimize the damage it might do. The SBSO's SWAT team undoubtedly hoped for this exact scenario, preferably in a closed building or structure to shrink Dorner's ability to evade capture again. For this to occur, law enforcement all over the mountain needed to coordinate efforts so that the moment Dorner was spotted, law enforcement could collectively isolate him. It could be argued that the speed with which this happened was only because the California Fish and Game officers, who had engaged Dorner in a gun battle, flagged down SBSO personnel and involved them directly.[102] This allowed for fairly quick involvement of the SBSO's SWAT unit to the cabin location, where Dorner

[100] Police Foundation.

[101] Police Foundation.

[102] Police Foundation, *Police under Attack*; Dowd and Brown, "Officer Involved Fatal Incident."

eventually died, as the SBSO's patrol deputies were able to communicate with their own personnel without issue.

Conversely, if a member of another agency had encountered the subject—without the ability to communicate Dorner's continued presence in Big Bear, which at that point was an assumption based on the burned-out vehicle—Dorner might have continued to evade law enforcement given extended delays in notification. This again, is a command-and-control issue as much as it is an interoperability issue. Any officer or deputy involved in the incident should have had the ability to communicate immediately their observations and actions to an on-scene ICP. This post, whether a unified ICP or a single agency version, could then have taken the necessary steps to broadcast Dorner's direction of travel, description, and mode of transportation.

As mentioned previously, the opposite occurred. Agencies that were involved in the incident at other earlier stages involved themselves more heavily without the SBSO's knowledge. The LAPD's tactical team was likely the worst example of this, as its penultimate involvement occurred during Dorner's shootout with SBSO personnel from the cabin. The LAPD's tactical unit flew into the area where the SBSO was engaging Dorner at the cabin, causing confusion and a diversion of resources to prevent a blue-on-blue situation.[103]

c. Training and Familiarity

In terms of all agencies that responded to Big Bear once Dorner's vehicle was located, training and familiarity with each other from both an overall department standpoint, as well as a tactical team perspective, would have been a key element. Even though he did not do an adequate job at masking his crimes, Dorner had already showed advanced skill in evading law enforcement.[104] Once he was in Big Bear, Dorner showed he was willing to do anything to continue his evasion, including kidnapping innocent civilians and killing police. Beyond the suspect's complexity, the area he was found in

[103] Police Foundation, *Police under Attack*.

[104] Police Foundation.

carried extreme terrain and weather concerns. Thus, any response to help had to be well communicated and understood. There could be no confusion from any agency involved about what its specific role was. The Dorner case had good examples of this, such as the Irvine Police Department's understanding of its responsibilities' being investigatory only—and limited to the LAPD-related deaths.[105]

However, how often the SBSO's SWAT elements trained with the LAPD's, or any other agency SWAT assets that responded, is unclear. In addition, as the Dorner search centered on Big Bear after his vehicle was located, SWAT operators from agencies all around the area descended on the city to assist as first responders and potentially SWAT elements if needed.[106] All of these SWAT personnel in relatively small areas and with arguably little familiarity could have led to other blue-on-blue incidents such as the LAPD one described previously. These types of challenges are not easy to overcome once an incident of this magnitude is underway.

In addition, while not explicitly detailing whether SWAT teams were willing to work together or not, the after-action committee noted that "throughout the events, agency assumptions about each other tended toward the negative. Examples include an assumption that only certain tactical teams possessed the high degree of skills necessary to capture Dorner."[107] This belief, or alleged belief, was grounded in a cultural dynamic that Chapter II explored: the mistrust of other SWAT teams that do not train together regularly and are unfamiliar with each other.

B. RECOMMENDATIONS

There were several important takeaways from this case study in terms of future critical incidents of this magnitude. Given the scope and scale of the incident, the fact that it occurred over an almost two-week period, and that it spanned over hundreds of square

[105] Police Foundation.

[106] Joshua D. Filler, "Time to Call in the SWAT Team Reform Crew," *Washington Post*, October 31, 2014, https://www.washingtonpost.com/opinions/joshua-d-filler-time-to-call-in-the-swat-team-reform-crew/2014/10/31/1f8a955a-60fc-11e4-91f7-5d89b5e8c251_story.html; Police Foundation, *Police under Attack*.

[107] Police Foundation, *Police under Attack*.

miles of jurisdiction, there can be no doubt that the Dorner case was the very definition of a complex critical incident. Any SWAT unit responding to a similar incident would have a multitude of emotional, political, and tactical challenges to overcome. The SBSO's SWAT team did a phenomenal job overall in its management of the final cabin location where Dorner was killed, and there were several successes that could be taken from the case overall. Looking strategically at how the incident's response could have been improved from a strategic level, however, is valuable. The following recommendations tie directly into Chapter V as well.

1. Standardize Communications Equipment

While standardization of communications equipment across all teams in a region is ideal, it is highly unlikely to happen. Communication equipment is specifically tuned for local, state, and federal needs, which makes it technically difficult to accomplish.[108] Moreover, individual departments have their own preferences in features and ergonomics. Additionally, cost considerations in the wholesale replacement of equipment are the types of budgetary decisions rarely made across an entire region simultaneously. In short, even if the perfect solution were available from a technological standpoint, several agencies in a given region would likely decline to switch to it for a host of reasons.

Regardless, the ability to communicate is key for a successful critical incident outcome. It is arguably more important to understand what is being done rather than why it is being done; the *why* is in the hands of strategic decisionmakers who are in much smaller numbers at such an incident than the large group of SWAT operators accomplishing the *what*. The *what* can only be passed down effectively and quickly across large groups with effective communication techniques, which is why standardization of equipment for communication is such a highly valuable asset. Federal SWAT units are the biggest component in this challenge. It is uncommon for them to carry radios that can be patched with local agencies' channels. While the after-action report in the Dorner case recommends a liaison being inserted into units from partner agencies to act as a

[108] Manoj and Baker, "Communication Challenges in Emergency Response."

communication go-between, this goal could be accomplished via a structural change to the unit itself.[109] Chapter V discusses how structuring a composite team from multiple jurisdictions accomplishes this feat.

2. Position Command and Control with a Singular Multijurisdictional SWAT Response

While there is no expectation that any critical incident will go completely as expected, the use of one, multijurisdictional response unit that is composed of members from every regional department would reduce the number of command-and-control issues. Some areas in the country utilize such a structure out of necessity due to resource scarcity.[110] In the Dorner incident, the issue was the opposite: too many resources available, and too many agencies wanting to be included in the response. In either situation, a single unit comprising every regional department's SWAT element would be an effective tool to mitigate mission creep, which was seen during the Dorner incident. Without the ability to streamline command and control over SWAT response, deadly mistakes can occur.

If the SBSO, the LAPD, and other regional SWAT teams had already assembled a multijurisdictional unit for such an incident, the LAPD's tactical blue-on-blue issue would have been much less likely, as direct control over any and all regional SWAT response would have been funneled through one small unified command group, if not one lead commander. This group would not have replaced each municipality's unit but rather supplemented large-scale incidents such as the Dorner case. Chapter V discusses a way to share the responsibility of this type of unit.

3. Require Continual Training and Familiarly for SWAT Units in a Given Region

It is clear from the response to this incident that the SWAT teams involved rarely trained together. Communication and interoperability issues and confusion on mission

[109] Police Foundation, *Police under Attack*.

[110] Schnobrich-Davis and Terrill, "Interagency Collaboration."

orders all were elements of the after-action report.[111] While not a cure-all for the challenges faced, more frequent and involved training from a large-scale event standpoint would have likely cut down on the confusion.[112] SWAT teams have a culture of trust that is hard to replicate without familiarity, and mutual training sessions allow teams to "feel each other out," so to speak. This thesis acknowledges that this need is easy to say and hard to make happen, as the costs and coordination of regularly scheduled training among multiple teams are high. As Chapter II pointed out, when one factors in the calls-for-service demands of these teams—and the realization that they are rarely allowed to be inaccessible for emergency callouts—the possibility of holding these types of training scenarios regularly is small. To assist with this endeavor, a regulatory entity, such as the California Association of Tactical Officers or California's Police Officer Standards and Training, could step in to set metrics for a given team or region to meet. While there are some general regulations already in place, specific goals relating to large regional SWAT training requirements would be preferable.

Circling back to the previous recommendation, a multijurisdictional unit formed for these types of events could put together much more frequent training. The unit would be smaller yet still composed of all the departments that would respond. Hence, the capabilities, familiarity, and the cultural understanding of all the regional teams would still be known and understood. At a minimum, a unit structured in this fashion could reach out to another single departmental unit for assistance much more quickly due to the familiarity element alone. More importantly, training could be done on a smaller scale and still accomplish the goals that a response to an incident such as the Dorner case demands.

4. Additional Observations

While the Dorner case provided some unique challenges to law enforcement SWAT teams, the need for focused and detailed decision making is not limited solely to an event this large in scale. Table 2 summarizes the main challenges discussed in this chapter.

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[111] Dowd and Brown, "Officer Involved Fatal Incident"; Police Foundation, *Police under Attack*.

[112] Thomas J. Balint, "Preparing for the Mumbai-Style Attack: Interstate Law Enforcement Mutual Aid in the Absence of a Declared Emergency" (master's thesis, Naval Postgraduate School, 2014), http://hdl.handle.net/10945/41348; Holbrook, "The Preparedness Web"; Bolton, "Lessons Learned."

Table 2. Chapter III Summary of Challenge Points for SWAT Units during the Dorner Incident

Challenges	**Interoperability**	**Training and Familiarity**	**Command and Control**
Dorner Incident (Chapter III)	1) Lack of common communication equipment and terminology 2) Unit self-assignment	1) No evidence of SWAT team cross-training 2) Lack of familiarity among the LAPD, SBSO, and other SWAT teams	1) No formal ICP established for entire incident/separate ICPs established 2) Regional or unified ICP not established

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IV. CASE STUDY IN SWAT LARGE-TEAM RESPONSE

A critical incident can be centered in a small area of town or involve a large stand-alone team from a metropolitan city, and yet be equally challenging. As the case study from the Oakland SWAT team illustrates, decisions made from political, emotional, and cultural standpoints can be just as challenging as those made from a tactical one. While the 2009 killings of Oakland officers were clearly a tragedy, as were the killings of law enforcement by Dorner, some of the key elements of the incident need to be examined in further detail to determine a more efficient way of responding to a similar critical incident.

A. OAKLAND'S 2009 SWAT SHOOTING INCIDENT

1. Background

On March 21, 2009, at approximately 1:00 p.m., an Oakland Police Department (OPD) motorcycle traffic sergeant made a vehicle stop for a minor traffic offense. Shortly thereafter, a second OPD traffic unit arrived on scene as a cover officer for the stop. After initially contacting the driver of the vehicle, the sergeant and his cover officer approached the driver a second time to inquire about his driver's license, at which point the driver—the sole occupant—began shooting at the officers. Both OPD units were initially hit twice each, but then the driver exited his vehicle and shot both of them in the back once at point-blank range. Both OPD officers were mortally wounded. The driver fled the scene on foot and was last reported running southbound on an adjacent street, 74th Avenue.[113]

After the initial shooting of the OPD traffic units, multiple officers from the OPD and other agencies began arriving en masse, as Figure 4 demonstrates, and an investigation began into both the shooting and the possible whereabouts of the shooter. Several higher-level OPD supervisors were part of this response, which included personnel from the ranks of sergeant, lieutenant, captain, and deputy chief.[114] OPD personnel attempted to glean

[113] James K. Stewart, *Independent Board of Inquiry into the Oakland Police Department* (Alexandria, VA: Center for Naval Analyses, December 2009), https://www.policefoundation.org/wp-content/uploads/2015/05/After-action-report-of-March-2009-Oakland-Police-Shooting-.pdf.

[114] Stewart.

more information about where the shooter had fled. This information included details from multiple sources, such as eyewitnesses, who had purportedly seen the suspect enter a nearby apartment complex, and was corroborated by a confidential informant who knew the suspect and had called an off-duty OPD lieutenant to relay the suspect's address.[115]

Once supervisors felt they had enough information to reasonably believe they had the suspect's address, they initiated a full SWAT team callout to respond to the scene. The on-scene investigation continued for approximately two hours, during which time leadership debated whether the suspect was indeed in the nearby apartment complex to which witnesses saw him flee. Eventually, several high-level supervisors on scene made a command decision to organize an ad hoc team comprising some SWAT members to check the address.[116] According to the after-action report, this decision was made to rule out the address, as on-scene supervisors had deemed the information of the suspect's whereabouts unreliable.[117]

This was a key moment in the incident; a full SWAT team response had yet to arrive, and some of the usual incident command decisions—for example, establishing a formal ICP and delegating tactical decision-making responsibilities to subject-matter experts on scene, such as the SWAT commander—had not yet occurred. Regardless, the ad hoc team made a forced entry into the apartment and were immediately met by gunfire. The gunfire struck the first two entry team members, killing one of them instantly.[118] During the gun battle that ensued, a third SWAT entry team member was shot. He, too, succumbed to his injuries. The suspect was ultimately killed by other entry team members and a perimeter officer from a partner agency who had come to the scene to aid.[119] Amazingly, a female occupant of the apartment fled the apartment unharmed during the shootout.

[115] Stewart.

[116] Stewart.

[117] Stewart.

[118] Stewart.

[119] Stewart.

In the end, six people had been shot and five of them killed during the incident. The deaths included two SWAT team members, as well as the suspect. The suspect, a 27-year-old male with a prior charge of assault with a deadly weapon, was wanted for violation of parole.[120]

Figure 4. Law Enforcement Officers Taking Cover behind a Car during the OPD Shooting on March 21, 2009[121]

2. Successes and Challenges

While several parts of this incident could be dissected more fully, the OPD's SWAT response is the primary focus of this chapter. Some non-SWAT actions are recounted here, however, because police usually experience certain precursors before invoking a tactical team callout. Indeed, this incident highlighted several decision points before the forced entry into the suspect's apartment, which affected the probabilities of a SWAT team's intervening without loss of life. Moreover, this thesis concedes that it is somewhat unfair

[120] Robert A. Guth and Bobby White, "Police Deaths Amplify Oakland's Woes," *Wall Street Journal*, March 2009, ProQuest; Stewart, *Independent Board of Inquiry*.

[121] Source: Cecily Burt, Sean Maher, and Harry Harris, "Oakland Police Shooting: The Mourning After," *East Bay Times*, March 22, 2009, https://www.eastbaytimes.com/2009/03/22/oakland-police-shooting-the-mourning-after/.

to critique the outcome of this event from an uninvolved perspective, and that there were personnel on scene who acted courageously under extreme stress. In retrospect, however, there were missed opportunities for better leadership, from a departmental and SWAT perspective, which might have affected the outcome.

It will come as no surprise, but it is worth mentioning, that one of the greatest successes in this incident was the ability of entry team personnel to avoid shooting the female occupant of the apartment after taking heavy gunfire and losing personnel.[122] The ability of SWAT entry personnel to correctly recognize the unarmed woman as someone other than the main suspect, while she ran past them to escape the chaos, was likely based on multiple sessions of advanced threat-recognition training.[123] Given that these entry officers knew multiple OPD personnel had already been shot and likely killed, the added stress and, as Novy notes, likely tunnel vision would have only increased the chances of more bloodshed.[124] Yet these officers could discriminate the woman running toward them as a non-threat and continue to press the suspect in a deeper portion of the apartment. This was the very definition of a successful decision.

One of the other portions of this incident that worked well was the ability for personnel on scene to quickly accumulate several pieces of evidence while calling for a key tool in locating the suspect. From the use of independent witnesses and the confidential informant to the information found in the suspect's vehicle that created an accurate picture of the threat, to the call for a human detection K9 unit, the OPD made sound, well-reasoned decisions.[125] While the information gleaned from the several sources was not communicated to all OPD parties with a need to know, it should be deemed a success, as this effort was in the midst of a chaotic shooting scene, where multiple officers and citizens rendered first aid to the two downed traffic units and established a perimeter.[126]

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[122] Stewart, *Independent Board of Inquiry*.

[123] Stewart.

[124] Marek Novy, "Cognitive Distortions during Law Enforcement Shooting," *Activitas Nervosa Superior* 54, no. 1 (2012): 60–66, https://doi.org/10.1007/BF03379584.

[125] Stewart, *Independent Board of Inquiry*.

[126] Stewart.

As mentioned previously, the combined efforts of this initial investigation into the shooter's identity and possible whereabouts led to the recognized need for a SWAT team response, and the decision for a team callout was correctly made. This chapter turns to a discussion about how that callout proved a challenge as it was unnecessarily delayed.[127] Without patrol first responders' knowing the basic concepts of field investigations working in a prescribed order, however, the dire need for an advanced tactical response might not have been coherently understood in time for the SWAT team to make a difference.

Arguably, many of the challenges faced during this incident, particularly from a SWAT response perspective, were intertwined with the emotions from the initial killing of two OPD traffic units. As separating the emotional and cultural elements of this critical incident would be a nearly impossible task, the discussion instead considers these elements as part of personnel challenges. Notably, while many other challenges in decision making and execution manifested at this critical incident, the following examples highlighted the need for improved focus on command and control, training and familiarity, and communications at SWAT critical incidents.

While the decision to call out a SWAT team was a good one, the AAR discusses the incorrect way it was done and how it slowed the response by approximately 45 minutes.[128] Unfortunately, the series of incorrect decisions that led to the delay had a cascading effect on the incident's ultimate outcome. If the OPD's full-time SWAT unit had arrived earlier and prior to the dynamic entry, the decision to create an ad hoc team and "clear" the apartment would have likely been more deliberate. Such things as an attempt to pull more data on the apartment itself, for instance, the layout, number of rooms, and occupants; a strategy for inserting chemical agents into the apartment for proactive or reactive reasons; and a contingency plan for taking fire on approach or having an officer go down would have been standard operating procedures in the SWAT team's planning decisions.[129] As the AAR mentions, none of these measures were taken at the scene, and

[127] Stewart.

[128] Stewart.

[129] National Tactical Officers Association, *Tactical Response and Operations Standard*.

the ad hoc team was rushed to enter the apartment to confirm the suspect was not there—a grave and faulty assumption.[130]

These rushed decisions were undoubtedly informed by emotions—stress and possibly anger—with the knowledge that OPD officers were dead, at the hands of a suspect who was still on the loose. Regardless, the need to rush into the apartment was not substantiated by any act by the suspect, and earlier arrival of the unit commander and the rest of the team would have likely brought this reality to light.

The decision to enter the apartment with an ad hoc SWAT entry team was made for a bizarre reason. Instead of entering the apartment to capture the suspect—with a commitment by the group under the fair assumption it would face potential gunfire from the suspect—the scene leadership and SWAT officers involved decided to enter to confirm the suspect *was not there*.[131] Yet the scene leadership, much of it composed of experienced, high-ranking officers, also argued there was no need to obtain a warrant as the entry fell under the "fresh pursuit" exemption of the Fourth Amendment against unreasonable searches and seizures.[132]

These two options clearly conflicted: law enforcement either determines fresh pursuit of a suspect it has good reason to believe is in the apartment, or seeks a warrant to search the apartment as it does not believe the suspect is there but wants to enter and "seize" the home lawfully for investigative purposes. Given the premises of this thesis, the SWAT team's decision to make entry was flawed, and units on scene that were SWAT trained should have recognized this dilemma and intervened. The AAR agrees: "The ad hoc Entry Team was composed of five SWAT Team leaders and three team members, who were highly trained and well experienced in the best practices of tactical procedures. As such, they [were] not exempt from raising policy, safety, and procedural flaws to a superior

[130] Stewart, *Independent Board of Inquiry*.

[131] Stewart.

[132] Stewart.

officer."[133] Again, the high levels of stress and emotion from what had already occurred were likely symptoms of flawed decision making.

Last, as the AAR mentions, the need for training and familiarity with team members is paramount to any SWAT-related critical incident.[134] The ad hoc team had not trained together for such an extreme mission—albeit "extreme" in the lens of hindsight—and they believed at the time the entry was unlikely to result in a confrontation with the suspect. This type of entry would be difficult enough with a group that had much more familiarity with the individual tactics and team movements that each would be responsible for. Moreover, the entry team's brief was "rushed" and not attended by every entry team member—the final ingredient in a recipe for disaster.[135] Again, absent the need to hastily respond to active gun fire that would forgive some of these errors, previous training for dynamic entry should be left to those trained at the highest levels of SWAT response. Hostage rescue is an example of such a situation requiring dynamic entry under time pressures resembling the timelines of the OPD's SWAT incident in 2009; the risks associated with such an entry are weighed against the risk of injury or death to the hostage, and making entry when certain threat cues are present is sometimes warranted, even if the outcome mirrors the OPD incident.[136] The OPD's personnel assigned to dynamic entry did not have this kind of training or familiarity with each other, which were contributing factors to the outcome once they had breached the door.[137]

3. Interoperability, Command and Control, Training and Familiarity: Structured, Focused Comparison

As with Chapter III's case study, the goal of this section is to closely examine the elements of interoperability, command and control, and training and familiarity—using a "building block" approach—in this large-team SWAT response. The aim is to review the

[133] Stewart.

[134] Stewart.

[135] Stewart.

[136] Avdija, "Special Weapons and Tactics Operations."

[137] Stewart, *Independent Board of Inquiry*.

incident with respect to these elements toward an answer to the main research question: Given the scale, scope, and complexity of modern mass-casualty or critical incidents, how do SWAT team structures dealing with interoperability, training, familiarity, and command and control need to change for SWAT response to remain viable?

a. Interoperability

For the most part, any known issues with interoperability during this incident were relatively minor. This would be the expected situation given that the incident primarily involved one law enforcement agency, the OPD. Members of the Alameda County Sheriff's Office also responded to assist, and there were no reported issues with equipment interoperability between the agencies. To be fair, however, one of the main reasons that interoperability was not a significant issue in this incident was because many of the protocols that might cause interoperability problems were never established. Because no formal ICP-related protocols were ever established, and the command group at the incident allowed a completely uncoordinated response by close to 115 police units, the incident by default became easy to manage from an interoperability standpoint.[138] Arguably, completely ignoring a key protocol in a critical incident response should not count as a positive.

More specifically, SWAT interoperability was not an obstacle in the outcome of this incident because SWAT resources had a specific mission that did not require complex coordination with outside agency personnel. In addition, the OPD and the Alameda County Sheriff's Office—the two agencies with personnel directly involved in the SWAT shooting portions of this incident—had been frequent participants in an interoperability exercise called Urban Shield.[139] This type of exercise provided a testing ground for communication technologies between multiple Bay Area law enforcement agencies, so any issues with interagency communication were likely discovered and corrected before March 21, 2009.

[138] Stewart.

[139] David Verbrugge and Mike Wengrovitz, "Urban Shield: Testing Ground for New Technology," *Law & Order* 64, no. 5 (May 2016): 56–59.

b. Command and Control

The greatest challenges during this incident resulted from deficient command and control. Because none of the command personnel or first-line supervisors followed any type of formal coordination plan, one of the worst resource-draining issues at a critical incident occurred: large-group self-assignment.[140] Close to 115 units responded after the initial shooting of the two OPD traffic units, which should have necessitated a formal ICP, as well as a recognized incident commander. The failure to follow these protocols had a trickle-down effect on the eventual SWAT team callout and ad hoc deployment. Multiple OPD lieutenants on scene made decisions that either overrode or conflicted with their peers' decisions. To this point, formal policies about when and how the OPD's SWAT team should be called were not followed; more specifically, one lieutenant, later recognized as the de facto incident commander, directly violated these policies.[141] The OPD's main SWAT commander (sometimes referred to in the SWAT realm as the commanding officer) did not weigh in on the hasty formation of the entry team, the hasty entry plan formed, or any entry contingencies. Instead, the on-scene SWAT commander, who was the team's executive officer, made these decisions with little experience to back them, something that the AAR strongly condemned.[142]

As previously mentioned, the deaths of two OPD traffic units must have weighed heavily on leadership, as well as the responding officers involved. Police departments in general rarely experience this type of incident, and when it happens, emotions can run high. As Gibbs et al. note, the bonds between officers are strong, and officer-involved deaths are some of the worst incidents police face in their careers:

> Beginning early in their career, police are socialised into a unique culture: the police culture. One aspect of the police culture is loyalty to other officers. Understanding the risks involved with policing, officers rely on one another for reinforcement, especially during violent encounters with citizens. The longer one serves as a police officer, the more indoctrinated

[140] Stewart, *Independent Board of Inquiry*.

[141] Stewart.

[142] Stewart.

> into this culture he or she will become. In other words, longer tenure leads to more social investment as it strengthens bonds among officers.[143]

Because of these emotions, it is hard to envision an incident like this unfolding with decisionmakers from the affected department effectively bifurcating their anger and sadness from the need to make sound tactical decisions.

While not always feasible or practical, one way to avoid this challenge of emotions versus logic is to bring in another agency to assist. In this instance, the OPD might have avoided the loss of SWAT entry personnel if the entry decision had come from an agency or unit not directly tied to the original shooting and, therefore, not as emotionally invested. To be clear, this thesis is not arguing that another SWAT team could respond and altogether remove itself emotionality from the equation. Surely, any police agency involved would be intent on catching the suspect before he or she could cause further harm. Nevertheless, from a command-and-control standpoint, removing as many challenges as possible should be the goal of any supervisor or group of supervisors at a critical incident. An example of such sound tactical decision making occurred following the killing of Palm Springs officers during a call to a home in 2016, which turned into a SWAT standoff, whereby law enforcement leadership eventually deferred to the neighboring Riverside Sheriff's SWAT unit even though Palm Springs SWAT units were available to respond.[144]

Calling in a partner agency's SWAT team, or having outside agency SWAT personnel involved in the tactical decision making, would have delayed the entry decision until absolutely necessary, and many of the AAR concerns over tactical decision making in the OPD incident would have been easier to defend.

c. Training and Familiarity

Large-department SWAT teams that employ the use of full-time operators, part-time or collateral duty operators, or a combination thereof have the obvious need to train

[143] Jennifer C. Gibbs, James Ruiz, and Sarah Anne Klapper-Lehman, "Police Officers Killed on Duty: Replicating and Extending a Unique Look at Officer Deaths," *International Journal of Police Science & Management* 16, no. 4 (2014): 277–87, https://doi.org/10.1350/ijps.2014.16.4.346.

[144] Rolando Zenteno, "Death Penalty Sought in Deaths of Palm Springs Officers," CNN, October 26, 2016, https://www.cnn.com/2016/10/26/us/death-penalty-palm-springs-police-officers/index.html.

continually with each other for any call they may face. In this instance, the AAR found that the operators involved in the entry of the suspect's apartment had not adequately trained together for such a complex mission.[145] Moreover, the ad hoc entry team members had not "trained or practiced as a team. They were SWAT Team leaders and had not worked as an integrated unit to perform effectively under stressful operating conditions."[146] This finding is concerning for many reasons. First, these operators all worked for the same department and, as such, should have had department requirements in place to ensure that every SWAT team member regularly trained together (it is possible this was in place and not followed by the individual officers). While outside agencies sometimes struggle logistically to create large training sessions incorporating multiple agencies, internal department training should be comparatively easier to accomplish and a must for this type of assignment.

Second, as previously mentioned, dynamic entry without the benefit of surprise is one of the most complex missions for a SWAT team.[147] Training scenarios involving all potential entry personnel repeatedly rehearsing for the vast multitude of reactions by a suspect in this type of entry should be implemented in all SWAT teams' training plans. Without this as a foundation, the needed variables may not be weighed correctly before choosing to make such an entry, and the results could be catastrophic. If these involved officers and supervisors had continuously trained together for such an entry, they would have likely recognized the extremely hazardous nature of it and voiced those concerns.

They might have also been able to predict potential reactions of the suspect and develop contingency plans for the challenges they faced once entry was made. Even with personnel who have been highly trained, there can be confusion brought on by the "fog of war" that affects split-second decision making.[148] A thoroughly discussed contingency plan that is vetted prior to entry by all involved would result in entry personnel being less

[145] Stewart, *Independent Board of Inquiry*.

[146] Stewart.

[147] Avdija, "Special Weapons and Tactics Operations."

[148] Douglas Holdstock, "The Fog of War," *Medicine, Conflict and Survival* 20, no. 3 (2004): 193–194, https://doi.org/10.1080/1362369042000248794.

likely to react inappropriately when confronted with deadly force. By all known accounts, this did not occur or was not properly recorded.

Again, the desire to quickly capture the suspect who had just killed two OPD traffic units was likely a factor in overlooking the ad hoc SWAT entry team's inexperience with each other in entry missions. Regardless, a group with this recommended prior experience, while still emotionally affected by the recent killings and the pressure to find the suspect, would have had a better chance of seeing the pitfalls of such a mission prior to it occurring. This knowledge alone would have lessened the likelihood of further carnage after entry was made and the suspect began shooting.

B. RECOMMENDATIONS

The OPD's SWAT incident in March 2009 highlighted several gaps in critical incident response for the department, as well as its SWAT team. Admirably, the OPD did not hide from this incident but proactively sought reform through an independent review of it.[149] The AAR laid out several key areas for improvement of the OPD. This section focuses specifically on some of the key SWAT team takeaways, which are similar in some respects to the AAR but which also include other important points of focus. As with Chapter III, the recommendations listed below tie directly into areas of consideration for homeland security leaders when structuring future SWAT teams. These recommendations are discussed further in Chapter V.

1. Establish Thresholds for Critical Incident Hand-Off

The sheer magnitude of this incident from a stress-management perspective was undoubtedly and understandably high. Any incident involving an execution of two partner officers, followed by a rapidly evolving pursuit of the suspect with conflicting information coming in, and ultimately resulting in the deaths of two more officers would be extremely difficult at best to calculate from an emotionality standpoint. Because of this reality, as well as the rapidly changing societal expectations from law enforcement, SWAT team response from the OPD perspective would likely be judged more harshly in similar future

[149] Stewart, *Independent Board of Inquiry*.

incidents that ended with a deceased suspect. The rush to enter the apartment, and then to advance through a hail of gunfire to ultimately shoot and kill the suspect, could be viewed as preplanned retribution for the initial and secondary killings of OPD personnel. In addition, the high emotions involved are hard to completely dismiss when attempting to logically plan any potential tactical mission.

Deciding to use outside agency SWAT resources in a similar incident in the future would have several potential benefits. For one, the perception that a SWAT team was called in to essentially kill a suspect as revenge for the initial shooting of the agency's officers would be greatly diminished. This outside unit would approach the problem like it would any other SWAT callout, and methodically look at every consequence without the lens of internal department bias or politics. Such was the case in the aforementioned Palm Springs incident. This unit would operate outside the political control of any affected department's commander, and this alone would take some of the cultural pressure off the tactical commander on scene.

Second, and arguably more important, an outside SWAT response would have likely brought with it a completely different set of personnel who were not affected personally by the initial killings of the OPD traffic units. Emotions would not be wholly eliminated from the equation, as no police officer or deputy could completely dismiss the loss of a sworn brother or sister. They would be greatly diminished, however, in comparison to a response involving a loss of one of the department's own. Outside SWAT resources would have the ability to explain to on-scene command from the affected agency what is and is not possible from a tactical perspective at any specific time during the incident; such a dynamic would be less susceptible to contamination by the cultural fear in letting down a direct supervisor within the same department.

Retroactively inserting this dynamic into the OPD's SWAT incident may more shed light into why this is important. An outside agency's SWAT team and tactical commander would not likely be afraid of retribution from the OPD's command staff at the incident, as the command staff would not have the power to affect the outside SWAT team's future directly. Conversely, the OPD's SWAT resources on scene, serving in an ad hoc capacity, likely had to account for potential cultural or political reprisals if they

challenged the decision to enter the apartment as bad tactics. While this thesis does not suggest this type of internal strife existed during the OPD incident, it is not out of the realm of possibility. Outside SWAT resources would not have this direct problem.

2. Standardize Training Requirements for Dynamic Entries and Hostage Rescues

The AAR from the OPD's SWAT incident specifically mentioned the inherent dangers in dynamic entry for the ad hoc SWAT unit involved in the March 2009 incident. One reason was that these units had not trained together for this mission prior to the incident.[150] The high degree of difficulty for the type of entry these officers undertook has already been discussed by the OPD's AAR and this thesis, and there is no need to restate it. Outside an active shooter–type response, the need to make such an entry should be assigned to a small group of SWAT operators who have been specially trained for it and are intimately familiar with each team member's roles and responsibilities.

The entry the OPD's SWAT units made was very similar to hostage rescue in that it was dynamic and likely to induce a firefight if the suspect was in the apartment. Units specifically trained to handle hostage rescue during SWAT operations are often called on for these missions because of the potential for serious injury and death to the SWAT units involved and the victim hostage, and those with whom they are trying to intervene. Additionally, these missions are often timed with sniper assistance or chemical agent deployment, as well as crisis negotiators.[151] In other words, they are not missions to be carried out hastily without a good chance of failure.

Having specialized entry units that have trained together for these types of entries and are familiar with each other and the mission is a big takeaway from the OPD's incident. If such a unit had been called in and understood from the top-down by OPD personnel as required for this type of call, the ad hoc team formation would not have occurred. This type of unit might have existed among the SWAT team still en route to the call; even so, the on-scene commander and the newly made tactical commander disregarded any reason to wait for such a unit to arrive.

[150] Stewart.

[151] Avdija, "Special Weapons and Tactics Operations," 651–658.

The decision to force entry may have been different if the command staff on scene truly believed as a group that the suspect was inside the apartment. The bottom line is that without a group to respond to the scene that has previous training and familiarity with such a complex and difficult mission, the results may be the same or worse.

3. Involve Regional Partners in Large-Scale Critical Incidents

The OPD's leadership had varying levels of certainty that the suspect was still on scene, or at least nearby, throughout the incident.[152] Therefore, the decision to first call out a full OPD SWAT response, but then disregard it for a forced entry mission, was based on faulty logic and improper information flow. Without a formalized command-and-control structure, the large number of units were managed ineffectively, which of course included the SWAT response and mission. As it turned out, the suspect was in his apartment, and the incident was ultimately contained to several city blocks. The potential for the incident to have been much more significant, however, should not be discounted just because it was indeed confined geographically to a small area. If it was possible that the suspect had traveled outside the perimeter, a larger search area should have been considered.

Theoretically, a larger perimeter would have promoted clarity in this incident, and regional assistance would have had a trickle-down effect on the units responding, including SWAT. Some of the other recommended elements of the response that needed to be addressed—including specialized training and critical incident thresholds for hand-off—would arguably have been easier to manage, too. Usually, it is better to err on the side of caution by creating a large perimeter, even if it is not needed in the end. Furthermore, if the OPD had established effective command and control, involving a call for outside agency assistance, more personnel would have managed the larger perimeter, thereby promoting communication. More importantly, if the apartment were found to be empty during forced entry, the move to expand the search would have already been underway. SWAT resources that responded would have been expanded as well, assuming that multiple searches for the missing suspect were needed. A regional partnership involving multiple

[152] Stewart, *Independent Board of Inquiry*.

jurisdictional entities could pool those resources, including SWAT, to best respond to any further call associated with the incident. Last, if this regional effort had failed to produce a suspect within a specific period, the scaling back of this regional response could have been undertaken at the appropriate time.

4. Additional Observations

The OPD's incident in March 2009 was both tragic and a good learning opportunity for future critical incidents involving SWAT teams. The need to address response challenges from a cultural standpoint has just as much importance as challenges from a technical or tactical standpoint. The commonalities in this chapter appear in Table 3.

Table 3. Chapter IV Summary of Challenge Points for Large-Team SWAT Units

Challenges	**Interoperability**	**Training and Familiarity**	**Command and Control**
OPD's SWAT Incident (Chapter IV)	1) Lack of coordination and communication among units on scene 2) Unit self-assignment	1) No evidence of SWAT operators on scene having trained together for the specific mission 2) No evidence of dynamic entry training with operators on scene	1) No formal ICP established 2) No regional or unified ICP established 3) Lack of familiarity at critical incidents

All of the lessons learned from both case studies have a direct correlation with the research question posed at the beginning of this thesis: Given the scale, scope, and complexity of modern mass-casualty or critical incidents, how do SWAT team structures dealing with interoperability, training, familiarity, and command and control need to change for SWAT response to remain viable? The answer to this question is posed once again in Chapter V, with a specific emphasis on the need for a focused multijurisdictional response in any given region. In addition, Chapter V posits the need to include task force elements—already seen in established law enforcement units around the country—in SWAT team formation.

V. TASK FORCE SWAT CONCEPTS AS A SOLUTION

As the previous case studies on SWAT response at critical incidents have demonstrated, there are several areas of focus, or challenge points, that tactical teams still find difficult in dealing with both during response and while on scene. Table 4 was created to summarize these common challenge points.

Table 4. Thesis Summary of Main Challenge Points for SWAT Units

Challenges	**Interoperability**	**Training and Familiarity**	**Command and Control**
Modern-Day Ongoing Concerns (Chapter II)	1) Lack of common communication equipment and terminology	1) Difficulty in scaled training for large group scenarios 2) Continual and consistent training challenges on a larger scale	1) Cultural and jurisdictional issues in determining command and control 2) Lack of familiarity at critical incidents
Dorner Incident (Chapter III)	1) Lack of common communication equipment and terminology 2) Unit self-assignment	1) No evidence of SWAT team cross-training 2) Lack of familiarity among the LAPD, SBSO, and other SWAT teams	1) No formal ICP established for entire incident/separate ICPs established 2) Regional or unified ICP not established
OPD's SWAT Incident (Chapter IV)	1) Lack of coordination and communication among units on scene 2) Unit self-assignment	1) No evidence of SWAT operators on scene having trained together for the specific mission 2) No evidence of dynamic entry training with operators on scene	1) No formal ICP established 2) No regional or unified ICP established 3) Lack of familiarity at critical incidents

These challenge points are not easy to solve, and while this chapter discusses a potential strategic solution for many of them, it would be unrealistic to think there is a perfect answer. Cultural, political, and resource allocation needs are just some of the reasons a major shift in SWAT team foundations and protocols for a given region could be problematic. Moreover, the proposed solution in this chapter, a task force–based approach to SWAT critical incident response, will create additional coordination and logistical needs

that might make incorporating such a model too complex or economically infeasible. Nevertheless, an argument could be made that many of the previous challenges, as highlighted in Chapters III and IV, had associated lessons learned that a task force–based solution could conceivably solve.

As mentioned in Chapter I, task forces have been used successfully to combat many types of crime in America for decades. With a foundation in military use, task force units have pooled resources when a specific type of response is needed to accomplish a mission successfully.[153] In attempting to answer the research question, this thesis argues that SWAT team critical incident response is just another type of mission that requires a combined area of focus for the units involved. Crisis negotiators, entry teams, snipers, breaching experts, and more all come together to accomplish this mission. Task force–based SWAT units—or SWAT teams made up of local, state, and federal SWAT operators and supervisors from a given region—would allow for a more streamlined response to the challenges faced during these critical incidents. The following sections discuss how these types of teams could work together more efficiently than current SWAT team structures.

A. FUTURE BEST PRACTICES AND RECOMMENDATIONS

The following section presents some of the benefits from a best-practices solution standpoint that a task force–based SWAT team would provide. The areas of benefit appear in *italics* to draw attention to them in text.

1. Interoperability/Standardization

The ability for units on scene at a critical incident to effectively communicate, seamlessly integrate with each other, and understand what tools are needed and how to operate them through previous familiarity cannot be overstated. This issue, as previously mentioned, comes more into play when large groups of responders come together to handle

[153] Richard H. Shultz, "U.S. Counterterrorism Operations during the Iraq War: A Case Study of Task Force 714," *Studies in Conflict & Terrorism* 40, no. 10 (2017): 809–37, https://doi.org/10.1080/1057610X.2016.1239990; *Merriam-Webster*, s.v. "task force," accessed January 13, 2020, https://www.merriam-webster.com/dictionary/task+force; "Organized Crime Task Force," New York State Office of the Attorney General," accessed January 13, 2020, https://ag.ny.gov/bureau/organized-crime-task-force; Newcomb, Barnes, and Elshihabi, "US Tackles Money Laundering in Anti-Terror Push."

a large or complex critical incident. Providing loaner equipment to partner agencies or providing a liaison to be a communication relay is a common workaround. SWAT units notoriously struggle with this challenge, and when seconds matter, having to use a liaison between tactical teams is a recipe for disaster. While some regions see more success in patching radio frequencies than others, generally, the issue becomes a technical mess when federal or state law enforcement entities are in play. This is because it is uncommon for regions of law enforcement groups to use exactly the same technology to communicate or accomplish a mission.

A task force–based SWAT response would be a solution to this challenge for several reasons. First, such a unit would regularly respond together and, by default, *be required to carry and be familiar with the same communications equipment*. As with any other current SWAT unit, this team would need to understand what radio codes are used for what purposes and what frequencies are used for specific types of calls. This would be the case regardless of whether the unit comprises local, state, and federal law enforcement operators. When this unit is deployed to a critical incident for a given mission or set of missions, it immediately becomes more effective in terms of communication than several stand-alone teams that respond and then pair up with each other. There would be little to no need to provide loaner equipment or logistically solve technology roadblocks to integrate seamlessly. This unit is designed to be in a *constant state of seamless integration*.

Second, a task force SWAT unit would be a focal point for *whole-scene integration*. This means that when cross-communication issues arise from parent agencies working together at the same critical incident scene, this SWAT unit could act as a liaison by default. The following hypothetical example illustrates this concept more clearly. A large multi-pronged attack on a piece of critical infrastructure in a given part of the United States draws a large contingent of law enforcement to the scene. This contingent includes federal partners like the FBI, state partners like the highway patrol (assuming they have a comparable tactical team component), and local police agencies that work in and around this area. Because a task force–based SWAT unit has been created and is responsible for the area, it responds as well. During the critical incident response, a unified command post is established, and communication between multiple elements of the incident begin to

occur. As the incident progresses, a local law enforcement partner cannot communicate effectively with a federal partner (FBI) or state partner (highway patrol) on scene when attempting to set up investigation protocols for scene processing. All three of these agencies are represented by SWAT members from this task force, who can step in, communicate with each other the needs of their parent agencies, and bridge the communication gaps. This whole-scene integration could be done both at the operator level or the supervisor level at the ICP, partly because seamless interoperability has already been preestablished.

Third, the ability to place all of the SWAT response in a given incident on one frequency allows for the "decluttering" of radio traffic on other frequencies being used for the same critical incident. A task force contingent of SWAT units composed of multiple agencies would help facilitate this strategy. It is not uncommon for a complex critical incident scene to trigger large amounts of radio traffic that can quickly tie up channels needed for emergency communication. In addition, the inability to communicate quickly and effectively can lead to blue-on-blue situations such as the one the LAPD's and SBSO's SWAT units experienced during the Dorner incident.[154] Instead of having all of these SWAT units individually responding and attempting to communicate on multiple or patched frequencies that conflict with other elements of the response, *this task force unit would instead be completely separate from all other on-scene critical incident units in terms of interoperable communication*. At the same time, this team would still have a commander or multiple commanders at the ICP, who would allow for a unified command and effective top-down communication during the response. As a result, other responding resources, including patrol, EMS, and public works, would not have to compete with SWAT for dedicated radio channel use.

2. Training and Familiarity

Both this section and the section on command and control are arguably the most significant areas in which a task force–based solution to SWAT team structure would be

[154] Dowd and Brown, "Officer Involved Fatal Incident"; Police Foundation, *Police under Attack*.

beneficial. Undoubtedly, there were large gaps in training and familiarity in both the Dorner and OPD incidents. In the case of Dorner, some of these gaps were understandable; multiple agencies were responding to an unknown area to assist with a chaotic series of scenes. The SWAT response itself was a collaboration of several agencies attempting to intervene without a specific request to do so.[155] This caused overlap and blue-on-blue situations that could have been avoided, partially due to unfamiliarity and lack of coordinated training for such an incident. Deferment to a multijurisdictional SWAT unit that included partners from all of these agencies would have likely been more successful in managing these challenges.

The OPD case is even more apparent in its lack of prepared response, especially from an internal standpoint. SWAT units essentially rushed into an unknown environment they had little training to handle while working with partner operators they were unfamiliar with.[156] The reasons this happened have been covered by the incident AAR and earlier portions of this thesis, but suffice it to say, a coordinated response involving a task force SWAT team not emotionally connected to the incident yet with an extensive background in entry, negotiations, and scene management would have been preferred.

The need to train regularly and be familiar with each operator's capabilities on a team has been mentioned several times due to its extreme importance; in addition, any response requiring that multiple agencies' units handle rapidly unfolding, complex scenarios demands that SWAT has rehearsed the scenario to the point of "muscle memory."[157] *This can be better accomplished by narrowing the response to a core group specially trained and familiar with such a scenario*. While one could argue that both the Dorner case (the SBSO's SWAT) and the Oakland case (the OPD's SWAT) had the group for the mission, there were still too many breakdowns for multiple reasons. A task force SWAT unit, composed of members from every regional team in a given area that are

[155] Police Foundation, *Police under Attack*.

[156] Stewart, *Independent Board of Inquiry*.

[157] Robert Mahoney, "Threat-Based Response Patterns for Emergency Services: Developing Operational Plans, Policies, Leadership, and Procedures for a Terrorist Environment," *Homeland Security Affairs* 6, no. 3 (September 2010), ProQuest; Avdija, "Special Weapons and Tactics Operations."

required to train together and be familiar with each other's capabilities, would improve efficiency at critical incidents. There are examples of regional teams similar to the prescribed task force–based structure in this chapter that have seen good results; one such example is the Metro-LEC unit on the East Coast.[158] While not a task force–based unit, it is similar in that it draws from multiple agencies in a given region to form a conglomerate team able to respond to calls in the region that the individual departments composing the team and region could not handle alone.

In both the Dorner and OPD cases, a SWAT task force made up of local, state, and federal entities in each region would have been called out to the scene with the understanding that the jurisdictional agency would be tasked with "freezing" or "holding" the scene until the task force SWAT team arrived. As the unit would include several SBSO SWAT personnel in the Dorner case and several OPD SWAT personnel in the Oakland case, this coordination would have been be straightforward from a communication standpoint. *The task force SWAT unit would have a large contingent of personnel to call upon that would have the background training and familiarity with each other to respond and set up at a scene seamlessly*; this type of training need would have already been covered in the required training sessions each member of the task force SWAT team attended. Of course, if ether call transitioned into an active shooter scenario before SWAT arrived—the Dorner case was arguably a borderline situation while the SBSO's SWAT was responding and while they were on scene—first-responder active-shooter protocols to deal with the threat would still be in effect. Once the scene transitioned to SWAT control, the task force unit would handle all action going forward.

With a regular training schedule for dynamic entry, the multiple types of breaching needed, crisis negotiations, and command and control, among other elements, this task force–based team would allow for all its partner agencies to work through confusion about tactics while agreeing on protocols for deployment. This would have to be done prior to any group being put in service; in fact, an agreement to form such a group would be trailed by months of familiarity and training sessions to get everyone on the same page. This would

[158] Schnobrich-Davis and Terrill, "Interagency Collaboration."

not be an easy task and would require concessions from nearly every agency participant. While many of the tactics seen from a SWAT perspective nationally are similar, there are subtle differences due to a department's or team's culture that emerge either consciously or unconsciously. Things like team leadership and decision making, regionalization of services, legitimacy recognition, and trust would of course need to be tackled.[159] Again, these reasons and more necessitate months of preparation prior to initial deployment for team success. To be fair, these kinds of issues, particularly coordination and logistical challenges, are why many cities or regions would balk at this type of team. Regardless, once these challenges are met head-on, the resulting long-term benefits will be apparent in future responses.

When it comes to training, however, the advantages to this type of structure are obvious. Because this unit would comprise regional partner agencies, they would have direct access to multiple training venues and resources that any single agency in the region would not. Local, state, and federal training facilities would be a force multiplier for the task force–based group, as would access to all of the participating agencies' training curriculum and instructor cadres. Regional subject-matter experts in just about every field of SWAT response to critical incidents would either be available or potentially even part of the unit. Without question, this would be one of the most significant benefits of creating such a unit.

3. Command and Control

The ability of decisionmakers at a large chaotic critical scene to streamline response for arguably the most technical portions of the incident—SWAT movements and timings—is extremely valuable. As previously discussed, this is difficult at best when multiple elements of the call cloud the ability for on-scene leadership to make logical decisions.

[159] Jeremy M. Wilson and Clifford A. Grammich, "Adopting Alternative Models of Police Service in Small US Communities," *Policing: A Journal of Policy & Practice* 11, no. 1 (March 2017): 39–51, https://doi.org/10.1093/police/paw016; National Tactical Officers Association, *Tactical Response and Operations Standard*; Brendan Roziere and Kevin Walby, "Special Weapons and Tactics Teams in Canadian Policing: Legal, Institutional, and Economic Dimensions," *Policing and Society* 30, no. 6 (2020): 1–16, https://doi.org/10.1080/10439463.2019.1586899.

Emotions, self-dispatching of units, and multiple agencies' attempting to intervene are just some of the elements that can tax leadership's scene management abilities.

A task force SWAT response during critical incidents would help to relieve some of this burden, as it would allow for several vital benefits based solely on its structure. First, *because it is composed of regional partners and supervisors from local, state, and federal jurisdictional levels, the task force SWAT team responding will be more efficient in its ability to be managed by the incident commander*. The reason is that any incident commander could communicate with the on-scene SWAT commander in the ICP, and that SWAT commander would have direct contact with *multiple regional agency representatives* that compose his or her team.

The Dorner and OPD cases illustrate the inherent value of having this contact with regional SWAT team involvement at an incident. In the Dorner case, it would have prevented blue-on-blue incidents from occurring.[160] In the OPD case, it would have gone a long way to avoid the emotionality of decision making that arguably affected how leadership on scene viewed the events as they occurred. In both cases, the result of the incident was a deceased suspect (one by likely suicide, one by gunfire from police). This result is one that, regardless of any justifiable reasons, will likely result in lawsuits from surviving kin.[161] In comparing both of the cases studied in this thesis, a task force–based SWAT unit would stand a much better chance of justifiably avoiding any bias claims that can come with a lawsuit when an agency kills a person after that person has killed one of the agency's officers.

To be fair, it would not eliminate this possibility completely; it is always possible that a member of the task force SWAT unit kills a suspect after that suspect has caused harm or has killed a member of that officer's parent agency. Thus, a "bias or emotionally based decision" argument could be made in that instance. Regardless, the chances of such a claim are much lower when the task force SWAT unit is composed of multiple regional

[160] Dowd and Brown, "Officer Involved Fatal Incident"; Police Foundation, *Police under Attack.*

[161] John Fishel, Shaun L. Gabbidon, and Don Hummer, "A Quantitative Analysis of Wrongful Death Lawsuits Involving Police Officers in the United States, 1995–2005," *Police Quarterly* 10, no. 4 (2007): 455–71, https://doi.org/10.1177/1098611107306296.

agencies rather than one agency from a given jurisdiction. Most importantly, leadership at a critical incident like the cases studied would have the added level of confidence that task force–based SWAT operators could better complete the mission at hand due to a likely reduced personal connection to the suspect or incident.

Second, a task force–based SWAT unit brings with it enhanced *direct access to incident-related resources* due to its structure in comparison to a regional mutual-aid or composite response, which would also bring indirect access to those resources. In other words, each member of the task force SWAT team would have the ability to tap its parent agency's resources directly without having to reach out to an outside regional partner first. Access to resources quickly is extremely important for apparent reasons.[162] This direct access streamlines the resource directly to where it is needed: the incident or SWAT commander on scene. Conversely, regardless of how good a relationship regional partners share or how large a single stand-alone SWAT unit is, any request for resources from a partner agency comes with it the built-in bureaucracy of the request and approval process. While this may be quicker in extreme situations like a critical incident, there would still be a delay compared to any direct agency resource. Figure 5 compares such resource access models. For the large agency model, the example is that of a standalone local police SWAT unit, such as the OPD's SWAT team discussed in Chapter IV.

[162] Garth Den Heyer, "Examining Police Strategic Resource Allocation in a Time of Austerity," *Salus Journal* 2, no. 1 (2014): 63–79.

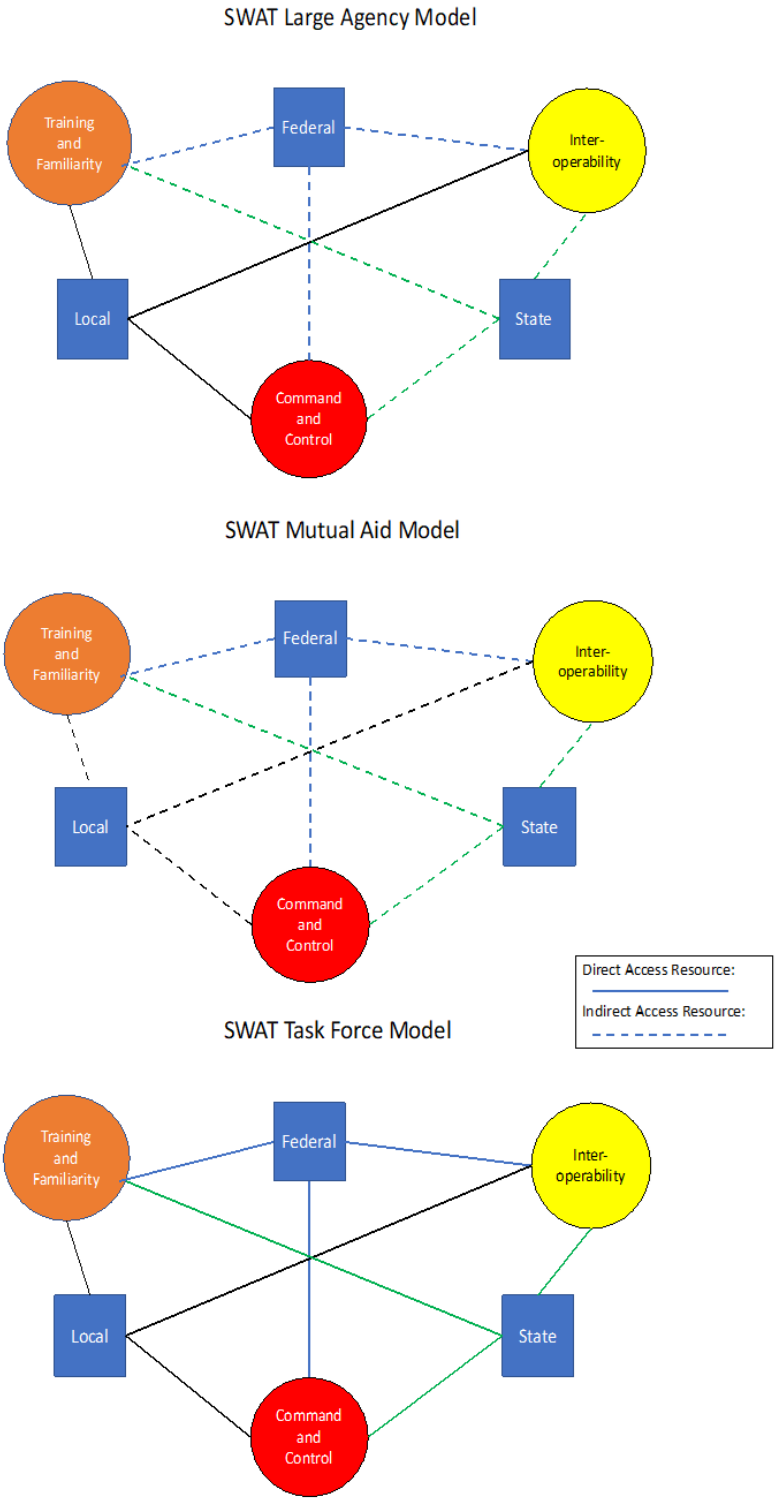

Figure 5. Direct versus Indirect Resource Access Models for Large-Team, Mutual-Aid, and Task-Force SWAT Units

As these basic models demonstrate, the task force–based SWAT structure provides more direct resource access for any participant unit compared to that of a mutual-aid or large-team structure. The task force–based unit would need to be structured in a way to maximize these resources at any given critical incident so that the need to augment resources with outside allocation is minimal. Given that no critical incident happens in a vacuum, there is no way to cancel out a potential need for additional non-direct resources completely. This is especially true the longer an incident lasts, as personnel, equipment, and other incident-related resources will need to be replenished. Still, a critical incident from a SWAT perspective would be easier to manage both in the short and long term when the resource requests and procurement come from within.

B. POLICY AND PROCEDURAL RECOMMENDATIONS

The following focus areas are given as a baseline for any region considering the implementation of a task force–based SWAT team and built on the case studies discussed in this thesis, the author's training and experience, and other relevant literature. They are not all-inclusive but starting points when planning strategic implementation of a formal memorandum of understanding (MOU), policies, and mutual-aid agreements. Many of the listed recommendations closely resemble protocols in place for composite units throughout the United States while others are unique to the recommended solution for SWAT team critical incident response. The recommendations are listed in order of perceived significance to the successful formation of a multijurisdictional tactical unit:

1. Establish formal agreements or MOUs for a regionalized task force–based SWAT team structure among all regional partners.

For a regionalized team to function correctly from a legal standpoint, all participating agencies that desire to be part of this task force should sign a formal agreement via agency leadership. This agreement is sometimes referred to as a memorandum of understanding.[163] *It is recommended that regional task force SWAT*

[163] Prajapati Trivedi and V. Gopal, "Memorandum of Understanding and Other Performance Improvement Systems—A Comparison," *Indian Journal of Public Administration* 36, no. 2 (1990), https://doi.org/10.1177/0019556119900210.

participants formally establish an MOU. This recommendation is based on previous real-world examples of successful multiagency participation, some of which appear in Appendices A and B. The MOU should include language that covers every participating agency's authority to participate in the task force, task force responsibilities for every agency, cost recovery, and other important procedures related to the unit's procedures.

One of the key elements to successful law enforcement task force implementation is federal involvement from a participating agency standpoint.[164] There are multiple examples of federal law enforcement agencies joining with local and state law enforcement to further a joint criminal investigation or mission. Whether that federal agency is Immigration and Customs Enforcement for a border security mission, the U.S. Treasury Department for an ongoing currency fraud concern in a region, or the FBI in a domestic anti-terrorism partnership with local and state police, the common denominator is apparent. Federal involvement is key in resource and authority extension for any task force, as has been shown by the increase in the last several decades of federal task forces created to combat crime normally classified a local police issue.[165] Federal buy-in to the formation of a task force–structured SWAT team will also allow for continual funding, training, and personnel issues to be better planned for from a strategic management position for all local partners involved.

2. Establish a cost-sharing structure for all participating agencies in a SWAT team.

With the creation and implementation of this type of team, there should be a reasonable expectation of increased budgetary and resource costs for all agencies involved. Additional personnel hours devoted to training and missions, equipment, and logistical costs for keeping the team operational, as well as other associated expenses, are line items that no one participating agency should be expected to cover. *It is recommended that a*

[164] Edmund F. McGarrell and Kip Schlegel, "The Implementation of Federally Funded Multijurisdictional Drug Task Forces: Organizational Structure and Interagency Relationships," *Journal of Criminal Justice* 21, no. 3 (1993): 231–44.

[165] Malcolm Russell-Einhorn, Shawn Ward, and Amy Seeherman, *Federal–Local Law Enforcement Collaboration in Investigating and Prosecuting Urban Crime, 1982–1999: Drugs, Weapons, and Gangs* (Washington, DC: Abt Associates, 2000), 210, https://www.ncjrs.gov/pdffiles1/nij/grants/201782.pdf.

cost-sharing schedule of expenses and budgetary items be created with each agency taking a percentage share based on its level of participation. This recommendation is based on past practices of successful joint ventures between many governmental organizations.[166] Ideally, this cost-sharing should be spread out equally among all participating agencies so that everyone shares the added expense of maintaining this asset.

3. Formalize protocols for a chain of command.

Establishing a unit that involves multiple agency personnel is difficult from a chain-of-command standpoint. Law enforcement personnel working on the task force, whether full or part time, will naturally need to understand whom they report to and what supervisors are responsible for the unit. *It is recommended that a regionalized and formal approach to the chain of command for the task force SWAT team be utilized.* This recommendation is based on both real-world examples and the case studies mentioned earlier. The Metro-LEC organizational chart in Figure 6 depicts how this chain of command might be structured.[167] Specifically, the far-left side of the chart (Special Tactics and Response Division) illustrates the chain of command from a SWAT structure perspective.

[166] Susan A. MacManus and Kiki Caruson, "Financing Homeland Security and Emergency Preparedness: Use of Interlocal Cost-Sharing," *Public Budgeting & Finance* 28, no. 2 (2008): 48–68.

[167] Schnobrich-Davis and Terrill, "Interagency Collaboration."

Figure 6. A Chain-of-Command or Organizational Chart for Metro-LEC[168]

For optimal collaboration and cooperation, each participating agency should have a supervising member in this chain of command, with regular rotating assignments at each level. This would allow for both shared supervisor experience and trust to be built over time. If any single participating agency takes control of the team permanently, the likelihood of long-term trust would erode, as would the ability for the unit to be flexible in the event of a loss of any individual supervisor. Federal, state, and local supervisory representatives should rotate through assignments; as this unit would still be governed by its parent agency, any decision-making confusion or conflict of interest could still be regulated by department heads. Again, the key is the need for regional buy-in and agreement. Without it, the expected challenges that will arise within the unit from time to time will be difficult to overcome. This recommendation is based on best practices from

[168] Source: Schnobrich-Davis and Terrill.

current multiagency collaborations, including the Metro-LEC model, that follow these practices.

The length of supervisor participation would be spelled out in the MOU as part of the participant agreements. In addition, this chain of command should include a group of recognized department head or designee decisionmakers from an executive level—again, modeling the Metro-LEC model. This group would be tasked with the continual maintenance of the SWAT task force from a strategic level. Ongoing concerns such as unit makeup, training, relevant legal changes, budget, and other current challenges would be constantly addressed by this group.

4. Establish formal protocols for response triggers and resource allocation.

Within any SWAT team's policies and procedures is usually a list of mission sets that generally define when the team will respond. The need for a task force–based SWAT team should not be unilaterally applied to any SWAT-related mission that other tactical units might handle. This is because the potential for overuse or misuse could increase; for example, having a multijurisdictional team with federal personnel attached to it execute a lower-level search warrant might be construed and "overkill."[169] *It is recommended that formal, structured protocols be established in writing for response triggers for this task force–based SWAT team.* This thesis has imagined the use of such a team for critical incidents involving multiple agencies and the need for a SWAT response, based on the case studies presented and current SWAT challenges, both of which were discussed in previous chapters. Thus, the triggers would be directly related to significantly dangerous incidents involving multiple agencies and resources, including SWAT. This thesis did not look at many of the other relevant SWAT team missions and how a task force–based approach might be applied.

However, some might argue that the use of a team like this only during a critical incident scenario is too myopic when weighing the cost and benefits of creating and maintaining this type of unit. Additionally, the very definition of a critical incident differs

[169] Singh, "Treading the Thin Blue Line."

depending on who is defining the term.[170] Thus, the need to narrowly define when this unit should respond and under which mission set it would assist is very important to prevent abuse by those with too broad or narrow a definition. One of the main challenges for any leadership group considering a task force–based SWAT unit, among other things, would be to succinctly capture this definition in the MOU or policy so that it does not leave the response triggers open to interpretation.

5. Establish selection, training standards, use-of-force, and equipment protocols for all participating agencies.

One of the foundational elements of a task force–based unit is personnel with variety in training and experience in their law enforcement careers.[171] This can be a big benefit to the unit; different experiences and perspectives shed light on unique problems faced by the group as a whole. However, it can be a cause of confusion as well, and the leadership of this task force–based unit would need to anticipate and plan for this likely challenge. *It is recommended that the regional SWAT task force unit's leadership group establish standardized selection, training, and equipment protocols.* This recommendation is based on both real-world examples, such as the Metro-LEC approach, and other literature.[172] Doing so would likely allow for a more streamlined response and tactics during any critical incident mission the unit undertakes.

Selection and time in the unit would need to be structured and fair for every participating agency.[173] The size of the unit should be based on regional needs, and larger agencies would likely provide more personnel than smaller agencies. Regardless, a formal rotational schedule and selection process would need to be finalized so that standards are maintained whenever a member leaves the unit, and all regional partners should have direct access to the unit.

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[170] I. C. Banks and R. M. Tackley, "A Standard Set of Terms for Critical Incident Recording?," *British Journal of Anaesthesia* 73, no. 5 (November 1994): 703–8, https://doi.org/10.1093/bja/73.5.703.

[171] Boetig and Mattocks, "Selecting Personnel."

[172] Richard C. Lumb, "Standards of Professionalization: Do the American Police Measure Up?," *Police Studies* 17, no. 3 (1994); Schnobrich-Davis and Terrill, "Interagency Collaboration."

[173] Bryan Vila, *Tired Cops: The Importance of Managing Police Fatigue* (Washington, DC: Police Executive Research Forum, 2000).

As each agency participant will likely have differences in protocols for things such as use-of-force response, team movement and tactics, communication, and other related SWAT concerns, the need to standardize is paramount.[174] While this need might appear to be a monumental challenge, it is common for many regional law enforcement communities to have similar policies and practices. Thus, any standardization of training and equipment would likely not be a significant change for the individual agencies and personnel involved.

There would likely be a need for the procurement of additional equipment and training to accomplish this task. While the participants will come from a similar foundational point in these fields, there will still be differences. This factor is especially true when pairing federal agencies with local and state agencies. Federal agencies will of course have standardized equipment that matches their national partners around the country instead of just the local agencies they work with. For example, the need for the FBI to communicate and operate with other federal agencies like Immigration and Customs Enforcement or the U.S. Border Patrol requires communications equipment that has different specifications than those of two local agencies that need to communicate.[175] Thus, it is likely the local and state agencies on the SWAT task force will need to acquiesce to their federal partners on the unit for equipment.

Training standardization will be a challenge as well. Tactics, governing law, and procedures that have been learned over many years will need to be adjusted to a system that allows for a consistent, predictable response from every participant. This, in turn, fosters trust among the multiple agencies at a scene, which is also crucial. One option when determining proper use-of-force protocols is to defer to the parent agency's policies. In other words, the MOU and any adjoining policy could explicitly state that a task force participant, when using any level of force, defers to one's originating agency for proper guidance. While this has the benefit of easing understanding, it could cause confusion when

[174] Lumb, "Standards of Professionalization."

[175] Frederick M. Kaiser, *Interagency Collaborative Arrangements and Activities: Types, Rationales, Considerations*, Interagency Paper No. 5 (Fort Leavenworth: CGSC Foundation Press, June 2011), https://apps.dtic.mil/docs/citations/ADA551190; Faulhaber, "Solving the Interoperability Problem"; Manoj and Baker, "Communication Challenges in Emergency Response."

force is applied unevenly by multiple members of the team during an incident. Ultimately, regional leadership will need to decide how to navigate this challenge best so that the task force–based unit has no doubt about what is allowable and what is banned when making use-of-force decisions in the field.

6. Establish an AAR process for independent check and balance of unit.

It should be expected that the creation of a multijurisdictional SWAT team will invoke concerns from the public. Concerns over the militarization of police, the overuse of SWAT teams, and the higher likelihood of this unit being involved in shooting deaths are all likely to be brought to the forefront by the region's citizenry. *It is recommended that an independent review board be created with the mission to review any deployment of this unit for corrective actions or concerns.* This recommendation is based on literature discussing the success in fostering trust from the community when it has a voice in the process.[176] This board would have the authority to weigh in on future policies and procedures as a result of incident reviews that it carries out. It should also complete a cost–benefit analysis annually of the unit as it pertains to future budgetary considerations. This analysis should be a tool among many considerations when a region is considering the continual viability of a task force–based SWAT unit.

One of the crucial elements of this board would be its demographic makeup. It should involve the citizens of the region to some extent so that the public has a voice as well as a method to better guarantee transparency. For several reasons, it should not, however, be composed *entirely* of members of the public. For one, many of the tactics, and decision making used, of such a highly specialized unit like this task force–based SWAT team would be foreign to most members of the public and, thus, potentially misunderstood. Second, expenses incurred by a unit like this would be difficult to understand and therefore hard to justify without proper context. Subject-matter experts who have worked in the same law enforcement field should also be considered for this type of review board. Other

[176] John W. Ashton Jr, *Community Relationship Enhancement through Citizen Review Board Implementation* (Meadows Place, TX: Meadows Place Police Department, 2013), https://shsu-ir.tdl.org/handle/20.500.11875/1865; Savoia, Preston, and Biddinger, "Consensus Process on the Use of Exercises and After Action Reports."

members of government, such as those in the legal, public works, or financial fields, would also be good candidates. Last, as the task force unit comprises participants from all three levels of government, review board members with familiarity in one or all of these levels would also be highly desirable.

7. Draft memoranda of understanding.

MOUs used as references for this thesis appear in the Appendix. They cover structure, funding, and other related agreements between local, state, and federal partners for a combined mission. They are listed as references specifically for the purposes of showing interagency cooperation at a multijurisdictional level.

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VI. THE FUTURE OF MULTIJURISDICTIONAL SWAT TEAMS

The need for future SWAT units to be agile in critical incident response is obvious. Future challenges that SWAT teams will face are hard to predict but will undoubtedly force law enforcement as a whole to adapt its tactical teams on both a small and large scale at various times. As the Greek philosopher Heraclitus believed, life is in a constant state of flux, and it is no different in police work.[177] Moreover, this is an easy statement to make based on the history of SWAT; from the 1960s until the present day, demands on these teams from multiple perspectives have forced, and will continue to force, SWAT units to morph.

With constant change being a future reality that SWAT units and their parent agencies can count on, it behooves law enforcement to proactively seek ways to prepare for every eventuality. That requires future SWAT units to transition resources, missions, and jurisdictional focus at a moment's notice. A SWAT team composed of local, state, and federal personnel would have the ability to do so if the regional agencies needing such support are in agreement. Cultural, political, and economic biases in a given region are to be expected, faced head-on, and met to everyone's satisfaction for total unit success. Previous agreements discussed in this thesis show that cooperation for successful implementation has happened in the past and can occur again in creating this type of regional team.

As many law enforcement agencies currently look to streamline budgets due to societal shifts toward police accountability, it could be argued that the move to this type of structure for regional SWAT response would save money in the long run. Critical incidents cause a great demand on resources from responding agencies, so having the prescribed task force SWAT team to carry the burden of training and internal or direct resources could dramatically cut down on redundancy or waste. This would be an important factor in

[177] Joseph Schafer and Victoria Herrington, "Creating Adaptable and Innovative Organisations: A Summary of Discussions from the AIPM Masterclass," *Research Focus* 4, no. 1 (2006): 5; Ilene M. Rosen, "Change Is the Only Constant in Life (and in Sleep Medicine)," *Journal of Clinical Sleep Medicine* 14, no. 6 (2018): 1025–30, https://doi.org/10.5664/jcsm.7174.

studying the long-term benefits of such a unit, which is discussed further in the following section.

It is important to briefly discuss implementation strategies, counterarguments to creating a task force–based SWAT unit, and the limitations of this thesis. This discussion is important from a transparency standpoint and provides additional context to the realities of undertaking such a major shift in strategic planning. While it would be easy to tout only the benefits of this prescriptive change, the importance of all likely stakeholders being fully informed requires further discussion on the potential short- and long-term challenges this process would create.

A. IMPLEMENTATION, COUNTERARGUMENTS, AND LIMITATIONS

When discussing implementation specifically, the need for a subject-matter expert, or a group of experts, to be an advocate for this process is a starting point. Department leadership would of course make the final decision on approvals for the process to move forward. Any major change to a system or function in law enforcement, however, arguably starts with a person or group of people who have a passion for this change and can visualize its eventual creation. Without this advocate element, the possibility of strategic leaders' understanding the benefits of a task force-based regional SWAT unit and comprehending the framework in which it would be created, is low.

Once this subject-matter expert or group of experts can meet with the regional leadership and convince them of this structure's viability, continual involvement in the process by this person or group would need to continue. The formal creation of an MOU, creation of an organizational chart, funding and budgetary concerns, and many other relevant topics would need their continual attention throughout the implementation process. Included in this process is the understanding that due to various factors in governmental organizations, projects sometimes stall or pause for a time. As of this writing, the COVID-19 virus is challenging workflow and budgetary strategies for many law enforcement agencies around the country. In addition, there is a current cultural shift in law enforcement response to civil unrest in America as a result of several recent police use-of-force incidents. The death of George Floyd and other minorities in different parts of the

United States from the actions of law enforcement personnel have inflamed the already sensitive issue of community and police relations.

These types of challenges are just a few of the examples that might create roadblocks for a structural change in SWAT processes. The designated advocates for this change must be able to both anticipate and plan for their likely occurrence.

It should also be noted that there would likely be counterarguments to such a structural change to SWAT teams. The fact that any additional training, equipment, and personnel would only increase the cost of maintaining a SWAT team in a given region might be one argument. Additionally, some may argue that this change is only replicating what already exists. In other words, if a region is pulling personnel from already created SWAT units, why not just leave the personnel in place, and change the region's training guidelines for critical incident response? Last, the public could push back and state that the need for a unit like the one proposed in Chapter V trails other structural changes currently demanded by many communities of their police around the country.

In addition to other claims, these could all be arguments made for the prevention of any move to a task force–based unit as a supplemental entity in a given region. They deserve consideration and are valid concerns to be weighed by decisionmakers in any analysis of the recommended changes. Some of these concerns are why this thesis prescribed the creation of a review board in the previous chapter; the continual feedback of all involved stakeholders should be an integral part of the process. Ultimately, the homeland security leadership group tasked with such decisions must be willing to consider these counterarguments while weighing the overall value of a task force–based regional team.

Moreover, the limitations of this thesis will undoubtedly leave unanswered questions for the homeland security leader considering the adoption of the recommendations discussed. This thesis covered SWAT response from a critical incident perspective while discussing specific challenges in training and familiarity, interoperability, and command and control. This thesis did not consider the many other critical incident response elements that directly affect SWAT team efficiency. One of the

vital undiscussed elements of critical incident handling is fire and law enforcement integration, which has become an emergent response model in the form of rescue task forces. This model is very beneficial in the first-responder realm of active shooters, and while there are tactical emergency medical technicians trained to respond with SWAT during operations, discussing them in addition to the other technical portions of this thesis would have been too time-consuming.

Another area this thesis did not explore was the legal ramifications of merging federal, state, and local SWAT teams. It is an important aspect of the creation of such a unit and could potentially be a thesis topic all on its own. While this thesis discussed the importance of formal MOU creation and structure, undoubtedly the need for legal frameworks, governing laws that would allow for unit creation and sustainment, and powers of arrest would require more time and depth than this thesis could provide.

Finally, the world of SWAT cultural interaction is not as well documented from a scholarly perspective as other law enforcement elements. Studying how SWAT teams interact internally and externally, and how that interaction ultimately affects decision making and tactics, is worthy of future research. This thesis, however, was not the appropriate vehicle for such a study. As a result, the author's training and experiences were interlaced with related scholarly sources to provide this context for attempting to answer the posed research question. To be fair, this background and experience are not all-encompassing and must be acknowledged so that the reader may have a complete picture of this thesis topic. Given all these things, additional areas regarding SWAT team response were not covered in this thesis.

B. GAPS AND FURTHER RESEARCH NEEDS

Whether a team such as the one proposed as a critical incident SWAT solution would be a viable solution for other types of SWAT missions is unknown. SWAT units are generally tasked with high-risk warrants, barricaded suspects, and other local calls for service that exceed the normal patrol capabilities of a given police agency. Compared to critical incidents, where many of the political and cultural opinions on SWAT are suspended due to the severity of the threat, lower-level missions that municipal SWAT

teams regularly handle are already the subject of societal scrutiny.[178] Using a team with a task force structure that includes federal and state law enforcement personnel would need further research to determine suitability.

Additionally, a long-term risk versus reward study to determine the sustainability and worthiness of a task force SWAT team needs examination. The Metro-LEC approach referenced in this thesis could be a program that sheds light on this research question, as well as other similar task force–based units. Any agreements that would provide asset-forfeiture sharing for this type of SWAT team would undoubtedly play a part in that determination. Ultimately, the research needed to answer this question would likely come after the formal establishment and extended in-service time of such a unit.

Another area of future exploration is the use of task forces as a resource solution at critical incidents outside the SWAT realm. Those who advocate a whole-of-government approach might see the value in adapting large-scale response in a region to one that mirrors a task force structure.[179] Fire, EMS, shelter services, and other common critical incident or disaster scene elements may benefit from a pooling of resources. The Federal Emergency Management Agency is an entity that comes to mind as one that might support this model, as it could support more regional involvement in disaster preparation.[180] This concept, similar to mutual aid, would require some of the same research efforts if not more than those undertaken for this thesis.

Finally, research into whether a unit like this would be accepted from a societal standpoint is a question that needs answering. As previously mentioned, SWAT teams in general have not always been viewed from a positive perspective. This reality is due to multiple incidents wherein critical errors have occurred, the current relationship challenges

[178] Singh, "Treading the Thin Blue Line"; Kiker, "From Mayberry to Ferguson."

[179] Tom Christensen and Per Lægreid, "The Whole-of-Government Approach to Public Sector Reform," *Public Administration Review* 67, no. 6 (2007): 1059–1066, https://doi.org/10.1111/j.1540-6210.2007.00797.x.

[180] William L. Waugh Jr, "Regionalizing Emergency Management: Counties as State and Local Government," *Public Administration Review* (1994): 253–58.

between police and the community, and the belief by some in society that SWAT teams are too militaristic and overstep the police mission in a given community.[181]

Going forward, how society views a larger conglomerate of local, state, and federal law enforcement personnel in a SWAT capacity is an important question needing answers. The basis of this thesis was not sociological in nature, and the topic of SWAT interaction from a social acceptance perspective would require extensive research in and of itself. Regardless, the question is an important one to answer and is worthy of further research.

[181] Radley Balko, *Rise of the Warrior Cop: The Militarization of America's Police Forces* (New York: PublicAffairs, 2013); Radley Balko, "Massachusetts SWAT Teams Claim They're Private Corporations, Immune from Open Records Laws," *Washington Post*, June 26, 2014, https://www.washingtonpost.com/news/the-watch/wp/2014/06/26/massachusetts-swat-teams-claim-theyre-private-corporations-immune-from-open-records-laws/.

APPENDIX A. SAMPLE LAW ENFORCEMENT FISCAL AGREEMENT

The document in Appendix A is an agreement between the New York City Police Department and state and federal agencies.[182]

AGREEMENT BETWEEN HOMELAND SECURITY LAW ENFORCEMENT AGENCIES
AND
LOCAL, COUNTY, AND STATE LAW ENFORCEMENT AGENCIES
FOR THE REIMBURSEMENT OF EXPENSES
****

This agreement is entered into by the **NEW YORK CITY POLICE DEPARTMENT** and the **UNITED STATES IMMIGRATION AND CUSTOMS ENFORCEMENT, OFFICE OF THE SPECIAL AGENT IN CHARGE, NEW YORK** for the purpose of receiving reimbursable costs incurred by the **NEW YORK CITY POLICE DEPARTMENT** in providing resources to joint operations/task forces.

Payments may be made to the extent they are included in the Homeland Security law enforcement agency's Fiscal Year Plan, and the monies are available within the Treasury Forfeiture Fund to satisfy the request(s) for reimbursable overtime expenses.

I. **LIFE OF THIS AGREEMENT**

This agreement is effective on the date it is signed by both parties and will remain in effect until terminated by either party.

II. **AUTHORITY**

This agreement is established pursuant to the provisions of 31 U.S.C. 9703, the Treasury Forfeiture Fund Act of 1992, which provides for the reimbursement of certain expenses of local, county and state law enforcement agencies incurred as participants in joint operations/task forces with a Department of Homeland Security law enforcement agency.

III. **PURPOSE OF THIS AGREEMENT**

This agreement established the procedures and responsibilities of both the **NEW YORK CITY POLICE DEPARTMENT** and the **UNITED STATES IMMIGRATION AND CUSTOMS ENFORCEMENT, OFFICE OF THE SPECIAL AGENT IN CHARGE, NEW YORK** for the reimbursement of certain overtime and other expenses pursuant to 31 U.S.C. 9703.

IV. **NAME OF TASK FORCE/JOINT OPERATION** (If Applicable)

EL DORADO TASK FORCE

[182] New York City Police Department, email message to author, March 31, 2020. This document is in the public domain.

V. **CONDITIONS AND PROCEDURES**

A. Assignment of **NEW YORK CITY POLICE DEPARTMENT INVESTIGATORS**

Within 10 days of the effective date of this agreement, the **NEW YORK CITY POLICE DEPARTMENT** shall provide the **UNITED STATES IMMIGRATION AND CUSTOMS ENFORCEMENT, OFFICE OF THE SPECIAL AGENT IN CHARGE, NEW YORK** with the names, titles, badge or ID numbers of the officer(s) assigned to the task force. Further, the **NEW YORK CITY POLICE DEPARTMENT** shall provide an hourly overtime wage rate of the officer(s) assigned to the operation/task force.

B. **REQUESTS FOR REIMBURSEMENT OF OVERTIME EXPENSES**

1. The **NEW YORK CITY POLICE DEPARTMENT** may request reimbursement for payment of overtime expenses directly related to work performed by its officer(s) assigned as members of a Joint Task Force with the **UNITED STATES IMMIGRATION AND CUSTOMS ENFORCEMENT** for the purpose of conducting official Homeland Security investigations.

2. The **NEW YORK CITY POLICE DEPARTMENT** shall provide the **UNITED STATES IMMIGRATION AND CUSTOMS ENFORCEMENT, OFFICE OF THE SPECIAL AGENT IN CHARGE, NEW YORK**, within 10 days of the signing of this agreement, and ensure that they are active participants in the EFT program.

3. Invoices submitted for the payment of overtime to local/county/state must be submitted on the agency's letterhead. The invoice shall be signed by an authorized representative of that agency.

4. The **NEW YORK CITY POLICE DEPARTMENT** will submit all requests for reimbursable payments, together with appropriate documentation, to the **UNITED STATES IMMIGRATION AND CUSTOMS ENFORCEMENT, OFFICE OF THE SPECIAL AGENT IN CHARGE, NEW YORK, 601 WEST 26th STREET, SUITE 700, NEW YORK, NEW YORK 10001, ATTN: CARMEN RICCI (TELEPHONE NUMBER 646-230-3200).**

The **NEW YORK CITY POLICE DEPARTMENT** shall certify that the request is for overtime and/or other expenses incurred by the **NEW YORK CITY POLICE DEPARTMENT** for participation with the **UNITED STATES IMMIGRATION AND CUSTOMS ENFORCEMENT.**

The **NEW YORK CITY POLICE DEPARTMENT** shall also certify that requests for reimbursement of overtime expenses have not been made to other Federal law enforcement agencies who may also be participating with the operation or task force.

The **NEW YORK CITY POLICE DEPARTMENT** acknowledges that they remain fully responsible for their obligations as the employer of the officer(s) assigned to the operation or task force and are responsible for the payment of overtime earnings, withholdings, insurance coverage and all other requirements by law, regulation, ordinance or contract regardless of the reimbursable overtime charges incurred.

5. All requests for reimbursement of costs incurred by the **NEW YORK CITY POLICE DEPARTMENT** must be approved and certified by the **UNITED STATES IMMIGRATION AND CUSTOMS ENFORCEMENT, OFFICE OF THE SPECIAL AGENT IN CHARGE, NEW YORK**. The Homeland Security law enforcement agency shall countersign the invoices for payment.

6. The maximum reimbursement entitlement for overtime worked on behalf of the **UNITED STATES IMMIGRATION AND CUSTOMS ENFORCEMENT, OFFICE OF THE SPECIAL AGENT IN CHARGE, NEW YORK** is set at $15,000.00 per officer assigned to the operation or task force for the Fiscal Year period.

C. **PROGRAM AUDIT**

This agreement and its procedures are subject to audit by the **UNITED STATES IMMIGRATION AND CUSTOMS ENFORCEMENT**, the Department of Homeland Security – Office of Inspector General, the General Accounting Office, and other government designated auditors. The **NEW YORK CITY POLICE DEPARTMENT** agrees to permit such audits and agrees to maintain all records relating to these transactions for a period of not less than three years; and in the event of an on-going audit, until the audit is completed. These audits may include reviews of any and all records, documents, reports, accounts, invoices, receipts or expenditures relating to this agreement; as well as the interview of any and all personnel involved in these transactions.

D. **REVISIONS**

The terms of this agreement may be amended upon the written approval of both the **NEW YORK CITY POLICE DEPARTMENT** and the **UNITED STATES IMMIGRATION AND CUSTOMS ENFORCEMENT**. The revision becomes effective upon the date of approval.

E. **NO PRIVATE RIGHT CREATED**

This is an internal government agreement between a Homeland Security Law Enforcement Agency and a Local/County/State Law Enforcement Agency and is not intended to confer any right or benefit to any private person or party.

Raymond Kelly
Commissioner
New York City Police Department

DATE: 11/7/05

Martin D. Ficke
Special Agent in Charge, New York
U.S. Immigration and Customs Enforcement

DATE: 11/21/05

NAME TITLE
(ICE Headquarters Office)

SUMMARY OF KEY PROVISIONS OF THE BORDER ENFORCEMENT SECURITY TASK FORCE MOU

- NYPD joining task force – NEW YORK BORDER ENFORCEMENT SECURITY TASK FORCE.
- Oversight and control of the task force lies with the HSI Special Agent in Charge (SAC), NY. The HSI SAC and Police Commissioner have joint responsibility of NYPD activities in the task force. The HSI SAC will assign a DSAC for the BEST who is responsible for all investigatory and operational activities of BEST.
- NYPD is obligated to assign a Lieutenant and Sergeant to the BEST. The Lieutenant serves as NYPD coordinator and will be equivalent to an HSI ASAC. A Sergeant will be the equivalent of an HSI Group Supervisor. The NYPD BEST coordinator reports to CO, OCID, as directed by Police Commissioner.
- The DSAC and CO, OCID, must confer regularly on NYPD activities in the BEST. The DSAC has ultimate operational responsibility for joint enforcement actions taken under federal laws and for specific assignments of NYPD officers in the BEST after such conferral.
- Group Supervisor responsible for supervision of all officers and agents assigned to group, regardless of the agency of officers or agents.
- NYPD members will be Title 19 Cross Designated as Customs Officers.
- the parent agency remains responsible for overall conduct of their respective personnel, including resolution of complaints or allegations of misconduct and discipline.

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APPENDIX B. SAMPLE MEMORANDUM OF UNDERSTANDING

The document in Appendix B is a memorandum of understanding between the New York City Police Department and Homeland Security Investigations.[183]

DCLM # 28-97)2016
PCM# 2016-12272

FIRST ENDORSEMENT

Commanding Officer, Police Commissioner's Office to Deputy Commissioner, Legal Matters, November 18, 2016. The Police Commissioner has **APPROVED** and signed the memorandum of understanding between the NYPD and the U.S. Immigration and Customs Enforcement – Homeland Security Investigations for the designation of NYPD employees as Customs Officers. Forwarded for your necessary attention.

Cecil A. Wade
Deputy Chief

CW/vc
cc: File

[183] New York City Police Department, email message to author, March 31, 2020. This document is in the public domain.

DCLM # 28-97/2016
LB# 08-16-140
CEI# 375/16
CO-CED GF# 715-16

ATTORNEY-CLIENT COMMUNICATION
PRIVILEGED AND CONFIDENTIAL

POLICE DEPARTMENT
CITY OF NEW YORK

November 14, 2016

From: Deputy Commissioner, Legal Matters

To: Police Commissioner

Subject: **MEMORANDUM OF UNDERSTANDING BETWEEN THE NYPD AND US IMMIGRATION AND CUSTOMS ENFORCEMENT – HOMELAND SECURITY INVESTIGATIONS ("HSI") FOR THE DESIGNATION OF NYPD EMPLOYEES AS CUSTOMS OFFICERS (EXCEPTED)**

The above-referenced memorandum of understanding ("MOU") has been reviewed. Pursuant to section 401(i), Tariff Act of 1930, as amended, HSI has the authority and authorization to designate persons as Customs Officers (Excepted). These Customs Officers are authorized to enforce the full range of federal offenses **excluding** the authority to enforce administrative violations of immigration law.

Under the terms and conditions of this agreement, certain NYPD employees will be designated as Customs Officers (Excepted) without additional compensation to perform the duties outlined in the form "Designation of Customs Officer (Excepted) – Title 19 Task Force Officer" which is made part of this MOU.

Upon review, there are no legal objections to the NYPD entering into this agreement with HSI and I recommend its execution. If you agree with this recommendation, kindly sign the attached MOU and return to my office, attention Agency Attorney David Goldfarb, ext. 2-8376, for further processing.

For your review and signature.

Lawrence Byrne
Deputy Commissioner
Legal Matters

LB:dgg
T:DocDbase/Civil/2015/8-16-140-ICE HSI

MEMORANDUM OF UNDERSTANDING

between

U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT
HOMELAND SECURITY INVESTIGATIONS

and

New York Police Department

regarding

THE DESIGNATION OF New York Police Department **EMPLOYEES**

AS CUSTOMS OFFICERS (EXCEPTED)

1. **PARTIES.** The Parties to this Memorandum of Understanding (MOU) are U.S. Immigration and Customs Enforcement (ICE) Homeland Security Investigations (HSI) and New York Police Department.

2. **AUTHORITY.** Title 19, United States Code (U.S.C.), Section 1401(i); 19 U.S.C. § 1589a. This MOU is also authorized under the provisions of enforcing state and local laws of New York.

3. **PURPOSE.** The Parties agree that effective enforcement of the laws relating to HSI jurisdiction requires close cooperation and coordination between the two Parties. The Parties have therefore entered into this MOU to govern the use of HSI designations by certain employees of New York Police Department.

   Pursuant to section 401(i), Tariff Act of 1930, as amended (19 U.S.C. § 1401(i)), the Secretary of Homeland Security is authorized to designate persons as Customs Officers (Excepted) to perform the duties of a Customs Officer. Within ICE, this authority has been delegated to the HSI Special Agents in Charge. Pursuant to 19 U.S.C. § 1589a, customs officers are authorized to enforce the full range of federal offenses. However, in designating Customs Officers (Excepted), *HSI is not conveying the authority to enforce administrative violations of immigration law.*

   There may be instances when HSI determines that it is desirable for certain sworn law enforcement employees of New York Police Department to perform certain HSI duties. This MOU sets forth the agreement and relationship between the Parties with respect to this determination.

4. **RESPONSIBILITIES.**

   The Parties agree as follows:

   HSI agrees to:

   a. Designate certain employees of New York Police Department as Customs Officers (Excepted), without additional compensation, to perform the duties as noted on the "Designation, Customs Officer (Excepted) – Title 19 Task Force Officer" (ICE Form 73-001). This form is attached and is hereby made part of this MOU;

   b. Issue a "Designation, Customs Officer (Excepted) – Title 19 Task Force Officer" (ICE Form 73-001) to each qualified and designated employee;

   c. Provide appropriate training in laws, policies, and procedures to each designated employee;

d. Advise the designated Customs Officers (Excepted) about court proceedings concerning seizures or arrests made by them in accordance with the authorities granted by HSI contemplated under this MOU; and

e. Process, under appropriate regulations, any injury claim submitted as a result of injuries occurring to the designated Customs Officers (Excepted) while such individuals are acting pursuant to this MOU, for compensation under the Federal Employee Workers Compensation Act (5 U.S.C. § 8101, *et seq.*).

NYPD agrees:

a. That only sworn law enforcement officers of New York Police Department who successfully complete the appropriate HSI Task Force Officer cross-designation Training Course and receive an approved "Designation, Customs Officer (Excepted) – Title 19 Task Force Officer" (ICE Form 73-001) will be designated as Customs Officers (Excepted);

b. That each law enforcement officer will be bound by the Authorities Granted and the Endorsements and Restrictions as noted on the "Designation, Customs Officer (Excepted) – Title 19 Task Force Officer" (ICE Form 73-001);

c. To advise HSI of each court proceeding in which the validity of a Customs Officer (Excepted)'s enforcement authority becomes an issue, and allow HSI to provide legal memoranda or other assistance as deemed necessary by HSI;

d. That agency employees designated as Customs Officers (Excepted) will follow HSI directives and instructions when utilizing enforcement authority conveyed by HSI;

e. To provide to HSI, before designation of each officer and on an ongoing basis, any derogatory information, or information that may call into question the officer's truthfulness or ability to testify in court; and

f. To return all HSI-issued equipment and identification when a cross-designated officer terminates employment or when his or her cross-designation expires.

Both Parties agree:

a. That any abuse of HSI cross-designation authority may lead to the revocation of such cross-designations by HSI; and

b. To schedule periodic meetings to review this MOU, as required.

5. **REPORTING AND DOCUMENTATION.** HSI SAC offices will maintain the original signed "Designation, Customs Officer (Excepted) – Title 19 Task Force Officer" (ICE Form 73-001). Copies of this form will be held by the Contraband Smuggling Unit at HSI Headquarters, the designated Customs Officer (Excepted), and New York Police Department .

If applicable, the HSI office will maintain documentation of designated Customs Officers (Excepted) approved to use HSI vehicles and certification that the designated Customs Officers (Excepted) have completed the ICE Fleet Card Training in Virtual University and any other fleet related training.

6. POINTS OF CONTACT.

HSI Office: Homeland Security Investigations	NYPD
Name: Angel M. Melendez	Name: James O' Neill
Title: Special Agent in Charge	Title: Police Commissioner
Address: 601 West 26th Street, 7th Floor	Address: 1 Police Plaza
New York, NY 10001	New York, NY 10038
Telephone Number: +1 (646) 230-3301	Telephone Number: +1 (646) 610-5000
Fax Number: +1 (646) 313-4366	Fax Number: +1 (646) 610-5843
E-mail Address:	E-mail Address:

7. OTHER PROVISIONS. This MOU is an internal agreement between the Parties and does not confer any rights, privileges, or benefits to any other party or the public.

Nothing in this MOU is intended to conflict with current laws, regulations, or policies of either Party. If a term of this MOU is inconsistent with such authority, that term shall be invalid but the remaining terms and conditions of this MOU shall remain in full force and effect.

Nothing in this MOU is intended or shall be construed to require the obligation, appropriation, or expenditure of any money from the U.S. Treasury in violation of the Anti-Deficiency Act, 31 U.S.C. §§ 1341-1519.

The forms and authorities referenced herein may be renamed or replaced by HSI without prejudice to this MOU.

8. EFFECTIVE DATE. The terms of this MOU will become effective on the date the last Party signs the MOU. The Designation Form of each Customs Officer (Excepted) is effective per the date on that document.

9. MODIFICATION. This MOU may be amended by the written concurrence of both Parties.

10. TERMINATION. This MOU may be terminated by either Party upon a 30-day written notification to the other Party.

APPROVED BY:

Angel M. Melendez	James O' Neill
Name of HSI Official	Name of NYPD 's Official
Special Agent in Charge	Police Commissioner
Title of HSI Official	Title of NYPD 's Official
Homeland Security Investigations	Name of NYPD 's Agency
U.S. Immigration and Customs Enforcement	
Date: SEP 23 2016	Date: 11/18/16

CANCELLED/REVOKED	DEPARTMENT OF HOMELAND SECURITY U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT	Credential Number:
Authorizing Officer's Signature Date		

DESIGNATION, CUSTOMS OFFICER (EXCEPTED)

Pursuant to the provisions of 19 U.S.C. 1401 (i), and appropriate re-delegations, and by agreement with your employing agency or service, you are hereby designated a Customs Officer (Excepted) without additional compensation. This designation, for the performance of such duties as outlined below, will be in effect while you remain in your present position and location unless revoked at an earlier date. In performing the duties of a Customs Officer (Excepted), you will be subject to all guidelines, directives and instructions of ICE. Arrangements will be made for you to receive the training necessary to perform your duties as a Customs Officer (Excepted) at your location.

This designation does not modify current ICE procedures or practices concerning the reporting, handling, and investigation of persons arrested and seizures made for violations of laws enforced by ICE. Any arrests and seizures effected while acting under this designation and any information received concerning ICE or related violations should be promptly reported to the nearest ICE office.

1. Officer's Name	2. Social Security Number	3. Date of Birth / /
4. Agency	5. Agency Position/Rank	6. Badge Number
Address _____ (Street) _____ (City) (State) (Zip) Phone ( ) _____ - _____ Ext. _____	7. Officer's Assigned Firearm Make _____ Model _____ Caliber _____	
8. ICE Office Assigned		9. Date Issued / /

10. Duties when authorized by the ICE authorizing official or his/her designee:
(Only the duties marked are authorized for the Designated Customs Officer.)

- ☐ Use of firearms in accordance with ICE Use of Force Policy (carriage of firearms will be in accordance with the officer's employing agency);
- ☐ Execute and serve search warrants, arrest warrants, subpoenas, and summonses in accordance with laws administered and/or enforced by ICE;
- ☐ Make arrests without warrant (A) for any offense against the United States committed in his/her presence; or (B) for any felony, cognizable under the laws of the United States, if he/she has probable cause to believe that the person to be arrested has committed or is committing a felony;
- ☐ Make seizures of property in accordance with laws administered and/or enforced by ICE;
- ☐ Perform such other law enforcement duties as may be authorized under 19 U.S.C. 1401(i);
- ☐ Geographic Inhibitors **(Foreign law enforcement officers only)** *Allows armed Law Enforcement Officers, while on duty and in the performance of their duties, to enter and cross foreign lands to reach a point in their home country, or in some cases a location only accessible by crossing the foreign territory;*
- ☐ Exigent Circumstances **(Foreign law enforcement officers only)** *Allows an armed LEO to enter the United States to provide emergency assistance, primarily to another officer, in a life threatening situation.*
- ☐ Other duties: _____

Endorsements and Restrictions:
Prior to the examination or search of any aircraft, vehicle, vessel or cargo, the appropriate Special Agent in Charge or Resident Agent in Charge, will be contacted and advised of the nature of the activity.
Other Endorsements and Restrictions: _____

I have read and understand the Duties assigned, Endorsements and Restrictions.

_____ (Cross Designated Officer's Signature) _____ (Date)

11. Requesting Office: ☐ OI ☐ Other

12. Authorizing Officer

_____ (Printed Name) _____ (Title) X _____ (Signature)

ICE Form 73-001 (05/05)

SAMPLE

COPY

CURRENT ENFORCEMENT M.O.U. (2005) NYPD + HSI (I.C.E.)

MEMORANDUM OF UNDERSTANDING
between
the
U.S. Immigration and Customs Enforcement (ICE)
And
New York Police Department

I. **Purpose**

The above listed law enforcement agency and ICE agree that effective enforcement of the laws relating to ICE jurisdiction requires close cooperation and coordination between the two agencies, and have therefore entered into this agreement to govern the use of ICE designations by certain employees of your agency.

II. **Agreement**

There may be instances when it may be desirable on occasion for certain sworn law enforcement employees of your agency to be able to perform certain ICE duties. Pursuant to section 401(i), Tariff Act of 1930, as amended, (19 U.S.C. 1401(i), the Secretary of Homeland Security or his/her designee is authorized to designate persons as Customs Officers (Excepted) who are designated to perform the duties of an ICE Officer. The designated Customs Officers will have the authority to enforce "Customs" laws. This agreement does not grant the designated Customs Officers the authority to enforce "immigration" laws.

The forms and authorities referenced herein may be renamed or replaced by ICE without prejudice to this agreement.

The two agencies have, therefore, entered into an agreement as follows:

A. ***The U.S. Immigration and Customs Enforcement agrees:***

1. *to designate certain employees of your agency as Customs Officers (Excepted), without additional compensation, to perform the duties shown on the attached "Designation, Customs Officer" from (which is hereby made part of the agreement);*

2. *to provide appropriate training in Customs laws, policies, and procedures to the designated employees;*

3. *to issue a "Designation, Customs Officer," as described in A1 above to each qualified employee;*

4. *to advise your officers regarding any court proceedings that question any seizures or arrests that are made in accordance with this agreement;*

5. *to process, under appropriate regulations, any injury claim submitted as a result of injuries occurring to local law officers acting pursuant to this agreement, for compensation under the Federal Employee Workers Compensation Act (5 U.S.C. 8101, et.seq.)*

B. *The above listed law enforcement agency agrees:*

1. *to advise ICE of each situation in which the agency proposes to use an ICE designation;*

2. *that ICE designations to employees of your agency will be used only in situations where there has been specific advance approval by the appropriate Special Agent in Charge or Resident Agent in Charge. Designations will be used only for the duration of the specified law enforcement activity for which the approval was extended, and to the extent of such approval.*

3. *that only personnel who are sworn law enforcement officers of your agency and who successfully complete the appropriate ICE cross-designation training and received a "Designation, Customs Officer", form will be granted Customs Officer status;*

4. *to report to ICE, in writing, the results of all activity undertaken by the designated Customs Officer as a consequence of the Customs cross designation authority;*

5. *to advise ICE of each court proceeding in which the validity of ICE search, seizures, or arrest authority has become an issue; and to permit ICE to provide legal memoranda or other assistance in such cases when desired by ICE.*

6. *to follow ICE directives and instructions that are applicable to ICE concerning ICE search, seizure, and arrest authority;*

7. *to return all ICE equipment and identification if issued, when a cross designated officer terminates employment for any reason.*

Both agencies agree to:

1. *recognize that any abuse of ICE cross designation authority may lead to the revocation of such cross designations by ICE;*

2. *agree to exchange implementing instructions prior to issuance; and*

3. *agree to schedule periodic meetings to review this agreement.*

This Memorandum of Understanding is an internal agreement between government agencies. It does not create or confer any rights, privileges, or benefits for any private person or party.

Approved By Law Enforcement Agency	***Approved By ICE***
Name of Agency: New York Police Department	ICE Agency: Special Agent in Charge, New York
Name: Raymond W. Kelly	Name: Martin D. Ficke
Title: Police Commissioner	Title: Special Agent in Charge
Signature/Date: Nov. 21, 2005	Signature/Date: Martin D. Ficke 12/16/05

ICE Form 73-002 (03/05)

NYPD

LB # 8-2016/1402

CO-CED GF #715/16

1st Endorsement

Commanding Officer, Criminal Enterprise Division to Commanding Officer, Legal Bureau, October 28, 2016. Contents noted. Attached is a revised copy of a proposed MOU between the U.S. Immigration and Customs Enforcement Homeland Security Investigations and the NYPD. This proposal is requested by and being submitted to the Legal Bureau for final review. Submitted for your information.

Brian McCarthy
Assistant Chief

BM/anc

C.E.I. # 375-16

POLICE DEPARTMENT
CITY OF NEW YORK

October 12, 2016

From: Commanding Officer, Criminal Enterprise Investigations

To: Commanding Officer, Legal Bureau (through channels)

Subject: MEMORANDUM OF UNDERSTANDING BETWEEN THE NEW YORK CITY POLICE DEPARTMENT AND THE U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT HOMELAND SECURITY INVESTIGATIONS

1. The undersigned submits the attached "Memorandum of Understanding" (M.O.U.) between the U.S. Immigration and Customs Enforcement Homeland Security Investigations and the New York City Police Department for approval. This M.O.U. delineates the responsibilities of the certain employees of the New York City Police Department who are designated as Customs Officer – Title 19 Task Force Officer and replaces the existing M.O.U. dated November 21, 2005. This new M.O.U. will remain in effect until terminated by written mutual consent.

2. This M.O.U. provides the purpose and responsibilities of designated employees of the New York City Police Department who have successfully completed the HSI Task Force Officer cross-designation Training Course and receive an approved "Designation, Customs Officer (Excepted) – Title 19 Task Force Officer" designation as a Customs Officers. Crossed Designated Officers perform the duties of a Customs Officer and are authorized to enforce the full range of federal offenses.

3. Attorney David Goldfarb of the N.Y.P.D. Legal Bureau was consulted and provided with a copy of this M.O.U. The Legal Bureau examined the document and made changes necessary to align the M.O.U. with N.Y.P.D. policies. The Legal Bureau is requesting this updated copy be submitted to the Legal Bureau for final review.

4. For your information and consideration.

John M. Denesopolis, Jr.
Inspector

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