

LAW ENFORCEMENT CONSIDERATIONS IN LIGHT OF THE SCOTUS DECISION IMPACTING ROE V. WADE

Law Enforcement Leaders are likely aware of the Department of Homeland Security (DHS) warnings of potential violence surrounding the Supreme Court ruling on abortion rights. The DHS warnings have even been widely publicized in the media, emphasizing a concern of enhanced violence risks against the government, religious institutions, and healthcare personnel and facilities.¹ There is also a concern that foreign adversaries will exploit the decision issued by the Supreme Court to promote violence, enhance discord, and undermine democracy in the United States.²

Many law enforcement agencies have presumably been reviewing protocols and providing enhanced training for civil disturbances in preparation for the Supreme Court's decision. Such preparedness actions are vitally important. Law enforcement leaders should also consider policing and training considerations that address passive protestors, intelligence gathering, reporting, officer wellness during protests, mass disturbances, mutual aid policies, and how force can or cannot be used under New Jersey's most recent Use of Force Policy.

Some considerations:

- Violence at medical facilities or clinics providing abortion services is not new. Historical incidents offer an important lesson that agencies should be prepared for. A study in 1996 found that 67% of facilities that provide abortions in the United States had experienced an incidence of abortion-related conflict or violence in the preceding five years.³
- Review the J.A. Montgomery Law Enforcement Bulletin, [Risk Analysis of New Jersey Attorney General Directive](#) with specific attention to Items 7, 8, 9, 15, and 16, where it is recommended that agency leaders ensure their policies that address protests, disturbances, or mass gatherings do not contain definitions that conflict with the most current version of the [New Jersey Use of Force Policy](#).
- Review and develop action plans that include a response to vehicle-ramming attacks and mitigation strategies. Media outlets are reporting observations on social media of encouraging vehicle ramming attacks.⁴
- Ensure that agency policy and procedures regarding intelligence gathering are consistent with the memo issued by the New Jersey Office of the Attorney General, [Immediate Notification of Investigative Tips and Leads \(Update to Attorney General Directive 2016-7\)](#).
- Encourage officers to be prepared and check their equipment that may be needed and deployed for a civil disturbance. Establish a standardized routine of checking such equipment that is not regularly utilized.
- Engage in discussions with applicable partners and review and update existing mutual aid policies if necessary.
- Ensure officers are appropriately trained regarding the provisions of the [New Jersey Attorney General Directive, First Amendment Right to Observe, Object to, and Record Police Activity](#). This directive contains important considerations concerning the right to record an officer's conduct, the right to complain about or criticize an officer's behavior, and the limitations on seizing and searching recording devices. Law

enforcement leaders should consider guiding their officers on what constitutes “credentialed media,” as the directive does not define this term. The letter from the Office of [the New Jersey Attorney General, Guidance on Interactions Between Law Enforcement and Press at Public Protests](#), issued on April 20, 2020, may help provide guidance.

- Utilize the many training resources available from the [MEL Safety Institute](#), including Preparing for First Amendment Audits, Dealing with Difficult People, Career Survival for Officers and Supervisors, and more. Training is available for both sworn law enforcement officers and civilian personnel.
- Develop training programs that address incidents beyond mass disturbances and large protests. For example, roll call training discussions must address how officers should manage a passive person simply holding a sign denouncing the Supreme Court decision while in a house of worship. The [Chief’s Message Video Brief, Post Covid-19 Homeless, Trespass, and Eviction Considerations](#), and the [Supplemental Resource Document](#) may provide a starting point for discussion regarding agency policy and procedures in handling these types of incidents.
- Many agencies have robust wellness programs, and with the possibility that the threat of violence may linger for months, law enforcement leaders should review [Staying Health in the Fray – The Impact of Crowd Management on Officers in the Context of Civil Unrest](#). This resource was published in July 2021 by the Police Foundation and contains many considerations in promoting healthy organizational cultures and prioritizing officer wellness during protests.
- Review [Rethinking the Police Response to Mass Demonstrations: 9 Recommendations](#), from the Police Executive Research Forum.

If you have any questions, please contact your J.A. Montgomery Law Enforcement Risk Control Consultant.

¹Saric, I. (2022, June 7). DHS warns about new threats fueled by misinformation, abortion ruling. *Axios*.

²Wild, W. (2022, June 7). *DHS bulletin warns the US could see more volatile threats fueled by election misinformation and upcoming Supreme Court ruling*. Retrieved from CNN: <https://www.cnn.com/2022/06/07/politics/dhs-bulletin-threats-election-misinformation-supreme-court-abortion/index.html>

³Kenney, D. J., & Reuland, M. (2002, September). *Public Order Policing: A National Survey of Abortion-Related Conflict*. Retrieved from US Department of Justice - Office of Justice Programs: <https://www.ojp.gov/ncjrs/virtual-library/abstracts/public-order-policing-national-survey-abortion-related-conflict>

⁴Ainsley, J. (2022, May 18). Internal DHS Memo warns of threats from extremists on both sides after Roe leak.