

CRJ 550

Legal Issues in Criminal Justice Administration

DRNC Scenario

Background

The following story is a fictional account of planning and preparation leading up to the mythical Democratic-Republican National Convention (DRNC) event in Miami, Florida. The story is loosely based on an amalgamation of real-life occurrences leading up to the Free Trade Area of the Americas (FTAA) Conference in Miami, Florida in 2003. The names of all the characters in the story are fictional. As you read the story, keep in mind what ethical and legal issues are likely to arise. At the end of the story, you will be asked to respond to several questions related to this scenario.

For the DRNC event, Miami-Dade has formed a Host Committee, similar to the model used for the Super Bowl Host Committees of the past. The Host Committee is a small group of 15 appointed personnel from various county and municipal agencies, as well as the private sector. Miami-Dade Police Department Director Melanie Duncan is one of the committee members. The Host Committee is chaired by Mr. Horace Copeland, a long-time assistant to the County Manager, Miguel Herrera. The purpose of the Host Committee is to plan for the overall event. As such, they are responsible for recommending policy, but not for enacting policy. The enactment of policy remains the ultimate responsibility of the Board of County Commissioners (BOCC).

The Democratic-Republican National Party (DRNP) has designated Ms. Cassandra Armand as its Chair of the DRNC's Committee on Arrangements (COA). The COA is the main organizer from the DRNP for this event. Ms. Armand and Mr. Copeland from the Host Committee work hand-in-hand to plan this event and their recommendations to the BOCC carry considerable weight for policy formulation.

Miami-Dade Police has been designated as the *lead local agency* and lead operational planner for the event security. This policy differs significantly from the 2003 FTAA in which the City of Miami was designated as the lead local agency.

Since this event meets the criteria of a National Special Security Event (NSSE), the U.S. Secret Service has been designated as the *lead coordinating agency* with overarching statutory authority for the planning and execution of the event. Supervisory Special Agent Samantha Salerno has been appointed as the lead agent in-charge for the event.

So far a few major planning decisions have been made. The American Airlines Arena in Downtown Miami has been selected as the location for the main event of the convention. Because of its proximity to the entrance to the Port of Miami, the selection of this arena poses some challenges regarding the balance between buffer-zone security and the normal, day-to-day business of the Port, which includes cargo traffic as well as cruise-ship passenger traffic. Moreover, the local merchants of the adjacent stores in the Bayside Marketplace will also be affected by the week-long event. The high likelihood of protestors demonstrating at the event adds another significant factor to the policy planning process.

Organization charts of the Host Committee and the Security Subcommittee are provided for your reference.

Case Study – Meeting of the DRNC Host Committee’s Security Subcommittee

The DRNC was only two months away and the pace of the planning activities leading up to it had increased noticeably. The Security Subcommittee chaired by Assistant Special Agent in-Charge (ASAC), Samantha Salerno, had been meeting on a monthly basis for the past nine months, but was now going to start meeting every two weeks as the start of the event was getting closer. This day’s meeting was being held at the Miami-Dade Police Department headquarters building and was hosted by committee member Melanie Duncan, the Director of the MDPD. ASAC Salerno was out of town for a meeting and was unable to attend.

The meeting started promptly at 9 a.m. with a welcome from Director Duncan. None of the perfunctory introductions were necessary since most of the attendees present knew each other from the previous subcommittee meetings. However, this time Major Louis Warren brought two of his Task Force and Mobile Field Force Commanders with him, who had not attended this particular group’s meetings before. Warren introduced Captain Earl Bishop (Commander of Task Force 5) and Lieutenant Fred Hayes (Commander of “Juliet” Mobile Field Force).

The first order of business had to do with the subcommittee’s consideration to the granting of permits regarding several different requests for rallies and parades in the proximity of the DRNC main venues. At the subcommittee’s previous meeting two weeks ago, the organization Root Cause had been granted a permit for a parade route through Downtown Miami on the third day of the DRNC event. That parade permit had been granted after considerable discussion and compromise between the parade organizers and City of Miami and Miami-Dade County officials. The agreed-upon parade route would not come any nearer than two city blocks to either the American Airlines Arena (the main venue of the convention) or the Intercontinental Hotel (where many of the delegates and their families would be staying).

In addition to that planned parade, the Security Subcommittee had also agreed to issue a permit for a rally by the AFL-CIO and the Teamsters trade unions at the nearby Bayfront Park Amphitheater on that same day. There were two other permit requests pending the Subcommittee’s review and recommendation. One was by the organization Amnesty International to stage a protest at the Torch of Friendship in front of the Bayfront Park Amphitheater, also on the third day of the event. Lastly, the organization Greenpeace had issued a statement of intent, but had not officially filed for a permit to conduct a protest at the Bayside Shopping Mall, adjacent to the Amphitheater.

Major Warren turned to Captain Bishop and asked him for his opinion on the possible Greenpeace protest at Bayside. Bishop said, “I would strongly recommend that no permit be issued to Greenpeace if it is requested, and that they not be allowed to protest at Bayside. A protest of any type... by any group at Bayside would be way too close to the arena (American Airlines Arena) and could spill over onto the roadway that leads into the Port of Miami. That would lead to a major congestion at a critical choke point, and would in effect close down the Port.”

Major Warren chimed in, “I agree with Earl... I think it would be a huge mistake to let this group so close to the main venue and to a critical infrastructure site such as the Port of Miami. We need to make sure that we keep that bottleneck open the entire week of the convention.”

Captain Bishop added, “Not only that Major... but at the Amphitheater for the AFL-CIO/Teamsters rally, we’ll be able to restrict backpacks from coming into the venue... but we won’t be able to do that at Bayside. It’s public shopping area, and legally we would have some problems with pat-down searches of backpacks. The protestors could sneak in all kinds of tools and weapons that can be used against us. We

would be almost powerless to stop them. I strongly recommend that we do not issue any permits to demonstrate at Bayside for this and other reasons.”

“Louis, where have you designated the ‘First Amendment Zones’?” asked Director Duncan.

Major Warren responded, “The main First Amendment Zone is located just north of the arena, at Bicentennial Park. That’s the ideal place for it because it’s close to the main venue... it’s within line-of-sight... while at the same time, there’s a natural 200 foot wide cut-in harbor that provides a buffer of deep water in between the protestors and the delegates inside the Arena. We’ll have our Marine Patrol Unit and the Coast Guard sitting in between to make sure nobody tries to swim across. It’s perfect.”

Warren continued, “The second First Amendment Zone is in front of the Torch of Friendship... where Amnesty International plans to protest. That’s where they intended to be back in 2003 for the FTAA, but if I recall correctly, only one guy showed up, and he kind of got swept up into the bigger crowds that day.”

“OK, thank you both. That sounds like a plan. I’ll take your recommendations to the full committee next week. Now, the next order of business has to do with several proposed expenditures,” said Director Duncan. Louis, I understand that you have a report for us?”

“Yes... I’ll let Lieutenant Hayes speak to that. He’s been overseeing our logistics and supply efforts. Go ahead Fred... you’ve got the floor.”

Lieutenant Hayes reported, “right now we’re in pretty good shape. We still have a lot of our CUT team tools left over from the FTAA in 2003, so we really don’t need to purchase any new items in that regard. That will save us over \$70,000... so that’s the good news.”

“How are we on Pepperball and other less-lethal munitions?” asked Major Warren.

Hayes continued, “We’re good with Pepperball and OC spray... as you know, neither us nor the City are using SuperSock anymore... ever since that guy lost his eye during the FTAA. We’re all set with munitions, ballistic helmets, shields, and fire-retardant uniforms. The only new expense that we’re recommending right now is the purchase of two LRADs... Long Range Acoustic Devices.”

Warren interrupted, “Fred, why don’t you briefly explain what an LRAD is, and how we plan to use it for the DRNC?”

Hayes went on, “The Long Range Acoustic Device is basically a sound magnifier. Some of you in this room may recall that we had two on loan during the FTAA in 2003, but we never used them... unfortunately. I say unfortunately because we could have avoided a lot of criticism from the ACLU, the Independent Review Panel Report, and others had we been able to transmit our dispersal orders loud and clear to the protestors. Had the LRAD representative not gone home a day early and taken his two machines with him, we probably could have avoided a couple of lawsuits too. One of the biggest criticisms that we faced after the FTAA was that no one in the crowd heard the dispersal order broadcast by the on-scene captain from a standard megaphone.”

Director Robert Waters from the Miami-Dade Fire Rescue Department (MDFRD), who was also present at the subcommittee meeting interrupted, “I thought the LRADs were a pain compliance tool. Aren’t they supposed to cause pain and discomfort to the protestors in order to get them to disperse? I heard that NYPD had used them to disperse some of the Occupy Wall Street protestors... and that there were some complaints of hearing loss.”

"Yes sir," answered Lieutenant Hayes. "When set at a very high setting, the LRAD can cause considerable pain and discomfort to anyone standing within its cone of sound... It is a dual use tool... it can be used like a super clear and powerful megaphone to project orders and instructions, but it can also be used as a pain compliance tool to encourage protestors to disperse."

"So you're saying this LRAD thing is both a megaphone and a less-than-lethal weapon?" asked Director Waters.

Hayes responded, "Yes, in a way it is, but the company that sells them does not consider them to be a less-lethal weapon... it doesn't rise to that level... at least according to them."

"Maybe so..." countered Director Waters, "but I'm concerned that in fixing one problem, we may be creating another one. I'm concerned about lawsuits from protestors claiming that the LRADs caused harm to their hearing... or even harm to our own officers for that matter. How can we make sure that the sound waves projected by the LRADs don't hurt peoples' hearing... protestors or frontline officers alike?"

"Rob, you bring up some good questions," Director Duncan interjected. "I think we need some more information on these LRADs before we can commit to buying two of them as Major Warren has recommended. I think we need to table this discussion for now until we research this more extensively."

"Director..." Major Warren broke in. "We only have a couple of months, and we'll need to move fast on this decision. You know how slow the County procurement process can be... Besides, we'll need a few weeks to take it out and field test it, and then train a few field force officers on how to use them."

Director Duncan replied, "Well then Major... it sounds like you and your staff have a lot of work to do in a short period of time. Don't worry about the procurement process.... Leave that up to me. If we decide to follow your recommendation for the purchase of two LRADs, we'll get it done... but I need to know sooner, rather than later."

"Yes ma'am... we'll report to you our findings before the next meeting two weeks from now," replied Major Warren.

Shortly thereafter, the meeting concluded. The next meeting of the Security Subcommittee is scheduled for the same time, two weeks from this date.