

Achieving

Successful Negotiations in a Correctional Setting

By Stephen J. Romano

During the past 30 years, there have been a number of high-profile hostage situations in correctional institutions in the United States. These incidents include the violent conclusion of the Attica, N.Y., siege in September 1971, along with the peaceful resolutions of the Southern Ohio Correctional Facility (SOCF) standoff in Lucasville, Ohio, in April 1993, and the St. Martin Parish Louisiana County Jail takeover in December 1999. During this time, law enforcement agencies learned many lessons in the area of correctional setting negotiations.

This article attempts to articulate the knowledge acquired by crisis negotiators as a result of a number of intense, protracted correctional sieges. Negotiators have come to realize that there are several unique aspects to negotiating in correctional settings. However, these same incidents have also highlighted the fact that there are far more similarities than differences when comparisons are made between negotiating within the walls and outside of them.

Critical Assessment

The first task confronting authorities during a correctional siege is to determine whether they are dealing with a contained hostage/barricade situation or a riot. In a contained situation, basic crisis negotiation techniques will apply; in most instances, time will be an ally. However, an ongoing riot involving large-scale injuries and/or property damage should be suppressed with a rapid police response. In the event that a rapid response is not possible, authorities must attempt to initiate a dialogue and enter negotiations.

The priorities in correctional setting negotiations are similar to those in any hostage/barricade situation. Preservation of life is the No. 1 priority, with the emphasis on the lives of correctional staff. Re-establishing control in the facility, preventing escape, apprehending hostage takers, recovering property and prosecuting those engaged in violence are also concerns in correctional environments.

Advantages

There are several distinct advantages to negotiating in a correctional environment. The first is immediate containment, in which the crisis site is located within a physically secure structure so there is little chance for escape. The second advantage is an abundance of intelligence. Authorities know who the subjects involved are. In most cases, psychological profiles of the subjects exist and authorities have access to the mental health professionals who conducted these evaluations.

Additionally, authorities are thoroughly familiar with the crisis site. This can be a valuable advantage for tactical teams that must constantly probe and construct contingency plans to be used in the event that the situation rapidly deteriorates and an emergency assault becomes necessary. During the SOCF siege, authorities were able to exploit the tunnels running underneath the institution, resulting in the ability to glean real-time intelligence within the facility.

A third advantage for the authorities is the ready identification of potential third-party intermediaries (TPIs) and the benefit of prior positive relationships between inmates and staff. Inmates' visitor lists of family and friends are kept and their mail is routinely screened. These procedures

significantly help authorities identify TPIs who may be used to influence a subject to surrender. In August 1991, during a siege at the Federal Correctional Institute (FCI) in Talladega, Ala., a staff counselor was able to convince inmates to release a correctional officer during the onset of the takeover. It seems the staff counselor had previously established a positive relationship with the inmates who, therefore, viewed him as a "regular guy."

The fourth advantage authorities have during a prison siege is the inmates' vulnerability to the use of force. Although inmates have shown a great deal of creativity in designing potentially lethal makeshift weapons, those weapons will not protect them from a well-armed SWAT team during a tactical assault. Although inmates may engage in threatening behavior during a correctional standoff, they are acutely aware of their vulnerability to the use of deadly force by law enforcement.

Disadvantages

There are a number of inherent disadvantages to addressing a prison siege. The first is the strategic entry problems faced by the SWAT team. The containment advantage mentioned above is a double-edged sword. The same physically secure structure that denies escape also thwarts the efforts of a tactical team attempting to make either a stealth or emergency entry into the crisis site. The FBI's Hostage Rescue Team was forced to use an explosive breach entry in its efforts to extract the hostages and apprehend the subjects during the Talladega standoff.

The second disadvantage of correctional settings is the presence of volatile group dynamics. A large num-

ber of inmates in correctional facilities suffer from one or more psychological disorders. The negative synergism resulting from numerous inmates coming together during a siege can make law enforcement's job of de-escalating the crisis and achieving a peaceful resolution a formidable task.

Another disadvantage to a prison siege with regard to the safety of corrections personnel is the potential negative relationships between inmates and staff. Correctional officers have daily contact with the inmate population to ensure compliance with institutional protocol, and this constant interaction can easily result in conflicts and hostile sentiments harbored toward staff personnel. A siege provides an excellent opportunity for inmates to even the score with correctional officers.

A fourth disadvantage with which authorities must cope in a correctional setting is the issue of inmate leadership. Correctional institutions are typically comprised of prison gangs. Although these gangs share a common enemy — corrections personnel — they are rivals with conflicting goals. Therefore, authorities are faced with the dilemma of who to direct negotiations to, that is, who has the influence and authority to make decisions for the inmates?

Situational Dynamics

The initial phase of a prison siege is earmarked by confusion. Inmates are attempting to establish control, hostages are trying to protect themselves and corrections officials are trying to restore order. Authorities should expect expressive behavior. Inmates will be on an emotional high and any initial contact with them should be viewed as an opportunity to let them express their emotions. During this initial phase, the subjects will not be ready to problem-solve, therefore, authorities should avoid offering too much too soon.

In November 1987, the sieges at the Federal Detention Center (FDC) at Oakdale, La., and FCI Atlanta were two cases in point. Both incidents were triggered by a Department of Justice decree directing the deportation of Cuban inmates back to Cuba. Authorities at both institutions proffered a

moratorium on the deportations during the beginning stages of negotiations. The inmates rejected the proposed moratorium off-handedly. However, the same deal was accepted nine and 12 days later, respectively, at both institutions, leading to peaceful resolutions. The moratorium card was played during the expressive phase, long before the inmates were ready to problem-solve.

Leadership

Correctional populations are usually made up of prison gangs with competing agendas. Authorities have to be prepared to help inmates get organized. A "spokesperson" or "committee" representing the "people" should be encouraged. The goal is to direct negotiations to the most moderate/reasonable subject who has influence. Authorities can empower the inmate they would like to represent the group by granting minor concessions. This tactic was used effectively in the Atlanta siege by conceding to the delivery of inmate mail. This concession helped empower the inmate negotiator the authorities assessed to be the most responsible and influential.

The authorities at SOCF Lucasville had to deal with leaders from three separate factions: the Aryan Brotherhood, Muslims and Black Gang Disciples. This committee of three met with the authorities' negotiation team only after the expressive phase had passed. By helping the inmates set a course, a transition can be made to identifying substantive issues bringing the siege closer to resolution.

Negotiations

Correctional setting negotiations are normally conducted in a face-to-face manner. The aforementioned leadership issue negates the potential for meaningful telephone negotiations. When a telephone is introduced, it can easily result in a competition among the subjects for phone time. The passing of the telephone severely inhibits negotiation continuity.

However, before a decision is made to engage in face-to-face negotiations, correctional staff must not do anything prematurely. As previously mentioned, inmates need time to work

through the expressive phase of the siege. Negotiators should work out the details (number, identity, descriptions, etc., of the subjects) and obtain safety assurances from the subjects. Face-to-face negotiations should never be held in inmate-controlled areas for obvious safety considerations.

Consideration should also be given to using the tactical team's presence as a visual stimulus to remind the inmates what would be an unwelcome consequence and their vulnerability if an agreement cannot be reached through negotiations. This combination of tactics and negotiations, referred to as the parallel application of crisis management assets, which advocates using the two primary components — negotiations and tactics — in synchronization during a hostage/barricade incident for maximum effect, was used quite effectively by the FBI during both the Talladega and St. Martin's Parish sieges. Tactics do not just follow failed negotiations. The proper use of tactics encourages negotiations. The parallel approach demonstrates a contrast between the benefits (to the subject) of reaching agreement through negotiations with the risks of disagreement potentially leading to a tactical intervention.

The benefits of face-to-face negotiations are twofold: Enhanced assessment ability by observing nonverbals and a powerful medium for negotiators to convey credibility and sincerity. The goals of initial face-to-face committee negotiations should be modest. It is akin to a "honeymoon" phase, wherein the authorities want to demonstrate a willingness to listen to the inmates' issues and concerns, and seek agreement to meet again. Arranging subsequent meetings ensures a continuous dialogue, maintaining a positive momentum.

Demands, Deadlines And Threats

As in any negotiation, there can be myriad demands; some will be negotiable and others will not. However, authorities need to keep in mind the stark difference between discussions and concessions. Crisis negotiators are trained to discuss any topic with the objectives of gathering intelligence, building rapport and maintain-

ing a dialogue, knowing that specific concessions are out of the question. Patience, flexibility and creativity must be employed in this potentially volatile aspect of negotiations.

Several non-negotiable demands in a correctional setting would be release or escape, weapons, hostage exchanges (i.e., trading anyone — a correctional officer or another inmate — for a hostage), and pardon or parole. This policy is strictly adhered to since the exchange of hostages only raises the value of the person traded and also increases the subsequent risk to this person. If negotiators lead subjects to believe these non-negotiable demands are possibilities, e.g., “We’re working on it; I’ll have to check with the command staff on that,” the negotiators will lose valuable credibility with the inmates. Negotiators must parry these demands tactfully, avoiding saying “No” outright and causing a communication roadblock, while steering inmate demands in a more favorable direction. A possible response might be: “I will pass that on to the command staff, but you and I know that is unlikely to happen. Let’s also work on some issues we know we can make happen.”

Demands regarding food, medical supplies, living conditions, privileges, media coverage and limited amnesty may be open to negotiation. The delivery of food can lead to several benefits for authorities. In addition to the possibility of trading food for a hostage and building rapport, a food delivery can result in the gathering of critical intelligence.

In many cases, inmate demands are tied to deadlines and consequential threats. Deadlines can be a critical aspect of risk assessment. Some deadlines may be incredibly short and unrealistic, while others may appear excessively lengthy. During the St. Martin Parish incident, the inmates set a 72-hour deadline to have their demands met without any specific threats to the hostages. This factor, combined with several other dynamics, led the FBI negotiation team to assess the risk level as relatively low.

Incident commanders need to have a basic understanding of threats. In essence, all threats are not created equal. Offensive threats are those a subject conveys to put pressure on the authorities to fulfill his demand(s)

on his specified timetable (deadline), for example, “If you don’t let us speak to the media by noon, we’re sending a body out.” Conversely, defensive threats are made by subjects in an attempt to keep the authorities at bay, such as, “If anybody tries to come in here, these people are dead.” Subjects use defensive threats to posture when they are feeling threatened and fearful. Offensive threats should be weighed much more heavily than defensive threats when determining the risk level to hostages.

Hostage Survival

Personnel working in a correctional environment are at extremely high risk for being taken hostage. Staff members should be provided with First Responder negotiation training, which can be provided by any of the 56 FBI field offices throughout the country, to familiarize them with basic negotiation techniques and strategies. Other negotiation training entities also provide this type of training. Additionally, it is imperative that correctional employees be trained in hostage survival techniques.

The goal of hostage survival training is to provide correctional staff with the necessary knowledge and skills to survive a hostage situation physically and emotionally. Behavioral do’s and don’t’s, combined with coping skills, can minimize feelings of helplessness and loss of control, and serve as an inoculation effect for corrections personnel. Although prior relationships between correctional staff and inmates may negatively impact the situation, hostages still must attempt to personalize themselves.

Language Issues

English may be a second language for subjects involved in a correctional siege. Should authorities negotiate in the subject’s native language? There are both advantages and disadvantages to negotiating in a language other than English. The advantages would be facilitating the subject’s ability to vent, providing a medium for clear articulation of issues, and using more time due to working through an interpreter. The disadvantages to negotiating in a subject’s native language are the necessity of translating the negotiations for the rest of the crisis negotiation team, minimizing the

impact of its effort, and the potential for miscommunications and inaccurate assessments. During the FCI Atlanta siege, the Cuban inmates were maintaining that there would be “rivers of blood.” FBI crisis negotiators were alarmed by these comments, assessing that the risk to the hostages was increasing. However, one of the Cuban inmates explained to an FBI negotiator that these words were not to be taken literally, explaining, “This is just the way we talk.” In essence, the subject was sharing the fact that expressive, colorful language is a cultural characteristic.

Negotiating in English also has advantages and disadvantages. The obvious advantage is involvement of the entire crisis negotiation team; it reduces the emotional content and slows the subject down because he must continue to think of how to translate what he is about to say, thereby increasing the subject’s fatigue. The disadvantages of negotiating with a subject in English who is not a native speaker is that it may significantly hinder the ventilation process, increase the subject’s stress and anxiety levels, and possibly inhibit clear articulation of the issues.

Negotiators should consider a compromise approach using both English and the subject’s native language. English can be used to diffuse strong emotions and the native language might be used to enhance the discussion of issues and explore problem-solving. Each incident is unique and negotiators must decide which option would be most appropriate for the situation they are addressing. All three options were used during various phases of the sieges at FCI Atlanta, FDC Oakdale and St. Martin Parish with much success.

Intermediaries

The negotiation of a hostage/barricade situation is a law enforcement responsibility. However, each situation is unique, and flexibility is the key. TPIs can be a valuable tool for negotiators as long as caution and control are exercised.

The timing of using TPIs during an incident is critical; they should not be used too early during an incident. As mentioned earlier, the initial phase of a correctional siege is characterized

by a significant amount of expressive behavior on the part of the subjects and they are not ready to problem-solve. TPIs have been used successfully on several occasions to initiate a dialogue with subjects. However, the best uses of a TPI may be to seal a deal and/or to function as a guarantor for an agreement reached, additionally serving as a watchdog to ensure the subjects' safety upon their surrender.

Consideration should also be given to who is being requested by whom. Are the subjects requesting a particular person (i.e., journalist, lawyer, cleric) or is a person volunteering their services unsolicited? Potential TPIs must be thoroughly screened to determine their suitability and their ability to take direction. Negotiators must also decide whether to use the TPI over the telephone, through a video/audiotape recording or in a face-to-face mode. Scripting, role-playing and coaching are essential when employing TPIs.

During the FCI Atlanta incident, Bishop Roman, a Roman Catholic priest who the inmates regarded highly, was used with exceptional success. Roman had positive influence over the Cuban inmates who were involved in the siege and was effectively used to peacefully resolve the incident. His presence ensured that the agreement reached with the authorities would be honored and also guaranteed the safe treatment of the inmates after they surrendered.

Suggested Strategies

A straightforward, facts-of-life approach negotiation strategy has proved highly effective in a correctional setting. The authorities' goal is the peaceful resolution of the incident and negotiators must impress upon the inmates that the safety of the hostages is their collective responsibility. Negotiators should make it clear that there will be no assault as long as there is no harm to the hostages. However, if an assault becomes necessary, resistance will be met with deadly force.

Inmates live in an environment in which "might makes right," and, therefore, have acute survival instincts. Although inmates can be quite adept at creating lethal, makeshift weapons, they are fully aware that they will be

no match for a well-armed strategic team. Negotiators have effectively used the physical presence of tactical teams as a visual reminder of the potential consequences of a violent act on the part of the inmates and also what may result if an agreement cannot be reached through negotiations.

Negotiators should strive to employ honesty during their negotiations because authorities will be dealing with the same subjects again when the crisis is concluded. Active listening skills during the ventilation phase of the incident are appropriate. *Quid pro quo* (exchanging one thing for another) bargaining skills will come into play during the problem-solving process. Incident commanders must realize that negotiators may not always get something tangible from the inmates in return for a concession. However, the process has to start somewhere and it is the job of the negotiators to facilitate the process by initiating the dialogue.

Crisis Negotiators

There are significant advantages of using crisis negotiators from the affected institution. They are familiar with the subjects and know the hostages and the environment. However, there may also be some distinct disadvantages. Negotiators from the affected institution may have some established negative relationships with the subjects. Their intimate knowledge of the hostages may also be an emotional detriment since they may view them as "family."

Correctional authorities might consider a compromise position, whereby outside negotiators function as the primaries ("voice" of the team) and negotiators from the affected institution play other active roles on the crisis negotiation team. In this way, the valuable intelligence regarding the subjects, hostages and the physical layout and general procedures of the institution can be fully exploited.

Surrender

The advent of a surrender is no time to relax or cut corners. On the contrary, focus and patience become even more paramount to a successful outcome. Authorities should be prepared

to potentially address a ceremonial atmosphere in which banners and signs are prominently displayed. The inmates are well aware that their surrender is a media event and will want to capitalize on their time in the spotlight.

Requests for signed documents from high-level officials can be quite common as a requisite for surrender. If a signed document is necessary to end a correctional siege peacefully, it should be kept in mind that any written agreement entered into under duress is legally null and void. Inmates may also demand the presence of a witness/guarantor to ensure that authorities honor agreements and/or to allay physical abuse concerns. The media, which will be generously represented, can also be used as objective witnesses to ensure that inmates are not physically abused, and that they are treated with dignity and respect upon surrendering.

Negotiators should paint a verbal picture of the surrender process by providing specific details. This is not the time for misunderstandings or confusion and there should be no doubt regarding what is expected of the subjects during the surrender phase. The word surrender should be avoided. Consideration should be given to using synonyms such as "exit, evacuation, departure," etc. In this way, subjects will feel as though they have accomplished something and have saved face.

Conclusion

Correctional sieges pose unique challenges to law enforcement. However, crisis negotiators will continue to be well-served by adhering to tried and true basic negotiation strategies and techniques. Patience, flexibility and creativity remain the hallmark characteristics leading to peaceful resolution of hostage/barricade incidents in correctional settings.

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